

SCHEDULE 8

Regulation 11

Amendment of the Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001

Introduction

1. The Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001 are amended in accordance with paragraphs 2 to 27.

Amendment to regulation 2

2. Regulation 2 is amended as follows—

(a) in paragraph (1)—

(i) in sub-paragraph (a) after “equipment for use outdoors” insert “as it has effect immediately before exit day”;

(ii) omit sub-paragraph (b); and

(iii) for sub-paragraph (c) substitute—

“(c) unless the context otherwise requires, a reference to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations and a reference to a paragraph in a regulation is a reference to a paragraph in that regulation.”;

(b) in paragraph (2)—

(i) before the definition of “CE marking” insert—

““approved body” has the meaning given to it in regulation 13”;

(ii) in the definition of “CE marking”—

(aa) for “regulation 11” substitute “Article 3(c) of the Directive”, and

(bb) for “Schedule 7” substitute “Annex IV to the Directive”;

(iii) omit the definition of “the Commission”;

(iv) in the definition of “equipment for use outdoors”, omit from “all the kinds of machinery” to “that is to say”;

(v) in the definition of “responsible person” for “European Union” substitute “United Kingdom” in each place it occurs;

(vi) omit the definition of “notified body”; and

(vii) after the definition of “sound power level LWA” insert—

““UK marking” means the marking in the form set out in Annex 2 of 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.”.

Amendment to regulation 7

3. In regulation 7—

(a) in paragraph (2)(c) for “CE” substitute “UK”;

(b) in paragraph (2)(d) for “an EC” substitute “a”; and

(c) in paragraph (3), omit “In respect of” to “Kingdom,”.

Amendment to regulation 9

4. In regulation 9, in paragraph (a)—
- (a) for “European Union” substitute “United Kingdom” in each place it occurs; and
 - (b) for “CE” substitute “UK”.

Amendment to regulation 11

5. In regulation 11—
- (a) for “CE” substitute “UK” in each place it occurs;
 - (b) for “directives” substitute “enactments” in each place it occurs; and
 - (c) in paragraph (4), omit “as published in the Official Journal of the European Union”.

Amendment to regulation 12

6. In regulation 12 omit “and to the Commission”.

Insertion of regulation 12A

7. After regulation 12 insert—

“Obligations which are met by complying with obligations in the Directive

12A.—(1) In this regulation—

- (a) any reference to an Article or an Annex is a reference to an Article of or an Annex to the Directive;
 - (b) “conformity assessment procedure” has the meaning given to it in Article 3(b).
- (2) Paragraph (3) applies where, before placing equipment on the market or putting it into service in the United Kingdom, a responsible person—
- (a) ensures that the equipment satisfies the requirements of the Directive concerning noise emission in the environment;
 - (b) ensures that the conformity assessment procedure that applies to the equipment in accordance with Article 14(1) or (2) has been carried out;
 - (c) ensures that the technical documentation referred to in Article 14 and Annexes V to VIII, and any other records and correspondence relating to the relevant conformity assessment procedure set out in those provisions, are prepared in or translated into English;
 - (d) ensures that the equipment bears a CE marking and an indication of the guaranteed sound power level in accordance with Article 11;
 - (e) draws up an EC declaration of conformity, in accordance with Article 8; and
 - (f) ensures that the EC declaration of conformity is prepared in or translated into English.
- (3) Where this paragraph applies—
- (a) the requirements of regulation 7(2) and (3) are to be treated as being satisfied;
 - (b) regulations 7(4), 11, 12, 16(1), 17 and 18 and paragraph 8 of Schedule 13 apply subject to the modifications in paragraph (4); and
 - (c) regulation 10 does not apply.
- (4) The modifications referred to in paragraph (3)(b) are that—

- (a) any reference to “declaration of conformity” is to be read as a reference to the EC declaration of conformity referred to in Article 8(1);
- (b) any reference to “technical documentation” is to be read as a reference to the technical documentation referred to in Article 8(3);
- (c) any reference to “UK marking” is to be read as a reference to the CE marking; and
- (d) for the purposes of regulation 16(1)—
 - (i) the reference to regulation 7(2)(c) is to be read as a reference to Article 11(2);
 - (ii) the reference to regulation 7(2)(d) is to be read as a reference to Article 8(1); and
 - (iii) the reference to regulation 10 is to be read as a reference to Article 14(1) or (2).”.

Amendment to regulation 13

8. For regulation 13 substitute—

“Approved Bodies

13.—(1) For the purposes of these Regulations, an approved body is a body which has been appointed to carry out one or more of the conformity assessment procedures mentioned or referred to in regulation 10(a) and which—

- (a) has been appointed as an approved body in the United Kingdom pursuant to regulation 14; or
 - (b) immediately before exit day was a notified body in respect of which the Secretary of State had taken no action under regulation 14(2)(e) as it had effect immediately before exit day, to terminate the appointment.
- (2) In this regulation “notified body” means a body which before exit day has been—
- (a) appointed as a notified body in the United Kingdom pursuant to regulation 14, as it had effect immediately before exit day; and
 - (b) notified by the Secretary of State to the European Commission and other member States pursuant to Article 15 of the Directive.”.

Amendment to regulation 14

9. In regulation 14—

- (a) for “a notified” substitute “an approved” in each place it occurs;
- (b) in paragraph (1), after “such persons” insert “which meet the approved body requirements,”;
- (c) in paragraphs (1), (2)(d), (5)(a) and (5)(b) for “notified” substitute “approved”;
- (d) in paragraph (2)(e), after “any of” insert “the approved body requirements or”;
- (e) after paragraph (6) insert—

“(7) In this regulation “approved body requirements” means the requirements set out in Schedule 12A.”.

Insertion of regulation 14A

10. After regulation 14 insert—

“Register of approved bodies

14A.—(1) The Secretary of State must—

- (a) assign an approved body identification number to each approved body; and
- (b) compile and maintain a register of—
 - (i) approved bodies;
 - (ii) their approved body identification numbers;
 - (iii) the activities for which they have been approved; and
 - (iv) any restrictions on those activities.

(2) The register referred to in paragraph (1) must be made publicly available.”.

Amendment to regulation 15

11. In regulation 15—

- (a) in paragraph (1), for “a notified” in both places in which it occurs substitute “an approved”; and
- (b) in paragraph (1), for “a notified” at the second place it occurs substitute “an approved”.

Amendment to regulation 16

12. In regulation 16—

- (a) in paragraph (1)(a), for “CE” substitute “UK”; and
- (b) in paragraph (1)(b) for “an EC” substitute “a”.

Amendment to regulation 17

13. In regulation 17—

- (a) in paragraph (2) for “CE” substitute “UK”;
- (b) in paragraph (2)(a) and (b) for “European Union” substitute “United Kingdom”; and
- (c) in paragraph (3) for “CE” substitute “UK” in each place it occurs.

Transitional provision in relation to EU Exit

14. After regulation 22, insert—

“Transitional provision in relation to EU Exit

23.—(1) In this regulation—

“pre-exit period” means the period beginning with 3rd July 2001 and ending immediately before exit day;

“product” means equipment to which these Regulations apply.

(2) Subject to paragraph (3), where a product was made available on the market during the pre-exit period, despite the amendments made by Schedule 8 of the Product Safety and Metrology etc. (Amendments etc.) (EU Exit) Regulations 2019⁽¹⁾, any obligation to which a person was subject under these Regulations as they had effect immediately before exit day, continues to have effect as it did immediately before exit day, in relation to that product.

(1) S.I. 2019/XXXX.

(3) Paragraph (2) does not apply to any obligation to take action outside of the United Kingdom in respect of that product.

(4) Where, during the pre-exit period—

(a) a product has not been placed on the market; and

(b) a manufacturer has taken any action under regulation 7(2)(b) as it had effect immediately before exit day in relation to that product

that action has effect as if it had been done under regulation 7(2)(b) as it has effect on and after exit day.”.

Amendment to Schedule 1

15. In Schedule 1—

(a) for “Annex I” substitute “Schedule 4” in each place it occurs; and

(b) for “Annex III” substitute “Schedule 6” in each place it occurs.

Amendment to Schedule 2

16. In Schedule 2—

(a) for “Annex I” substitute “Schedule 4” in each place it occurs; and

(b) for “Annex III” substitute “Schedule 6” in each place it occurs.

Amendment to Schedule 3

17. In the heading to Schedule 3 after “(Extract from Article 12)” insert “Permissible Sound Power Levels”.

Amendment to Schedule 5

18. In Schedule 5—

(a) omit “EC” in each place it occurs;

(b) for “European Union” substitute “United Kingdom” in each place it occurs;

(c) for “notified” substitute “approved”;

(d) for “this Directive” substitute “these Regulations” in each place it occurs; and

(e) for “Community Directives” substitute “other enactments”.

Amendment to Schedule 6

19. In Schedule 6—

(a) under the subheading “Scope”—

(i) for “this Annex” substitute “this Schedule” in each place it occurs;

(ii) for “this Directive” substitute “these Regulations” in each place it occurs;

(iii) for “Article 2(1)” substitute “regulation 3 (application)” in each place it occurs; and

(iv) for “European Union” substitute “United Kingdom”;

(b) under the subheading “Part A Basic Noise Emission Standard”—

(i) in the first line, for “Article 2(1)” substitute “regulation 3 (application)”;

(ii) in paragraphs 5 and 6 for “this Directive” substitute “these Regulations”.

Amendment to Schedule 7

20. In Schedule 7—

- (a) for “CE” substitute “UK” in each place it occurs;
- (b) for “taking the following form” the first time it occurs, substitute “taking the form set out in Annex 2 of 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” the first time it occurs; and
- (c) omit the first diagram.

Amendment to Schedule 8

21. In Schedule 8—

- (a) in paragraph 1—
 - (i) for “Annex” substitute “Schedule”;
 - (ii) for “European Union” substitute “United Kingdom” in each place it occurs;
 - (iii) for “this Directive” substitute “these Regulations”;
 - (iv) for “CE” substitute “UK”;
 - (v) for “in Article 11” substitute “by regulation 7(2)(c), regulation 11 and Schedule 7”;
 - (vi) omit “EC”; and
 - (vii) for “in Article 8” substitute “by regulation 7(2)(d) and Schedule 5”;
- (b) in paragraph 2—
 - (i) for “European Union” substitute “United Kingdom” in each place it occurs; and
 - (ii) omit “EC”;
- (c) in paragraph 3—
 - (i) for “this Directive” substitute “these Regulations” in each place it occurs; and
 - (ii) for “European Union” substitute “United Kingdom”; and
- (d) in paragraph 4 for “this Directive” substitute “these Regulations”.

Amendment to Schedule 9

22. In Schedule 9—

- (a) in paragraph 1—
 - (i) for “Annex” substitute “Schedule”;
 - (ii) for “European Union” substitute “United Kingdom” in each place it occurs;
 - (iii) for “this Directive” substitute “these Regulations”;
 - (iv) for “CE” substitute “UK”;
 - (v) for “Article 11” substitute “regulation 7(2)(c), regulation 11 and Schedule 7”; and
 - (vi) for “Article 8” substitute “regulation 7(2)(d) and Schedule 5”;
- (b) in paragraph 2—
 - (i) for “European Union” substitute “United Kingdom” in each place it occurs; and
 - (ii) omit “EC”;
- (c) in paragraph 3—

- (i) for “this Directive” substitute “these Regulations” in each place it occurs; and
- (ii) for “European Union” substitute “United Kingdom”;
- (d) in paragraph 4 for “this Directive” substitute “these Regulations”;
- (e) in paragraph 5—
 - (i) for “the notified” substitute “the approved” in each place it occurs;
 - (ii) for “a notified” substitute “an approved”;
 - (iii) for “European Union” substitute “United Kingdom” in each place it occurs;
 - (iv) for “CE” substitute “UK”;
 - (v) for “an EC” substitute “a”; and
 - (vi) for “Articles 11 and 8” substitute “regulation 7(2)(c) and (d), regulation 11 and Schedules 5 and 7”;
- (f) in paragraph 6—
 - (i) for “notified” substitute “approved” in each place it occurs;
 - (ii) for “European Union” substitute “United Kingdom” in each place it occurs;
 - (iii) for “this Directive” substitute “these Regulations” in each place it occurs;
 - (iv) for “Article 11” substitute “regulation 7(2)(c), regulation 11 and Schedule 7” in each place it occurs;
 - (v) for “Article 8” substitute “regulation 7(2)(d) and Schedule 5” in each place it occurs;
 - (vi) for “Annex III” substitute “Schedule 6” in each place it occurs; and
 - (vii) for “notifying Member State” substitute “Secretary of State”.

Amendment to Schedule 10

23. In Schedule 10—

- (a) in paragraph 1—
 - (i) for “Annex” substitute “Schedule”;
 - (ii) for “this Directive” substitute “these Regulations”;
 - (iii) for “European Union” substitute “United Kingdom” in each place it occurs;
 - (iv) for “CE” substitute “UK”;
 - (v) for “Article 11” substitute “regulation 7(2)(c), regulation 11 and Schedule 7”
 - (vi) omit “EC”; and
 - (vii) for “Article 8” substitute “regulation 7(2)(d) and Schedule 5”;
- (b) in paragraph 2—
 - (i) for “European Union” substitute “United Kingdom”;
 - (ii) for “a notified” substitute “an approved”;
 - (iii) for “other notified” substitute “other approved”; and
 - (iv) for “this Directive” substitute “these Regulations”;
- (c) in paragraph 3—
 - (i) for “notified” substitute “approved”; and
 - (ii) for “this Directive” substitute “these Regulations” in each place it occurs;
- (d) in paragraph 4—

- (i) for “this Directive” substitute “these Regulations”;
- (ii) for “notified” substitute “approved” in each place it occurs; and
- (iii) for “Annex X” substitute “Schedule 12”;
- (e) in paragraph 5 for “European Union” substitute “United Kingdom”.

Amendment to Schedule 11

24. In Schedule 11—

- (a) in paragraph 1—
 - (i) for “Annex” substitute “Schedule”;
 - (ii) for “this Directive” substitute “these Regulations”;
 - (iii) for “European Union” substitute “United Kingdom”;
 - (iv) for “CE” substitute “UK”;
 - (v) for “Article 11” substitute “regulation 7(2)(c), regulation 11 and Schedule 7”;
 - (vi) omit “EC”; and
 - (vii) for “Article 8” substitute “regulation 7(2)(d) and Schedule 5”;
- (b) in paragraph 3.1—
 - (i) for “a notified” substitute “an approved”;
 - (ii) for “European Union” substitute “United Kingdom”;
 - (iii) for “this Directive” substitute “these Regulations” in each place it occurs; and
 - (iv) omit “EC”;
- (c) in paragraph 3.2 for “Directives” substitute “enactments”;
- (d) in paragraph 3.3 for “notified” substitute “approved” the first time it occurs;
- (e) in paragraph 3.4—
 - (i) for “European Union” substitute “United Kingdom”; and
 - (ii) for “notified” substitute “approved” in each place it occurs;
- (f) in paragraph 4, for “notified” substitute “approved” in each place it occurs;
- (g) in paragraph 5—
 - (i) for “Annex” substitute “Schedule”; and
 - (ii) for “notified” substitute “approved”;
- (h) in point 6, for “notified” substitute “approved” in each place it occurs.

Amendment to Schedule 12

25. In Schedule 12, in the model of conformity certificate—

- (a) omit “EC” in each place it occurs;
- (b) for “Issuing Directive Applicable” substitute “Enactments Applicable”; and
- (c) for “EC Directive Applicable/..../EC” substitute “Enactments Applicable ...”.

Insertion of Schedule 12A

26. After Schedule 12 insert—

“SCHEDULE 12A

Regulation 14

Approved body requirements

1.—(1) The body, its director and its staff responsible for carrying out verification operations may be neither the designer, builder, supplier or installer of the equipment nor the authorised representative established in the United Kingdom of any of those parties. They may become involved neither directly nor as authorised representatives in the design, construction, marketing or maintenance of such equipment nor represent the parties engaged in these activities.

(2) Sub-paragraph (1) does not preclude the possibility of exchange of technical information between the manufacturer and the body.

2. The body and its staff must carry out the assessments and verifications with the highest degree of professional integrity and technical competence and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their work, especially from persons or groups of persons with an interest in the results of verification.

3. The body must have at its disposal the necessary staff and possess the necessary facilities to enable it to perform properly the technical and administrative tasks connected with inspection and surveillance operations; it must also have access to the equipment required for any special verification.

4. The staff responsible for inspection must have—

- (a) sound technical and professional training;
- (b) satisfactory knowledge of the requirements for the assessment of technical documentation;
- (c) satisfactory knowledge of the requirements for the tests they carry out and adequate practical experience of such tests;
- (d) the ability to draw up the certificates, records and reports required to authenticate the performance of the tests.

5. The body must be able to demonstrate the impartiality of its inspection staff.

6. The remuneration of the inspection staff must not depend on the number of tests carried out or the results of such tests.

7. The body must have, and must satisfy the Secretary of State that it has, adequate civil liability insurance in respect of its activities.

8. The body must ensure that its staff observe professional secrecy with regard to all information gained in carrying out its tests under these Regulations.

9. Paragraph 8 does not prevent the staff from providing the information to the Secretary of State.”.

Amendment to Schedule 13

27. In Schedule 13, in paragraph 8 for “an EC” substitute “a” in each place it occurs.