

2016 No. xxxx

HEALTH AND SAFETY
CONSUMER PROTECTION

The Simple Pressure Vessels (Safety) Regulations 2016

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - ***

The Secretary of State is a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in respect of measures relating to safety as regards simple pressure vessels.

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 makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A(c)(c) of Schedule 2 to, that Act.

PART 1

Citation and commencement

1. These Regulations may be cited as the Simple Pressure Vessels (Safety) Regulations 2016 and come into force on [20th April 2016].

Interpretation

2.—(1) In these Regulations, “vessel” means a simple pressure vessel manufactured in series with the following characteristics—

- (a) the vessels are welded, intended to be subjected to an internal gauge pressure greater than 0.5 bar and to contain air or nitrogen, and are not intended to be fired;

^(a) S.I. 1989/1327.

^(b) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). The enabling powers of section 2(2) were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51).

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

- (b) the parts and assemblies contributing to the strength of the vessel under pressure are made either of non-alloy quality steel or of non-alloy aluminium or non-age hardening aluminium alloys;
- (c) the vessel is made of either of the following elements—
 - (i) a cylindrical part of circular cross-section closed by outwardly dished and/or flat ends which revolve around the same axis as the cylindrical part;
 - (ii) two dished ends revolving around the same axis;
- (d) the maximum working pressure of the vessel does not exceed 30 bar and the product of $PS \times V$ does not exceed 10,000 bar.L; and
- (e) the minimum working temperature is no lower than -50°C and the maximum working temperature is not higher than—
 - (i) 300°C for steel; and
 - (ii) 100°C for aluminium or aluminium alloy vessels.

(2) A vessel is manufactured in series if more than one vessel of the same type is manufactured during a given period by a continuous manufacturing process, in accordance with a common design and using the same manufacturing processes.

(3) The categories of vessels relevant for the purposes of these Regulations are—

- (a) “category A vessels”, meaning a vessel of which the product of $PS \times V$ exceeds 50 bar.L, this category being subdivided into—
 - (i) “category A.1 vessels”, meaning a vessel of which the product of $PS \times V$ exceeds 3,000 bar.L;
 - (ii) “category A.2 vessels”, meaning a vessel of which the product of $PS \times V$ is more than 200 bar.L but not more than 3,000 bar.L;
 - (iii) “category A.3 vessels” meaning a vessel of which the product of $PS \times V$ is more than 50 bar.L but no more than 200 bar.L; and
- (b) “category B vessels” meaning a vessel of which the product of $PS \times V$ is 50 bar.L or less;

(4) In these Regulations—

“the 1991 Regulations” means the Simple Pressure Vessels (Safety) Regulations 1991(**a**);

“the 1974 Act” means the Health and Safety at Work etc Act 1974(**b**);

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978(**c**);

“the 1987 Act” means the Consumer Protection Act 1987(**d**);

“accreditation” has the meaning set out in Article 2(10) of RAMS;

“accreditation certificate” means a certificate, issued by the United Kingdom Accreditation Service or a national accreditation body in another Member State, attesting that a conformity assessment body meets the notified body requirements;

“authorised representative” means a person established in the EU appointed in accordance with regulation [15];

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

“competent national authority” means an authority of a Member State responsible for enforcing the law of that state which implements the Directive;

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

(a) S.I. 1991/2749; amended by S.I. 1994/3098, 2011/1043, 2014/1043.

(b) 1974 c. 37.

(c) S.I. 1978/1039 (N.I. 9). Article 12 was amended by S.I. 1998/2795 (N.I. 18).

(d) 1987 c. 43.

“conformity assessment activities” means any activities connected with conformity assessment, including calibration, testing, certification and inspection;

“conformity assessment body” means a body that performs conformity assessment activities;

“conformity assessment procedure” means a procedure referred to in regulations [40] (conformity assessment procedures prior to manufacture) and [41] (conformity assessment procedures prior to placing a vessel on the market);

“the Directive” means Directive 2014/29/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of simple pressure vessels(a);

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

“district council” means a district council within the meaning of the Local Government Act (Northern Ireland) 1972(b);

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

“enforcing authority” means any person enforcing these Regulations under regulation 55 (enforcement);

“essential safety requirements” means the requirements set out in Schedule 1;

“harmonised standard” means a standard as defined in Article 2(1)(c) 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, 95/16/EC, 97/23/EC, 98/34/EC, 2007/22/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 No 1673/2006/EC of the European Parliament and of the Council(c);

“the HSE” means the Health and Safety Executive established under section 10 of the 1974 Act;

“the HSENI” means the Health and Safety Executive for Northern Ireland established under Article 12 of the 1978 Order;

“importer” means a person who—

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

“inscriptions” means the following information in respect of a vessel—

- (a) the maximum working pressure (PS in bar);
- (b) the maximum working temperature (T_{\max} in °C);
- (c) the minimum working temperature (T_{\min} in °C);
- (d) the capacity (V in L);
- (e) the name, registered trade name or registered trade mark and the address of the manufacturer; and
- (f) the type and serial or batch identification;

“instructions and safety information” means the following information in respect of a vessel—

- (a) the inscriptions (excluding the vessel’s serial or batch identification);
- (b) its intended use; and
- (c) the maintenance and safety requirements for vessel safety;

(a) OJ L 96, 29.3.2014, p 45.

(b) 1972 c.9.

(c) OJ L 316, 14.11.2012, p 12.

“make available on the market” means any supply of a vessel for distribution 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 vessel or has a vessel designed or manufactured; and
- (b) markets that vessel under that person’s name or trademark;

“market surveillance authority” has the meaning set out in regulation [54] (designation of market surveillance authority);

“maximum working pressure or “PS” means the maximum gauge pressure (in Bar) which may be exerted under a vessel’s normal conditions of use;

“maximum working temperature” or “ T_{\max} ” means the highest stabilised temperature (in °C) which the wall of the vessel may attain under normal conditions of use;

“minimum working temperature or “ T_{\min} ” means the lowest stabilised temperature which the wall of the vessel may attain under normal conditions of use;

“national accreditation body” has the meaning set out in Article 2(11) of RAMS;

“notified body” means a body described in regulation [45] (notified bodies);

“notified body requirements” means the requirements set out in Part 1 of Schedule [3];

“place on the market” means make a vessel available on the EU market for the first time, and related expressions must be construed accordingly;

RAMS means Regulation (EC) No 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) No 339/93(a);

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

“relevant economic operator” means, in relation to a vessel, an economic operator with obligations in respect of that vessel under Part 2 of these Regulations;

“technical documentation” means the documentation referred to in Schedule 2;

“technical specification” means a document that prescribes technical requirements to be fulfilled by a vessel;

“V” means capacity of the vessel in litres

“weights and measures authority” means a local weights and measures authority as defined in section 69 of the Weights and Measures Act 1985(b);

“withdraw”, in relation to a vessel, means any measure aimed at preventing a vessel in the supply chain from being made available on the market and related expressions must be construed accordingly.

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

- (a) the vessel complies with the essential safety requirements; and
- (b) is a vessel in respect of which each relevant economic operator has complied, or is complying, with the obligations imposed on them under Part 2 of these Regulations.

(6) [In these Regulations, a reference to a Member State must be read as a reference to an EEA State and references to the EU must be read as references to the EEA.]

(a) OJ L 218, 13.8.2008, p.30.

(b) 1985 c. 72; section 69 was amended by the Statute Law (Repeals) Act 1989 (c. xx), Schedule 1, Part 4; the Local Government (Wales) Act 1994 (c. 19), Schedule 16, paragraph 75; and by the Local Government etc (Scotland) Act 1994, Schedule 13, paragraph 144.

Application (Art 1)

3.—(1) Subject to paragraph 2, these Regulations apply to vessels placed on the market on or after [20 April 2016].]

(2) These Regulations do not apply to—

- (a) vessels specifically designed for nuclear use, failure of which may cause an emission of radioactivity;
- (b) vessels specifically intended for installation in or the propulsion of ships and aircraft; and
- (c) fire extinguishers.

(3) In paragraph (2), “ship” has the meaning given by section 313 of the Merchant Shipping Act 1995^(a).

PART 2

Obligations of economic operators

Manufacturers

Design and manufacture in accordance with essential safety requirements and sound engineering practice [R2.1, Art 6.1]

4.—(1) Before placing a category A vessel on the market, a manufacturer must ensure that that vessel has been designed and manufactured in accordance with the essential safety requirements.

(2) Before placing a category B vessel on the market, a manufacturer must ensure that that vessel has been designed and manufactured in accordance with the sound engineering practice of a Member State.

Technical documentation and conformity assessment for category A vessels [R2.2(1), A6.2 1st para]

5. Before placing a category A vessel on the market, a manufacturer must—

- (a) draw up the technical documentation in respect of that vessel; and
- (b) follow the relevant conformity assessment procedure in respect of the vessel.

EU declaration of conformity, CE marking and inscriptions for category A vessels [R2.2(2), A6.2 2nd and 3rd para]

6.—(1) Where the conformity of a category A vessel with the essential safety requirements has been demonstrated by a relevant conformity assessment procedure, a manufacturer, before placing that vessel on the market, must—

- (a) draw up an EU declaration of conformity in accordance with regulation [43] (EU declaration of conformity); and
- (b) affix to the vessel, or to its data plate, the CE marking, the last two digits of the year, and the inscriptions.

(2) Where a data plate is used, it must be so designed that it cannot be reused and must include a vacant space to enable other information to be provided.

(3) The information referred to in paragraph (1)(b) must be visible, legible and indelible.

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

(a) 1995 c. 21.

(5) Where a category A vessel is subject to more than one EU instrument requiring the drawing up of a declaration of conformity, the manufacturer must draw up a single declaration of conformity, which—

- (a) identifies the EU instruments; and
- (b) includes references to the publication of those EU instruments in the Official Journal of the European Union. [Art 14(3)/R10(3)].

Inscriptions for category B vessels [R2.2(2), A6.2 3rd para]

7.—(1) Before placing a category B vessel on the market, a manufacturer must affix the inscriptions to the vessel or to its data plate.

(2) Where a data plate is used, it must be so designed that it cannot be reused and must include a vacant space to enable other information to be provided.

(3) The inscriptions must be visible, legible and indelible.

Retention by manufacturer of technical documentation and EU declaration of conformity [R2.3, A6.3]

8. A manufacturer must keep the technical documentation and the EU declaration of conformity drawn up in respect of a category A vessel for [inspection by the enforcing authorities] for the period of 10 years beginning on the day on which that vessel was placed on the market.

Compliance procedures for series production [R2.4, A6.4 1st paras]

9.—(1) A manufacturer must ensure that procedures are in place to ensure that vessels manufactured in series remain in conformity with Part 2.

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

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

Monitoring of vessels made available on the market [R2.4 second para/Art 6(4) 2nd para]

10. When appropriate, with regard to the risks to the health and safety of end-users presented by a vessel, a manufacturer must—

- (a) carry out sample testing of vessels made available on the market;
- (b) investigate complaints that vessels are not in conformity with Part 2;
- (c) keep a register of—
 - (i) complaints;
 - (ii) vessels which are not in conformity with Part 2; and
 - (iii) vessel recalls; and
- (d) keep distributors informed of any monitoring carried out under sub-paragraphs (a), (b) or (c).

Labelling of vessels [R2.5 and 2.6/Art 6(5) and (6)]

11.—(1) Before placing a vessel on the market, a manufacturer must—

- (a) ensure that it bears a type and serial or batch identification allowing its identification; and
- (b) indicate on the vessel—
 - (i) the name, registered trade name or registered trade mark of the manufacturer; and
 - (ii) a single postal address at which the manufacturer can be contacted.

(2) The information referred to in paragraph (1) must be clear, understandable and intelligible.

(3) The contact details referred to in paragraph (1)(b) must be in a language which can be easily understood by end-users and the competent national authority in the Member State in which it is to be made available to such end-users.

Provision of instructions and safety information [R2.7/ Art 6(7)]

12.—(1) A manufacturer must ensure that a vessel is accompanied by the instructions and safety information in a language which can be easily understood by end-users in the Member State in which it is to be made available on the market.

(2) The instructions and safety information referred to in paragraph (1) must be clear, understandable and intelligible.

Duty of manufacturer to take action in respect of vessels placed on the market which are considered not to be in conformity [R2.8/Art 6(8)]

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

- (a) bring the vessel into conformity;
- (b) withdraw the vessel; or
- (c) recall the vessel.

(2) Where the vessel presents a risk to the health or safety of persons, to domestic animals or to property, a manufacturer must immediately inform the market surveillance authority of the risk, and the competent national authorities of any other Member States in which the manufacturer made the vessel available on the market, giving details, in particular, of—

- (a) the respect in which the vessel is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

Provision of information and cooperation [R2.9/Art 6(9)]

14.—(1) Further to a request from the enforcing authority, a manufacturer, within such period as the authority may specify, must provide the authority with all the information and documentation necessary to demonstrate that the vessel is in conformity with Part 2.

(2) A request referred to in paragraph (1)—

- (a) may only be made during the period of ten years beginning on the day the vessel was placed on the market; and
- (b) must be accompanied by the reasons for making the request.

(3) The information referred to in paragraph (1)—

- (a) may be provided electronically; and
- (b) must be in a language which can be easily understood by the enforcing authority.

(4) A manufacturer must, at the request of the enforcing authority, cooperate with that authority on any action taken to—

- (a) evaluate a vessel in accordance with regulation [58] (evaluation of vessels presenting a risk); or
- (b) eliminate the risks posed by a vessel which the manufacturer has placed on the market.

Appointment by manufacturer of authorised representative [Art7(1)/R3(1)]

15.—(1) A manufacturer may, by written mandate, appoint a person as their authorised representative to perform specified tasks on the manufacturer's 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 that task.

Obligations of authorised representative [Art 7(2)/R3(2)]

16.—(1) The obligations laid down in regulation 4 (design and manufacture in accordance with essential safety requirements and sound engineering practice) and in paragraph (a) of regulation 5 (technical documentation and conformity assessment for category A vessels) must not form part of an authorised representative's mandate.

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

- (a) perform the manufacturer's obligations under regulation 8 (retention by manufacturer of technical documentation and EU declaration of conformity); and
- (b) perform the manufacturer's obligations under regulation 16 (provision of information and cooperation).

(3) 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, a reference in these Regulations (except in regulation 15) to the manufacturer 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.

Importers

Prohibition on placing on the market vessels which are not in conformity [r4(1); Art 8(1)]

17. An importer must not place a vessel on the market unless it is in conformity with Part 2.

Requirements which must be satisfied before an importer places a category A vessel on the market [Art 8(2) 1st para /R4(2) 1st para]

18. Before placing a category A vessel on the market, an importer must ensure that—

- (a) the relevant conformity assessment procedure has been followed by the manufacturer;
- (b) the manufacturer has drawn up the technical documentation;
- (c) the vessel bears the CE marking and the inscriptions; and
- (d) the manufacturer has complied with the requirements set out in regulation 11 (labelling of vessels).

Prohibition on an importer placing on the market a category A vessel considered not to be in conformity with the essential safety requirements [Art 8(2) 2nd para / R4(2) 2nd para]

19.—(1) Where an importer considers or has reason to believe that a category A vessel is not in conformity with the essential safety requirements, the importer must not place the vessel on the market.

(2) Where the vessel presents a risk to the health or safety of persons, to domestic animals or to property, the importer must inform the manufacturer and the market surveillance authority to that effect.

Requirements which must be satisfied before an importer places a category B vessel on the market [Art 8(2) 3rd para]

20. Before placing a category B vessel on the market, an importer must ensure that—

- (a) it has been designed and manufactured in accordance with the sound engineering practice in a Member State;
- (b) it bears the inscriptions; and
- (c) the manufacturer has complied with the requirements set out in regulation 11 (labelling of vessels).

Information identifying importer [Art 8(3)/R(3)]

21.—(1) Before placing a vessel on the market, an importer must indicate on the vessel or, where that is not possible, in a document accompanying the vessel—

- (a) the name, registered trade name or registered trade mark of the importer; and
- (b) a single postal address at which the importer can be contacted.

(2) The contact details referred to in paragraph (1) must be in a language which can be easily understood by end-users and the competent national authority in the Member State in which it is to be made available to such end-users.

Instructions and safety information [(Art 8(4)/R4(4)]

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

(2) [When the vessel is to be made available on the market to end-users in the United Kingdom, the instructions and safety information must be in English.]

(3) The instructions and safety information referred to in paragraph (1) must be clear, understandable and intelligible.

Transport and storage conditions [(Art 8(5)/R4(5)]

23. An importer must ensure that, while a category A vessel is under the importer's responsibility, its storage or transport conditions do not jeopardise its conformity with the essential safety requirements.

Monitoring by importer of vessels made available on the market [Art 8(6)/R4(6)]

24. When an enforcing authority deems it appropriate, with regard to the risks to the health and safety of end-users presented by a vessel, an importer must—

- (a) carry out sample testing of vessels made available on the market;
- (b) investigate complaints that vessels are not in conformity with Part 2;
- (c) keep a register of—
 - (i) complaints;
 - (ii) vessels which are not in conformity with Part 2; and
 - (iii) vessel recalls; and
- (d) keep distributors informed of any monitoring carried out under sub-paragraphs (a), (b) or (c).

Duty of importer to take action in respect of vessels placed on the market which are considered not to be in conformity [(Art 8(7)/R4(7))]

25.—(1) An importer who considers, or has reason to believe, that a vessel 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 vessel into conformity;
- (b) withdraw the vessel; or
- (c) recall the vessel.

(2) Where the vessel presents a risk to the health or safety of persons, to domestic animals or to property, an importer must immediately inform the market surveillance authority of the risk, and the competent national authorities of any other Member State in which the importer made the vessel available on the market, giving details, in particular, of—

- (a) the respect in which the vessel is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

Retention by importer of technical documentation and EU declaration of conformity [Art 8(8)/R4(8)]

26. An importer must, for a period of ten years beginning on the day on which a category A vessel was placed on the market, keep and, upon request, make available to an enforcing authority—

- (a) a copy of the EU declaration of conformity; and
- (b) the technical documentation
- (c) in respect of that vessel.

Provision of information and cooperation [Art 8(9)/R(4(9))]

27.—(1) Further to a request from an enforcing authority, an importer, within such period as the authority may specify, must provide the authority with all the information and documentation necessary to demonstrate that the vessel is in conformity with Part 2.

(2) A request referred to in paragraph (1)—

- (a) may only be made during the period of ten years beginning on the day that the importer places the vessel on the market; and
- (b) must be accompanied by the reasons for making the request.

(3) The information referred to in paragraph (1)—

- (a) may be provided electronically; and
- (b) must be in a language which can be easily understood by the enforcing authority.

(4) An importer must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a vessel in accordance with regulation 58 (evaluation of vessels presenting a risk); or
- (b) eliminate the risks posed by vessels which the importer has placed on the market.

Distributors

Duty to act with due care [Art 9(1)/R5(1)]

28. When making a vessel available on the market a distributor must act with due care to ensure that it is in conformity with Part 2.

Requirements which must be satisfied before a distributor makes available on the market a category A vessel [Art 9(2) 1st para/R5(2) 1st para]

29. Before making a category A vessel available on the market, a distributor must verify that—

- (a) the vessel—
 - (i) bears the CE marking and the inscriptions; and
 - (ii) is accompanied by the instructions and safety information in a language which can be easily understood by end-users in the Member State in which the vessel is to be made available on the market;
- (b) the manufacturer has complied with the requirements set out in regulation 11 (labelling of vessels); and
- (c) the importer has complied with the requirements in regulation 21 (information identifying importer).

Prohibition on a distributor making available on the market a category A vessel not considered to be in conformity with essential safety requirements [Art 9(2) 2nd para/R5(2) 2nd para]

30.—(1) Where a distributor considers or has reason to believe that a category A vessel is not in conformity with the essential safety requirements, the distributor must not make the vessel available on the market.

(2) Where the vessel presents a risk to the health or safety of persons, to domestic animals or to property, the distributor must inform the following to that effect—

- (a) the importer (if there is one);
- (b) the manufacturer (if there is no importer); and
- (c) the market surveillance authority.

Requirements which must be satisfied before a distributor makes a category B vessel available on the market [Art 9(2) 3rd para]

31. Before making a category B vessel available on the market, a distributor must verify that—

- (a) the vessel—
 - (i) bears the inscriptions;
 - (ii) is accompanied by the instructions and safety information in a language which can be easily understood by end-users in the Member State in which the vessel is to be made available on the market;
- (b) the manufacturer has complied with the requirements set out in regulation 11 (labelling of vessels); and
- (c) the importer has complied with the requirements in regulation 21 (information identifying importer).

Storage and transport conditions [Art 9(3)/R5(3)]

32. A distributor must ensure that, while a category A vessel is under the distributor's responsibility, its storage or transport conditions do not jeopardise its conformity with the essential safety requirements.

Duty for distributor to take action in respect of vessels made available on the market which are not in conformity [Art 9(4)/R5(4)]

33.—(1) A distributor who considers or has reason to believe that a vessel which the distributor has made available on the market is not in conformity with Part 2, must make sure that the necessary corrective measures are taken to—

- (a) bring the vessel into conformity;
- (b) withdraw the vessel; or
- (c) recall the vessel.

(2) Where the vessel presents a risk to the health or safety of persons, to domestic animals or to property, a distributor must immediately inform the market surveillance authority of the risk and the competent national authorities of any other Member States in which the distributor made the vessel available on the market, giving details, in particular, of—

- (a) the respect in which the vessel is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

Provision of information and cooperation [Art 9(5)/R5(5)]

34.—(1) Further to a request from an enforcing authority, a distributor, within such period as the authority may specify, must provide the authority with all the information and documentation necessary to demonstrate that the vessel is in conformity with Part 2.

(2) A request referred to in paragraph (1)—

- (a) may only be made during the period of ten years beginning on the day on which the vessel was placed on the market; and
- (b) must be accompanied by the reasons for making the request.

(3) The information referred to in paragraph (1)—

- (a) may be provided electronically; and
- (b) must be in [a language which can easily be understood by the enforcing authority] [English].

(4) A distributor must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a vessel in accordance with regulation 58 (evaluation of vessels presenting a risk);
- (b) eliminate the risks posed by a vessel which the distributor has made available on the market.

All economic operators

Cases in which obligations of manufacturers apply to importers and distributors [Art 10/R6]

35.—(1) An importer or distributor (“A”) is to be considered a manufacturer for the purposes of these Regulations, and is subject to the relevant obligations of the manufacturer under this Part, where A—

- (a) places a vessel on the market under A’s own name or trademark; or
- (b) modifies a vessel already placed on the market in such a way that it may affect whether the vessel is in conformity with Part 2.

(2) In paragraph (1), “relevant obligations” means the obligations set out in regulations 4 (design and manufacture in accordance with essential safety requirements and sound engineering practice) to 14 (provision of information and cooperation) of these Regulations.

Translation of EU declaration of conformity [Art 14 2 2nd sentence, R10(2)]

36. An economic operator who makes a Category A vessel available on the market in the United Kingdom must ensure that the EU declaration of conformity is prepared in, or translated into, English.

Identification of economic operators [Art 11/R7]

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

(2) The relevant period is—

- (a) in the case of paragraph (1)(a), the period of ten years beginning on the day on which E was supplied with the vessel; and
- (b) in the case of paragraph 1(b), the period of ten years beginning on the day on which E supplied the vessel.

Prohibition on improper use of CE marking (Article 15, RAMS Art 30]

38.—(1) An economic operator must not affix the CE marking to a vessel unless—

- (a) that economic operator is the manufacturer; and
- (b) the conformity of the vessel with the essential safety requirements has been demonstrated by a relevant conformity assessment procedure. **[RAMS 30(1) and (2)]**

(2) An economic operator must not affix a marking to a vessel which is not the CE marking but which purports to attest that the vessel satisfies the essential safety requirements. **[Art 30(4) RAMS]**

(3) An economic operator must not affix to a vessel a marking, sign or inscription which is likely to mislead any other person as to the meaning or form of the CE marking **[Art 30(5)]**.

(4) An economic operator must not affix to a vessel any other marking if the visibility, legibility and meaning of the CE marking would be impaired as a result. **[Art 30(5)]**.

PART 3

Conformity of Category A Vessels

Presumption of conformity of category A vessels [Art 12/R8]

39.—(1) A category A vessel 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 presumed to be in conformity with the essential safety requirements covered by that standard (or that part of that standard).

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

Conformity assessment procedures prior to manufacture [Art 13/No R]

40.—(1) Prior to the manufacture of a category A vessel, an EU-type examination (Module B), as described in paragraph 1 of Schedule 2, must be carried out in respect of the proposed vessel’s technical design.

(2) For vessels to be manufactured in accordance with a harmonised standard (or part of such standard) referred to in regulation [39], (presumption of conformity of category A vessels) the manufacturer must choose which of the following forms the examination is to take—

- (a) an examination of the technical documentation and supporting evidence in respect of the proposed vessel without an examination of a specimen vessel (Module B – design type);
- (b) an examination of the technical documentation and supporting evidence in respect of the proposed vessel, plus an examination of a prototype, representative of the production envisaged, of the complete vessel (Module B – production type).

(3) For vessels not manufactured, or manufactured only partly, in accordance with a harmonised standard (or part of such standard) referred to in regulation [39], the examination must be an examination of the type referred to in sub-paragraph (b) of paragraph (2) of this regulation.

(4) Paragraphs 2 to 9 of Schedule 2 make provision in respect of an EU-type examination (Module B) and related matters.

Conformity assessment procedures prior to placing a vessel on the market [Art 13/No R]

41.—(1) Prior to placing a category A.1 vessel on the market, that vessel must be subjected to conformity to type based on internal production control plus supervised testing (Module C1) as described in paragraph 10 of Schedule 2.

(2) Prior to placing a category A.2 vessel on the market, that vessel must, at the manufacturer's choosing, be subjected to either—

- (a) the procedure referred to in paragraph (1) of this regulation (Module C1), or
- (b) conformity to type based on internal production control plus supervised vessel checks at random intervals (Module C2) as described in paragraph 14 of Schedule 2.

(3) Prior to placing a category A.3 vessel on the market, that vessel must, at the manufacturer's choosing, be subjected to either—

- (a) the procedure referred to in paragraph (1) of this regulation (Module C1), or
- (b) conformity to type based on internal production control (Module C) as described in paragraph 18 of Schedule 2.

(4) Paragraphs 11 to 13 of Schedule 2 make provision in respect of conformity to type based on internal production control plus supervised testing (Module C1) and related matters.

(5) Paragraphs 15 to 17 of Schedule 2 make provision in respect of conformity to type based on internal production control plus supervised vessel checks at random intervals (Module C2) and related matters.

(6) Paragraphs 19 and 20 make provision in respect of conformity to type based on internal production control (Module C).

Records and correspondence language requirements [Art 13/No R]

42. The records and correspondence relating to the conformity assessment procedures referred to in regulations 40 (conformity assessment procedures prior to manufacture) and 41 (conformity assessment procedures prior to placing a vessel on the market) must be in an official language of the Member State in which the notified body is established or in a language acceptable to that body.

EU declaration of conformity [Art 14/R10]

43. The EU declaration of conformity in respect of a category A vessel must—

- (a) state that the fulfilment of the essential safety requirements has been demonstrated in respect of the vessel; and[R10(1)]
- (b) have the model structure set out in Annex IV to the Directive.

Identification number [Art 15 & 16/R11&12]

44.—(1) The CE marking, affixed to the vessel or its data plate pursuant to regulation [6] (EU declaration of conformity, CE marking and inscription for category A vessels) and, must be followed by the identification number of the notified body involved in the relevant conformity assessment procedure pursuant to regulation 41(conformity assessment procedures prior to placing a vessel on the market).

(2) The identification number of the notified body must be affixed—

- (a) by the notified body; or

- (b) where instructed to do so by the notified body, by the manufacturer or the manufacturer's authorised representative.

PART 4

Notification of Conformity Assessment Bodies

Notified bodies

45.—(1) A notified body is a conformity assessment body—

- (a) which has been notified to the European Commission and to the other Member States under regulation [46] (notification); and
 - (b) in respect of which no objections are raised by the European Commission or other Member States—
 - (i) within two weeks of a notification, where an accreditation certificate is used; or
 - (ii) within two months of a notification, where accreditation is not used.
- (2) Paragraph (1) has effect subject to regulation [51] (changes to notifications).

Notification [See A24]

46.—(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 makes an application to the Secretary of State for notification and that 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 in respect of which the conformity assessment body claims to be competent;
 - (iii) the category of vessels in respect of 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.

Presumption of conformity of notified bodies [Art22]

47.—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a harmonised standard (or part of such 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 that part of that standard).

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

Contents of notification [Art 25/R23]

48. A notification under regulation [46] (notification) must include—

- (a) 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[s] in respect of which the conformity assessment body has made its application for notification; and
 - (iii) the category of vessels 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.

Monitoring

49.—(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) meets any conditions set in accordance with regulation [46](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.

Delegation to the United Kingdom Accreditation Service

50. The Secretary of State may authorise the United Kingdom Accreditation Service to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the notified body requirements; and
- (b) monitoring notified bodies.

Changes to notifications (Art 27/R25)

51.—(1) Where the Secretary of State determines that a notified body no longer meets a notified body requirement, or that it is failing to fulfil its obligations under these Regulations, other than a condition referred to in regulation [46]((6)(b)), the Secretary of State must restrict, suspend or withdraw the body's status as a notified body under regulation [45] (notified bodies).

(2) Where the Secretary of State determines that a notified body no longer meets a condition referred to in regulation [46]((6)(b)), the Secretary of State may restrict, suspend or withdraw the body's status as a notified body under regulation [45].

(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) Before taking action under paragraph (1) or (2), the Secretary of State must—

- (a) give notice in writing to the notified body of the proposed action and the reasons for it;
- (b) give the notified body an opportunity to make representations to the Secretary of State regarding the proposed action within a reasonable period from the date of the notice; and
- (c) consider any such representations made by the notified body.

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

(6) Where the Secretary of State has taken action in respect of a notified body under paragraph (1) or (2), or where a notified body has ceased its activity, the notified body must, at the request of the Secretary of State, transfer its files to another notified body or to the Secretary of State.

Operational matters in relation to notified bodies

52.—(1) Subject to [the terms of its appointment and to] paragraph (3), a notified body must carry out those conformity assessment activities and modules in respect of which the body's notification was made to the European Commission and to the other Member States under regulation [46] (notification).

(2) Where a notified body carries out a conformity assessment procedure, it must do so in accordance with [Part 2 of Schedule 3].

(3) [A notified body must make provision for a manufacturer to be able to make an appeal against a refusal by the notified body—

- (a) to issue an EU-type examination certificate referred to in Schedule 2; or
- (b) to affix, or cause to be affixed, the body's identification number pursuant to regulation [44]. (identified in number)]

Subsidiaries and contractors [Art23]

53.—(1) A notified body may subcontract specific conformity assessment activities, or use a subsidiary to carry out such activities provided—

- (a) the body is satisfied that the subcontractor or subsidiary meets the notified body requirements;
- (b) the body has informed the Secretary of State that it is satisfied that the subcontractor or subsidiary meets those requirements; and
- (c) the economic operator for whom the activities are to be carried out has consented to the activities being carried out by that person.

(2) The notified body which subcontracts specific conformity assessment activities or uses a subsidiary to carry such activities remains responsible for the proper performance of those activities (irrespective of where the subcontractor or subsidiary is established).

(3) Where a notified body subcontracts, or uses a subsidiary to carry out, a specific conformity assessment activity, the notified body must, for a period of ten years beginning on the day on which the activity is first carried out, keep at the disposal of the Secretary of State all relevant documentation concerning—

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

PART 5

Market surveillance and enforcement

Designation of market surveillance authority

- 54.**—(1) In Great Britain, the market surveillance authority is—
- (a) within its area, the weights and measures authority in relation to vessels for private use or consumption; and
 - (b) subject to paragraph (3), the HSE in relation to vessels for use in the workplace.
- (2) In Northern Ireland, the market surveillance authority is—
- (a) within its area, the district council in relation to vessels for private use or consumption; and
 - (b) the HSENI in relation to vessels for use in the workplace.
- (3) In so far as these Regulations apply to vessels intended exclusively or primarily for use on relevant nuclear sites, the market surveillance authority is the Office for Nuclear Regulation.
- (4) In paragraph (3), “relevant nuclear site” means a site which is—
- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013^(a));
 - (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998^(b)); or
 - (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).

Enforcement

- 55.**—(1) Subject to paragraphs (2), (3) and (4) of this regulation, these Regulations and RAMS (in its application to vessels) must be enforced by the market surveillance authority.
- (2) In Great Britain—
- (a) except where the market surveillance authority is the Office for Nuclear Regulation, the weights and measures authority, within its area, may enforce these Regulations and RAMS (in its application to vessels) in relation to vessels for use in the workplace; and
 - (b) the HSE may enforce these Regulations and RAMS (in its application to vessels) in relation to vessels for use as consumer goods.
- (3) In Northern Ireland—
- (a) the district council may, within its area, enforce these Regulations and RAMS (in its application to vessels) in relation to vessels for use in the workplace; and
 - (b) the HSENI may enforce these Regulation and RAMS (in its application to vessels) in relation to vessels for use as consumer goods.
- (4) 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 vessels).
- (5) Before taking action under paragraphs (2), (3) or (4), an enforcing authority which is not the market surveillance authority must notify the market surveillance authority of the proposed action.
- (6) In Scotland, only the Lord Advocate may prosecute offences under these Regulations.

Enforcement Powers

- 56.**—(1) Schedule 4 has effect where the enforcing authority is—

(a) 2013 c. 32.

(b) S.I. 1998/494, amended by S.I. 2014/469; there are other amending instruments but none is relevant.

- (a) a weights and measures authority;
- (b) a district council; or
- (c) the Secretary of State.

(2) Schedule 5 has effect where the enforcing authority is the HSE or the Office for Nuclear Regulation.

(3) Schedule 6 has effect where the enforcing authority is the HSENI.

(4) In addition to the powers available to an enforcing authority under, as appropriate, paragraph (1), (2) or (3), the authority may use the powers set out in Schedule 7.

Exercise of enforcement powers

57. When enforcing these Regulations or RAMS (in its application to vessels), the enforcing authority must exercise its powers in a manner which is consistent with—

- (a) regulation 58 (evaluation of vessels presenting a risk);
- (b) regulation 59 (enforcement action in respect of vessels which are not in conformity);
- (c) regulation 60 (EU safeguard procedure);
- (d) regulation 61 (enforcement action in respect of vessels which are in conformity but which present a risk);
- (e) regulation 62 (enforcement action in respect of formal non-compliance); and
- (f) regulation 63 (restrictive measures).

Evaluation of vessels presenting a risk (Art 35(1) 1st subpara /R31)

58.—(1) Where the market surveillance authority has sufficient reason to believe that a vessel presents a risk to the health or safety of persons, to domestic animals or to property, the market surveillance authority must carry out an evaluation in relation to the vessel covering the relevant requirements of Part 2 of these Regulations applying in respect of that vessel.

(2) Where an enforcing authority other than the market surveillance authority has sufficient reason to believe that a vessel presents a risk to the health or safety of persons, to domestic animals or to property, that enforcing authority may carry out an evaluation in relation to the vessel covering the relevant requirements of Part 2 of these Regulations applying in respect of that vessel.

Enforcement action in respect of vessels which are not in conformity (Art 35(1) subpara 2/R31)

59.—(1) Where, in the course of the evaluation referred to in regulation 58 (evaluation of vessels presenting a risk), an enforcing authority finds that the vessel is not in conformity with Part 2, it must, without delay, require a relevant economic operator to—

- (a) take appropriate corrective actions to bring the vessel into compliance with those requirements within a prescribed period;
- (b) withdraw the vessel from the market within a prescribed period; or
- (c) recall the vessel within a prescribed period.

(2) The enforcing authority must inform the notified body which carried out the conformity assessment procedure in respect of the vessel of—

- (a) the respects in which the vessel is not in conformity with Part 2; and
- (b) the corrective actions which it requires the relevant economic operator to take. [**Art 35(1) para 3**]

(3) Where the enforcing authority is not the Secretary of State and it considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, it must notify the Secretary of State of—

- (a) the results of the evaluation; and
- (b) the corrective actions which it requires the relevant economic operator to take. [Art 35(2)]

(4) Where the Secretary of State receives a notice 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 other Member States of—

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

(5) Where the relevant economic operator does not take adequate corrective action within the prescribed time period referred to in paragraph (1), the enforcing authority must take all appropriate measures to—

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

(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 of those measures without delay.

(8) The notices in paragraphs (6) and (7) must include all available details and, in particular—

- (a) the data necessary for the identification of the vessel;
- (b) the origin of the vessel;
- (c) the nature of the lack of conformity alleged and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the relevant economic operator; and
- (f) whether the lack of conformity is due to either of the following—
 - (i) the failure of the vessel to meet requirements relating to the health or safety of persons, to the protection of domestic animals or to property; or
 - (ii) shortcomings in the harmonised standards referred to in regulation 39 (presumption of conformity of category A vessels) conferring a presumption of conformity.

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

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

(10) An economic operator must ensure that it takes the action required by an enforcing authority under paragraph (1) of this regulation in respect of all the vessels that it has made available on the market throughout the EU.

EU safeguard procedure

60.—(1) Where another Member State has initiated the procedure under Article 35 of the Directive, each enforcing authority (other than the Secretary of State) must, without delay, inform the Secretary of State of—

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

(2) Where another Member State has initiated the procedure under Article 35 of the Directive, the Secretary of State must, without delay, inform the European Commission and the other Member States of—

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

(3) Where a measure taken by another Member State in respect of a vessel is deemed justified under Article 35(7) of the Directive, the market surveillance authority must ensure that appropriate measures, such as withdrawal, are taken in respect of the vessel without delay.

(4) Where a measure taken by another Member State under in respect of a vessel is considered by the European Commission to be justified pursuant to Article 36(1) of the Directive, the market surveillance authority must take all necessary measures to ensure that the vessel is withdrawn from the United Kingdom market.

(5) Where the market surveillance authority is not the Secretary of State and it has taken action under paragraphs (3) or (4), it must notify the Secretary of State.

(6) Where the Secretary of State receives a notice under paragraph (5), or has taken action under paragraphs (3) or (4), the Secretary of State must inform the European Commission of the action taken.

(7) If a measure taken by an enforcing authority pursuant to regulation 59 is considered unjustified by the European Commission under Article 36(1) of the Directive, the enforcing authority must withdraw that measure.

Enforcement action in respect of vessels which are in conformity, but which present a risk

61.—(1) Where, having carried out an evaluation under regulation 58 (evaluation of vessels presenting a risk), an enforcing authority finds that although a vessel is in conformity with Part 2, it presents a risk to the health or safety of persons, to domestic animals or to property, the enforcing authority must require a relevant economic operator to take all appropriate measures to—

- (a) ensure that the vessel concerned, when placed on the market, no longer presents such a risk;
- (b) withdraw the vessel within a prescribed period; or
- (c) recall the vessel within a prescribed period.

(2) Where an enforcing authority is not the Secretary of State and it takes measures under paragraph (1), it must notify the Secretary of State immediately.

(3) Where the Secretary of State receives a notice under paragraph (2) or takes measures under paragraph (1), the Secretary of State must notify the European Commission and the other Member States immediately. **[Art 37(3)]**

(4) The notices referred to in paragraphs (2) and (3) must include all available details and, in particular—

- (a) the data necessary for the identification of the vessel;
- (b) the origin and the supply chain of the vessel;
- (c) the nature of the risk involved; and
- (d) the nature and duration of the measures taken by the enforcing authority. **[Art 37(3)]**

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

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

Enforcement action in respect of formal non-compliance

62.—(1) Where an enforcing authority makes one of the following findings in relation to a vessel, it must require a relevant economic operator to put an end to the non-compliance concerned within such reasonable period as the enforcing authority specifies—

- (a) no CE marking has been affixed;
- (b) the CE marking has been affixed otherwise than in accordance with regulation [6] (EU declaration of conformity, CE marking and inscriptions for category A vessels) or [38] (prohibition on improper use of CE marking);
- (c) where a notified body is involved in the production control phase for the vessel—
 - (i) no identification number in respect of the notified body has been affixed; or
 - (ii) an identification number in respect of the notified body has been affixed otherwise than in accordance with regulation [44] (identification number);
- (d) an inscription has not been affixed or has been affixed otherwise than in accordance with regulation [6] (EU declaration of conformity, CE marking and inscriptions for category A vessels) or [7] (inscriptions for category B vessels);
- (e) the EU declaration of conformity has not been drawn up or has been drawn up otherwise than in accordance with regulations [6] (EU declaration of conformity, CE marking and inscriptions for category A vessels) or [43] (EU declaration of conformity);
- (f) the technical documentation is unavailable or incomplete;
- (g) the information specified in regulation 11(1)(b) (labelling of vessels) or 21 (information identifying importer) is absent, false or incomplete;
- (h) any other administrative requirement imposed on the manufacturer or importer under Part 2 of these Regulations has not been fulfilled.

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

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

- (a) restrict or prohibit the vessel being made available on the market;
- (b) ensure that the vessel is withdrawn;
- (c) ensure that the vessel is recalled.

(4) Nothing in this regulation is to prevent an enforcing authority from taking action under regulation 59 (enforcement action in respect of vessels which are not in conformity) or 60(3) (EU safeguard procedure).

Restrictive measures (Art 34(1) and 35(1)/R31(1))

63. When enforcing these Regulations, an enforcing authority must comply with the requirements of Article 21 of RAMS in relation to any measure to—

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

Offences

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

- (a) regulation 4 (design and manufacture in accordance with essential safety requirements and sound engineering practice);
- (b) regulation 5 (technical documentation and conformity assessment for category A vessels);

- (c) regulation 6 (EU declaration of conformity, CE marking and inscriptions for category A vessels);
 - (d) regulation 7 (inscriptions for category B vessels);
 - (e) regulation 8 (retention by manufacturer of technical documentation and EU declaration of conformity);
 - (f) regulation 9 (compliance procedures for series production);
 - (g) regulation 10 (monitoring of vessels made available on the market);
 - (h) regulation 11 (labelling of vessels);
 - (i) regulation 12 (provision of instructions and safety information);
 - (j) regulation 13 (duty of manufacture to take action in respect of vessels placed on the market which are considered not to be in conformity);
 - (k) regulation 14 (provision of information and cooperation);
 - (l) [regulation 16(1) and (2) (obligations of authorised representative)];
 - (m) regulation 36 (translation of declaration of conformity);
 - (n) regulation 37 (identification of economic operators);
 - (o) regulation 38 (prohibition on improper use of CE marking).
- (2) It is an offence for an importer to contravene or fail to comply with any requirement of—
- (a) regulation 17 (prohibition on placing on the market vessels which are not in conformity);
 - (b) regulation 18 (requirements which must be satisfied before an importer places a category A vessel on the market);
 - (c) regulation 19 (prohibition on an importer placing on the market a category A vessel considered not to be in conformity with the essential safety requirements);
 - (d) regulation 20 (requirements which must be satisfied before an importer places a category B vessel on the market);
 - (e) regulation 21 (information identifying importer);
 - (f) regulation 22 (instructions and safety information);
 - (g) regulation 23 (transport and storage conditions);
 - (h) regulation 24 (monitoring by importer of vessels made available on the market);
 - (i) regulation 25 (duty of importer to take action in respect of vessels placed on the market which are considered not to be in conformity);
 - (j) regulation 26 (retention by importer of technical documentation and EU declaration of conformity);
 - (k) regulation 27 (provision of information and cooperation);
 - (l) regulation 36 (translation of declaration of conformity);
 - (m) regulation 37 (identification of economic operators);
 - (n) regulation 38 (prohibition on improper use of CE marking).
- (3) It is an offence for a distributor to contravene or fail to comply with any requirement of—
- (a) regulation 28 (duty to act with due care);
 - (b) regulation 29 (requirements which must be satisfied before a distributor makes available on the market a category A vessel);
 - (c) regulation 30 (prohibition on a distributor making available on the market a category A vessel not considered to be in conformity with essential safety requirements);
 - (d) regulation 31 (requirements which must be satisfied before a distributor makes a category B vessel available on the market);
 - (e) regulation 32 (storage and transport conditions);

- (f) regulation 33 (duty for distributor to take action in respect of vessels made available on the market which are not in conformity);
 - (g) regulation 34 (provision of information and cooperation);
 - (h) regulation 36 (translation of declaration of conformity);
 - (i) regulation 37 (identification of economic operators);
 - (j) regulation 38 (prohibition on improper use of CE marking).
- (4) It is an offence for a conformity assessment body to fail to comply with regulation 51(6) (changes to notifications).
- (5) It is an offence for any person to contravene or fail to comply with any requirement of a notice, other than a compliance notice pursuant to paragraph 1 of Schedule [7], served on that person by an enforcing authority under these Regulations.
- (6) It is an offence for any person—
- (a) intentionally to obstruct—
 - (i) an enforcing authority (or officer of such authority) acting in pursuance of its powers and duties under these Regulations or Article 19 of RAMS;
 - (ii) a customs officer facilitating the action of an enforcing authority under these Regulations; or
 - (b) knowingly or recklessly to provide any statement, information, document or record which is false or misleading in a material respect in purported compliance with any requirement of these Regulations or Article 19 of RAMS.
- (7) It is an offence for a person who is not authorised to act on behalf of an enforcing authority to purport to exercise any of the powers of the enforcing authority under these Regulations or RAMS.

Penalties

- 65.**—(1) A person guilty of an offence under regulation 64 (offences) (other than regulation 64(1)(e) or (2)(j)) is liable on summary conviction—
- (a) in England and Wales, to a fine or imprisonment for a term not exceeding three months, or to both;
 - (b) in Scotland, to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding [three] months, or to both; and
 - (c) in Northern Ireland, to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months, or to both.
- (2) A person guilty of an offence under regulation 64(1)(e) or 2(j) is liable on summary conviction—
- (a) in England and Wales, to a fine;
 - (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale.

Defence of due diligence

- 66.**—(1) Subject to paragraphs (2), (4) and (6), in proceedings for an offence under regulation 64 (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 referred to in paragraph (2) 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 seven 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.
- (6) This regulation does not apply in respect of proceedings for offences under regulation 64(6).

Liability of persons other than principal offender

67.—(1) Where the commission of an offence by one person ("A") under regulation 64 (offences) is due to anything which another person ("B") did or failed to do in the course of business, B is guilty of the offence and may be proceeded against and punished, whether or not proceedings are taken against A.

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

Time limit for prosecution of offences

68.—(1) Subject to paragraph (4), in England and Wales an information relating to an offence under regulation 64 (offences) that is triable by a magistrates' court may be so tried if it is laid within 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 64 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 (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 64 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 three 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.

(6) This regulation has effect subject to paragraphs [1(n)][(o)] and 2(l) of Schedules 5 and 6.

Service of documents

69.—(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;
- (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 address may be 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

70.—(1) This regulation applies where a person commits an offence under regulation 64 (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 enforcing authority has incurred in investigating the offence.

Action by enforcing authority

71.—(1) An enforcing authority may itself 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 enforcing 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 has taken action as a result of the condition in paragraph (1)(b) being met, the authority may recover from that person as a civil debt any costs or expenses reasonably incurred by the enforcing 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;
- (b) in Northern Ireland in proceedings under article 62 of the Magistrates' Court (Northern Ireland) Order 1981.

Appeals against notices

72.—(1) Any 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) in the case of a notice other than a recall notice by a person having an interest in the vessel in respect of which the notice has been served.

(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—

- (a) that the requirements of these Regulations and RAMS (in its application to vessels) have been complied with in respect of the vessel to which the notice relates; or
- (b) that the enforcing authority failed comply with regulation 57 (exercise of enforcement powers) when serving of the notice.

(4) On an application 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 [73] (appropriate court for appeals against notices); and
- (b) “notice” means—
 - (i) a prohibition notice served in accordance with Schedule [4];
 - (ii) a notice to warn served in accordance with Schedule [4];
 - (iii) a suspension notice served in accordance with Schedule [4];
 - (iv) a compliance notice served in accordance with Schedule [7];
 - (v) a withdrawal notice served in accordance with Schedule [7];
 - (vi) a recall notice served in accordance with Schedule [7].

Appropriate court for appeals against notices

73.—(1) In England and Wales or Northern Ireland, the appropriate court for the purposes of regulation 72 (appeals against notices) is—

- (a) the court in which proceedings have been brought in relation to the vessel for an offence under regulation 64 (offences);
- (b) an employment tribunal seized of appeal proceedings against a notice which relates to the vessel and which has been served under or by virtue of paragraph 1 of Schedule [5];
- (c) an industrial tribunal seized of appeal proceedings against a notice which relates to the vessel and which has been served under or by virtue of paragraph 1 of Schedule [6]; or
- (d) in any other case, a magistrates' court.

(2) In Scotland, the appropriate court for the purposes of regulation 72 is—

- (a) the sheriff court within whose sheriffdom the appellant resides or, as the case may be, has a registered or principal office;
 - (b) an employment tribunal seized of appeal proceedings against a notice which relates to the vessel and which has been served under or by virtue of paragraph 1 of Schedule 5.
- (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 72, 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.

Compensation

74.—(1) Where an enforcing authority other than the HSE [the HSENI or the Office for Nuclear Regulation] serves a relevant notice in respect of a vessel, that authority is liable to pay compensation to a person having an interest in the vessel 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 vessel in respect of which the relevant notice was served neither—
 - (i) presents a risk to the health and safety of persons, to domestic animals or to property; nor
 - (ii) contravenes any requirement of these Regulations; and
 - (b) the relevant notice was not served because of neglect or default by a relevant economic operator.
- (3) In this regulation, “relevant notice” means a suspension, withdrawal or recall notice.

PART 6

Miscellaneous

Review

- 75.**—(1) The Secretary of State must from time to time—
- (a) carry out a review of these Regulations;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other Member States.
- (3) The report must, in particular—
- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved by a system that imposes less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning on the date these Regulations come into force.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Transitional provision

76.—(1) A certificate issued by a United Kingdom approved body under regulations 10 (EC certificate of adequacy), 11 (EC type-examination certificate), 12(4) (EC verification) and 13 (EC certificate of conformity) of the 1991 Regulations, or under the corresponding provisions of another Member State’s enactment implementing the 2009 Directive, is valid under these Regulations.

(2) In this regulation, “2009 Directive” means Directive 2009/105/EC of the European Parliament and of the Council of 16 September 2009 relating to simple pressure vessels^(a).

Revocations and savings

77.—(1) Subject to paragraph (2), the 1991 Regulations and the Simple Pressure Vessels (Safety) (Amendment) Regulations^(b) are revoked.

(2) The Regulations referred to in paragraph (1) continue to apply, as if they had not been revoked, to a vessel placed on the market before [20 April 2016].

Consequential Amendments

78.—(1) The Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Amendment and Specification) Order 2003 is amended as follows—

- (a) in Schedule 3, omit the entry “Paragraph 3 of Schedule 5 to the Simple Pressure Vessels (Safety) Regulations 1991, and after the last entry insert “Regulation 55 of the Simple Pressure Vessels (Safety) Regulations 2016 (in so far as information comes to a public authority enforcing those regulations in respect of vessels for private use or consumption)””;
- (b) in Schedule 4 omit the entry “paragraph 3 of Schedule 5 to the Simple Pressure Vessels (Safety) Regulations 1991”, and after the last entry insert “Regulation 55 of the Simple Pressure Vessels (Safety) Regulations 2016 (in so far as information is disclosed to a public authority enforcing those regulations in respect of vessels for private use or consumption)”;
- (c) in Schedule 5, omit the entry in respect of the Simple Pressure Vessels (Safety) Regulations 1991.

(2) The Legislative and Regulatory Reform (Regulatory Functions) Order 2007 is amended as follows—

- (a) in Part 3 of the Schedule, under the heading “Public health and safety”, omit the entry “Simple Pressure Vessels (Safety) Regulations 1991” and after the last entry insert “Simple Pressure Vessels (Safety) Regulations 2016”; and
- (b) in Part 13 of the Schedule, omit the entry “Simple Pressure Vessels (Safety) Regulations 1991” and after the last entry insert “Simple Pressure Vessels (Safety) Regulations 2016”.

(3) The Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009 is amended as follows—

- (a) in Part 4 of Schedule 1, omit the entry “Simple Pressure Vessels (Safety) Regulations 1991” and after the last entry insert “Simple Pressure Vessels (Safety) Regulations 2016”; and
- (b) in Part 2 of Schedule 2, omit the entry “Simple Pressure Vessels (Safety) Regulations 1991” and after the last entry insert “Simple Pressure Vessels (Safety) Regulations 2016”.

(4) In the Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014, omit paragraph 52 of Schedule 3.

(a) OJ No L 264, 08.10.2009, p 12.

(b) S.I. 1994/3098.

Date

Name
[Minister for....]
Department for Business, Innovation and Skills

SCHEDULE 1

Essential Safety Requirements

Regulation 4(1)

PART 1

Materials

1. Materials used in the manufacture of a vessel must be selected according to the intended use of the vessel and in accordance with paragraphs 2 to 9.

Pressurised parts

2. The materials used for manufacturing the pressurised parts of the vessels must be—
- (a) capable of being welded;
 - (b) ductile and tough, so that a rupture at minimum working temperature does not give rise to either fragmentation or brittle-type fracture;
 - (c) not adversely affected by ageing.

3. For steel vessels, the material must in addition meet the requirements set out in paragraph 5 and, for aluminium or aluminium alloy vessels, those set out in paragraph 6.

4. The materials must be accompanied by an inspection slip as defined in paragraph [21(b)] of [Schedule 2], drawn up by the producer of the materials.

Steel vessels

5. Non-alloy quality steels must meet the following requirements—
- (a) they must be non-effervescent and supplied after normalisation treatment, or in an equivalent state;
 - (b) the content per product of carbon shall be less than 0.25% and that of sulphur and phosphorous must each be less than 0.05%
 - (c) they must have the following mechanical properties per product—
 - (i) the maximum tensile strength $R_{m, \max}$ must be less than 580 N/mm²;
 - (ii) the elongation after fracture shall be:

if test pieces are taken parallel to the direction of rolling:

thickness ≥ 3 mm:	A	$\geq 22\%$,
thickness < 3 mm:	A _{80 mm}	$\geq 17\%$,

or, if test pieces are taken perpendicular to the direction of rolling:

thickness ≥ 3 mm:	A	$\geq 20\%$,
thickness < 3 mm:	A _{80 mm}	$\geq 15\%$,

- (iii) the average bending rupture energy (KCV) for three longitudinal test pieces at minimum working temperature must not be less than 35 J/cm². Not more than one of the three figures may be less than 35 J/cm², with a minimum of 25 J/cm². In the case of steels intended to be used in the manufacture of vessels the minimum working

temperature of which is lower than -10°C and the wall thickness of which exceeds 5 mm, this property must be checked.

Aluminium vessels

6.—(1) Non-alloy aluminium must have an aluminium content of at least 99.5% and the alloys referred to in regulation 2(1)(b) (interpretation) must display adequate resistance to intercrystalline corrosion at maximum working temperature.

(2) Moreover, these materials must satisfy the following requirements—

- (a) they must be supplied in an annealed state;
- (b) they must have the following mechanical characteristics per product—
 - (i) the maximum tensile strength $R_{m, \max}$ must be no more than 350 N/mm^2 ,
 - (ii) the elongation after fracture must be—
 - (aa) $A \geq 16\%$ if the test piece is taken parallel to the direction of rolling;
 - (bb) $A \geq 14\%$ if the test piece is taken perpendicular to the direction of rolling.

Welding materials

7. The welding materials used to manufacture the welds on or of the vessel must be appropriate to and compatible with the materials to be welded.

Accessories contributing to the strength of the vessel

8.—(1) Accessories contributing to the strength of the vessel (for examples bolts and nuts) must be made—

- (a) of a material specified in paragraphs 2 to 6; or
- (b) of other kinds of steel, aluminium or an appropriate aluminium alloy compatible with materials used for the manufacture of pressurised parts.

(2) The materials referred to in sub-paragraph (1)(b) must, at minimum working temperature, have an appropriate elongation after fracture and bending rupture energy.

Non-pressurised parts

9. All unpressurised parts of welded vessels must be of materials which are compatible with that of the components to which they are welded.

Symbols

10. In this Part—

- (a) “A” means elongation after fracture ($L_o = 5.65\sqrt{S_o}$) in %;
- (b) “ $A_{80 \text{ mm}}$ ” means elongation after fracture ($L_o = 80 \text{ mm}$) in %;
- (c) “KCV” means bending rupture energy in J/cm^2
- (d) “ $R_{m, \max}$ ” means maximum tensile strength in N/mm^2

PART 2

Vessel Design

11.—(1) A manufacturer must, when designing a vessel, define the use to which it will be put, and select—

- (a) the minimum working temperature T_{\min} ;

- (b) the maximum working temperature T_{\max} ; and
- (c) the maximum working pressure PS.

(2) Where a maximum working temperature exceeding -10°C is selected, the qualities required of the materials must be satisfied at -10°C .

12. A manufacturer must also take account of the following provisions—

- (a) it must be possible to inspect the inside of vessels;
- (b) it must be possible to drain the vessels;
- (c) the mechanical qualities must be maintained throughout the period of use of the vessel for the intended purpose;
- (d) the vessels must, bearing in mind their prescribed use, be adequately protected against corrosion.

13. A manufacturer must take account of the fact that under the conditions of use envisaged—

- (a) the vessels must not be subjected to stress likely to impair their safety in use;
- (b) internal pressure must not permanently exceed the maximum working pressure PS. However, it may momentarily do so by up to 10%.

14. Circumferential and longitudinal seams must be made using full penetration welds or welds of equivalent effectiveness and convex ends, other than hemispherical ones, must have a cylindrical edge.

Wall thickness

15.—(1) If the product of PS x V is not more than 3 000 bar.L, the manufacturer must select one of the methods described in paragraphs 16 (calculation method) and 17 (experimental method) for determining vessel wall thickness.

(2) If the product of PS x V is more than 3 000 bar.L, or if the maximum working temperature exceeds 100°C , such thickness must be determined by the method described in paragraph 16 (calculation method).

(3) The actual wall thickness of the cylindrical section and ends must, however, be not less than 2 mm in the case of steel vessels and not less than 3 mm in the case of aluminium or aluminium alloy vessels.

Calculation method

16.—(1) The minimum thickness of pressurised parts must be calculated having regard to the intensity of the stresses and to the following provisions—

- (a) the calculation pressure to be taken into account must not be less than the maximum working pressure PS selected;
- (b) the permissible general membrane stress must not exceed the lower of the values $0.6 R_{eT}$ or $0.3 R_m$ minimum values guaranteed by the producer of the material in order to determine the permissible stress.

(2) Where the cylindrical portion of the vessel has one or more longitudinal welds made using a non-automatic welding process, the thickness calculated as referred to in sub-paragraph (1) must be multiplied by the coefficient 1.15.

(3) In this paragraph—

- (a) “ R_{eT} ” means the yield strength in N/mm^2 , which is the value at the maximum working temperature T_{\max} of any of the following—
 - (i) the upper yield point R_{eH} in N/mm^2 , for a material with both a lower and an upper yield point;
 - (ii) the 0.2% proof strength $R_{p0.2}$ in N/mm^2 ;

- (iii) the 1.0% proof strength $R_{p1.0}$ in N/mm^2 , in the case of non-alloy aluminium;
- (b) “ R_m ” means tensile strength in N/mm^2 .

Experimental method

17. Wall thickness must be so determined as to enable the vessels to resist at ambient temperature a pressure equal to at least five times the maximum working pressure, with a permanent circumferential deformation factor of no more than 1%.

PART 3

Manufacturing processes

18. Vessels must be constructed and subjected to production checks in accordance with Parts 2, 3 or 4 of Schedule 2.

Preparation of the component parts

19. Preparation of the component parts (for example forming and chamfering) must not give rise to surface defects or cracks or changes in the mechanical characteristics likely to be detrimental to the safety of the vessels.

Welds on pressurised parts

20. The characteristics of welds and adjacent zones must be similar to those of the welded materials and must be free of any surface or internal defects detrimental to the safety of the vessels.

21.—(1) Welds must be performed by qualified welders or operators possessing the appropriate level of competence, in accordance with approved welding processes.

(2) In sub-paragraph (1)—

- (a) “qualified” means qualified by means of tests carried out by a notified body; and
- (b) “approved” means approved by a notified body.

22. The manufacturer must also, during manufacture, ensure consistent weld quality by conducting appropriate tests using adequate procedures. These tests must be the subject of a report.

Putting into service of the vessels

23. Vessels must be accompanied by the instructions and safety information.

SCHEDULE 2

Regulations 40 and 41

Conformity Assessment Procedures

PART 1

EU-Type Examination (Module B)

1. EU-type examination (Module B) is a conformity assessment procedure in which a notified body examines the technical design of a vessel and verifies and attests that the technical design of the vessel meets the requirements of this Directive that apply to it.

2.—(1) A manufacturer must lodge an application for EU-type examination (Module B) with a single notified body of the manufacturer's choice.

(2) The application must include—

- (a) the name and address of the manufacturer and, if the application is lodged by the authorised representative, the name and address of the authorised representative as well;
- (b) a written declaration that the same application has not been lodged with any other notified body;
- (c) the technical documentation;
- (d) where applicable, the prototype vessels (and any further prototype vessels requested by the notified body if needed for carrying out the test programme) representative of the production envisaged;
- (e) the supporting evidence for the adequacy of the technical design solution; this supporting evidence must—
 - (i) mention any documents that have been used, in particular where the relevant harmonised standards have not been applied in full;
 - (ii) include, where necessary, the results of tests carried out in accordance with other technical specifications by the appropriate laboratory of the manufacturer, or by another testing laboratory on the manufacturer's behalf and under his responsibility.

3.—(1) The technical documentation referred to in paragraph 2(2)(c) must—

- (a) make it possible to assess the vessel's conformity with the applicable requirements of these Regulations and must include an adequate analysis and assessment of any risks;
- (b) specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the vessel;
- (c) contain, wherever applicable, at least the following elements—
 - (i) a general description of the vessel;
 - (ii) conceptual design and manufacturing drawings and schemes of components;
 - (iii) descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the vessel;
 - (iv) a list of the harmonised standards applied in full or in part, the references to which have been published in the *Official Journal of the European Union*, and, where those harmonised standards have not been applied, descriptions of the solutions adopted to meet the essential safety requirements, including a list of other relevant technical specifications applied. In the event of partly applied harmonised standards, the technical documentation shall specify the parts which have been applied;
 - (v) results of design calculations made and examinations carried out;
 - (vi) test reports;
 - (vii) the instructions and safety information;
 - (viii) A document describing—
 - (aa) the materials selected;
 - (bb) the welding processes selected;
 - (cc) the checks selected; and
 - (dd) any pertinent details as to the vessel design.

(2) Where a prototype vessel is examined, the technical documentation must also include—

- (a) the certificates relating to the suitable qualification of the welding operations and of the welders or welding operators;
- (b) the inspection slip for the materials used in the manufacture of parts and components contributing to the strength of the vessel;
- (c) a report on the examination and tests performed or a description of the proposed checks.

4.—(1) The notified body must examine the technical documentation and supporting evidence in respect of a vessel to assess the adequacy of its the technical design.

(2) Where a prototype vessel is examined, the notified body must—

- (a) verify that a prototype vessel—
 - (i) has been manufactured in conformity with the technical documentation;
 - (ii) may safely be used under its intended working conditions;
 - (iii) identify the elements which have been designed in accordance with the applicable provisions of the relevant harmonised standards, as well as the elements which have been designed in accordance with other relevant technical specifications;
- (b) carry out, or arrange the carrying out, of appropriate examinations and tests to check whether, where the manufacturer has chosen to apply the solutions in the relevant harmonised standards, these have been applied correctly;
- (c) carry out, or arrange the carrying out, of appropriate examinations and tests to check whether, where the solutions in the relevant harmonised standards have not been applied, the solutions adopted by the manufacturer applying other relevant technical specifications meet the corresponding essential safety requirements of these Regulations; and
- (d) agree with the manufacturer on a location where the examinations and tests will be carried out.

5. The notified body must draw up an evaluation report that records the activities undertaken in accordance with paragraph 4 and their outcomes. Without prejudice to the notifying body's obligations vis-à-vis the Secretary of State, the notified body may release the content of that report, in full or in part, only with the agreement of the manufacturer.

6.—(1) Where the type meets the requirements of these Regulations, the notified body must issue an EU-type examination certificate to the manufacturer. That certificate must contain—

- (a) the name and address of the manufacturer;
- (b) the conclusions of the examination;
- (c) the conditions (if any) for its validity;
- (d) all relevant information to allow the conformity of manufactured vessels with the examined type to be evaluated and to allow for in-service control; and
- (e) the necessary data for the identification of the approved type.

(2) The EU-type examination certificate referred to in sub-paragraph (1)—

- (a) may have one or more annexes attached;
- (b) must be accompanied by the descriptions and drawings necessary for identification of the approved type.

(3) Where the type does not satisfy the applicable requirements of these Regulations, the notified body must refuse to issue an EU-type certificate and must inform the applicant accordingly, giving detailed reasons for its refusal.

7.—(1) A notified body must keep itself apprised of any changes to the generally acknowledged state of the art which indicate that the approved type may no longer comply with the applicable requirements of these Regulations, and must determine whether such changes require further investigation. If so, the notified body must inform the manufacturer accordingly.

(2) A manufacturer must inform the notified body that holds the technical documentation relating to the EU-type examination certificate of all modifications to the approved type that may affect the conformity of the vessel with the essential safety requirements or the conditions for validity of the certificate. Such modifications require additional approval in the form of an addition to the original EU-type examination certificate.

8.—(1) Each notified body must inform the Secretary of State of all the EU-type examination certificates and any additions thereto which it has issued or withdrawn. It must, periodically or

upon request, make available to the Secretary of State the list of such certificates and any additions thereto refused, suspended, or otherwise restricted.

(2) Each notified body must inform the other notified bodies concerning the EU-type examination certificates and any additions thereto which it has refused, withdrawn, suspended or otherwise restricted and, open request, concerning such certificates and additions thereto which it has issued.

(3) A notified body must, on request, provide the Commission, the member States and the other notified bodies, with a copy of the EU-type examination certificates and additions thereto.

(4) A notified body must, on request, provide the Commission and the member States with a copy of the technical documentation and the results of the examinations carried out by the notified body.

(5) A notified body must keep a copy of the EU-type examination certificate, its annexes and additions, as well as the technical file including the documentation submitted by the manufacturer, until the expiry of the validity of that certificate.

9. A manufacturer must keep a copy of the EU-type examination certificate, its annexes and additions together with the technical documentation at the disposal of the enforcing authorities for a period of 10 years beginning on the day on which the vessel is placed on the market.

PART 2

Conformity to type based on internal production control plus supervised vessel testing (Module C1)

10. Conformity to type based on internal production control plus supervised vessel testing is a conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in paragraphs 11 to 13 and ensures and declares on the manufacturer's sole responsibility that the vessels concerned are in conformity with the type described in the EU-type examination certificate and satisfy the requirements of these Regulations that apply to them.

Manufacturing

11.—(1) A manufacturer must take all measures necessary so that the manufacturing process and its monitoring ensure conformity of the manufactured vessels with the type described in the EU-type examination certificate and with the requirements of these Regulations that apply to them.

(2) Before commencing manufacture, a manufacturer must provide a notified body of the manufacturer's choice with all necessary information, and in particular—

- (a) the technical documentation referred to in paragraph 2(2)(c), together with —
 - (i) the certificates relating to the suitable qualification of the welding operations and of the welders or welding operators;
 - (ii) the inspection slip for the materials used in the manufacture of parts and components contributing to the strength of the vessel; and
 - (iii) a report on the examination and tests performed;
- (b) the inspection document, describing the appropriate examinations and tests to be carried out during manufacture, together with the procedures in respect thereof and the frequency with which they are to be performed; and
- (c) the EU-type examination certificate.

Vessel checks

12.—(1) For each individual type of vessel manufactured, the notified body must carry out the appropriate examinations and tests in order to verify the conformity of the vessel with the type

described in the EU-type examination certificate and with the corresponding requirements of these Regulations.

(2) The manufacturer must present the manufacturer's vessels in the form of uniform batches and must take all necessary measures in order that the manufacturing process ensures the uniformity of each batch produced.

(3) When a batch is examined, the notified body must ensure that the vessels have been manufactured and checked in accordance with the technical documentation, and must perform a hydrostatic test or a pneumatic test of equivalent effect on each vessel in the batch at a pressure P_h equal to 1.5 times the vessel's design pressure in order to check its strength. The pneumatic test must be subject to acceptance of the test safety procedures by the Member State in which the test is performed.

(4) In order to examine the weld quality, the notified body must carry out tests on test-pieces taken from, at the manufacturer's choice, either a production test-piece or from a vessel. The tests must be carried out on longitudinal welds. However, where differing weld techniques are used for longitudinal and circumferential welds, the tests must be repeated on the circumferential welds.

(5) For the vessels subject to the experimental methods referred to in paragraph 17 (experimental method) of Schedule 1, these tests on test-pieces shall be replaced by a hydrostatic test on five vessels taken at random from each batch in order to check that they conform to the essential safety requirements set out in that paragraph.

(6) In the case of accepted batches, the notified body must affix its identification number, or cause that number to be affixed, to each vessel and must draw up a written certificate of conformity relating to the tests carried out. All vessels in the batch may be placed on the market except for those which have not successfully undergone a hydrostatic test or a pneumatic test.

(7) If a batch is rejected, the notified body must take appropriate measures to prevent the placing on the market of that batch. In the event of frequent rejection of batches, the notified body may suspend the statistical verification.

(8) The manufacturer must be able to supply on request by the relevant authorities the notified body's certificates of conformity referred to in sub-paragraph (6).

(9) The notified body must supply the Secretary of State and, on request, other notified bodies, other Member States and the Commission, with a copy of the inspection report issued by it.

(10) The manufacturer must, under the responsibility of the notified body, affix the notified body's identification number during the manufacturing process.

(11) In this paragraph, a "batch" of vessels must consist at the most of 3,000 vessels of the model of the same type.

CE marking and EU declaration of conformity

13.—(1) The manufacturer must affix the CE marking to each individual vessel that is in conformity with the type described in the EU-type examination certificate and satisfies the applicable requirements of these Regulations.

(2) The manufacturer must draw up a written EU declaration of conformity for each vessel model and keep it at the disposal of the enforcing authority for a period of 10 years beginning on the day on which the vessel was placed on the market. The EU declaration of conformity must identify the vessel model for which it has been drawn up.

(3) A copy of the EU declaration of conformity must be made available to the enforcing authority upon request.

PART 3

Conformity to type based on internal production control plus supervised vessel checks at random intervals (Module C2)

14. Conformity to type based on internal production control plus supervised vessel checks at random intervals is a conformity assessment procedure whereby the manufacturer fulfills the obligations laid down in paragraphs 15 to 17, and ensures and declares on the manufacturer's sole responsibility that the vessels concerned are in conformity with the type described in the EU-type examination certificate and satisfy the requirements of these Regulations that apply to them.

Manufacturing

15.—(1) The manufacturer must take all measures necessary so that the manufacturing process and its monitoring ensure conformity of the manufactured vessels with the type described in the EU-type examination certificate and with the requirements of this Directive that apply to them.

(2) Before commencing manufacture, the manufacturer must provide a notified body of his choice with all necessary information, and in particular—

- (a) the technical documentation referred to in paragraph 2(2)(c), together with —
 - (i) the certificates relating to the suitable qualification of the welding operations and of the welders or welding operators;
 - (ii) the inspection slip for the materials used in the manufacture of parts and components contributing to the strength of the vessel; and
 - (iii) a report on the examination and tests performed;
- (b) the EU-type examination certificate;
- (c) a document describing the manufacturing processes and all of the predetermined systematic measures taken to ensure conformity of the vessels with the type described in the EU-type examination certificate, which document must include—
 - (i) a description of the means of manufacture and checking appropriate to the construction of the vessels;
 - (ii) an inspection document describing the appropriate examinations and tests to be carried out during manufacture, together with the procedures in respect thereof and the frequency with which they are to be performed;
 - (iii) an undertaking to carry out the examinations and tests in accordance with the inspection document and to ensure that a hydrostatic test or, subject to the agreement of the relevant authorities, a pneumatic test is carried out on each vessel manufactured at a test pressure equal to 1.5 times the design pressure; and
 - (iv) the addresses of the places of manufacture and storage and the date on which manufacture is to commence.
- (3) The examinations and tests referred to in paragraph 15(2)(c)(iii) must be—
 - (i) carried out under the responsibility of qualified staff who are independent of production personnel; and
 - (ii) the subject of a report.

(4) The notified body must, before the date on which any manufacture begins, examine the documents referred to in paragraphs 15(2)(a) and (c) in order to certify their conformity with the EU-type examination certificate.

Vessel checks

16.—(1) The notified body must carry out vessel checks, or ensure that vessel checks are carried out, on random samples at random intervals determined by the body, in order to verify the quality of the internal checks on the vessel, taking into account, inter alia, the technological complexity of the vessels and the quantity of production.

(2) An adequate sample of the final vessels, taken on site by the notified body before the placing on the market, must be examined and appropriate tests as identified by the relevant parts of the harmonised standards, or equivalent tests set out in other relevant technical specifications, must be carried out to check the conformity of the vessel with the type described in the EU-type examination certificate and with the relevant requirements of these Regulations.

(3) The notified body must also ensure that the manufacturer actually checks series-produced vessels in accordance with paragraph 15(2)(c)(iii).

(4) Where a sample does not conform to the acceptable quality level, the notified body must take appropriate measures.

(5) The acceptance sampling procedure to be applied is intended to determine whether the manufacturing process of the vessel performs within acceptable limits, with a view to ensuring conformity of the vessel.

(6) The notified body must supply the Secretary of State and, on request, other notified bodies, other Member States and the Commission, with a copy of the inspection report issued by it.

(7) The manufacturer must, under the responsibility of the notified body, affix the notified body's identification number during the manufacturing process.

CE marking and EU declaration of conformity

17.—(1) The manufacturer must affix the CE marking to each individual vessel that is in conformity with the type described in the EU-type examination certificate and satisfies the applicable requirements of these Regulations.

(2) The manufacturer must draw up a written EU declaration of conformity for each vessel model and keep it at the disposal of the enforcing authority for a period of 10 years beginning on the day on which the vessel has been placed on the market. The EU declaration of conformity must identify the vessel model for which it has been drawn up.

(3) A copy of the EU declaration of conformity shall be made available to the enforcing authority upon request.

PART 4

Conformity to type based on internal production control (Module C)

18. Conformity to type based on internal production control is a conformity assessment procedure whereby the manufacturer fulfills the obligations laid down in paragraphs 19 and 20, and ensures and declares that the vessels concerned are in conformity with the type described in the EU-type examination certificate and satisfy the requirements of this Directive that apply to them.

Manufacturing

19.—(1) The manufacturer must take all measures necessary so that the manufacturing process and its monitoring ensure conformity of the manufactured vessels with the approved type described in the EU-type examination certificate and with the requirements of these Regulations that apply to them.

(2) Before commencing manufacture, the manufacturer must provide the notified body which issued the EU-type examination certificate with all necessary information, and in particular—

- (a) the certificates relating to the suitable qualification of the welding operations and of the welders or welding operators;
- (b) the inspection slip for the materials used in the manufacture of parts and components contributing to the strength of the vessel;
- (c) a report on the examinations and tests performed;

- (d) a document describing the manufacturing processes and all of the predetermined systematic measures taken to ensure conformity of the vessels with the type described in the EU-type examination certificate. That document must include—
 - (i) a description of the means of manufacture and checking appropriate to the construction of the vessels;
 - (ii) an inspection document describing the appropriate examinations and tests to be carried out during manufacture, together with the procedures in respect thereof and the frequency with which they are to be performed;
 - (iii) an undertaking to carry out the examinations and tests in accordance with the inspection document and to have a hydrostatic test or, subject to the agreement of the relevant authorities, a pneumatic test carried out on each vessel manufactured at a test pressure equal to 1,5 times the design pressure;
 - (iv) the addresses of the places of manufacture and storage and the date on which manufacture is to commence.
- (3) the examinations and tests referred to in paragraph 19(2)(d)(iii) must be—
 - (a) carried out under the responsibility of qualified staff who are independent from production personnel; and
 - (b) the subject of a report
- (4) The notified body must, before the date on which any manufacture begins, examine the documents referred to in paragraph 19(2) in order to certify their conformity with the EU-type examination certificate.

CE marking and EU declaration of conformity

20.—(1) The manufacturer must affix the CE marking to each individual vessel that is in conformity with the type described in the EU-type examination certificate and satisfies the applicable requirements of these Regulations.

(2) The manufacturer must draw up a written EU declaration of conformity for each vessel model and keep it at the disposal of the enforcing authority for a period of 10 years beginning on the day on which the vessel has been placed on the market. The EU declaration of conformity must identify the vessel model for which it has been drawn up.

(3) A copy of the EU declaration of conformity shall be made available to the enforcing authority upon request.

PART 5

Interpretation

21. In this Schedule—

- (a) “design pressure” means the gauge pressure in Bar chosen by the manufacturer and used to determine the thickness of the vessel’s pressurised parts;
- (b) “inspection slip” means the document by which the producer of the materials certifies that the products delivered meet the requirements of the order and in which he sets out the results of the routine in-plant inspection test, in particular chemical composition and mechanical characteristics, performed on products made by the same production process as the supply, but not necessarily on the products delivered.
- (c) “P_h” means hydrostatic or pneumatic test pressure in Bar.

SCHEDULE 3

Notified bodies

PART 1

Regulation 46(4)

Notified Body Requirements

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 vessel it assesses. A body belonging to a business association or professional federation representing businesses involved in the design, manufacturing, provision, assembly, use or maintenance of vessels which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

3.—(1) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the vessels that they assess, nor the representative of any of those parties.

(2) Sub-paragraph (1) does not preclude the use of assessed vessels that are necessary for the operations of the conformity assessment body or the use of such vessels for personal purposes.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the vessels which they assess, nor the representative of any of those parties. This shall not preclude the use of assessed vessels that are necessary for the operations of the conformity assessment body or the use of such vessels for personal purposes.

5. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks must not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of those vessels, or represent the parties engaged in those activities. They 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.

6. A conformity assessment body must ensure that the activities of their subsidiaries or sub-contractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

7. A conformity assessment body and its personnel must carry out conformity assessment with the highest degree of professional integrity and the requisite competence in the specific field and must 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.

8. A conformity assessment body must be capable of carrying out all of the conformity assessment activities for which it has been notified, whether that assessment is carried out by the body itself or on its behalf and under its responsibility.

9. It must have at its disposal :

- (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 the ability to reproduce those procedures, and have

appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities.

- (c) 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 product technology in question and the mass or serial nature of the production process.

10. A conformity assessment body must have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and must have access to the necessary equipment or facilities.

11. The personnel responsible for carrying out conformity assessment must have—

- (a) sound technical and vocational training, covering all conformity assessment activities in relation to which the conformity assessment body has been notified;
- (b) satisfactory knowledge of the requirements of the assessments which the conformity assessment body carries out, and adequate authority/experience to carry out those assessments;
- (c) appropriate knowledge and understanding of the essential requirements, of the applicable harmonised standards and of the applicable provisions of the relevant Directives and of these Regulations; and
- (d) the ability to draw up certificates, records and reports demonstrating that the assessments have been carried out.

12. A conformity assessment body must be able to demonstrate the impartiality of its top level management and the personnel responsible for carrying out the conformity assessment activities.

13. The remuneration of the top level management and the personnel responsible for carrying out the conformity assessment activities must not depend on the number of assessments carried out or on the results of those assessments.

14. A conformity assessment body must have, and must satisfy the Secretary of State that it has, adequate civil liability insurance in respect of its activities.

15. A conformity assessment body must ensure that its personnel observe professional secrecy with regard to all information obtained in carrying out their tasks in accordance with these Regulations, and that proprietary rights are protected.

16. Paragraph 15 does not prevent the personnel from providing the information to the Secretary of State.

17. A conformity assessment body must participate in, or ensure that its personnel who are responsible for carrying out the conformity assessment activities are informed of, the relevant standardisation activities and the activities of any notified body coordination group established under the Directive and must apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

PART 2

Regulation 53

Operational obligations of notified bodies

18. A notified body must carry out conformity assessments in accordance with the conformity assessment procedures.

19. A notified body must carry out conformity assessments in a proportionate manner, avoiding unnecessary burdens on economic operators.

20. A notified body must perform its activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the vessel technology in question and the mass or serial nature of the production process.

21. A notified body must respect the degree of rigour and the level of protection required to ensure that the vessel is in conformity with the requirements of these Regulations.

22. Where a notified body finds that essential safety requirements or corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it must require the manufacturer to take appropriate corrective measures and must not issue a certificate of conformity.

23. Where, in the course of the monitoring of conformity following the issue of a certificate of conformity, a notified body finds that a vessel is no longer in conformity with the essential safety requirements, it must require the manufacturer to take appropriate corrective measures and must suspend or withdraw the certificate of conformity (if necessary).

24. Where the notified body has required a manufacturer to take corrective measures and the manufacturer has failed to take such measures, or those measures have not had the required effect, the notified body must restrict, suspend or withdraw any certificate of conformity.

25. Paragraph 26 applies where a notified body is minded to—

- (a) refuse to issue a certificate of conformity;
- (b) restrict, suspend or withdraw a certificate of conformity.

26. Where this paragraph applies, the notified body must—

- (a) give the person applying for the certificate of conformity, or the person to whom the certificate of conformity was given, a notice in writing giving reasons and specifying the date on which the refusal, restriction, suspension or withdrawal is intended to take effect;
- (b) give the person applying for the certificate of conformity, or the person to whom the certificate of conformity was given, an opportunity to make representations within a reasonable period from the date of the notice;
- (c) take account of any representations made within the period referred to in subparagraph (b) before taking its decision.

27. A notified body must inform the Secretary of State of—

- (a) any refusal, restriction, suspension or withdrawal of a certificate of conformity;
- (b) any circumstances affecting the scope of or conditions for notification under regulation 46 (notification);
- (c) any request for information which it has received from a market surveillance authority regarding conformity assessment activities;
- (d) on request, conformity assessment activities performed within the scope of its notification under regulation 46 and any other activity performed, including cross-border activities and subcontracting.

28. 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 an approval;
- (b) to restrict, suspend or withdraw a certificate of conformity or approval.

29. A notified body must provide other bodies notified under these Regulations carrying out similar conformity assessment activities covering the same vessels with relevant information on issues relating to negative and, on request, positive conformity assessment results.

30. 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 4

Regulation 56(1)

Enforcement powers of weights and measures authorities, district councils and the Secretary of State under the 1987 Act

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 29 (powers of search etc);
- (g) section 30 (provisions supplemental to s 29);
- (h) section 31 (powers of customs officer to detain goods);
- (i) section 33 (appeals against detention of goods);
- (j) [section 34 (compensation for seizure and detention);]
- (k) section 35 (recovery of expenses of enforcement);
- (l) section 37 (power of Commissioners for Revenue and Customs);
- (m) section 45 (interpretation);
- (n) section 46(1) (meaning of “supply”); and
- (o) 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) subsections (4) to (7) were omitted;
- (b) in section 14—
 - (i) in subsection (1), after “any safety provision has been contravened in relation to any goods”, there were inserted “or that such goods present a risk to the health or safety of persons, to domestic animals or to property”;
 - (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 to the health or safety of persons, to domestic animals or to property”;
 - (iii) in subsection (2)(c), “under section 15 below” were 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 to the health or safety of persons, to domestic animals or to property”;

- (ii) for subsection 2(b) there were substituted—
 - “(b) where an application with respect to some or all of the goods has been made to a magistrates’ court under regulation [72] (appeals against notices) of the 2016 Regulations or section 33, to that court; and”;
- (iii) 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 to the health or safety of persons, to domestic animals or to property”;
- (iv) in subsection (4), after “consignment or batch or otherwise”, there were inserted “or that goods present a risk to the health or safety of persons, to domestic animals or to property if it is satisfied that goods which are representative of those goods present such a risk”;
- (v) subsection (7) were omitted;
- (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 to the health or safety of persons, to domestic animals or to property”;
 - (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 to the health or safety of persons, to domestic animals or to property”;
 - (iii) in subsection (7), after “consignment or batch or otherwise”, there were inserted “or that goods present a risk to the health or safety of persons, to domestic animals or to property if it is satisfied that goods which are representative of those goods present such a risk”;
- (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 to the health or safety of persons, to domestic animals or to property”; and
 - (ii) in subsection 4(b), after “any such contravention”, there were inserted “or whether the goods present a risk to the health or safety of persons, to domestic animals or to property”.
- (g) in section 30—
 - (i) after subsection (2)(a)(ii), there were inserted—
 - “or
 - (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;”;
 - (ii) subsections (5), (7) and (8) were omitted;
- (h) in section 31(1), for “Part II of this Act”, there were substituted “the 2016 Regulations”;
- (i) [in section 34—
 - (i) omit the word “and” at the end of subsection (1)(a); and
 - (ii) after that subsection, insert—
 - (iii) “(ab) the goods do not present a risk to the health or safety of persons, to domestic animals or to property;”;
- (j) in section 37(1), for “Part II of this Act”, there were substituted “the 2016 Regulations”;
- (k) 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—

- ““2016 Regulations” means the Simple Pressure Vessels (Safety) Regulations 2016;”;
- (iii) for the definition of “enforcement authority” there were substituted—
 - ““enforcement authority” means an enforcing authority as defined in regulation [2(2)] of the 2016 Regulations;”;
- (iv) for the definition of “goods” there were substituted—
 - ““goods” means a vessel within the scope of the 2016 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 to the health or safety of persons, to domestic animals or to property”;
- (vi) after the definition of “premises”, there were inserted—
 - ““present a risk” means present a risk within the meaning set out in regulation 2(4) of the 2016 Regulations;”;
- (vii) for the definition of “safety provision” there were substituted—
 - ““safety provision” means any provision of the 2016 Regulations;”;
- (viii) for the definition of “safety regulations” there were inserted—
 - ““safety regulations” means the 2016 Regulations;”;
- (l) 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
- (m) 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 5

Regulation 56(2)

Enforcement powers of the HSE and the Office for Nuclear Regulation under the 1974 Act

Enforcement powers under the 1974 Act

1. For the purposes of enforcing these Regulations, the following sections of the 1974 Act apply subject to the modifications in paragraph 2—

- (a) section 19 (appointment of inspectors);
- (b) section 20 (powers of inspectors);
- (c) section 21 (improvement notices);
- (d) section 22 (prohibition notices);
- (e) section 23 (provisions supplementary to ss 21 and 22);
- (f) section 24 (appeal against improvement or prohibition notice);
- (g) section 25 (power to deal with cause of imminent danger);
- (h) section 25A (power of customs officer to detain articles and substances);
- (i) section 26 (power of enforcing authorities to indemnify inspectors);
- (j) section 27 (obtaining of information by the Executive, enforcing authorities etc);

- (k) section 27A (information communicated by Commissioners for Revenue and Customs);
- (l) section 28 (restrictions on disclosure of information);
- (m) section 33 (offences);
- (n) section 34 (extension of time for bringing summary proceedings);
- (o) section 35 (venue);
- (p) section 39 (prosecution by inspectors);
- (q) section 41 (evidence); and
- (r) section 42 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture).

Modifications to the 1974 Act

2. The sections referred to in paragraph 1 apply as if—

- (a) references to “relevant statutory provisions” were references to—
 - (i) the provisions of the 1974 Act set out in paragraph 1, as modified by this paragraph; and
 - (ii) these Regulations;
- (b) in regulation 19—
 - (i) in subsection (1), for “Every enforcing authority” there were substituted “The Health and Safety Executive and the Office for Nuclear Regulation”;
 - (ii) in subsection (1), “within its field of responsibility” were omitted;
 - (iii) in subsection (2), paragraph (b) were omitted;
 - (iv) in subsection (3), for “enforcing authority which appointed him” there were substituted “Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
- (c) in section 20—
 - (i) in subsection (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
 - (ii) in subsection (2)(c)(i), for “his (the inspector’s) enforcing authority” there were substituted “the Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
 - (iii) subsection (3) were omitted;
- (d) for section 22(2) there were substituted—

“(2) An inspector may serve a notice (in this Part referred to as “a prohibition notice”) on a person if, as regards any activities to which this section applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—

 - (a) a risk to the health or safety of persons, to domestic animals or to property; or
 - (b) the contravention of a relevant statutory provision.”;
- (e) in section 23, subsections (3), (4) and (6) were omitted;
- (f) in section 25A(1), for “an enforcing authority”, there were substituted “the Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
- (g) in section 26, for each of the following references there were substituted “the body”—
 - (i) “the enforcing authority”;
 - (ii) “that authority”; and
 - (iii) “the authority”;
- (h) in section 27—

- (i) for “Executive”, on each occasion that it appears, there were substituted “Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
 - (ii) in subsection (1), paragraph (b) were omitted; and
 - (iii) in subsection (1), “or, as the case may be, to the enforcing authority in question” were omitted;
- (i) in section 27A(2)—
 - (i) for “an enforcing authority” there were substituted “the Health and Safety Executive”; and
 - (ii) the words from “, other than the Office for Nuclear Regulation” to the end were omitted;
- (j) in section 28—
 - (i) for “Executive”, on each occasion that it appears, there were substituted “Health and Safety Executive”;
 - (ii) in subsection (1)(a), “, by virtue of section 43A(6) below” were omitted;
 - (iii) in subsection (3), “or any enforcing authority” were omitted;
 - (iv) in subsection (4), “or an enforcing authority” were omitted; and
 - (v) in subsection (5)(a), “or the purposes of the enforcing authority in question”;
- (k) in section 33—
 - (i) in subsection (1), the paragraphs (a) to (i) and (k) to (m) were omitted;
 - (ii) for subsection (2), there were substituted—

“(2) A person guilty of an offence under section 33 is liable on summary conviction to a fine or to imprisonment for a term not exceeding three months, or to both.”; and
 - (iii) section 33(3) were omitted;
- (l) in section 34—
 - (i) in subsection (1), paragraphs (a) and (b) were omitted; and
 - (ii) subsections (3) to (6) were omitted;
- (m) in section 35, for “any enforcing authority”, there were substituted “the Health and Safety Executive or the Office for Nuclear Regulation as the case may be”;
- (n) in section 39(1), for “enforcing authority” there were substituted “Health and Safety Executive or the Office for Nuclear Regulation as the case may be”; and
- (o) in section 42, subsections (3A), (4) and (5) were omitted.

SCHEDULE 6

Regulation [56(3)]

Enforcement powers of the HSENI under the 1978 Order

Enforcement powers under the 1978 Order

1. For the purposes of enforcing these Regulations, the following Articles of the 1978 Order apply subject to the modifications in paragraph 2—

- (a) (Article 21 (appointment of inspectors))
- (b) Article 22 (powers of inspectors)
- (c) Article 23 (improvement notices)
- (d) Article 24 (prohibition notices)
- (e) Article 25 (provisions supplementary to Articles 23 and 24)
- (f) Article 26 (appeal against improvement or prohibition notice)

- (g) Article 27 (power to deal with cause of imminent danger)
- (h) Article 27A (power of customs officer to detain articles and substances)
- (i) Article 28 (power of enforcing authorities to indemnify their inspectors)
- (j) Article 29 (obtaining of information)
- (k) Article 29A (information communicated by Commissioners for Revenue and Customs)
- (l) (Article 30 (restrictions on disclosure of information))
- (m) Article 31 (offences)
- (n) Article 32 (extension of time for bringing summary proceedings)
- (o) Article 33 (venue)
- (p) Article 36 (prosecutions by inspectors)
- (q) Article 38 (evidence)
- (r) Article 39 (power of court to order cause of offence to be remedied and, in certain cases, forfeiture)

Modifications to the 1978 Order

2. The Articles referred to in paragraph 1 apply as if—

- (a) references to “relevant statutory provisions” were references to—
 - (i) the provisions of the 1978 Order set out in paragraph 1, as modified by this paragraph; and
 - (ii) these Regulations;
- (b) in Article 21—
 - (i) in paragraph (1), for “Every enforcing authority” there were substituted “The Health and Safety Executive for Northern Ireland”;
 - (ii) in paragraph (1), “within its field of responsibility” were omitted;
 - (iii) in paragraph (2), sub-paragraph (b) were omitted;
 - (iv) in paragraph (3), for “enforcing authority which appointed him” there were substituted “Health and Safety Executive for Northern Ireland”;
- (c) in Article 22—
 - (i) in paragraph (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
 - (ii) in paragraph (2)(c)(i), for “his (the inspector’s) enforcing authority” there were substituted “the Health and Safety Executive for Northern Ireland”;
 - (iii) paragraph (3) were omitted;
- (d) for Article 24(2) there were substituted—

“(2) An inspector may serve a notice (in this Part referred to as “a prohibition notice”) on a person if, as regards any activities to which this Article applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—

 - (a) a risk to the health or safety of persons, to domestic animals or to property; or
 - (b) the contravention of a relevant statutory provision.

(3) A prohibition notice shall—

 - (a) state that the inspector is of the said opinion;
 - (b) specify the matters which in his opinion give or, as the case may be, will give rise to the said risk;
 - (c) where in his opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he is

of that opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and

- (d) direct that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of paragraph (b) above and any associated contraventions of provisions so specified in pursuance of paragraph (c) above have been remedied.”;
- (e) in Article 25, paragraphs (3), (4) and (5) were omitted;
- (f) in Article 27A(1), for “any enforcing authority”, there were substituted “the Health and Safety Executive for Northern Ireland”;
- (g) in Article 28, for each of the following references there were substituted “the body”—
 - (i) “the enforcing authority”;
 - (ii) “that authority”; and
 - (iii) “the authority”;
- (h) in Article 29—
 - (i) for “the Department concerned” and “Executive”, on each occasion that it appears, there were substituted “Health and Safety Executive for Northern Ireland”;
 - (ii) in paragraph (1)(b), for “an enforcing authority” there were substituted “the Health and Safety Executive for Northern Ireland” and for “the authority’s functions” there were substituted “its functions.”
- (i) in Article 29A(2) for “an enforcing authority” there were substituted “the Health and Safety Executive for Northern Ireland”;
- (j) in Article 30—
 - (i) for “Executive”, on each occasion that it appears, there were substituted “Health and Safety Executive for Northern Ireland”;
 - (ii) in paragraph (3), “or any enforcing authority” were omitted;
 - (iii) in paragraph (4), “or an enforcing authority” were omitted;
 - (iv) in paragraph (4), “(including in the case of an enforcing authority, any inspector appointed by it)”;
 - (v) in paragraph (5)(a), “or the purposes of the enforcing authority in question”;
- (k) in Article 31—
 - (i) in paragraph (1), the sub-paragraphs (a) to (i) and (k) to (m) were omitted;
 - (ii) for paragraph (2), there were substituted—

“(2) A person guilty of an offence under Article 31 is liable on summary conviction to a fine or to imprisonment for a term not exceeding three months, or to both.”; and
 - (iii) Article 31(3) were omitted;
- (l) in Article 32—
 - (i) in paragraph (1), sub-paragraphs (a) and (b) were omitted; and
 - (ii) sub-paragraphs (3) to (4) were omitted;
- (m) in Article 33, for “any enforcing authority”, there were substituted “the Health and Safety Executive for Northern Ireland”;
- (n) in Article 36, for “enforcing authority” there were substituted “Health and Safety Executive for Northern Ireland”; and
- (o) in Article 39, paragraphs (3A), (4) and (5) were omitted.

Compliance, withdrawal and enforcement notices

Compliance notice

1.—(1) An enforcing authority may serve a compliance notice on a relevant economic operator in respect of a vessel 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 enforcing 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 vessel or any vessel 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

2.—(1) An enforcing authority may serve a withdrawal notice on a relevant economic operator in respect of a vessel if the authority has reasonable grounds for believing that—

(a) the vessel has been made available on the market; and

(b) there is non-compliance.

(2) A withdrawal notice must prohibit the relevant economic operator from making the vessel available on the market without the consent of the enforcing authority.

(3) A withdrawal notice may require the relevant economic operator to take action to alert end-users to any risk presented by the vessel.

(4) A withdrawal notice may require the relevant economic operator to keep the enforcing authority informed of the whereabouts of any vessel referred to in the notice.

(5) A consent given by the enforcing authority pursuant to a withdrawal notice, may impose such conditions on the making available on the market as the enforcing authority considers appropriate.

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

(7) 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

3.—(1) The enforcing authority may serve a recall notice on a relevant economic operator in respect of a vessel if the authority has reasonable grounds for believing that—

(a) the vessel has been made available to end-users; and

(b) there is non-compliance.

(2) A recall notice must require the relevant economic operator to use reasonable endeavours to organise the return of the vessel from end-users to the relevant economic operator or another person specified in the notice.

(3) 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 vessel poses and the fact of the recall; or
 - (iii) make arrangements for the collection or return of the vessel 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 vessel.

(4) In determining what requirements to include in a recall notice, the enforcing authority must take into consideration the need to encourage distributors and end-users to contribute to its implementation.

(5) A recall notice may only be issued by the enforcing 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 enforcing 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 enforcing authority has taken account of any advice obtained under sub-paragraph (6).

(6) A relevant economic operator which has received notice from the enforcing 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 person 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.

(7) Sub-paragraphs (5)(b), (c) and (d) do not apply in the case of a vessel presenting a serious risk requiring, in the view of the enforcing authority, urgent action.

(8) Where a relevant economic operator requires the enforcing authority to seek advice under sub-paragraph (6), 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 enforcing authority.

(9) In this paragraph, “Institute” means the charitable organisation with registered number 803725 and known as the Chartered Institute of Arbitrators.

(10) A recall notice served by the enforcing authority may require the relevant economic operator to keep the authority informed of the whereabouts of a vessel to which the recall notice relates, so far as the relevant economic operator is able to do so.

(11) Subject to paragraph (12), an enforcing authority may revoke or vary a recall notice by serving a notification on the economic operator.

(12) An enforcing 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

4. In this Schedule, “non-compliance” means that the vessel—

- (a) presents a risk to the health or safety of persons, to domestic animals or to property; or
- (b) is not in conformity with Part 2 or RAMS (in its application to vessels).