STATUTORY INSTRUMENTS

1988 No. 363

HEALTH AND SAFETY

The Roll-over Protective Structures for Construction Plant (EEC Requirements) Regulations 1988

Made - - - -	*3rd March 1988*
Laid before Parliament	*8th March 1988*
Coming into force	*31st March 1988*

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures in respect of the marketing of, and technical requirements relating to, construction plant and protective structures for construction plant, in exercise of the powers conferred on him by that section and of all his other enabling powers, hereby makes the following Regulations:

Citation, commencement and extent

1. These Regulations, which extend to Great Britain, may be cited as the Roll-over Protective Structures for Construction Plant (EEC Requirements) Regulations 1988, and shall come into force on 31st March 1988.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the following meanings–

"approved body" means a body appointed by the Secretary of State under regulation 4;

"approved other body" means a body appointed under the law of Northern Ireland or of a member State other than the United Kingdom to carry out functions similar to those authorised to be carried out by an approved body under these Regulations;

"certificate of conformity" means a certificate that the ROPS specified in the certificate has been manufactured in conformity with the EEC type-examination requirements;

"construction plant" means the machines to which the International Organisation for Standardisation (ISO) 3471/1–1986 (identical to British Standard 5527 : 1987(c)) applies;

"EEC inspection" means the procedure by which an approved body or an approved other body, if so requested by the approved body, checks–

(a) whether any ROPS being manufactured conforms with the type of EEC protective structure in respect of which an EEC type-examination certificate has been issued;

(b) whether the manufacturer actually carries out adequate conformity checks to verify on a continuous and adequate basis whether any EEC protective structure manufactured by him conforms with the type of EEC protective structure in respect of which an EEC type-examination certificate has been issued as regards materials used and the quality of workmanship; and

(a) S.I. 1987/448. (b) 1972 c.68. (c) ISBN 0 580 15730 X.

(c) whether the manufacturer is fulfilling all the requirements of the Special Directive placed on him;

"EEC mark" means the EEC mark of conformity referred to in regulation 6;

"EEC protective structure" means a ROPS which conforms with the EEC type-examination requirements;

"EEC type-examination certificate" means a certificate that a type of EEC protective structure conforms with the EEC type-examination requirements;

"EEC type-examination requirements" means the technical requirements referred to in Annex 1 of the Special Directive;

"the Framework Directive" means the Directive adopted by the Council of the Communities concerning the approximation of the laws of the member States relating to common provisions for certain construction plant and equipment(**a**);

"market" means supply by way of sale, lease, hire or hire-purchase, whether as principal or agent for another;

"ROPS" means roll-over protective structure for construction plant; and

"the Special Directive" means the Directive adopted by the Council of the Communities concerning the approximation of the laws of the member States relating to roll-over protective structures for certain construction plant(**b**).

(2) Any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations.

Marketing of construction plant

3.—(1) No person shall on or after 30th May 1990 market any construction plant manufactured on or after that date unless it is fitted with a suitable ROPS and an EEC type-examination certificate and a certificate of conformity has been issued in respect of that structure and an EEC mark has been placed thereon in accordance with these Regulations or under the law of Northern Ireland or of a member State other than the United Kingdom.

(2) Where a person ("the ostensible supplier") markets any construction plant by supplying the same to another ("the customer") under a hire-purchase agreement, conditional sale agreement or credit sale agreement, and the ostensible supplier–

(a) carries on the business of financing the acquisition of goods by others by means of such agreements; and

(b) in the course of that business acquired his interest in the plant supplied to the customer as a means of financing its acquisition by the customer from a third person ("the effective supplier")

the effective supplier and not the ostensible supplier shall be treated for the purpose of this regulation as marketing the construction plant to the customer and any duty imposed by these Regulations on those who market any construction plant shall accordingly fall on the effective supplier and not on the ostensible supplier.

(3) Where a person ("the ostensible supplier") markets any construction plant by supplying the same to another ("the customer") under a lease, and the ostensible supplier–

(a) has not previously granted any lease to the customer in respect of that plant; and

(b) carries on the business of financing the use of goods by others by means of leases; and

(c) in the course of that business acquired his interest in the plant supplied to the customer for the purpose of financing its provision to the customer by a third person ("the effective supplier"); and

(d) he or his agent either

(i) has not had physical possession of the plant, or

(ii) has had physical possession of the plant only for the purpose of passing it to the customer; and

(e) he or his agent has not modified, overhauled, repaired or restored the plant;

then the effective supplier and not the ostensible supplier shall be treated for the purposes of this regulation as marketing the construction plant to the customer and any

(**a**) 84/532/EEC, OJ No. L300, 19.11.84, p.111. (**b**) 86/295/EEC, OJ No. L186, 8.7.86, p.1.

duty imposed by these Regulations on those who market any construction plant shall accordingly fall on the effective supplier and not on the ostensible supplier.

(4) Where–

(a) paragraph (3) of this regulation has applied in respect of a lease; and

(b) the ostensible supplier grants a further lease of the plant to the same customer; and

(c) the plant has remained in the physical possession of the customer since he took possession of it under the first lease; and

(d) the plant has not at any time been modified, overhauled, repaired or restored by or on behalf of the ostensible supplier;

then no duty shall be imposed by these Regulations on the ostensible supplier in relation to the supply by way of that further lease.

Appointment of approved bodies

4. The Secretary of State shall appoint a body or bodies of persons in accordance with the conditions of the Framework Directive and subject to such conditions as he shall think fit–

(a) to carry out examinations of any ROPS to ascertain whether or not it conforms with the EEC type-examination requirements;

(b) to issue EEC type-examination certificates with respect to any EEC protective structure;

(c) to carry out EEC inspections; and

(d) to do such other things as may be required or permitted under or in connection with these Regulations.

EEC type-examination certificates

5.—(1) An application for an EEC type-examination certificate shall be made to the approved body by or on behalf of a manufacturer in writing and shall be accompanied by an information document duly completed so as to furnish all the information required by the information document in the form set out in Schedule 1 and shall be accompanied also by an undertaking in the form set out in Schedule 2.

(2) Where in pursuance of this regulation an application has been made to an approved body in respect of a type of construction plant then no other application in any member State for an EEC type-examination certificate in respect of any construction plant of that type shall be made by or on behalf of the same manufacturer and any application made to an approved body which to the knowledge of the approved body is contrary to this paragraph shall be rejected by the approved body.

(3) Where the approved body is satisfied on application made to it under paragraph (1) above and after carrying out tests and examinations of the type of ROPS in respect of which the application was made that the type of ROPS conforms with the EEC type-examination requirements and after payment of the prescribed fee it shall issue to the applicant for each type of ROPS tested and examined a test report in the form set out in Schedule 3 and shall grant an EEC type-examination certificate in the form set out in Schedule 4 in respect of that type of EEC protective structure.

(4) Where the approved body is satisfied on application made to it under paragraph (1) above and after carrying out tests and examinations of the type of ROPS in respect of which the application was made that the type of ROPS does not conform with the EEC type-examination requirements and after payment of the prescribed fee it shall issue a full test failure report for such type of ROPS which states the reasons for the issue of such report and informs the applicant of his right to apply for review of the decision of the approved body under regulation 9.

(5) The prescribed fee payable under paragraphs (3) and (4) above in every case shall be equal to the sum of–

(a) the costs of the approved body of and in connection with the functions carried out or to be carried out by it under these Regulations ("the relevant service"); and

(b) an amount on account of profit which is reasonable in the circumstances having regard to–

(i) the character and the extent of the work done or to be done by the approved body in providing the relevant service, and

(ii) the commercial rate normally charged on account of profit for that work or similar work.

Certificate of conformity and EEC mark of conformity

6. The manufacturer of a ROPS which has been manufactured in conformity with the EEC type-examination requirements referred to in an EEC type-examination certificate issued under these Regulations or under the law of Northern Ireland or of a member State other than the United Kingdom which is in force shall issue a certificate of conformity in the form set out in Schedule 5 that such ROPS has been so manufactured, and shall place on the ROPS a legible, permanent and indelible EEC mark of conformity in the form set out in Schedule 6 and shall attach a label to the ROPS in accordance with section 9 of the International Organisation for Standardisation (ISO) 3471/1 – 1986.

EEC inspections

7. The approved body may carry out EEC inspections in Great Britain of any ROPS being produced of a type in respect of which an EEC type-examination certificate has been issued under these Regulations or under the law of Northern Ireland or of a member State other than the United Kingdom if requested to do so by the approved other body which granted the EEC type-examination certificate, and for that purpose a duly authorised officer of an approved body may, on production if requested of his authority, at all reasonable times enter into premises where any such ROPS is for the time being held by or on behalf of the manufacturer, importer or other supplier of the ROPS and remove any such ROPS as a sample.

Suspension and withdrawal of EEC type-examination certificate

8.—(1) If the approved body, after checking any ROPS under regulation 7 of the same type as that in respect of which an EEC type-examination certificate issued under these Regulations or under the law of Northern Ireland is in force, or after receipt of a report from an approved other body made at the request of the approved body, is satisfied that such ROPS has not been manufactured to conform with the EEC type-examination requirements in respect of such ROPS or if not all the requirements of the Special Directive have been fulfilled, the approved body shall give notice of that fact to the holder of that EEC type-examination certificate and such notice shall specify–

(a) the respects in which the ROPS has not been manufactured so as to conform with the EEC type-examination requirements in respect of it or the requirements of the Special Directive have not been fulfilled;

(b) that unless steps are taken which ensure that such a ROPS does so conform or such requirements are so fulfilled within a specified period the certificate will be temporarily suspended or will be withdrawn; and

(c) if the approved body thinks fit, that the certificate will be temporarily suspended immediately.

(2) If the approved body decides to suspend or withdraw an EEC type-examination certificate it shall immediately give notice of the decision to the holder of the certificate and to the Secretary of State.

(3) A notice to a holder of an EEC type-examination certificate of suspension or withdrawal under paragraph (1) above or of suspension or withdrawal under paragraph (2) shall specify the date on which the suspension or withdrawal is to take effect and shall specify the grounds for the decision and shall inform the holder of the certificate of his right to apply for a review of the decision under regulation 9.

(4) The suspension or withdrawal of an EEC type-examination certificate shall not affect the validity of any certificate of conformity or EEC mark issued or placed on a ROPS under regulation 6 or under the law of Northern Ireland.

Review

9.—(1) A person who is aggrieved by a decision given by an approved body under regulation 5(4) or 8(1), (2) or (3) may, in accordance with paragraphs (2) and (3) of this regulation, apply to the Secretary of State to review the decision and on such application the Secretary of State–

(a) shall have the like powers and duties as an approved body has on an application for an EEC type-examination certificate under regulation 5 or under regulation 8(1), (2) or (3),

(b) may hold an inquiry in connection therewith, and

(c) may appoint an assessor for the purpose of assisting him with his review or any such inquiry.

(2) An application under paragraph (1) of this regulation shall be made by notice to the Secretary of State, and shall be lodged with him not later than fourteen days from the date of the decision in respect of which the application for review is made.

(3) A notice of application for review under this regulation shall state the grounds on which the application is made and shall be accompanied by the following documents:–

(a) where the application is for review of a decision under regulation 5(4) copies of the information and documents which, in accordance with regulation 5(1), accompanied the application under that regulation for the certificate in question, and

(b) where the application for review relates to the suspension or withdrawal of a certificate, a copy of that certificate.

10.—(1) Any person who without reasonable excuse contravenes or fails to comply with any of the provisions of regulation 3(1) shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £2000.

(2) Where the commission by any person of an offence under regulation 3(1) is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

Offences by corporations

11.—(1) Where an offence under these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) of this regulation shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Robert Atkins
Parliamentary Under-Secretary of State,
Department of Trade and Industry

3rd March 1988

SCHEDULE 1

Regulation 5(1)

MODEL INFORMATION DOCUMENT

1. Equipment concerned

1.1. Name and address of manufacturer: .....

1.2. Name and address of manufacturer's authorised representative, if any: .....

1.3. Model: .....

1.4. Trade mark or name: .....

1.5. Type designation: .....

1.6. Mass of equipment: ..... kg (maximum mass with roll-over protective structure; normal attachments and full tanks, but without driver, payload or any towed accessories)

1.7. Attachment of roll-over protective structure to the equipment: detachable/not detachable(**1**)

2. Roll-over protective structure (if not manufactured by the maker of the equipment)

2.1. Name and address of manufacturer: .....

2.2. Name and address of manufacturer's authorised representative, if any: .....

2.3. Trade mark or name: .....

2.4. Type of designation: .....

3. Any other construction plant to which the roll-over protective structure can be fitted

3.1. Name and address of manufacturer: .....

3.2. Name and address of manufacturer's authorised representative, if any: .....

3.3. Model: .....

3.4. Trade mark or name: .....

3.5. Type designation: .....

3.6. Mass of equipment: ..... kg (maximum mass with roll-over protective structure; normal attachments and full tanks, but without driver, payload or any towed accessories)

3.7. Attachment of roll-over protective structure to the equipment: detachable/not detachable(**1**)

(**1**) Delete where inapplicable

SCHEDULE 2

Regulation 5(1)

FORM OF UNDERTAKING BY MANUFACTURER OR AUTHORISED REPRESENTATIVE ESTABLISHED IN THE COMMUNITY

Category, make and type or trade name of roll-over protective structure–

I/We undertake as a condition of issue of an EEC type-examination certificate and the use of the EEC mark of conformity to comply with the following conditions:

1. To inform the approved body granting the EEC type-examination certificate of

(a) the places where the protective structures are manufactured and/or warehoused within the Community, as requested by the approved body; and

(b) the date on which production and/or import commences;

and to provide such other information as the approved body may reasonably require.

2. To allow representatives of the approved body, or of an approved other body as defined in the Regulations, if requested to do so by the approved body,

(a) access for the purpose of EEC inspection to the places of manufacture and/or warehousing;

(b) to take samples of the protective structures for EEC inspection purposes; and

(c) access to manufacturing control records kept by or on behalf of the manufacturer;

and to provide any information relating to such EEC inspection as may reasonably be required.

3. To arrange for production to be checked so as to verify on a continuous and adequate basis that the EEC protective structures manufactured conform with the type tested as regards the materials used and the quality of workmanship.

Signed Position

On behalf of .....

Date

SCHEDULE 3

Regulation 5(3)

MODEL TEST REPORT

Test Report No: .....

Name and address of the approved body: .....

Name and address of the laboratory which carried out the test: .....

Name of the person who carried out the test: .....

PART A

1. Description of the ROPS — chassis combination

1.1. Construction plant on the chassis of which the test was carried out

1.1.1. Name and address of manufacturer and, where appropriate, name and address of manufacturer's authorised representative: .....

1.1.2. Model: .....

1.1.3. Trade mark or name, and type designation: .....

1.1.4. Serial number (where applicable): .....

1.1.5. Component number of chassis: .....

1.2. Roll-over protective structure

1.2.1. Name and address of manufacturer and, where appropriate, name and address of manufacturer's authorised representative: .....

1.2.2. Trade mark or name, and type designation: .....

1.2.3. Serial number (where applicable): .....

1.2.4. Number of protective structure: .....

2. Information provided by manufacturer

2.1. Mass of construction plant: ..... kg (maximum mass with roll-over protective structure; normal attachments and full tanks, but without driver, payload or any towed accessories)

2.2. Arrangement of the deflection-limiting volume DLV according to drawing No ..... (accurate 1.10 scale drawing attached to test report. Side and front views of the roll-over protective structure and of the surrounding parts, with indication of seat and deflection-limiting volume DLV in the correct positions. Indication of main dimensions of roll-over protective structure).

3. Calculation of minimum performance requirements

3.1. Force F ..... N under lateral loading.

3.2. Energy absorption U ..... J under lateral loading.

3.3. Value of M ..... kg under vertical loading.

4. Confirmation

4.1. The minimum performance requirements specified in ISO standard 3471/1–1986 were satisfied in this test, the maximum mass of the construction plant being ..... kg.

4.2. Date of test: .....

PART B

1. Measuring instruments

1.1. Description of instruments used: .....

1.2. Accuracy of instruments used in conformity with ISO Standard 3471/1–1986 .....
.....
.....

2. Photographs (one photograph of the test set-up taken from the front or rear and one taken from the side at which the load is applied)

2.1. Prior to application of lateral load

2.2. At or near maximum lateral load

2.3. Prior to application of vertical load

2.4. At or near maximum vertical load

3. Test results

3.1. Lateral loading

3.1.1. Maximum force applied, after energy absorption was reached or exceeded, without penetration of the deflection-limiting volume DLV by any part of the roll-over protective structure (ROPS) or of the simulated ground plane: ..... N

3.1.2. Energy absorbed without penetration of the deflection-limiting volume DLV by any part of the roll-over protective structure (ROPS) or of the simulated ground plane: ..... J

3.2. Vertical loading

Maximum load sustained without penetration of the deflection-limiting volume DLV by any part of the roll-over protective structure (ROPS) or of the simulated ground plane: .... kg

3.3. Material temperature

3.3.1. During the test the temperature of the roll-over protective structure and of the chassis was .....°C, or the steel parts of the roll-over protective structure attained in conformity with EURONORM 45–63, the Charpy V-notch impact strength values with ..... J, at –30°C in the case of the ..... x ..... mm test piece.

3.3.2. Strength classification of the nuts and bolts used:

nuts: .....

bolts: .....

3.4. Force-deflection curve

A force-deflection curve in accordance with ISO Standard 3471/1–1986 is attached.

(Place) ....., (Date) .....

(Signature) .....

SCHEDULE 4

Regulation 5(3)

MODEL EEC TYPE-EXAMINATION CERTIFICATE

Name of the approved body: .....

Notification of EEC type-examination in respect of the harmonised requirements: .....

EEC type-examination No. .....

1. Category, make and type or trade name: .....

2. Name and address of manufacturer: .....

3. Name and address of certificate holder: .....

4. Date of submission for EEC type-examination: .....

5. In respect of the following harmonised requirement: .....

6. Test laboratory: .....

7. Date and number of laboratory report: .....

8. Date of EEC type-examination: .....

9. The following documents, bearing the EEC type-examination number shown above, are annexed to this certificate: .....

10. Type and number of the chassis on which the tests were carried out: .....

11. Mass of the item of plant on which the tests were carried out: .....

12. Any additional information: .....

(Place) ....., (Date) .....

(Signature) .....

SCHEDULE 5

Regulation 6

EEC CERTIFICATE OF CONFORMITY

I, the undersigned, ...
(Surname and first names)

hereby certify that the roll-over protective structure (ROPS) for construction plant specified hereunder

1. Category .....

2. Make .....

3. Type .....

4. Type serial no. of equipment .....

5. Year of manufacture .....

has been manufactured in conformity with the EEC type-examination requirements under Special Directive 86/295/EEC as shown in the table below.

TABLE

EEC type-examination No.	date of EEC type-examination certificate	name of approved body

6. Special provisions: .....

Done at .....

....., ...
(Date) (Signature)

.....
(Position)

SCHEDULE 6

Regulation 6

EEC MARK OF CONFORMITY

The EEC mark provided for in Regulation 6 is a stylized letter Ɛ in a hexagon which contains:

— in the upper part, the serial number of the separate Directive allocated according to the chronological order of adoption, the capital letter(s) identifying the State whose approved body issued the certificate (B for Belgium, D for Federal Republic of Germany, DK for Denmark, F for France, I for Italy, IRL for Ireland, L for Luxembourg, NL for the Netherlands, UK for the United Kingdom, EL for Greece, ES for Spain, P for Portugal) and the two final figures of the year of issue of the EEC type-examination certificate; the number of the separate Directive to which the EEC type-examination certificate refers is allocated by the council,

— in the lower part, the number of the EEC type-examination certificate.

An example of this mark is shown below:

Example:



EEC type-examination certificate granted in 1979 by an approved body in the Federal Republic of Germany, pursuant to the Directive.

EEC type-examination certificate No.

The diameter of the circle surrounding the mark must not be less than 20mm.

The mark of conformity must be affixed at a point immediately adjacent to or on the identification plate.

Where a roll-over protective structure and a falling-object protective structure are combined (ROPS and FOPS), the two corresponding marks of conformity must appear immediately adjacent to each other.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directives 84/532/EEC and 86/295/EEC. The Regulations apply to roll-over protective structures (ROPS) for construction plant. The Regulations–

(a) provide for the appointment by the Secretary of State of approved bodies whose decisions may be reviewed by the Secretary of State. (Regulations 4 and 9)

(b) provide for application to be made by or on behalf of a manufacturer for the issue by an approved body of EEC type-examination certificates for ROPS which comply with the technical requirements in Annex 1 to the Directive. (Regulation 5)

(c) provide for the issue of certificates of conformity and the use of the EEC mark of conformity. (Regulation 6)

(d) provide for EEC inspections in Great Britain including the right of entry and the taking of samples by the approved body to ensure compliance with EEC requirements and for the suspension and withdrawal of EEC type-examination certificates. (Regulations 7 and 8)

(e) prohibit on or after 30th May 1990 the marketing of any such construction plant unless it is fitted with a suitable ROPS and an EEC type-examination certificate and a certificate of conformity have been issued in respect of that structure under these Regulations or under the law of Northern Ireland or of a member State other than the United Kingdom. (Regulations 3, 10 and 11)

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