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STATUTORY INSTRUMENTS

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**2017 No. 737**

**The Recreational Craft Regulations 2017**

**PART 5**

**MARKET SURVEILLANCE AND ENFORCEMENT**

**Enforcement action in respect of formal non-compliance**

**71.**—(1) Where an enforcing authority makes one of the following findings relating to a product, it must require a relevant economic operator to remedy the non-compliance concerned within such reasonable period as the enforcing authority specifies—

- (a) the CE marking—
  - (i) has not been affixed; or
  - (ii) has been affixed in violation of regulation 40 (prohibition on improper use of CE marking) or regulation 54 (CE marking);
- (b) the EU declaration of conformity or the declaration referred to in Schedule 3—
  - (i) has not been drawn up; or
  - (ii) has not been drawn up correctly;
- (c) the technical documentation is either not available or is incomplete;
- (d) the information set out in regulation 14 (duty to provide information) and regulation 21 (duty of importer to ensure products are labelled) is absent, false or incomplete;
- (e) that there has been non-compliance with any other requirement referred to—
  - (i) in the case of the manufacturer or their authorised representative in regulations 8 to 17;
  - (ii) in the case of the importer in regulations 18 to 26;
  - (iii) in the case of a distributor in regulations 27 to 32; and
  - (iv) in the case of a private importer in regulations 36 to 38.

(2) The enforcing authority must not commence proceedings under these Regulations, or take any other enforcement action under these Regulations, against the relevant economic operator in respect of the non-compliance concerned until the period referred to in paragraph (1) has elapsed.

(3) Where the non-compliance referred to in paragraph (1) persists, the enforcing authority must take appropriate measures to—

- (a) restrict or prohibit the product being made available on the market;
  - (b) ensure that the product is recalled or withdrawn from the market; or
  - (c) in the case of a product imported by a private importer for their own use, that that product is prohibited or restricted.
- (4) This regulation does not apply where the product presents a risk.