
STATUTORY INSTRUMENTS

1991 No. 2749

HEALTH AND SAFETY

The Simple Pressure Vessels (Safety) Regulations 1991

Made - - - - 5th December 1991

Laid before Parliament 9th December 1991

Coming into force - - 31st December 1991

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.—(1) These Regulations may be cited as the Simple Pressure Vessels (Safety) Regulations 1991.

(2) These Regulations shall come into force on 31st December 1991.

Interpretation

2.—(1) In these Regulations, “vessel” means a simple pressure vessel being a welded vessel intended to contain air or nitrogen at a gauge pressure greater than 0.5 bar, not intended for exposure to flame, and having the following characteristics—

- (a) the components and assemblies contributing to the strength of the vessel under pressure are made either of non-alloy quality steel, or of non-alloy aluminium, or of non-age hardening aluminium alloy;
- (b) the vessel consists either—
 - (i) of a cylindrical component with circular cross-section, closed at each end, each end being either outwardly dished or flat and being also co-axial with the cylindrical component; or
 - (ii) of two co-axial outwardly dished ends;
- (c) the maximum working pressure (PS) is not more than 30 bar, and $PS \cdot V$ (being the product of PS and the vessel’s capacity expressed in litres) is not more than 10,000 bar . litres;
- (d) the minimum working temperature is not lower than minus 50° C, and the maximum working temperature is not higher than—

(1) S.I.1989/1327.
(2) 1972 c. 68.

300° C in the case of steel vessels; and

100° C in the case of aluminium or aluminium alloy vessels,

and in this paragraph–

- (i) “maximum working pressure” means the maximum gauge pressure which may be exerted under normal conditions of use;
- (ii) “minimum working temperature” means the lowest stabilised temperature in the wall of the vessel under normal conditions of use; and
- (iii) “maximum working temperature” means the highest stabilised temperature in the wall of the vessel under normal conditions of use.

(2) The categories of vessels relevant for the purposes of these Regulations are–

Category A – vessels whose PS . V is more than 50 bar . litres, this category being subdivided into–

Category A.1 – vessels whose PS . V is more than 3,000 bar . litres;

Category A.2 – vessels whose PS . V is more than 200 but not more than 3,000 bar . litres; and

Category A.3 – vessels whose PS . V is more than 50 but not more than 200 bar . litres;

Category B – vessels whose PS . V is 50 bar . litres or less.

(3) In these Regulations–

“the Community” means the European Economic Community;

“the Commission” means the Commission of the European Communities;

“the Directive” means Council Directive [87/404/EEC](#) on the harmonisation of the laws of the Member States relating to simple pressure vessels⁽³⁾, as amended by Council Directive [90/488/EEC](#)⁽⁴⁾;

“EC mark” means the EC mark of conformity consisting of the symbol “CE” of which a form is shown for the purpose of illustration in Schedule 2;

“enforcement authority” has the meaning given by paragraph 9 of Schedule 5;

“manufacturer’s instructions” means instructions–

(a) issued by or on behalf of the manufacturer; and

(b) complying with the requirements of regulation 4(5) below;

“property” includes domestic animals;

“relevant assembly” means any assembly incorporating a vessel;

“safe” has the meaning given by regulation 4(4) below;

“safety clearance” shall be construed in accordance with regulation 4(2) below; and

“supply” is to be read in accordance with section 46 of the Consumer Protection Act 1987⁽⁵⁾, and includes offering or agreeing to supply, and exposing or possessing for supply, and “supplied” and “supplier” have the corresponding meanings.

(4) There is series manufacture within the meaning of these Regulations if more than one vessel of the same type is manufactured during a given period by the same continuous manufacturing processes, in accordance with a common design.

(3) OJNo. L220, 8.8.87, p. 48.

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

(5) 1987 c. 43.

(5) Where these Regulations refer to a relevant national standard, the reference is to a standard of which a member State has, in compliance with Article 5.1 of the Directive, published the reference number.

Application

3.—(1) Subject to paragraph (2) of this regulation, and regulation 6 below, these Regulations apply only to vessels manufactured in series.

(2) These Regulations do not apply to—

- (a) vessels designed specifically for nuclear use, where vessel failure might or would result in an emission of radioactivity;
- (b) vessels intended specifically for installation in, or for use as part of the propulsive system of, a ship or aircraft; or
- (c) fire-extinguishers,

and in this paragraph, “ship” has the meaning given by section 742 of the Merchant Shipping Act 1894⁽⁶⁾.

Safety requirements

4.—(1) A vessel in Category A complies with this Regulation if—

- (a) it meets the essential safety requirements specified in Schedule 1;
- (b) it has safety clearance;
- (c) it bears the EC mark accompanied by the other inscriptions specified in Schedule 2, such mark and such other inscriptions being properly affixed in accordance with that Schedule;
- (d) in the case of a vessel or relevant assembly supplied in the United Kingdom, it is accompanied by the manufacturer’s instructions;
- (e) in the case where a person—
 - (i) being the manufacturer of a vessel, himself takes that vessel or a relevant assembly incorporating that vessel into service; or
 - (ii) having imported a vessel or relevant assembly into the United Kingdom, himself takes that vessel or a relevant assembly incorporating that vessel or the first mentioned relevant assembly into service,

that person ensures that, at the time of taking into service, the manufacturer’s instructions are made available to all persons as are concerned with the vessel’s installation and operation; and

(f) it is in fact safe.

(2) A vessel has safety clearance if an approved body has issued in respect of it an EC verification certificate or an EC certificate of conformity pursuant to the procedures described in regulations 9 to 13 below, and in these Regulations, “safety clearance” shall be construed accordingly.

(3) A vessel in Category B complies with this Regulation if—

- (a) it is manufactured in accordance with engineering practice recognised as sound in a member State;
- (b) it bears the inscriptions, other than the EC mark, specified in Schedule 2, such inscriptions being properly affixed in accordance with that Schedule; and
- (c) it is in fact safe.

⁽⁶⁾ 1894 c. 60.

(4) “Safe”, in relation to a vessel, means that, when the vessel is properly installed and maintained and used for the purposes for which it is intended, there is no risk (apart from one reduced to a minimum) of its being the cause or occasion of death or injury to persons, or damage to property.

(5) For the purpose of compliance with these Regulations, the manufacturer’s instructions must provide for the following information–

- (a) the manufacturer’s name or mark;
- (b) vessel type, batch identification or other particulars identifying the vessel to which the instructions relate;
- (c) particulars of maximum working pressure expressed in bar, maximum and minimum working temperatures expressed in ° C, and capacity of the vessel expressed in litres;
- (d) the intended use of the vessel; and
- (e) maintenance and installation requirements for vessel safety.

The instructions must be in the official language of the member State where the vessel is to be first taken into service.

Obligations of manufacturers, suppliers and importers

5.—(1) Subject to the transitional and other exceptions in regulation 6 below, no person shall in the United Kingdom supply a vessel unless it complies with regulation 4 above or a relevant assembly unless the vessel incorporated therein so complies.

(2) Subject to the same exceptions, no person shall in the United Kingdom, 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 into the United Kingdom, himself take that vessel or a relevant assembly incorporating that vessel or the first mentioned relevant assembly into service in the United Kingdom, unless that vessel, or the vessel incorporated in the relevant assembly, as the case may be, complies with regulation 4 above.

Transitional and other exceptions

6.—(1) These Regulations do not apply–

- (a) in the case of a vessel first supplied or taken into service within the Community before 1st July 1992 which conforms with safety requirements having effect in the United Kingdom apart from these Regulations; or
- (b) in the case of a relevant assembly either–
 - (i) first supplied or taken into service within the Community before 1st July 1992; or
 - (ii) first supplied or taken into service within the Community on or after 1st July 1992, where the vessel incorporated in it was first supplied or taken into service within the Community before that date,

where the vessel incorporated in it conforms with safety requirements having effect in the United Kingdom apart from these Regulations.

(2) These Regulations also do not apply in the case of a vessel or a relevant assembly supplied in the United Kingdom if the supplier believes (with reasonable cause) that it will not be taken into service either in the United Kingdom or in another member State.

(3) These Regulations also do not apply–

- (a) in the case of a vessel first supplied or taken into service within the Community before 1st July 1992 where—
 - (i) the supplier believes (with reasonable cause) the vessel will not be taken into service in the United Kingdom; and
 - (ii) the vessel conforms with safety requirements having effect in a member State other than the United Kingdom in which the supplier believes (with reasonable cause) the vessel will be taken into service; or
 - (b) in the case of a relevant assembly—
 - (i) first supplied or taken into service within the Community before 1st July 1992; or
 - (ii) first supplied or taken into service within the Community on or after 1st July 1992, where the vessel incorporated in it was first supplied or taken into service within the Community before that date;where—
 - (aa) the supplier believes (with reasonable cause) that the relevant assembly will not be taken into service in the United Kingdom; and
 - (bb) the vessel incorporated in the relevant assembly conforms with safety requirements having effect in a member State other than the United Kingdom in which the supplier believes (with reasonable cause) the relevant assembly will be taken into service.
- (4) The exceptions provided above in this regulation do not apply in the case of a vessel or relevant assembly where the vessel, or the vessel incorporated in the relevant assembly, as the case may be, bears the EC mark or any other inscription which is likely to be confused with the EC mark.

Approved bodies

7.—(1) In accordance with the Directive, approved bodies are charged by the member States with functions relating to the safety of vessels supplied or taken into service in the Community, and in particular that of providing safety clearance.

(2) The Secretary of State may from time to time designate such qualified persons as he thinks fit to be United Kingdom approved bodies for the purposes of these Regulations. Such a designation remains in force either for a period specified by the Secretary of State, or for an indeterminate period.

(3) A designation—

- (a) may relate to all descriptions of vessels or such descriptions (which may be framed by reference to any circumstances whatsoever) of vessels as the Secretary of State may from time to time determine;
- (b) may be made subject to such conditions as the Secretary of State may from time to time determine, and such conditions may include conditions which are to apply upon or following withdrawal of the designation;
- (c) shall be withdrawn—
 - (i) if it appears to the Secretary of State that the approved body is no longer a qualified person; or
 - (ii) upon 90 days' notice in writing to the Secretary of State, at the request of the approved body; and
- (d) may be withdrawn if it appears to the Secretary of State that any of the conditions is not complied with.

(4) If for any reason an approved body ceases to be designated under this regulation, the Secretary of State may authorise another United Kingdom approved body to take over its functions in respect of such cases as he may specify.

(5) In this regulation—

“minimum criteria” means the criteria listed in Annex III of the Directive (minimum criteria to be taken into account by member States when appointing inspection bodies); and

“qualified person” means a person, which may include the Secretary of State, who meets the minimum criteria.

Fees

8.—(1) Subject to paragraphs (2) and (3) below, a United Kingdom approved body may charge such fees in respect of—

(a) the provision of safety clearance;

(b) application of the EC mark to a vessel covered by an EC verification certificate pursuant to regulation 14(1) below; and

(c) performing EC surveillance pursuant to regulation 17 below,

as it may determine; provided that such fees shall not exceed the sum of the following—

(i) the costs incurred or to be incurred by the approved body in performing the relevant function; and

(ii) an amount on account of profit which is reasonable in the circumstances having regard to—

(aa) the character and extent of the work done or to be done by the body on behalf of the applicant or manufacturer as the case may be; and

(bb) the commercial rate normally charged on account of profit for that work or similar work.

(2) The power in paragraph (1) above includes power—

(a) in sub-paragraphs (a) and (b), to require the payment of fees or a reasonable estimate thereof with the application; and

(b) in sub-paragraph (c), in a case where the fees remain unpaid 28 days after either the work has been completed or payment of the fees has been requested in writing, whichever is the later, to suspend the EC certificate of conformity by 14 days notice in writing that, unless the fees are paid before the expiry of the notice, the certificate will be suspended until payment of the fees has been received.

(3) Nothing in this regulation shall apply where the United Kingdom approved body is a Government department, and in this paragraph, “Government department” has the meaning given by section 56(5) of the Finance Act 1973(7).

Safety clearance

9.—(1) This and the following four regulations specify the means whereby safety clearance is obtained.

(2) A person who, whether in the United Kingdom or elsewhere, proposes to manufacture vessels in Category A which are to be supplied or taken into service in the Community must, before commencing series manufacture, apply (either himself or through his authorised representative established in the Community) for and obtain for the vessels either—

(a) an EC certificate of adequacy; or

(b) an EC type-examination certificate.

(3) If the vessels are to be so manufactured as to conform with a relevant national standard, it is for the manufacturer or his authorised representative to choose whether to apply for a certificate of adequacy or a type-examination certificate. In any other case, a type-examination certificate is required.

(4) Following compliance with paragraph (2) above—

(a) in the case of vessels in Category A.1, following commencement of series manufacture there must be applied for and obtained an EC verification certificate; and

(b) in the case of vessels in Category A.2 or A.3, either—

(i) following commencement of series manufacture there must be applied for and obtained a verification certificate; or

(ii) before commencement of series manufacture there must be carried out the alternative procedure (described in regulation 13 below) by which a manufacturer obtains an EC certificate of conformity.

(5) Application for any of the certificates above-mentioned except the certificate of conformity is made in writing by the manufacturer or his authorised representative to one or other of the approved bodies.

(6) Application for a certificate of conformity is made in writing by the manufacturer to the approved body which issued the certificate of adequacy or the type-examination certificate, as the case may be.

(7) All applications to an approved body, and documents accompanying any application, are to be in the official language of the member State in which that body is established (in the United Kingdom, English), or in another language acceptable to it.

EC certificate of adequacy

10.—(1) Application for an EC certificate of adequacy must be accompanied by the design and manufacturing schedule conforming with Schedule 3.

(2) A United Kingdom approved body to which such application is made shall, if satisfied—

(a) that the schedule contains all the required information; and

(b) that vessels manufactured in accordance with the schedule would conform with a relevant national standard,

issue a certificate of adequacy accordingly.

(3) If the United Kingdom approved body is not so satisfied and refuses to issue a certificate of adequacy, it shall make known in writing to the applicant the reasons for the refusal.

EC type-examination certificate

11.—(1) EC type-examination is the procedure whereby an approved body ascertains, and certifies by means of an EC type-examination certificate, that a prototype representative of the production envisaged satisfies the requirements of the Directive.

(2) Application for a type-examination certificate must—

(a) specify the name and address of the applicant;

(b) specify the proposed place of manufacture of the vessels to which the application relates; and

(c) be accompanied by the prototype and the design and manufacturing schedule conforming with Schedule 3.

The prototype may be representative of a family of vessels. Schedule 4 describes what is to be regarded as a family for this purpose.

(3) A United Kingdom approved body to which such application is made shall satisfy itself that the design and manufacturing schedule contains all the required information.

(4) The United Kingdom approved body shall also—

- (a) examine, and perform such tests as it considers appropriate on, the prototype; and
- (b) if satisfied that the prototype is manufactured in conformity with the schedule, and (whether or not conforming with a relevant national standard) meets the essential safety requirements specified in Schedule 1, and is safe,

issue a type-examination certificate recording its conclusions arrived at under this paragraph.

(5) There shall be specified in the type-examination certificate any conditions subject to which it is to have effect; and it shall be accompanied by the descriptions and drawings necessary for the identification of the prototype.

(6) A United Kingdom approved body which has issued a type-examination certificate shall—

- (a) if so requested, supply copies of the certificate to the Secretary of State, the Commission, any other approved body or any other member State;
- (b) on receipt of a reasoned request from any of the above, supply copies of the relevant schedule and of its reports concerning the examination and tests carried out.

(7) If the United Kingdom approved body is not satisfied that the requirements of paragraphs (3) and (4)(b) above are met and refuses to issue a type-examination certificate, it shall make known in writing to the applicant and to the other approved bodies the reasons for the refusal.

EC verification certificate

12.—(1) EC verification is the procedure whereby an approved body checks, and certifies by means of an EC verification certificate, that vessels conform with a relevant national standard or with the prototype by reference to which an EC type-examination certificate was issued.

(2) Verification is carried out on batches of vessels made available to the approved body by either the manufacturer or his authorised representative established in the Community. A “batch” for this purpose is up to 3,000 vessels of the same series.

(3) Application for a verification certificate must be accompanied by—

- (a) a copy of the relevant EC certificate of adequacy or type-examination certificate, as the case may be; and
- (b) the design and manufacturing schedule conforming with Schedule 3.

(4) A United Kingdom approved body to which such application is made shall satisfy itself—

- (a) that the schedule contains all the required information; and
- (b) that the vessels in the batch have been manufactured and checked in accordance with the schedule.

(5) The United Kingdom approved body shall also perform the following tests—

- (a) *test of the vessel itself*: a hydrostatic test, or a pneumatic test of equivalent effect, on each vessel, at a pressure equal to 1.5 times the vessel’s design pressure (which is the gauge pressure chosen by the manufacturer and used to determine the thickness of the pressurised components); and
- (b) *test of weld quality*: tests on longitudinal welds and, where different welding techniques are used for longitudinal and circular welds, equivalent tests repeated on the latter.

Pneumatic tests under sub-paragraph (a) must be in accordance with safety procedures accepted in the country where they are carried out. Tests of weld quality under subparagraph (b) must be carried out on pieces taken, at the manufacturer's option, from a representative production test piece or a vessel in the batch submitted.

(6) The following applies in the case where a vessel's wall-thickness is determined by the experimental method, that is to say so as to enable the vessel to resist at ambient temperature a pressure equal to at least 5 times the maximum working pressure (as defined in regulation 2(1) above), with a maximum permanent circumferential deformation factor of 1 per cent. In that case the tests referred to in paragraph (5)(b) of this regulation are to be replaced by a hydrostatic test on 5 vessels taken at random from each batch submitted, in order to check that the maximum is not exceeded.

(7) If satisfied that the vessels conform with a relevant national standard or (as the case may be) with the relevant prototype, the United Kingdom approved body shall issue a verification certificate.

(8) If the United Kingdom approved body is not so satisfied and refuses to issue a verification certificate, it shall make known in writing to the applicant the reasons for the refusal.

EC certificate of conformity

13.—(1) In cases where the manufacturer of vessels in Category A.2 or A.3 elects not to apply for EC verification, he may instead by means of the following procedure obtain an EC certificate of conformity.

(2) Application for a certificate of conformity must, before commencement of series manufacture, be made to the approved body which issued the relevant EC certificate of adequacy or EC type-examination certificate (as the case may be) and be accompanied by a document in which are described—

- (a) the processes by which the vessels are to be manufactured; and
- (b) all the measures which are to be taken to ensure that the vessels when manufactured conform with a relevant national standard or (as the case may be) with the relevant prototype.

(3) The document must—

- (a) specify the address of any place where the vessels (or relevant assemblies incorporating the vessels) are to be manufactured or stored by or on behalf of the manufacturer of the vessels, and the proposed date of commencement of manufacture;
- (b) be accompanied by the design and manufacturing schedule conforming with Schedule 3 including so much as has become available of any information required to be comprised in that schedule;
- (c) specify the tests which are to be carried out in the course of manufacture, and the procedures by which and the frequency with which they are to be performed; and
- (d) include undertakings as follows—
 - (i) that those tests will be carried out as specified;
 - (ii) that there will be carried out on each vessel a hydrostatic test (or a pneumatic test of equivalent effect in accordance with safety procedures accepted in the country where it is carried out) at a pressure equal to 1.5 times the vessel's design pressure (which is the gauge pressure chosen by the manufacturer and used to determine the thickness of the pressurised components); and
 - (iii) that all the tests referred to above will be carried out by or under the responsibility of appropriately qualified personnel (who must be sufficiently independent from production personnel), and will be the subject of written reports by those personnel.

- (4) A United Kingdom approved body to which such application is made shall, if satisfied—
- (a) that the document and the schedule contain all the required information; and
 - (b) that vessels manufactured in accordance with the document and schedule will conform with a relevant national standard or, if not, then with the essential safety requirements specified in Schedule 1,

issue a certificate of conformity accordingly, covering the vessels proposed to be manufactured.

(5) If the United Kingdom approved body is not so satisfied and refuses to issue a certificate of conformity, it shall make known in writing to the manufacturer the reasons for the refusal.

The EC mark

14.—(1) A United Kingdom approved body which has issued an EC verification certificate shall apply, or oversee the application of, the EC mark to every vessel covered by the certificate.

(2) A manufacturer who has obtained an EC certificate of conformity may commence series manufacture and apply the EC mark to any vessels covered by the certificate, where he executes an EC declaration of conformity that they conform with a relevant national standard, or, as the case may be, with the relevant prototype.

- (3) No person shall in the United Kingdom—
- (a) supply a vessel, or a relevant assembly;
 - (b) being the manufacturer of a vessel, himself take into service that vessel, or a relevant assembly incorporating that vessel; or
 - (c) having imported a vessel or relevant assembly into the United Kingdom, himself take into service that vessel or a relevant assembly incorporating that vessel, or the first mentioned relevant assembly,

where the vessel, or the vessel incorporated in the relevant assembly, as the case may be, contravenes paragraph (4) below.

- (4) A vessel, or a vessel incorporated in a relevant assembly, contravenes this paragraph—
- (a) in the case of a vessel in Category A, though not complying with regulation 4(1) above, it bears the EC mark or any other inscription liable to be confused with the EC mark; or
 - (b) in the case of a vessel in Category B, it bears the EC mark or any inscription liable to be confused with the EC mark.

(5) A person who supplies or takes into service a vessel which does not bear the EC mark shall, at the request of an enforcement authority, or of an officer of such an authority, give any information which he has, or which is available to him, concerning the date when the vessel was first supplied or taken into service in the Community, and explain (so far as he is able) how it comes about that the vessel does not bear that mark.

Retention of documentation

15.—(1) In the United Kingdom, a manufacturer of vessels must retain, for a period of at least 10 years from the date on which the last vessel in the series is manufactured—

- (a) copies of all documentation submitted by him or by his authorised representative established in the Community to an approved body for the purpose of obtaining any of the EC certificates referred to above in these Regulations;
- (b) any certificates issued by an approved body to him or his authorised representative under these Regulations or corresponding provisions having effect elsewhere in the Community;
- (c) any documents accompanying any such certificate so issued;

- (d) in a case where the manufacturer has complied with regulation 13(2) and (3) above, so much of any particular information required to be comprised in the design and manufacturing schedule as has become available only subsequent to compliance with those provisions;
- (e) any EC declarations of conformity executed by him under regulation 14(2) above; and
- (f) any reports made by qualified personnel pursuant to regulation 13(3)(d)(iii) above.

Special provisions applying to vessels in Category A.2

16.—(1) In accordance with the Directive, a manufacturer of vessels in Category A.2 who has executed an EC declaration of conformity becomes thereby subject to EC surveillance in respect of vessels in that Category covered by that declaration.

- (2) In the United Kingdom, a manufacturer to whom paragraph (1) above applies shall—
 - (a) authorise access at any reasonable time by or on behalf of the approved body which issued the EC certificate of conformity, to any place where vessels covered thereby (or relevant assemblies into which he has incorporated such vessels) are manufactured or stored by or on behalf of the manufacturer, for the purpose of inspecting the manufacturing processes and the vessels so covered;
 - (b) allow inspectors acting on the approved body's behalf to select random samples of vessels covered by the certificate (or relevant assemblies incorporating such vessels) for inspection;
 - (c) if so required by the inspectors, provide the following—
 - (i) copies of any reports made by qualified personnel pursuant to regulation 13(3)(d)(iii) above;
 - (ii) in a case where the manufacturer has complied with regulation 13(2) and (3) above, so much of any particular information required to be comprised in the design and manufacturing schedule as has become available only subsequent to compliance with those provisions; and
 - (d) comply with any reasonable request made by the approved body or on its behalf for additional information regarding any aspect of manufacture or any matter particularly relating to safety of the vessels covered by the certificate.

Functions of approved bodies in course of EC surveillance

17.—(1) In accordance with the Directive, approved bodies are charged by the member States with the function, in relation to a manufacturer of vessels in Category A.2 who is subject to EC surveillance—

- (a) of ascertaining whether undertakings with regard to tests to be carried out in the course of manufacture given by him pursuant to regulation 13(3)(d) above are actually carried out; and
- (b) of taking random samples of vessels (or relevant assemblies) at any place where vessels covered by an EC certificate of conformity (or relevant assemblies incorporating such vessels) are manufactured or stored by or on behalf of the manufacturer for the purposes of inspection.

(2) A United Kingdom approved body shall perform that function in relation to manufacturers in the United Kingdom or elsewhere, in cases where it has issued an EC certificate of conformity in respect of vessels in Category A.2.

(3) The United Kingdom approved body shall in respect of each such manufacturer from time to time compile written reports of the activities carried out by it in the course of surveillance and, if

so requested, supply copies of any such report to the Secretary of State, the Commission, any other approved body or any other member State.

Report by United Kingdom approved body concerning contraventions

18.—(1) If it is established to the satisfaction of a United Kingdom approved body carrying out EC surveillance that the EC mark has been wrongly applied to a vessel because—

- (a) it does not conform with the prototype by reference to which an EC type examination certificate was issued; or
- (b) it conforms with the prototype, but the prototype does not meet the essential safety requirements specified in Schedule 1; or
- (c) it does not conform with a relevant national standard by reference to which an EC certificate of adequacy was issued; or
- (d) it is not in fact safe,

the body shall make a report of the circumstances to the Secretary of State.

(2) The same applies if the manufacturer has failed to carry out undertakings given pursuant to regulation 13(3)(d) above, or has failed to comply with any of the requirements of regulation 16(2) above or to provide corresponding facilities elsewhere than in the United Kingdom.

(3) In the circumstances mentioned above in this regulation, the United Kingdom approved body shall, if it considers such action appropriate, withdraw the relevant certificate of adequacy, type-examination certificate or EC certificate of conformity.

(4) 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.

Enforcement

19. Schedule 5 shall have effect for the purposes of providing for the enforcement of these Regulations and for matters incidental thereto.

Offences

20.—(1) A person who contravenes regulation 5 above is guilty of an offence and liable on summary conviction to—

- (a) imprisonment for a term not exceeding three months; or
- (b) to a fine not exceeding—
 - (i) in Great Britain, level 5 on the standard scale; or
 - (ii) in Northern Ireland, £2,000,

or to both.

(2) A person who—

- (a) contravenes any of the provisions of regulation 14(3) or regulation 15 above;
- (b) fails or refuses to give information or explanation required by regulation 14(5) above; or
- (c) fails to comply with a court order under regulation 21 below,

is guilty of an offence and liable on summary conviction to a fine not exceeding—

- (i) in Great Britain, level 5 on the standard scale; or
- (ii) in Northern Ireland, £2,000.

Power of the court to require matter to be remedied

21.—(1) Where a person is convicted of an offence under regulation 20 above in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters.

(2) The time fixed by an order under paragraph (1) above may be extended or further extended by order of the court on an application made before the end of that time as originally fixed or as extended under this paragraph, as the case may be.

(3) Where a person is ordered under paragraph (1) above to remedy any matters, that person shall not be guilty of an offence under regulation 20 above in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under paragraph (2) above.

Defence of due diligence

22.—(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 20 above it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) above involves an allegation that the commission of the offence was due—

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings, he has served a notice under paragraph (3) below on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) above by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

Liability of persons other than the principal offender

23.—(1) Where the commission by any person of an offence under regulation 20 above is due to the act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1) above) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary of other similar officer of a body corporate is a reference to a partner.

Consequential amendment of United Kingdom law

24.—(1) Any requirement imposed by any of the enactments (relating in various respects to the safety of air receivers and pressure systems) specified in paragraph (2) of this regulation which has to be satisfied by or in respect of a vessel (including a vessel incorporated in a relevant assembly) if, in the United Kingdom, it (or the relevant assembly into which it is incorporated) is to be lawfully—

(a) supplied; or

(b) in the circumstances referred to in regulation 5(2) or (3) above, taken into service,

in conformity with these Regulations, is, subject to paragraph (3) of this regulation, hereby disapplied, except in relation to a vessel (including a vessel incorporated in a relevant assembly) excepted from the operation of these Regulations by regulation 6(1) above.

(2) The enactments referred to in paragraph (1) of this regulation are—

(a) in the Factories Act 1961**(8)**, subsections (1) to (3) of section 36;

(b) in the Pressure Systems and Transportable Gas Containers Regulations 1989**(9)** (made under the Health and Safety at Work etc. Act 1974**(10)**), paragraphs (1) to (4) of regulation 4 and paragraphs (1), (3) and (4) of regulation 5;

(c) in the Miscellaneous Mines (General) Regulations 1956**(11)** (having effect as if made under the Mines and Quarries Act 1954**(12)**), paragraphs (1) and (2) of regulation 59;

(d) in the Quarries (General) Regulations 1956**(13)** (having effect as if made under the Mines and Quarries Act 1954), paragraphs (1) and (2) of regulation 21;

(e) in the Factories Act (Northern Ireland) 1965**(14)**, subsections (1) to (3) of section 37;

(f) in the Pressure Systems and Transportable Gas Containers Regulations (Northern Ireland) 1991**(15)** (made under the Health and Safety at Work (Northern Ireland) Order 1978**(16)**), paragraphs (1) to (4) of regulation 4 and paragraphs (1), (3) and (4) of regulation 5;

(g) in the Miscellaneous Mines (General) Regulations (Northern Ireland) 1970**(17)** (having effect as if made under the Mines Act (Northern Ireland) 1969**(18)**), paragraphs (1) and (2) of regulation 60; and

(h) in the Quarries (Safety, Health, Equipment and Explosives) Rules (Northern Ireland) 1962**(19)** (made under the Quarries Act (Northern Ireland) 1927)**(20)**, regulations 42 and 43.

(8) 1961 c. 34.

(9) S.I. 1989/2169.

(10) 1974 c. 37.

(11) S.I. 1956/1778.

(12) 1954 c. 70.

(13) S.I. 1956/1780.

(14) 1965 c. 20 (N.I.).

(15) S.R. & O. (N.I.) 1991 No. 471.

(16) S.I. 1978/1039 (N.I. 9).

(17) S.R. & O. (N.I.) 1970 No. 104.

(18) 1969 c. 6 (N.I.).

(19) S.R. & O. (N.I.) 1962 No. 180.

(20) 1927 c. 19 (N.I.).

(3) Nothing in this regulation affects the application of the enactments specified in paragraph (2) above to relevant assemblies in so far as they comprise apparatus other than vessels subject to these Regulations.

Department of Trade and Industry
5th December 1991

Reay
Parliamentary Under Secretary of State for
Industry & Technology,

SCHEDULE 1

Regulation 4

ESSENTIAL SAFETY REQUIREMENTS

PART 1

MATERIALS

1. Materials must be selected according to the intended use of the vessels and in accordance with the following provisions of this Part.

Pressurised components

2. The non-alloy quality steel, non-alloy aluminium or non-age hardening aluminium alloy used to manufacture the pressurised components must:

- be capable of being welded;
- be ductile and tough, so that a rupture at the minimum working temperature does not give rise to either fragmentation or brittle-type fracture; and
- not be adversely affected by ageing.
- For steel vessels, the materials must in addition meet the requirements set out in paragraph 3 below and, for aluminium or aluminium alloy vessels, those set out in paragraph 4 below. They must be accompanied by an inspection slip.

Steel vessels

3. Non-alloy quality steels must meet the following requirements:

- (a) they must be non-effervescent and be supplied after normalisation treatment, or in an equivalent state;
- (b) the content per product of carbon must be less than 0.25% and that of sulphur and phosphorus must each be less than 0.05%; and
- (c) they must have the following mechanical properties per product:
 - the maximum tensile strength must be less than 580 Newtons per square millimetre (N/mm)
 - the elongation after rupture must be:
 - if the test piece is taken parallel to the direction of rolling:
 - thickness – 3mm: A – 22%
 - thickness A – 17%
 - if the test piece is taken perpendicular to the direction of rolling:
 - thickness – 3mm: A – 20%
 - thickness A – 15%; and
 - the average rupture energy for three longitudinal test pieces at the minimum working temperature must not be less than 35 Joules per square centimetre (J/cm²). Not more than one of the three figures may be less than 35 J/cm² with a minimum of 25 J/cm²

In the case of steels used to manufacture vessels whose minimum working temperature is lower than minus 10° C and whose wall thickness exceeds 5 millimetres, the average rupture energy must be checked.

Aluminium vessels

4. Non-alloy aluminium must have an aluminium content of at least 99.5% and non-age hardening aluminium alloys must display adequate resistance to intercrystalline corrosion at the maximum working temperature. Moreover these materials must meet the following requirements:

- (a) they must be supplied in an annealed state; and
- (b) they must have the following mechanical properties per product:
 - the maximum tensile strength must be no more than 350 N/mm and
 - the elongation after rupture must be:
 - A – 16% if the test piece is taken parallel to the direction of rolling
 - A – 14% if the test piece is taken perpendicular to the direction of rolling.

Welding materials

5. The welding materials used to make the welds on or of the vessel must be appropriate to and compatible with the materials to be welded.

Accessories contributing to the strength of the vessel

6. These accessories (bolts, nuts etc) must be made either of a material specified in paragraphs 2 to 4 above or of another kind of steel, aluminium or aluminium alloy which:

- is appropriate to and compatible with the materials used to manufacture the pressurised components; and
- at the minimum working temperature has an appropriate elongation after rupture and toughness.

Non-pressurised components

7. All welded non-pressurised components must be of a material which is compatible with that of the parts to which they are welded.

PART 2

VESSEL DESIGN

8. The manufacturer must, when designing the vessel, define the use to which it will be put, and select:

- the minimum working temperature;
- the maximum working temperature; and
- the maximum working pressure.
- However, should a minimum working temperature higher than minus 10° C be selected, the properties required of the materials must be satisfied at minus 10° C. The manufacturer must also take account of the following requirements:
 - it must be possible to inspect the inside of the vessels;
 - it must be possible to drain the vessels;
 - the mechanical qualities must be maintained throughout the period of use of the vessel for its intended purpose;

- the vessels must, bearing in mind their envisaged use, be adequately protected against corrosion,
- and of the fact that under the conditions of use envisaged:
- the vessels will not be subjected to stresses likely to impair their safety in use; and
- the internal pressure will not permanently exceed the maximum working pressure; however, it may momentarily do so by up to 10%. Circular and longitudinal seams must be made using full penetration welds or welds of equivalent effectiveness. Dished ends other than hemispherical ones must have a cylindrical edge.

Wall thickness

9. In the case of vessels of Category A.2 or A.3 whose maximum working temperature does not exceed 100° C, the manufacturer must select either the calculation method or the experimental method, as defined below, for determining vessel wall thickness.

In the case of vessels in Category A.1 or vessels in Category A.2 or A.3 whose maximum working temperature exceeds 100° C, the calculation method must be used.

However, the actual wall thickness of the cylindrical component and ends must in any case be not less than 2 millimetres in the case of steel vessels, and not less than 3 millimetres in the case of aluminium or aluminium alloy vessels.

Calculation method:

The minimum thickness of the pressurised components must be calculated having regard to the intensity of the stresses and to the following requirements:

the calculation pressure to be taken into account must not be less than the maximum working pressure; and

the permissible general membrane stress must not exceed 0.6 times the yield strength at the maximum working temperature (R or 0.3 times the tensile strength (R whichever value is the lower. The manufacturer must use the minimum values of R and R guaranteed by the producer of the materials in order to determine the permissible stress.

However, where the cylindrical component of the vessel has one or more longitudinal welds made using a non-automatic welding technique, the thickness calculated as above must be multiplied by the coefficient 1.15.

Experimental method:

Wall thickness must be so determined as to enable the vessels to resist at ambient temperature a pressure equal to at least 5 times the maximum working pressure, with a maximum permanent circumferential deformation factor of 1%.

PART 3

MANUFACTURING PROCESSES

10. Vessels must be constructed and checked in accordance with the design and manufacturing schedule referred to in Schedule 3.

Preparation of the component parts

11. The preparation of the component parts (eg forming and chamfering) must not give rise to surface defects, cracks or changes in the mechanical properties of those parts likely to be detrimental to the safety of the vessels.

Welds on pressurised components

12. The characteristics of welds and adjacent zones must be similar to those of the welded materials and must be free of any surface or internal defects detrimental to the safety of the vessels. Welds must be made by appropriately qualified welders or operators in accordance with approved welding techniques. “Qualified” means qualified by means of tests carried out by an approved body; and “approved” means approved by such a body. The manufacturer must also, during manufacture, ensure consistent weld quality by conducting appropriate tests using adequate procedures. These tests must be the subject of a written report.

PART 4

DEFINITIONS AND SYMBOLS

Definitions

13. In this Schedule—

- (a) “minimum working temperature” means the lowest stabilised temperature in the wall of the vessel under normal conditions of use;
- (b) “inspection slip” means the document by which the producer of the materials certifies that the materials delivered to the manufacturer meet the requirements set by the manufacturer, and in which the producer sets out the results of the routine inspection tests carried out during the production of those materials (or of materials produced by the same process but not being the materials delivered to the manufacturer) in particular as to their chemical composition and mechanical properties;
- (c) “maximum working temperature” means the highest stabilised temperature in the wall of the vessel under normal conditions of use;
- (d) “maximum working pressure” means the maximum gauge pressure which may be exerted under normal conditions of use; and
- (e) “yield strength at the maximum working temperature” means:
 - the upper yield point for a material with both a lower and an upper yield point; or
 - the proof stress at 0.2%; or
 - the proof stress at 1.0% in the case of non-alloy aluminium.

Symbols

14. In this Schedule—

- (a) “A” means the percentage elongation after rupture ($L N S$ where L is the gauge length expressed in millimetres and S is the cross-sectional area of the test section expressed in square millimetres; and
- (b) “ A_{80mm} ” means the percentage elongation after rupture ($L_o = 80mm$).

SCHEDULE 2

Regulations 2, 4 and 14

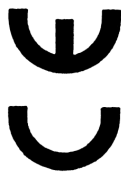
EC MARK AND INSCRIPTIONS

1. The EC mark, 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.
2. The other inscriptions required are—
 - maximum working pressure in bar
 - maximum working temperature in ° C
 - minimum working temperature in ° C
 - capacity of the vessel in litres
 - name or mark of the manufacturer
 - type and serial or batch identification of the vessel.
3. If a 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.
4. The EC mark on a vessel of any series consists of the symbol “CE” of which a form is shown for the purposes of illustration below, the last two digits of the year in which the mark is affixed, and (where applicable) the distinguishing number assigned, under Article 9.1 of the Directive, to the approved body responsible for EC verification or EC surveillance in the case of vessels of that series.

6924

HEALTH AND SAFETY

2. The other inscriptions required are—
 - maximum working pressure in bar
 - maximum working temperature in ° C
 - minimum working temperature in ° C
 - capacity of the vessel in litres
 - name or mark of the manufacturer
 - type and serial or batch identification of the vessel.
3. If a 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.
4. The EC mark on a vessel of any series consists of the symbol “CE” of which a form is shown for the purposes of illustration below, the last two digits of the year in which the mark is affixed, and (where applicable) the distinguishing number assigned, under Article 9.1 of the Directive, to the approved body responsible for EC verification or EC surveillance in the case of vessels of that series.



Regulation 10 SCHEDULE 3

DESIGN AND MANUFACTURING SCHEDULE

1. The design and manufacturing schedule must contain a description of the techniques and operations employed in order to meet a relevant national standard or the essential safety requirements specified in Schedule 1.
2. In particular it must comprise—
 - (a) a detailed manufacturing drawing of the vessel type;
 - (b) the manufacturer's instructions;
 - (c) a document describing—
 - (i) the materials selected;
 - (ii) the welding techniques selected;
 - (iii) the checks selected; and
 - (iv) any pertinent details as to the vessel design.
3. In the case of a schedule relating to two or more vessels of the same family, variations in length of the cylindrical component resulting in modifications of apertures or penetrations must be shown in the drawing for each variant.
4. In the case of a schedule provided pursuant to regulation 12(3)(b) or regulation 13(3)(b), it must also comprise—
 - (a) evidence of approval by an approved body of the welding techniques employed and of the welders' and operators' qualifications;
 - (b) the inspection slip, as defined in paragraph 13(b) of Schedule 1, for the materials used in the manufacture of components and assemblies contributing to the strength of the vessel; and
 - (c) a report on the examinations and tests performed, or a description of the proposed checks.

SCHEDULE 3

Regulation 10

DESIGN AND MANUFACTURING SCHEDULE

1. The design and manufacturing schedule must contain a description of the techniques and operations employed in order to meet a relevant national standard or the essential safety requirements specified in Schedule 1.

2. In particular it must comprise—

- (a) a detailed manufacturing drawing of the vessel type;
- (b) the manufacturer's instructions;
- (c) a document describing—
 - (i) the materials selected;
 - (ii) the welding techniques selected;
 - (iii) the checks selected; and
 - (iv) any pertinent details as to the vessel design.

3. In the case of a schedule relating to two or more vessels of the same family, variations in length of the cylindrical component resulting in modifications of apertures or penetrations must be shown in the drawing for each variant.

4. In the case of a schedule provided pursuant to regulation 12(3)(b) or regulation 13(3)(b), it must also comprise—

- (a) evidence of approval by an approved body of the welding techniques employed and of the welders' and operators' qualifications;
- (b) the inspection slip, as defined in paragraph 13(b) of Schedule 1, for the materials used in the manufacture of components and assemblies contributing to the strength of the vessel; and
- (c) a report on the examinations and tests performed, or a description of the proposed checks.

SCHEDULE 4

Regulation 11

FAMILIES OF VESSELS

Vessels form part of the same family if they differ from the prototype only—

- (a) in diameter (provided always that they meet the requirements of paragraph 9 of Schedule 1 as to wall thickness);
- (b) in the length of the cylindrical component, provided that—
 - (i) where the prototype has one or more shell rings in addition to the ends, they all have at least one shell ring; or
 - (ii) where the prototype consists of two outwardly dished ends, none of them has any shell ring; or
- (c) in both (a) and (b).

SCHEDULE 5

Regulation 19

ENFORCEMENT

Enforcement in Great Britain in relation to vessels for use at work

1. In Great Britain, in relation to vessels and relevant assemblies for use at work—
 - (a) it shall be the duty of the Executive to make adequate arrangements for the enforcement of these Regulations, and accordingly a reference in the provisions applied to these Regulations by sub-paragraph (b) below to an “enforcing authority” shall be construed as a reference to the Executive;
 - (b) sections 19 to 21, 23, 24(21), 25A to 28(22), 33 to 35(23), 38, 39 and 41 of the 1974 Act shall apply for the purposes of providing for the enforcement of these Regulations and in respect of proceedings for contravention thereof as if—
 - (i) references to relevant statutory provisions were references to those sections as applied by this paragraph and to these Regulations;
 - (ii) references to articles, substances, articles or substances, or plant, were references to vessels or relevant assemblies;
 - (iii) references to the field of responsibility of an enforcing authority, however expressed, were omitted;
 - (iv) in section 20, subsection (3) were omitted;
 - (v) in sections 23 and 24, the references to prohibition notices were omitted;
 - (vi) in section 23, subsections (3), (4) and (6) were omitted;
 - (vii) in section 24, paragraph (b) of subsection (3) were omitted;
 - (viii) in section 33—
 - (aa) in subsection (1)—
 - (A) the whole of paragraphs (a) to (d) were omitted;
 - (B) in paragraph (e) the words “or 25” were omitted;
 - (C) in paragraph (g) the words “or prohibition” and “or a prohibition notice” were omitted; and
 - (D)

(21) There is a modification of the application of section 24 not relevant to these Regulations.

(22) Sections 25A and 27A were inserted by paragraphs 3 and 4 respectively, and section 28(1)(a) was amended by paragraph 5, of Schedule 3 to, and section 36 of, 1987 c. 43; section 27 was amended by the repeal of subsection (2)(b) and the word immediately preceding it by section 29(3) and (4) of, and paragraph 10(1) and (2) of Schedule 6 and Schedule 7 to, the Employment Act 1989 (c. 37), and in subsection (3) by section 33(1) of, and paragraph 7(a) of Part II of Schedule 3 to, the Employment Act 1988 (c. 19) and section 29(3) of, and paragraph 10(3) of Schedule 6 to, 1989 c. 37; and in section 28, subsections (3)(c) and (5)(b) were amended by section 190 of, and paragraph 46 of Schedule 25 to, the Water Act 1989 (c. 15), a new subsection (6) was substituted by section 84 of, and paragraph 52 of Part II of Schedule 14 to, the Local Government Act 1985 (c. 51), and new subsections (9) and (10) were added by section 116 of, and paragraph 9 of Schedule 15 to, the Employment Protection Act 1975 (c. 71) and section 21 of, and paragraph 13 of Schedule 6 to, the Norfolk and Suffolk Broads Act 1988 (c. 4) respectively.

(23) Section 33 was amended in subsection (1) in paragraph (h) by section 36 of, and paragraph 6 of Schedule 3 to, 1987 c. 43, and in paragraph (m) by section 30 of, and Part I of the Schedule to, the Forgery and Counterfeiting Act 1981 (c. 45); in subsection (2) as it applies to England and Wales by section 46 of the Criminal Justice Act 1982 (c. 48); in subsection (5) as it applies to England and Wales by sections 15 and 30 of, and Schedule 1 to, the Criminal Law Act 1977 (c. 45); and subsection (6) was repealed by section 30 of, and Part I of the Schedule to, 1981 c. 45. There are other amendments to section 33, and there is an amendment to section 34, not relevant to these Regulations.

- paragraph (o) applied only to failure to comply with a court order under section 42(1) to (3) as applied to these Regulations by subparagraph (c) of this paragraph;
- (bb) in subsection (2), the reference to paragraph (d) of subsection (1) were omitted; and
- (cc) for subsection (3) there were substituted the following:–
- “(3) A person guilty of an offence under any paragraph of subsection (1) not mentioned in the preceding subsection shall be liable–
- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment–
- (i) in the case of an offence under subsection (1)(j), to imprisonment for a term not exceeding two years, or a fine, or both; or
- (ii) in all other cases, to a fine.”; and
- (dd) subsection (4) were omitted; and
- (ix) in section 34, paragraphs (a) and (b) were omitted from subsection (1); and
- (c) sections 36(1) and (2), 37 and 42(1) to (3) shall apply in relation to offences under section 33 as applied to these Regulations and as modified by sub-paragraph (b)(viii) above.

Enforcement in Northern Ireland in relation to vessels for use at work

2. In Northern Ireland, in relation to vessels and relevant assemblies as articles for use at work–
- (a) it shall be the duty of the Department of Economic Development to make adequate arrangements for the enforcement of these Regulations, and accordingly a reference to the provisions applied to these Regulations by sub-paragraph (b) below to an “enforcing authority” or to “the Department concerned” shall be construed as a reference to that Department;
- (b) articles 21 to 23, 25, 26(24), 27A to 33(25), 35, 36, and 38 of the Order shall apply for the purposes of providing for the enforcement of these Regulations and in respect of proceedings for contravention thereof as if–
- (i) references to relevant statutory provisions where references to those articles as applied by this paragraph and to these Regulations;
- (ii) references to articles, substances, articles or substances, or plant, were references to vessels and relevant assemblies;
- (iii) references to the field of responsibility of an enforcing authority, however expressed, were omitted;
- (iv) in article 22, paragraph (3) were omitted;
- (v) in articles 25 and 26, the references to prohibition notices were omitted;

(24) Article 26(4) was repealed by article 35 of, and Schedule 4 to, the [Industrial Training \(Northern Ireland\) Order 1984 S.I. No. 1159 \(N.I. 9\)](#). There is a modification of the application of article 26 not relevant to these Regulations.

(25) Articles 27A and 29A were inserted, and articles 30(1)(a) and 31(1)(h) amended, by article 28 of, and paragraphs 4, 5, 6 and 7 respectively of Schedule 2 to, the [Consumer Protection \(Northern Ireland\) Order 1987 S.I. No. 2049 \(N.I. 20\)](#); article 29(2) to (4) were repealed, and article 31(1)(j) amended by article 10(1)(c) of the [Statistics of Trade and Employment \(Northern Ireland\) Order 1988 S.I. No. 595 \(N.I. 3\)](#); article 31(1)(m) was amended by article 13(3) of, and Schedule 5 to, the [Criminal Justice \(Northern Ireland\) Order 1986 S.I. No. 1883 \(N.I. 15\)](#); and article 31(7) was repealed by section 30 of, and Part III of the Schedule to, 1981 c. 45.

- (vi) in article 25, paragraphs (3), (4) and (5) were omitted;
- (vii) in article 26, sub-paragraph (b) of paragraph (2) were omitted;
- (viii) in article 31–
 - (aa) in paragraph (1)–
 - (A) the whole of sub-paragraphs (a) to (d) were omitted;
 - (B) in sub-paragraph (e) the words “or 27” were omitted;
 - (C) in sub-paragraph (g) the words “or prohibition” and “or a prohibition notice” were omitted; and
 - (D) sub-paragraph (o) applied only to failure to comply with a court order under article 39(1) to (3) as applied to these Regulations by subparagraph (c) of this paragraph;
 - (bb) in paragraph (2), the reference to sub-paragraph (d) of paragraph (1) were omitted; and
 - (cc) paragraph (3) were omitted;
 - (dd) for paragraph (4) there were substituted the following:–
 - “(4) A person guilty of an offence under any sub-paragraph of paragraph (1) not mentioned in paragraph (2) shall be liable–
 - (a) on summary conviction, to a fine not exceeding £2,000; or
 - (b) on conviction on indictment–
 - (i) in the case of an offence under paragraph (1)(j), to imprisonment for a term not exceeding two years, or a fine, or both; or
 - (ii) in all other cases, to a fine.”; and
 - (ee) paragraph (5) were omitted; and
- (ix) in article 32, sub-paragraphs (a) and (b) were omitted from paragraph (1); and
- (c) articles 34(1) and (2) and 39(1) to (3) shall apply in relation to offences under article 31 as applied to these Regulations and as modified by sub-paragraph (b)(viii) above.

Enforcement in relation to vessels as consumer goods

3. In relation to vessels and relevant assemblies as consumer goods (meaning goods ordinarily intended for private use or consumption)–

- (a) it shall be the duty of–
 - (i) every weights and measures authority in Great Britain; and
 - (ii) every district council in Northern Ireland,to enforce these Regulations within their area;
- (b) a reference in the provisions applied to these Regulations by sub-paragraph (c) below to an “enforcement authority” shall be construed as a reference to each of the following authorities–
 - (i) the bodies mentioned in sub-paragraph (a) above; and

- (ii) the Secretary of State;
- (c) sections 14, 15, 28 to 35, 37, 38, 44 and 47 of the 1987 Act shall apply for the purposes of providing for the enforcement of these Regulations and in respect of proceedings for contravention thereof as if—
 - (i) references to safety provisions were references to these Regulations;
 - (ii) references to goods were references to vessels or relevant assemblies;
 - (iii) in section 14—
 - (aa) in subsection (1), there were added at the end the words “or taking them into service contrary to regulation 5 of the Simple Pressure Vessels (Safety) Regulations 1991.”; and
 - (bb) in subsection (6), for “six months” there were substituted “three months”;
 - (iv) in sections 28, 29, 30, 33, 34 and 35, the words “or any provision by or under Part III of this Act”, on each occasion that they occur, were omitted;
 - (v) in section 28, subsections (3), (4) and (5) were omitted;
 - (vi) in section 30, subsections (7) and (8) were omitted; and
 - (vii) in section 38(1), paragraphs (a) to (c) were omitted;
- (d) sections 39 and 40 shall apply to offences under section 32 as it is applied to these Regulations by sub-paragraph (c) above; and
- (e) in relation to proceedings for an offence under these Regulations—
 - (i) in Great Britain, section 34 of the 1974 Act shall apply as if—
 - (aa) paragraphs (a) and (b) of subsection (1) were omitted;
 - (bb) references to an “enforcing authority” were references to each of the authorities referred to in sub-paragraph (a)(i) and (b)(ii) of this paragraph, and “responsible enforcing authority” were construed accordingly; and
 - (cc) references to “relevant statutory provisions” were references to these Regulations; and
 - (ii) in Northern Ireland, article 32 of the Order shall apply as if—
 - (aa) sub-paragraphs (a) and (b) of paragraph (1) were omitted;
 - (bb) references to an “enforcing authority” were references to each of the authorities referred to in sub-paragraph (a)(ii) and (b)(ii) of this paragraph, and “responsible enforcing authority” were construed accordingly; and
 - (cc) reference to “relevant statutory provisions” were references to these Regulations.

Forfeiture: England and Wales and Northern Ireland

4.—(1) An enforcement authority in England and Wales or Northern Ireland may apply under this paragraph for an order for the forfeiture of any vessels or relevant assemblies on the grounds that there has been a contravention in relation thereto of any provision of these Regulations.

- (2) An application under this paragraph may be made—
 - (a) where proceedings have been brought in a magistrates' court for an offence in respect of a contravention in relation to some or all of the vessels or relevant assemblies of any provisions of these Regulations, to that court;
 - (b) where an application with respect to some or all of the vessels or relevant assemblies has been made to a magistrates' court under section 15 or 33 of the 1987 Act as applied for

the purposes of the enforcement of these Regulations by paragraph 3(c) above, to that court; and

- (c) where no application for the forfeiture of the vessels or relevant assemblies has been made under sub-paragraph (a) or (b) above, by way of complaint to a magistrates' court.

(3) On an application under this paragraph the court shall make an order for the forfeiture of the vessels or relevant assemblies only if it is satisfied that there has been a contravention in relation thereto of any provision of these Regulations.

(4) For the avoidance of doubt it is hereby declared that a court may infer for the purposes of this paragraph that there has been a contravention in relation to any vessels or relevant assemblies of any provision of these Regulations if it is satisfied that any such provision has been contravened in relation to a vessel or relevant assembly which is representative of those vessels or relevant assemblies as the case may be (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

(5) Any person aggrieved by an order made under this paragraph by a magistrates' court, or by a decision of such court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
(b) in Northern Ireland, to the county court,

and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of an order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980⁽²⁶⁾ or article 146 of the Magistrates' Courts (Northern Ireland) Order 1981⁽²⁷⁾ (statement of case)).

(6) Subject to sub-paragraph (7) below, where any vessel or relevant assembly is forfeited under this paragraph it shall be destroyed in accordance with such directions as the court may give.

(7) On making an order under this paragraph a magistrates' court may, if it considers it appropriate to do so, direct that the vessels or relevant assemblies to which the order relates shall (instead of being destroyed) be released, to such person as the court may specify, on condition that that person—

- (a) does not supply the vessels or relevant assemblies as the case may be to any person otherwise than—
(i) to a person who carries on a business of buying vessels or relevant assemblies of the same description as the first mentioned vessels or relevant assemblies as the case may be and repairing or reconditioning them; or
(ii) as scrap (that is to say, for the value of materials included in the vessels or relevant assemblies rather than for the value of the vessels or relevant assemblies themselves);
and
(b) complies with any order to pay costs or expenses (including any order under section 35 of the 1987 Act as applied for the purposes of the enforcement of these Regulations by paragraph 3(c) above) which has been made against that person in the proceedings for the order for forfeiture.

Forfeiture: Scotland

5.—(1) In Scotland a sheriff may make an order for forfeiture of any vessel or relevant assembly in relation to which there has been a contravention of any provision of these Regulations—

⁽²⁶⁾ 1980 c. 43.

⁽²⁷⁾ S.I. 1981/1675 (N.I. 26).

- (a) on an application by the procurator-fiscal made in the manner specified in section 310 of the Criminal Procedure (Scotland) Act 1975(28); or
- (b) where a person is convicted of any offence in respect of any such contravention, in addition to any other penalty which the sheriff may impose.

(2) The procurator-fiscal making an application under sub-paragraph (1)(a) above shall serve on any person appearing to him to be the owner of, or otherwise to have an interest in, the vessel or relevant assembly to which the application relates a copy of the application, together with a notice giving him the opportunity to appear at the hearing of the application to show cause why the vessel or relevant assembly as the case may be should not be forfeited.

(3) Service under sub-paragraph (2) above shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the Criminal Procedure (Scotland) Act 1975.

(4) Any person upon whom a notice is served under sub-paragraph (2) above and any other person claiming to be the owner of, or otherwise to have an interest in, the vessel or relevant assembly to which an application under this paragraph relates shall be entitled to appear at the hearing of the application to show cause why the vessel or relevant assembly as the case may be should not be forfeited.

(5) The sheriff shall not make an order following an application under sub-paragraph (1)(a) above—

- (a) if any person on whom notice is served under sub-paragraph (2) above does not appear, unless service of the notice on that person is proved; or
- (b) if no notice under sub-paragraph (2) above has been served, unless the court is satisfied that in the circumstances it was reasonable not to serve notice on any person.

(6) The sheriff shall make an order under this paragraph only if he is satisfied that there has been a contravention in relation to the vessel or relevant assembly of a provision of these Regulations.

(7) For the avoidance of doubt it is declared that the sheriff may infer for the purposes of this paragraph that there has been a contravention in relation to any vessels or relevant assemblies of any provision of these Regulations if he is satisfied that any such provision has been contravened in relation to a vessel or relevant assembly which is representative of those vessels or relevant assemblies as the case may be (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

(8) Where an order for the forfeiture of any vessel or relevant assembly is made following an application by the procurator-fiscal under sub-paragraph (1)(a) above, any person who appeared, or was entitled to appear, to show cause why it should not be forfeited may, within twenty-one days of the making of the order, appeal to the High Court by Bill of Suspension on the ground of an alleged miscarriage of justice; and section 452(4)(a) to (e) of the Criminal Procedure (Scotland) Act 1975(29) shall apply to an appeal under this sub-paragraph as it applies to a stated case under Part II of that Act.

(9) An order following an application under sub-paragraph (1)(a) above shall not take effect—

- (a) until the end of the period of twenty-one days beginning with the day after the day on which the order is made; or
- (b) if an appeal is made under sub-paragraph (8) above within that period, until the appeal is determined or abandoned.

(10) An order under sub-paragraph (1)(b) shall not take effect—

(28) 1975 c. 21, section 310 was amended by paragraph 53 of Schedule 7, and Schedule 8, to the Criminal Justice (Scotland) Act 1980 (c. 62); there are extensions of section 310 not relevant to these Regulations.

(29) A new section 452 was substituted by paragraph 11 of Schedule 3 to 1980 c. 62.

- (a) until the end of the period within which an appeal against the order could be brought under the Criminal Procedure (Scotland) Act 1975; or
- (b) if an appeal is made within that period, until the appeal is determined or abandoned.

(11) Subject to sub-paragraph (12) below, a vessel or relevant assembly forfeited under this paragraph shall be destroyed in accordance with such directions as the sheriff may give.

(12) If he thinks fit, the sheriff may direct the vessel or relevant assembly to be released to such person as he may specify, on condition that that person does not supply it to any person otherwise than—

- (a) to a person who carries on a business of buying vessels or relevant assemblies of the same description as it and repairing or reconditioning them; or
- (b) as scrap (that is to say, for the value of materials included in the vessel or relevant assembly rather than for the value of the vessel or relevant assembly itself).

Duty of enforcement authority to inform Secretary of State of action taken

6. An enforcement authority shall, where action has been taken by it to prohibit or restrict the supply or taking into service (whether under these Regulations or otherwise) of any vessel to which these Regulations apply and which bears the EC mark (or a relevant assembly incorporating such vessel), forthwith inform the Secretary of State of the action taken, and the reasons for it, with a view to this information being passed by him to the Commission.

Savings

7. Nothing in these Regulations shall be construed as preventing the taking of any action in respect of a vessel or relevant assembly to which these Regulations apply under the provisions of the 1974 Act, the Order or the 1987 Act.

8. Nothing in these Regulations shall authorise an enforcement authority to bring proceedings in Scotland for an offence.

Interpretation

9. In this Schedule—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the 1987 Act” means the Consumer Protection Act 1987;

“enforcement authority”, save in paragraph 3(b) of this Schedule, means the Executive, the Department of Economic Development, and each of the authorities referred to in the said paragraph 3(b);

“the Executive” means the Health and Safety Executive established under section 10 of the 1974 Act;

“the Order” means the Health and Safety at Work (Northern Ireland) Order 1978; and

“vessels for use at work” means vessels—

- (a) designed for use or operation, whether exclusively or not, by persons at work; or
- (b) designed for use or operation, otherwise than at work, in non-domestic premises made available to persons as a place where they may use the vessels provided for their use there, and a reference to relevant assemblies for use at work shall be construed accordingly.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement 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](#).

Regulation 2(1) defines simple pressure vessels, in the Regulations referred to as “vessels”. Regulation 3 provides for the application of the Regulations. Paragraph (1) provides that the Regulations only apply to simple pressure vessels manufactured in series. Paragraph (2) provides that vessels for nuclear use or for use in the propulsive system of a ship or aircraft, and fire extinguishers, are excluded.

Regulation 4 sets out, in conjunction with Schedules 1 and 2, the safety requirements which vessels must satisfy. Regulation 5 imposes a duty not to supply a vessel to which the Regulations apply (or an assembly incorporating such a vessel) unless it complies with regulation 4, and duties on a manufacturer of such a vessel or an importer of such a vessel or assembly not to take it (or an assembly incorporating the vessel manufactured or imported) into service unless the vessel complies with regulation 4. Regulation 20(1) provides that it is an offence to contravene regulation 5, punishable on summary conviction with imprisonment for a term not exceeding three months or a fine (not exceeding level 5 on the standard scale – £2,000 on the date of making these Regulations – in Great Britain, or £2,000 in Northern Ireland) or both.

Regulation 6 sets out exceptions to regulation 5. The Regulations do not apply to a vessel first supplied or taken into service in the European Community before 1 July 1992 where either it is supplied or taken into service in the United Kingdom and complies with existing United Kingdom safety requirements, or it is supplied in the United Kingdom for taking into service in another member State and complies with that State’s existing safety requirements. The Regulations do not apply where the vessel is for export to a country outside the Community.

Regulations 7 to 13 and Schedule 3 and 4 make provision for the appointment of approved bodies (regulation 7), the functions of such bodies as regards the provision of safety clearance for vessels (regulations 9 to 13 and Schedules 3 and 4) and the fees chargeable by such bodies in respect of such functions (regulation 8). Regulations 16 to 18 make provision with respect to EC surveillance in relation to certain vessels.

Regulation 14 (in conjunction with Schedule 2) makes provision with respect to the application of the EC mark to vessels. Regulation 15 provides for duties upon manufacturers to retain certain documentation.

Regulation 20(2) creates certain offences relating to misuse of the EC mark and failure either to retain documentation or give information as required by the Regulations or to comply with a court order under regulation 21, for which the penalty is a fine not exceeding level 5 of the standard scale in Great Britain or £2,000 in Northern Ireland. Regulations 19 (in conjunction with Schedule 5), 22 and 23 make provision for the enforcement of these Regulations and with respect to offences thereunder. Regulation 24 disapplies certain legislation in cases where these Regulations apply.