

Draft Order laid before Parliament under paragraphs 1(1) and 38(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No. 0000

EXITING THE EUROPEAN UNION HEALTH AND SAFETY

The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2020

*Made - - - - 2020
Coming into force in accordance with regulation 1*

The Secretary of State, in exercise of the powers conferred by sections 8(1), 8B(1), 8C(1) and 23(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(1), makes the following Regulations.

The requirements of paragraphs 1(1) and 38(3), of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

In accordance with paragraph 2(7) of Schedule 3 to the Railways Act 2005(2) the Secretary of State has consulted the Office of Rail and Road.

Citation and commencement

1. These Regulations may be cited as the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2020 and come into force on IP completion day.

Amendment of Regulations

2. The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009(3) are amended in accordance with regulations 3 to 26.

(1) 2018 c. 16. Whilst section 8(1) is not amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1), the deficiencies identified in sub-section (2) are amended by the European Union (Withdrawal Agreement) Act 2020, section 27(1) and (2). Section 8B(1) is inserted by section 18 of the European Union (Withdrawal Agreement) Act 2020 and section 8C(1) is inserted by section 21 of that Act. Paragraph 21(b) of Schedule 7 is amended by the European Union (Withdrawal Agreement) Act 2020, paragraph 53(2)(b) of Schedule 5.

(2) 2005 c. 14. Paragraph 2(7) of Schedule 3 is amended by S.I. 2015/1682, paragraph 3(s)(ii).

(3) S.I. 2009/1348, amended by S.I. 2011/1885 and 2019/598. There are other amending instruments but none is relevant.

Amendments to Part 1 (Introductory Provisions)

3.—(1) In regulation 2 (Interpretation – General), the Table in paragraph (5) is amended as follows.

(2) After the definition of “ADR” insert—

““the Annexes”	Subject to paragraphs (6) and (7), Annexes I and II to the Dangerous Goods Directive.
“appointed body”	A body appointed to carry out inspections of and tests on transportable pressure equipment by the GB competent authority under regulation 29 for the purposes of ADR and RID (as applicable).”

(3) After the definition of “armed forces” insert—

““certificate of conformity”	The document issued to confirm successful completion of a conformity assessment.”
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(4) For the definition of “conformity assessment”, substitute—

““conformity assessment”	The assessment and the procedure for assessment of conformity set out in— (a) the Annexes to the Dangerous Goods Directive, where the assessment by an appointed body will culminate in the equipment being marked with the UK TPE marking; or (b) the Directives, where the assessment by a notified body will culminate in the equipment being marked with the pi marking.”
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(5) Omit the row containing the expression and meaning of “conformity mark”.

(6) For the row containing the expression and meaning of “the Dangerous Goods Directive”—

(a) before “Directive” insert “Subject to paragraphs (6) and (7),”; and

(b) for “as amended from time to time” substitute “as it had effect immediately before IP completion day”.

(7) For the row containing the expression and meaning of “the Directives”, for “The” substitute “Subject to paragraphs (6) and (7), the”.

(8) After the definition of “the Directives” insert—

““distributor”	Subject to regulation 19(3)(b) and (4)(b), any person established in the United Kingdom, other than the manufacturer or the importer, who makes transportable pressure equipment, or parts thereof, available on the GB market.”
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(9) After the definition of “the GB competent authority” insert—

““importer”	Subject to regulation 19(3)(a) and (4)(a), a person who—
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	(a) is established in the United Kingdom; and (b) places transportable pressure equipment or parts thereof from a country outside of the United Kingdom, on the GB market.
“making available on the GB market” and like expressions	Subsequent to the transportable pressure equipment being placed on the Great Britain market, any supply of that equipment for distribution or use on that market in the course of a commercial or public service activity, whether in return for payment or free of charge.
“manufactured in series to a design type”	Equipment that is one of a series of products manufactured to the same design.
“manufacturer”	A person who— (a) manufactures transportable pressure equipment, or parts thereof, or who has such equipment designed or manufactured; and (b) markets it under their own name or trademark.”

(10) After the definition of “national carriage” insert—

““Northern Ireland competent authority”	The competent authority in Northern Ireland, as defined in regulation 21 of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010(4), under regulation 25 of those Regulations.
“notified body”	An inspection body appearing on the list published by the European Commission(5) pursuant to article 23(2) of the Transportable Pressure Equipment Directive.
“operator”	A person established in a relevant territory who uses transportable pressure equipment.
“owner”	A person established in the United Kingdom who owns transportable pressure equipment.
“pi marking”	The mark referred to in article 14 of the Transportable Pressure Equipment Directive, the form of which is set out in article 15 of that Directive, and may include a pi marking accompanied by the indication “UK(NI)”.
“pi marked TPE”	Transportable pressure equipment bearing the pi marking.
“placing on the GB market” and like expressions	The first making available of transportable pressure equipment on the Great Britain market..”.

(11) For the row containing the expression and meaning of “relevant member State” substitute—

““relevant territory”	Great Britain, Northern Ireland or a member State of the EU.”
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(4) S.R. 2010 No. 160, amended by S.R. 2011 No. 365.

(5) Copies can be obtained at <http://ec.europa.eu/growth/tools-databases/nando/index.cfm> or made available for inspection at the Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR.

(12) For the row containing the expression and meaning of “TPED competent authority”, for “or another member State of the EU.” substitute “or a member State of the EU.”

(13) For the row containing the expression and meaning of “the Transportable Pressure Equipment Directive”, after “and 1999/36/EC” insert “, as it had effect immediately before IP completion day”.

(14) After the definition of “the Transportable Pressure Equipment Directive” insert—

““UK TPE”	Transportable pressure equipment bearing the UK TPE marking.
“UK TPE marking”	The marking in the form published in accordance with regulation 22B.”

(15) After the Table in paragraph (5), insert—

“(6) References to—

- (a) “the Annexes”;
- (b) “the Dangerous Goods Directive”; and
- (c) “the Directives”;

are subject to the modification identified in paragraph (7).

- (a) (7) Section I.1 of Annex I; and
- (b) Section II.1 of Annex II

to the Dangerous Goods Directive are to be read as if “as applicable with effect from 1 January 2019,” had been omitted.”.

Amendments to Part 3 (Exemptions)

4.—(1) Regulation 11 (Derogations and transitional provisions) is amended as follows.

(2) For paragraph (2)(a) and (b), substitute—

“(a) implementing a derogation authorised under article 6(2) to (4) of and listed in—

- (i) section I.3 of Annex I, or
- (ii) section II.3 of Annex II

to the Dangerous Goods Directive that had effect immediately before IP completion day, subject to the modification in paragraph (3); or

(b) maintaining a transitional provision permitted by article 7 of and listed in—

- (i) section I.2 of Annex I, or
- (ii) section II.2 of Annex II

to the Dangerous Goods Directive, subject to the modification in paragraph (3); or”.

(3) For paragraph (3), substitute—

“(3) The modification referred to in paragraphs (2)(a) and (b) apply to the identified sections of those Annexes to the Dangerous Goods Directive, and are that any reference to a member State is to be read as a reference to—

- (a) the UK, or
- (b) a member State of the EU.”.

(4) Omit paragraphs (4) to (5).

(5) In paragraph (7), after “under regulation 12(1)”, insert “or an exception under regulation 11A(1)”.

5. After regulation 11, insert—

“Exceptions

11A.—(1) The Secretary of State may issue an exception from the requirements and prohibitions arising under Part 2 of these Regulations when satisfied that safety would not be compromised and either—

- (a) the carriage is of small quantities of dangerous goods and the substances have neither a medium nor high level of radioactivity;
- (b) the carriage is national carriage over short distances; or
- (c) the carriage is national carriage by rail on routes designated by the Secretary of State as—
 - (i) forming part of a defined industrial process; and
 - (ii) being closely controlled under clearly specified conditions.

(2) An exception issued under paragraph (1) must not be for a period exceeding 6 years from the date of issue.

(3) Prior to issuing an exception, the Secretary of State—

- (a) must consult—
 - (i) the GB competent authority; and
 - (ii) the Office of Rail and Road in respect of carriage by rail where that body is an enforcing authority pursuant to regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006⁽⁶⁾; and
- (b) may consult—
 - (i) the authorities identified in regulation 32 as being enforcing authorities for the carriage concerned, where that authority is not consulted pursuant to sub-paragraph (a); and
 - (ii) such other bodies as appear to the Secretary of State to be appropriate.

(4) The Secretary of State may renew, and in doing so may amend, an exception for a further period not exceeding six years from the date of renewal.

(5) The Secretary of State may not bring to an end, or substantially alter, an exception unless those who might be affected have been consulted.

(6) This regulation does not limit the power to issue an authorisation under regulation 12(1).

Documentation of exemptions and exceptions

11B.—(1) Where any—

- (a) exemption is granted pursuant to regulation 11(1); or
- (b) exception is issued pursuant to regulation 11A(1),

⁽⁶⁾ S.I. 2006/557, amended by S.I. 2007/1573, 2014/469, 2015/1682 and 2017/1075.

that exemption or exception is to be set out in a document called “Carriage of Dangerous Goods: Approved Derogations, Transitional Provisions and Exceptions”(7).

- (2) The document may be revised in whole or in part from time to time.
- (3) In the document the Secretary of State must set out—
 - (a) the types of carriage to which the exemption or exception applies;
 - (b) the circumstances in which the exemption or exception applies;
 - (c) the requirements and prohibitions that do not apply pursuant to regulations 11(1) or 11A;
 - (d) any requirements and prohibitions that apply instead; and
 - (e) in the case of an exception, the date upon which it was first issued, the dates of any renewals under regulation 11A(4) and the date the exception is due to expire.”.

6. In regulation 13(3)(b), for “conformity mark” substitute “pi marking”.

7. In regulation 14(6)(d)—

- (a) for “or another EEA State” substitute “or an EEA State”, and
- (b) for “regulation 21” substitute “regulations 20A and 21”.

Amendments to Part 4 (Transportable pressure equipment)

8.—(1) Regulation 19 (Scope of obligations) is amended as follows.

(2) In paragraph (1), after “that Directive”, insert “, subject to the modification in paragraph (1A)”.

(3) After paragraph (1), insert—

“(1A) The modification referred to in paragraph (1) is that the reference to “making it available on the market” in that article is to be read as a reference to making it available on the GB market, as defined by these Regulations.”.

(4) After paragraph (2), insert—

- “(3) Where transportable pressure equipment has been—
- (a) placed on the GB market by an importer; or
 - (b) made available on the GB market by a distributor

prior to IP completion day, references to those economic operators in the regulations identified in paragraph (4) include such economic operators established in a relevant territory.

(4) The regulations referred to in paragraph (3) are—

- (a) in respect of an importer—
 - (i) regulation 19CA(1)(b) and (2)(a),
 - (ii) regulation 19D(3)(a) and (4)(a), and
 - (iii) regulation 19E(2)(a), and
- (b) in respect of a distributor, regulation 19E(2)(a).”.

9. For regulation 19A(5) (General Obligations), substitute—

(7) Copies can be obtained at www.gov.uk/government/publications/the-carriage-of-dangerous-goods-approved-derogations-and-transitional-provisions/carriage-of-dangerous-goods-approved-derogations-and-transitional-provisions or made available for inspection at the Department for Transport (Dangerous Goods Division), Great Minster House, 33 Horseferry Road, London SW1HP 4DR.

- “(5) The information must comply with—
- (a) the Annexes in respect of UK TPE; or
 - (b) the Directives in respect of pi marked TPE.”.

10. After regulation 19A, insert—

“Obligations of Manufacturers prior to placing equipment on the GB market

19AA.—(1) A manufacturer of equipment to be placed on the GB market must comply with paragraph (2) or (3).

- (2) Where it is intended that the equipment becomes UK TPE, the manufacturer must—
- (a) ensure a conformity assessment is carried out by an appointed body;
 - (b) mark equipment in accordance with regulation 22B; and
 - (c) keep the technical documentation specified in—
 - (i) section 1.8.7 of ADR; or
 - (ii) section 1.8.7 of RID,for the period specified in those Agreements.

(3) Where it is intended that the equipment becomes pi marked TPE, the manufacturer must—

- (a) ensure a conformity assessment is carried out by a notified body;
- (b) mark equipment in accordance with articles 14 and 15 of the Transportable Pressure Equipment Directive; and
- (c) keep the technical documentation specified in the Dangerous Goods Directive for the period specified in that Directive.

Obligations of Manufacturers after placing UK TPE on the GB market

19AB.—(1) This regulation applies to equipment bearing the UK TPE marking that a manufacturer has placed on the GB market.

(2) Where a manufacturer knows or has reason to believe that the equipment does not comply with regulation 19AA(2) or the Annexes, that manufacturer must—

- (a) take immediate corrective measures to ensure that the equipment complies with—
 - (i) regulation 19AA(2); and
 - (ii) the Annexes;
- (b) withdraw the equipment from the market; or
- (c) issue a recall of the equipment.

(3) Where a manufacturer considers that the equipment presents a risk, that manufacturer must immediately inform the GB competent authority and Northern Ireland competent authority of—

- (a) the risk, including providing details of any non-compliance with regulation 19AA(2) or the Annexes; and
- (b) any action taken in accordance with paragraph (2).

(4) A manufacturer must record—

- (a) each instance of non-compliance with regulation 19AA(2) or the Annexes; and
- (b) any corrective measure taken,

and must retain that record for at least 20 years from the date that the non-compliance is discovered.

(5) On receipt of a reasoned request from the GB competent authority, a manufacturer must—

- (a) provide that authority with all information and documents necessary to show that the equipment meets the requirements of—
 - (i) regulation 19AA(2); and
 - (ii) the Annexes; and
- (b) cooperate with that authority in any action it takes to eliminate risks posed by that equipment.”.

11.—(1) Regulation 19B (Obligations of Manufacturers) is amended as follows.

(2) In the heading, after “Manufacturers” insert “after placing pi marked TPE on the GB market”.

(3) For paragraph (1), substitute—

“(1) This regulation applies to equipment bearing the pi marking that a manufacturer has placed on the GB market.”.

(4) In paragraph (2), after “that equipment” insert “bearing the pi marking that”.

(5) In paragraph (3), for “in any relevant member State” substitute “for any relevant territory on which the equipment has been placed”.

(6) Omit paragraph (6).

12. After regulation 19B, insert—

“Application of regulations 19AA to 19B to Importers or Distributors

19BA. Regulations 19AA to 19B apply to an importer or a distributor as if that person were a manufacturer where the importer or distributor—

- (a) places equipment on the GB market under the importer or distributor’s own name or trademark; or
- (b) modifies equipment already placed on the GB market in such a way that it may affect compliance—
 - (i) of UK TPE with these Regulations or the Annexes; or
 - (ii) of pi marked TPE with the Directives.

Obligations of Importers prior to placing equipment on the GB market

19BB.—(1) Before placing equipment on the GB market, an importer must ensure that—

- (a) the equipment has been marked in accordance with—
 - (i) regulation 22B; or
 - (ii) articles 14 and 15 of the Transportable Pressure Equipment Directive;
- (b) the manufacturer has complied with conformity assessment and drawn up the technical documentation in accordance with—
 - (i) the Annexes, in respect of UK TPE; or
 - (ii) the Dangerous Goods Directive, in respect of pi marked TPE; and
- (c) the certificate of conformity for the equipment either contains the name and address of the importer or has this information attached to it.

(2) Where an importer considers that equipment presents a risk before it has been placed on the GB market, that importer must inform the manufacturer and the Health and Safety Executive of the risk.

Obligations of Importers after placing UK TPE on the GB market

19BC.—(1) This regulation applies to equipment bearing the UK TPE marking that an importer has placed on the GB market.

(2) The importer must ensure that—

- (a) the conditions in which equipment under the responsibility of the importer is stored and transported do not jeopardise the equipment's compliance with the Annexes; and
- (b) the technical documentation specified in the Annexes is kept for the period set out in that Directive.

(3) Where an importer knows or has reason to believe that equipment it has placed on the GB market does not comply with—

- (a) this regulation;
- (b) regulation 19BB(1)(a)(i), (b)(i) or (c); or
- (c) the Annexes,

that importer must act as required by paragraph (4).

(4) The actions required by paragraph (3) are to—

- (a) take immediate corrective measures to ensure that the equipment complies with—
 - (i) this regulation;
 - (ii) regulation 19BB(1)(a)(i), (b)(i) or (c); and
 - (iii) the Annexes;
- (b) withdraw the equipment from the market; or
- (c) issue a recall of the equipment.

(5) Where an importer considers that equipment it has placed on the GB market presents a risk, that importer must immediately inform the manufacturer, the GB competent authority and Northern Ireland competent authority of the risk, including details of any non-compliance with—

- (a) this regulation;
- (b) regulation 19BB(1)(a)(i), (b)(i) or (c); or
- (c) the Annexes,

and any action taken in accordance with paragraph (4).

(6) An importer must record each instance of non-compliance with—

- (a) this regulation;
- (b) regulation 19BB(1)(a)(i), (b)(i) or (c); or
- (c) the Annexes,

and any corrective measure taken and must retain that record for at least 20 years from the date that the non-compliance is discovered.

(7) On receipt of a reasoned request from the GB competent authority, an importer must—

- (a) provide that authority with all information and documents necessary to show that the equipment meets the requirements of—
 - (i) this regulation;
 - (ii) regulation 19BB(1)(a)(i), (b)(i) or (c); and
 - (iii) the Annexes;
- (b) cooperate with that authority in any action taken to eliminate risks posed by that equipment.”.

13.—(1) Regulation 19C (Obligations of Importers) is amended as follows.

(2) In the heading, after “Importers” insert “after placing pi marked TPE on the GB market”.

(3) Before paragraph (1), insert—

“(A1) This regulation applies to equipment bearing the pi marking that a manufacturer has placed on the GB market.”.

(4) In paragraph (1), omit sub-paragraphs (a) to (c).

(5) Omit paragraph (3).

(6) In paragraph (4), for “in any relevant member State” substitute “for any relevant territory on which the equipment has been placed”.

14. After regulation 19C, insert—

“Obligations of Distributors prior to making equipment available on the GB market

19CA.—(1) Before making transportable pressure equipment available on the GB market, a distributor must ensure that—

- (a) the equipment has been marked in accordance with—
 - (i) regulation 22B; or
 - (ii) articles 14 and 15 of the Transportable Pressure Equipment Directive; and
- (b) the certificate of conformity for the equipment either contains the name and address of the importer or has this information attached to it.

(2) Where a distributor considers that equipment presents a risk before it has been made available on the GB market, that distributor must inform—

- (a) the manufacturer or the importer; and
- (b) the Health and Safety Executive

of the risk.

Obligations of Distributors after making UK TPE available on the GB market

19CB.—(1) This regulation applies to equipment bearing the UK TPE marking that a distributor has made available on the GB market.

(2) The distributor must ensure that the conditions in which equipment under the responsibility of the distributor is stored and transported do not jeopardise the equipment’s compliance with the Annexes.

(3) Where a distributor knows or has reason to believe that equipment does not comply with—

- (a) this regulation;
- (b) regulation 19CA(1)(a)(i) or (b); or

- (c) the Annexes,
that distributor must act as required by paragraph (4).
- (4) The actions required by paragraph (3) are to—
 - (a) take immediate corrective measures to ensure that the equipment complies with—
 - (i) this regulation;
 - (ii) regulation 19CA(1)(a)(i) or (b); and
 - (iii) the Annexes;
 - (b) withdraw the equipment from the market; or
 - (c) issue a recall of the equipment.
- (5) Where a distributor considers that equipment it has made available on the GB market presents a risk, that distributor must immediately inform the manufacturer, the GB competent authority and Northern Ireland competent authority of the risk, including details of any non-compliance with—
 - (a) this regulation;
 - (b) regulation 19CA(1)(a)(i) or (b); or
 - (c) the Annexes,and any action taken in accordance with paragraph (4).
- (6) A distributor must record each instance of non-compliance with—
 - (a) this regulation;
 - (b) regulation 19CA(1)(a)(i) or (b); or
 - (c) the Annexes,and any corrective measure taken and must retain that record for at least 20 years from the date that the non-compliance is discovered.
- (7) On receipt of a reasoned request from the GB competent authority, a distributor must—
 - (a) provide that authority with all information and documents necessary to show that the equipment meets the requirements of—
 - (i) this regulation;
 - (ii) regulation 19CA(1)(a)(i) or (b); and
 - (iii) the Annexes;
 - (b) cooperate with that authority in any action taken to eliminate risks posed by that equipment.”.

15.—(1) Regulation 19D (Obligations of Distributors) is amended as follows.

(2) In the heading, after “Distributors” insert “after making pi marked TPE available on the GB market”.

(3) Before paragraph (1), insert—

“(A1) This regulation applies to equipment bearing the pi marking that a distributor has made available on the GB market.”.

(4) For paragraph (1), substitute—

“(1) A distributor must ensure that the conditions in which equipment under the responsibility of the distributor is stored and transported do not jeopardise the equipment’s compliance with the Directives.”.

(5) Omit paragraph (3).

(6) In paragraph (4)(b), for “in any relevant member State” substitute “for any relevant territory on which the equipment has been made available”.

16.—(1) Regulation 19E (Obligations of Owners) is amended as follows.

(2) After paragraph (2), insert—

“(2A) An owner of UK TPE must record each instance of non-compliance with—

- (a) this regulation;
- (b) regulation 21A; or
- (c) the Annexes,

and any corrective measure taken and must retain that record for at least 20 years from the date that the non-compliance is discovered.”

(3) In paragraph (3), after “An owner” insert “of pi marked TPE”.

17.—(1) Regulation 20 (Authorised Representatives) is amended as follows.

(2) For paragraph (1), substitute—

“(1) Subject to paragraph (3), a manufacturer may appoint in writing a person established in a relevant territory (“an authorised representative”) to carry out some or all of the duties imposed on the manufacturer by—

- (a) regulations 19A, 19AA and 19AB in respect of equipment that bears, or will bear, the UK TPE marking; or
- (b) regulations 19A, 19AA and 19B in respect of equipment that bears, or will bear, the pi marking.”.

(3) For paragraph (2)(b) and (c), substitute—

“(b) in respect of UK TPE—

- (i) providing to the GB competent authority or Northern Ireland competent authority, in response to a reasoned request, the information and documents necessary to show that the equipment meets the requirements of these Regulations and the Annexes; and
- (ii) cooperating with those competent authorities in any action they take to eliminate risks posed by the equipment; and

(c) in respect of pi marked TPE—

- (i) providing to a TPED competent authority, in response to a reasoned request and in a language that it easily understands, the information and documents necessary to show that the equipment meets the requirements of the Directives; and
- (ii) cooperating with that competent authority in any action they take to eliminate risks posed by the equipment.”.

(4) In paragraph (3), for “19B(1)(a) or 19B(1)(b)” substitute “19AA(2)(a), (2)(b), (3)(a) or (3)(b)”.

(5) For paragraph (5), substitute—

“(5) An authorised representative must only provide information to an operator that complies with the requirements of—

- (a) the Annexes in respect of UK TPE; or
- (b) the Directives in respect of pi marked TPE.”.

18. After regulation 20, insert—

“Reassessment of conformity – UK TPE

20A.—(1) This regulation applies to transportable pressure equipment which does not bear the conformity markings provided for in—

- (a) regulation 22B;
- (b) the Transportable Pressure Equipment Directive; or
- (c) Council [Directive 1999/36/EC](#) of 29 April 1999 on transportable pressure equipment⁽⁸⁾,

for the purposes of reassessment of conformity.

(2) Equipment may be reassessed for conformity in accordance with this regulation.

(3) The equipment is to be—

- (a) reassessed by a type A appointed body in accordance with the procedure set out in Annex III to the Transportable Pressure Equipment Directive, subject to the modifications in paragraph (6); and
- (b) inspected by an appointed body appointed for periodic inspection of that equipment and marked in accordance with the requirements of regulation 22B.

(4) If a pressure receptacle has been manufactured in series to a design type for which a—

- (a) type A notified body notified for; or
- (b) type A appointed body appointed for

reassessment of conformity has issued a certificate of type reassessment, the reassessment of conformity may be undertaken by an appointed body appointed for periodic inspection of that pressure receptacle.

(5) In this regulation—

- (a) “certificate of type reassessment” means a certificate issued in accordance with paragraph 6 of Annex III to the Transportable Pressure Equipment Directive, subject to the modifications in paragraph (6); and
- (b) “type A appointed body” means an appointed body conforming to standard EN ISO/IEC 17020 type A⁽⁹⁾ as revised or reissued from time to time.

(6) The modifications referred to in paragraphs (3)(a) and (5)(a) apply to Annex III to the Transportable Pressure Equipment Directive and are that—

- (a) any reference to “a notified body” is to be read as a reference to an appointed body;
- (b) any reference to a “type A notified body” is to be read as a reference to a type A appointed body;
- (c) any reference to “notified” is to be read as a reference to appointed;
- (d) any reference to the “pi marking” is to be read as a reference to the UK TPE marking; and
- (e) any reference to “Member States” is to be read as a reference to the GB competent authority.”.

⁽⁸⁾ OJ No. L 138, 1.6.1999, p. 20-56.

⁽⁹⁾ Current edition: 2012, ISBN 0580784545. Copies can be purchased from The Stationery Office shop (<https://www.tsoshop.co.uk/> or 0333 200 2425) or made available for inspection at the Department for Transport (Dangerous Goods Division), Great Minster House, 33 Horseferry Road, London, SW1P 4DR.

- 19.**—(1) Regulation 21 (Reassessment of conformity) is amended as follows.
- (2) In the heading, after “Reassessment of conformity” insert “ - pi marked TPE”.
- (3) In paragraph (1), for “transportable pressure equipment” substitute “pi marked TPE”.
- 20.** After regulation 21, insert—

“UK TPE - Periodic inspection and repeated use

21A.—(1) This regulation applies to UK TPE, for the purposes of its periodic inspections, intermediate inspections, exceptional checks and use.

(2) If the equipment bears the marking provided for in regulation 22B, it is to be subject to—

- (a) periodic inspection; and
- (b) if required by ADR or RID, intermediate inspection,

in accordance with the frequency identified as being applicable to that type of equipment in Chapter 6.2 of ADR or Chapter 6.2 of RID.

(3) The periodic inspection or, where necessary, intermediate inspection must be conducted by an appointed body.

(4) The date of the periodic inspection or intermediate inspection, must be marked on the equipment along with the identification number of the appointed body responsible for the inspection.”.

- 21.**—(1) Regulation 22 (Periodic inspection and repeated use) is amended as follows.
- (2) In the heading, after “Periodic inspection” insert “ - pi marked TPE”.
- (3) In paragraph (1), for “transportable pressure equipment” substitute “pi marked TPE”.
- (4) In paragraph (4), after “periodic inspections” insert “of pi marked TPE”.

- 22.**—(1) After regulation 22, insert—

“Conversion of pi marked TPE to UK TPE

22A.—(1) This regulation applies to equipment bearing the pi marking—

- (a) that is due to be subject to a periodic or intermediate inspection in accordance with the requirements of the Dangerous Goods Directive;
- (b) that will, following the inspection, not be used for carriage within the territory of an EU member State other than for the transport of dangerous goods between EU member States and non-member States, where that carriage—
 - (i) complies with the requirements of the ADR or RID, and
 - (ii) is not prohibited within the Annexes; and
- (c) whose owner wishes it to be marked with the UK TPE marking.

(2) The inspection must be conducted by an appointed body.

(3) The equipment must be marked in accordance with regulation 22B and, adjacent to that marking, be marked with—

- (a) the date of the periodic inspection or, where appropriate, the intermediate inspection, and
- (b) the identification number of the appointed body responsible for the periodic or intermediate inspection.

UK TPE marking

22B.—(1) The Secretary of State must publish the form of the UK TPE marking as set out in Schedule 1A on the Gov.uk website (www.gov.uk)(10).

(2) Schedule 1A (UK TPE marking) has effect.

(3) The UK TPE marking may not be affixed to a product unless these Regulations provide for its affixing.”.

(2) After Schedule 1 (Placards, marks and plate markings for national carriage), insert new Schedule 1A, as set out in the Schedule to these Regulations.

23. For regulation 23 (Misleading and other markings), substitute—

“**23.**—(1) No person is to affix a marking on transportable pressure equipment which is likely to mislead third parties with regard to the meaning of the graphics of—

(a) the UK TPE marking; or

(b) the pi marking.

(2) Any other marking may be affixed to transportable pressure equipment provided that the visibility and legibility of—

(a) the UK TPE marking; or

(b) the pi marking

is not reduced.”.

Amendments to Part 6 (GB competent authority functions) and Schedule 3 (Appointments)

24. After regulation 26 (Functions of the GB competent authority arising under ADR, RID and ADN), insert—

“Functions of the GB competent authority arising under Part 6

26A.—(1) This regulation applies in respect of UK TPE when the GB competent authority is informed by—

(a) a manufacturer, pursuant to regulation 19AB(3), that it has reason to believe that equipment it has placed on the GB market, does not comply with regulation 19AB(2);

(b) an importer, pursuant to regulation 19BC(5), that it has reason to believe that equipment it has placed on the GB market, does not comply with regulation 19BC(3); or

(c) a distributor, pursuant to regulation 19CB(5), that it has reason to believe that equipment it has made available on the GB market, does not comply with regulation 19CB(3).

(2) When provided with the information identified in paragraph (1), the GB competent authority must inform—

(a) the TPED competent authority for each EU member State; and

(b) the European Commission,

including information about the equipment presenting the risk and measures taken in relation to that equipment by the economic operator concerned.”.

(10) Copies are available for inspection at the Department for Transport (Dangerous Goods Division), Great Minster House, 33 Horseferry Road, London SW1HP 4DR.

- 25.**—(1) Regulation 29 (Appointments by the GB competent authority) is amended as follows.
- (2) In paragraph (4)—
- (a) for “a notified body” substitute “an appointed body”;
 - (b) For “the Dangerous Goods Directive”, substitute “the Annexes”; and
 - (c) for “articles 20 and 26 of the Transportable Pressure Equipment Directive.”, substitute “paragraph (4A).”.
- (3) After paragraph 4, insert—
- “(4A) An appointed body must—
 - (a) be established in Great Britain; and
 - (b) satisfy the criteria set out in—
 - (i) sub-section 1.8.6.8 of ADR; or
 - (ii) sub-section 1.8.6.8 of RID.”.

- 26.**—(1) Schedule 3 (Appointments) is amended as follows.
- (2) In paragraph 1(2), for “A fee” substitute “Subject to sub-paragraph (2A), a fee”.
- (3) After paragraph 1(2), insert—
- “(2A) No fee may be charged for an appointment to which paragraph 2A applies.”.
- (4) For paragraph 2(1), substitute—
- “(1) The GB competent authority must—
 - (a) make any appointment in writing; and
 - (b) assign each appointed body an identification number.”.
- (5) After paragraph 2 (Appointment by the GB competent authority), insert—

“Appointment of notified bodies as appointed bodies

2A.—(1) An inspection body that, prior to IP completion day, was a notified body established only in Great Britain, must be appointed by the GB competent authority as an appointed body.

(2) Any conditions or limitation of appointment period imposed upon that body by virtue of paragraph 2(2) or (3) of this Schedule must continue to apply.

(3) The GB competent authority must assign to an appointed body the notified body identification number that had previously been assigned to them by the European Commission under article 23(1) of the Transportable Pressure Equipment Directive.”.

Signed by authority of the Secretary of State for Transport

Date

Name
Parliamentary Under Secretary of State
Department for Transport

SCHEDULE

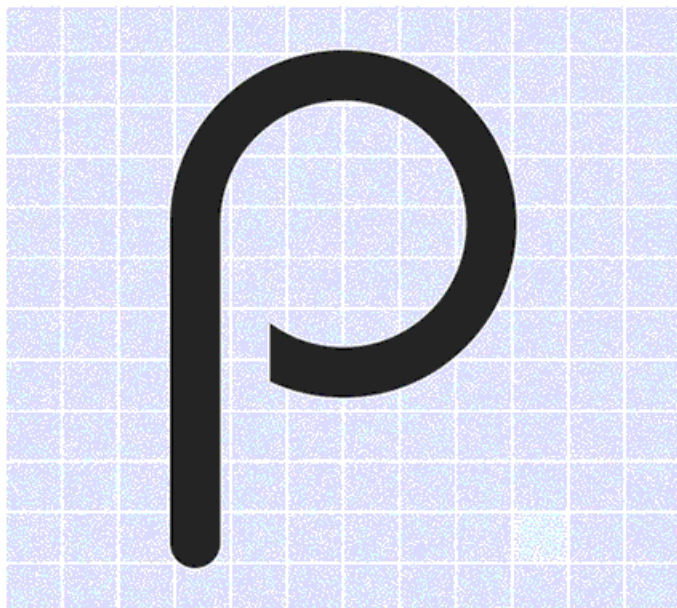
Regulation 22(2)

“SCHEDULE 1A

Regulation 22B(2)

UK TPE marking

1. The UK TPE marking consists of the Greek letter “rho” taking the following form—



2. Where the marking is reduced or enlarged, the proportions given in the graduated drawing in paragraph 1 must be respected.
3. The grid does not form part of the marking.
4. Subject to paragraph 5, the marking must be at least 5 millimetres high.
5. For UK TPE with a diameter less than or equal to 140 millimetres, the minimum height shall be 2.5 millimetres.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) (“the 2018 Act”) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under sections 8(2)(a), (b), (d), (e), (g)) arising from the withdrawal of the UK from the European Union.

In addition, these Regulations make provision in consequence of the 2018 Act and restate retained EU law in a clearer and more accessible way, pursuant to section 23(1) and paragraph 21(b) of Schedule 7 to the 2018 Act. They make provision to implement Part 3 (separation provisions) of

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2020 No. 1111*

the “Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community” dated 19th October 2019 (“Withdrawal Agreement”), pursuant to section 8B(1)(a) of the 2018 Act They also make provision to implement the “Protocol on Ireland/Northern Ireland” in the Withdrawal Agreement, pursuant to section 8C(1)(a).

These Regulations make amendments to secondary legislation in the field of the carriage of dangerous goods by road and rail and, in particular, amend legislation relating to the inspection of transportable pressure equipment used in Great Britain. They amend the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 ([S.I. 2009/1348](#)).

A full impact assessment has not been prepared for this instrument as no, or no significant impact on the private, voluntary or public sectors is foreseen.

An Explanatory Memorandum has been prepared for these Regulations and is published alongside this instrument at www.legislation.gov.uk.