

## SCHEDULE 2

Regulation 5(5)

### OLD PRESSURE RECEPTACLES

#### Interpretation

1.—(1) In this Schedule—

“approved” means approved in writing;

“competent person” means—

- (a) a competent individual, other than an employee; or
- (b) a competent body of persons corporate or unincorporate,

and accordingly any reference to a competent person performing any function includes a reference to his performing it through his employees;

“design standard” means a standard for the design of more than one type of old pressure receptacle;

“examination” means, in respect of an old pressure receptacle, a careful and critical scrutiny of that receptacle in or out of service, as appropriate, using suitable techniques, including testing where appropriate, to assess—

- (a) its actual condition; and
- (b) whether, for the period up to the next examination, it will not cause danger when properly used if normal maintenance work is carried out;

“filling ratio” means the ratio of the volume of the liquid gas in the old pressure receptacle to the total volume of the old pressure receptacle;

“major repair”—

- (a) means any repair involving hot work or welding on the body of an old pressure receptacle; and
- (b) except in relation to paragraph 7(3)(b), does not include any repair involving heat treatment applied for the purpose of restoring the metallurgical properties of the old pressure receptacle;

“normal maintenance” in paragraph (b) of the definition of “examination” means such maintenance as is reasonable to expect the owner of an old pressure receptacle to ensure is carried out independently of any advice from the approved inspection body or competent person making the examination;

“owner” means in relation to an old pressure receptacle—

- (a) the employer or self-employed person who owns it, other than a person who buys it solely to use the dangerous goods in it before selling it back to the supplier; or
- (b) where the old pressure receptacle is leased—
  - (i) the lessee; or
  - (ii) if the lessee does not have a place of business in Great Britain, his agent in Great Britain; or
  - (iii) where paragraph (ii) applies and there is no agent, the user; and

“re-rating” means reassessing the capability of an old pressure receptacle to contain compressed gas safely with a view to improving its capacity by means of an increase in—

- (c) the charging pressure; or
- (d) in the case of liquefied gas, the filling ratio,

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from that originally assessed and marked on the old pressure receptacle at the time of manufacture and “re-rates” shall be construed accordingly.

(2) For the purposes of this Schedule—

(a) dangerous goods shall be deemed to be carried from the time when they are placed on a vehicle or on a wagon for the purpose of carrying them by road or by rail until either—

(i) they are removed from the vehicle or wagon; or

(ii) any old pressure receptacle containing the goods which is on the vehicle or wagon has been cleaned or purged so that any of the goods or their vapour which remain in the old pressure receptacle is not sufficient to create a significant risk to the health or safety of any person, and in either case whether or not the vehicle or wagon is on the road or railway at the material time; and

(b) the carriage of dangerous goods and the consignment of dangerous goods in old pressure receptacles shall be deemed to include the carriage or consignment of uncleaned, empty old pressure receptacles which have contained dangerous goods where those old pressure receptacles still contain sufficient of those dangerous goods, or vapours from them, to create a significant risk to the health and safety of any person.

(3) Any requirement or prohibition imposed in this Schedule on a person who designs an old pressure receptacle or any article which is intended to be a component part thereof, shall extend only to—

(a) such old pressure receptacle or article designed in the course of a trade, business or some other undertaking carried on by him (whether for profit or not); and

(b) matters within his control.

(4) This Schedule shall apply to a self-employed person as it applies to an employer and an employee as if that self-employed person were both an employer and an employee.

### **Duties on those designing, manufacturing, importing, supplying, modifying or repairing old pressure receptacles**

2.—(1) Any person who designs, manufactures, imports or supplies any old pressure receptacle or any component part of an old pressure receptacle shall ensure that he complies with subparagraph (2).

(2) The old pressure receptacle or component part shall be—

(a) properly designed and constructed from suitable material, so as to prevent danger;

(b) designed and constructed so that all necessary examinations for preventing danger can be carried out; and

(c) provided with such protective devices as may be necessary for preventing danger and any such device which is designed to release contents shall do so safely insofar as is practicable.

(3) The employer of a person who modifies or repairs an old pressure receptacle at work shall ensure that nothing about the way in which it is modified or repaired—

(a) gives rise to any danger; or

(b) otherwise impairs the operation of any protective device or inspection facility.

### **Conformity to approved design standard or specification**

3.—(1) No person shall—

(a) supply or import; or

(b) insofar as is reasonably practicable, fill,

an old pressure receptacle unless the old pressure receptacle has been verified, either by a certificate in writing or by means of stamping on the old pressure receptacle in accordance with sub-paragraph (2), as conforming to a design standard or design specification approved by the Executive.

(2) An old pressure receptacle shall be verified—

- (a) by a person approved by the Executive under this sub-paragraph; or
- (b) in accordance with a quality assurance scheme approved by the Executive.

(3) An application for an approval under sub-paragraph (2)(a) shall be made in accordance with paragraph 9.

(4) Where a person is approved under sub-paragraph (2)(a), the Executive shall carry out, upon reasonable notice, a surveillance inspection of the person approved at such intervals as the Executive considers appropriate and for that purpose the person approved shall, at his own cost—

- (a) afford any copies, facilities and assistance; and
- (b) make available any information,

which may be reasonably required by the Executive.

(5) No person approved by the Executive shall be charged by the Executive for more than one surveillance inspection in any 12 month period.

(6) In this paragraph, a “surveillance inspection” means—

- (a) an inspection of such premises, equipment and documents; and
- (b) the making of such enquiries,

as the Executive considers appropriate, for the purpose of verifying compliance by a person approved with any condition specified in the certificate of approval by the Executive.

#### **Examination of old pressure receptacles by competent or approved persons**

4.—(1) The owner of an old pressure receptacle shall ensure, for the purpose of determining whether it is safe, that the old pressure receptacle is either—

- (a) on or before 1st July 2006, examined by a competent person; or
- (b) examined by or under the control of an inspection body approved by the Executive in accordance with paragraph 9,

at the intervals specified in Tables 1 to 3 of Packaging Instruction P200 and Packing Instruction P203 in section 4.1.4 of ADR in relation to carriage by road or of RID in relation to carriage by rail.

(2) Where a competent person or an inspection body approved under this paragraph undertakes a proper examination for the purposes of sub-paragraph (1) then that person or body shall, if satisfied that the old pressure receptacle is safe on completing that examination, ensure that marks are affixed to it showing the date of the examination and the identity of the person or body that carried out the examination.

(3) No person other than—

- (a) a competent person;
- (b) a person authorised by a competent person;
- (c) an inspection body approved under paragraph 9; or
- (d) a body under the control of an inspection body,

shall affix to an old pressure receptacle the mark referred to in sub-paragraph (2).

(4) The mark referred to in sub-paragraph (2) showing the date of the examination shall indicate the date by using two digits representing the year followed by two digits representing the month, separated by a forward slash (“/”).

### **Filling of old pressure receptacles**

5.—(1) The employer of a person who is to fill an old pressure receptacle at work, shall ensure that the old pressure receptacle is not filled unless the marks on the old pressure receptacle indicate that it—

- (a) has been examined in accordance with paragraph 4(1) by a competent person or by an inspection body approved under paragraph 4(1)(b); and
- (b) is suitable for containing the goods,

and all other appropriate safety checks have been made.

(2) The employer of a person who fills an old pressure receptacle at work shall ensure that—

- (a) that person checks that—
  - (i) after filling, it is within its safe operating limits; and
  - (ii) any valves do not leak;
- (b) in the event of overfilling, any excess dangerous goods are removed in a safe manner; and
- (c) any old pressure receptacle that leaks after filling is not offered for carriage.

(3) An employer shall ensure that no person employed by him refills at work a non-refillable old pressure receptacle with dangerous goods.

### **Approved design specification**

6.—(1) The manufacturer, or if he does not have a place of business in Great Britain, his agent in Great Britain, or if he has no agent, the importer of an old pressure receptacle which—

- (a) is made to an approved design specification, shall keep a copy of—
  - (i) the design specification to which the old pressure receptacle was manufactured; and
  - (ii) any certificate of conformity issued under paragraph 3(1);
- (b) is made to an approved design standard, shall keep a copy of any certificate of conformity issued under paragraph 3(1);
- (c) is—
  - (i) refillable;
  - (ii) used solely for containing liquefied petroleum gas; and
  - (iii) has a water capacity up to and including 6.5 litres,

shall keep a copy of the design specification to which the old pressure receptacle was manufactured.

(2) The owner of an old pressure receptacle used or intended to be used for acetylene shall keep records of the—

- (a) tare weight of the old pressure receptacle, including the porous substance and, where relevant, acetone or other solvent;
- (b) nature of the solvent; and
- (c) maximum pressure allowed in the old pressure receptacle.

### **Modification, repair and re-rating of old pressure receptacles**

7.—(1) Subject to sub-paragraph (2)—

- (a) every employer shall ensure that no person employed by him modifies at work the body of an old pressure receptacle, which is used or intended to be used for carriage by road or by rail, and which—

- (i) is of seamless construction; or
  - (ii) has contained acetylene;
- (b) every employer shall ensure that no person employed by him modifies at work the body of any type of old pressure receptacle not referred to in paragraph (a), if that modification would put it outside the scope of the design standard or design specification to which it was originally constructed; and
- (c) no person shall supply any modified old pressure receptacle for use unless following such modification a person approved under paragraph 3(2)(a) has marked or certified it as being fit for use.
- (2) Sub-paragraph (1) shall not apply in relation to any modification constituting the remaking of a thread if such modification is carried out in accordance with a standard approved by the Executive.
- (3) Every employer shall ensure that no person employed by him carries out at work any major repair on the body of an old pressure receptacle—
- (a) of seamless construction; or
  - (b) which has contained acetylene.
- (4) Every employer shall ensure that no person employed by him carries out at work any major repair on the body of any old pressure receptacle not referred to in sub-paragraph (3) unless he is competent to do so.
- (5) No person shall supply an old pressure receptacle which has undergone a major repair unless following such work a person approved under paragraph 3(2)(a) has marked or certified it as being fit for use.
- (6) Every employer shall ensure that no person employed by him re-rates an old pressure receptacle at work unless he is competent to do so and does so in accordance with suitable written procedures drawn up by the owner of the old pressure receptacle.
- (7) No person shall supply an old pressure receptacle which has been re-rated unless, following the re-rating, a person approved under paragraph 3(2)(a) has certified it as being safe for use.

**Additional requirements for old pressure receptacles containing certain dangerous goods not classified as class 2**

8.—(1) Subject to sub-paragraph (2), where an old pressure receptacle is used for the carriage of a substance listed in Table 3 of Packaging Instruction P200 in section 4.1.4 of ADR in relation to carriage by road or of RID in relation to carriage by rail, the requirements of that Table shall apply in addition to the requirements of this Schedule.

(2) For the purposes of this paragraph, special packing provision 9(k) of Table 3 of Packaging Instruction P200 in section 4.1.4 of ADR in relation to carriage by road or of RID in relation to carriage by rail shall not apply to the extent that it limits the capacity of cylinders to a capacity of not more than 85 litres.

**Approvals by the competent authority**

9.—(1) The Executive may approve such persons as it thinks fit to be inspection bodies for the purpose of this Schedule.

(2) An application for—

- (a) approval as an approved person under paragraph 3(2)(a);
- (b) approval as an inspection body under paragraph 4(1)(b); or
- (c) for the amendment of an existing appointment,

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shall be made to the Executive.

(3) An approval made under this regulation—

(a) by the Executive may relate to—

- (i) all descriptions of old pressure receptacles of which it is the competent authority; or
- (ii) such descriptions of such old pressure receptacles as it may determine;

(b) may be made subject to such conditions as the Executive may determine, and such conditions may include conditions which apply upon or following termination of the approval;

(c) shall, without prejudice to the generality of paragraph (b) and subject to sub-paragraph (7), require the inspection body to carry out the procedures and specific tasks for which it has been approved;

(d) shall be terminated upon 90 days' notice in writing to the Executive at the request of the inspection body; and

(e) may be terminated if it appears to the Executive that any of the conditions of the approval are not being complied with.

(4) Subject to sub-paragraph (3)(d) and (e), an approval under this regulation may be for the time being or for such period as may be specified in the approval.

(5) An inspection body appointed by the Executive or a person approved by the Executive shall be subject to such inspection by or on behalf of the Executive as is necessary to ensure compliance with any condition specified in the approval.

(6) The inspection referred to in sub-paragraph (5) may include the examination of premises, equipment and documents and the inspection body shall provide such facilities, assistance and information as are reasonably required for the purpose of the inspection.

(7) In respect of an application made to an inspection body in accordance with this Schedule, the inspection body shall not be required to carry out the procedures and tasks referred to in sub-paragraph (3)(c)—

(a) if the documents submitted to it with the application are not in English or another language acceptable to that body;

(b) until the applicant has paid the fee which that body requires pursuant to regulation 56(4); or

(c) if the body in question reasonably believes that, having regard to the number of applications made to it in relation to its appointment under this Schedule which are outstanding, it will be unable to commence the required work within three months of receiving the application.

(8) If for any reason the approval of an inspection body is terminated under this paragraph, the Executive may—

(a) give such directions—

- (i) to the body whose approval has been terminated; or
- (ii) to another inspection body,

for the purpose of making such arrangements for the determination of outstanding applications as it considers appropriate and those directions shall be complied with by the body to whom they are made; and

(b) without prejudice to the generality of paragraph (a), authorise another inspection body to take over the functions of the body whose appointment has been terminated in respect of such cases as it may specify.

## Exceptions

10.—(1) This Schedule shall not apply to an old pressure receptacle which—

- (a) forms part of equipment of any—
  - (i) ship to which the Merchant Shipping Act 1995<sup>(1)</sup> applies or would apply if the ship were registered in Great Britain;
  - (ii) ship or other vessel in the service of the Crown; or
  - (iii) spacecraft, aircraft, hovercraft or hydrofoil;
- (b) forms part of, or is intended to form part of, a weapons system;
- (c) is the subject of a research experiment;
- (d) comprises temporary apparatus being used in a research experiment, where it is not reasonably practicable to comply with paragraph 3;
- (e) is refillable and has an internal volume of less than 0.5 litres or more than 5000 litres; or
- (f) contains dangerous goods at a pressure of less than 0.5 bar above atmospheric pressure.

(2) The requirements of this Schedule, other than paragraph 5(3), shall not apply to any non-refillable transportable pressure receptacle which has an internal volume of less than 1.4 litres or more than 5 litres.

(3) Paragraphs 3, 4 and 5(1)(a) shall not apply to an old pressure receptacle which—

- (a) is refillable;
- (b) is used solely for containing liquefied petroleum gas; and
- (c) has a water capacity of up to 6.5 litres.

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(1) 1995 c. 21.