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STATUTORY INSTRUMENTS

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**2015 No. 1553**

**The Pyrotechnic Articles (Safety) Regulations 2015**

**PART 4**

**Notification of conformity assessment bodies**

**Notified bodies**

- 43.**—(1) For the purposes of this Part, a notified body is a conformity assessment body—
- (a) which has been notified to the European Commission and to other member States under regulation 44 (notification); and
  - (b) in respect of which no objections are raised by the European Commission or other member States—
    - (i) within 2 weeks of a notification, where an accreditation certificate is used; or
    - (ii) within 2 months of a notification, where accreditation is not used.
- (2) Paragraph (1) has effect subject to regulation 49 (changes to notifications).

**Notification**

- 44.**—(1) The Secretary of State may notify to the European Commission and the other member States only those conformity assessment bodies that qualify for notification.
- (2) A conformity assessment body qualifies for notification if the first and the second conditions below are met.
- (3) The first condition is that the conformity assessment body makes an application to the Secretary of State for notification and that application is accompanied by—
- (a) a description of—
    - (i) the conformity assessment activities that the conformity assessment body intends to carry out;
    - (ii) the conformity assessment module for which the conformity assessment body claims to be competent; and
    - (iii) the pyrotechnic article for which the conformity assessment body claims to be competent; and either
  - (b) an accreditation certificate; or
  - (c) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the notified body requirements.
- (4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the notified body requirements.

(5) For the purposes of paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with paragraph (3)(b), as sufficient evidence that the conformity assessment body meets the notified body requirements.

(6) When deciding whether to notify a conformity assessment body that qualifies for notification to the European Commission and the other member States, the Secretary of State may—

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
- (b) set conditions that the conformity assessment body must meet.

(7) The Secretary of State must inform the European Commission of the United Kingdom's procedures for the assessment and notification of conformity assessment bodies, and any changes to those procedures.

### **Presumption of conformity of notified bodies**

**45.**—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a harmonised standard (or part of such a standard), the reference of which has been published in the Official Journal of the European Union, the Secretary of State is to presume that the conformity assessment body meets the notified body requirements covered by that standard (or part of that standard).

(2) The presumption in paragraph (1) is rebuttable.

### **Contents of notification**

**46.** A notification under regulation 44 must include—

- (a) details of—
  - (i) the conformity assessment activities in respect of which the conformity assessment body has made its application for notification;
  - (ii) the conformity assessment module in respect of which the conformity assessment body has made its application for notification;
  - (iii) the pyrotechnic article in respect of which the conformity assessment body has made its application for notification; and either
- (b) an accreditation certificate; or
- (c) documentary evidence which attests to—
  - (i) the conformity assessment body's competence; and
  - (ii) the arrangements in place to ensure that the conformity assessment body will be monitored regularly and will continue to meet the notified body requirements.

### **Monitoring**

**47.**—(1) The Secretary of State must monitor each notified body with a view to verifying that the notified body—

- (a) continues to meet the notified body requirements;
- (b) meets any conditions set in accordance with regulation 44(6)(b); and
- (c) carries out its functions in accordance with these Regulations.

(2) The Secretary of State must inform the European Commission of the United Kingdom's procedures for the monitoring of notified bodies, and any changes to those procedures.

### **Delegation to the United Kingdom Accreditation Service**

**48.** The Secretary of State may authorise the United Kingdom Accreditation Service (a company limited by guarantee incorporated in England and Wales under number 03076190) to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the notified body requirements; and
- (b) monitoring notified bodies.

### **Changes to notifications**

**49.—**(1) Where the Secretary of State determines that a notified body no longer meets a notified body requirement, or that it is failing to fulfil any of its obligations under these Regulations other than conditions set in accordance with regulation 44(6)(b), the Secretary of State must restrict, suspend or withdraw the body's status as a notified body under regulation 43.

(2) With the consent of a notified body, or where the Secretary of State determines that a notified body no longer meets a condition set in accordance with regulation 44(6)(b), the Secretary of State may restrict, suspend or withdraw the body's status as a notified body under regulation 43.

(3) In deciding what action is required under paragraph (1) or (2), the Secretary of State must have regard to the seriousness of the failure.

(4) Where the Secretary of State takes action under paragraph (1) or (2), the Secretary of State must immediately inform the European Commission and the other member States.

(5) Where the Secretary of State has taken action in respect of a notified body under paragraph (1) or (2), or where a notified body has ceased its activity, the body must—

- (a) on the request of the Secretary of State, transfer its files (including the register which it maintains under paragraph 5 of Schedule 6 (operational obligations of notified bodies)) to another notified body or to the Secretary of State; or
- (b) in the absence of a request under sub-paragraph (a), ensure that its files are kept available for the Secretary of State and each enforcing authority for a period equal to that specified in paragraphs 5 and 6 of Schedule 6.

### **Operational obligations of notified bodies**

**50.** When a notified body carries out a relevant conformity assessment procedure, Schedule 6 has effect.

### **Subsidiaries and contractors**

**51.—**(1) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the activities are only to be treated as having been carried out by a notified body for the purposes of regulation 40 (conformity assessment procedures) where the conditions in paragraphs (2) and (3) are met.

(2) The notified body must—

- (a) ensure that the subcontractor or subsidiary meets the notified body requirements; and
- (b) inform the Secretary of State accordingly.

(3) The notified body must have obtained the agreement of the client to the use of a subcontractor or subsidiary.

(4) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the notified body must for a period of at least 10 years beginning

on the day on which the activities are carried out, keep at the disposal of the Secretary of State the documentation concerning—

- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
- (b) the conformity assessment activities carried out by the subcontractor or subsidiary.

(5) When monitoring a notified body in accordance with regulation 47, the Secretary of State must treat the notified body as responsible for the tasks performed by a subcontractor or subsidiary, wherever the subcontractor or subsidiary is established.