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STATUTORY INSTRUMENTS

2018 No. 966

**CONSUMER PROTECTION,
NORTHERN IRELAND
HEALTH AND SAFETY, NORTHERN IRELAND**

**The Simple Pressure Vessels, Electrical Equipment
and Pressure Equipment (Miscellaneous
Amendments) (Northern Ireland) Regulations 2018**

Made - - - - *4th September 2018*
Laid before Parliament *6th September 2018*
Coming into force - - *1st October 2018*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972⁽¹⁾ in relation to measures relating to safety as regards simple pressure vessels⁽²⁾, measures for safety as respects electrical equipment⁽³⁾, measures relating to pressure equipment and assemblies of pressure equipment⁽⁴⁾, and measures relating to consumer protection⁽⁵⁾. The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act.

Citation, commencement, transitional and saving provision

1.—(1) These Regulations may be cited as the Simple Pressure Vessels, Electrical Equipment and Pressure Equipment (Miscellaneous Amendments) (Northern Ireland) Regulations 2018 and come into force on 1st October 2018.

(2) The amendments made by these Regulations do not apply to—

(1) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). The enabling powers of section 2(2) were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c. 51).

(2) S.I. 1989/1327.

(3) S.I. 1972/1811, superseded in relation to measures relating to consumer protection by S.I. 1993/2661.

(4) S.I. 1998/2793.

(5) S.I. 1993/2661.

- (a) a vessel, within the meaning of its respective Regulations;
- (b) electrical equipment, within the meaning of its respective Regulations; or
- (c) pressure equipment or an assembly, within the meaning of its respective Regulations,

where the vessel, electrical equipment, pressure equipment or assembly was placed on the market, within the meaning of its respective Regulations, before the coming into force of these Regulations.

(3) Where by virtue of paragraph (2) the amendments made by these Regulations do not apply to a vessel, electrical equipment or pressure equipment or an assembly, its respective Regulations continue to apply as in force immediately before the coming into force of these Regulations.

(4) In this paragraph, “respective Regulations” means in relation to—

- (a) a vessel, the Simple Pressure Vessels (Safety) Regulations 2016⁽⁶⁾;
- (b) electrical equipment, the Electrical Equipment (Safety) Regulations 2016⁽⁷⁾; and
- (c) pressure equipment or an assembly, the Pressure Equipment (Safety) Regulations 2016⁽⁸⁾.

Amendment of the Simple Pressure Vessels (Safety) Regulations 2016

2.—(1) The Simple Pressure Vessels (Safety) Regulations 2016 are amended as follows.

(2) In paragraph 2 of Schedule 7 (enforcement powers of the Health and Safety Executive for Northern Ireland under the 1978 Order)—

(a) in paragraph (c) after sub-paragraph (ii) insert—

“(ia) in paragraph (2)(h) for “him to have caused or to be likely to cause danger to health and safety”, there were substituted “contravene the relevant statutory provisions or present a risk to the health or safety of persons, to domestic animals or to property;”;

(b) after paragraph (c) insert—

“(ca) in Article 23—

(i) before paragraph (a), there were inserted—

“(za) is making available on the market a vessel which presents a risk to the health or safety of persons, to domestic animals or to property;”;

(ii) in sub-paragraph (ii), after “specifying the”, there were inserted “risk, or”; and

(iii) in sub-paragraph (iv), after “requiring that person to”, there were inserted “address the risk or”;

(c) in paragraph (j)—

(i) for sub-paragraph (iv) substitute—

“(iv) in paragraph (4), “or authority (including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;”;

(ii) after sub-paragraph (v) insert—

“(vi) in paragraph (6), “16(4)(a) or” were omitted;

(vii) for paragraph (6)(b), there were substituted—

“(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”;

⁽⁶⁾ S.I. 2016/1092, amended by S.I. 2017/1206.

⁽⁷⁾ S.I. 2016/1101, amended by S.I. 2017/1206.

⁽⁸⁾ S.I. 2016/1105, amended by S.I. 2017/1206.

(d) for paragraph (k)(ii) substitute—

“(i) for paragraph (2), there were substituted—

“(2) A person guilty of an offence under this Article is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or to both;

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years, or to both.””

Amendment of the Electrical Equipment (Safety) Regulations 2016

3.—(1) The Electrical Equipment (Safety) Regulations 2016 are amended as follows.

(2) For paragraph 2(n)(ii) of Schedule 5 (enforcement powers of the Health and Safety Executive for Northern Ireland under the 1978 Order), substitute—

“(i) for paragraph (2), there were substituted—

“(2) A person guilty of an offence under this Article is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or to both;

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years, or to both.””

Amendment of the Pressure Equipment (Safety) Regulations 2016

4.—(1) The Pressure Equipment (Safety) Regulations 2016 are amended as follows.

(2) In paragraph 2 of Schedule 9 (enforcement powers of the Health and Safety Executive for Northern Ireland under the 1978 Order)—

(a) after paragraph (a) insert—

“(aa) references to “risk” were references to “risk” within the meaning of regulation 2(4) of these Regulations;”;

(b) in paragraph (b)—

(i) for sub-paragraph (ii) substitute—

“(ii) in Article 36, “the enforcing authority”;”;

(ii) omit sub-paragraph (v);

(c) after paragraph (d) insert—

“(da) in Article 22(2)(h), for “him to have caused or to be likely to cause danger to health or safety” there were substituted “contravene the relevant statutory provisions or present a risk”;”;

(d) after paragraph (e) insert—

“(ea) in Article 23—

(i) before paragraph (a), there were inserted—

“(za) is making available on the market pressure equipment or an assembly which presents a risk”;

(ii) in sub-paragraph (ii), after “specifying the”, there were inserted “risk, or”; and

(iii) in sub-paragraph (iv), after “requiring that person to”, there were inserted “address the risk or”;”;

(e) for paragraph (f) substitute—

“(f) for Article 24(2) and (3) there were substituted—

“(2) An inspector may serve a notice (in this Part referred to as a “prohibition notice”) on a person if, as regards any activities to which this paragraph applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—

(a) a risk; or

(b) the contravention of a relevant statutory provision.

(3) A prohibition notice must—

(a) state that the inspector is of the said opinion;

(b) specify the matters which in his opinion give or, as the case may be, will give rise to the said risk;

(c) where in his opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he is of the opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and

(d) direct that the activities to which the notice relates must not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of sub-paragraph (b) and any associated contraventions of provisions so specified in pursuance of sub-paragraph (c) have been remedied.””

(f) for paragraph (i) substitute—

“(i) in Article 29—

(i) for paragraph 1(b) there were substituted—

“(b) any information which the Health and Safety Executive for Northern Ireland needs for the discharge of its functions;”;

(ii) “the Department concerned, or” and “or as the case may be, to the enforcing authority in question” were omitted;”;

(g) in paragraph (j)—

(i) for sub-paragraph (ii) substitute—

“(ii) in paragraph (4), “or an enforcing authority” and “or authority (including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;”;

(ii) after sub-paragraph (iii) insert—

“(iv) in paragraph (6), “16(4)(a) or” were omitted;

(v) for paragraph (6)(b), there were substituted—

“(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;””

(h) for paragraphs (l) and (m) substitute—

“(l) for Article 31(2), there were substituted—

“(2) A person guilty of an offence under this Article is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or to both;
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years, or to both;”
- (i) for paragraph (p) substitute—
- “(p) in Article 33, for “any enforcing authority”, there were substituted “the Health and Safety Executive for Northern Ireland”; and”.

4th September 2018

Kelly Tolhurst
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial
Strategy

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Simple Pressure Vessels (Safety) Regulations 2016 (S.I. 2016/1092), the Electrical Equipment (Safety) Regulations 2016 (S.I. 2016/1101), and the Pressure Equipment (Safety) Regulations 2016 (S.I. 2016/1105), each of which made provision implementing harmonised European Union laws in their respective subject area.

The amendments made by these Regulations apply only in respect of Northern Ireland, and relate to the enforcement of the instruments amended by these Regulations. The amendments have the effect of aligning provisions relating to enforcement by the Health and Safety Executive for Northern Ireland with those for enforcement by the Health and Safety Executive in relation to the rest of the United Kingdom.

The purpose of these Regulations is to correct provision in S.I. 2016/1092, S.I. 2016/1101 and S.I. 2016/1105 and they are being made available free of charge to all known recipients of those instruments.

An 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 is available on www.legislation.gov.uk.

An impact assessment of the impact that S.I. 2016/1092, S.I. 2016/1101 and S.I. 2016/1105 will have on the costs of business, the voluntary sector and the public sector is available from the Office for Product Safety and Standards, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET and is also published with the Explanatory Memorandums alongside those Regulations on www.legislation.gov.uk.