

1988 No. 896

HEALTH AND SAFETY

The Pressure Vessels (Verification) Regulations 1988

<i>Made</i> - - - -	<i>17th May 1988</i>
<i>Laid before Parliament</i>	<i>26th May 1988</i>
<i>Coming into force</i>	<i>20th June 1988</i>

The Secretary of State, being the Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the regulation of design, construction, verification and inspection of pressure vessels, in exercise of the powers conferred on him by that section, and of all other powers enabling him in that behalf, hereby makes the following Regulations:-

**Citation, commencement and extent**

1. These Regulations, which extend to Great Britain, may be cited as the Pressure Vessels (Verification) Regulations 1988 and shall come into force on 20th June 1988.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Executive” means the Health and Safety Executive;

“the Framework Directive” means the Council Directive No. 76/767/EEC(c) concerning the approximation of the laws of the Member States relating to common provisions for pressure vessels and methods of inspecting them;

“pressure vessel” means any fixed or moveable vessel or receptacle in which a pressure of more than 0.5 bar above atmospheric pressure on a fluid (gas, steam or liquid) may obtain or develop except—

- (a) any vessel specially designed for nuclear use, failure of which can cause an emission of radioactivity;
- (b) any vessel specifically intended for installation on, or for the propulsion of, ships or aircraft; and
- (c) any pipeline or pipeworks;

“Separate Directives” means Council Directives No. 84/525/EEC(d), No. 84/526/EEC(e) and No. 84/527/EEC(f) concerning the approximation of the laws of the Member States relating to seamless steel gas cylinders, seamless unalloyed aluminium and aluminium alloy gas cylinders, and welded unalloyed steel gas cylinders respectively; and any reference in these Regulations to the relevant Separate Directive is a reference to the Separate Directive which relates to the type of gas cylinder concerned.

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(a) S.I. 1977/1718.

(b) 1972 c.68.

(c) OJ No. L262, 27.9.1976, p.153.

(d) OJ No. L300, 19.11.84, p.1.

(e) OJ No. L300, 19.11.84, p.20.

(f) OJ No. L300, 19.11.84, p.48.

- (2) Unless the context otherwise requires, any reference in these Regulations to—
- (a) a numbered regulation, is a reference to the regulation so numbered in these Regulations;
  - (b) a numbered paragraph, is a reference to the paragraph so numbered in the regulation in which that reference appears.

#### **Appointment of inspection bodies**

3.—(1) The Executive shall appoint a body or bodies of persons in accordance with the provisions of this regulation, to carry out inspection of gas cylinders, to affix EEC verification marks to such cylinders, to issue EEC verification certificates, and to do such other things as may be required or permitted of such a body under or in connection with the following provisions of these Regulations; and a body so appointed shall hereafter in these Regulations be referred to as an “inspection body”.

(2) In making the appointment referred to in paragraph (1), the Executive shall take into account the minimum criteria set out in paragraphs 1 to 7 of Annex III of the Framework Directive; and for the efficient and proper functioning of the inspection body it may, in making such an appointment, impose such conditions as it thinks fit.

(3) The said appointment—

- (a) may be for a fixed or indefinite time;
- (b) may be revoked at any time;
- (c) shall be revoked if the Executive has reason to believe that the inspection body does not meet, or has ceased to meet, the criteria referred to in paragraph (2) in respect of the appointment of such a body.

(4) The Executive may vary or withdraw any or all of the conditions of appointment or impose additional conditions at any time for the efficient and proper functioning of the inspection body.

#### **Presentation of gas cylinders for EEC verification**

4.—(1) Gas cylinders may be presented by a manufacturer to an inspection body for EEC verification.

(2) When presenting gas cylinders for EEC verification, the manufacturer shall provide the inspection body with such information and documents as the relevant Separate Directive requires and such further information and documents as the inspection body may reasonably require for the purposes of such verification.

#### **EEC Verification**

5.—(1) On being presented with gas cylinders for EEC verification, the inspection body shall, on payment of such fee as may be agreed between the inspection body and the manufacturer, carry out such checks, examinations and tests as are required for EEC verification by the Framework Directive and the relevant Separate Directive.

(2) If the results of the checks, examinations and tests are satisfactory, the inspection body shall—

- (a) affix to the cylinders (in a visible, legible and indelible manner) the appropriate EEC verification marks required by the Framework Directive and the relevant Separate Directive, and such marks shall be affixed in the order required by those Directives; and
- (b) issue to the manufacturer an EEC verification certificate, which shall be in accordance with the model set out in the relevant Separate Directive.

#### **Access to place of manufacture**

6. The manufacturer of a gas cylinder which is subject to EEC verification shall allow an inspection body reasonable access to the place where the cylinder is manufactured if such access is essential to assist the proper carrying out of the verification.

## Notices of refusal

7.—(1) On taking a decision refusing to affix the appropriate EEC verification mark or refusing to issue the appropriate EEC verification certificate (each referred to in regulation 5(2)) the inspection body shall, as soon as practicable thereafter, send to the manufacturer a notice in writing of that decision.

(2) The notice referred to in paragraph (1) shall—

- (a) state the exact grounds on which the decision was based;
- (b) identify the gas cylinders concerned; and
- (c) inform the manufacturer of his right to apply for a review under regulation 8 and of the time limit for making the application referred to in paragraph (2) of that regulation.

## Review

8.—(1) A manufacturer who is aggrieved by a decision of an inspection body refusing to affix the appropriate EEC verification mark or refusing to issue the appropriate EEC verification certificate (each referred to in regulation 5(2)) may apply to the Secretary of State for a review of the decision.

(2) An application for review shall be made by written notice to the Secretary of State and shall be lodged not later than 14 days from the date on which the manufacturer received from the inspection body the notice referred to in regulation 7.

(3) A notice of application for review shall state the grounds on which the application is made and shall be accompanied by—

- (a) copies of any documents which the manufacturer provided to the inspection body in connection with the presentation of the gas cylinders for verification; and
- (b) a copy of the notice from the inspection body referred to in regulation 7.

(4) Where an application has been made for review the manufacturer shall retain the gas cylinders which are subject to the review until the time the review has been determined, and he shall, if required by the Secretary of State, make them available for inspection by a person appointed by the Secretary of State.

(5) On an application for review the Secretary of State shall have the power to do anything which the inspection body is authorised or required to do under these Regulations and shall, if he determines to find in favour of the manufacturer, issue to him the EEC verification certificate referred to in regulation 5(2) and require the inspection body to affix to the gas cylinders concerned the marks referred to in that regulation; and upon being so required the inspection body shall affix those marks forthwith.

(6) On an application for review the Secretary of State may—

- (a) hold an inquiry in connection therewith; and
- (b) appoint an assessor for the purpose of assisting with the review or any such inquiry.

(7) On determining the review the Secretary of State may require the unsuccessful party to pay to the Secretary of State a specified sum in respect of the costs which the Secretary of State has incurred in conducting the review, and in ascertaining such costs the Secretary of State may determine the cost of employing an officer for any period on work appropriate to his grade by reference to the average cost to the Secretary of State of employing officers of his grade for that period.

## False marks

9.—(1) No person other than an inspection body shall affix to a gas cylinder any of the EEC verification marks referred to in regulation 5(2), and no person shall affix to a gas cylinder any mark liable to be confused with any of those EEC verification marks.

(2) Paragraph (1) shall have effect as if it were a health and safety regulation made under section 15 of the Health and Safety at Work etc. Act 1974<sup>(a)</sup> and the provisions of that Act as regards enforcement and offences shall apply to that paragraph.

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<sup>(a)</sup> 1974 c.37; section 15 was amended by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 6.

## **Article 22 procedure for pressure vessels**

10.—(1) In this regulation 'the Article 22 procedure' is the procedure specified in Article 22 of the Framework Directive whereby a manufacturer wishing to export a pressure vessel which is subject to that Directive but not subject to the requirements of a Separate Directive, may have the vessel verified as conforming to the design requirements imposed by the law of the Member State to which the vessel is to be exported.

(2) The Executive shall appoint a body or bodies of persons in accordance with the provisions of paragraphs (3) and (4) to verify pressure vessels under the Article 22 procedure.

(3) In making the appointment referred to in paragraph (2), the Executive shall take into account the minimum criteria set out in paragraphs 1 to 7 of Annex III of the Framework Directive; and for the efficient and proper functioning of such a body it may, in making such an appointment, impose such conditions as it thinks fit.

(4) The provisions of regulation 3(3) and (4) shall apply to an appointment under paragraph (2) as they apply to the appointment of an inspection body under that regulation.

(5) An application for verification under the Article 22 procedure shall be made and dealt with in accordance with paragraphs 1 to 6 of Annex IV of the Framework Directive.

(6) The Executive shall be responsible for discharging in Great Britain the functions placed on the recipient administration by Annex IV of the Framework Directive.

(7) Where a manufacturer or his representative makes an application under the Article 22 procedure to the Executive, he or his representative, as the case may be, shall pay to the Executive a provisional fee equal to the amount the Executive estimates it will incur in, or in connection with, carrying out, or causing to have carried out, its functions in respect of the application concerned.

(8) Where the costs incurred by the Executive are greater than the provisional fee, the difference between those costs and that fee shall be payable by the manufacturer to the Executive, and where those costs are less than the provisional fee, the difference between those costs and that fee shall be repayable by the Executive to the manufacturer.

(9) For the purpose of estimating the provisional fee and ascertaining the costs incurred by it the Executive may determine the cost of employing an officer for any period on work appropriate to his grade by reference to the average cost to it of employing officers of his grade for that period.

Signed by the order of the Secretary of State.

*Patrick Nicholls*  
Parliamentary Under Secretary of State,  
Department of Employment

17th May 1988

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement those provisions of Council Directives 76/767/EEC (OJ No. L262 p.153), 84/525/EEC (OJ No. L300 p.1), 84/526/EEC (OJ No. L300 p.20) and 84/527/EEC (OJ No. L300 p.48) which relate to the verification and inspection of pressure vessels. The Regulations—

- (a) provide for the appointment by the Health and Safety Executive of inspection bodies to carry out inspection of gas cylinders, and to revoke any such appointment in certain circumstances (regulation 3);
- (b) enable manufacturers to present gas cylinders to inspection bodies for EEC verification (regulation 4);
- (c) empower the inspection bodies to carry out such checks, examinations and tests as are required for EEC verification by the Framework Directive and the relevant Separate Directive and affix to the gas cylinders the appropriate EEC verification marks and to issue to the manufacturer an EEC verification certificate in accordance with the model set out in the relevant Separate Directive (regulation 5);
- (d) allow inspection bodies reasonable access to the places where the gas cylinders are manufactured if such access is essential to assist the proper carrying out of the verification (regulation 6);
- (e) require an inspection body to send a written notice of its decision refusing to affix the appropriate EEC verification mark or refusing to issue the appropriate EEC verification certificate (regulation 7);
- (f) enable a manufacturer to apply to the Secretary of State for a review of a decision by an inspection body refusing to affix the appropriate EEC verification mark or to issue the appropriate EEC verification certificate (regulation 8);
- (g) make it an offence for any person other than an inspection body to affix to a gas cylinder any of the EEC verification marks referred to in regulation 5(2), and for any person to affix to a gas cylinder any mark liable to be confused with any of those EEC verification marks (regulation 9);
- (h) provide a special procedure specified in Article 22 of the Framework Directive whereby a manufacturer wishing to export a pressure vessel which is subject to that Directive but not subject to the requirements of a Separate Directive, may have the vessel verified as conforming to the design requirements imposed by the law of the Member State to which the vessel is to be exported (regulation 10).