

STATUTORY INSTRUMENTS

2016 No. 1092

The Simple Pressure Vessels (Safety) Regulations 2016

PART 2

Obligations of economic operators

All economic operators

Cases in which obligations of manufacturers apply to importers and distributors

35. An importer or distributor (“A”) is to be considered a manufacturer for the purposes of these Regulations, and is subject to the 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.

Translation of EU declaration of conformity **E+W+S**

^{F1}36.

Extent Information

E1 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F1 Reg. 36 omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 21 para. 22** (with [Sch. 21 para. 37](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

Translation of EU declaration of conformity **N.I.**

36.—(1) Before making a Category A vessel available on the market, an economic operator must ensure that the EU declaration of conformity is prepared in, or translated into, the language required by the [^{F7}relevant state] in which it is to be made available on the market.

(2) Where the category A vessel is to be made available on the market in [^{F8}Northern Ireland], the language required is English.

Extent Information

E3 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Textual Amendments

- F7** Words in reg. 36(1) substituted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), **Sch. 1 para. 3(1)**
- F8** Words in reg. 36(2) substituted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), **Sch. 1 para. 3(2)**

Identification of economic operators

37.—(1) An economic operator (“E”) who receives a request in relation to a vessel 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 other economic operator who has supplied E with the vessel; and
 - (b) any other economic operator to whom E has supplied the vessel.
- (2) The relevant period is—
- (a) in the case of paragraph (1)(a), the period of 10 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 10 years beginning on the day on which E supplied the vessel.

Prohibition on improper use of [F²UK] marking **E+W+S**

38.—(1) An economic operator must not affix the [F³UK] marking to a Category A vessel unless—

- (a) that economic operator is the manufacturer of the vessel; and
 - (b) the conformity of the vessel with the essential safety requirements has been demonstrated by a relevant conformity assessment procedure.
- (2) An economic operator must not affix a marking to a vessel which is not the [F³UK] marking but which purports to attest that the vessel satisfies the essential safety requirements.
- (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 [F³UK] marking.
- (4) An economic operator must not affix to a vessel any other marking if the visibility, legibility and meaning of the [F³UK] marking would be impaired as a result.

Extent Information

- E2** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

- F2** Word in reg. 38 heading substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 21 para. 23** (with Sch. 21 para. 37) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Word in reg. 38 substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 21 para. 23** (with Sch. 21 para. 37) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

Prohibition on improper use of CE marking **N.I.**

- 38.**—(1) An economic operator must not affix the CE marking to a Category A vessel unless—
- (a) that economic operator is the manufacturer of the vessel; and
 - (b) the conformity of the vessel with the essential safety requirements has been demonstrated by a relevant conformity assessment procedure.
- (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.
- (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.
- (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.

Extent Information

- E4** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

[^{F4}Obligations which are met by complying with obligations in the Directive

- 38A.**—(1) In this regulation—
- (a) any reference to an Article or an Annex is a reference to an Article or an Annex of the Directive;
 - (b) “CE marking” has the meaning given to it in Article 2(17);
 - (c) “harmonised standard” has the meaning given to it in Article 2(9).
- (2) Subject to paragraphs (6) and (7), paragraph (3) applies where, before placing a category A vessel on the market, the manufacturer—
- (a) ensures that the vessel has been designed and manufactured in accordance with the essential safety requirements set out in Annex I;
 - (b) ensures that the relevant conformity assessment procedures that apply to that vessel in accordance with Article 13(1) and (2) have been carried out;
 - (c) draws up the technical documentation referred to in Annex II;
 - (d) ensures that the technical documentation and other records and correspondence relating to the conformity assessment procedures are prepared in or translated into English;
 - (e) affixes a CE marking and the inscriptions, in accordance with Articles 15 and 16(1) to (4);
 - (f) draws up an EU declaration of conformity, in accordance with Article 14; and
 - (g) ensures that the EU declaration of conformity is prepared in or translated into English.
- (3) Where this paragraph applies—
- (a) the requirements of regulations 4(1), 5, 6(1) to (3) and (5) are to be treated as being satisfied;
 - (b) regulations 2(5)(a), 6(4), 8, 9(2), 16(2) and 38 apply subject to the modifications in paragraph (10);
 - (c) Part 3 does not apply; and
 - (d) regulation 62 does not apply.

- (4) Subject to paragraphs (6) and (7), paragraph (5) applies where, before placing a category A vessel on the market, the importer ensures that—
- (a) the relevant conformity assessment procedures that apply to that vessel in accordance with Article 13(1) and (2) have been carried out;
 - (b) the manufacturer has drawn up the technical documentation referred to in Annex II; and
 - (c) the vessel bears the CE marking and inscriptions referred to in point 1 of Annex III.
- (5) Where this paragraph applies—
- (a) the requirements of regulation 18(a) to (c) are to be treated as being satisfied; and
 - (b) regulations 2(5)(a), 19(1), 23 and 26 apply subject to the modifications in paragraph (10).
- (6) This paragraph applies where there is no designated standard or part of a designated standard which corresponds exactly to a harmonised standard or part of a harmonised standard referred to in Article 12.
- (7) Where paragraph (6) applies, paragraphs (2)(b) and (4)(a) are to be treated as requiring the manufacturer to have carried out—
- (a) the conformity assessment procedure set out in Article 13(1)(b); and
 - (b) the relevant conformity assessment procedure that applies to that product in accordance with Article 13(2).
- (8) Paragraph (9) applies where, before making a category A vessel available on the market, a distributor ensures that the vessel bears the CE marking and inscriptions referred to in point 1 of Annex III.
- (9) Where this paragraph applies—
- (a) regulation 29(a)(i) is to be treated as being satisfied; and
 - (b) regulations 2(5)(a), 30(1) and 32 apply subject to the modifications in paragraph (10).
- (10) The modifications referred to in paragraphs (3)(b), (5)(b) and (9)(b) are that—
- (a) any reference to “declaration of conformity” is to be read as a reference to the EU declaration of conformity;
 - (b) any reference to “UK marking” is to be read as a reference to the CE marking;
 - (c) any reference to “essential safety requirements” is to be read as a reference to the essential safety requirements referred to in Annex I;
 - (d) any reference to “designated standard” is to be read as a reference to a harmonised standard;
 - (e) any reference to “relevant conformity assessment procedure” is to be read as a reference to the conformity assessment procedures that apply to the vessel in accordance with Article 13(1) and (2);
 - (f) any reference to “technical documentation” is a reference to the technical documentation referred to in Annex II.

Textual Amendments

- F4** Regs. 38A-38D inserted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 21 para. 24** (with [Sch. 21 para. 37](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), **2** and [S.I. 2020/1460](#), reg. 1(4), **Sch. 3 para. 13(6)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Conformity assessment procedure obligation which is met by complying with the Directive

38B.—(1) In this regulation—

- (a) any reference to an Article or an Annex is a reference to an Article or an Annex of the Directive;
- (b) “harmonised standard” has the meaning given to it in Article 2(9).

(2) Subject to paragraphs (4) and (5), paragraph (3) applies where, prior to the manufacture of a category A vessel, the manufacturer ensures that the conformity assessment procedure that applies to that vessel in accordance with Article 13(1) has been carried out.

(3) Where this paragraph applies—

- (a) regulation 40 is to be treated as being satisfied;
- (b) any reference to “relevant conformity assessment procedure” in regulations 5(b), 6(1), 18(a), 38(b) and 43(c) is to be read as including the conformity assessment procedure referred to in Article 13(1); and
- (c) any reference to “technical documentation” in regulations 5(a), 8, 18(b) and 26(b) is to be read as including the technical documentation relating to the design of the vessel referred to in Annex II.

(4) This paragraph applies where there is no designated standard or part of a designated standard which corresponds exactly to a harmonised standard or part of a harmonised standard referred to in Article 12.

(5) Where paragraph (4) applies, paragraph (2) is to be treated as requiring the manufacturer to have carried out the conformity assessment procedure set out in Article 13(1)(b).

Textual Amendments

F4 Regs. 38A-38D inserted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, [Sch. 21 para. 24](#) (with [Sch. 21 para. 37](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), [2](#) and [S.I. 2020/1460](#), reg. 1(4), [Sch. 3 para. 13\(6\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Expiry of regulations 38A and 38B

38C.—(1) Subject to paragraph (2), regulation 38A ceases to have effect at the end of the period of [^{F5}four years] beginning with IP completion day.

(2) Notwithstanding the expiry of regulation 38A—

- (a) any vessel which was placed on the market pursuant to regulation 38A may continue to be made available on the market after the expiry of regulation 38A;
- (b) any obligation to which a person was subject under regulation 38A in respect of a vessel placed on the market pursuant to regulation 38A continues to have effect after the expiry of regulation 38A, in respect of that vessel.

(3) Subject to paragraph (4), regulation 38B ceases to have effect at the end of the period of [^{F6}four years] beginning with IP completion day.

(4) Where a conformity assessment procedure has been completed pursuant to regulation 38B in relation to a vessel prior to the expiry of regulation 38B, regulation 38B continues to apply in respect of that vessel where—

- (a) the manufacturer arranges for the EU-Type examination certificate and any annexes to be transferred to an approved body;

- (b) the approved body referred to in sub-paragraph (a) accepts responsibility for the EU-Type examination certificate; and
 - (c) the approved body issues a Type-examination certificate relying, or relying in part, on any examinations or tests undertaken prior to the issue of the EU-Type examination certificate.
- (5) In paragraph (4) “EU-Type examination certificate” means a certificate issued after an EU-Type examination has been carried out in accordance with a conformity assessment procedure set out in point 1 of Annex II of the Directive.

Textual Amendments

- F4** Regs. 38A-38D inserted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 21 para. 24** (with Sch. 21 para. 37) (as amended by [S.I. 2020/676](#), regs. 1(1), **2** and [S.I. 2020/1460](#), reg. 1(4), **Sch. 3 para. 13(6)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F5** Words in reg. 38C(1) substituted (31.12.2022) by [The Product Safety and Metrology \(Amendment and Transitional Provisions\) Regulations 2022 \(S.I. 2022/1393\)](#), regs. 1(1), 2, **Sch. 1(k)**
- F6** Words in reg. 38C(3) substituted (31.12.2022) by [The Product Safety and Metrology \(Amendment and Transitional Provisions\) Regulations 2022 \(S.I. 2022/1393\)](#), regs. 1(1), 2, **Sch. 1(k)**

Qualifying Northern Ireland Goods

38D.—(1) Where paragraph (2) applies, a vessel is to be treated as being in conformity with Part 2.

(2) This paragraph applies where—

- (a) a vessel—
 - (i) is in conformity with Part 2, as that Part applies in Northern Ireland; and
 - (ii) is qualifying Northern Ireland goods; and
- (b) an importer has complied with the obligations set out in paragraph (3).

(3) The obligations referred to in paragraph (2)(b) are that, before placing the vessel on the market, the importer—

- (a) complies with regulation 21;
- (b) ensures that—
 - (i) the relevant conformity assessment procedure has been carried out in relation to the vessel, in accordance with Part 3, as that Part applies in Northern Ireland;
 - (ii) the manufacturer has drawn up the technical documentation; and
 - (iii) the vessel bears the CE marking.

(4) In this regulation—

“CE marking” has the meaning given to it in regulation 2(1), as it applies in Northern Ireland;

“qualifying Northern Ireland goods” has the meaning given to it in regulations made under section 8C(6) of the European Union (Withdrawal) Act 2018;

“technical documentation” means the documentation referred to in paragraph 2(2)(c) of Part 1 of Schedule 2 to these Regulations, as that Schedule applies in Northern Ireland.]

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Textual Amendments

- F4** Regs. 38A-38D inserted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, **Sch. 21 para. 24** (with Sch. 21 para. 37) (as amended by S.I. 2020/676, regs. 1(1), **2** and S.I. 2020/1460, reg. 1(4), **Sch. 3 para. 13(6)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Changes to legislation:

There are currently no known outstanding effects for the The Simple Pressure Vessels (Safety) Regulations 2016, All economic operators.