
STATUTORY INSTRUMENTS

1994 No. 3098

HEALTH AND SAFETY

**The Simple Pressure Vessels (Safety)
(Amendment) Regulations 1994**

Made - - - - *5th December 1994*
Laid before Parliament *8th December 1994*
Coming into force - - *1st January 1995*

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to safety as regards simple pressure vessels, in exercise of the powers conferred on him by the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Simple Pressure Vessels (Safety) (Amendment) Regulations 1994 and shall come into force on 1st January 1995.

Interpretation

2. In these Regulations—

“the CE Marking Directive” means Council Directive [93/68/EEC](#)⁽³⁾; and

“the principal Regulations” means the Simple Pressure Vessels (Safety) Regulations 1991⁽⁴⁾.

Interpretation of the principal Regulations

3. Regulation 2 of the principal Regulations is (in addition to the amendments made by regulations 4(b) and 6(a) below) hereby amended as follows:—

(a) in paragraph (3)—

(i) in the definition of “the Community” the word “Economic” shall be omitted;

(1) S.I.1989/1327.

(2) 1972 c. 68.

(3) OJ No. L220, 30.8.93, p. 1.

(4) S.I. 1991/2749.

(ii) before the definition of “the Commission” there shall be inserted the following definition—

““the CE Marking Directive” means Council Directive 93/68/EEC(5);”;

(iii) for the definition of “the Directive” there shall be substituted the following definition—

““the Directive” means Council Directive 87/404/EEC on the harmonisation of the laws of the Member States relating to simple pressure vessels(6), as amended by—

(a) Council Directive 90/488/EEC(7); and

(b) Articles 2, 14.1 and 14.2 of the CE Marking Directive;”;

(b) after paragraph (5), there shall be added the following paragraph—

“(6) In these Regulations, with respect to matters arising on or after 1st January 1994, a reference to the Community shall be read as a reference to the EEA, and a reference to a member State shall be read as a reference to an EEA State, and for the purposes of this paragraph—

(a) the “EEA” means the European Economic Area;

(b) an “EEA State” means a State which is a Contracting Party to the EEA Agreement, but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein; and

(c) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.”(8).

Implementation of the CE Marking Directive

4. Subject to regulation 5 below, the principal Regulations are hereby amended as follows—

(a) save in regulation 2(3), throughout the Regulations, the term “CE marking” shall be substituted for the term “EC mark” wherever it occurs;

(b) in regulation 2—

(i) in paragraph (3), the definition of “EC mark” shall be deleted;

(ii) after paragraph (6), there shall be added the following paragraphs—

“(7) In these Regulations, a reference to “the CE marking” or “the CE conformity marking” is a reference to a marking consisting of the initials “CE” in the form shown in the specimen in Schedule 2 to these Regulations; and Schedule 2 shall have effect for making provision in relation to the affixing of the said marking and other matters incidental thereto.

(8) In these Regulations, a reference to the identification number of an approved body is a reference to the identification number assigned to that body by the Commission pursuant to Article 9.1 of the Directive(9).”;

(5) OJ No. L220, 30.8.93, p. 1.

(6) OJ No. L220, 8.8.87, p. 48.

(7) OJ No. L270, 2.10.90, p. 25.

(8) The application of the principal Regulations was extended to the EEA from 1st January 1994 by virtue of the European Economic Area Act 1993 (c. 51) section 2. The relevant provision of the Agreement on the European Economic Area is point 6 of Annex II Part VIII (at p. 411 of the edition published by the Office for Official Publications of the European Communities, 1992). Point 6 was amended by Annex 3 to Decision 7/94 of the EEA Joint Committee (the “Interim Acquis”; OJ No. L160, 28.6.94, p. 1). Point D1 of that Annex (at p. 37) inserts into point 6 a reference to the CE Marking Directive.

(9) The text of Article 9.1 was replaced by Article 2.4 of the CE Marking Directive.

- (c) in paragraphs (1)(c) and (3)(b) of regulation 4, the word “properly” shall be omitted and at the end of both paragraphs there shall be added “, and it complies in all other respects with that Schedule”;
- (d) for regulation 5 there shall be substituted the following regulation—

“Obligations of manufacturers, suppliers and importers.

5.—(1) Subject to the transitional and other exceptions in regulation 6 below, no person being—

- (a) the manufacturer of a vessel;
- (b) the manufacturer of a relevant assembly who imported the vessel incorporated therein from a country or territory outside the Community; or
- (c) the person who imported a vessel (other than the person mentioned in sub-paragraph (b) above) or relevant assembly from such country or territory,

shall supply such vessel unless it complies with regulation 4 above or such relevant assembly as the case may be unless the vessel incorporated therein so complies.

(2) Subject to the same exceptions, no person shall, being the manufacturer of a vessel, himself take that vessel or a relevant assembly incorporating that vessel into service unless that vessel complies with regulation 4 above.

(3) Subject to the same exceptions, no person shall, having imported a vessel or a relevant assembly from a country or territory outside the Community, himself take that vessel or a relevant assembly incorporating that vessel, or the first mentioned relevant assembly into service unless that vessel or the vessel incorporated into the relevant assembly complies with regulation 4 above.

(4) Subject to the same exceptions, it shall be the duty of any person, not being a person mentioned in paragraph (1)(a) to (c) above, who supplies a vessel or relevant assembly to ensure that such vessel or relevant assembly as the case may be is safe.

(5) No markings which are likely to deceive any person as regards the meaning and form of the CE marking shall be affixed to a vessel.”;

- (e) after paragraph (7) of regulation 11, there shall be added the following paragraph—

“(8) Where a United Kingdom approved body withdraws a type-examination certificate, it shall so inform the Secretary of State, giving its reasons, with a view to this information being passed by him to the Commission and the other member States.”;

- (f) for regulation 12, there shall be substituted the following regulation—

“EC verification.

12.—(1) EC verification is the procedure whereby a manufacturer or his authorized representative established within the Community ensures and declares that the vessels which have been checked in accordance with paragraph (3) below are in conformity to the type described in the EC type-examination certificate or with the design and manufacturing schedule conforming with Schedule 3 of these Regulations having received a certificate of adequacy.

(2) The manufacturer shall take all the necessary measures for the manufacturing process to ensure that the vessels conform to the type described

in the EC type-examination certificate or to the design and manufacturing schedule. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each vessel and draw up a declaration of conformity.

(3) A United Kingdom approved body to which application is made for EC verification shall carry out the appropriate examinations and tests in order to check the conformity of the vessels with the requirements of the Directive by examination and testing of vessels in accordance with the following sub-paragraphs—

- (a) the manufacturer shall present his vessels in the form of uniform batches and shall take all necessary measures in order that the manufacturing process ensures the uniformity of each batch produced;
- (b) these batches shall be accompanied by the EC type-examination certificate, or, where the vessels are not manufactured in accordance with an approved prototype, by the design and manufacturing schedule; in the latter case the approved body shall, prior to EC verification, examine the schedule in order to certify its conformity;
- (c) when a batch is examined, the approved body shall ensure that the vessels have been manufactured and checked in accordance with the design and manufacturing schedule and 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 soundness, and the following provisions shall apply, where appropriate, to such testing—
 - (i) a pneumatic test shall be subject to acceptance of the test safety procedures by the member State in which the test is performed;
 - (ii) the approved body shall carry out tests on test-pieces taken from a representative production test-piece or from a vessel, as the manufacturer chooses, in order to examine the weld quality; such tests shall be carried out on longitudinal welds, unless differing weld techniques are used for longitudinal and circular welds, in which case, the tests shall be repeated on the circular welds;
 - (iii) for vessels designed in accordance with the experimental method described in paragraph 9 of Part 2 of Schedule 1 to these Regulations 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 requirements of the said paragraph 9.

(4) In the case of accepted batches—

- (a) the approved body shall affix, or cause to be affixed, its identification number to each recipient and draw up a written certificate of conformity relating to the tests carried out: Provided that the manufacturer may, under the responsibility of the approved body, affix the latter's identification number during the manufacturing process;
- (b) all recipients in the batch may be placed on the market except for those which have not successfully undergone a hydrostatic test or a pneumatic test.

(5) If a batch is rejected by an approved body carrying out examination and testing in accordance with this regulation in the United Kingdom, the approved

body shall take appropriate measures to prevent the putting on the market of that batch and, in the event of frequent rejection of batches, the approved body may suspend the statistical verification.”;

(g) in regulation 14—

(i) paragraphs (1), (3) and (4) shall be omitted; and

(ii) for paragraph (2) there shall be substituted the following paragraph—

“(2) A manufacturer who has obtained an EC certificate of conformity may commence series manufacture and apply the CE marking to vessels which he declares to be in conformity—

(a) to the design and manufacturing schedule (submitted to the approved body pursuant to regulation 13(3)(b) above) on which a certificate of adequacy has been drawn up; or

(b) the relevant approved prototype.”;

(h) regulation 18 shall be omitted;

(i) for regulation 19 there shall be substituted the following regulation—

“Enforcement.

19.—(1) Subject to paragraph (2) below, Schedule 5 shall have effect for the purposes of providing for the enforcement of these Regulations and for matters incidental thereto.

(2) Except in the case of a vessel which, in the opinion of an enforcement authority, is not safe, where an enforcement authority has reasonable grounds for suspecting that the CE marking has not been properly affixed to a vessel, it may give notice in writing to the manufacturer of that vessel or his authorised representative established in the Community, as the case may be, and, subject to paragraph (3) below, no action may be taken pursuant to Schedule 5 to these Regulations, and no proceedings may be brought pursuant to regulation 20(1) below, in respect of that vessel until such notice has been given and the person to whom it is given has failed to comply with its requirements.

(3) Notwithstanding paragraph (2) above, for the purposes of ascertaining whether or not the CE marking has been properly affixed, action may be taken pursuant to the following provisions as they are applied by Schedule 5—

(a) in Great Britain in relation to vessels for use at work, section 20 of the Health and Safety at Work etc. Act 1974⁽¹⁰⁾;

(b) in Northern Ireland in relation to vessels for use at work, Article 22 of the Health and Safety at Work (Northern Ireland) Order 1978⁽¹¹⁾; and

(c) in relation to vessels as consumer goods, section 29 of the Consumer Protection Act 1987⁽¹²⁾.

(4) Notice which is given under paragraph (2) above shall—

(a) state that the enforcement authority suspects that the CE marking has not been properly affixed to the vessel;

⁽¹⁰⁾ 1974 c. 37.

⁽¹¹⁾ S.I. 1978/1039 (N.I. 9).

⁽¹²⁾ 1987 c. 43.

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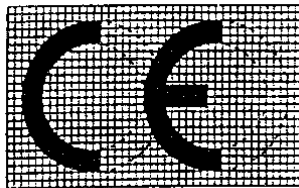
- (b) specify the respect in which it is so suspected and give particulars thereof;
 - (c) require the person to whom the notice is given—
 - (i) to secure that any vessel to which the notice relates conforms as regards the provisions concerning the proper affixation of the CE marking within such period as may be specified in the notice; or
 - (ii) to provide evidence within that period, to the satisfaction of the enforcement authority, that the CE marking has been properly affixed; and
 - (d) warn that person that if the non-conformity continues after (or if satisfactory evidence has not been provided within) the period specified in the notice, further action may be taken under the Regulations.
- (5) For the purposes of this regulation, the CE marking is properly affixed to a vessel if—
- (a) it is affixed by the manufacturer or his authorized representative pursuant to regulation 12(2) above or by the manufacturer pursuant to regulation 14(2) above; and
 - (b) that vessel complies with the requirements of regulation 4 above which apply to it.”;
- (j) in regulation 20(2)(a), the words “regulation 14(3) or” shall be omitted; and
- (k) for Schedule 2, there shall be substituted the following Schedule—

“SCHEDULE
2

Regulations 2(7)
and 4

THE CE MARKING AND OTHER INSCRIPTIONS

1. The CE conformity marking shall consist of the initials “CE” in the following form—



For the avoidance of doubt, it is hereby declared that the grid providing the background in the above graduated drawing is not part of the CE marking.

- 2. If the CE marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.
- 3. The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5 mm.
- 4. The CE marking, and the other inscriptions specified below, must be affixed in a visible, easily legible and indelible form, either to the vessel itself or to a data plate attached to the vessel in such a way that it cannot be removed.

5. The CE marking shall be followed by the identification number of the approved body responsible for EC verifications or EC surveillance.

6. The vessel or data plate must bear at least the following information—
- the maximum working pressure (PS in bar);
 - the maximum working temperature (Tmax in °C);
 - the minimum working temperature (Tmin in °C);
 - the capacity of the vessel (V in litres);
 - the name or mark of the manufacturer;
 - the type and serial or batch identification of the vessel; and the last two digits of the year in which the CE marking was affixed.

Where the data plate is used, it must be so designed that it cannot be re-used and must include a vacant space to enable other information to be provided.

7. Subject to paragraph 8 below, where a vessel is the subject of other Community Directives covering other aspects and which also provide for the affixing of the CE marking, such marking shall indicate that the vessel in question is also presumed to conform to those other Directives.

8. Where one or more of the other Directives referred to in paragraph 7 above allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity only to the Directives applied by the manufacturer. In this case, particulars of the Directives applied, as published in the Official Journal of the European Communities, must be given in the documents, notices or instructions required by the Directives and accompanying such a vessel.

9. It shall be presumed that a vessel which bears the CE marking complies with all the provisions of the Directive, including the conformity assessment procedures referred to in Chapter II thereof (being the means whereby safety clearance is obtained pursuant to regulations 9 to 13 of these Regulations)

unless there are reasonable grounds for suspecting that it does not so comply.

10. Subject to the other provisions of these Regulations, any other marking may be affixed to the vessels or the data plate provided that the visibility and legibility of the CE marking is not thereby reduced.”.

Transitional provisions in respect of marking arrangements.

5.—(1) This regulation shall apply to make provision in respect of—

- (a) vessels first supplied in the Community before 1st January 1997; and
- (b) relevant assemblies incorporating vessels so supplied or, where the manufacturer of the relevant assemblies manufactured the vessels, relevant assemblies so supplied.

(2) Where this regulation applies, the manufacturer or his authorized representative established within the Community, as the case may be, may elect to comply with the marking arrangements in force on 31st December 1994.

(3) In the event of such election, in order to demonstrate compliance with the marking arrangements in force on 31st December 1994, the manufacturer or his authorized representative established within the Community, as the case may be, shall apply the principal Regulations (as amended by these Regulations) as if the amendments made by regulation 4(f) and (k) above had not come into force.

Other amendments to the principal Regulations

6. The principal Regulations shall also be amended as follows—
- (a) in regulation 2—
- (i) the definition of “property” shall be omitted from paragraph (3); and
- (ii) for paragraph (5), there shall be substituted the following paragraph—
- “(5) A reference in these Regulations to a relevant national standard is a reference to a national standard of a member State, being a standard which transposes a harmonized standard the reference number of which has been published in the Official Journal of the European Communities pursuant to Article 5.1 of the Directive.”;
- (b) for regulation 3(1), there shall be substituted the following paragraph—
- “(1) Subject to paragraph (2) of this regulation, and regulation 6 below, these Regulations shall apply, and shall apply only, to vessels manufactured in series.”;
- (c) in regulation 4(4), after “persons” there shall be inserted “or domestic animals”;
- (d) at the end of regulation 4(5), for the words from “The instructions must be” to “first taken into service.” there shall be substituted the following—
- “The language of the instructions shall be (without prejudice to the instructions being also in any other language) as follows—
- (i) where the manufacturer believes (with reasonable cause) that the vessel is to be taken into service in a particular member State, in the official language or languages of that member State;
- (ii) where (i) does not apply but the manufacturer believes (with reasonable cause) that the vessel is destined for a particular member State, in the official language or languages of that member State;
- (iii) in any other case, in any official Community language.”;
- (e) in regulation 6—
- (i) for paragraph (2), there shall be substituted the following paragraph—
- “(2) These Regulations also do not apply in the case of a vessel or a relevant assembly if the supplier believes (with reasonable cause) that it will be taken into service in a country outside the Community.”; and
- (ii) after paragraph (4), there shall be added the following paragraph—
- “(5) These Regulations do not apply to any vessel or relevant assembly which has previously been taken into service in the Community.”;
- (f) in regulation 24(1), for sub-paragraph (b) there shall be substituted the following sub-paragraph—
- “(b) taken into service.”; and
- (g) in Schedule 5—
- (i) in the opening words of paragraph 1(b), after “21” there shall be inserted “22”;
- (ii) paragraph 1(b)(v), (vii) and (viii)(aa)(C) shall be omitted;
- (iii) for paragraph 1(b)(viii)(bb) there shall be substituted—
- “(bb) subsection (1A) were omitted;
- (cc) in subsection (2), the reference to paragraph (d) of subsection (1) were omitted;
- (dd) subsection (2A) were omitted.”;

- (iv) paragraph 1(b)(viii)(cc) and (dd) shall be respectively relettered (ee) and (ff);
- (v) in the opening words of paragraph 2(b), after “23” there shall be inserted “24”;
- (vi) paragraph 2(b)(v), (vii) and (viii) (aa)(C) shall be omitted;
- (vii) for paragraph 2(b)(viii)(bb) there shall be substituted—
 - “(bb) paragraph (1A) were omitted;
 - (cc) in paragraph (2), the reference to sub-paragraph (d) of paragraph (1) were omitted;
 - (dd) paragraph (2A) were omitted;”;
- (viii) paragraph 2(b)(viii)(cc), (dd) and (ee) shall be respectively relettered (ee), (ff) and (gg).

Consequential amendment of the Provision and Use of Work Equipment Regulations 1992

7. For paragraph 25 of Schedule 1 to the Provision and Use of Work Equipment Regulations 1992((13)), there shall be substituted the following—

“25. Council Directive [87/404/EEC](#) on the harmonisation of the laws of the member States relating to simple pressure vessels (OJ No.L220, 8.8.87, p. 48) as amended by Council Directive [90/488/EEC](#) (OJ No.L270, 2.10.90, p. 25) and Article 2 of Council Directive [93/68/EEC](#) (OJ No.L220, 30.8.93, p. 1).”.

Department of Trade and Industry
5th December 1994

Ian Taylor
Parliamentary Under-Secretary of State for Trade
and Technology,

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Simple Pressure Vessels (Safety) Regulations 1991 (S. I. 1991/2749) (“the principal Regulations”). They implement Article 2 of Council Directive 93/68/EEC (“the CE Marking Directive”), which amends Council Directive 87/404/EEC on the harmonisation of the laws of the member States relating to simple pressure vessels, as amended by Council Directive 90/488/EEC, and make some other changes to the principal Regulations. The amendments come into force on 1st January 1995.

Regulation 3 effects some amendments to the Interpretation provisions of the principal Regulations. In particular, with respect to matters arising on or after 1st January 1994, references to the “Community” and “member State” are to be read respectively as references to the European Economic Area (EEA) and an EEA State, which is defined (see regulation 2(6) of the principal Regulations inserted by regulation 3(b) and the footnote reference at the end of that insertion).

Various revisions to the principal Regulations are made by regulation 4 in order to implement Article 2 of the CE Marking Directive. The main provisions—

- alter references to the EC mark to CE marking, omit the definition of “EC mark” and incorporate the procedures in respect of “CE marking” and matters incidental thereto (regulation 4(a) and (b));
- include a substituted regulation 5 which limits the requirements to comply with regulation 4 of the principal Regulations to the supply of a simple pressure vessel or relevant assembly incorporating such a vessel by a manufacturer or importer from outside the Community (EEA), with some consequential changes (the omission of regulation 14(3) and (4) of the principal Regulations): however a general duty, whereby any person supplying such a vessel/relevant assembly must ensure that it is safe, is retained (regulation 4(d) and (g));
- amend the procedure for EC verification (regulation 4(f) which substitutes regulation 12 of the principal Regulations);
- omit regulation 18, the provisions of which are substituted by new regulation 19 although paragraph (4) has been added to regulation 11 (regulation 4(e) and (h));
- provide that, unless the vessel in question is not safe, a notice is to be given to the manufacturer or his authorized representative in the Community (EEA) who has not “properly affixed” the CE marking to a vessel; further enforcement action can only be taken if the period given in the notice has expired without the vessel or relevant assembly being brought into conformity (regulation 4(i) which substitutes regulation 19 of the principal Regulations); and
- specify a revised symbol for CE marking and amend the other marking requirements (regulation 4(k) which substitutes Schedule 2 to the principal Regulations): paragraph 9 of that substituted Schedule also provides a presumption that a vessel which bears the CE marking complies with all the provisions of the Directive.

Regulation 5 sets out transitional arrangements, in respect of vessels and relevant assemblies incorporating vessels which are first supplied in the Community (EEA) before 1st January 1997, whereby a manufacturer or his authorized representative in the Community, as the case may be, may elect to comply with the marking arrangements in force on 31st December 1994. In the event of such election, the amendments made by regulation 4(f) (revised procedure for EC verification) and (k) (substituted Schedule 2) would not apply.

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Certain other amendments to the principal Regulations are made by regulation 6; these include a minor clarification of the definition of “safe” (regulation 6(c)) and an amendment of Schedule 5 to the principal Regulations, in respect of vessels for use at work, to enable an enforcement authority to serve a prohibition notice (regulation 6(g)). Regulation 7 makes consequential amendments to Schedule 1 to the Provision and Use of Work Equipment Regulations 1992.

A Compliance Cost Assessment in respect of these Regulations is available and a copy can be obtained from the Department of Trade and Industry, Standards Policy Unit, 3rd Floor, 151 Buckingham Palace Road, London SW1W 9SS.