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STATUTORY INSTRUMENTS

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**2017 No. 737**

**CONSUMER PROTECTION**

**The Recreational Craft Regulations 2017**

<i>Made</i>	- - - -	<i>11th July 2017</i>
<i>Laid before Parliament</i>		<i>12th July 2017</i>
<i>Coming into force</i>	- -	<i>3rd August 2017</i>

The Secretary of State is a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in respect of measures relating to craft intended for recreational purposes. These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State, in exercise of the powers conferred by section 2(2) of and paragraph 1A of Schedule 2<sup>(3)</sup> to the European Communities Act 1972, makes the following Regulations.

**PART 1**

**GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Recreational Craft Regulations 2017 and come into force on 3rd August 2017 (“the commencement date”).

**Interpretation**

2.—(1) In these Regulations—

“the 1987 Act” means the Consumer Protection Act 1987<sup>(4)</sup>;

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(1) [S.I. 1995/2983](#).

(2) [1972 c. 68](#); section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 ([c. 51](#)), section 27(1) and the European Union (Amendment) Act 2008 ([c.7](#)), Schedule, Part 1.

(3) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008.

(4) [1987 c.43](#).

“accreditation” has the meaning set out in point 10 of Article 2 of RAMS (as amended from time to time);

“accreditation certificate” means a certificate, issued by the United Kingdom Accreditation Service (a company limited by guarantee incorporated in England and Wales under number 03076190) or a national accreditation body of another Member State, attesting that a conformity assessment body meets the notified body requirements;

“adaptor” means a person who adapts an engine for use in watercraft;

“authorised representative” means a person appointed in accordance with regulation 39;

“CE marking” means a marking which takes the form set out in Annex II of RAMS (as amended from time to time);

“Commission” means the Commission of the European Union;

“competent national authority” means an authority having responsibility for enforcing the law of a Member State which implements the Directive;

“components” means the components of watercraft listed in Schedule 2 when placed on the EU market separately and when intended for installation in watercraft;

“conformity assessment” means the process demonstrating whether the essential requirements relating to a product have been fulfilled;

“conformity assessment body” means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

“Decision 768/2008” means Decision No. [768/2008/EC](#) of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products<sup>(5)</sup>;

the “Directive” means [Directive 2013/53/EU](#) of the European Parliament and of the Council on recreational craft and personal watercraft repealing [Directive 94/25/EC](#)<sup>(6)</sup>;

“distributor” means a person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;

“district council” means a district council within the meaning of the Local Government Act (Northern Ireland) 1972<sup>(7)</sup>;

“economic operator” means a manufacturer, an authorised representative, an importer or a distributor;

“enforcing authority” means any person enforcing these Regulations under regulation 66;

“engine family” means the manufacturer’s grouping of engines which, through their design, have similar exhaust or noise emission characteristics;

“essential requirements” means the requirements set out in regulation 6;

“EU declaration of conformity” means the declaration required to be drawn up in accordance with regulation 10(1)(a) (EU declaration of conformity and CE marking);

“harmonised standard” has the meaning set out in paragraph (c) of Article 2(1) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European Standardisation, amending Council Directives [89/686/EEC](#) and [93/15/EEC](#) and Directives [94/9/EC](#), [94/25/EC](#), [95/16/EC](#), [97/23/EC](#), [98/34/EC](#), [2004/22/EC](#), [2007/23/EC](#), [2009/23/EC](#) and [2009/105/EC](#) of the European Parliament and of the Council, and repealing Council [Decision 87/95/EEC](#) and [Decision 1673/2006/EC](#) of the European Parliament and of the Council<sup>(8)</sup> (as amended from time to time);

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(5) OJ L 218, 13, 8, 2008, p.82.

(6) OJ No L 354, 28.12.2013, p.90.

(7) 1972 c.9.

(8) OJ No L 316, 14.11.2012, p.12.

“hull length” means the length of the hull measured in accordance with the harmonised standard;

“importer” means a person who—

- (a) is established within the EU, and
- (b) places a product from a third country on the EU market;

“major craft conversion” means a conversion of a watercraft which—

- (a) changes the means of propulsion of the watercraft;
- (b) involves a major engine modification; or
- (c) alters the watercraft to such an extent that it may not meet the applicable essential requirements;

“major engine modification” means the modification of a propulsion engine which—

- (a) could potentially cause the engine to exceed the emissions limits set out in Part B of Schedule 1; or
- (b) increases the rated power of the engine by more than 15%;

“making available on the market” means any supply for distribution, consumption or use on the EU market in the course of a commercial activity, whether in return for payment or free of charge and related expressions must be construed accordingly;

“manufacturer” means a person who—

- (a) manufactures a product or has such a product designed or manufactured; and
- (b) markets that product under that person’s name or trademark;

“market surveillance authority” has the meaning set out in regulation 65 (designation of market surveillance authorities);

“means of propulsion” means the method by which the watercraft is propelled;

“national accreditation body” means national accreditation body as defined in point 11 of Article 2 of RAMS) (as amended from time to time);

“notified body requirements” means the requirements set out in Schedule 11;

“personal watercraft” means a watercraft intended for sports and leisure purposes of less than 4 metres in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;

“placing on the market” means the first making available of a product on the EU market, and related expressions are to be construed accordingly;

“private importer” means a person established within the EU who imports in the course of a non-commercial activity a watercraft from a third country into the EU with the intention of putting it into service for that person’s own use;

“product” means a product to which these Regulations apply, in accordance with regulation 3;

“propulsion engine” means any spark or compression ignition internal combustion engine used directly or indirectly for propulsion purposes;

“putting into service” means the first use of a product in the EU market by its end-user and related expressions are to be construed accordingly;

“RAMS” means Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) 339/93(9);

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(9) OJ No L 218, 13.8.2008, p.30.

“recall” means any measure aimed at achieving the return of a watercraft that has already been made available to the end-user and related expressions must be construed accordingly;

“recreational craft” means any watercraft of any type, excluding personal watercraft, intended for sports and leisure purposes of hull length from 2.5 metres to 24 metres, regardless of the means of propulsion;

“relevant conformity assessment procedure” means a conformity assessment procedure referred to in regulation 42 (applicable conformity assessment procedures);

“small or medium-sized enterprise” has the same meaning as in Commission Recommendation 2003/361/EC(10);

“technical documentation” has the meaning given in regulation 9 (technical documentation and conformity assessment);

“watercraft” means any recreational craft or personal watercraft;

“watercraft built for own use” means any watercraft predominantly built by its future user for that user’s own use; and

“withdrawal” means any measure aimed at preventing a watercraft in the supply chain from being made available on the market and related expressions must be construed accordingly.

(2) In these Regulations, a reference to a product being “in conformity with Part 2” means that—

- (a) the product is in conformity with the essential requirements;
- (b) each economic operator has complied with the obligations imposed on them by Part 2 of these Regulations which must be satisfied at or before the time at which the product is made available on the market.

(3) In these Regulations, except regulation 34 (monitoring) and Schedule 1, “risk” means a risk to—

- (a) human health;
- (b) the safety of consumers; or
- (c) the environment.

(4) In these Regulations, a reference to a Member State is to be read as a reference to an EEA State and references to the EU are to be read as references to the European Economic Area.

(5) In these Regulations (except in Part 4 (notification of conformity assessment bodies) and Schedule 11 (notified body requirements) and 12 (obligations of notified bodies)), “notified body” means—

- (a) a notified body within the meaning set out in regulation 55 (notified body); or
- (b) a notified body under the laws of any other member State which implement the Directive.

## Scope

3.—(1) Subject to regulation 4 (exclusions) these Regulations apply to the following products—

- (a) recreational craft and partly completed recreational craft;
- (b) personal watercraft and partly completed personal watercraft;
- (c) components;
- (d) propulsion engines which are installed or specifically intended for installation on or in watercraft;

- (e) propulsion engines installed on or in watercraft that are subject to a major engine modification;
- (f) watercraft that have been subject to major craft conversion.

(2) A watercraft that can also be used for charter or for sports and leisure training is covered by these Regulations when it is placed on the market for recreational purposes.

### **Exclusions**

4.—(1) The design and construction requirements set out in Part A of Schedule 1 do not apply to the following watercraft—

- (a) watercraft intended solely for racing, including rowing racing boats and training boats, labelled as such by the manufacturer;
- (b) canoes and kayaks designed to be propelled solely by human power, gondolas and pedalos;
- (c) surfboards designed to be propelled by wind and to be operated by a person or persons standing;
- (d) other surfboards;
- (e) original historical watercraft and individual replicas thereof designed before 1950 built predominantly with the original materials and labelled as such by the manufacturer;
- (f) experimental watercraft, unless they are placed on the market;
- (g) watercraft built for own use, provided that such watercraft are not subsequently placed on the EU market for a period of five years beginning with the date on which the watercraft was put into service;
- (h) watercraft specifically intended to be crewed and to carry passengers for commercial purposes, except when they fall within regulation 3(2), regardless of the number of passengers;
- (i) submersibles;
- (j) air cushion vehicles;
- (k) hydrofoils;
- (l) external combustion steam powered watercraft, fuelled by coal, coke, wood, oil or gas;
- (m) amphibious vehicles, that is to say wheeled or track-laying motor vehicles, which are able to operate both on water and on solid land.

(2) The exhaust emission requirements set out in Part B of Schedule 1 do not apply to the following—

- (a) propulsion engines installed or specifically intended for installation in the following products—
  - (i) watercraft intended solely for racing and labelled as such by the manufacturer;
  - (ii) experimental watercraft, unless they are placed on the market;
  - (iii) watercraft specifically intended to be crewed and to carry passengers for commercial purposes, except when they fall within regulation 3(2) regardless of the number of passengers;
  - (iv) submersibles;
  - (v) air cushion vehicles;
  - (vi) hydrofoils;
  - (vii) amphibious vehicles, that is to say wheeled or track-laying motor vehicles, which are able to operate on water and on solid land;

- (b) original historical propulsion engines and individual replicas thereof, which are based on a pre-1950 design, not produced in series and fitted on watercraft referred to in paragraph 4(1)(e) or paragraph 4(1)(h) above;
  - (c) propulsion engines built for own use provided that such engines are not subsequently placed on the market for a period of five years beginning with the date on which the watercraft was put into service.
- (3) The noise emission requirements referred to in Part C of Schedule 1 do not apply to—
- (a) any watercraft referred to in paragraph (2); and
  - (b) watercraft built for own use, provided that they are not placed on the market for a period of five years beginning with the date on which the watercraft was put into service.

#### **Exhibition at trade fairs**

5. Nothing in these Regulations prevents the showing of a watercraft which does not comply with Part 2 of these Regulations at a trade fair, exhibition or demonstration, provided that a visible sign clearly indicates —

- (a) that the product is not in conformity with Part 2 of these Regulations; and
- (b) that the product will not be made available on the market or be put into service until it has been brought into conformity.

## **PART 2**

### **PLACING PRODUCTS ON THE MARKET**

#### **Essential requirements**

6. A person may only make a product available on the market or put it into service if that product —

- (a) complies with the requirements in Schedule 1; and
- (b) does not endanger the health and safety of persons, property or the environment when correctly maintained and used in accordance with its intended purpose.

#### **Making available and putting into service**

7.—(1) Nothing in these Regulations prevents a person making available in the United Kingdom or putting into service in the United Kingdom—

- (a) any watercraft in conformity with Part 2;
- (b) any component which is in conformity with Part 2 and which is intended to be incorporated into any watercraft in accordance with the declaration completed by a manufacturer or importer in accordance with Schedule 3;
- (c) any of the following propulsion engines—
  - (i) engines, whether or not installed in watercraft, that are in conformity with Part 2;
  - (ii) engines installed in watercraft and type-approved in accordance with [Directive 97/68/EC](#) of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the

emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery<sup>(11)</sup>, which comply with—

- (aa) stage III A or stage III B or stage IV emission limits for C1 engines, used in other applications than the propulsion of inland waterway vessels, locomotives and railcars, as provided for in point 4.1.2 of Annex I of [Directive 97/68/EC](#); and
- (bb) these Regulations, with the exclusion of the exhaust emission requirements set out in Part B of Schedule 1;
- (iii) engines installed in watercraft and type-approved in accordance with Regulation [\(EC\) No 595/2009](#)<sup>(12)</sup> on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information and amending Regulation [\(EC\) No 715/2007](#) and [Directive 2007/46/EC](#) and repealing Directives [80/1269/EEC](#), [2005/55/EC](#) and [2005/78/EC](#) complying with these Regulations, with the exclusion of the exhaust emission requirements set out in Part B of Schedule 1.

(2) Where an engine is adapted for installation in a watercraft, a person who so adapts that engine must—

- (a) make a declaration, in accordance with Schedule 3, that the adapted engine will continue to meet the emission requirements of either [Directive 97/68/EC](#) or Regulation 595/2009, when installed in accordance with the installation instructions the adaptor has provided; and
- (b) take full account of the data and other information available from the manufacturer, so that, when the adapted engine is installed in accordance with the installation instructions the adaptor provides, the adapted engine continues to meet the exhaust emission requirements in either the Directive or the Regulation referred to in paragraph (a), whichever is referred to in the declaration submitted in accordance with Schedule 3.

(3) Nothing in these Regulations prevents the making available in the United Kingdom of any partly completed watercraft where the manufacturer or the importer has declared, in accordance with Schedule 3, that the craft complies with the essential requirements at this stage in its construction and that the craft will be completed by others in full compliance with these Regulations.

## MANUFACTURERS

### Duty to ensure products comply with the essential requirements

8. Before placing a product on the market, a manufacturer must ensure that it has been designed and manufactured in accordance with the essential requirements.

### Technical documentation and conformity assessment

9. Before placing a product on the market a manufacturer must—

- (a) have a relevant conformity assessment procedure carried out; and
- (b) draw up—
  - (i) the technical documentation referred to in Schedule 9; and
  - (ii) any other technical documentation required as part of the relevant conformity assessment procedure to demonstrate the means used by the manufacturer to ensure that the product complies with the essential requirements.

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<sup>(11)</sup> OJ No L 59, 27.2.1998, p.1.

<sup>(12)</sup> OJ No L 188, 18.7.2009, p.1.

### **EU declaration of conformity and CE marking**

**10.**—(1) Where the conformity of a product with the essential requirements has been demonstrated by a relevant conformity assessment procedure, the manufacturer must, before placing the product on the market—

- (a) draw up the EU declaration of conformity in accordance with regulation 53 (EU declaration of conformity); and
- (b) affix the CE marking to the product in accordance with regulation 54 (CE marking).

(2) The EU declaration of conformity must follow the format set out in Schedule 4 (EU Declaration of conformity), and be translated into a language required by the Member State where the product will be made available or put into service, unless paragraph (3) applies.

(3) If an EU declaration of conformity relates to a partly completed watercraft, that declaration must follow the format set out in Schedule 3 and be translated into a language required by the Member State where the partly completed watercraft will be made available or put into service.

(4) The manufacturer must keep the EU declaration of conformity up-to-date.

(5) Where a product is subject to more than one EU instrument requiring a declaration of conformity to be drawn up, the manufacturer must draw up a single declaration of conformity, which —

- (a) identifies all of the applicable EU instruments; and
- (b) includes references to the publication of those EU instruments in the Official Journal of the European Union

### **Duty of manufacturers to retain technical documentation and EU declaration of conformity**

**11.** A manufacturer must keep the technical documentation and the EU declaration of conformity drawn up in respect of a product for a period of 10 years beginning with the day on which the product is placed on the market.

### **Compliance procedures for series production**

**12.**—(1) The manufacturer of a product which is manufactured by series production must ensure that, before placing the product on the market, procedures are in place to ensure that any product so manufactured will be in conformity with the manufacturer's obligations under Part 2.

(2) In doing so, the manufacturer must take adequate account of—

- (a) any changes in the design or characteristics of a product; and
- (b) any changes in the harmonised standard or in another technical specification by reference to which the EU declaration of conformity of the product was drawn up.

### **Duty of manufacturers to ensure products are labelled**

**13.**—(1) Before placing a product on the market, a manufacturer must indicate on the product—

- (a) a type, batch or serial number; or
- (b) another element which identifies the manufacturer as the manufacturer of the product;

(2) Where, in the case of a component, it is not possible to indicate the information on the component because of the size or nature of the component, the manufacturer must provide the information specified in paragraph (1)—

- (a) on the packaging; or
- (b) in a document accompanying the component.



### **Duty to provide information**

14.—(1) Before placing a product on the market, a manufacturer must ensure that the product is labelled with—

- (a) the manufacturer's name;
- (b) their registered trade name or registered trade mark; and
- (c) an address, which is the single point at which they can be contacted.

(2) Where it is not possible to provide the information referred to in paragraph (1) on the product that information must be provided—

- (a) on the packaging;
- (b) or in a document accompanying the product.

### **Instructions and safety information**

15.—(1) When placing a product on the market, a manufacturer must ensure that it is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users in the Member State in which the product is to be made available.

(2) When the product is being made available to consumers and other end-users in the United Kingdom, that language which can be easily understood is English.

### **Duty to take action in respect of product placed on the market which is considered not to be in conformity**

16.—(1) A manufacturer who considers or has reason to believe that a product that it has placed on the market is not in conformity Part 2, must immediately take the corrective measures necessary to—

- (a) bring the product into conformity;
- (b) withdraw the product from the market; or
- (c) recall it.

(2) Where the product presents a risk, the manufacturer must immediately inform the market surveillance authority and the competent national authorities in any Member State in which the manufacturer has made the product available on the market of the risk, giving details of—

- (a) the reason why the product is not considered to be in conformity; and
- (b) any corrective measures taken.

### **Provision of information and co-operation**

17.—(1) A manufacturer must, following a reasoned request from an enforcing authority, provide it with all of the information and documentation necessary to demonstrate the conformity of the product with the requirements of this Part.

(2) The information and documentation referred to in paragraph (1) must be in a language that can be easily understood by the enforcing authority.

(3) The manufacturer must, at the request of the enforcing authority, co-operate with the authority on any action taken to eliminate the risks posed by a product that the manufacturer has placed on the market.

## IMPORTERS

### **Prohibition on placing products on the market**

**18.** An importer must not place a product on the market unless it complies with the essential requirements.

### **Requirements that must be satisfied before an importer places a product on the market**

- 19.**—(1) Before placing a product on the market an importer must ensure that—
- (a) a relevant conformity assessment has been carried out by the manufacturer;
  - (b) the manufacturer has drawn up the technical documentation;
  - (c) the product—
    - (i) bears the CE marking; and
    - (ii) is accompanied by the required documents; and
  - (d) the manufacturer has complied with the requirements of regulations 13 (duty of manufacturers to ensure products are labelled) and 14 (duty to provide information).
- (2) In paragraph (1)(c)(ii) “required documents” means—
- (a) the EU declaration of conformity; and
  - (b) the owner’s manual referred to in Schedule 1.

### **Duty not to place a product on the market where an importer suspects that it is not in conformity**

**20.**—(1) Where an importer believes or has reason to believe that a product is not in conformity with the essential requirements, the importer must not place the product on the market.

(2) Where a product presents a risk, the importer must inform the manufacturer and the market surveillance authority of that risk.

### **Duty of importer to ensure products are labelled**

- 21.**—(1) Before placing a product on the market, an importer must indicate on the product—
- (a) the importer’s name, registered trade name or registered trade mark; and
  - (b) the address at which they can be contacted.
- (2) Where, in the case of components, it is not possible to indicate the information on the component, the importer must indicate the information specified in paragraph (1)—
- (a) on the packaging; or
  - (b) in a document accompanying the component.

### **Instructions and safety information**

**22.**—(1) When placing a product on the market, an importer must ensure that it is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users in the Member State in which the product is to be made available.

(2) When the product is being made available to consumers and other end-users in the United Kingdom, the language which can be easily understood by consumers and other end-users is English.

### **Storage and transport**

**23.** An importer must ensure that, while a product is the importer's responsibility, its storage or transport conditions do not jeopardise its conformity with the essential requirements.

### **Duty to take action in respect of product placed on the market which is considered not to be in conformity**

**24.—(1)** An importer who considers or has reason to believe that a product which the importer has placed on the market is not in conformity with Part 2 must immediately take the corrective measures necessary to—

- (a) bring the product into conformity;
- (b) to withdraw the product from the market; or
- (c) recall it, if appropriate.

(2) Where the product presents a risk, the importer must immediately inform the market surveillance authority and the competent national authorities of any other Member State in which the importer has made the product available on the market of the risk, giving details of—

- (a) the reason or reasons why the product is not considered to be in conformity with Part 2; and
- (b) any corrective measures taken.

### **Duty of importers to retain technical documentation and EU declaration of conformity**

**25.** An importer must, for the period of 10 years beginning on the day on which the product is placed on the market—

- (a) keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities; and
- (b) ensure that the technical documentation relating to that product can be made available to the market surveillance authorities upon request.

### **Provision of information and co-operation**

**26.—(1)** An importer must, following a reasoned request from an enforcing authority, provide it with all of the information and documentation necessary to demonstrate the conformity of the product with the requirements of this Part.

(2) The information and documentation referred to in paragraph (1) must be in a language that can be easily understood by the enforcing authority.

(3) The importer must, at the request of the enforcing authority, co-operate with that authority on any action taken to eliminate the risks posed by a product that the importer has placed on the market.

## **DISTRIBUTORS**

### **Duty to act with due care**

**27.** When making a product available on the market, a distributor must act with due care to ensure the conformity of that product with Part 2.

### **Making available on the market**

**28.—(1)** Before making a product available on the market, a distributor must verify that—

- (a) the product—
  - (i) bears the CE marking;

- (ii) is accompanied by the required documents;
- (iii) is accompanied by the instructions and safety information in a language that can be easily understood by consumers and other end-users in the Member State in which the product is to be made available on the market; and
- (b) the manufacturer has complied with the requirements of—
  - (i) regulation 13 (duty of manufacturers to ensure products are labelled); and
  - (ii) regulation 14 (duty to provide information); and
- (c) the importer has complied with the requirements of regulation 21 (duty of importers to ensure products are labelled).

(2) For the purposes of this regulation “required documents” has the same meaning as in regulation 19(2) (requirements that must be satisfied before an importer places a product on the market).

#### **Duty not to place a product on the market where a distributor suspects that it is not in conformity**

**29.**—(1) Where a distributor considers or has reason to believe that a product is not in conformity with the essential requirements, the distributor must not place the product on the market.

(2) Where a product presents a risk, the distributor must inform the manufacturer or importer, and the market surveillance authority and the competent national authorities of other Member States in which the distributor has made the product available on the market of that risk.

#### **Storage and transport**

**30.** A distributor must ensure that, while a product is the distributor’s responsibility, its storage or transport conditions do not jeopardise its conformity with the essential requirements.

#### **Duty to take action in respect of watercraft placed on the market which is considered not to be in conformity**

**31.**—(1) A distributor who considers or has reason to believe that a product that the distributor has made available on the market is not in conformity with Part 2 must ensure that corrective measures necessary are taken to—

- (a) bring the product into conformity;
- (b) to withdraw the product from the market; or
- (c) recall it.

(2) Where the product presents a risk, the distributor must immediately inform the market surveillance authority and the competent national authorities of any other Member State in which the distributor has made the product available on the market of the risk, giving details of—

- (a) the reason or reasons why the product is not considered to be in conformity; and
- (b) any corrective measures taken.

#### **Provision of information and co-operation**

**32.**—(1) A distributor must, following a reasoned request from an enforcing authority, provide it with all of the information and documentation necessary to demonstrate the conformity of the product with the requirements of this Part.

(2) The information and documentation referred to in paragraph (1) must be in a language that can be easily understood by the enforcing authority.

(3) The distributor must, at the request of the enforcing authority, co-operate with the authority on any action taken to eliminate the risks posed by a product that the distributor has made available placed on the market.

## IMPORTERS AND DISTRIBUTORS

### Cases in which the obligations of manufacturers apply to importers and distributors

- 33.** An importer or a distributor (“A”) who—
- (a) places a product on the market under A’s own name or trademark; or
  - (b) modifies a product already placed on the market in such a way that it may affect whether the product is in conformity with Part 2

is to be treated as the manufacturer of that product for the purposes of these Regulations and must comply with the obligations of a manufacturer set out in this Part.

## MANUFACTURERS AND IMPORTERS

### Monitoring

**34.—**(1) Where appropriate with regard to the risks presented by the product to the health and safety of consumers the manufacturer or the importer must carry out monitoring to protect the health and safety of consumers by—

- (a) carrying out sample testing of a product made available on the market;
- (b) investigate any complaint that a product is not in conformity with Part 2; and
- (c) keep a register of—
  - (i) complaints;
  - (ii) products that are not in conformity; and
  - (iii) the recall of any product.

(2) The manufacturer or the importer must keep distributors informed of monitoring carried out under this regulation.

(3) The manufacturer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

### Translation of EU declaration of conformity

**35.—**(1) For the purposes of regulation 10(2) and (3), where the product is to be made available on the market in the United Kingdom, the language required is English.

## PRIVATE IMPORTERS AND ECONOMIC OPERATORS

### Private importers

**36.—**(1) If a manufacturer has not complied with the manufacturer’s obligations under this Part, a private importer must ensure, before putting a product into service, that—

- (a) the product has been designed and manufactured in accordance with the essential requirements; and
- (b) the obligations of the manufacturer under the following regulations have been met or carried out in relation to the product—

- (i) regulation 9 (technical documentation and conformity assessment);
- (ii) regulation 10 (EU declaration of conformity and CE marking);
- (iii) regulation 11 (duty of manufacturers to retain technical documentation and EU declaration of conformity); and
- (iv) regulation 22 (instructions and safety information).

(2) A private importer must also carry out or have carried out any obligation to provide information and co-operation imposed on a manufacturer pursuant to regulation 17 (provision of information and co-operation).

(3) Where the technical documentation is not available from the manufacturer, a private importer must have this documentation drawn up using appropriate expertise.

(4) The private importer must ensure that the name and postal address of the notified body that carried out the relevant conformity assessment procedure in relation to the product under regulation 9(1)(a) is marked on the product.

### **Identification of economic operators**

**37.**—(1) An economic operator (“E”) who receives a request from the market surveillance authority before the end of the relevant period, must, within such period as the authority may specify, identify to the authority—

- (a) any economic operator who has supplied E with a product; and
- (b) any economic operator to whom E has supplied a product.

(2) The relevant period is—

- (a) for information under paragraph (1)(a), a period of 10 years beginning on the day on which E was supplied with the product;
- (b) for information under paragraph (1)(b) a period of 10 years beginning on the day on which E supplied the product.

### **Obligations on private importers to identify economic operators**

**38.**—(1) A private importer who receives a request from the market surveillance authority before the end of the relevant period, must, within such period as the market surveillance authority may specify, identify to the market surveillance authority any economic operator which has supplied the private importer with a product.

(2) The relevant period is a period of 10 years beginning on the day on which the private importer was supplied with a product.

## **AUTHORISED REPRESENTATIVES**

### **Authorised representatives**

**39.**—(1) A manufacturer may by written mandate, appoint a person established in the EU as their authorised representative to perform specified tasks on their behalf.

(2) A manufacturer who has appointed an authorised representative to perform, on the manufacturer’s behalf, a task under these Regulations remains responsible for the proper performance of the task.

(3) The mandate must allow the authorised representative to do at least the following in relation to a product covered by the mandate—

- (a) keep a copy of—

- (i) the EU declaration of conformity; and
- (ii) the technical documentation referred to in regulation 9 (technical documentation and conformity assessment)

at the disposal of the enforcing authority and competent national authorities, for a period of 10 years beginning on the day on which the product is placed on the market;

- (b) provide, following a reasoned request from an enforcing authority, all of the information and documentation necessary to demonstrate the conformity of a the product with the essential requirements; and
- (c) co-operate with the competent national authorities, upon their request, on any action to eliminate the risks posed by a product covered by their mandate.

(4) The obligations in regulation 8 (duty to ensure watercraft comply with essential requirements) and regulation 9 (technical documentation and conformity assessment) must not form part of an authorised representative's mandate.

(5) An authorised representative must comply with all the duties imposed on the manufacturer in relation to each obligation under these Regulations that the representative is appointed by the mandate to perform and accordingly—

- (a) as far as those duties are concerned, as well as the penalties for failure to comply with those duties, a reference in these Regulations to the manufacturer (except in this regulation) is to be taken as including a reference to the authorised representative; and
- (b) if the authorised representative contravenes or fails to comply with any of those duties, the authorised representative may be proceeded against as though the authorised representative were the manufacturer.

## MISCELLANEOUS

### **Prohibition on improper use of CE marking**

**40.**—(1) An economic operator must not affix the CE marking to a product unless—

- (a) the economic operator is the manufacturer; and
- (b) the conformity of the product with the essential requirements has been demonstrated by the relevant conformity assessment procedure.

(2) An economic operator must not affix to a product a marking, sign or inscription which is likely to mislead any other person as to the meaning or form of the CE marking.

(3) An economic operator must not affix to a product any other marking if the visibility, legibility and meaning of the CE marking would be impaired as a result.

## PART 3

### CONFORMITY OF THE PRODUCT AND CONFORMITY ASSESSMENT PROCEDURES

#### **Presumption of conformity**

**41.**—(1) A product which is in conformity with a harmonised standard (or part of such a standard) the reference to which has been published in the Official Journal of the European Union is to be presumed to be in conformity with the essential requirements covered by that standard (or that part of that standard).

- (2) The presumption in paragraph (1) is rebuttable.

### **Applicable conformity assessment procedures**

42. Before placing a product on the market the manufacturer must apply the conformity assessment procedures set out in the modules set out in Annex II of Decision 768/2008 and referred to in regulations 44 (design and construction) to 47 (noise emissions: personal watercraft).

### **Duty to carry out the post construction assessment**

43.—(1) Before putting a product into service a private importer must apply the procedure referred to in regulation 48 (requirements of the post-construction assessment) to that product if the manufacturer of the product has not already carried out the conformity assessment for the product concerned.

(2) Any person must, before placing or putting into service on the market—

- (a) a propulsion engine or watercraft which has had a major engine modification or major craft conversion; or
- (b) a watercraft which has had a change in its intended purpose so that it falls within scope of these Regulations

apply the procedure referred to in regulation 48 (requirements of the post-construction assessment).

(3) Any person placing on the market a watercraft built for own use before the end of the five-year period beginning on the day on which the watercraft was put into service, must apply the procedure referred to in regulation 48 before placing the watercraft on the market.

### **Design and construction**

44.—(1) With regard to the design and construction of recreational craft, the following conformity assessment procedures set out in Annex II to Decision 768/2008/EC apply—

- (a) for design categories A and B referred to in paragraph 1 of Part A of Schedule 1—
  - (i) for recreational craft of hull length from 2.5 metres to less than 12 metres, any of the following modules—
    - (aa) Module A1 (internal production control plus supervised product testing);
    - (bb) Module B (EU-type examination) together with Module C (conformity to type based on internal production control), Module D (conformity to type based on quality assurance of the production process), Module E (conformity to type based on product quality assurance) or Module F (conformity to type based on product verification);
    - (cc) Module G (conformity based on unit verification);
    - (dd) Module H (conformity based on full quality assurance);
  - (ii) for recreational craft of hull length from 12 metres to less than 24 metres, any of the following modules—
    - (aa) Module B (EU-type examination) together with Module C (conformity to type based on internal production control), Module D (conformity to type based on quality assurance of the production process), Module E (conformity to type based on quality product assurance) or Module F (conformity to type based on product verification);
    - (bb) Module G (conformity based on unit verification);
    - (cc) Module H (conformity based on full quality assurance);
- (b) for design category C referred to in paragraph 1 of Part A of Schedule 1—



- (i) for recreational craft of hull length from 2.5 metres to less than 12 metres where the harmonised standards relating to paragraphs 3.2 and 3.3 of Part A of Schedule 1 are complied with, any of the following modules—
    - (aa) Module A (internal production control);
    - (bb) Module A1 (internal production control plus supervised product testing);
    - (cc) Module B (EU type-examination together with Module C (conformity to type based on internal production control)), Module D (conformity to type based on quality assurance of the production process), Module E (conformity to type based on quality product assurance) or Module F (conformity to type based on product verification);
    - (dd) Module G (conformity based on unit verification);
    - (ee) Module H (conformity based on full quality assurance);
  - (ii) for recreational craft of hull length from 2.5 metres to less than 12 metres where the harmonised standards relating to paragraphs 3.2 and 3.3 of Part A of Schedule 1 are not complied with, any of the following modules—
    - (aa) Module A1 (internal production control plus supervised testing);
    - (bb) Module B (EU type-examination) together with Module C (conformity to type based on internal production control), Module D (conformity to type based on quality assurance of the production process), Module E (conformity to type based on quality product assurance) or Module F (conformity to type based on product verification);
    - (cc) Module G (conformity based on unit verification);
    - (dd) Module H (conformity based on full quality assurance);
  - (iii) for recreational craft of hull length from 12 metres to 24 metres, any of the following modules—
    - (aa) Module B (EU type-examination) together with Module C (conformity to type based on internal production control), Module D (conformity to type based on quality assurance of the production process), Module E (conformity to type based on quality product assurance) or Module F (conformity to type based on product verification);
    - (bb) Module G (conformity based on unit verification);
    - (cc) Module H (conformity based on full quality assurance);
  - (c) for design category D referred to in paragraph 1 of Part A of Schedule 1 for recreational craft of hull length of 2.5 metres to 24 metres, any of the following modules—
    - (i) Module A (internal production control);
    - (ii) Module A1 (internal production control plus supervised testing);
    - (iii) Module B (EU- type examination together with Module C (conformity to type based on internal production control)), Module D (conformity to type based on quality assurance of the production process), Module E (conformity to type based on product quality assurance) or Module F (conformity to type based on product verification);
    - (iv) Module G (conformity based on unit verification);
    - (v) Module H (conformity based on full quality assurance).
- (2) With regard to the design and construction of personal watercraft, any of the following procedures set out in Annex II to Decision [768/2008/EC](#) apply—
- (a) Module A (internal production control);

- (b) Module A1 (internal production control plus supervised testing);
  - (c) Module B (EU type-examination together with Module C conformity to type based on internal production control), Module D (conformity to type based on quality assurance of the production process), Module E (conformity to type based on quality product assurance) or Module F (conformity to type based on product verification);
  - (d) Module G (conformity based on unit verification);
  - (e) Module H (conformity based on full quality assurance).
- (3) With regard to the design and construction of components any of the following procedures set out in Annex II to Decision [768/2008/EC](#) apply—
- (a) Module B (EU type-examination) together with Module C (conformity to type based on internal production control), Module D (conformity to type based on quality assurance of the production process), Module E (conformity to type based on quality product assurance) or Module F (conformity to type based on product verification);
  - (b) Module G (conformity based on unit verification);
  - (c) Module H (conformity based on full quality assurance).

#### **Exhaust emissions**

**45.** With regard to exhaust emissions, for products referred to in regulation 3(1)(d) and (e), the engine manufacturer must apply the following procedures set out in Annex II to Decision [768/2008/EC](#)—

- (a) where the tests are conducted using the harmonised standard, any of the following modules —
  - (i) Module B (EU-type examination) together with Module C (conformity to type based on internal production control), Module D (conformity to type based on quality assurance of the production process), Module E (conformity to type based on product quality assurance) or Module F (conformity to type based on product verification);
  - (ii) Module G (conformity based on unit verification);
  - (iii) Module H (conformity based on full quality assurance);
- (b) where the tests are conducted without using the harmonised standard, either of the following modules—
  - (i) Module B (the EU- type examination) together with Module C1 (conformity to type based on internal production control plus supervised product testing);
  - (ii) Module G (conformity based on unit verification).

#### **Noise emissions: recreational craft**

**46.**—(1) The manufacturer must apply the relevant procedures in paragraphs (2) to (4) as set out in Annex II to Decision [768/2008/EC](#) with regard to the noise emissions for recreational craft with—

- (a) stern drive propulsion engines without integral exhausts or inboard propulsion engine installations; and
  - (b) stern drive propulsion engines without integral exhausts or inboard propulsion engine installations which are subject to major craft conversion and are subsequently placed on the market within the period of 5 years from the day on which that conversion was completed.
- (2) Where tests are conducted using the harmonised standard for noise measurement, any of the following modules apply—
- (a) Module A1 (internal production plus supervised product testing);

- (b) Module G (conformity based on unit verification);
  - (c) Module H (conformity based on full quality assurance).
- (3) Where tests are conducted without using the harmonised standard for noise measurement, Module G (conformity based on unit verification) applies.
- (4) Where the Froude number of power displacement ratio method is used for assessment, any of the following modules apply—
- (a) Module A (internal production control);
  - (b) Module G (conformity based on unit verification);
  - (c) Module H (conformity based on full quality assurance).

#### **Noise emissions: personal watercraft**

**47.**—(1) The personal watercraft or engine manufacturer must apply the relevant procedure in paragraphs (2) or (3) as set out in Annex II to Decision [768/2008/EC](#), with regard to noise emissions for—

- (a) personal watercraft and outboard propulsion engines; and
  - (b) stern drive propulsion engines with integral exhausts intended for installation on recreational craft.
- (2) Where the tests are conducted using the harmonised standard for noise measurement, any of the following modules apply—
- (a) Module A1 (internal production control plus supervised product testing);
  - (b) Module G (conformity based on unit verification);
  - (c) Module H (conformity based on full quality assurance).
- (3) Where the tests are conducted without using the harmonised standard for noise measurement, Module G (conformity based on unit verification) applies.

#### **Requirements of the post-construction assessment**

**48.** A post-construction assessment must be carried out in accordance with the process set out in Schedule 5.

### **SUPPLEMENTARY REQUIREMENTS FOR CERTAIN CONFORMITY ASSESSMENTS**

#### **Conformity assessments carried out under Module B (EU-type examination)**

**49.**—(1) Where an economic operator has a conformity assessment carried out on a product under Module B (EU-type examination) of Annex II to Decision [768/2008/EC](#) in relation to a product, the conformity assessment must be carried out in the manner set out in Schedule 10.

- (2) A production type may cover several versions of the assessed product, if—
- (a) the differences between the versions of the product do not affect the level of safety and the other requirements concerning the performance of the product; and
  - (b) the different versions of the product are referred to in the corresponding EU-type examination certificate, if necessary by means of amendments to the original certificate.

(3) For the purposes of this regulation—

“production type” means an examination of the adequacy of the technical design of the watercraft through examination of the technical documentation specified in paragraph 3 of Schedule 10 and a specimen watercraft that is representative of the completed watercraft that is to be or has been produced by the manufacturer.

### **Conformity assessments carried out under Module A1 (internal production control plus supervised product testing)**

**50.**—(1) Where an economic operator has a conformity assessment carried out on a product under Module A1 (internal production control plus supervised product testing) of Annex II to Decision [768/2008/EC](#)—

- (a) the product checks must be carried out on at least one watercraft that is representative of the watercraft that is to be or has been produced by the manufacturer; and
- (b) the requirements set out in Schedule 6 apply.

(2) The possibility, referred to in Modules A1 and C1 of Annex II of Decision 768/2008, of using an accredited in-house body to perform a conformity assessment under those modules is not applicable in relation to watercraft.

### **Conformity assessments carried out under Module F (conformity to type based on product verification)**

**51.** Where an economic operator has a conformity assessment carried out on a product under Module F (conformity to type based on product verification) of Annex II to Decision [768/2008/EC](#), the procedure set out in Schedule 7 applies.

### **Conformity assessments carried out under Module C (conformity to type based on internal production control)**

**52.**—(1) This regulation applies where—

- (a) an economic operator has a conformity assessment carried out on a watercraft under Module C (conformity to type based on internal production control) of Annex II of Decision [768/2008/EC](#);
- (b) Module C is used to assess the conformity of the product with the exhaust emission requirements of these Regulations; and
- (c) the manufacturer is not working under a relevant quality system as described in Module H of Annex II to Decision [768/2008/EC](#).

(2) A notified body chosen by the manufacturer must carry out product checks as required by Module C or have them carried out at random intervals to be determined by the notified body, in order to verify the quality of the internal checks on the product carried out under the manufacturer's own checking measures.

(3) When the quality level appears unsatisfactory or when it seems necessary to verify the validity of the data presented by the manufacturer, the procedure set out in Schedule 8 applies.

### **EU declaration of conformity**

**53.** The EU declaration of conformity for a product must—

- (a) state that the product complies with the essential requirements;
- (b) contain the elements specified in regulations 44 to 47 for the relevant conformity assessment in respect of the product; and
- (c) be set out in accordance with the model structure set out in Schedule 4.

### **CE marking**

**54.**—(1) The CE marking must be affixed visibly, legibly and indelibly to the product.

- (2) Where it is not possible or warranted, on account of the nature of a component to affix the CE marking in accordance with paragraph (1), the CE marking must be affixed to—
- (a) the packaging; and
  - (b) the accompanying documents.
- (3) Where the product referred to in paragraph (1)—
- (a) is a watercraft, the CE marking must be affixed to the watercraft builder's plate and mounted separately from the watercraft identification number; or
  - (b) is a propulsion engine, the CE marking must be affixed on the engine.
- (4) The CE marking must be followed by the identification number of the notified body where—
- (a) that body is involved in the production control phase of the conformity assessment under Modules A (internal production control), A1 (internal production control plus supervised product testing) or C (conformity to type based on internal production control) set out in Annex II of Decision 768/2008; or
  - (b) where a post construction assessment set out in Schedule 5 of these Regulations is being used.
- (5) The identification number of the notified body must be affixed—
- (a) by the notified body itself; or
  - (b) under the instructions of the notified body by the manufacturer.

## PART 4

### NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

#### Notified bodies

- 55.** For the purposes of this Part, a notified body is a conformity assessment body—
- (a) which has been notified by the Secretary of State, to the European Commission and to the other Member States—
    - (i) under regulation 56 (notification); or
    - (ii) before the date these Regulations come into force, in accordance with Article 26 of the Directive; and
  - (b) in respect of which no objections were raised by the European Commission or other Member States—
    - (i) within 2 weeks of the date of notification, where notification is accompanied by an accreditation certificate; or
    - (ii) within 2 months of the date of notification, where the notification is not accompanied by an accreditation certificate.

#### Notification

- 56.**—(1) The Secretary of State may notify to the European Commission and the other Member States only those conformity assessment bodies that qualify for notification.
- (2) A conformity assessment body qualifies for notification if the first and second conditions below are met.
- (3) The first condition is that the conformity assessment body has applied to the Secretary of State to become a notified body and the application is accompanied by—

- (a) a description of—
    - (i) the conformity assessment activities that the conformity assessment body intends to carry out;
    - (ii) the conformity assessment module or modules in respect of which the conformity body claims to be competent; and
    - (iii) the product for which the conformity assessment body claims to be competent; and either—
  - (b) an accreditation certificate; or
  - (c) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the notified body requirements.
- (4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the notified body requirements.
- (5) For the purposes of paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with paragraph 3(b), as sufficient evidence that the conformity assessment body meets the notified body requirements.
- (6) When deciding whether to notify a conformity assessment body that qualifies for notification to the European Commission and the other Member States, the Secretary of State may—
- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
  - (b) set conditions that the conformity assessment body must meet.
- (7) The Secretary of State must inform the European Commission of the United Kingdom's procedures for the assessment and notification of conformity assessment bodies, and any changes to those procedures.

### **Contents of notification**

57. A notification under regulation 56 (notification) must include—
- (a) the details of—
    - (i) the conformity assessment activities in respect of which the conformity assessment body has made its application for notification;
    - (ii) the conformity assessment module or modules in respect of which the conformity assessment body has made its application for notification;
    - (iii) the product in respect of which the conformity assessment body has made its application for notification; and either
  - (b) an accreditation certificate; or
  - (c) documentary evidence which attests to—
    - (i) the conformity assessment body's competence; and
    - (ii) the arrangements in place to ensure that the conformity assessment body will be monitored regularly and will continue to satisfy the notified body requirements.

### **Presumption of conformity of notified bodies**

58.—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a harmonised standard (or part of such a standard), the reference of which has been published in the Official Journal of the European Union, the Secretary of State is to presume that the conformity assessment body meets the notified body requirements covered by that standard (or part of that standard).

- (2) The presumption in paragraph (1) is rebuttable.

### **Monitoring of notified bodies**

**59.**—(1) The Secretary of State must monitor each notified body with a view to verifying that the notified body—

- (a) continues to meet the notified body requirements;
- (b) complies with any condition set in accordance with regulation 56(6)(b); and
- (c) carries out its functions in accordance with these Regulations.

(2) The Secretary of State must inform the European Commission of the United Kingdom's procedures for the monitoring of notified bodies, and any changes to those procedures.

### **Authorisation of the United Kingdom Accreditation Service**

**60.** The Secretary of State may authorise the United Kingdom Accreditation Service (a company limited by guarantee incorporated in England and Wales under number 03076190) to carry out the following activities on behalf of the Secretary of State—

- (a) assessing applications for designation as a notified body made under regulation 56 (application for designation as a notified body); and
- (b) monitoring notified bodies required by regulation 59 (monitoring of notified bodies).

### **Changes to notifications**

**61.**—(1) Where the Secretary of State determines that a notified body no longer meets a notified body requirements or that it is failing to fulfil its obligations under these Regulations other than a condition set in accordance with regulation 56(6)(b), the Secretary of State must restrict, suspend or withdraw the body's status as a notified body under regulation 55.

(2) With the consent of the notified body, or where the Secretary of State determines that a notified body no longer meets a condition set in accordance with regulation 56(6)(b), the Secretary of State may restrict, suspend or withdraw the body's status as a notified body under regulation 55.

(3) In deciding what action is required under paragraph (1) or (2), the Secretary of State must have regard to the seriousness of the non-compliance.

(4) Where the Secretary of State takes action under paragraph (1) or (2), the Secretary of State must immediately inform the European Commission and the other Member States.

(5) Where the Secretary of State has taken action under paragraph (1) or (2), or where the notified body has ceased its activity, the notified body must—

- (a) at the request of the Secretary of State, transfer its files relating to the activities it has undertaken as a notified body to another notified body or to the Secretary of State; or
- (b) in the absence of a request under sub-paragraph (a), keep its files relating to the activities it has undertaken as a notified body available for inspection by the Secretary of State and the market surveillance authorities for a period of 10 years from the date they were created.

### **Operational requirements of notified bodies**

**62.** When a notified body carries out a relevant conformity assessment procedure, Schedule 12 (operational requirements of notified bodies) has effect.

### **Subsidiaries and contractors**

**63.**—(1) Where a notified body subcontracts specific tasks connected with conformity assessment, or has such tasks carried out by a subsidiary, the tasks are only to be treated as having been carried out by a notified body for the purposes of regulations 44 to 47 where the conditions in paragraphs (2) and (3) are satisfied.

(2) The notified body must—

- (a) ensure that the subcontractor or subsidiary meets the notified body requirements; and
- (b) inform the Secretary of State accordingly.

(3) The notified body must have obtained the agreement of the client economic operator to the use of a subcontractor or subsidiary.

(4) Where a notified body subcontracts specific tasks connected with conformity assessment, or has such tasks carried out by a subsidiary, the notified body must, for a period of 10 years beginning on the day on which the tasks are carried out, keep at the disposal of the Secretary of State the documentation concerning—

- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
- (b) the conformity assessment activities carried out by the subcontractor or subsidiary.

(5) When monitoring a notified body in accordance with regulation 59 (monitoring of notified bodies), the Secretary of State must treat the notified body as responsible for the tasks performed by a subcontractor or subsidiary, wherever the subcontractor or subsidiary is established.

### **Appeal against a change to a notification**

**64.**—(1) Where the Secretary of State intends to restrict, suspend or withdraw a notification in accordance with regulation 61 (changes to notifications) the Secretary of State must give notice in writing to the notified body concerned that its notification will be restricted, suspended or withdrawn.

(2) A written notice provided in accordance with paragraph (1) must—

- (a) state the date on which the notice is issued;
- (b) state of the reasons why the notification is being restricted, suspended or withdrawn;
- (c) state the date on which the restriction, suspension or withdrawal of the notification is to take effect;
- (d) where a notification has been restricted or suspended, state what the effect of that restriction or suspension is upon the notified body;
- (e) inform the notified body of its right to make representations to the Secretary of State, in writing, within 14 days of the date on the notice, against this decision.

(3) Where a notified body submits written representations to the Secretary of State, the Secretary of State must respond to those representations within 21 days of the date on which those representations are received, stating whether, having considered those representations, the notice issued under paragraph (1) will be modified or withdrawn.

## **PART 5**

### **MARKET SURVEILLANCE AND ENFORCEMENT**

#### **Designation of market surveillance authorities**

**65.** The market surveillance authority is—



- (a) within its area in Great Britain, the weights and measures authority; and
- (b) in Northern Ireland, every district council.

### **Enforcement**

**66.**—(1) The market surveillance authority must enforce these Regulations and RAMS (in its application to products covered by these Regulations).

(2) The Secretary of State, or a person appointed by the Secretary of State to act on behalf of the Secretary of State, may enforce these Regulations and RAMS (in its application to products covered by these Regulations).

(3) Before taking action under paragraph (2), the Secretary of State or the person appointed by the Secretary of State to act on the Secretary of State's behalf, must notify the relevant market surveillance authority.

(4) In Scotland, only the Lord Advocate may prosecute an offence under these Regulations.

### **Enforcement powers**

**67.** Schedule 13 (enforcement and investigatory powers conferred on the market surveillance authority) and Schedule 14 (compliance, withdrawal and recall notices) of these Regulations have effect.

### **Evaluation of a product presenting a risk**

**68.**—(1) Where the market surveillance authority has sufficient reason to believe that a product presents a risk, that authority must carry out an evaluation of that product in order to determine whether the product satisfies the requirements of Part 2 of these Regulations in respect of that product.

(2) Where an enforcing authority other than a market surveillance authority has sufficient reason to believe that a product presents a risk, that authority may carry out an evaluation of that product in order to determine whether the product satisfied the requirements of Part 2 of these Regulations in respect of that product.

### **Enforcement action in respect of products that are not in conformity and which present a risk**

**69.**—(1) Where in the course of the evaluation referred to in regulation 68 (evaluation of product presenting a risk), an enforcing authority finds that the product is not in conformity with Part 2 of these Regulations it must, without delay, require a relevant economic operator to—

- (a) take the appropriate corrective action to bring the product into conformity with those requirements within a prescribed period;
- (b) withdraw the product within a prescribed period; or
- (c) recall the product within a prescribed period.

(2) The enforcing authority must inform the notified body that carried out the conformity assessment in relation to the product of—

- (a) the respect in which the product is not in conformity with Part 2 ; and
- (b) the actions which the market surveillance authority requires the relevant economic operator to take to bring the product into conformity with Part 2.

(3) Where the enforcing authority is not the Secretary of State and it considers that the non-conformity referred to in paragraph (1) is not restricted to products that have been placed or made available on the market in the United Kingdom, it must notify the Secretary of State of—

- (a) the results of the evaluation; and
- (b) the actions which it has required the economic operator to take.

(4) Where the Secretary of State receives notice from an enforcing authority under paragraph (3), or otherwise considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, the Secretary of State must inform the European Commission and the other Member States of—

- (a) the results of the evaluation; and
- (b) the actions which the enforcing authority has required the economic operator to take.

(5) Where the relevant economic operator does not take adequate corrective action within the prescribed period, the enforcing authority must take appropriate measures to—

- (a) prohibit or restrict the product being made available on the market in the United Kingdom;
- (b) withdraw the product from the United Kingdom market; or
- (c) recall the product.

(6) Where the enforcing authority is not the Secretary of State and it takes measures under paragraph (5), it must notify the Secretary of State of those measures without delay.

(7) Where the Secretary of State receives a notice under paragraph (6), or takes measures under paragraph (5), the Secretary of State must notify the European Commission and the other Member States without delay.

(8) The notices referred to in paragraphs (6) and (7) must include details about the product and, in particular—

- (a) the information necessary to identify the product that is not in conformity;
- (b) the origin of the product;
- (c) the nature of the alleged lack of conformity and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the economic operator; and
- (f) whether the failure of the product to conform with the requirements of Part 2 is due to—
  - (i) the failure of the product to meet the requirements of that Part and Schedule 1 relating to risk; or
  - (ii) shortcomings in a harmonised standards referred to in regulation 41 (presumption of conformity) which confer a presumption of conformity.

(9) In this regulation, “prescribed period” means a period which is—

- (a) prescribed by the enforcing authority; and
- (b) reasonable and commensurate with the nature of the risk presented by the product.

### **EU Safeguard procedure**

**70.**—(1) Where another Member State has initiated the procedure under Article 44 of the Directive (as amended from time to time), the market surveillance authority must, without delay, inform the Secretary of State of—

- (a) any measures taken by the market surveillance authority in respect of the product; and
- (b) any additional information which the market surveillance authority has at its disposal relating to the lack of conformity of the product.

(2) Where another Member State has initiated the procedure under Article 44 of the Directive (as amended from time to time), the Secretary of State must, without delay, inform the Commission and the other Member State of—

- (a) any measures taken by a market surveillance authority in respect of the product;
- (b) any additional information which a market surveillance authority has at its disposal relating to the lack of conformity with the product; and
- (c) any objections the Secretary of State may have to the measures taken by the Member State initiating the procedure.

(3) Where a measure taken by another Member State in respect of a product is considered justified under Article 45(2) of the Directive (as amended from time to time), the market surveillance authority must ensure that appropriate measures, such as withdrawal, are taken in respect of the product without delay.

(4) Where a measure taken by another Member State in respect of a product is considered justified by the Commission under Article 45(2) of the Directive (as amended from time to time), the market surveillance authority must take the necessary measures to ensure that the product is withdrawn from the market in the United Kingdom.

(5) Where the market surveillance authority has taken action under paragraphs (3) or (4), it must inform the Secretary of State.

(6) Where the Secretary of State receives a notice under paragraph (5), the Secretary of State must inform the Commission of the action taken.

(7) If a measure taken by the market surveillance authority pursuant to regulation 69 is considered unjustified by the Commission under Article 44(1) of the Directive (as amended from time to time), the market surveillance authority must withdraw that measure.

### **Enforcement action in respect of formal non-compliance**

**71.**—(1) Where an enforcing authority makes one of the following findings relating to a product, it must require a relevant economic operator to remedy the non-compliance concerned within such reasonable period as the enforcing authority specifies—

- (a) the CE marking—
  - (i) has not been affixed; or
  - (ii) has been affixed in violation of regulation 40 (prohibition on improper use of CE marking) or regulation 54 (CE marking);
- (b) the EU declaration of conformity or the declaration referred to in Schedule 3—
  - (i) has not been drawn up; or
  - (ii) has not been drawn up correctly;
- (c) the technical documentation is either not available or is incomplete;
- (d) the information set out in regulation 14 (duty to provide information) and regulation 21 (duty of importer to ensure products are labelled) is absent, false or incomplete;
- (e) that there has been non-compliance with any other requirement referred to—
  - (i) in the case of the manufacturer or their authorised representative in regulations 8 to 17;
  - (ii) in the case of the importer in regulations 18 to 26;
  - (iii) in the case of a distributor in regulations 27 to 32; and
  - (iv) in the case of a private importer in regulations 36 to 38.

(2) The enforcing authority must not commence proceedings under these Regulations, or take any other enforcement action under these Regulations, against the relevant economic operator in respect of the non-compliance concerned until the period referred to in paragraph (1) has elapsed.

(3) Where the non-compliance referred to in paragraph (1) persists, the enforcing authority must take appropriate measures to—

- (a) restrict or prohibit the product being made available on the market;
- (b) ensure that the product is recalled or withdrawn from the market; or
- (c) in the case of a product imported by a private importer for their own use, that that product is prohibited or restricted.

(4) This regulation does not apply where the product presents a risk.

### **Restrictive measures**

**72.** When enforcing these Regulations, an enforcing authority must comply with the requirements of Article 21 of RAMS (as amended from time to time) in relation to any measure to—

- (a) prohibit or restrict a product from being made available on the market;
- (b) withdraw a product from the market; or
- (c) recall a product.

### **Offences**

**73.**—(1) It is an offence for a person to contravene or fail to comply with any requirement of—

- (a) regulation 6;
- (b) regulations 8 to 16;
- (c) regulation 17(3);
- (d) regulations 20 to 25;
- (e) regulation 26(3);
- (f) regulations 27 to 31;
- (g) regulation 32(3);
- (h) regulation 34;
- (i) regulation 36 to 38; or
- (j) regulation 40.

(2) It is an offence for any person to contravene or fail to comply with any requirement of a withdrawal or recall notice served on that person by an enforcing authority under these Regulations.

### **Penalties**

**74.** Any person who is guilty of an offence under regulation 73 (offences) is liable on summary conviction—

- (a) in England and Wales—
  - (i) to imprisonment for a term not exceeding 3 months;
  - (ii) to a fine; or
  - (iii) to both.
- (b) in Scotland and Northern Ireland—
  - (i) to imprisonment for a term not exceeding 3 months; or

- (ii) to a fine not exceeding level 5 on the standard scale; or
- (iii) to both.

### **Defence of due diligence**

**75.**—(1) Subject to paragraphs (2) and (4), in proceedings for an offence under regulation 73 (offences) it is a defence for a person (“P”) to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) P may not rely on a defence under paragraph (1) which involves a third party allegation unless P has—

- (a) served a notice in accordance with paragraph (3); or
- (b) obtained the leave of the court.

(3) The notice must—

- (a) give any information in P’s possession which identifies or assists in identifying the person who—
  - (i) committed the act or default; or
  - (ii) supplied the information on which P relied;
- (b) be served on the person bringing the proceedings not less than 7 clear days before—
  - (i) in England, Wales and Northern Ireland, the hearing of the proceedings;
  - (ii) in Scotland, the trial diet.

(4) P may not rely on a defence under paragraph (1) which involves an allegation that the commission of the offence was due to reliance on information supplied by another person unless it was reasonable for P to have relied upon the information, having regard in particular—

- (a) to the steps that P took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether P had any reason to disbelieve the information.

(5) In this regulation, “third party allegation” means an allegation that the commission of the offence was due—

- (a) to the act or default of another person; or
- (b) to reliance on information supplied by another person.

### **Liability of persons other than the principal offender**

**76.**—(1) Where the commission by one person (“X”) of an offence under these Regulations is due to anything which another person (“Y”) did or failed to do in the course of business, Y is guilty of an offence and may be proceeded against and punished, whether or not proceedings are taken against X.

(2) Where a body corporate commits an offence, a relevant person is also guilty of the offence where the body corporate’s offence was committed—

- (a) with the consent or connivance of the relevant person; or
- (b) as a result of the negligence of the relevant person.

(3) In paragraph (2), “relevant person” means—

- (a) a director, manager, secretary or other similar officer of the body corporate;
- (b) in relation to a body corporate managed by its members, a member of that body corporate performing managerial functions;
- (c) in relation to a Scottish partnership, a partner; or

- (d) a person purporting to act as a person described in sub-paragraphs (a), (b) or (c).

### **Service of documents**

77.—(1) Any document required or authorised by these Regulations to be served on a person may be served by—

- (a) delivering it to that person in person;
- (b) leaving it at that person’s proper address; or
- (c) sending it by post or electronic means to that person’s proper address.

(2) In the case of a body corporate, a document may be served on a director of that body.

(3) In the case of a partnership, a document may be served on a partner or a person having control or management of the partnership business.

(4) For the purposes of this regulation, “proper address” means—

- (a) in the case of a body corporate or its director—
  - (i) the registered or principal office of that body; or
  - (ii) the email address of the secretary or clerk of that body;
- (b) in the case of a partnership, a partner or person having control or management of the partnership business—
  - (i) the principal office of the partnership; or
  - (ii) the email address of a partner or person having that control or management;
- (c) in any other case, a person’s last known address, which includes an email address.

(5) If a person to be served with a document has specified an address in the United Kingdom (other than that person’s proper address) at which that person or someone on that person’s behalf will accept service, that address must also be treated as that person’s proper address.

(6) In this regulation, “partnership” includes a Scottish partnership.

### **Recovery of expenses of enforcement**

78.—(1) This regulation applies where a person commits an offence under regulation 73 (offences).

(2) The court may (in addition to any other order it may make as to costs or expenses) order the person to reimburse the enforcing authority for any expenditure which the authority has incurred in investigating the offence.

### **Action by enforcing authority**

79.—(1) An enforcing authority may take action which an economic operator could have been required to take by a notice served under these Regulations where the conditions for serving such a notice are met and either—

- (a) the authority has been unable to identify any economic operator on whom to serve such a notice; or
- (b) the economic operator on whom such a notice has been served has failed to comply with it.

(2) If the enforcing authority takes action as a result of the condition in paragraph (1)(b) being met, the authority may recover from the economic operator, as a civil debt, any costs or expenses reasonably incurred by the authority in taking the action.

(3) A civil debt recoverable under paragraph (2) may be recovered summarily—

- (a) in England and Wales by way of a complaint pursuant to section 58 of the Magistrates' Courts Act 1980<sup>(13)</sup>;
  - (b) in Northern Ireland in proceedings under article 62 (debt proceedings) of the Magistrates Courts (Northern Ireland) Order 1981<sup>(14)</sup>.
- (4) In this regulation, "notice" means a notice served under Schedule 14.

### **Appeals against notices**

**80.**—(1) An application for an order to vary or set aside the terms of a notice served under these Regulations may be made—

- (a) by the economic operator on whom the notice has been served; and
- (b) by a person having an interest in the product in respect of which the notice has been served, unless the notice is a recall notice.

(2) An application must be made before the end of the period of 21 days beginning with the day on which the notice was served.

(3) The appropriate court may only make an order setting aside a notice served under these Regulations if satisfied that the product to which the notice relates is in conformity with Part 2 and does not present a risk.

(4) On an application under paragraph (1) to vary the terms of a notice served under these Regulations, the appropriate court may vary the terms of the notice as it considers appropriate.

(5) In this regulation—

- (a) the "appropriate court" is to be determined in accordance with regulation 81 (appropriate court for appeals against notices); and
- (b) "notice" means any notice served under Schedule 14.

### **Appropriate court for appeals against notices**

**81.**—(1) In England and Wales or Northern Ireland, the appropriate court for the purposes of regulation 80 (appeals against notices) is—

- (a) the court in which proceedings have been brought in relation to the product for an offence under regulation 73 (offences);
- (b) in any other case, a magistrates' court.

(2) In Scotland, the appropriate court for the purposes of regulation 80 is the sheriff of the sheriffdom in which the person making the appeal resides or has a registered principal office.

(3) A person aggrieved by an order made by a magistrates' court in England and Wales or Northern Ireland pursuant to an application under regulation 80 (appeals against notices), or by a decision of such a court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the crown court;
- (b) in Northern Ireland, to the county court.

### **Time limit for commencement of proceedings**

**82.**—(1) Subject to paragraph (4), in England and Wales, an information relating to an offence under regulation 73 (offences) that is triable by a magistrates' court may be so tried if it is laid within

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<sup>(13)</sup> 1980 c.43; section 58 was amended by the Crime and Courts Act 2013 (c.22), Schedule 10 paragraph 40.

<sup>(14)</sup> S.I. 1981/1675 (NI 26).

12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(2) Subject to paragraph (4), in Scotland—

- (a) summary proceedings for an offence under regulation 73 may be commenced before the end of 12 months after the date on which evidence sufficient in the Lord Advocate’s opinion to justify the proceedings came to the Lord Advocate’s knowledge; and
- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995<sup>(15)</sup> (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

(3) Subject to paragraph (4), in Northern Ireland, summary proceedings for an offence under regulation 73 may be instituted within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to the knowledge of the prosecutor.

(4) No proceedings may be brought more than 3 years after the commission of the offence.

(5) For the purposes of this regulation a certificate of the prosecutor (or in Scotland, the Lord Advocate) as to the date on which the evidence referred to paragraphs (1), (2) or (3) came to light, is conclusive evidence.

### Compensation

**83.**—(1) Where an enforcing authority serves a relevant notice in respect of a product, that authority is liable to pay compensation to a person having an interest in the product for any loss or damage suffered by reason of the notice if both of the conditions in paragraph (2) are met.

(2) The conditions are that—

- (a) the product in respect of which the relevant notice was served neither—
  - (i) presents a risk; nor
  - (ii) contravenes any requirement of these Regulations; and
- (b) the exercise of the power to serve the relevant notice was not attributable to neglect or default by a relevant economic operator.

(3) In this regulation, “relevant notice” means a notice served in accordance with Schedule 14.

## PART 6

### MISCELLANEOUS

#### Amendment to the Consumer Rights Act 2015

**84.** In paragraph 10 of Schedule 5 to the Consumer Rights Act 2015<sup>(16)</sup> at the appropriate place insert—

“regulation 66(1) or (2) of the Recreational Craft Regulations 2017 (S.I. 2017/737);”.

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<sup>(15)</sup> 1995 c.46.

<sup>(16)</sup> 2015 c.15.



**Amendment to the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004**

**85.** The Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004(17) Schedule 1 (specified subordinate legislation) is amended as follows—

- (a) “The Recreational Craft Regulations 1996 insofar as not revoked by the Recreational Craft Regulations 2004” substitute “The Recreational Craft Regulations 2004 insofar as not revoked by the Recreational Craft Regulations 2017”; and
- (b) omit the entry “The Recreational Craft Regulations 2004” and at the appropriate place insert “The Recreational Craft Regulations 2017”.

**Amendment to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007**

**86.** The Legislative and Regulatory Reform (Regulatory Functions) Order 2007(18) is amended as follows—

- (a) in Part 3 of the Schedule, under the heading “Public health and safety” omit the entry “The Recreational Craft Regulations 2004” and after the last entry insert “The Recreational Craft Regulations 2017”;
- (b) in Part 8 of the Schedule, omit the entry “The Recreational Craft Regulations 2004” and after the last entry insert “The Recreational Craft Regulations 2017”; and
- (c) in Part 13 of the Schedule, omit the entry “The Recreational Craft Regulations 2004” and after the last entry insert “The Recreational Craft Regulations 2017”.

**Amendment to the Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009**

**87.** The Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order(19) is amended as follows—

- (a) in Part 4 of Schedule 1 omit the entry “The Recreational Craft Regulations 2004” ; and at the end insert “The Recreational Craft Regulations 2017”; and
- (b) in Part 2 of Schedule 2 omit the entry “The Recreational Craft Regulations 2004” and at the end insert “The Recreational Craft Regulations 2017”.

**Review**

**88.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provisions contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before the end of the period of 5 years beginning on the commencement date.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(20) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

(17) [S.I. 2004/693](#). Regulation 3(a) inserts a reference to the Recreational Craft Regulations 2004 into the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004.

(18) [S.I. 2007/3544](#).

(19) [S.I. 2009/669](#).

(20) [2015 c.26](#)

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulations must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provisions referred to in paragraph 1(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

### **Transitional provisions**

**89.**—(1) Nothing in these Regulations prevents the making available on the market of a product which—

- (a) is in conformity with the requirements of [Directive 94/25/EC](#) on the approximation of laws, regulations and administrative provisions of the Member States relating to recreational craft<sup>(21)</sup>; and
- (b) was placed on the market before the commencement date.

(2) Nothing in these Regulations prevents the making available on the market or the putting into service of outboard SI (Spark Ignition) propulsion engines with power equal to less than 15kW which comply with the stage 1 exhaust emission limits laid down in point 2.1 of Part B of Annex 1 of the Directive which are—

- (a) manufactured by small or medium-sized enterprises; and
- (b) placed on the market before 18th January 2020.

### **Revocations and savings**

**90.**—(1) The Recreational Craft Regulations 1996<sup>(22)</sup> are revoked save as regard their application to—

- (a) any watercraft that was placed on the market or put into service prior to 1st January 2005; and
- (b) the appointment or termination of appointment of any notified body for the purposes of those Regulations.

(2) The Recreational Craft Regulations 2004<sup>(23)</sup> are revoked save as regards their application to—

- (a) any watercraft that was placed on the market or put into service prior to the commencement date; and
- (b) the appointment or termination of appointment of any notified body for the purposes of those Regulations.

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(21) OJ No L 164, 30.6.1994, p.15.

(22) [S.I. 1996/1353](#); these Regulations were revoked with savings in respect of certain limited exceptions, by [S.I. 2004/1464](#), regulation 1(4).

(23) [S.I. 2004/1464](#).

11th July 2017

*Margot James*  
Parliamentary Under Secretary of State  
Department for Business, Energy and Industrial  
Strategy

## SCHEDULE 1

Regulation 2(1)

## (Annex I of the Directive)

## ESSENTIAL REQUIREMENTS

## A. Essential requirements for the design and construction of products referred to in Article 2(1)

## 1. WATERCRAFT DESIGN CATEGORIES

Design category	Wind force (Beaufort scale)	Significant wave height (H $\frac{1}{3}$ , metres)
A	exceeding 8	exceeding 4
B	up to, and including, 8	up to, and including, 4
C	up to, and including, 6	up to, and including, 2
D	up to, and including, 4	up to, and including, 0,3

## Explanatory notes:

- A. A recreational craft given design category A is considered to be designed for winds that may exceed wind force 8 (Beaufort scale) and significant wave height of 4 m and above but excluding abnormal conditions, such as storm, violent storm, hurricane, tornado and extreme sea conditions or rogue waves.
- B. A recreational craft given design category B is considered to be designed for a wind force up to, and including, 8 and significant wave height up to, and including, 4 m.
- C. A watercraft given design category C is considered to be designed for a wind force up to, and including, 6 and significant wave height up to, and including, 2 m.
- D. A watercraft given design category D is considered to be designed for a wind force up to, and including, 4 and significant wave height up to, and including, 0,3 m, with occasional waves of 0,5 m maximum height.

Watercraft in each design category must be designed and constructed to withstand the parameters in respect of stability, buoyancy, and other relevant essential requirements listed in this Annex, and to have good handling characteristics.

## 2. GENERAL REQUIREMENTS

## 2.1. Watercraft identification

Each watercraft shall be marked with an identification number including the following information:

- (1) country code of the manufacturer,
- (2) unique code of the manufacturer assigned by the national authority of the Member State,
- (3) unique serial number,
- (4) month and year of production,
- (5) model year.

Detailed requirements for the identification number referred to in the first paragraph are set out in the relevant harmonised standard.

## 2.2. Watercraft builder's plate

Each watercraft shall carry a permanently affixed plate mounted separately from the watercraft identification number, containing at least the following information<sup>36</sup>

- (a) manufacturer's name, registered trade name or registered trade mark, as well as contact address;

- (b) CE marking, as provided for in Article 18;
- (c) watercraft design category in accordance with Section 1;
- (d) manufacturer's maximum recommended load derived from point 3.6 excluding the weight of the contents of the fixed tanks when full;
- (e) number of persons recommended by the manufacturer for which the watercraft was designed.

In the case of post-construction assessment, the contact details and the requirements referred to in point (a) shall include those of the notified body which has carried out the conformity assessment.

### 2.3. Protection from falling overboard and means of reboarding

Watercraft shall be designed to minimise the risks of falling overboard and to facilitate reboarding. Means of reboarding shall be accessible to or deployable by a person in the water unaided.

### 2.4. Visibility from the main steering position

For recreational craft, the main steering position shall give the operator, under normal conditions of use (speed and load), good all-round visibility.

### 2.5. Owner's manual

Each product shall be provided with an owner's manual in accordance with Article 7(7) and Article 9(4). That manual shall provide all the information necessary for safe use of the product drawing particular attention to set up, maintenance, regular operation, prevention of risks and risk management.

## 3. INTEGRITY AND STRUCTURAL REQUIREMENTS

### 3.1. Structure

The choice and combination of materials and its construction shall ensure that the watercraft is strong enough in all respects. Special attention shall be paid to the design category in accordance with Section 1, and the manufacturer's maximum recommended load in accordance with point 3.6.

### 3.2. Stability and freeboard

The watercraft shall have sufficient stability and freeboard considering its design category in accordance with Section 1 and the manufacturer's maximum recommended load in accordance with point 3.6.

### 3.3. Buoyancy and flotation

The watercraft shall be constructed as to ensure that it has buoyancy characteristics appropriate to its design category in accordance with Section 1 and the manufacturer's maximum recommended load in accordance with point 3.6. All habitable multihull recreational craft susceptible of inversion shall have sufficient buoyancy to remain afloat in the inverted position.

Watercraft of less than 6 metres in length that are susceptible to swamping when used in their design category shall be provided with appropriate means of flotation in the swamped condition.

### 3.4. Openings in hull, deck and superstructure

Openings in hull, deck(s) and superstructure shall not impair the structural integrity of the watercraft or its weather tight integrity when closed.

Windows, port lights, doors and hatch covers shall withstand the water pressure likely to be encountered in their specific position, as well as point loads applied by the weight of persons moving on deck.

Through hull fittings designed to allow water passage into the hull or out of the hull, below the waterline corresponding to the manufacturer's maximum recommended load in accordance with point 3.6, shall be fitted with a means of shutoff which shall be readily accessible.

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**3.5. Flooding**

All watercraft shall be designed so as to minimise the risk of sinking.

Where appropriate, particular attention shall be paid to:

- (a) cockpits and wells, which should be self-draining or have other means of keeping water out of the watercraft interior;
- (b) ventilation fittings;
- (c) removal of water by pumps or other means.

**3.6. Manufacturer's maximum recommended load**

The manufacturer's maximum recommended load (fuel, water, provisions, miscellaneous equipment and people (in kilograms)) for which the watercraft was designed, shall be determined in accordance with the design category (Section 1), stability and freeboard (point 3.2) and buoyancy and flotation (point 3.3).

**3.7. Life raft stowage**

All recreational craft of design categories A and B, and recreational craft of design categories C and D longer than 6 metres shall be provided with one or more stowage points for a life raft (life rafts) large enough to hold the number of persons the recreational craft was designed to carry as recommended by the manufacturer. Life raft stowage point(s) shall be readily accessible at all times.

**3.8. Escape**

All habitable multihull recreational craft susceptible of inversion shall be provided with viable means of escape in the event of inversion. Where there is a means of escape provided for use in the inverted position, it shall not compromise the structure (point 3.1), the stability (point 3.2) or buoyancy (point 3.3) whether the recreational craft is upright or inverted.

Every habitable recreational craft shall be provided with viable means of escape in the event of fire.

**3.9. Anchoring, mooring and towing**

All watercraft, taking into account their design category and their characteristics, shall be fitted with one or more strong points or other means capable of safely accepting anchoring, mooring and towing loads.

**4. HANDLING CHARACTERISTICS**

The manufacturer shall ensure that the handling characteristics of the watercraft are satisfactory with the most powerful propulsion engine for which the watercraft is designed and constructed. For all propulsion engines, the maximum rated engine power shall be declared in the owner's manual.

**5. INSTALLATION REQUIREMENTS**

**5.1. Engines and engine compartments**

**5.1.1. Inboard engine**

All inboard mounted engines shall be placed within an enclosure separated from living quarters and installed so as to minimise the risk of fires or spread of fires as well as hazards from toxic fumes, heat, noise or vibrations in the living quarters.

Engine parts and accessories that require frequent inspection and/or servicing shall be readily accessible.

The insulating materials inside the engine compartment shall not sustain combustion.

**5.1.2. Ventilation**

The engine compartment shall be ventilated. The ingress of water into the engine compartment through openings must be minimised.

5.1.3. Exposed parts

Unless the engine is protected by a cover or its own enclosure, exposed moving or hot parts of the engine that could cause personal injury shall be effectively shielded.

5.1.4. Outboard propulsion engine starting

Every outboard propulsion engine fitted on any watercraft shall have a device to prevent the engine being started in gear, except:

- (a) when the engine produces less than 500 Newton's (N) of static thrust;
- (b) when the engine has a throttle limiting device to limit thrust to 500 N at the time of starting the engine.

5.1.5. Personal watercraft running without driver

Personal watercraft shall be designed either with an automatic propulsion engine cut-off or with an automatic device to provide reduced speed, circular, forward movement when the driver dismounts deliberately or falls overboard.

5.1.6. Tiller-controlled outboard propulsion engines shall be equipped with an emergency stopping device which can be linked to the helmsman.

5.2. **Fuel system**

5.2.1. *General*

The filling, storage, venting and fuel-supply arrangements and installations shall be designed and installed so as to minimise the risk of fire and explosion.

5.2.2. *Fuel tanks*

Fuel tanks, lines and hoses shall be secured and separated or protected from any source of significant heat. The material the tanks are made of and their method of construction shall be in accordance with their capacity and the type of fuel.

Petrol fuel tank spaces shall be ventilated.

Petrol fuel tanks shall not form part of the hull and shall be:

- (a) protected against fire from any engine and from all other sources of ignition;
- (b) separated from living quarters.

Diesel fuel tanks may be integral with the hull.

5.3. **Electrical system**

Electrical systems shall be designed and installed so as to ensure proper operation of the watercraft under normal conditions of use and shall be such as to minimise risk of fire and electric shock.

All electrical circuits, except engine starting circuits supplied from batteries, shall remain safe when exposed to overload.

Electric propulsion circuits shall not interact with other circuits in such a way that either would fail to operate as intended.

Ventilation shall be provided to prevent the accumulation of explosive gases which might be emitted from batteries. Batteries shall be firmly secured and protected from ingress of water.

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#### 5.4. **Steering system**

##### 5.4.1. *General*

Steering and propulsion control systems shall be designed, constructed and installed in order to allow the transmission of steering loads under foreseeable operating conditions.

##### 5.4.2. *Emergency arrangements*

Every sailing recreational craft and single-propulsion engine non-sailing recreational craft with remote-controlled rudder steering systems shall be provided with emergency means of steering the recreational craft at reduced speed.

#### 5.5. **Gas system**

Gas systems for domestic use shall be of the vapour-withdrawal type and shall be designed and installed so as to avoid leaks and the risk of explosion and be capable of being tested for leaks. Materials and components shall be suitable for the specific gas used to withstand the stresses and exposures found in the marine environment.

Each gas appliance intended by the manufacturer for the application for which it is used shall be so installed in accordance with the manufacturer's instructions. Each gas-consuming appliance must be supplied by a separate branch of the distribution system, and each appliance must be controlled by a separate closing device. Adequate ventilation must be provided to prevent hazards from leaks and products of combustion.

All watercraft with a permanently installed gas system shall be fitted with an enclosure to contain all gas cylinders. The enclosure shall be separated from the living quarters, accessible only from the outside and ventilated to the outside so that any escaping gas drains overboard.

In particular, any permanently installed gas system shall be tested after installation.

#### 5.6. **Fire protection**

##### 5.6.1. *General*

The type of equipment installed and the layout of the watercraft shall take account of the risk and spread of fire. Special attention shall be paid to the surroundings of open flame devices, hot areas or engines and auxiliary machines, oil and fuel overflows, uncovered oil and fuel pipes and routing of electrical wiring in particular away from heat sources and hot areas.

##### 5.6.2. *Fire-fighting equipment*

Recreational craft shall be supplied with fire-fighting equipment appropriate to the fire hazard, or the position and capacity of fire-fighting equipment appropriate to the fire hazard shall be indicated. The craft shall not be put into service until the appropriate fire-fighting equipment is in place. Petrol engine compartments shall be protected by a fire extinguishing system that avoids the need to open the compartment in the event of fire. Where fitted, portable fire extinguishers shall be readily accessible and one shall be so positioned that it can easily be reached from the main steering position of the recreational craft.

#### 5.7. **Navigation lights, shapes and sound signals**

Where navigation lights, shapes and sound signals are fitted, they shall comply with the 1972 COLREG (The International Regulations for Preventing Collisions at Sea) or CEVNI (European Code for Interior Navigations for inland waterways) Regulations as appropriate.

#### 5.8. **Discharge prevention and installations facilitating the delivery ashore of waste**

Watercraft shall be constructed so as to prevent the accidental discharge of pollutants (oil, fuel, etc.) overboard.

Any toilet fitted in a recreational craft shall be connected solely to a holding tank system or water treatment system.

Recreational craft with installed holding tanks shall be fitted with a standard discharge connection to enable pipes of reception facilities to be connected with the recreational craft discharge pipeline.



In addition, any through-the-hull pipes for human waste shall be fitted with valves which are capable of being secured in the closed position.

#### B. Essential requirements for exhaust emissions from propulsion engines

Propulsion engines shall comply with the essential requirements for exhaust emissions set out in this Part.

##### 1. PROPULSION ENGINE IDENTIFICATION

###### 1.1. Each engine shall be clearly marked with the following information:

- (a) engine manufacturer's name, registered trade name or registered trade mark and contact address; and, if applicable, the name and contact address of the person adapting the engine;
- (b) engine type, engine family, if applicable;
- (c) a unique engine serial number;
- (d) CE marking, as provided for in Article 18.

###### 1.2. The marks referred to in point 1.1 must be durable for the normal life of the engine and must be clearly legible and indelible. If labels or plates are used, they must be attached in such a manner that the fixing is durable for the normal life of the engine, and the labels/plates cannot be removed without destroying or defacing them.

###### 1.3. The marks must be secured to an engine part necessary for normal engine operation and not normally requiring replacement during the engine life.

###### 1.4. The marks must be located so as to be readily visible after the engine has been assembled with all the components necessary for engine operation.

##### 2. EXHAUST EMISSION REQUIREMENTS

Propulsion engines shall be designed, constructed and assembled so that when correctly installed and in normal use, emissions shall not exceed the limit values obtained from point 2.1, Table 1 and point 2.2, Tables 2 and 3:

###### 2.1. Values applying for the purposes of Article 55(2) and Table 2 of point 2.2:

Table 1

Type	Carbon monoxide $CO = A + B/P_N^n$			Hydrocarbons $HC = A + B/P_N^n$			Nitrogen oxides $NO_x$	Particulates PT
	A	B	n	A	B	n		
Two-stroke spark ignition	150,0	600,0	1,0	30,0	100,0	0,75	10,0	Not applicable
Four-stroke spark ignition	150,0	600,0	1,0	6,0	50,0	0,75	15,0	Not applicable
Compression ignition	5,0	0	0	1,5	2,0	0,5	9,8	1,0

Where A, B and n are constants in accordance with the table,  $P_N$  is the rated engine power in kW.

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2.2. Values applying from 18 January 2016:

Table 2

**Exhaust emission limits for compression ignition (CI) engines (\*)**

Swept Volume SV (L/cyl)	Rated Engine Power P <sub>N</sub> (kW)	Particulates PT (g/kWh)	Hydrocarbons + Nitrogen Oxides HC + NO <sub>x</sub> (g/kWh)
SV < 0,9	P <sub>N</sub> < 37	The values referred to in table 1	
	37 ≤ P <sub>N</sub> < 75 (*)	0,30	4,7
	75 ≤ P <sub>N</sub> < 3 700	0,15	5,8
0,9 ≤ SV < 1,2	P <sub>N</sub> < 3 700	0,14	5,8
1,2 ≤ SV < 2,5		0,12	5,8
2,5 ≤ SV < 3,5		0,12	5,8
3,5 ≤ SV < 7,0		0,11	5,8

(\*) Alternatively, compression-ignition engines with rated engine power at or above 37 kW and below 75 kW and with a swept volume below 0,9 L/cyl shall not exceed a PT emission limit of 0,20 g/kWh and a combined HC + NO<sub>x</sub> emission limit of 5,8 g/kWh.

(\*\*) Any compression-ignition engine shall not exceed a Carbon monoxide (CO) emission limit of 5,0 g/kWh.

Table 3

**Exhaust emission limits for spark ignition (SI) engines**

Type of engine	Rated Engine Power P <sub>N</sub> (kW)	Carbon monoxide CO (g/kWh)	Hydrocarbons + Nitrogen Oxides HC + NO <sub>x</sub> (g/kWh)
Stern-drive and inboard engines	P <sub>N</sub> ≤ 373	75	5
	373 < P <sub>N</sub> ≤ 485	350	16
	P <sub>N</sub> > 485	350	22
Outboard engines and PWC engines	P <sub>N</sub> ≤ 4,3	500 - (5,0 × P <sub>N</sub> )	30
	4,3 < P <sub>N</sub> ≤ 40	500 - (5,0 × P <sub>N</sub> )	$15,7 + \left( \frac{50}{P_N^{0,9}} \right)$
	P <sub>N</sub> > 40	300	$15,7 + \left( \frac{50}{P_N^{0,9}} \right)$

2.3. Test cycles:

Test cycles and weighting factors to be applied:

The following requirements of ISO standard 8178-4:2007 shall be used, taking into account the values set out in the table below.

For variable speed CI engines test cycle E1 or E5 shall be applied or alternatively, above 130 kW, test cycle E3 may be applied. For variable speed SI engines test cycle E4 shall be applied.

Cycle E1, Mode number	1	2	3	4	5
Speed	Rated speed		Intermediate speed		Low-idle speed
Torque, %	100	75	75	50	0
Weighting factor	0,08	0,11	0,19	0,32	0,3
Speed	Rated speed		Intermediate speed		Low-idle speed
Cycle E3, Mode number	1	2	3	4	
Speed, %	100	91	80	63	
Power, %	100	75	50	25	
Weighting factor	0,2	0,5	0,15	0,15	
Cycle E4, Mode number	1	2	3	4	5
Speed, %	100	80	60	40	Idle
Torque, %	100	71,6	46,5	25,3	0
Weighting factor	0,06	0,14	0,15	0,25	0,40
Cycle E5, Mode number	1	2	3	4	5
Speed, %	100	91	80	63	Idle
Power, %	100	75	50	25	0
Weighting factor	0,08	0,13	0,17	0,32	0,3

Notified bodies may accept tests carried out on the basis of other tests cycles as specified in a harmonised standard and as applicable for the engine duty cycle.

#### 2.4. Application of the propulsion engine family and choice of parent propulsion engine

The engine manufacturer shall be responsible for defining those engines from his range which are to be included in an engine family.

A parent engine shall be selected from an engine family in such a way that its emissions characteristics are representative for all engines in that engine family. The engine incorporating those features that are expected to result in the highest specific emissions (expressed in g/kWh), when measured on the applicable test cycle, should normally be selected as the parent engine of the family.

#### 2.5. Test fuels

The test fuel used for exhaust emission testing shall meet the following characteristics:

##### Petrol Fuels

Property	RF-02-99 Unleaded		RF-02-03 Unleaded	
	min	max	min	max
Research Octane Number (RON)	95	—	95	—
Motor Octane Number (MON)	85	—	85	—
Density at 15 °C (kg/m <sup>3</sup> )	748	762	740	754
Initial boiling point (°C)	24	40	24	40
Mass fraction of sulphur (mg/kg)	—	100	—	10

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Petrol Fuels				
Property	RF-02-99 Unleaded		RF-02-03 Unleaded	
	min	max	min	max
Lead content (mg/l)	—	5	—	5
Reid vapour pressure (kPa)	56	60	—	—
Vapour pressure (DVPE) (kPa)	—	—	56	60
Diesel Fuels				
Property	RF-06-99		RF-06-03	
	min	max	min	max
Cetane number	52	54	52	54
Density at 15 °C (kg/m <sup>3</sup> )	833	837	833	837
Final boiling point (°C)	—	370	—	370
Flash point (°C)	55	—	55	—
Mass fraction of sulphur (mg/kg)	To be reported	300 (50)	—	10
Mass fraction of ash (%)	To be reported	0,01	—	0,01

Notified bodies may accept tests carried out on the basis of other tests fuel as specified in a harmonised standard.

### 3. DURABILITY

The manufacturer of the engine shall supply engine installation and maintenance instructions, which if applied should mean that the engine in normal use will continue to comply with the limits set out in points 2.1 and 2.2 throughout the normal life of the engine and under normal conditions of use.

This information shall be obtained by the engine manufacturer by use of prior endurance testing, based on normal operating cycles, and by calculation of component fatigue so that the necessary maintenance instructions may be prepared by the manufacturer and issued with all new engines when first placed on the market.

The normal life of the engine is as follows:

- (a) For CI engines: 480 hours of operation or 10 years, whichever occurs first;
- (b) For SI inboard or stern drive engines with or without integral exhaust:
  - (i) for the engine category  $P_N \leq 373$  kW: 480 hours of operation or 10 years, whichever occurs first,
  - (ii) for engines in the category  $373 < P_N \leq 485$  kW: 150 hours of operation or three years, whichever occurs first,
  - (iii) for the engine category  $P_N > 485$  kW: 50 hours of operation or one year, whichever occurs first;
- (c) personal watercraft engines: 350 hours of operation or five years, whichever occurs first;
- (d) outboard engines: 350 hours of operation or 10 years, whichever occurs first

### 4. OWNER'S MANUAL

Each engine shall be provided with an owner's manual in a language or languages which can be easily understood by consumers and other end-users, as determined by the Member State in which the engine is to be marketed.

The owner's manual shall:

- (a) provide instructions for the installation, use and maintenance needed to assure the proper functioning of the engine to meet the requirements of Section 3 (Durability);
- (b) specify the power of the engine when measured in accordance with the harmonised standard.

### C. Essential requirements for noise emissions

Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall comply with the essential requirements for noise emissions set out in this Part.

#### 1. NOISE EMISSION LEVELS

- 1.1. Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall be designed, constructed and assembled so that noise emissions shall not exceed the limit values in the following table:

Rated Engine Power (single engine) in kW	Maximum Sound Pressure Level = $L_{pA5max}$ in dB
$P_N \leq 10$	67
$10 < P_N \leq 40$	72
$P_N > 40$	75

where  $P_N$  = rated engine power in kW of a single engine at rated speed and  $L_{pA5max}$  = maximum sound pressure level in dB.

For twin-engine and multiple-engine units of all engine types an allowance of 3 dB may be applied.

- 1.2. As an alternative to sound measurement tests, recreational craft with inboard engine configuration or stern drive engine configuration, without integral exhaust, shall be deemed to comply with the noise requirements set out in point 1.1 if they have a Froude number of  $\leq 1,1$  and a Power to Displacement ratio of  $\leq 40$  and where the engine and exhaust system are installed in accordance with the engine manufacturer's specifications.
- 1.3. Froude number  $F_n$  shall be calculated by dividing the maximum recreational craft speed  $V$  (m/s) by the square root of the waterline length  $lwl$  (m) multiplied by a given gravitational acceleration constant,  $g$ , of  $9,8 \text{ m/s}^2$ .

$$F_n = \frac{V}{\sqrt{(g \cdot lwl)}}$$

'Power to Displacement ratio' shall be calculated by dividing the rated engine power  $P_N$  (in kW) by the recreational craft's displacement  $D$  (in tonnes)

$$\text{Power to Displacement ratio} = \frac{P_N}{D}$$

#### 2. OWNER'S MANUAL

For recreational craft with inboard engine or stern drive engines without integral exhaust and personal watercraft, the owner's manual required under point 2.5 of Part A, shall include information necessary to maintain the recreational craft and exhaust system in a condition that, insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

For outboard engines and stern drive engines with integral exhaust, the owner's manual required under Section 4 of Part B shall provide the instructions necessary to maintain the engine in a condition, that insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

#### 3. DURABILITY

The provisions on the durability in Section 3 of Part B shall apply mutatis mutandis to the compliance with the requirements on noise emissions set out in Section 1 of this part.

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## SCHEDULE 2

Regulation 2(1)

(Annex II of the Directive)

### COMPONENTS OF WATERCRAFT

- (1) Ignition-protected equipment for inboard and stern drive petrol engines and petrol tank spaces;
- (2) Start-in-gear protection devices for outboard engines;
- (3) Steering wheels, steering mechanisms and cable assemblies;
- (4) Fuel tanks intended for fixed installations and fuel hoses;
- (5) Prefabricated hatches, and port lights.

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### SCHEDULE 3

Regulation 7

#### (Annex III of the Directive)

#### **DECLARATION BY THE MANUFACTURER OR THE IMPORTER OF THE PARTLY COMPLETED WATERCRAFT (ARTICLE 6(2))**

The declaration by the manufacturer or the importer established in the Union referred to in Article 6(2) shall contain the following:

- (a) the name and address of the manufacturer;
- (b) the name and address of the representative of the manufacturer established in the Union or, if appropriate, of the person responsible for the placing on the market;
- (c) a description of the partly completed watercraft;
- (d) a statement that the partly completed watercraft complies with the essential requirements that apply at this stage of construction; this shall include references to the relevant harmonised standards used, or references to the specifications in relation to which compliance is declared at this stage of construction; furthermore, it is intended to be completed by other legal or natural persons in full compliance with this Directive.

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## SCHEDULE 4

Regulation 10

## (Annex IV of the Directive)

## EU DECLARATION OF CONFORMITY No xxxxx

1. No xxxxx (Product: product, batch, type, or serial number):
2. Name and address of the manufacturer or his authorised representative [The authorised representative must also give the business name and address of the manufacturer] or the private importer.
3. This declaration of conformity is issued under the sole responsibility of the manufacturer or the private importer or the person referred to in Article 19(3) or (4) of Directive 2013/53/EU.
4. Object of the declaration (identification of product allowing traceability. It may include a photograph, where appropriate):
5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation:
6. References to the relevant harmonised standards used or references to the other technical specifications in relation to which conformity is declared:
7. Where applicable, the notified body ... (name, number) performed ... (description of intervention) and issued the certificate:
8. Identification of the person empowered to sign on behalf of the manufacturer or his authorised representative
9. Additional information:

The EU declaration of conformity shall include a statement of the propulsion engine manufacturer and that of the person adapting an engine in accordance with points (b) and (c) of Article 6(4) that:

- (a) when installed in a watercraft, in accordance with the installation instructions accompanying the engine, the engine will meet:
  - (i) the exhaust emission requirements of this Directive;
  - (ii) the limits of Directive 97/68/EC as regards engines type-approved in accordance with Directive 97/68/EC which are in compliance with stage III A, stage III B or stage IV emission limits for CI engines used in other applications than propulsion of inland waterway vessels, locomotives and railcars, as provided for in point 4.1.2 of Annex I to that Directive; or
  - (iii) the limits of Regulation (EC) No 595/2009 as regards engines type-approved in accordance with that Regulation.

The engine must not be put into service until the watercraft into which it is to be installed has been declared in conformity, if so required, with the relevant provision of this Directive.

If the engine has been placed on the market during the additional transitional period provided for in Article 55(2), the EU declaration of conformity shall contain an indication thereof.

Signed for and on behalf of:

(place and date of issue)

(name, function) (signature)



## SCHEDULE 5

Regulation 48

### (Annex V of the Directive)

#### **EQUIVALENT CONFORMITY BASED ON POST-CONSTRUCTION ASSESSMENT (MODULE PCA)**

1. Conformity based on post-construction assessment is the procedure to assess the equivalent conformity of a product for which the manufacturer has not assumed the responsibility for the product's conformity with this Directive, and whereby a natural or legal person referred to in Article 19(2), (3) or (4) who is placing the product on the market or putting it into service under his own responsibility is assuming the responsibility for the equivalent conformity of the product. This person shall fulfill the obligations laid down in points 2 and 4 and ensure and declare on his sole responsibility that the product concerned, which has been subject to the provisions of point 3, is in conformity with the applicable requirements of this Directive.

2. The person who is placing the product on the market or putting it into service shall lodge an application for a post-construction assessment of the product with a notified body and must provide the notified body with the documents and technical file enabling the notified body to assess the conformity of the product with the requirements of this Directive and any available information on the use of the product after its first putting into service.

The person who is placing such a product on the market or putting it into service shall keep these documents and information at the disposal of the relevant national authorities for 10 years after the product has been assessed on its equivalent conformity in accordance with the post-construction assessment procedure.

3. The notified body shall examine the individual product and carry out calculations, tests and other assessments, to the extent necessary to ensure that the equivalent conformity of the product with the relevant requirements of this Directive is demonstrated.

The notified body shall draw up and issue a certificate and a related report of conformity concerning the assessment carried out and shall keep a copy of the certificate and related report of conformity at the disposal of the national authorities for 10 years after it has issued these documents.

The notified body shall affix its identification number next to the CE marking on the approved product or have it affixed under its responsibility.

In case the assessed product is a watercraft, the notified body shall also have affixed, under his responsibility, the watercraft identification number as referred to in point 2.1 of Part A of Annex I, whereby the field for the country code of the manufacturer shall be used to indicate the country of establishment of the notified body and the fields for the unique code of the manufacturer assigned by the national authority of the Member State to indicate the post-construction assessment identification code assigned to the notified body, followed by the serial number of the post-construction assessment certificate. The fields in the watercraft identification number for the month and year of production and for the model year shall be used to indicate the month and year of the post-construction assessment.

4. CE marking and EU declaration of conformity

- 4.1. The person who is placing the product on the market or putting it into service shall affix the CE marking and, under the responsibility of the notified body referred to in Section 3, the latter's identification number to the product for which the notified body has assessed and certified its equivalent conformity with the relevant requirements of this Directive.

- 4.2. The person who is placing the product on the market or putting it into service shall draw up an EU declaration of conformity and keep it at the disposal of the national authorities for 10 years after the date the post-construction assessment certificate has been issued. The declaration of conformity shall identify the product for which it has been drawn up.

A copy of the EU declaration of conformity shall be made available to the relevant authorities upon request.

- 4.3. In the case the assessed product is a watercraft, the person who is placing the watercraft on the market or putting it into service shall affix to the watercraft the builder's plate described in point 2.2 of Part A of Annex I, which shall include the words 'post-construction assessment', and the watercraft identification number described in point 2.1 of Part A of Annex I, in accordance with the provisions set out in Section 3.

5. The notified body shall inform the person who is placing the product on the market or putting it into service of his obligations under this post-construction assessment procedure.

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## SCHEDULE 6

Regulation 50

(Annex VI of the Directive)

### **SUPPLEMENTARY REQUIREMENTS WHEN INTERNAL PRODUCTION CONTROL PLUS SUPERVISED PRODUCTION TESTS SET OUT IN MODULE A1 IS USED (ARTICLE 24(2))**

#### **Design and construction**

On one or several watercrafts representing the production of the manufacturer one or more of the following tests, equivalent calculation or control shall be carried out by the manufacturer or on his behalf:

- (a) test of stability in accordance with point 3.2 of Part A of Annex I;
- (b) test of buoyancy characteristics in accordance with point 3.3 of Part A of Annex I.

#### **Noise emissions**

For recreational craft fitted with inboard or stern drive engines without integral exhaust and for personal watercraft, on one or several watercraft representing the production of the watercraft manufacturer, the sound emission tests defined in Part C of Annex I shall be carried out by the watercraft manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

For outboard engines and stern drive engines with integral exhaust, on one or several engines of each engine family representing the production of the engine manufacturer, the sound emission tests defined in Part C of Annex I shall be carried out by the engine manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

Where more than one engine of an engine family is tested, the statistical method described in Annex VII shall be applied to ensure conformity of the sample.

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## SCHEDULE 7

Regulation 51

## (Annex VII of the Directive)

## CONFORMITY OF PRODUCTION ASSESSMENT FOR EXHAUST AND NOISE EMISSIONS

1. For verifying the conformity of an engine family, a sample of engines shall be taken from the series. The manufacturer shall decide the size (n) of the sample, in agreement with the notified body.
2. The arithmetical mean X of the results obtained from the sample shall be calculated for each regulated component of the exhaust and noise emission. The production of the series shall be deemed to conform to the requirements (pass decision) if the following condition is met:

$$X + k \cdot S \leq L$$

S is standard deviation, where:

$$S^2 = \sum(x - X)^2 / (n - 1)$$

X = the arithmetical mean of the results obtained from the sample

x = the individual results obtained from the sample

L = the appropriate limit value

n = the number of engines in the sample

k = statistical factor depending on n (see table below)

n	2	3	4	5	6	7	8	9	10
k	0,973	0,613	0,489	0,421	0,376	0,342	0,317	0,296	0,279
n	11	12	13	14	15	16	17	18	19
k	0,265	0,253	0,242	0,233	0,224	0,216	0,210	0,203	0,198

If  $n \geq 20$  then  $k = 0,860/\sqrt{n}$ .

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## SCHEDULE 8

Regulation 52

(Annex VIII of the Directive)

### **SUPPLEMENTARY PROCEDURE TO BE APPLIED UNDER CONFORMITY TO TYPE BASED ON INTERNAL PRODUCTION CONTROL (MODULE C)**

In the cases referred to in Article 24(5) when the quality level appears unsatisfactory, the following procedure shall apply:

An engine is taken from the series and subjected to the test described in Part B of Annex I. Test engines shall have been run in, partially or completely, in accordance with the manufacturer's specifications. If the specific exhaust emissions of the engine taken from the series exceed the limit values in accordance with Part B of Annex I, the manufacturer may ask for measurements to be done on a sample of engines taken from the series and including the engine originally taken. To ensure the conformity of the sample of engines with the requirements of this Directive, the statistical method described in Annex VII shall be applied.

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## SCHEDULE 9

Regulation 9

### (Annex IX of the Directive)

#### TECHNICAL DOCUMENTATION

The technical documentation referred to in Article 7(2) and Article 25 shall, as far as it is relevant for the assessment, contain the following:

- (a) A general description of the type;
- (b) Conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, and other relevant data;
- (c) Descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product;
- (d) A list of the standards referred to in Article 14, applied in full or in part, and descriptions of the solutions adopted to fulfil the essential requirements when the standards referred to in Article 14 have not been applied;
- (e) Results of design calculations made, examinations carried out and other relevant data;
- (f) Test reports, or calculations namely on stability in accordance with point 3.2 of Part A of Annex I and on buoyancy in accordance with point 3.3 of Part A of Annex I;
- (g) Exhaust emissions test reports demonstrating compliance with Section 2 of Part B of Annex I;
- (h) Sound emissions test reports demonstrating compliance with Section 1 of Part C of Annex I.

## SCHEDULE 10

Regulation 49

## EU-type examination

1. For the purposes of regulation 49, the conformity assessment carried out in accordance with Module B will be carried out in the manner set out in paragraphs 2, 3 and 4.
2. The conformity assessment must include an assessment of the adequacy of the technical design of the watercraft through examination of the technical documentation specified in paragraph 3, plus examination of specimens, representative of the production envisaged, of one or more critical parts of the watercraft (combination of production type and design type).
3. The conformity assessment must include an assessment of the adequacy of the following technical documentation—
  - (a) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc;
  - (b) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the watercraft;
  - (c) a list of the harmonised standards and/or other relevant technical specifications the references of which have been published in the *Official Journal of the European Union*, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the legislative instrument where those harmonised standards have not been applied. In the event of partly applied harmonised standards, the technical documentation shall specify the parts which have been applied;
  - (d) results of design calculations made, examinations carried out, etc.;
  - (e) test reports; and
  - (f) the supporting evidence for the adequacy of the technical design solution. This supporting evidence shall mention any documents that have been used, in particular where the relevant harmonised standards and/or technical specifications have not been applied in full. The supporting evidence shall include, where necessary, the results of tests carried out by the appropriate laboratory of the manufacturer, or by another testing laboratory on the manufacturer's behalf and under the manufacturer's responsibility.
4. The technical documentation must include a general description of the watercraft.

## SCHEDULE 11

Regulation 2(1)

## Requirements of notified bodies

1. A conformity assessment body must be established in the United Kingdom and have legal personality.
2. A conformity assessment body must be a third-party body independent of the organisation or the watercraft it assesses.
3. A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.
4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment must not be the—

- (a) designer;
- (b) manufacturer;
- (c) supplier;
- (d) installer;
- (e) purchaser;
- (f) owner;
- (g) user; or
- (h) maintainer

of the watercraft which the conformity assessment body assesses, nor the representative body of any of these persons.

**5.** Nothing in paragraph 4 of this Schedule will preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of such products for personal purposes.

**6.** A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment must not be directly involved in the—

- (a) design or manufacture;
- (b) marketing;
- (c) installation;
- (d) use or maintenance

of the watercraft, or represent the persons engaged in those activities.

**7.** A conformity assessment body must not engage in any activity, including consultancy services, that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified.

**8.** Conformity assessment bodies must ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

**9.** Conformity assessment bodies and their personnel must carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

**10.** A conformity assessment body must be capable of carrying out the conformity assessment tasks assigned to it by regulations 42 (applicable conformity assessment procedures) to 52 (conformity assessments carried out under module C (conformity to type based on internal production control)) and in relation to which it has been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

**11.** At all times and for each conformity assessment procedure and each kind or category of products in relation to which it has been notified, a conformity assessment body must have at its disposal, the necessary—

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment activities;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out ensuring the transparency and ability of reproduction of those procedures;

- (c) policies and procedures in place to distinguish between tasks that it carries out as a notified body and other activities;
  - (d) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the technology of the watercraft in question and the mass or serial nature of the production process; and
  - (e) means to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and must have access to all necessary equipment and facilities to perform these activities.
12. The personnel responsible for carrying out the conformity assessment activities must have—
- (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
  - (b) satisfactory knowledge of the requirements of the assessments that they carry out and adequate authority to carry out those assessments.

## SCHEDULE 12

Regulation 2(1)

### Operational requirements of notified bodies

1. Notified bodies must carry out conformity assessments in accordance with the conformity assessment procedures provided for in regulations 42 (applicable conformity assessment procedures) to 52 (conformity assessments carried out under module C (conformity to type based on internal production control)).

2. Conformity assessments must be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators and private importers. Conformity assessment bodies must perform their activities taking due account of the size of an undertaking the sector in which it operates, its structure, the degree of complexity of the watercraft technology in question and the mass or serial nature of the production process.

3. Conformity assessment bodies must respect the degree of rigour and level of protection required for the compliance of the watercraft with the Directive.

4. Where a notified body finds that the requirements of regulation 6 (essential requirements) and Schedule 1 or the corresponding harmonised standards have not been met by the manufacturer or a private importer, that body must require that the manufacturer or private importer takes appropriate corrective measures and must not issue a conformity assessment certificate until the appropriate corrective measures have been taken.

5. Where, in the course of the monitoring of the conformity of the watercraft following the issue of a conformity assessment certificate, a notified body finds that a watercraft is no longer in compliance, it will require the manufacturer to take appropriate corrective measures and must suspend or withdraw the conformity assessment certificate if necessary.

6. Where corrective measures are not taken or do not have the required corrective effect, the notified body must restrict, suspend or withdraw any conformity assessment certificates as appropriate.

7.—(1) A notified body must inform the Secretary of State in writing of—

- (a) any refusal, restriction, suspension or withdrawal of a conformity assessment certificate;
- (b) any circumstances affecting the scope of and conditions for notification; and



- (c) any request for information which the notified body has received from a market surveillance authority regarding conformity assessment activities.
- (2) A notified body must, following a request from the Secretary of State, inform the Secretary of State in writing of any conformity assessment activities performed within the scope of its notification provided under regulation 56 and any other activity performed, including cross-border activities and subcontracting.
- 8. A notified body must make provision in its contracts with its clients enabling such clients to appeal against a decision—
  - (a) to refuse to issue a certificate of conformity or grant approval; and
  - (b) to restrict, suspend or withdraw a certificate of conformity or approval.
- 9. A notified body must provide other bodies notified under these Regulations carrying on similar conformity assessment activities covering the same products with relevant information on issues relating to negative and, on request, positive conformity assessment results.
- 10. A notified body must participate in the work of any notified body coordination group established under the Directive, directly or by means of its designated representatives.

## SCHEDULE 13

Regulation 67

Enforcement and investigatory powers conferred on the market surveillance authority

### **Enforcement powers under the 1987 Act**

- 1. For the purposes of enforcing these Regulations, the following sections of the 1987 Act apply subject to the modifications in paragraph 2—
  - (a) section 13 (prohibition notices and notices to warn);
  - (b) section 14 (suspension notices);
  - (c) section 16 (forfeiture: England and Wales and Northern Ireland);
  - (d) section 17 (forfeiture: Scotland);
  - (e) section 18 (power to obtain information);
  - (f) section 19 (interpretation of Part II);
  - (g) section 29 (powers of search etc);
  - (h) section 30 (provisions supplemental to s 29);
  - (i) section 31 (powers of customs officer to detain goods);
  - (j) section 33 (appeals against detention of goods);
  - (k) section 34 (compensation for seizure and detention);
  - (l) section 35 (recovery of expenses of enforcement);
  - (m) section 37 (power of Commissioners for Revenue and Customs);
  - (n) section 42 (reports, etc.);
  - (o) section 45 (interpretation);
  - (p) section 46(1) (meaning of “supply”);
  - (q) Schedule 2 (prohibition notices and notices to warn).

## Modifications to the 1987 Act

2. The sections of the 1987 Act referred to in paragraph 1 are to apply as if—
- (a) in section 13—
    - (i) in subsection (1), for “unsafe” on each occasion that it appears, there were substituted “non-compliant”;
    - (ii) in subsection (1), “relevant” were omitted on each occasion that it appears;
    - (iii) in subsection (2), the words from “; and the Secretary of State may” to the end were omitted;
    - (iv) in subsection (4), the words “three months” were substituted for the words “six months;”
    - (v) subsections (5) to (7) were omitted;
  - (b) in section 14—
    - (i) in subsection (1), after “any safety provision has been contravened in relation to the goods”, there were inserted “or that such goods present a risk”;
    - (ii) in subsection (2)(b), after “a safety provision has been contravened in relation to the goods”, there were inserted “or that such goods present a risk”;
    - (iii) in subsection (2)(c), “under section 15 below” was omitted;
    - (iv) subsections (6) to (8) were omitted;
  - (c) in section 16—
    - (i) in subsection (1), after “a contravention in relation to the goods of a safety provision” there were inserted “or that such goods present a risk”;
    - (ii) in subsection (3), after “a contravention in relation to the goods of a safety provision” there were inserted “or that such goods present a risk”;
    - (iii) after subsection (4), there were inserted—
      - “(4A) A court may infer for the purposes of this section that any goods present a risk, if it is satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;
  - (d) in section 17—
    - (i) in subsection (1), after “a contravention of a safety provision”, there were inserted “or where the goods present a risk”;
    - (ii) in subsection (6), after “a contravention in relation to those goods of a safety provision” there were inserted “or that those goods present a risk”;
    - (iii) after subsection (7), there were inserted—
      - “(7A) The Sheriff may infer for the purposes of this section that any goods present a risk, if satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;
  - (e) in section 18, subsections (3) and (4) were omitted;
  - (f) in section 29—
    - (i) in subsection (4)(a), after “any contravention of any safety provision in relation to the goods” there were inserted “or whether the goods present a risk”;
    - (ii) in subsection (4)(b), after “any such contravention” there were inserted “or whether the goods present a risk”;

- (g) in section 30—
  - (i) at the end of subsection (2)(a)(ii), for “and” there were substituted “or”;
  - (ii) after subsection (2)(a)(ii), there were inserted—
    - “(iii) that any goods which any officer has power to inspect under section 29 are on any premises and their inspection is likely to demonstrate that they present a risk; and”;
  - (iii) subsections (5), (7) and (8) were omitted;
- (h) in section 31(1), for “Part II of this Act”, there were substituted “the 2017 Regulations”;
- (i) in section 34—
  - (i) omit the word “and” at the end of subsection (1)(a); and
  - (ii) after that subsection, insert—
    - “(aa) the goods do not present a risk; and”;
- (j) in section 37(1), for “Part II of this Act”, there were substituted “the 2017 Regulations”;
- (k) in section 42—
  - (i) subsections (1), (2) and (5) were omitted;
  - (ii) in subsection (3)—
    - (aa) the words from “and every person” to “section 27 above” were omitted; and
    - (bb) the words “under that section or by that person by virtue of any such regulations” were substituted by “under the 2017 Regulations”;
- (l) in section 45(1)—
  - (i) the definitions of “conditional sale agreement”, “gas”, “motor vehicle”, “personal injury”, “subordinate legislation” and “substance” were omitted;
  - (ii) before the definition of “aircraft”, there were inserted—
    - ““2017 Regulations” means the Recreational Craft Regulations 2017”;
  - (iii) for the definition of “enforcing authority” there were substituted—
    - ““enforcing authority” has the same meaning as in regulation 2(1) of the 2017 Regulations”;
  - (iv) for the definition of “goods” there were substituted—
    - ““goods” means products or within the scope of the 2017 Regulations”;
  - (v) after the definition of “modifications” there were inserted—
    - ““non-compliant” in relation to any goods means that—
      - (a) a safety provision has been contravened in relation to the goods; or
      - (b) the goods present a risk”;
  - (vi) after the definition of “premises”, there were inserted—
    - ““present a risk” means present a risk within the meaning of “risk” set out in regulation 2(3) of the 2017 Regulations”;
  - (vii) for the definition of “safety provision” there were substituted—
    - ““safety provision” means any provision of the 2017 Regulations”;
  - (viii) for the definition of “safety regulations” there were substituted—
    - ““safety regulations” means the 2017 Regulations”;

- (m) in section 46(1), omit “and, in relation to gas or water, those references shall be construed as including references to providing the service by which the gas or water is made available for use”; and
- (n) in Schedule 2—
  - (i) for “unsafe”, on each occasion that it appears, there were substituted “non-compliant”; and
  - (ii) for “safe”, on each occasion that it appears, there were substituted “not non-compliant”.

## SCHEDULE 14

Regulation 67

### Compliance notices, withdrawal notices and recall notices

#### **Compliance notice**

1. An enforcing authority may serve a compliance notice on a relevant economic operator in respect of a product if the authority has reasonable grounds for believing that there is non-compliance.
2. A compliance notice must—
  - (a) require the relevant economic operator on which it is served to—
    - (i) end the non-compliance within such period as may be specified in the notice; or
    - (ii) provide evidence, within such period as may be specified in the notice, demonstrating to the satisfaction of the market surveillance authority that the non-compliance has not in fact occurred; and
  - (b) warn the economic operator that, if the non-compliance persists or if satisfactory evidence has not been produced under sub-paragraph (a) within the period specified in the notice, further action may be taken in respect of the product or any product of the same type made available on the market by that relevant economic operator.
3. A compliance notice may include directions as to the measures to be taken by the economic operator to secure compliance, including different ways of securing compliance.
4. Subject to paragraph 5, an enforcing authority may revoke or vary a compliance notice by serving a notification on the economic operator.
5. An enforcing authority may not vary a compliance notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

#### **Withdrawal notice**

6. An enforcing authority may serve a withdrawal notice on a relevant economic operator in respect of product if the authority has reasonable grounds for believing that—
  - (a) the product has been made available on the market; and
  - (b) there is non-compliance.
7. A withdrawal notice must prohibit the relevant economic operator from making the product available on the market without the consent of the market surveillance authority.
8. A withdrawal notice may require the relevant economic operator to take action to alert end-users to any risk presented by the product.

**9.** A withdrawal notice may require the relevant economic operator to keep the enforcing authority informed of the whereabouts of any product referred to in the notice.

**10.** A consent given by the enforcing authority pursuant to a withdrawal notice may impose such conditions on the making available on the market of the product as the enforcing authority considers appropriate.

**11.** Subject to paragraph 7, an enforcing authority may revoke or vary a withdrawal notice by serving a notification on the economic operator.

**12.** An enforcing authority may not vary a withdrawal notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

### **Recall notice**

**13.** The enforcing authority may serve a recall notice on a relevant economic operator in respect of a product if the authority has reasonable grounds for believing that—

- (a) the product has been made available to end-users; and
- (b) there is non-compliance.

**14.** A recall notice must require the relevant economic operator to use reasonable endeavours to organise the return of the product from end-users to the relevant economic operator or another person specified in the notice.

**15.** A recall notice may—

- (a) require the recall to be effected in accordance with a code of practice;
- (b) require the relevant economic operator to—
  - (i) contact end-users in order to inform them of the recall, to the extent that it is practicable to do so;
  - (ii) publish a notice in such form and such manner as is likely to bring to the attention of end-users any risk the product poses and the fact of the recall; or
  - (iii) make arrangements for the collection or return of the product from end-users or its disposal; or
- (c) impose such additional requirements on the relevant economic operator as are reasonable and practicable with a view to achieving the return of the product.

**16.** In determining what requirements to include in a recall notice, the market surveillance authority must take into consideration the need to encourage distributors and end-users to contribute to its implementation.

**17.** A recall notice may only be issued by the market surveillance authority where—

- (a) other action which it may require under these Regulations would not suffice to address the non-compliance;
- (b) the action being undertaken by the relevant economic operator is unsatisfactory or insufficient to address the non-compliance;
- (c) the market surveillance authority has given not less than 10 days' notice to the relevant economic operator of its intention to serve such a notice; and
- (d) the market surveillance authority has taken account of any advice obtained under paragraph 18.

**18.** A relevant economic operator which has received notice from the market surveillance authority of an intention to serve a recall notice may at any time prior to the service of the recall

notice require the authority to seek the advice of such persons as the Institute determines on the questions of—

- (a) whether there is non-compliance; and
- (b) whether the issue of a recall notice would be proportionate.

**19.** Sub-paragraphs 17(b), (c) and (d) do not apply in the case of product presenting a serious risk requiring, in the view of the market surveillance authority, urgent action.

**20.** Where a relevant economic operator requires the enforcing authority to seek advice under paragraph 18, that relevant economic operator is to be responsible for the fees, costs and expenses of the Institute and of the person appointed by the Institute to advise the market surveillance authority.

**21.** In this Schedule, “Institute” means the charitable organisation with registered number 803725 and known as the Chartered Institute of Arbitrators.

**22.** A recall notice served by the market surveillance authority may require the relevant economic operator to keep the authority informed of the whereabouts of products to which the recall notice relates, so far as the relevant economic operator is able to do so.

**23.** Subject to paragraph 24, a market surveillance authority may revoke or vary a recall notice by serving a notification on the economic operator.

**24.** A market surveillance authority may not vary a recall notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

### **Interpretation**

**25.** In this Schedule, “non-compliance” means that a product—

- (a) presents a risk; or
- (b) is not in conformity with Part 2 or RAMS (in its application to the product).

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations transpose [Directive 2013/53/EU](#) of the European Parliament and of the Council of 20th November 2013 on recreational watercraft and personal watercraft (OJ No L 354, 28.12.2013 p.90) (“the Directive”). The Directive repeals and replaces [Directive 1994/25/EC](#) as amended by [Directive 2003/44/EC](#) which was implemented in the United Kingdom by the Recreational Craft Regulations 1996 (S.I. 1996/1353) (as amended by S.I. 1998/116). These Regulations revoke and replace S.I. 1996/1353.

Regulation 3 sets out the application of the Regulations to watercraft and personal watercraft and components subject to the exemptions set out in regulation 4.

Part 2 sets out the obligations of persons placing a watercraft on the market. Regulation 6 provides that any person who places a watercraft on the market or puts it into service must ensure that it complies with the essential requirements set out in Schedule 1 to these Regulations and includes the requirement that a product must not endanger the health and safety of persons, property or the environment.

Regulations 8 to 17 set out the obligations that are specific to manufacturers. Manufacturers must ensure that watercraft have been designed and manufactured to comply with the essential requirements. The Regulations impose obligations on manufactures to carry out conformity assessments; draw up technical documentation, draw up declarations of conformity and affix the CE marking, label the equipment and ensure it is accompanied by instructions and safety information. Manufacturers must also monitor compliance. Regulation 16 places a duty on manufacturers to immediately take corrective action where the manufacturer considers or has reason to believe that a watercraft placed on the market may not conform. The obligations imposed on the manufacturer's authorised representative are set out in regulation 39.

Regulations 18 to 26 set out the obligations that are specific to importers. These obligations include ensuring that they are not placing on the market watercraft which are not in conformity with the essential requirements, checking that the manufacturer has carried out a relevant conformity assessment procedure and labelled the craft correctly. Regulation 23 requires importers to ensure that storage and transport conditions do not jeopardise conformity with the essential requirements. Regulation 24 places a duty on importers to immediately take corrective action where they consider or have reason to believe that a watercraft placed on the market may not conform.

Regulations 27 to 32 set out the obligations that are specific to distributors. These obligations include ensuring that they are not placing on the market watercraft which are not in conformity with the essential requirements and that storage and transport conditions do not jeopardise conformity with the essential requirements.

Regulations 33 provides that an importer or distributor who places a watercraft on the market under their own trade mark or who modifies a watercraft such that it may affect conformity is to be treated as the manufacturer for the purposes of these Regulations.

Regulation 36 imposes obligations on a private importer where the manufacturer of a watercraft has not complied with the obligations on manufacturer.

Regulations 37 and 38 set out obligations on economic operators and private importers to identify the economic operator who supplied the watercraft.

Regulation 40 prohibits the improper use of the CE mark.

Part 3 sets out the product and conformity assessment procedures.

Part 4 sets out provisions concerning notification and monitoring of the bodies which carry out conformity assessment procedures in the UK.

Part 5 sets out provisions for market surveillance and enforcement of these Regulations. Regulation 65 identifies the market surveillance authorities which have an obligation to enforce the Regulations. Regulation 67 and Schedules 13 and 14 provide for the enforcement powers which the enforcing authorities are to have. Regulation 73 provides for the contravention of certain provisions of these Regulations to be an offence. Regulation 74 sets out the penalties that are to apply for offences under these Regulations. Regulation 80 sets out provision for appeals against notices served under these Regulations.

Part 6 deals with the power of a notified body to charge a fee and sets out a review provision, transitional provisions, and revocations.

A transposition note and full impact assessment of the impact that these Regulations will have on the costs of business, the voluntary sector and the public sector are available from the Single Market Product Safety Team, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET and are also published with the Explanatory Memorandum alongside these Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk).