

SCHEDULE 36

Amendment of Regulation (EU) 2016/426 and the Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018

PART 1

Amendment of subordinate legislation

Amendment of the Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018

1.—(1) The Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 are amended as follows.

(2) In regulation 1—

(a) in paragraph (2), at the appropriate place, insert—

“Regulation 2016/426 (pre-exit)” means Regulation (EU) 2016/426 of the European Parliament and of the Council on appliances burning gaseous fuels and repealing [Directive 2009/142/EC](#) as it had effect immediately before exit day;”;

(b) in paragraph (3)—

(i) after “In these Regulations”, insert “(unless otherwise stated)”;

(ii) in sub-paragraph (a), omit “unless otherwise stated”;

(iii) in sub-paragraph (b), after “paragraph of an Article” in both places insert “, Chapter”;

(c) in paragraph (4), after “EU Regulation 2016/426” in the second place it occurs, insert “unless otherwise stated”.

(3) In regulation 2—

(a) in paragraph (4), for “The” substitute “Subject to the modifications made in paragraph (4A), the”;

(b) after paragraph (4), insert—

“(4A) The modifications referred to in paragraph (4) are as follows—

(a) any reference to the “Community” is to be read as including the United Kingdom;

(b) any reference to “member State” is to be read as though the United Kingdom were a member State;

(c) regulation 10(6) is to be read as if the words from “and, on request made by it” to the end were omitted;

(d) regulation 13(2) is to be read as if sub-paragraph (b) were omitted;

(e) regulation 15(2) is to be read as if sub-paragraph (b) were omitted.”.

(4) After regulation 2, insert—

“Obligations which are met by complying with obligations in Regulation 2016/426 (pre-exit)

2A.—(1) In this regulation, “harmonised standard” has the meaning given in Article 2(23) of Regulation 2016/426 (pre-exit).

- (2) Paragraph (3) applies where before placing an appliance or fitting on the market, or using an appliance for their own purposes, the manufacturer—
- (a) ensures that the appliance or fitting has been designed and manufactured in accordance with the essential requirements set out in Annex I to Regulation 2016/426 (pre-exit);
 - (b) carries out the applicable conformity assessment procedure referred to in Article 14 of Regulation 2016/426 (pre-exit), or has it carried out;
 - (c) draws up the technical documentation referred to in Annex III to Regulation 2016/426 (pre-exit);
 - (d) ensures that the technical documentation and other records and correspondence relating to the conformity assessment procedures are prepared in or translated into English;
 - (e) affixes a CE marking and the inscriptions provided for in Annex IV of Regulation 2016/426 (pre-exit), in accordance with Articles 16, 17(1) to (4) and 18 of Regulation 2016/426 (pre-exit);
 - (f) draws up an EU declaration of conformity, in accordance with Article 15 of Regulation 2016/426 (pre-exit); and
 - (g) ensures that the EU declaration of conformity is prepared in or translated into English.
- (3) Where this paragraph applies—
- (a) the requirements of Articles 7(1) and (2) and 14 to 18 are to be treated as being satisfied;
 - (b) the requirement in Article 7(5) to ensure that appliances and fittings bear inscriptions, is to be treated as being satisfied;
 - (c) Articles 7(3), (4) and (7), 8(2) and point 1.7 of Annex I (referred to in Article 7(7)) and regulations 7(1) and 8(3)(a) apply subject to the modifications in paragraph (8); and
 - (d) Article 40 does not apply.
- (4) Paragraph (5) applies where before placing an appliance or fitting on the market, the importer ensures that—
- (a) the applicable conformity assessment procedure referred to in Article 14 of Regulation 2016/426 (pre-exit) has been carried out;
 - (b) the manufacturer has drawn up the technical documentation referred to in Annex III of Regulation 2016/426 (pre-exit); and
 - (c) the appliance or fitting bears the CE marking in accordance with Articles 16 and 17(1) to (4) of Regulation 2016/426 (pre-exit).
- (5) Where this paragraph applies—
- (a) the requirements in the first or second subparagraph of Article 9(2), as applicable, to ensure that—
 - (i) the appropriate conformity assessment procedure referred to in Article 14 has been carried out;
 - (ii) the manufacturer has drawn up the technical documentation; and
 - (iii) the appliance or fitting bears the UK marking,are to be treated as being satisfied;

- (b) the third subparagraph of Article 9(2), Article 9(5) and (8), and regulations 7(1) and 8(3)(b) apply subject to the modifications in paragraph (8); and
 - (c) in relation to fittings, the second subparagraph of Article 9(2) (other than those requirements treated as being satisfied), point 1.7 of Annex I (referred to in that subparagraph) and the second subparagraph of Article 9(4) also apply subject to the modifications in paragraph (8).
- (6) Paragraph (7) applies where, before placing an appliance or fitting on the market, a distributor ensures that the appliance or fitting bears the CE marking in accordance with Articles 16 and 17(1) to (4) of Regulation 2016/426 (pre-exit).
- (7) Where this paragraph applies—
- (a) the requirement in the first or second subparagraph of Article 10(2), as applicable, for the distributor to verify that the appliance or fitting bears the UK marking, is to be treated as being satisfied;
 - (b) the third subparagraph of Article 10(2), Article 10(3) and regulation 7(1) apply subject to the modifications in paragraph (8); and
 - (c) in relation to fittings, the second subparagraph of Article 10(2) (other than that requirement treated as being satisfied) and point 1.7 of Annex I (referred to in that subparagraph) also apply subject to the modifications in paragraph (8).
- (8) The modifications referred to in paragraphs (3)(c), (5)(b) and (c), and (7)(b) and (c) are that—
- (a) any reference to a “declaration of conformity” is to be read as a reference to an EU declaration of conformity, referred to in Article 15 of Regulation 2016/426 (pre-exit);
 - (b) any reference to “essential requirements” is to be read as a reference to the essential requirements set out in Annex I of Regulation 2016/426 (pre-exit);
 - (c) any reference to “designated standard” is to be read as a reference to a harmonised standard;
 - (d) any reference to “technical documentation” is a reference to the technical documentation referred to in Annex III to Regulation 2016/426 (pre-exit);
 - (e) in regulations 7(1) and 8(3), any reference to a numbered Article is to be read as a reference to the equivalent Article of Regulation 2016/426 (pre-exit).

Conformity assessment procedure obligation which is met by complying with Regulation 2016/426 (pre-exit)

2B.—(1) Paragraph (2) applies where, before placing an appliance or fitting on the market the manufacturer ensures that its conformity with Regulation 2016/426 (pre-exit) has been assessed by means of the conformity assessment procedure set out in point 1 of Annex III to Regulation 2016/426 (pre-exit) and referred to in Article 14(2) of Regulation 2016/426 (pre-exit) as EU type-examination, in accordance with that Article.

- (2) Where this paragraph applies—
- (a) the requirement in Article 14(2) that the conformity of appliances and fittings with Regulation EU 2016/426 be assessed by means of the type-examination set out in point 1 of Annex III is to be treated as being satisfied;
 - (b) any reference to “conformity assessment procedure” in Articles 7(2) and 9(2) (first and second subparagraphs) is to be read as including the conformity assessment procedure referred to in Article 14(2) of Regulation 2016/426 (pre-exit) as EU type-examination;

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, *The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019* ISBN 978-0-11-118040-2

- (c) any reference to “technical documentation” in Articles 7(2), 7(3), 9(2) (first and second subparagraphs) and 9(8) is to be read as including the technical documentation relating to the design of the appliance or fitting as referred to in point 1 of Annex III to Regulation 2016/426 (pre-exit).”
- (5) In regulation 6, for the words from “or other matter within its knowledge” to the end, substitute “in accordance with Chapter 5”.
- (6) In regulation 7(1)(e), for “CE” substitute “UK”.
- (7) In regulation 8(3), omit “EU” in both places in which it occurs.
- (8) In regulation 12(1), omit “at national level”.