
STATUTORY INSTRUMENTS

2016 No. 1092

The Simple Pressure Vessels (Safety) Regulations 2016

PART 2

Obligations of economic operators

Manufacturers

Design and manufacture in accordance with essential safety requirements and sound engineering practice

4.—(1) Before placing a category A vessel on the market, a manufacturer must ensure that the 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 the 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

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) carry out a relevant conformity assessment procedure in respect of the vessel or have such a procedure carried out.

EU declaration of conformity, CE marking and inscriptions for category A vessels

6.—(1) Where the conformity of a category A vessel with the essential safety requirements has been demonstrated by a relevant conformity assessment procedure, before placing that vessel on the market, a manufacturer 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 in which the CE marking is affixed, the inscriptions and the information referred to in regulation 11(1)(labelling).

(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.

(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.

Inscriptions for category B vessels

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

- (a) the inscriptions; and
- (b) the information referred to in regulation 11(1).

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

Retention by manufacturer of technical documentation and EU declaration of conformity

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

Compliance procedures for series production

9.—(1) A manufacturer must ensure, before placing a vessel on the market, that procedures are in place to ensure that series production remains in conformity with Part 2.

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

- (a) any change in vessel design or characteristics; 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

10.—(1) When appropriate, having 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 manufactured by it made available on the market;
- (b) investigate complaints that vessels manufactured by it are not in conformity with Part 2;
- (c) keep a register of—
 - (i) complaints that vessels are not in conformity with Part 2;
 - (ii) vessels which are found not to be in conformity with Part 2; and
 - (iii) vessel recalls; and
- (d) keep distributors informed of any monitoring carried out under this regulation.

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

Labelling of vessels

11.—(1) Before placing a vessel on the market, a manufacturer must ensure that the following appear on the vessel or its data plate—

- (a) a type and serial or batch identification allowing its identification; and

- (b) the following information—
 - (i) the name, registered trade name or registered trade mark of the manufacturer; and
 - (ii) a 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.

Provision of instructions and safety information

- 12.**—(1) When placing a vessel on the market, 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.
 - (3) Where the Member State referred to in paragraph (1) is the United Kingdom, the language referred to in that paragraph must be English.

Duty of manufacturer to take action in respect of vessels placed on the market which are considered not to be in conformity

- 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

- 14.**—(1) Following a request from the enforcing authority, and within such period as the authority may specify, a manufacturer must provide the authority with all the information and documentation necessary to demonstrate that a vessel is in conformity with Part 2.
- (2) A request referred to in paragraph (1)—
 - (a) may only be made during the period of 10 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

15.—(1) Subject to regulation 16, 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

16.—(1) The obligations laid down in regulation 4 (design and manufacture in accordance with essential safety requirements and sound engineering practice) and in of regulation 5(a) (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 14 (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 as far as those duties are concerned, as well as the penalties for failure to comply with those duties, a reference in these Regulations (except in regulation 15) to the manufacturer is to be taken as including a reference to the authorised representative.

Importers

Prohibition on placing on the market vessels which are not in conformity

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

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

- (a) the relevant conformity assessment procedure has been carried out;
- (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

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 of that risk.

Requirements which must be satisfied before an importer places a category B vessel on the market

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

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 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

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

(3) Where the Member State referred to in paragraph (1) is the United Kingdom, the language referred to in that paragraph must be English.

Transport and storage conditions

23. Where an importer has responsibility for a category A vessel, the importer must ensure that the conditions under which the vessel is stored or transported do not jeopardise its conformity with the essential safety requirements.

Monitoring by importer of vessels made available on the market

24.—(1) When appropriate, having 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 by the importer on the market;

- (b) investigate complaints that vessels made available on the market by the importer are not in conformity with Part 2;
 - (c) keep a register of—
 - (i) complaints that vessels are not in conformity with Part 2;
 - (ii) vessels which are found not to be in conformity with Part 2; and
 - (iii) vessel recalls; and
 - (d) keep distributors informed of any monitoring carried out under this regulation.
- (2) The importer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

Duty of importer to take action in respect of vessels placed on the market which are considered not to be in conformity

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

26. An importer must, for a period of 10 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 the following in relation to the vessel—

- (a) a copy of the EU declaration of conformity (as referred to in regulation 43); and
- (b) the technical documentation.

Provision of information and cooperation

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

- (2) A request referred to in paragraph (1)—
 - (a) may only be made during the period of 10 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

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

29. Before making a category A vessel available on the market, a distributor must ensure 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

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 until it has been brought into conformity.

(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 of that risk—

- (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

31.—(1) 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).

(2) Where the Member State referred to in paragraph (1) is the United Kingdom, the language referred to in paragraph (1) must be English.

Storage and transport conditions

32. Where a distributor has responsibility for a Category A vessel, the distributor must ensure that the conditions under which it is stored or transported 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

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

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

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

- (a) may only be made during the period of 10 years beginning on the day on which the vessel was made available 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.

(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

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

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 Member 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 the United Kingdom, the language required is English.

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 CE marking

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.