

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND NORTHERN IRELAND PROTOCOL

8095/21

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on machinery products

Submitted by the Department for Business, Energy and Industrial Strategy on 11
May 2021

SUBJECT MATTER

1. This proposal intends to replace the Machinery Directive 2006/42/EC with a Regulation that seeks to address gaps the Commission perceives to have arisen with regard to emerging technologies including Artificial Intelligence (AI) and autonomous robots.
2. The proposed Regulation seeks to (i) provide greater legal certainty on the scope and definitions of machinery; (ii) make legal provision for high risk machines; (iii) address monetary and environmental costs caused by extensive paper-based documentation; (iv) address inconsistencies and standardise product-safety legislation.
3. This Regulation, once the proposal has been ratified, will become applicable in EU member states thirty months after it comes into force. As this proposal will fall under Annex 2 of the Ireland/Northern Ireland Protocol, this Regulation will apply to machinery placed on the market in Northern Ireland.

SCRUTINY HISTORY

4. This is the first consideration of this proposal for which an Explanatory Memorandum has been produced.

MINISTERIAL RESPONSIBILITY

5. The Secretary of State for the Department for Business, Energy and Industrial Strategy has responsibility for the Supply of Machinery (Safety) Regulations 2008 as they apply in Great Britain and Northern Ireland.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

6. Product safety is a reserved matter for Scotland and Wales and consumer safety in relation to goods is reserved in respect of NI. There is also a reservation under Schedule 3 of the Northern Ireland Act 1998 that reserves the subject matter of all technical standards in relation to products relating to EU obligations. As the EU Machinery Directive (that this proposal for a Regulation relates to) is included in Annex 2 of the Northern Ireland Protocol, Northern Ireland has an interest as it will apply. The devolved administrations have been consulted on this Explanatory Memorandum.
7. Under the Government's commitments to provide unfettered access to the rest of the UK market for qualifying Northern Ireland goods, machinery that meets the qualifying goods criteria and the current technical requirements to be placed on the market in Northern Ireland will be able to be placed on the GB market.

LEGAL AND PROCEDURAL ISSUES

8. There are no legal and procedural issues as this proposal does not apply to Great Britain (GB). It applies to Northern Ireland, as per the Northern Ireland Protocol, where it will come into force thirty months after it becomes applicable. The proposal is still to be ratified.
9. These changes will apply directly to goods placed on the Northern Ireland market on or after a date determined once the proposal is ratified. If ratified, we may need to lay a statutory instrument to ensure that enforcement provisions are properly implemented.

POLICY IMPLICATIONS

10. The proposal for the Regulation, once finalised and ratified, will apply to machinery placed on the Northern Ireland market thirty months after the date that the Regulation is applicable. Under the Government's commitments to provide unfettered access to the rest of the UK market for Northern Ireland qualifying goods machinery that meets the qualifying goods criteria and that meets the technical requirements to be placed on the market in Northern Ireland will be able to be placed on the GB market.
11. The UK will make its own decision for products placed on the GB market based on an assessment of the final Regulation and with due consideration of any impacts on the UK internal market, in due course.

CONSULTATION

12. There has been no consultation on this change in the UK. In accordance with the Northern Ireland Protocol, the changes made by this Regulation will be directly applicable in NI, although we may need to introduce provisions to provide powers and sanctions to enable enforcement of the new requirements.

FINANCIAL IMPLICATIONS

13. There are no financial costs to GB. With regards to Northern Ireland a full cost assessment will be completed when the proposal has been negotiated.

MINISTERIAL NAME AND SIGNATURE



**PAUL SCULLY
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