

**2004 No. 1464**

**CONSUMER PROTECTION**

**The Recreational Craft Regulations 2004**

<i>Made - - - - -</i>	<i>26th May 2004</i>
<i>Laid before Parliament</i>	<i>28th May 2004</i>
<i>Coming into force regulations 1, 2, 12 and 13</i>	<i>30th June 2004</i>
<i>Remaining regulations</i>	<i>1st January 2005</i>

The Secretary of State, being a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to measures relating to craft intended for recreational purposes, in exercise of the powers conferred upon her by that section, hereby makes the following Regulations:

**Citation, commencement and revocation**

1.—(1) These Regulations may be cited as the Recreational Craft Regulations 2004.

(2) This regulation, regulations 2, 12 and 13 shall come into force on 30th June 2004, except that regulation 2(2)(a) shall not have effect until the date of the coming into force of the Decision by the EEA Joint Committee by which the application of the amendment<sup>(c)</sup> of the Directive is extended to the EEA.

(3) The remaining regulations shall come into force on 1st January 2005.

(4) The Recreational Craft Regulations 1996<sup>(d)</sup> are hereby revoked save as regards their application to:

- (a) any product (as defined in those Regulations) placed on the market (as so defined) prior to 1st January 2005;
- (b) any such product to which these Regulations do not apply by virtue of regulation 6;
- (c) any such product placed on the market in the EEA (other than in the Community) until such time as regulation 2(2)(a) has effect; and
- (d) the appointment or termination of appointment of any notified body for the purposes of those Regulations.

**Interpretation**

2.—(1) In these Regulations, the following definitions shall apply—

“the 1987 Act” means the Consumer Protection Act 1987<sup>(e)</sup>;

“authorised representative” means any person established in the Community who has received a written mandate from the manufacturer to act on his behalf with regard to the latter’s obligation under the Directive;

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(a) S.I. 1995/2983.

(b) 1972 c. 68.

(c) Directive 2003/44/EC (OJ No. L214, 26.8.2003, p. 18).

(d) S.I. 1996/1353, amended by S.I. 1998/116.

(e) 1987 c. 43.

“CE marking” means the CE conformity marking referred to in regulation 8 consisting of the initials “CE” taking the form of the specimen given in Schedule 4;

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

“component” means any one of the components referred to in Schedule 2 when placed on the Community market and when intended for installation in recreational craft;

“the Directive” means Directive 94/25/EC of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the member States relating to recreational craft(a);

“enforcement authority” shall be construed in accordance with regulation 15;

“engine family” means the manufacturer’s grouping of engines which, through their design, are expected to have similar exhaust emission characteristics and which comply with the exhaust emissions requirements of the Directive;

“essential requirements” means the requirements in Annex I which is set out in Schedule 1;

“harmonised standard” means a technical specification adopted by the European Committee for Standardisation or the European Committee for Electrotechnical Standardisation or both upon a remit from the Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services(b);

“major craft conversion” means a conversion of a craft which:

- (a) changes the means of propulsion of the craft;
- (b) involves a major engine modification; or
- (c) alters the craft to such an extent that it is considered a new craft;

“major engine modification” means the modification of an engine which:

- (a) could potentially cause the engine to exceed the emission limits set out in Annex I.B., which is set out in Schedule 1, excluding routine replacement of engine components that do not alter the emission characteristics; or
- (b) increases the rated power of the engine by more than 15%;

“manufacturer” means any person who designs and manufactures a product or who has such a product designed and/or manufactured with a view to placing it on the market on his own behalf, and in respect of a product which requires a declaration specified in Annex III, which is set out in Schedule 3, shall include the builder of that product;

“means of propulsion” means the mechanical method by which the craft is driven, in particular marine propellers or waterjet mechanical drive systems;

“notified body” shall be construed in accordance with regulation 11;

“personal watercraft” means a vessel less than 4 metres in length which uses an internal combustion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;

“placing on the market” includes (except for the purposes of the definition of “component”, regulations 3(1)(c)(ii), 3(2), 4(a)(vi) and (vii), 4(b)(i)(bb), 4(b)(iii), 4(c)(ii), 7(2)(b)(i) (second reference only), 7(2)(c), 7(3)(b) and 16(2)) putting into service, and cognate expressions shall be construed accordingly;

“product” means any product described in regulation 3(1);

“propulsion engine” means any spark or compression ignition, internal combustion engine used for propulsion purposes, including 2-stroke and 4-stroke inboard, stern-drive with or without integral exhaust and outboard engines;

“recreational craft” means any boat of any type regardless of its means of propulsion—

- (a) whose hull, when measured in accordance with the appropriate harmonised standards, is not less than 2.5 metres and not more than 24 metres in length; and
- (b) which is intended for sports or leisure purposes;

and “partly completed recreational craft” or “partly completed boat”, as the case may be, shall be construed accordingly; and

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(a) OJ No. L164, 30.6.94, p. 15, as amended by Directive 2003/44/EC of the European Parliament and of the Council (OJ No. L214, 26.8.2003, p. 18).

(b) OJ No. L204, 21.7.98, p. 37, as amended by Directive 98/48/EC (OJ No. L217, 5.8.98, p. 18).

“transposed harmonised standard” means a standard the reference number of which is published—

- (a) in the United Kingdom, by the Secretary of State in such manner as she considers appropriate; or
  - (b) in another member State of the Community,
- and which corresponds to a harmonised standard the reference number of which is published in the Official Journal of the European Communities.

(2) In these Regulations—

- (a) except for the references to the European Communities in the definition of “the Commission” and in relation to the Official Journal, a reference to the Community includes a reference to the EEA, and a reference to a member State includes a reference to an EEA State: for the purposes of this sub-paragraph—
  - (i) the “EEA” means in the European Economic Area;
  - (ii) an “EEA State” means a State which is a Contracting Party to the EEA Agreement; and
  - (iii) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(a); and
- (b) a reference to an Annex is a reference to an Annex of the Directive.

### **Application**

3.—(1) Subject to paragraph (3) and regulations 4, 5 and 6, these Regulations apply to any product of the following descriptions:

- (a) with regard to design and construction, to—
  - (i) recreational craft and partly completed boats;
  - (ii) personal watercraft; and
  - (iii) components;
- (b) with regard to exhaust emissions, to—
  - (i) propulsion engines which are installed or specifically intended for installation on or in recreational craft and personal watercraft; and
  - (ii) propulsion engines installed on or in such craft that are subject to a major engine modification; and
- (c) with regard to noise emissions, to—
  - (i) recreational craft with stern drive engines without integral exhausts or inboard propulsion engine installations;
  - (ii) recreational craft with stern drive engines without integral exhausts or with inboard propulsion installations which are subject to a major craft conversion and subsequently placed on the Community market within five years following conversion;
  - (iii) personal watercraft; and
  - (iv) outboard engines and stern drive engines with integral exhausts intended for installation on recreational craft.

(2) The application of these Regulations to any recreational craft or partly completed recreational craft shall not be prevented by the fact that the said craft could be used for charter or for recreational boating training when it is placed on the market for recreational purposes.

(3) The requirements of these Regulations shall not apply to the showing of any product at any trade fair, exhibition, demonstration or the like provided that a visible sign clearly indicates that the product in question may not be placed on the market until it has been made to comply with them.

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(a) The application of Directive 94/25/EC was extended to the EEA from 1st February 1995 by virtue of Decision 44/94 of the EEA Joint Committee (OJ No. L372, 31.12.94, p. 20) which added a reference to that Directive in a new chapter XXXL to Annex II to the EEA Agreement. At the time of making these Regulations, no such Decision has been made in respect of Directive 2003/44/EC.

## Excluded products

4. The following are not products for the purposes of these Regulations—
- (a) with regard to products referred to in regulation 3(1)(a)—
    - (i) craft intended solely for racing, including rowing racing boats and training rowing boats, labelled as such by the manufacturer;
    - (ii) canoes and kayaks, gondolas and pedalos;
    - (iii) sailing surfboards;
    - (iv) surfboards, including powered surfboards;
    - (v) original historical craft and individual replicas thereof designed before 1950, built predominantly with the original materials and labelled as such by the manufacturer;
    - (vi) experimental craft, provided that they are not subsequently placed on the Community market;
    - (vii) craft built for own use, provided that they are not subsequently placed on the Community market during a period of five years;
    - (viii) craft specifically intended to be crewed and to carry passengers for commercial purposes (without prejudice to regulation 3(2)), in particular those defined in Council Directive 82/714/EEC of 4th October 1982 laying down technical requirements for inland waterway vessels(a), regardless of the number of passengers;
    - (ix) submersibles;
    - (x) air cushion vehicles;
    - (xi) hydrofoils; and
    - (xii) external combustion steam powered craft, fuelled by coal, coke, wood, oil or gas;
  - (b) with regard to products referred to in regulation 3(1)(b)—
    - (i) propulsion engines installed or specifically intended for installation on the following:
      - (aa) craft intended solely for racing and labelled as such by the manufacturer,
      - (bb) experimental craft, provided that they are not subsequently placed on the Community market,
      - (cc) craft specifically intended to be crewed and to carry passengers for commercial purposes (without prejudice to regulation 3(2)), in particular those defined in Directive 82/714/EEC, regardless of the number of passengers,
      - (dd) submersibles,
      - (ee) air cushion vehicles, or
      - (ff) hydrofoils;
    - (ii) original and individual replicas of historical propulsion engines, which are based on a pre-1950 design, not produced in series and fitted on craft referred to in paragraph (a)(v) and (vii);
    - (iii) propulsion engines built for own use provided that they are not subsequently placed on the Community market during a period of five years; and
  - (c) with regard to products referred to in regulation 3(1)(c)—
    - (i) all craft referred to in paragraph (b); and
    - (ii) craft built for own use, provided that they are not subsequently placed on the Community market during a period of five years.

## Products placed on the market before 1st January 2005

5. These Regulations do not apply to any product which is placed on the market before 1st January 2005.

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(a) OJ No. L301, 28.10.82, p. 1.

**Exclusion until 31st December 2005 and 31st December 2006 of specified products complying with national rules in force on 16th June 2003**

6.—(1) These Regulations do not apply to:

- (a) any product referred to in regulation 3(1)(a) or any compression ignition or 4-stroke spark ignition engine which is placed on the market on or before 31st December 2005; or
- (b) any 2-stroke spark ignition engine which is placed on the market on or before 31st December 2006,

and which complies with any safety provisions with which it would have been required to comply for it to be placed on the market in the United Kingdom on 16th June 2003.

(2) The exclusion provided in paragraph (1) does not apply in the case of any product which—

- (a) unless required to bear the CE marking pursuant to any other Community obligation, bears the CE marking or an inscription liable to be confused therewith; or
- (b) bears or is accompanied by any other indication, however expressed, that it complies with the Directive.

**Prohibition on placing on the market**

7.—(1) Subject to paragraph (4), no person shall place on the market any product to which these Regulations apply unless the requirements of paragraph (2) have been complied with in relation to it.

(2) The requirements in respect of any product are that:

- (a) it satisfies the essential requirements which are applicable to that product and, for the purpose of satisfying those requirements—
  - (i) where a transposed harmonised standard covers one or more of the essential requirements, a product which conforms with that standard shall be presumed to comply with that or, as the case may be, those essential requirements; and
  - (ii) in the case of a partly completed recreational craft, it complies with the requirements which apply at the relevant stage of construction;
- (b) except in the case of any partly completed recreational craft and subject to paragraph (3),
  - (i) the appropriate conformity assessment procedure has been carried out in accordance with regulation 10—
    - (aa) by the manufacturer;
    - (bb) by the manufacturer's authorised representative established in the Community; or
    - (cc) in the case of post-construction assessment for recreational craft, if neither the manufacturer nor his authorised representative established within the Community fulfils the responsibilities for the product's conformity to the Directive, these can be assumed by any person established within the Community who places the product on the market under his own responsibility,

save that (in the case of (aa) or (bb)) where the procedure in Annex V, VII or VIII (which are respectively set out in Schedules 5, 7 and 8) is part of or, as the case may be, is the appropriate conformity assessment procedure and the person placing the product on the market is neither the manufacturer nor his authorised representative established in the Community, the obligation to retain the technical documentation, required as part of the appropriate conformity assessment procedure, shall be fulfilled by the person who places that product on the market; and

- (ii) in the case of any of the products specified in regulation 8(1), the CE marking has been affixed to it or, in the case of a component, its packaging in accordance with regulation 8 and Schedule 4 to indicate that it conforms with all the provisions of the Directive including the appropriate conformity assessment procedure;
- (c) in the case of any partly completed recreational craft, the manufacturer or his authorised representative established in the Community or the person responsible for the placing on the market declares, in accordance with Annex III(a) (which is set out in Schedule 3(a)), that it is intended to be completed by others; and

- (d) when correctly constructed, maintained and used in accordance with its intended purpose, it does not endanger the safety and health of persons, property or the environment.

(3) In the case of a component to which these Regulations apply, compliance with the appropriate conformity assessment procedure is not required where it is accompanied by a written declaration of conformity as provided for in Annex XV, which is set out in Schedule 14, and is intended to be incorporated into a recreational craft, in accordance with the declaration, referred to in Annex III(b) (which is set out in Schedule 3(b)), by—

- (a) the manufacturer or his authorised representative established in the Community; or
- (b) in the case of an import from outside the Community, any person who places that component on the Community market,

and, in the case of such a component, the CE marking shall indicate that that component complies with the essential requirements which are relevant to it.

(4) In the case of—

- (a) inboard engines and stern drive propulsion engines without integral exhaust;
- (b) engines which are type-approved in accordance with Directive 97/68/EC of the European Parliament and of the Council on the approximation of the laws of the member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery<sup>(a)</sup> and which are in compliance with stage II as provided for in section 4.2.3 of Annex I to that Directive; or
- (c) engines which are type-approved according to Council Directive 88/77/EEC on the approximation of the laws of the member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression ignition engines for use in vehicles, and the emission of gaseous pollutants from positive ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles<sup>(b)</sup>,

where the manufacturer or his authorised representative established in the Community declares in accordance with Annex XV.3, which is set out in Schedule 14.3, that the engine will meet the exhaust emission requirements of the Directive, when installed in a recreational craft or personal watercraft in accordance with the manufacturer's supplied instructions, that engine shall be deemed to satisfy the exhaust emission requirements of these Regulations.

## **CE marking**

8.—(1) This regulation applies to—

- (a) recreational craft, personal watercraft and components, which are regarded as meeting the corresponding essential requirements set out in Annex I, which is set out in Schedule 1;
- (b) outboard engines which are regarded as meeting the essential requirements set out in Annex I.B. and I.C.; and
- (c) stern drive engines with integral exhaust which are regarded as meeting the essential requirements set out in Annex I.B. and I.C.

(2) Subject to the following paragraphs of this regulation, the products referred to in paragraph (1) which either meet the relevant essential requirements or are presumed so to do in accordance with regulation 7(2)(a)(i) shall bear the CE marking in a visible, legible and indelible form, affixed by either the manufacturer or his authorised representative in the Community.

(3) In the case of any recreational craft and personal watercraft, the CE marking shall be affixed in accordance with paragraph 2.2 of Annex I.A.

(4) In the case of any component, the CE marking shall be affixed either on the component itself or on its packaging or on both.

(5) In the case of any outboard engine or stern drive engine with integral exhaust, the CE marking shall be affixed in accordance with paragraph 1.1 of Annex I.B.

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(a) OJ No. L59, 27.2.98, p. 1, as amended by Commission Directive 2001/63/EC (OJ No. L227, 23.8.2001, p. 41).

(b) OJ No. L36, 9.2.88, p. 33, as last amended by Commission Directive 2001/27/EC (OJ No. L107, 18.4.2001, p. 10).

(6) The CE marking shall be accompanied by the identification number of the notified body responsible for carrying out the procedures in Annexes IX, X, XI, XII and XVI which are respectively set out in Schedules 9, 10, 11, 12 and 15.

(7) Subject to paragraph (8) below, where any product referred to in paragraph (1) is subject to any other directive or directives or relevant parts thereof, as the case may be, in addition to the Directive which also provides for the affixing of the CE marking, the CE marking shall indicate that that product also fulfils the provisions of that other applicable directive or those directives or relevant parts thereof.

(8) Where one or more of the other directives, or parts thereof, referred to in paragraph (7) are applied by the manufacturer, the CE marking shall indicate that the product in question fulfils the provisions only of the directive or directives or relevant parts thereof applied by the manufacturer; and, in this case, particulars of the directives (and relevant parts thereof, as the case may be) applied, as published in the Official Journal of the European Communities, must be given in the documents, notices or instructions required by those directives and accompanying the product in question.

(9) In the case of post-construction assessment for recreational craft in the circumstances referred to in regulation 7(2)(b)(i)(cc), the person who places the product on the market shall affix, or cause to be affixed, the CE marking accompanied by the distinguishing number of the relevant notified body on the product in a visible, legible and indelible form.

### **Other markings and inscriptions**

9.—(1) No person shall affix on any product, to which these Regulations apply, any markings or inscriptions which are likely to mislead third parties with regard to the meaning or the form of the CE marking.

(2) Without prejudice to paragraph (1), nothing in these Regulations shall prohibit the affixing on any product, or on its packaging, of any other markings, provided that the visibility and legibility of the CE marking are not thereby reduced.

### **Conformity assessment**

10.—(1) For the purposes of regulation 7(2)(b)(i), the appropriate conformity assessment procedure shall be determined—

- (a) except in the case of post-construction assessment for recreational craft in the circumstances referred to in regulation 7(2)(b)(i)(cc), with regard to design and construction of products referred to in regulation 3(1)(a), in accordance with paragraph (2);
- (b) except as aforesaid, with regard to exhaust emissions for products referred to in regulation 3(1)(b), in accordance with paragraph (3);
- (c) except as aforesaid, with regard to noise emissions for products referred to in regulation 3(1)(c)(i) and (ii), in accordance with paragraph (4) and for products referred to in regulation 3(1)(c)(iii) and (iv), in accordance with paragraph (5); and
- (d) in the case of post-construction assessment for recreational craft in the circumstances referred to in regulation 7(2)(b)(i)(cc), in accordance with paragraph (6).

(2) For boat design categories A,B,C and D as referred to in section 1 of Annex 1.A, which is set out in Schedule 1, the manufacturer of any product or his authorised representative established in the Community shall apply the following procedures—

- (a) for categories A and B—
  - (i) for boats from 2.5 metres to 12 metres hull length: the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, supplemented by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B + D, or B + E, or B + F, or G or H;
  - (ii) for boats from 12 metres to 24 metres hull length: the EC type-examination (module B) referred to in Annex VII, which is set out in Schedule 7, supplemented by type conformity (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B + D, or B + E, or B + F, or G or H;
- (b) for category C—

- (i) for boats from 2.5 metres to 12 metres hull length—
    - (aa) where the harmonised standards relating to sections 3.2 and 3.3 of Annex I.A are complied with, the internal production control (module A), referred to in Annex V, which is set out in Schedule 5, or internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, supplemented by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B + D, or B + E, or B + F, or G, or H,
    - (bb) where the harmonised standards relating to sections 3.2 and 3.3 of Annex I.A are not complied with, the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, supplemented by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B + D, or B + E, or B + F, or G, or H;
  - (ii) for boats from 12 metres to 24 metres hull length, the EC type-examination (module B) referred to in Annex VII, which is set out in Schedule 7, followed by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B + D, or B + E, or B + F, or G or H;
  - (c) for category D, for boats from 2.5 metres to 24 metres hull length, the internal production control (module A) referred to in Annex V, which is set out in Schedule 5, or the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, supplemented by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B + D, or B + E, or B + F, or G or H;
  - (d) for personal watercraft, the internal production control (module A) referred to in Annex V, which is set out in Schedule 5, or the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, followed by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B + D, or B + E, or B + F, or G or H; and
  - (e) for components, any of the following modules: B + C, or B + D, or B + F, or G or H.
- (3) The engine manufacturer or his authorised representative established in the Community shall apply the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, followed by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B + D, or B + E, or B + F, or G or H.
- (4) The boat manufacturer or his authorised representative established in the Community shall apply:
- (a) where tests are conducted using the harmonised standard<sup>(a)</sup> for noise measurement: either internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or unit verification (module G) referred to in Annex XI, which is set out in Schedule 11, or full quality assurance (module H) referred to in Annex XII, which is set out in Schedule 12;
  - (b) where the Froude number and power displacement ratio method is used for assessment: either the internal production control (module A) referred to in Annex V, which is set out in Schedule 5, or the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or unit verification (module G) referred to in Annex XI, which is set out in Schedule 11, or full quality assurance (module H) referred to in Annex XII which is set out in Schedule 12; and
  - (c) where certified reference boat data, established in accordance with sub-paragraph (a), is used for assessment: either internal production control (module A) referred to in Annex V, which is set out in Schedule 5, or internal production control plus

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(a) EN ISO 14509.

supplementary requirements (module Aa) referred to in Annex VI, which is set out in Schedule 6, or unit verification (module G) referred to in Annex XI, which is set out in Schedule 11, or full quality assurance (module H) referred to in Annex XII, which is set out in Schedule 12.

(5) The personal watercraft/engine manufacturer or his authorised representative established in the Community shall apply: internal production control plus supplementary requirements referred to in Annex VI (module Aa), which is set out in Schedule 6, or module G or H.

- (6) The person who places the product on the market must—
- (a) lodge an application for a post-construction report with a notified body; and
  - (b) provide the notified body with any available document and technical file referring to the first placing on the market of the product in the country of origin.

The notified body shall examine the individual product and carry out calculations and other assessment to ensure its equivalent conformity with the relevant requirements of the Directive. In this case, the Builder's plate described in Annex I, 2.2, which is set out in Schedule 1, shall include the words "(Post-construction certificate)". The notified body shall draw up a report of conformity concerning the assessment carried out and shall inform the person who places the product on the market of his obligations. That person shall draw up a declaration of conformity in accordance with Annex XV (which is set out in Schedule 14).

- (7) For the purposes of this regulation—
- (a) a reference to module B, C, D, E, F, G or H is a reference to the module which respectively comprises the conformity assessment procedure in Annex VII, VIII, IX, XVI, X, XI and XII and which is respectively set out in Schedule 7, 8, 9, 15, 10, 11 and 12;
  - (b) the technical documentation, which is required as part of the conformity assessment procedures in Annexes V, VII, VIII, IX and XI, which are respectively set out in Schedules 5, 7, 8, 9 and 11, is specified in Annex XIII, which is set out in Schedule 13; and
  - (c) the contents of the written declaration of conformity, which is required as part of the conformity assessment procedures in Annexes V, VIII, IX, X, XI, and XII which are respectively set out in Schedules 5, 8, 9, 10, 11 and 12, are specified in Annex XV, which is set out in Schedule 14.

### **Notified bodies**

- 11.** For the purposes of these Regulations, a notified body is a body which has been—
- (a) appointed as a United Kingdom notified body pursuant to regulation 12;
  - (b) appointed by a member State other than the United Kingdom; or
  - (c) recognised for the purpose of carrying out those functions by inclusion in a mutual recognition agreement, relating to the Directive, or a similar agreement (including a Protocol to the European Agreement, or other Agreement, on Conformity Assessment and Acceptance of Industrial Products) which has been concluded between the European Union and a State other than an EEA State,

to carry out one or more of the conformity assessment procedures specified in Article 8 of the Directive which are referred to in regulation 10 and which, in the case of paragraph (a) or (b), has been notified by the United Kingdom or by such other member State, as the case may be, to the Commission and the other member States pursuant to Article 9(1) of the Directive; for the purposes of paragraph (c), EEA State has the same meaning as that given to those words in regulation 2(2)(a).

### **Appointment of notified bodies**

**12.—**(1) The Secretary of State may from time to time appoint such persons as she thinks fit to be notified bodies for the purposes of these Regulations.

- (2) Such appointment—
- (a) may relate to all descriptions of product or such descriptions (which may be framed by reference to any circumstances whatsoever) of product 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, which may include conditions which are to apply upon or following termination of the appointment;
  - (c) shall, without prejudice to the generality of sub-paragraph (b) above and subject to paragraph (4), require the body to carry out the procedures and specific tasks for which it has been appointed including (where so provided as part of those procedures) surveillance to ensure that the manufacturer duly fulfils the obligations arising out of the relevant conformity assessment procedure;
  - (d) shall be terminated upon 90 days' notice in writing to the Secretary of State, at the request of the notified body; and
  - (e) may be terminated if it appears to the Secretary of State that any of the conditions of the appointment are not complied with.
- (3) Subject to paragraphs (2)(d) and (e), an appointment under this regulation may be for the time being or for such period as may be specified in the appointment.
- (4) A notified body appointed by the Secretary of State shall not be required to carry out the functions referred to in paragraph (2)(c) if—
- (a) the documents submitted to it in relation to carrying out such functions are not in English or another language acceptable to that body;
  - (b) the person making the application has not submitted with its application the amount of the fee which the body requires to be submitted with the application pursuant to regulation 13; or
  - (c) the body reasonably believes that, having regard to the number of applications made to it in relation to its appointment under these Regulations which are outstanding, it will be unable to commence the required work within 3 months of receiving the application.
- (5) If for any reason the appointment of a notified body is terminated under this regulation, the Secretary of State may—
- (a) give such directions (either to the body the subject of the termination or to another notified body) for the purposes of making such arrangements for the determination of outstanding applications as she considers appropriate; and
  - (b) without prejudice to the generality of the foregoing, authorise another notified body to take over its functions in respect of such cases as she may specify.

## **Fees**

**13.**—(1) Subject to paragraph (2), a notified body appointed by the Secretary of State may charge such fees in connection with, or incidental to, carrying out the tasks referred to in regulation 12(2)(c) as it may determine; provided that such fees shall not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the notified body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
  - (i) the character and extent of the work done or to be done by the body on behalf of the applicant; and
  - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(2) The power in paragraph (1) includes the power to require the payment of fees or a reasonable estimate thereof in advance of carrying out the work requested by the applicant.

## **Procedure where a notified body is minded to refuse to issue an EC type-examination certificate**

**14.** Where a notified body is minded to refuse to issue an EC type-examination certificate as part of the procedure described in Annex VII which is set out in Schedule 7, it shall—

- (a) give notice in writing to the applicant of the reasons why it is minded to do so; and
- (b) give the applicant the opportunity to make representations within a period of 28 days of the said notice being given and consider any representations made within that period by the applicant.

### **Enforcement authorities**

**15.**—(1) It shall be the duty of the following authorities to enforce these Regulations within their area—

- (a) in Great Britain, weights and measures authorities; and
- (b) in Northern Ireland, every district council.

(2) Nothing in this regulation shall authorise any enforcement authority to bring proceedings in Scotland for an offence.

### **Enforcement powers**

**16.**—(1) Subject to paragraph (2), Schedule 17 shall have effect for the purposes of providing for the enforcement of these Regulations and for matters incidental thereto.

(2) Except in the case of a product which, when correctly constructed, installed, maintained and used in accordance with its intended purpose, may in the opinion of an enforcement authority endanger the safety and health of persons, property or the environment, where an enforcement authority has reasonable grounds for suspecting that the CE marking has been affixed to any product referred to in regulation 8(1) or, in the case of a component, to its packaging, in relation to which any provision of these Regulations has not been complied with, it may serve a notice (“a compliance notice”) on—

- (a) the manufacturer or his authorised representative established in the United Kingdom; or
- (b) where the manufacturer is established outside the Community and—
  - (i) he has no authorised representative established in the United Kingdom; or
  - (ii) his authorised representative established in the United Kingdom is not the person who places the product on the market,  
the person who places it on the market in the United Kingdom;

and in such a case no other action pursuant to paragraph 1(b) or (c) of Schedule 17 may be taken, and no proceedings pursuant to regulation 17 may be brought, until such a notice has been so served and the person on whom it has been served has failed to comply with its requirements.

(3) A compliance notice shall—

- (a) state that the enforcement authority suspects that the CE marking has been affixed to the product or, in the case of a component, to its packaging, in circumstances where a provision or provisions of these Regulations has or have not been complied with and the reasons for that suspicion;
- (b) specify the provision or provisions referred to in sub-paragraph (a) above;
- (c) require the person upon whom the notice is served—
  - (i) to secure that any product to which the notice relates conforms as regards the provisions concerning the CE marking and to end the infringement within such period as may be specified in the notice; or
  - (ii) to provide evidence within the period, to the satisfaction of the enforcement authority, that all the provisions of these Regulations, which apply to the product in question, have been complied with; and
- (d) warn that person that if the non-conformity continues after (or if satisfactory evidence has not been provided within) the period specified in the notice, further action may be taken under these Regulations in respect of that product or any product of the same type placed on the market by that person.

(4) A compliance notice may include directions as to the measures to be taken by the person upon whom it is served to secure conformity of the product with the provisions of these Regulations, which apply to the product in question, including different ways of securing conformity.

### **Offences and penalties**

**17.** Any person who contravenes regulation 7, 9 or 20 shall be guilty of an offence and shall be liable on summary conviction—

- (a) to imprisonment for a term not exceeding 3 months; or

(b) to a fine not exceeding level 5 on the standard scale, or to both.

### **Defence of due diligence**

**18.**—(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 17 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 a person for such an offence the defence provided by paragraph (1) 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 later than 7 clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under paragraph (3) 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) 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**

**19.**—(1) Where the commission by any person of an offence under regulation 17 is due to an 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)) 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 any body corporate are managed by its members, paragraph (2) 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 or other similar officer of a body corporate is a reference to a partner.

### **Requirement to give information about any product which does not bear the CE marking or other product not required to bear the CE marking**

**20.** A person who places on the market—

- (a) a product specified in regulation 8(1) which does not bear a CE marking and, in the case of a component, no CE marking appears on its packaging; or
- (b) a partly completed recreational craft, stern drive engine without integral exhaust or an inboard engine,

shall, on his being required at a reasonable time to give such information, give to an enforcement authority, or to any of its officers, all the information he has about—

- (i) the date when that product was placed on the market in the Community; and
- (ii) in the case of paragraph (a), the basis on which the product or, in the case of a component, that component’s packaging is not so marked.

### **Commencement of proceedings**

**21.** In England, Wales and Northern Ireland, a magistrates' court may try an information (in the case of England and Wales) or a complaint (in the case of Northern Ireland) in respect of an offence committed under regulation 17 or section 12 of the 1987 Act in relation to a contravention of these Regulations if (in the case of England and Wales) the information is laid or (in the case of Northern Ireland) the complaint is made within twelve months from the time when the offence is committed, and in Scotland summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed.

26th May 2004

*Sainsbury of Turville,*  
Parliamentary Under Secretary of State for Science and Innovation,  
Department of Trade and Industry

## (Annex I of the Directive)

## ESSENTIAL REQUIREMENTS

*Preliminary Observation*

For the purposes of this Annex the term “craft” shall cover recreational craft and personal watercraft.

## A. ESSENTIAL SAFETY REQUIREMENTS FOR THE DESIGN AND CONSTRUCTION OF RECREATIONAL CRAFT

## 1. BOAT DESIGN CATEGORIES

<i>Design Category</i>	<i>Wind force (Beaufort scale)</i>	<i>Significant wave height (<math>H^{1/3}</math>, metres)</i>
A—‘Ocean’	exceeding 8	exceeding 4
B—‘Offshore’	up to, and including, 8	up to, and including, 4
C—‘Inshore’	up to, and including, 6	up to, and including, 2
D—‘Sheltered waters’	up to, and including, 4	up to, and including, 0.3

*Definitions:*

- A. OCEAN: Designed for extended voyages where conditions may exceed wind force 8 (Beaufort scale) and significant wave heights of 4 m and above but excluding abnormal conditions, and vessels largely self-sufficient.
- B. OFFSHORE: Designed for offshore voyages where conditions up to, and including, wind force 8 and significant wave heights up to, and including, 4 m may be experienced.
- C. INSHORE: Designed for voyages in coastal waters, large bays, estuaries, lakes and rivers where conditions up to, and including, wind force 6 and significant wave heights up to, and including, 2 m may be experienced.
- D. SHELTERED WATERS: Designed for voyages on sheltered coastal waters, small bays, small lakes, rivers and canals when conditions up to, and including, wind force 4 and significant wave heights up to, and including, 0.3 m may be experienced, with occasional waves of 0.5 m maximum height, for example from passing vessels.

Craft in each Category must be designed and constructed to withstand these parameters in respect of stability, buoyancy, and other relevant essential requirements listed in Annex I, and to have good handling characteristics.

## 2. GENERAL REQUIREMENTS

Products falling under Article 1(1)(a)(a) shall comply with the essential requirements in so far as they apply to them.

## 2.1. Craft identification

Each craft shall be marked with an identification number including the following information:

- manufacturer’s code,
- country of manufacture,
- unique serial number,
- year of production,
- model year.

The relevant harmonised standard gives details of these requirements.

## 2.2. Builder’s plate

Each craft shall carry a permanently affixed plate mounted separately from the boat hull identification number, containing the following information:

- manufacturer’s name,
- CE marking (see Annex IV),(b)
- boat design category according to section 1,
- manufacturer’s maximum recommended load derived from section 3.6 excluding the weight of the contents of the fixed tanks when full,

(a) These are the products described in regulation 3(1)(a).

(b) Annex IV is set out in Schedule 4.

- number of persons recommended by the manufacturer for which the boat was designed to carry when under way.

### 2.3. Protection from falling overboard and means of reboarding

Depending on the design category, craft shall be designed to minimize the risks of falling overboard and to facilitate reboarding.

### 2.4. Visibility from the main steering position

For motor boats, the main steering position shall give the operator, under normal conditions of use (speed and load), good all-round visibility.

### 2.5. Owner's manual

Each craft shall be provided with an owner's manual in the official Community language or languages which may be determined by the Member State in which it is marketed in accordance with the Treaty. This manual should draw particular attention to risks of fire and flooding and shall contain the information listed in sections 2.2, 3.6 and 4 as well as the unladen weight of the craft in kilograms.

## 3. INTEGRITY AND STRUCTURAL REQUIREMENTS

### 3.1. Structure

The choice and combination of materials and its construction shall ensure that the craft is strong enough in all respects. Special attention shall be paid to the design category according to section 1, and the manufacturer's maximum recommended load in accordance with section 3.6.

### 3.2. Stability and freeboard

The craft shall have sufficient stability and freeboard considering its design category according to section 1 and the manufacturer's maximum recommended load according to section 3.6.

### 3.3. Buoyancy and flotation

The craft shall be constructed to ensure that it has buoyancy characteristics appropriate to its design category according to section 1.1, and the manufacturer's maximum recommended load according to section 3.6. All habitable multihull craft shall be so designed as to have sufficient buoyancy to remain afloat in the inverted position. Boats of less than six metres in length that are susceptible to swamping when used in their design category shall be provided with appropriate means of flotation in the swamped condition.

### 3.4. Openings in hull, deck and superstructure

Openings in hull, deck(s) and superstructure shall not impair the structural integrity of the craft or its weathertight integrity when closed.

Windows, portlights, doors and hatchcovers shall withstand the water pressure likely to be encountered in their specific position, as well as pointloads applied by the weight of persons moving on deck.

Through hull fittings designed to allow water passage into the hull or out of the hull, below the waterline corresponding to the manufacturer's maximum recommended load according to section 3.6, shall be fitted with shutoff means which shall be readily accessible.

### 3.5. Flooding

All craft shall be designed so as to minimize the risk of sinking.

Particular attention should be paid where appropriate to:

- cockpits and wells, which should be self-draining or have other means of keeping water out of the boat interior,
- ventilation fittings,
- removal of water by pumps or other means.

### 3.6. Manufacturer's maximum recommended load

The manufacturer's maximum recommended load (fuel, water, provisions, miscellaneous equipment and people (in kilograms)) for which the boat was designed shall be determined according to the design category (section 1), stability and freeboard (section 3.2) and buoyancy and flotation (section 3.3).

### 3.7. Lifteraft stowage

All craft of categories A and B, and craft of categories C and D longer than six metres shall be provided with one or more stowage points for a liferaft (liferafts) large enough to hold the number of persons the boat was designed to carry as recommended by the manufacturer. This (these) stowage point(s) shall be readily accessible at all times.

### 3.8. Escape

All habitable multihull craft over 12 metres long shall be provided with viable means of escape in the event of inversion. All habitable craft shall be provided with viable means of escape in the event of fire.

### 3.9. Anchoring, mooring and towing

All craft, taking into account their design category and their characteristics shall be fitted with one or more strong points or other means capable of safely accepting anchoring, mooring and towing loads.

## 4. HANDLING CHARACTERISTICS

The manufacturer shall ensure that the handling characteristics of the craft are satisfactory with the most powerful engine for which the boat is designed and constructed. For all recreational marine engines, the maximum rated engine power shall be declared in the owner's manual in accordance with the harmonised standard.

## 5. INSTALLATION REQUIREMENTS

### 5.1. Engines and engine spaces

#### 5.1.1. *Inboard engine*

All inboard mounted engines shall be placed within an enclosure separated from living quarters and installed so as to minimize the risk of fires or spread of fires as well as hazards from toxic fumes, heat, noise or vibrations in the living quarters.

Engine parts and accessories that require frequent inspection and/or servicing shall be readily accessible. The insulating materials inside engine spaces shall be non-combustible.

#### 5.1.2. *Ventilation*

The engine compartment shall be ventilated. The dangerous ingress of water into the engine compartment through all inlets must be prevented.

#### 5.1.3. *Exposed parts*

Unless the engine is protected by a cover or its own enclosure, exposed moving or hot parts of the engine that could cause personal injury shall be effectively shielded.

#### 5.1.4. *Outboard engines starting*

All boats with outboard engines shall have a device to prevent starting the engine in gear, except:

- (a) when the engine produces less than 500 newtons (N) of static thrust;
- (b) when the engine has a throttle limiting device to limit thrust to 500 N at the time of starting the engine.

#### 5.1.5. *Personal watercraft running without driver*

Personal watercraft shall be designed either with an automatic engine cut-off or with an automatic device to provide reduced speed, circular, forward movement when the driver dismounts deliberately or falls overboard.

### 5.2. Fuel system

#### 5.2.1. *General*

The filling, storage, venting and fuel-supply arrangements and installations shall be designed and installed so as to minimize the risk of fire and explosion.

#### 5.2.2. *Fuel tanks*

Fuel tanks, lines and hoses shall be secured and separated or protected from any source of significant heat. The material the tanks are made of and their method of construction shall be according to their capacity and the type of fuel. All tank spaces shall be ventilated.

Petrol fuel shall be kept in tanks which do not form part of the hull and are:

- (a) insulated from the engine compartment and from all other source of ignition;
- (b) separated from living quarters.

Diesel fuel may be kept in tanks that are integral with the hull.

### 5.3. Electrical system

Electrical systems shall be designed and installed so as to ensure proper operation of the craft under normal conditions of use and shall be such as to minimize risk of fire and electric shock.

Attention shall be paid to the provision of overload and short-circuit protection of all circuits, except engine starting circuits, supplied from batteries.

Ventilation shall be provided to prevent the accumulation of gases which might be emitted from batteries. Batteries shall be firmly secured and protected from ingress of water.

### 5.4. Steering system

#### 5.4.1. *General*

Steering systems shall be designed, constructed and installed in order to allow the transmission of steering loads under foreseeable operating conditions.

#### 5.4.2. *Emergency arrangements*

Sailboat and single-engined inboard powered motor boats with remote-controlled rudder steering systems shall be provided with emergency means of steering the craft at reduced speed.

#### 5.5. Gas system

Gas systems for domestic use shall be of the vapour-withdrawal type and shall be designed and installed so as to avoid leaks and the risk of explosion and be capable of being tested for leaks. Materials and components shall be suitable for the specific gas used to withstand the stresses and exposures found in the marine environment.

Each appliance shall be equipped with a flame failure device effective on all burners. Each gas-consuming appliance must be supplied by a separate branch of the distribution system, and each appliance must be controlled by a separate closing device. Adequate ventilation must be provided to prevent hazards from leaks and products of combustion.

All craft with a permanently installed gas system shall be fitted with an enclosure to contain all gas cylinders. The enclosure shall be separated from the living quarters, accessible only from the outside and ventilated to the outside so that any escaping gas drains overboard. Any permanent gas system shall be tested after installation.

#### 5.6. Fire protection

##### 5.6.1. *General*

The type of equipment installed and the layout of the craft shall take account of the risk and spread of fire. Special attention shall be paid to the surroundings of open flame devices, hot areas or engines and auxiliary machines, oil and fuel overflows, uncovered oil and fuel pipes and avoiding electrical wiring above hot areas of machines.

##### 5.6.2. *Fire-fighting equipment*

Craft shall be supplied with fire-fighting equipment appropriate to the fire hazard, or the position and capacity of fire fighting equipment appropriate to the fire hazard shall be indicated. The craft shall not be put into service until the appropriate fire fighting equipment is in place. Petrol engine enclosures shall be protected by a fire extinguishing system that avoids the need to open the enclosure in the event of fire. Where fitted, portable fire extinguishers shall be readily accessible and one shall be so positioned that it can easily be reached from the main steering position of the craft.

#### 5.7. Navigation lights

Where navigation lights are fitted, they shall comply with the 1972 Colreg or CEVNI regulations, as appropriate.

#### 5.8. Discharge prevention and installations facilitating the delivery ashore of waste

Craft shall be constructed so as to prevent the accidental discharge of pollutants (oil, fuel, etc) overboard.

Craft fitted with toilets shall have either:

- (a) holding tanks; or
- (b) provision to fit holding tanks.

Craft with permanently installed holding tanks shall be fitted with a standard discharge connection to enable pipes of reception facilities to be connected with the craft discharge pipeline.

In addition, any through-the-hull pipes for human waste shall be fitted with valves which are capable of being secured in the closed position.

## **B. ESSENTIAL REQUIREMENTS FOR EXHAUST EMISSIONS FROM PROPULSION ENGINES**

Propulsion engines shall comply with the following essential requirements for exhaust emissions.

### **1. ENGINE IDENTIFICATION**

1.1. Each engine shall be clearly marked with the following information:

- engine manufacturer's trademark or trade-name,
- engine type, engine family, if applicable,
- a unique engine identification number,
- CE marking, if required under Article 10.(a)

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(a) Article 10 is implemented by regulation 8.

1.2. These marks must be durable for the normal life of the engine and must be clearly legible and indelible. If labels or plates are used, they must be attached in such a manner that the fixing is durable for the normal life of the engine, and the labels/plates cannot be removed without destroying or defacing them.

1.3. These marks must be secured to an engine part necessary for normal engine operation and not normally requiring replacement during the engine life.

1.4. These marks must be located so as to be readily visible to the average person after the engine has been assembled with all the components necessary for engine operation.

## 2. EXHAUST EMISSION REQUIREMENTS

Propulsion engines shall be designed, constructed and assembled so that when correctly installed and in normal use, emissions shall not exceed the limit values obtained from the following table:

Table 1

Type	Carbon Monoxide $CO = A + B/P_N^n$ g/kWh			Hydrocarbons $HC = A + B/P_N^n$ g/kWh			Nitrogen oxides $NO_x$ g/kWh	Particulates PT g/kWh
	A	B	n	A	B	n		
Two-stroke spark ignition	150,0	600,0	1,0	30,0	100,0	0,75	10,0	Not applicable
Four-stroke spark ignition	150,0	600,0	1,0	6,0	50,0	0,75	15,0	Not applicable
Compression ignition	5,0	0	0	1,5	2,0	0,5	9,8	1,0

Where A, B and n are constants in accordance with the table,  $P_N$  is the rated engine power in kW and the exhaust emissions are measured in accordance with the harmonised standard(a).

For engines above 130 kW either E3 (IMO) or E5 (recreational marine) duty cycles may be used.

The reference fuels to be used for the emissions test for engines fuelled with petrol and diesel shall be as specified in Directive 98/69/EC(b) (Annex IX, Tables 1 and 2), and for those engines fuelled with Liquefied Petroleum Gas as specified in Directive 98/77/EC(c).

## 3. DURABILITY

The manufacturer of the engine shall supply engine installation and maintenance instructions, which if applied should mean that the engine in normal use will continue to comply with the above limits throughout the normal life of the engine and under normal conditions of use.

This information shall be obtained by the engine manufacturer by use of prior endurance testing, based on normal operating cycles, and by calculation of component fatigue so that the necessary maintenance instructions may be prepared by the manufacturer and issued with all new engines when first placed on the market.

The normal life of the engine is considered to mean:

- (a) inboard or stern drive engines with or without integral exhaust: 480 hours or 10 years, whichever occurs first;
- (b) personal watercraft engines: 350 hours or 5 years, whichever occurs first;
- (c) outboard engines: 350 hours or 10 years, whichever occurs first.

## 4. OWNER'S MANUAL

Each engine shall be provided with an Owner's Manual in the Community language or languages, which may be determined by the Member State in which the engine is to be marketed. This manual shall:

- (a) provide instructions for the installation and maintenance needed to assure the proper functioning of the engine to meet the requirements of paragraph 3, (Durability);
- (b) specify the power of the engine when measured in accordance with the harmonised standard.

(a) EN ISO 8178-1:1996.

(b) OJ No. L350, 28.12.98, p. 1.

(c) OJ No. L286, 23.10.98, p. 34.

### C. ESSENTIAL REQUIREMENTS FOR NOISE EMISSIONS

Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall comply with the following essential requirements for noise emissions.

#### 1. NOISE EMISSION LEVELS

- 1.1. Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall be designed, constructed and assembled so that noise emissions measured in accordance with tests defined in the harmonised standard(a) shall not exceed the limit values in the following table:

Table 2

Single Engine Power	Maximum Sound Pressure Level = $L_p A_{Smax}$
In kW	In dB
$P_N \leq 10$	67
$10 < P_N \leq 40$	72
$P_N > 40$	75

Where  $P_N$  = rated engine power in kW at rated speed and

$L_{pASmax}$  = maximum sound pressure level in dB.

For twin-engine and multiple-engine units of all engine types an allowance of 3 dB may be applied.

- 1.2 As an alternative to sound measurement tests, recreational craft with inboard engine configuration or stern drive engine configuration, without integral exhaust, shall be deemed to comply with these noise requirements if they have a Froude number of  $\leq 1.1$  and a power displacement ratio of  $\leq 40$  and where the engine and exhaust system are installed in accordance with the engine manufacturer's specifications.
- 1.3 "Froude number" shall be calculated by dividing the maximum boat speed  $V$  (m/s.) by the square root of the waterline length  $lwl$  (m.) multiplied by a given gravitational constant, ( $g = 9,8 \text{ m/s}^2$ ).

$$Fn = \frac{V}{\sqrt{(g \cdot lwl)}}$$

"Power displacement ratio" shall be calculated by dividing the engine power  $P$  (kW) by the boat's displacement  $D$  (t) =  $\frac{P}{D}$ .

- 1.4 As a further alternative to sound measurement tests, recreational craft with inboard or stern drive engine configurations without integral exhaust, shall be deemed to comply with these noise requirements if their key design parameters are the same as or compatible with those of a certified reference boat to tolerances specified in the harmonised standard.
- 1.5 "Certified reference boat" shall mean a specific combination of hull/inboard engine or stern drive engine without integral exhaust that has been found to comply with the noise emission requirements, when measured in accordance with section 1.1, and for which all appropriate key design parameters and sound level measurements have been included subsequently in the published list of certified reference boats.

#### 2. OWNER'S MANUAL

For recreational craft with inboard engine or stern engines with or without integral exhaust and personal watercraft, the Owner's Manual required under Annex 1.A Section 2.5, shall include information necessary to maintain the craft and exhaust system in a condition that, insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

For outboard engines, the Owner's Manual required under Annex 1.B.4 shall provide instructions necessary to maintain the outboard engine in a condition, that insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

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(a) EN ISO 14509.

## SCHEDULE 2

Regulation 2(1)

(Annex II of the Directive)

### COMPONENTS

1. Ignition-protected equipment for inboard and stern drive engines.
2. Start-in-gear protection devices for outboard engines.
3. Steering wheels, steering mechanisms and cable assemblies.
4. Fuel tanks intended for fixed installations and fuel hoses.
5. Prefabricated hatches and portlights.

## SCHEDULE 3

Regulation 7(2)(c) and (3)

(Annex III of the Directive)

### DECLARATION BY THE BUILDER OR HIS AUTHORISED REPRESENTATIVE ESTABLISHED IN THE COMMUNITY OR THE PERSON RESPONSIBLE FOR PLACING ON THE MARKET

*(Article 4(2) and (3))*

- (a) The declaration by the builder or his authorised representative established in the Community referred to in Article 4(2) (partly completed craft) shall contain the following:
  - the name and address of the builder,
  - the name and address of the representative of the builder established in the Community or, if appropriate, of the person responsible for the placing on the market,
  - a description of the partly completed craft,
  - a statement that the partly completed craft is intended to be completed by others and that it complies with the essential requirements that apply at this stage of constructions.
- (b) The declaration by the builder, his authorised representative established in the Community or the person responsible for placing on the market referred to in Article 4(3) (components) shall contain the following:
  - the name and address of the builder,
  - the name and address of the representative of the builder established in the Community or, if appropriate, of the person responsible for the placing on the market,
  - a description of the component,
  - a statement that the component complies with the relevant essential requirements.

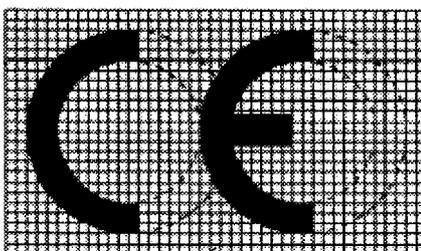
## SCHEDULE 4

Regulations 2(1) and  
7(2)(b)(ii)

(Annex IV of the Directive)

### CE MARKING

The CE conformity marking must consist of the initials “CE” taking the following form:



If the marking is reduced or enlarged, the proportions given in the above graduated drawing must be respected.

The various elements of the CE marking must have about the same vertical dimension, which shall not be less than 5 mm.

The CE marking is followed by the identification number of the notified body, if it intervenes in the control of production.

## SCHEDULE 5

Regulation 10(2)

(Annex V of the Directive)

### INTERNAL PRODUCTION CONTROL

(*module A*)

1. The manufacturer or his authorised representative established within the Community, who carries out the obligations laid down in point 2, ensures and declares that the products concerned satisfy the requirements of the Directive that apply to them. The manufacturer or his authorised representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV).(a)

2. The manufacturer shall establish the technical documentation described in paragraph 3 and he or his authorised representative established within the Community shall keep it for a period ending at least 10 years after the last product has been manufactured at the disposal of the relevant national authorities for inspection purposes.

Where neither the manufacturer nor his authorised representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

3. Technical documentation shall enable the conformity of the products with the requirements of the Directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and operation of the product (see Annex XIII).(b)

4. The manufacturer or his authorised representative shall keep a copy of the declaration of conformity with the technical documentation.

5. The manufacturer shall take all measures necessary in order that the manufacturing process shall ensure compliance of the manufactured products with the technical documentation referred to in point 2 and with the requirements of the Directive that apply to them.

## SCHEDULE 6

Regulation 10(2)

(Annex VI of the Directive)

### INTERNAL PRODUCTION CONTROL PLUS TESTS

(*module Aa, option 1*)

This module consists of module A, as referred to in Annex V, plus the following supplementary requirements:

#### A. Design and construction

On one or several boats representing the production of the manufacturer one or more of the following tests, equivalent calculation or control shall be carried out by the manufacturer or on his behalf:

- (a) test of stability according to section 3.2 of the Essential Requirements (Annex IA)(c);
- (b) test of buoyancy characteristics according to section 3.3 of the Essential Requirements (Annex 1A).

Provisions common to both variations

These tests or calculations or control shall be carried out on the responsibility of a notified body chosen by the manufacturer.

#### B. Noise Emissions

For recreational craft fitted with inboard or stern drive engines without integral exhaust and for personal watercraft:

On one or several craft representing the production of the craft manufacturer, the sound emission tests defined in Annex I.C shall be carried out by the craft manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

For outboard engines and stern drive engines with integral exhaust:

On one or several engines of each engine family representing the production of the engine manufacturer, the sound emission tests defined in Annex I.C shall be carried out by the engine manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

Where more than one engine of an engine family is tested, the statistical method described in Annex XVII(d) shall be applied to ensure conformity of the sample.

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(a) Annex XV is set out in Schedule 14.

(b) Annex XIII is set out in Schedule 13.

(c) The essential safety requirements in Annex 1A are set out in Schedule 1A.

(d) Annex XVII is set out in Schedule 16.

## (Annex VII of the Directive)

## EC TYPE-EXAMINATION

*(module B)*

1. A notified body ascertains and attests that a specimen, representative of the production envisaged, meets the provisions of the Directive that apply to it.

2. The application for the EC type-examination shall be lodged by the manufacturer or his authorised representative established within the Community with a notified body of his choice.

The application shall include:

- the name and address of the manufacturer and, if the application is lodged by the authorised representative, his name and address in addition,
- a written declaration that the same application has not been lodged with any other notified body,
- the technical documentation, as described in point 3.

The applicant shall place at the disposal of the notified body a specimen, representative of the production envisaged and hereinafter called “type”(\*).

The notified body may request further specimens if needed for carrying out the test programme.

3. The technical documentation shall enable the conformity of the product with the requirements of the Directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and functioning of the product (see Annex XIII).(a)

4. The notified body shall:

4.1. examine the technical documentation, verify that the type has been manufactured in conformity with the technical documentation and identify the elements which have been designed in accordance with the relevant provisions of the standards referred to in Article 5(b), as well as the components which have been designed without applying the relevant provisions of those standards;

4.2. perform or have performed the appropriate examinations and necessary tests to check whether, where the standards referred to in Article 5 have not been applied, the solutions adopted by the manufacturer meet the Essential Requirements of the Directive;

4.3. perform or have performed the appropriate examinations and necessary tests to check whether, where the manufacturer has chosen to apply the relevant standards, these have actually been applied;

4.4. agree with the applicant the location where the examinations and necessary tests shall be carried out.

5. Where the type meets the provisions of the Directive, the notified body shall issue an EC type-examination certificate to the applicant. The certificate shall contain the name and address of the manufacturer, conclusions of the examination, conditions for its validity and the necessary data for identification of the approved type.

A list of the relevant parts of the technical documentation shall be annexed to the certificate and a copy kept by the notified body.

If the manufacturer is denied a type certification, the notified body shall provide detailed reasons for such denial.

6. The applicant shall inform the notified body that holds the technical documentation concerning the EC type-examination certificate of all modifications to the approved product which must receive additional approval where such changes may affect the conformity with the essential requirements or the prescribed conditions for use of the product. This additional approval is given in the form of an addition to the original EC type-examination certificate.

7. Each notified body shall communicate to the other notified bodies the relevant information concerning the EC type-examination certificates and additions issued and withdrawn.

8. The other notified bodies may receive copies of the EC type-examination certificates and/or their additions. The annexes to the certificates shall be kept at the disposal of the other notified bodies.

9. The manufacturer or his authorised representative shall keep with the technical documentation copies of EC type-examination certificates and their additions for a period ending at least 10 years after the last product has been manufactured.

Where neither the manufacturer nor his authorised representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

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(a) Annex XIII is set out in Schedule 13.

(b) This is a reference to a transposed harmonised standard.

- (\*) A type may cover several versions of the product provided that the differences between the versions do not affect the level of safety and the other requirements concerning the performance of the product.

**SCHEDULE 8** Regulation 10(2)  
(Annex VIII of the Directive)  
**CONFORMITY TO TYPE**  
(*module C*)

1. The manufacturer or his authorised representative established within the Community ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that applies to them. The manufacturer shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV).(a)

2. The manufacturer shall take all measures necessary to ensure that the manufacturing process assures compliance of the manufactured products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.

3. The manufacturer or his authorised representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last product has been manufactured.

Where neither the manufacturer nor his authorised representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market (see Annex XIII).(b)

4. With regard to the assessment of conformity with the exhaust emission requirements of this Directive and if the manufacturer is not working under a relevant quality system as described in Annex XII, a notified body chosen by the manufacturer may carry out or have carried out product checks at random intervals. When the quality level appears unsatisfactory or when it seems necessary to verify the validity of the data presented by the manufacturer, the following procedure shall be used:

An engine is taken from the series and subjected to the test described in Annex I.B. Test engines shall have been run in, partially or completely, according to the manufacturer's specifications. If the specific exhaust emissions of the engine taken from the series exceed the limit values according to Annex I.B, the manufacturer may ask for measurements to be done on a sample of engines taken from the series and including the engine originally taken. To ensure the conformity of the sample of engines defined above with the requirements of the Directive, the statistical method described in Annex XVII(c) shall be applied.

**SCHEDULE 9** Regulation 10(2)  
(Annex IX of the Directive)  
**PRODUCTION QUALITY ASSURANCE**  
(*module D*)

1. The manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that apply to them. The manufacturer or his authorised representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV).(d) The CE marking shall be accompanied by the distinguishing number of the notified body responsible for the monitoring as specified in point 4.

2. The manufacturer shall operate an approved quality system for production, final product inspection and testing as specified in paragraph 3 and shall be subject to monitoring as specified in point 4.

3. Quality system

3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body of his choice, for the products concerned.

The application shall include:

- all relevant information for the product category envisaged,
- the documentation concerning the quality system,

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(a) Annex XV is set out in Schedule 14.  
(b) Annex XIII is set out in Schedule 13.  
(c) Annex XVII is set out in Schedule 16.  
(d) Annex XV is set out in Schedule 14.

- where appropriate, the technical documentation of the approved type (see Annex XIII)(a) and a copy of the EC type-examination certificate.

3.2. The quality system shall ensure compliance of the products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation must permit a consistent interpretation of the quality programmes, plan, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product quality,
- the manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc,
- the means to monitor the achievement of the required product quality and the effective operation of the quality system.

3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume conformity with these requirements in respect of quality systems that implement the relevant harmonised standard.

The auditing team shall have at least one member with experience of evaluation in the product technology concerned. The evaluation procedure shall include an inspection visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorised representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a reassessment is required.

It shall notify its decisions to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

#### 4. Surveillance under the responsibility of the notified body

4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

4.2. The manufacturer shall allow the notified body entrance for inspection purposes to the locations of manufacturer, inspection and testing, and storage and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

4.3. The notified body shall periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

4.4. Additionally the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may carry out, or cause to be carried out, tests to verify that the quality system is functioning correctly, if necessary. The notified body shall provide the manufacturer with a visit report and, if a test has taken place, with a test report.

5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the second indent of the second subparagraph of point 3.1,
- the updating referred to in the second subparagraph of point 3.4,
- the decision and reports from the notified body which are referred to in the final subparagraph of point 3.4, point 4.3 and point 4.4.

6. Each notified body shall give the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

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(a) Annex XIII is set out in Schedule 13.

## (Annex X of the Directive)

## PRODUCT VERIFICATION

*(module F)*

1. This module describes the procedure whereby a manufacturer or his authorised representative established within the Community checks and attests that the products subject to the provisions of point 3 are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that apply to them.

2. The manufacturer shall take all measures necessary in order that the manufacturing process ensures conformity of the products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them. The manufacturer or his authorised representative established within the Community shall affix the CE marking to each product and shall draw up a declaration of conformity (see Annex XV).(a)

3. The notified body shall carry out the appropriate examinations and tests in order to check the conformity of the product with the requirements of the Directive either by examination and testing of every product as specified in point 4 or by examination and testing of products on a statistical basis, as specified in point 5, at the choice of the manufacturer.

3a. The manufacturer or his authorised representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last product has been manufactured.

4. Verification by examination and testing of every product

4.1. All products shall be individually examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5(b) or equivalent tests shall be carried out in order to verify their conformity with the type as described in the EC type-examination certificate and the requirements of the Directive that apply to them.

4.2. The notified body shall affix, or cause to be affixed, its distinguishing number to each approved product and draw up a written certificate of conformity relating to the tests carried out.

4.3. The manufacturer or his authorised representative shall ensure that he is able to supply the notified body's certificates of conformity on request.

5. Statistical verification

5.1. The manufacturer shall present his products in the form of homogeneous lots and shall take all measures necessary in order that the manufacturing process ensures the homogeneity of each lot produced.

5.2. All products shall be available for verification in the form of homogeneous lots. A random sample shall be drawn from each lot. Products in a sample shall be individually examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, shall be carried out to ensure their conformity with the requirements of the Directive which apply to them and to determine whether the lot is accepted or rejected.

5.3. The statistical procedure shall use the following elements:

- the statistical method to be applied,
- the sampling plan with its operational characteristics.

For the assessment of conformity with the exhaust emission requirements, the procedure defined in Annex XVII(c) shall be applied.

5.4 In the case of accepted lots, the notified body shall affix, or cause to be affixed, its distinguishing number to each product and shall draw up a written certificate of conformity relating to the tests carried out. All products in the lot may be put on the market except those products from the sample which were found not to be in conformity.

If a lot is rejected, the notified body or the competent authority shall take appropriate measures to prevent the putting on the market of that lot. In the event of frequent rejection of lots the notified body may suspend the statistical verification.

The manufacturer may, under the responsibility of the notified body, affix the latter's distinguishing number during the manufacturing process.

5.5. The manufacturer or his authorised representative shall ensure that he is able to supply the notified body's certificates of conformity on request.

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(a) Annex XV is set out in Schedule 14.

(b) This is a reference to a transposed harmonised standard.

(c) Annex XVII is set out in Schedule 16.

## SCHEDULE 11

Regulation 10(2)

### (Annex XI of the Directive)

#### UNIT VERIFICATION

*(module G)*

1. This module describes the procedure whereby the manufacturer ensures and declares that the product concerned, which has been issued with the certificate referred to in point 2, conforms to the requirements of the Directive that apply to it. The manufacturer or his authorised representative established within the Community shall affix the CE marking to the product and draw up a declaration of conformity (see Annex XV).(a)

2. The notified body shall examine the individual product and carry out the appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, to ensure its conformity with the relevant requirements of the Directive.

The notified body shall affix, or cause to be affixed, its distinguishing number on the approved product and shall draw up a certificate of conformity concerning the tests carried out.

3. The aim of the technical documentation is to enable conformity with the requirements of the Directive to be assessed and the design, manufacture and operation of the product to be understood (see Annex XIII).(b)

## SCHEDULE 12

Regulation 10(2)

### (Annex XII of the Directive)

#### FULL QUALITY ASSURANCE

*(module H)*

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of paragraph 2 ensures and declares that the products concerned satisfy the requirements of the Directive that apply to them. The manufacturer or his authorised representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV).(c) The CE marking shall be accompanied by the distinguishing number of the notified body responsible for the surveillance as specified in point 4.

2. The manufacturer shall operate an approved quality system for design, manufacture and final product inspection and testing as specified in point 3 and shall be subject to surveillance as specified in point 4.

#### 3. Quality system

3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body.

The application shall include:

- all relevant information for the product category envisaged,
- the quality system's documentation.

3.2. The quality system shall ensure compliance of the products with the requirements of the Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation shall ensure a common understanding of the quality policies and procedures such as quality programmes, plans, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organisational structure, responsibilities and powers of the management with regard to design and product quality,
- the technical design specifications, including standards, that will be applied and, where the standards referred to in Article 5(d) will not be applied in full, the means that will be used to ensure that the essential requirements of the Directive that apply to the products will be met,
- the design control and design verification techniques, processes and systematic actions that will be used when designing the products pertaining to the product category covered,

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(a) Annex XV is set out in Schedule 14.

(b) Annex XIII is set out in Schedule 13.

(c) Annex XV is set out in Schedule 14.

(d) This is a reference to a transposed harmonised standard.

- the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required design and product quality and the effective operation of the quality system.

3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume compliance with these requirements in respect of quality systems that implement the relevant harmonised standard (EN 29001).

The auditing team shall have at least one member experienced as an assessor in the product technology concerned. The evaluation procedure shall include an assessment visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorised representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a reassessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

#### 4. EC surveillance under the responsibility of the notified body

4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

4.2. The manufacturer shall allow the notified body entrance for inspection purposes to the locations of design, manufacture, inspection and testing, and storage, and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the quality records as foreseen by the design part of the quality system, such as results of analyses, calculations, tests, etc.,
- the quality records as foreseen by the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

4.3. The notified body shall periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.

4.4. Additionally the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary; it shall provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the second indent of the second subparagraph of point 3.1,
- the updating referred to in the second subparagraph of point 3.4,
- the decisions and reports from the notified body which are referred to in the final subparagraph of point 3.4, point 4.3 and point 4.4.

6. Each notified body shall forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

## SCHEDULE 13

Regulation 10(3)

(Annex XIII of the Directive)

### TECHNICAL DOCUMENTATION SUPPLIED BY THE MANUFACTURER

The technical documentation referred to in Annexes V, VII, VIII, IX, XI and XVI(a) must comprise all relevant data or means used by the manufacturer to ensure that components or craft comply with the essential requirements relating to them.

The technical documentation shall enable understanding of the design, manufacture and operation of the product, and shall enable assessment of conformity with the requirements of this Directive.

The documentation shall contain so far as relevant for assessment:

- (a) a general description of the type,
- (b) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
- (c) descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product,
- (d) a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to fulfil the essential requirements when the standards referred to in Article 5 have not been applied,
- (e) results of design calculations made, examinations carried out, etc.,
- (f) test reports, or calculations namely on stability according to section 3.2 of the Essential Requirements and on buoyancy according to section 3.3 thereof (Annex I.A)(b),
- (g) exhaust emissions test reports demonstrating compliance with section 2 of the Essential Requirements (Annex I.B),
- (h) sound emissions test reports or reference boat data demonstrating compliance with section 1 of the Essential Requirements (Annex I.C.).

## SCHEDULE 14

Regulation 10(3)

(Annex XV of the Directive)

### WRITTEN DECLARATION OF CONFORMITY(c)

1. The written declaration of conformity to the provisions of the Directive must always accompany:
  - (a) the recreational craft and the personal watercraft and must be included with the owner's manual (Annex I.A., section 2.5),
  - (b) the components as referred to in Annex II,
  - (c) propulsion engines and must be included with the owner's manual (Annex I.B.4).
2. The written declaration of conformity shall include the following (\*):
  - (a) name and address of the manufacturer or his authorised representative established in the Community (\*\*),
  - (b) description of the product defined in point 1 (\*\*\*),
  - (c) references to the relevant harmonised standards used, or references to the specifications in relation to which conformity is declared,
  - (d) where appropriate, the references of the other Community Directives applied,
  - (e) where appropriate, reference to the EC type-examination certificate issued by a notified body,
  - (f) where appropriate, the name and address of the notified body,
  - (g) identification of the person empowered to sign on behalf of the manufacturer or his authorised representative established within the Community.
3. With regard to:
  - inboard engines and stern drive propulsion engines without integral exhaust,
  - engines type-approved according to Directive 97/68/EC which are in compliance with stage II provided for in section 4.2.3 of Annex I of the latter Directive and,
  - engines type-approved according to Directive 88/77/EEC,

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(a) These Annexes are respectively set out in Schedules 5, 7, 8, 9, 11 and 15.

(b) The Essential Requirements in Annex I are set out in Schedule 1.

(c) Annexes I and II are respectively set out in Schedule 1 and 2.

the declaration of conformity shall include in addition to the information of point 2, a statement of the manufacturer that the engine will meet the exhaust emission requirements of this Directive, when installed in a recreational craft, in accordance with the manufacturer's supplied instructions and that this engine must not be put into service until the recreational craft into which it is to be installed has been declared in conformity, if so required, with the relevant provision of the Directive.

(\*) and be drawn up in the language(s) as foreseen under section 2.5 of Annex I.A.

(\*\*) business name and full address; authorised representative must also give the business name and address of the manufacturer.

(\*\*\*) description of the product make, type, serial number, where appropriate.

## SCHEDULE 15

Regulation 10(2)

### (Annex XVI of the Directive)

#### PRODUCT QUALITY ASSURANCE (MODULE E)

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the directive that apply to them. The manufacturer or his authorised representative established within the Community must affix the CE mark to each product and draw up a written declaration of conformity. The CE mark must be accompanied by the identification symbol of the notified body responsible for surveillance as specified in point 4.

2. The manufacturer must operate an approved quality system for final product inspection and testing as specified in point 3 and must be subject to surveillance as specified in point 4.

#### 3. Quality system

3.1. The manufacturer must lodge an application for assessment of his quality system for the products concerned, with a notified body of his choice.

The application must include:

- all relevant information for the product category envisaged,
- the quality system's documentation,
- if applicable, the technical documentation of the approved type and a copy of the EC type-examination certificate.

3.2. Under the quality system, each product must be examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5 or equivalent tests shall be carried out in order to ensure its conformity with the relevant requirements of the Directive. All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation must ensure a common understanding of the quality programmes, plans, manuals and records.

It must contain in particular an adequate description of:

- the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product quality,
- the examinations and tests that will be carried out after manufacture,
- the means to monitor the effective operation of the quality system,
- quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

3.3. The notified body must assess the quality system to determine whether it satisfies the requirements referred to in point 3.2.

It presumes conformity with these requirements in respect of quality systems that implement the relevant harmonised standard.

The auditing team must have at least one member experienced as an assessor in the product technology concerned. The assessment procedure must include an assessment visit to the manufacturer's premises.

The decision must be notified to the manufacturer. The notification must contain the conclusions of the examination and the reasoned assessment decision.

3.4. The manufacturer must undertake to fulfil the obligations arising from the quality system as approved and to maintain it in an appropriate and efficient manner.

The manufacturer or his authorised representative must keep the notified body which has approved the quality system informed of any intended updating of the quality system.

The notified body must evaluate the modifications proposed and decide whether the modified quality system will still satisfy the requirements referred to in point 3.2 or whether a re-assessment is required. It must notify its decision to the manufacturer. The notification must contain the conclusions of the examination and the reasoned assessment decision.

**4. Surveillance under the responsibility of the notified body**

4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

4.2. The manufacturer must allow the notified body entrance for inspection purposes to the locations of inspection, testing and storage and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the technical documentation,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

4.3. The notified body must periodically carry out audits to ensure that the manufacturer maintains and applies the quality system and must provide an audit report to the manufacturer.

4.4. Additionally, the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary; it must provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer must, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:

- the documentation referred to in the third indent of the second subparagraph of point 3.1,
- the updating referred to in the second subparagraph of point 3.4,
- the decisions and reports from the notified body which are referred to in the final subparagraph of point 3.4, points 4.3 and 4.4.

6. Each notified body must forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

**SCHEDULE 16**

Regulation 10(2)

**(Annex XVII of the Directive)**

**CONFORMITY OF PRODUCTION ASSESSMENT FOR EXHAUST AND NOISE EMISSIONS**

1. For verifying the conformity of an engine family, a sample of engines is taken from the series. The manufacturer shall decide the size (n) of the sample, in agreement with the notified body.

2. The arithmetical mean X of the results obtained from the sample shall be calculated for each regulated component of the exhaust and noise emission. The production of the series shall be deemed to conform to the requirements (pass decision) if the following condition is met:

$$X + k \cdot S \leq L$$

S is standard deviation, where:

$$S^2 = \sum (x - X)^2 / (n - 1)$$

X = the arithmetical mean of the results

x = the individual results of the sample

L = the appropriate limit value

n = number of engines in the sample

k = statistical factor depending on n (see table)

n	2	3	4	5	6	7	8	9	10
k	0,973	0,613	0,489	0,421	0,376	0,342	0,317	0,296	0,279
n	11	12	13	14	15	16	17	18	19
k	0,265	0,253	0,242	0,233	0,224	0,216	0,210	0,203	0,198

If  $n \geq 20$  then  $k = 0,860 / \sqrt{n}$ .

## ENFORCEMENT

1. For the purposes of providing for the enforcement of these Regulations—
  - (a) an enforcement authority shall have the same duty to enforce these Regulations as it has in relation to Part II of the 1987 Act, and Part IV, sections 37 and 38 and sub-sections (3) and (4) of section 42 of that Act shall apply accordingly;
  - (b) section 13 of the 1987 Act (prohibition notices and notices to warn) shall (to the extent that it does not already do so) apply in relation to products to which these Regulations apply as it applies in relation to relevant goods under that section, as if the words “three months” were substituted for the words “six months” in section 13(4);
  - (c) subject to paragraph (d) below, these Regulations shall constitute safety provisions for the purposes of section 14 (suspension notices), 15 (appeals against suspension notices), 16 (forfeiture: England, Wales and Northern Ireland), 17 (forfeiture: Scotland) and 18 (power to obtain information) of the 1987 Act; and
  - (d) for the purposes of paragraph (c) above, the words “three months” shall be substituted for the words “six months” in section 14(6) of the 1987 Act.
2. An enforcement authority shall, where action has been taken by it to prohibit or restrict the placing on the market of any product to which these Regulations apply which bears the CE marking, forthwith inform the Secretary of State of the action taken and the reasons for it with a view to this information being passed by the Secretary of State to the Commission.

## EXPLANATORY NOTE

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

These Regulations keep implemented Directive 94/25/EC of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the member States relating to recreational craft (the Directive) and transpose the provisions of Directive 2003/44/EC which amends the Directive.

Subject to certain limited exceptions, these Regulations revoke the Recreational Craft Regulations 1996 (as amended), which implemented the Directive. Those exceptions include a saving provision in respect of the application of the 1996 Regulations (and the disapplication of these Regulations) to the European Economic Area, outside the Community, until a relevant Decision of the EEA Joint Committee is made at which stage references in these Regulations to the Community or a member State shall include respectively a reference to the EEA or an EEA State, which are defined in regulation 2(2)(a). Certain provisions of these Regulations are brought into effect on and from 30th June 2004, being the date by which Directive 2003/44/EC must be implemented, to enable notified bodies to be assessed and appointed in advance of the remaining provisions coming into force on 1st January 2005 (regulation 1).

Regulations 3 to 6 provide for the application of the Regulations. They apply to any product described in regulation 3(1) respectively relating to design and construction, exhaust emissions and noise emissions (relevant definitions are contained in regulation 2(1)). The application of the Regulations is not prevented in the case of a recreational craft or partly completed recreational craft which could be used for charter or recreational boating training when placed on the market for recreational purposes (regulation 3(2)).

The Regulations do not apply in the circumstances described in regulation 3(3), 4, 5 or 6. Regulation 3(3) relates to the showing of a product at any trade fair or similar event if there is a visible sign indicating that it must be made to comply before being placed on the market. Furthermore, the Regulations do not apply to specified excluded products (regulation 4) or products placed on the market before 1st January 2005 (regulation 5). There are transitional arrangements in respect of specified products until respectively 31st December 2005 and 31st December 2006 subject to certain provisions relating to CE marking and provided that the relevant product complies with national rules in force on 16th June 2003 (regulation 6).

Regulations 7 to 10 describe the requirements which various products must satisfy if they are to be placed on the market. (With the exception of regulations identified in the definition, “placing on the market” includes putting into service—regulation 2(1)). The basic requirements are set out in regulation 7: a product must satisfy the essential requirements which are applicable to it and meet certain other safety requirements. Except in the case of a partly completed craft and certain components, the appropriate conformity assessment procedure must have been carried out. In addition, in the case of the products specified in regulation 8(1), the CE marking must be affixed to a product (other than a partly completed craft) or, in the case of a component, to the product or its packaging. In the case of a partly completed recreational craft, it must be accompanied by the declaration set out in paragraph (a) of Schedule 3; as regards a component which is to be incorporated into a recreational craft, a written declaration of conformity in accordance with Schedule 14 and a declaration may be made in accordance with paragraph (b) of Schedule 3 in which case compliance with the appropriate conformity assessment procedure is not required and the CE marking indicates that the component complies with the essential requirements relevant to it. Certain engines which comply with relevant emission requirements of Directive 97/68/EC or Directive 88/77/EEC, in respect of which a declaration is made in accordance with Schedule 14.3, are deemed to satisfy the exhaust emission requirements of these Regulations (regulation 7(4)).

The essential requirements (Annex I of the Directive, as amended) are set out in Schedule 1.

The CE marking must be affixed in accordance with regulation 8 and Schedule 4. Regulation 9 makes provision for other markings and inscriptions.

The conformity assessment procedures are set out in various “Modules” in Annexes V to XII, XVI and XVII of the Directive, as amended, (which are set out in Schedules 5 to 12, 15 and 16). The appropriate conformity assessment procedure is determined in accordance with regulation 10 and, in the case of boats, on the basis of certain categories of boat: the boat categories are set out in the essential requirements. For the purposes of various Modules, the technical

documentation to be supplied by the manufacturer or his authorised representative established in the Community and the written declaration of conformity described in Annexes XIII and XV of the Directive are set out in Schedules 13 and 14.

In the case of post-construction assessment of recreational craft, the appropriate conformity assessment procedure is set out in regulation 10(6) and the circumstances in which such assessment might be used are specified in regulation 7(2)(b)(i)(cc); the requirements as regards the CE marking of recreational craft in such circumstances are specified in regulation 8(9).

Regulation 11 identifies notified bodies recognised for the purposes of these Regulations including those recognised by inclusion in a mutual recognition agreement or similar agreement. Provisions are made as regards the appointment of notified bodies by the Secretary of State to carry out conformity assessment procedures or surveillance or both together with the fees which such bodies may charge and the procedures required in the event of such a body being minded to refuse to issue an EC type-examination certificate (regulations 12 to 14).

Regulations 15 to 21 and Schedule 17 relate to enforcement of the Regulations. The enforcement authorities are the weights and measures authorities in Great Britain and district councils in Northern Ireland. In Scotland, proceedings are brought by the procurator-fiscal or Lord Advocate. Regulation 17 provides for offences and penalties for breaches of the Regulations; there are also provisions relating to the defence of due diligence (regulation 18) as well as liability of persons other than the principal offender (regulation 19). Regulation 20 requires a person who places on the market a product specified in regulation 8(1) without a CE marking, or other products not requiring CE marking, to provide certain information. Regulation 21 enables proceedings to be brought within a period of twelve months after the offence was committed.

A Regulatory Impact Assessment in respect of these Regulations is available and a copy can be obtained from the Department of Trade and Industry, Standards and Technical Regulations Directorate 4, 3rd floor, 151 Buckingham Palace Road, London SW1W 9SS.

A transposition note setting out how the Government has transposed the main elements of Directive 2003/44/EC is available from the Department of Trade and Industry at the address above. Copies of the transposition note have been placed in the libraries of both Houses of Parliament.