

1992 No. 79

HEALTH AND SAFETY**Pressure Vessels (Verification) Regulations
(Northern Ireland) 1992**

Made 3rd March 1992

Coming into operation 13th April 1992

The Department of Economic Development, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the regulation of design, construction, verification and inspection of pressure vessels, in exercise of the powers conferred on it by that section, and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pressure Vessels (Verification) Regulations (Northern Ireland) 1992 and shall come into operation on 13th April 1992.

Interpretation

2.—(1) In these Regulations—

- “adverse decision” has the meaning assigned to it by regulation 8(1);
- “the Department” means the Department of Economic Development;
- “the Framework Directive” means the Council Directive No. 76/767/EEC(c) concerning the approximation of the laws of the Member States relating to common provisions for pressure vessels and methods of inspecting them;
- “inspection body” has the meaning assigned to it by regulation 3(1);
- “manufacturer”, except in regulation 10, means a manufacturer of gas cylinders;
- “pressure vessel” means any fixed or moveable vessel or receptacle in which a pressure of more than 0.5 bar above atmospheric pressure on a fluid (gas, steam or liquid) may obtain or develop except—
 - (a) any vessel specially designed for nuclear use, failure of which can cause an emission of radioactivity;
 - (b) any vessel specifically intended for installation on, or for the propulsion of, ships or aircraft; and

(a) S.I. 1977/1718

(b) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253

(c) O.J. No. L262, 27.9.76, p. 153

(c) any pipeline or pipeworks;

“provisional fee” means the fee referred to in regulation 10(7);

“review” has the meaning assigned to it by regulation 8(1); and

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

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Appointment of inspection bodies

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

(2) In making the appointment of an inspection body under paragraph (1), the Department—

(a) shall take into account the minimum criteria set out in paragraphs 1 to 7 of Annex III of the Framework Directive; and

(b) for the efficient and proper functioning of that body, may impose such conditions as it thinks fit.

(3) The appointment of an inspection body under paragraph (1)—

(a) may be for a fixed or indefinite time;

(b) may be revoked at any time; and

(c) shall be revoked if the Department has reason to believe that the body does not meet, or has ceased to meet, the criteria referred to in paragraph (2).

(4) The Department may at any time after the appointment of an inspection body under paragraph (1), for its efficient and proper functioning—

(a) impose such additional conditions it sees fit; and

(b) vary or withdraw any or all of the conditions of its appointment, whether imposed under paragraph (2) or this paragraph.

(a) O.J. No. L300, 19.11.84, p. 1

(b) O.J. No. L300, 19.11.84, p. 20

(c) O.J. No. L300, 19.11.84, p. 48

(d) 1954 c. 33 (N.I.)

Presentation of gas cylinders for EEC verification

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

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

EEC verification

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

(2) If the results of the checks, examinations and tests, carried out on any gas cylinders in pursuance of paragraph (1), are satisfactory, the inspection body shall—

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

Access to place of manufacture

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

Notices of refusal

7.—(1) On taking a decision, in relation to any gas cylinders, to refuse to—

- (a) affix the appropriate EEC verification marks in pursuance of regulation 5(2)(a); or
- (b) issue the appropriate EEC verification certificate in pursuance of regulation 5(2)(b),

the inspection body shall, as soon as practicable thereafter, send to the manufacturer a notice in writing of that decision.

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

- (a) state the exact grounds on which the decision in question was based;
- (b) identify the gas cylinders concerned; and

- (c) inform the manufacturer of his right to apply for a review of that decision under regulation 8 and of the time limit for making the application referred to in paragraph (2) of that regulation.

Review

8.—(1) A manufacturer who is aggrieved by a decision of an inspection body mentioned in regulation 7(1) (hereinafter referred to as “an adverse decision”), may in accordance with paragraphs (2) and (3) apply to the Department for a review of that decision (hereinafter referred to as a “review”).

(2) An application for the review of an adverse decision shall be made by written notice to the Department and shall be lodged not later than 14 days from the date on which the manufacturer concerned received notice of that decision sent in accordance with regulation 7.

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

- (a) copies of any documents which the manufacturer concerned provided to the inspection body in connection with the presentation for EEC verification of the gas cylinders to which that decision related; and
- (b) a copy of the notice of the decision sent in accordance with regulation 7.

(4) Where an application for a review has been made the manufacturer concerned shall retain the gas cylinders to which the review relates until after it has been determined, and he shall, if required by the Department, make them available for inspection by the Department or any assessor appointed by it under paragraph (6)(b).

(5) On an application being made to it for the review of an adverse decision, the Department may—

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

(6) On an application being made to it for a review, the Department shall—

- (a) have the power to do anything which an inspection body is authorised or required to do under these Regulations; and
- (b) if it determines to find in favour of the applicant, issue to him, in relation to the gas cylinders to which the review relates, the EEC verification certificate referred to in regulation 5(2) and require the inspection body concerned to affix to those cylinders the EEC verification marks referred to in that paragraph; and upon being so required the inspection body shall forthwith affix those marks in the order required by the Framework Directive and the relevant Separate Directive.

(7) On determining a review the Department may require the unsuccessful party to pay to it a specified sum in respect of the costs which the

Department has incurred in conducting the review, and in ascertaining such costs the Department may determine the cost of employing an officer for any period on work appropriate to his grade by reference to the average cost to the Department of employing officers of his grade for that period.

False marks

9.—(1) A person, other than an inspection body, shall not affix to a gas cylinder any of the EEC verification marks referred to in regulation 5(2), and a person shall not affix to a gas cylinder any mark liable to be confused with any of those EEC verification marks.

(2) Paragraph (1) shall have effect as if it were a health and safety regulation made under Article 17 of the Health and Safety at Work (Northern Ireland) Order 1978(a) and the provisions of that Order as regards enforcement and offences shall apply to that paragraph.

Article 22 procedure for pressure vessels

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

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

(3) In making the appointment under paragraph (2), the Department—

(a) shall take into account the minimum criteria set out in paragraphs 1 to 7 of Annex III of the Framework Directive; and

(b) for the efficient and proper functioning of any such body, may impose such conditions as it thinks fit.

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

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

(6) The Department shall be responsible for discharging in Northern Ireland the functions placed on the recipient administration by Annex IV of the Framework Directive.

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

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

(8) Where the costs actually incurred by the Department in carrying out the functions referred to in paragraph (7) are greater than the provisional fee, the difference between those costs and that fee shall be payable by the manufacturer concerned to the Department, and where those costs are less than the provisional fee, the difference between those costs and that fee shall be repayable by the Department to the manufacturer.

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

(10) In this paragraph "manufacturer" means a manufacturer of pressure vessels.

Sealed with the Official Seal of the Department of Economic Development on 3rd March 1992.

(L.S.)

Suzanna Cooper

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations implement as respects Northern Ireland those provisions of Council Directives 76/767/EEC (O.J. No. L262, 27.9.76, p. 153), 84/525/EEC (O.J. No. L300, 19.11.84, p. 1), 84/526/EEC (O.J. No. L300, 19.11.84, p. 20) and 84/527/EEC (O.J. No. L300, 19.11.84, p. 48) which relate to the verification and inspection of pressure vessels.

The Regulations—

- (a) provide for the appointment by the Department of Economic Development ('the Department') of inspection bodies to carry out inspection of gas cylinders, and for the revocation of any such appointment in certain circumstances (regulation 3);
- (b) enable manufacturers to present gas cylinders to such inspection bodies for EEC verification (regulation 4);
- (c) empower inspection bodies on payment of such fees as may be agreed with the manufacturer to carry out such checks, examinations and tests as are required for EEC verification by the Framework Directive and the relevant Separate Directive (as both are defined in regulation 2(1)) and affix to the gas cylinders the appropriate EEC verification marks and to issue to the manufacturer an EEC verification certificate in accordance with the model set out in the relevant Separate Directive (regulation 5);

- (d) allow inspection bodies reasonable access to the places where the gas cylinders are manufactured if such access is essential to assist the proper carrying out of the verification (regulation 6);
- (e) require an inspection body to send a written notice of its decision refusing to affix the appropriate EEC verification mark or refusing to issue the appropriate EEC verification certificate (regulation 7);
- (f) enable a manufacturer to apply to the Department for a review of a decision by an inspection body refusing to affix the appropriate EEC verification mark or to issue the appropriate EEC verification certificate (regulation 8);
- (g) prohibit any person other than an inspection body from affixing to a gas cylinder any of the EEC verification marks referred to in regulation 5(2), and from affixing to a gas cylinder any mark liable to be confused with any of those EEC verification marks (regulation 9);
- (h) provide for the special procedure specified in Article 22 of the Framework Directive whereby a manufacturer wishing to export a pressure vessel which is subject to that Directive but not subject to the requirements of a separate Directive, may have the vessel verified as conforming to the design requirements imposed by the law of the Member State to which the vessel is to be exported and for the charging of a fee by the Department in relation to its functions under the regulation (regulation 10).

A person who contravenes regulation 9 is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction, to a fine not exceeding £2,000, or, on conviction on indictment, to a fine.