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STATUTORY INSTRUMENTS

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**1996 No. 1353**

**CONSUMER PROTECTION**

**The Recreational Craft Regulations 1996**

<i>Made</i>	- - - -	<i>20th May 1996</i>
<i>Laid before Parliament</i>		<i>22nd May 1996</i>
<i>Coming into force</i>	- -	<i>16th June 1996</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to craft intended for recreational purposes, in exercise of the powers conferred upon him by that section and of all his other enabling powers, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Recreational Craft Regulations 1996 and shall come into force on 16th June 1996.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1987 Act” means the Consumer Protection Act 1987<sup>(3)</sup>;

“CE marking” means the CE conformity marking referred to in regulation 8 consisting of the initials “CE” taking the form of the specimen given in Schedule 4;

“the Commission” means the Commission of the European Communities;

“component” means any one of the components listed in Schedule 2, whether separate or installed, which is intended for use in recreational craft;

“the Directive” means Directive [94/25/EC](#) of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the member States relating to recreational craft<sup>(4)</sup>;

“enforcement authority” shall be construed in accordance with regulation 15;

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(1) S.I.1995/2983.

(2) 1972 c. 68.

(3) 1987 c. 43.

(4) OJNo. L164, 30.6.94, p. 15.

“essential safety requirements” means the requirements in Annex I which is set out in Schedule 1;

“harmonised standard” means a technical specification adopted by the European Committee for Standardisation or the European Committee for Electrotechnical Standardisation or both upon a remit from the Commission in accordance with Council Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations<sup>(5)</sup>;

“manufacturer” in respect of a product shall include the builder of that product;

“notified body” shall be construed in accordance with regulation 11;

“placing on the market” includes (except for the purposes of regulations 3(2), 4(f) and (g), 7(2)(b)(i), 7(2)(c), 7(3)(b) and 16(2)) putting into service, and cognate expressions shall be construed accordingly;

“product” means any recreational craft, partly completed recreational craft or component;

“recreational craft” means any boat of any type regardless of its means of propulsion—

- (a) whose hull, when measured in accordance with the appropriate harmonised standards, is not less than 2.5 metres and not more than 24 metres in length; and
- (b) which is intended for sports or leisure purposes;

and “partly completed recreational craft” shall be construed accordingly; and

“transposed harmonised standard” means a standard the reference number of which is published—

- (a) in the United Kingdom, by the Secretary of State in such manner as he considers appropriate; or
- (b) in another member State of the Community,

and which corresponds to a harmonised standard the reference number of which is published in the Official Journal of the European Communities.

(2) In these Regulations—

- (a) except for the references to the European Communities in the definition of “the Commission” and in relation to the Official Journal, a reference to the Community includes a reference to the EEA, and a reference to a member State includes a reference to an EEA State: for the purposes of this sub-paragraph—

- (i) the “EEA” means the European Economic Area;

- (ii) an “EEA State” means a State which is a Contracting Party to the EEA Agreement; and

- (iii) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>(6)</sup>; and

- (b) unless the context otherwise requires, a reference to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations and a reference—

- (i) to a paragraph in a regulation is a reference to a paragraph in that regulation; and

- (ii) to an Annex is a reference to an Annex of the Directive.

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(5) OJ No. L109, 26.4.83, p. 8. Council Directive 83/189/EEC was amended by Council Directive 88/182/EEC (OJ No. L81, 26.3.88, p. 75), Commission Decision 92/400/EEC (OJ No. L221, 6.8.92, p. 55) and Directive 94/10/EC of the European Parliament and the Council (OJ No. L100, 19.4.94, p. 30).

(6) The application of the Directive was extended to the EEA from 1st February 1995 by virtue of Decision 44/94 of the EEA Joint Committee (OJ No. L372, 31.12.94, p. 20) which added a reference to that Directive in a new chapter XXXL to Annex II to the EEA Agreement.

### **Application**

3.—(1) Subject to paragraph (3) and regulations 4, 5 and 6, these Regulations apply to any product.

(2) The application of these Regulations to any recreational craft or partly completed recreational craft shall not be prevented by the fact that the said craft could be used for charter or for recreational boating training when it is placed on the market for recreational purposes.

(3) The requirements of these Regulations shall not apply to the showing of any product at any trade fair, exhibition, demonstration or the like provided that a visible sign clearly indicates that the product in question may not be placed on the market until it has been made to comply with them.

### **Excluded products**

4. The following are not products for the purposes of these Regulations—
- (a) craft intended solely for racing, including rowing racing boats and training rowing boats labelled as such by the manufacturer;
  - (b) canoes, kayaks, gondolas and pedalos;
  - (c) sailing surfboards;
  - (d) powered surfboards, personal watercraft and other similar powered craft;
  - (e) original, and individual replicas of, historical craft designed before 1950, built predominantly with the original materials and labelled as such by the manufacturer;
  - (f) experimental craft, provided that they are not subsequently placed on the Community market;
  - (g) craft built for own use, provided that they are not subsequently placed on the Community market during a period of 5 years;
  - (h) craft specifically intended to be crewed and to carry passengers for commercial purposes (without prejudice to regulation 3(2)), in particular those defined in Council Directive [82/716/EEC](#) of 4th October 1982 laying down technical requirements for inland waterway vessels<sup>(7)</sup>, regardless of the number of passengers;
  - (i) submersibles;
  - (j) air cushion vehicles; or
  - (k) hydrofoils.

### **Products placed on the market before 16th June 1996**

5. These Regulations do not apply to any product which is placed on the market before 16th June 1996.

### **Exclusion until 15th June 1998 of products complying with national rules in force on 16th June 1994**

6.—(1) These Regulations do not apply to any product which is placed on the market on or before 15th June 1998 and which complies with any safety provisions with which it would have been required to comply for it to be placed on the market in the United Kingdom on 16th June 1994.

- (2) The exclusion provided in paragraph (1) does not apply in the case of any product which—
- (a) unless required to bear the CE marking pursuant to any other Community obligation, bears the CE marking or an inscription liable to be confused therewith; or

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(7) OJ No. L301, 28.10.82, p. 1.

- (b) bears or is accompanied by any other indication, howsoever expressed, that it complies with the Directive.

### **Prohibition on placing on the market**

7.—(1) No person shall place on the market any product to which these Regulations apply unless the requirements of paragraph (2) have been complied with in relation to it.

(2) The requirements in respect of any product are that:

- (a) it satisfies the essential safety requirements which are applicable to that product and, for the purpose of satisfying those requirements—
  - (i) where a transposed harmonised standard covers one or more of the essential safety requirements, a product which conforms with that standard shall be presumed to comply with that or, as the case may be, those essential safety requirements; and
  - (ii) in the case of a partly completed recreational craft, it complies with the requirements which apply at the relevant stage of construction;
- (b) except in the case of any partly completed recreational craft and subject to paragraph (3),
  - (i) the appropriate conformity assessment procedure has been carried out in accordance with regulation 10—
    - (aa) by the manufacturer; or
    - (bb) by the manufacturer's authorised representative established in the Community,

save that where the procedure in Annex V, VII or VIII (which are respectively set out in Schedules 5, 7 and 8) is part of or, as the case may be, is the appropriate conformity assessment procedure and the person placing the product on the market is neither the manufacturer nor his authorised representative established in the Community, the obligation to retain the technical documentation, required as part of the appropriate conformity assessment procedure, shall be fulfilled by the person who places that product on the market; and
  - (ii) the CE marking has been affixed to it or, in the case of a component, its packaging in accordance with regulation 8 and Schedule 4 to indicate that it conforms with all the provisions of the Directive including the appropriate conformity assessment procedure;
- (c) in the case of any partly completed recreational craft, the manufacturer or his authorised representative established in the Community or the person responsible for the placing on the market declares, in accordance with Annex III(a) (which is set out in Schedule 3(a)), that it is intended to be completed by others; and
- (d) when correctly constructed, maintained and used in accordance with its intended purpose, it does not endanger the safety and health of persons, property or the environment.

(3) In the case of a component to which these Regulations apply and which is intended to be incorporated into a recreational craft, compliance with the appropriate conformity assessment procedure is not required where a declaration is made in accordance with Annex III(b) (which is set out in Schedule 3(b)) by—

- (a) the manufacturer or his authorised representative established in the Community; or
- (b) in the case of an import from outside the Community, any person who places that component on the Community market,

and, in the case of such a component, the CE marking shall indicate that that component complies with the essential safety requirements which are relevant to it.

## **CE marking**

8.—(1) Subject to the following paragraphs of this regulation, recreational craft and components which either meet the essential safety requirements or are presumed so to do in accordance with regulation 7(2)(a)(i) shall bear the CE marking in a visible, legible and indelible form, affixed by either the manufacturer or his authorised representative in the Community.

(2) In the case of any recreational craft, the CE marking shall be affixed in accordance with paragraph 2.2 of Annex I which is set out in Schedule 1.

(3) In the case of any component, the CE marking shall be affixed either on the component itself or on its packaging or on both.

(4) The CE marking shall be accompanied by the identification number of the notified body responsible for carrying out the procedures in Annexes VI, IX, X, XI and XII which are respectively set out in Schedules 6, 9, 10, 11 and 12.

(5) Subject to paragraph (6) below, where any recreational craft or component is subject to any other directive or directives, as the case may be, in addition to the Directive which also provides for the affixing of the CE marking, the CE marking shall indicate that that recreational craft or component, as the case may be, also fulfils the provisions of that other directive or those directives.

(6) Where one or more of the other directives referred to in paragraph (5) allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate that the recreational craft or component in question fulfils the provisions only of the directive or directives applied by the manufacturer; and, in this case, particulars of the directives applied, as published in the Official Journal of the European Communities, must be given in the documents, notices or instructions required by those directives and accompanying the recreational craft or component in question.

## **Other markings and inscriptions**

9.—(1) No person shall affix on any recreational craft or component, to which these Regulations apply, any markings or inscriptions which are likely to mislead third parties with regard to the meaning or the form of the CE marking.

(2) Without prejudice to paragraph (1), nothing in these Regulations shall prohibit the affixing on any recreational craft or component, or on the packaging of any such component, of any other markings, provided that the visibility and legibility of the CE marking are not thereby reduced.

## **Conformity assessment**

10.—(1) For the purposes of regulation 7(2)(b)(i), the appropriate conformity assessment procedure shall be determined in accordance with paragraph (2).

(2) For boat design categories A, B, C and D as referred to in section 1 of Annex I, which is set out in Schedule 1, the manufacturer of any product or his authorised representative established in the Community shall apply the following procedures—

(a) for categories A and B—

(i) for boats of less than 12 metres hull length, the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6;

(ii) for boats from 12 metres to 24 metres hull length, the EC type-examination (module B) referred to in Annex VII, which is set out in Schedule 7, supplemented by type conformity (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B plus D, or B plus F, or G or H;

(b) for category C—

(i) for boats from 2.5 metres to 12 metres hull length—

- (aa) where the harmonised standards relating to sections 3.2 and 3.3 of Annex I are complied with, the internal production control (module A), referred to in Annex V, which is set out in Schedule 5,
  - (bb) where the harmonised standards relating to sections 3.2 and 3.3 of Annex I are not complied with, the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6;
  - (ii) for boats from 12 metres to 24 metres hull length, the EC type-examination (module B) referred to in Annex VII, which is set out in Schedule 7, followed by type conformity (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B plus D, or B plus F, or G or H;
  - (c) for category D, for boats from 2.5 metres to 24 metres hull length, the internal production control (module A) referred to in Annex V, which is set out in Schedule 5; and
  - (d) for components, any of the following modules: B plus C, or B plus D, or B plus F, or G or H.
- (3) For the purposes of this regulation—
- (a) a reference to module B, C, D, F, G or H is a reference to the module which respectively comprises the conformity assessment procedure in Annex VII, VIII, IX, X, XI and XII and which is respectively set out in Schedule 7, 8, 9, 10, 11 and 12;
  - (b) the technical documentation, which is required as part of the conformity assessment procedures in Annexes V, VII, VIII, IX and XI, which are respectively set out in Schedules 5, 7, 8, 9 and 11, is specified in Annex XIII, which is set out in Schedule 13; and
  - (c) the contents of the written declaration of conformity, which is required as part of the conformity assessment procedures in Annexes V, VIII, IX, X, XI and XII which are respectively set out in Schedules 5, 8, 9, 10, 11 and 12, are specified in Annex XV, which is set out in Schedule 14.

### **Notified bodies**

**11.** For the purposes of these Regulations, a notified body is a body which has been—

- (a) appointed as a United Kingdom notified body pursuant to regulation 12; or
- (b) appointed by a member State other than the United Kingdom,

to carry out one or more of the conformity assessment procedures specified in Article 8 of the Directive which are referred to in regulation 10 and which has been notified by the United Kingdom or by such other member State, as the case may be, to the Commission and the other member States pursuant to Article 9(1) of the Directive.

### **Appointment of notified bodies**

**12.—**(1) The Secretary of State may from time to time appoint such persons as he thinks fit to be notified bodies for the purposes of these Regulations.

(2) Such appointment—

- (a) may relate to all descriptions of product or such descriptions (which may be framed by reference to any circumstances whatsoever) of product as the Secretary of State may from time to time determine;
- (b) may be made subject to such conditions as the Secretary of State may from time to time determine, which may include conditions which are to apply upon or following termination of the appointment;
- (c) shall, without prejudice to the generality of sub-paragraph (b) above and subject to paragraph (4), require that body to carry out the procedures and specific tasks for which it

has been appointed including (where so provided as part of those procedures) surveillance to ensure that the manufacturer duly fulfils the obligations arising out of the relevant conformity assessment procedure;

- (d) shall be terminated upon 90 days' notice in writing to the Secretary of State, at the request of the notified body; and
- (e) may be terminated if it appears to the Secretary of State that any of the conditions of the appointment are not complied with.

(3) Subject to paragraphs (2)(d) and (e), an appointment under this regulation may be for the time being or for such period as may be specified in the appointment.

(4) A notified body appointed by the Secretary of State shall not be required to carry out the functions referred to in paragraph (2)(c) if—

- (a) the documents submitted to it in relation to carrying out such functions are not in English or another language acceptable to that body;
- (b) the person making the application has not submitted with its application the amount of the fee which the body requires to be submitted with the application pursuant to regulation 13; or
- (c) the body reasonably believes that, having regard to the number of applications made to it in relation to its appointment under these Regulations which are outstanding, it will be unable to commence the required work within 3 months of receiving the application.

(5) If for any reason the appointment of a notified body is terminated under this regulation, the Secretary of State may—

- (a) give such directions (either to the body the subject of the termination or to another notified body) for the purposes of making such arrangements for the determination of outstanding applications as he considers appropriate; and
- (b) without prejudice to the generality of the foregoing, authorise another notified body to take over its functions in respect of such cases as he may specify.

## **Fees**

**13.**—(1) Subject to paragraph (2), a notified body appointed by the Secretary of State may charge such fees in connection with, or incidental to, carrying out the tasks referred to in regulation 12(2) (c) as it may determine; provided that such fees shall not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the notified body in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
  - (i) the character and extent of the work done or to be done by the body on behalf of the applicant; and
  - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(2) The power in paragraph (1) includes the power to require the payment of fees or a reasonable estimate thereof in advance of carrying out the work requested by the applicant.

## **Procedure where a notified body is minded to refuse to issue an EC type-examination certificate**

**14.** Where a notified body is minded to refuse to issue an EC type-examination certificate as part of the procedure described in Annex VII which is set out in Schedule 7, it shall—

- (a) give notice in writing to the applicant of the reasons why it is minded to do so; and
- (b) give the applicant the opportunity to make representations within a period of 28 days of the said notice being given and consider any representations made within that period by the applicant.

### **Enforcement authorities**

**15.**—(1) It shall be the duty of the following authorities to enforce these Regulations within their area—

- (a) in Great Britain, weights and measures authorities; and
- (b) in Northern Ireland, the Department of Economic Development.

(2) Nothing in this regulation shall authorise any enforcement authority to bring proceedings in Scotland for an offence.

### **Enforcement powers**

**16.**—(1) Subject to paragraph (2), Schedule 15 shall have effect for the purposes of providing for the enforcement of these Regulations and for matters incidental thereto.

(2) Except in the case of a recreational craft or component which, when correctly constructed, installed, maintained and used in accordance with its intended purpose, may in the opinion of an enforcement authority endanger the safety and health of persons, property or the environment, where an enforcement authority has reasonable grounds for suspecting that the CE marking has been affixed to any recreational craft or component, or to a component's packaging, in relation to which any provision of these Regulations has not been complied with, it may serve a notice ("a compliance notice") on—

- (a) the manufacturer or his authorised representative established in the United Kingdom; or
- (b) where the manufacturer is established outside the Community and—
  - (i) he has no authorised representative established in the United Kingdom; or
  - (ii) his authorised representative established in the United Kingdom is not the person who places the product on the market,

the person who places it on the market in the United Kingdom;

and in such a case no other action pursuant to paragraph 1(b) or (c) of Schedule 15 may be taken, and no proceedings pursuant to regulation 17 may be brought, until such a notice has been so served and the person on whom it has been served has failed to comply with its requirements.

(3) A compliance notice shall—

- (a) state that the enforcement authority suspects that the CE marking has been affixed to the recreational craft or component, or to the component's packaging, in circumstances where a provision or provisions of these Regulations has or have not been complied with and the reasons for that suspicion;
- (b) specify the provision or provisions referred to in sub-paragraph (a) above;
- (c) require the person upon whom the notice is served—
  - (i) to secure that any recreational craft or component to which the notice relates conforms as regards the provisions concerning the CE marking and to end the infringement within such period as may be specified in the notice; or
  - (ii) to provide evidence within that period, to the satisfaction of the enforcement authority, that all the provisions of these Regulations, which apply to the product in question, have been complied with; and

- (d) warn that person that if the non-conformity continues after (or if satisfactory evidence has not been provided within) the period specified in the notice, further action may be taken under these Regulations in respect of that recreational craft or component, as the case may be, or any recreational craft or component of the same type placed on the market by that person.

(4) A compliance notice may include directions as to the measures to be taken by the person upon whom it is served to secure conformity of the recreational craft or component with the provisions of these Regulations, which apply to the product in question, including different ways of securing conformity.

### **Offences and penalties**

**17.** Any person who contravenes regulation 7, 9 or 20 shall be guilty of an offence and shall be liable on summary conviction—

- (a) to imprisonment for a term not exceeding 3 months; or
- (b) to a fine not exceeding level 5 on the standard scale,

or to both.

### **Defence of due diligence**

**18.—**(1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 17 it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against a person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due—

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not later than 7 clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

### **Liability of persons other than the principal offender**

**19.—**(1) Where the commission by any person of an offence under regulation 17 is due to an act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1)) in respect of any act or default which is shown to have been

committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of any body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

**Requirement to give information about a recreational craft or component which does not bear the CE marking or a partly completed recreational craft**

**20.** A person who places on the market—

- (a) a recreational craft or a component which does not bear a CE marking and, in the case of that component, no CE marking appears on its packaging; or
- (b) a partly completed recreational craft,

shall, on his being required at a reasonable time to give such information, give to an enforcement authority, or to any of its officers, all the information he has about—

- (i) the date when that recreational craft, component or partly completed recreational craft, as the case may be, was placed on the market in the Community; and
- (ii) the basis on which the recreational craft, component or that component’s packaging is not so marked.

**Commencement of proceedings**

**21.** In England, Wales and Northern Ireland, a magistrates' court may try an information (in the case of England and Wales) or a complaint (in the case of Northern Ireland) in respect of an offence committed under regulation 17 or section 12 of the 1987 Act in relation to a contravention of these Regulations if (in the case of England and Wales) the information is laid or (in the case of Northern Ireland) the complaint is made within twelve months from the time when the offence is committed, and in Scotland summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed.

**Regulations to be treated as safety regulations within the meaning of the 1987 Act**

**22.** These Regulations shall be treated for all purposes as if they were safety regulations within the meaning of section 45(1) of the 1987 Act.

20th May 1996

*Ian Taylor*  
Parliamentary Under Secretary of State for  
Science and Technology,  
Department of Trade and Industry

## SCHEDULE 1

Regulation 2(1)

(Annex I of the Directive)  
ESSENTIAL SAFETY REQUIREMENTS FOR THE DESIGN  
AND CONSTRUCTION OF RECREATIONAL CRAFT

## 1. BOAT DESIGN CATEGORIES

<i>Design Category</i>	<i>Wind force (Beaufort scale)</i>	<i>Significant wave height (H<sub>1/3</sub>, metres)</i>
A—'Ocean'	exceeding 8	exceeding 4
B—'Offshore'	up to, and including, 8	up to, and including, 4
C—'Inshore'	up to, and including, 6	up to, and including, 2
D—'Sheltered waters'	up to, and including, 4	up to, and including, 0.5

*Definitions:*

- A. OCEAN: Designed for extended voyages where conditions may exceed wind force 8 (Beaufort scale) and significant wave heights of 4 m and above, and vessels largely self-sufficient.
- B. OFFSHORE: Designed for offshore voyages where conditions up to, and including, wind force 8 and significant wave heights up to, and including, 4 m may be experienced.
- C. INSHORE: Designed for voyages in coastal waters, large bays, estuaries, lakes and rivers where conditions up to, and including, wind force 6 and significant wave heights up to, and including, 2 m may be experienced.
- D. SHELTERED WATERS: Designed for voyages on small lakes, rivers, and canals where conditions up to, and including, wind force 4 and significant wave heights up to, and including, 0.5 m may be experienced.

Boats in each Category must be designed and constructed to withstand these parameters in respect of stability, buoyancy, and other relevant essential requirements listed in Annex I, and to have good handling characteristics.

## 2. GENERAL REQUIREMENTS

Recreational craft and components as referred to in Annex II(8) shall comply with the essential requirements in so far as they apply to them.

## 2.1. Hull identification

Each craft shall be marked with a hull identification number including the following information:

- manufacturer's code,
- country of manufacture,
- unique serial number,
- year of production,
- model year.

The relevant harmonized standard gives details of these requirements.

## 2.2. Builder's plate

Each craft shall carry a permanently affixed plate mounted separately from the boat hull identification number, containing the following information:

- manufacturer's name,
- CE marking (see Annex IV)(9),

(8) Annex II is set out in Schedule 2.

(9) Annex IV is set out in Schedule 4.

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

- boat design category according to section 1,
- manufacturer's maximum recommended load according to section 3.6,
- number of persons recommended by the manufacturer for which the boat was designed to carry when under way.

2.3. Protection from falling overboard and means of reboarding

Depending on the design category, craft shall be designed to minimize the risks of falling overboard and to facilitate reboarding.

2.4. Visibility from the main steering position

For motor boats, the main steering position shall give the operator, under normal conditions of use (speed and load), good all-round visibility.

2.5. Owner's manual

Each craft shall be provided with an owner's manual in the official Community language or languages which may be determined by the Member State in which it is marketed in accordance with the Treaty. This manual should draw particular attention to risks of fire and flooding and shall contain the information listed in sections 2.2, 3.6 and 4 as well as the unladen weight of the craft in kilograms.

3. INTEGRITY AND STRUCTURAL REQUIREMENTS

3.1. Structure

The choice and combination of materials and its construction shall ensure that the craft is strong enough in all respects. Special attention shall be paid to the design category according to section 1, and the manufacturer's maximum recommended load in accordance with section 3.6.

3.2. Stability and freeboard

The craft shall have sufficient stability and freeboard considering its design category according to section 1 and the manufacturer's maximum recommended load according to section 3.6.

3.3. Buoyancy and flotation

The craft shall be constructed to ensure that it has buoyancy characteristics appropriate to its design category according to section 1.1, and the manufacturer's maximum recommended load according to section 3.6. All habitable multihull craft shall be so designed as to have sufficient buoyancy to remain afloat in the inverted position. Boats of less than six metres in length that are susceptible to swamping when used in their design category shall be provided with appropriate means of flotation in the swamped condition.

3.4. Openings in hull, deck and superstructure

Openings in hull, deck(s) and superstructure shall not impair the structural integrity of the craft or its weathertight integrity when closed.

Windows, portlights, doors and hatchcovers shall withstand the water pressure likely to be encountered in their specific position, as well as pointloads applied by the weight of persons moving on deck.

Through hull fittings designed to allow water passage into the hull or out of the hull, below the waterline corresponding to the manufacturer's maximum recommended load according to section 3.6, shall be fitted with shutoff means which shall be readily accessible.

3.5. Flooding

All craft shall be designed so as to minimize the risk of sinking.

Particular attention should be paid where appropriate to:

- cockpits and wells, which should be self-draining or have other means of keeping water out of the boat interior,
- ventilation fittings,
- removal of water by pumps or other means.

#### 3.6. Manufacturer's maximum recommended load

The manufacturer's maximum recommended load (fuel, water, provisions, miscellaneous equipment and people (in kilograms)) for which the boat was designed, as marked on the builder's plate, shall be determined according to the design category (section 1), stability and freeboard (section 3.2) and buoyancy and flotation (section 3.3).

#### 3.7. Liferaft stowage

All craft of categories A and B, and craft of categories C and D longer than six metres shall be provided with one or more stowage points for a liferaft (liferrafts) large enough to hold the number of persons the boat was designed to carry as recommended by the manufacturer. This (these) stowage point(s) shall be readily accessible at all times.

#### 3.8. Escape

All habitable multihull craft over 12 metres long shall be provided with viable means of escape in the event of inversion. All habitable craft shall be provided with viable means of escape in the event of fire.

#### 3.9. Anchoring, mooring and towing

All craft, taking into account their design category and their characteristics shall be fitted with one or more strong points or other means capable of safely accepting anchoring, mooring and towing loads.

### 4. HANDLING CHARACTERISTICS

The manufacturer shall ensure that the handling characteristics of the craft are satisfactory with the most powerful engine for which the boat is designed and constructed. For all recreational marine engines, the maximum rated engine power shall be declared in the owner's manual in accordance with the harmonized standard.

### 5. INSTALLATION REQUIREMENTS

#### 5.1. Engines and engine spaces

##### 5.1.1. *Inboard engine*

All inboard mounted engines shall be placed within an enclosure separated from living quarters and installed so as to minimize the risk of fires or spread of fires as well as hazards from toxic fumes, heat, noise or vibrations in the living quarters.

Engine parts and accessories that require frequent inspection and/or servicing shall be readily accessible.

The insulating materials inside engine spaces shall be non-combustible.

##### 5.1.2. *Ventilation*

The engine compartment shall be ventilated. The dangerous ingress of water into the engine compartment through all inlets must be prevented.

##### 5.1.3. *Exposed parts*

Unless the engine is protected by a cover or its own enclosure, exposed moving or hot parts of the engine that could cause personal injury shall be effectively shielded.

##### 5.1.4. *Outboard engines starting*

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All boats with outboard engines shall have a device to prevent starting the engine in gear, except:

- (a) when the engine produces less than 500 newtons (N) of static thrust;
- (b) when the engine has a throttle limiting device to limit thrust to 500 N at the time of starting the engine.

## 5.2. Fuel system

### 5.2.1. *General*

The filling, storage, venting and fuel-supply arrangements and installations shall be designed and installed so as to minimize the risk of fire and explosion.

### 5.2.2. *Fuel tanks*

Fuel tanks, lines and hoses shall be secured and separated or protected from any source of significant heat. The material the tanks are made of and their method of construction shall be according to their capacity and the type of fuel. All tank spaces shall be ventilated.

Liquid fuel with a flash point below 55 °C shall be kept in tanks which do not form part of the hull and are:

- (a) insulated from the engine compartment and from all other source of ignition;
- (b) separated from living quarters.

Liquid fuel with a flash point equal to or above 55 °C may be kept in tanks that are integral with the hull.

## 5.3. Electrical system

Electrical systems shall be designed and installed so as to ensure proper operation of the craft under normal conditions of use and shall be such as to minimize risk of fire and electric shock.

Attention shall be paid to the provision of overload and short-circuit protection of all circuits, except engine starting circuits, supplied from batteries.

Ventilation shall be provided to prevent the accumulation of gases which might be emitted from batteries. Batteries shall be firmly secured and protected from ingress of water.

## 5.4. Steering system

### 5.4.1. *General*

Steering systems shall be designed, constructed and installed in order to allow the transmission of steering loads under foreseeable operating conditions.

### 5.4.2. *Emergency arrangements*

Sailboat and single-engined inboard powered motor boats with remote-controlled rudder steering systems shall be provided with emergency means of steering the craft at reduced speed.

## 5.5. Gas system

Gas systems for domestic use shall be of the vapour-withdrawal type and shall be designed and installed so as to avoid leaks and the risk of explosion and be capable of being tested for leaks. Materials and components shall be suitable for the specific gas used to withstand the stresses and exposures found in the marine environment.

Each appliance shall be equipped with a flame failure device effective on all burners. Each gas-consuming appliance must be supplied by a separate branch of the distribution

system, and each appliance must be controlled by a separate closing device. Adequate ventilation must be provided to prevent hazards from leaks and products of combustion.

All craft with a permanently installed gas system shall be fitted with an enclosure to contain all gas cylinders. The enclosure shall be separated from the living quarters, accessible only from the outside and ventilated to the outside so that any escaping gas drains overboard. Any permanent gas system shall be tested after installation.

#### 5.6. Fire protection

##### 5.6.1. *General*

The type of equipment installed and the layout of the craft shall take account of the risk and spread of fire. Special attention shall be paid to the surroundings of open flame devices, hot areas or engines and auxiliary machines, oil and fuel overflows, uncovered oil and fuel pipes and avoiding electrical wiring above hot areas of machines.

##### 5.6.2. *Fire-fighting equipment*

Craft shall be supplied with fire-fighting equipment appropriate to the fire hazard. Petrol engine enclosures shall be protected by a fire extinguishing system that avoids the need to open the enclosure in the event of fire. Where fitted, portable fire extinguishers shall be readily accessible and one shall be so positioned that it can easily be reached from the main steering position of the craft.

#### 5.7. Navigation lights

Where navigation lights are fitted, they shall comply with the 1972 Colreg or CEVNI regulations, as appropriate.

#### 5.8. Discharge prevention

Craft shall be constructed so as to prevent the accidental discharge of pollutants (oil, fuel, etc.) overboard.

Craft fitted with toilets shall have either:

- (a) holding tanks; or
- (b) provision to fit holding tanks on a temporary basis in areas of use where the discharge of human waste is restricted.

In addition, any through-the-hull pipes for human waste shall be fitted with valves which are capable of being sealed shut.

## SCHEDULE 2

Regulation 2(1)

### (Annex II of the Directive) COMPONENTS

1. Ignition-protected equipment for inboard and stern drive engines.
2. Start-in-gear protection devices for outboard engines.
3. Steering wheels, steering mechanisms and cable assemblies.
4. Fuel tanks and fuel hoses.
5. Prefabricated hatches and portlights.

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SCHEDULE 3

Regulation 7(2)(c) and (3)

(Annex III of the Directive)  
DECLARATION BY THE BUILDER OR HIS AUTHORIZED  
REPRESENTATIVE ESTABLISHED IN THE COMMUNITY OR  
THE PERSON RESPONSIBLE FOR PLACING ON THE MARKET  
(Article 4(2) and (3))

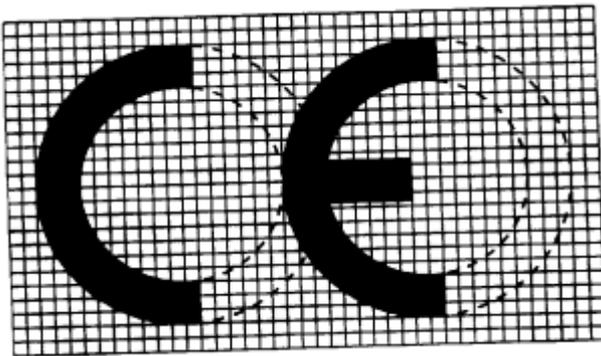
- (a) The declaration by the builder or his authorized representative established in the Community referred to in Article 4(2) (partly completed craft) shall contain the following:
- the name and address of the builder,
  - the name and address of the representative of the builder established in the Community or, if appropriate, of the person responsible for the placing on the market,
  - a description of the partly completed craft,
  - a statement that the partly completed craft is intended to be completed by others and that it complies with the essential requirements that apply at this stage of construction.
- (b) The declaration by the builder, his authorized representative established in the Community or the person responsible for placing on the market referred to in Article 4(3) (components) shall contain the following:
- the name and address of the builder,
  - the name and address of the representative of the builder established in the Community or, if appropriate, of the person responsible for the placing on the market,
  - a description of the component,
  - a statement that the component complies with the relevant essential requirements.

SCHEDULE 4

Regulations 2(1) and 7(2)(b)(ii)

(Annex IV of the Directive)  
CE MARKING

The CE conformity marking must consist of the initials 'CE' taking the following form:



If the marking is reduced or enlarged, the proportions given in the above graduated drawing must be respected.

The various elements of the CE marking must have about the same vertical dimension, which shall not be less than 5 mm.

The CE marking is followed by the identification number of the notified body, if it intervenes in the control of production, as well as by the last two figures of the year that the CE marking is affixed.

## SCHEDULE 5

Regulation 10(2)

### (Annex V of the Directive) INTERNAL PRODUCTION CONTROL (module A)

1. The manufacturer or his authorized representative established within the Community, who carries out the obligations laid down in point 2, ensures and declares that the products concerned satisfy the requirements of the Directive that apply to them. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV).**(10)**
2. The manufacturer shall establish the technical documentation described in paragraph 3 and he or his authorized representative established within the Community shall keep it for a period ending at least 10 years after the last product has been manufactured at the disposal of the relevant national authorities for inspection purposes.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

3. Technical documentation shall enable the conformity of the products with the requirements of the Directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and operation of the product (see Annex XIII).**(11)**
4. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity with the technical documentation.
5. The manufacturer shall take all measures necessary in order that the manufacturing process shall ensure compliance of the manufactured products with the technical documentation referred to in point 2 and with the requirements of the Directive that apply to them.

## SCHEDULE 6

Regulation 10(2)

### (Annex VI of the Directive) INTERNAL PRODUCTION CONTROL PLUS TESTS (module Aa, option 1)

This module consists of module A, as referred to in Annex V, plus the following supplementary requirements:

On one or several boats representing the production of the manufacturer one or more of the following tests, equivalent calculation or control shall be carried out by the manufacturer or on his behalf:

- test of stability according to point 3.2 of the Essential Requirements,**(12)**
- test of buoyancy characteristics according to point 3.3 of the Essential Requirements

Provisions common to both variations

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**(10)** Annex XV is set out in Schedule 14.

**(11)** Annex XIII is set out in Schedule 13.

**(12)** The essential safety requirements in Annex I are set out in Schedule 1.

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These tests or calculations or control shall be carried out on the responsibility of a notified body chosen by the manufacturer. On the responsibility of the notified body, the manufacturer shall affix the former's distinguishing number during the manufacturing process.

## SCHEDULE 7

Regulation 10(2)

### (Annex VII of the Directive) EC TYPE-EXAMINATION (module B)

1. A notified body ascertains and attests that a specimen, representative of the production envisaged, meets the provisions of the Directive that apply to it.
2. The application for the EC type-examination shall be lodged by the manufacturer or his authorized representative established within the Community with a notified body of his choice.

The application shall include:

- the name and address of the manufacturer and, if the application is lodged by the authorized representative, his name and address in addition,
- a written declaration that the same application has not been lodged with any other notified body,
- the technical documentation, as described in point 3.

The applicant shall place at the disposal of the notified body a specimen, representative of the production envisaged and hereinafter called 'type' (\*).

The notified body may request further specimens if needed for carrying out the test programme.

3. The technical documentation shall enable the conformity of the product with the requirements of the Directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and functioning of the product (see Annex XIII).**(13)**
4. The notified body shall:
  - 4.1. examine the technical documentation, verify that the type has been manufactured in conformity with the technical documentation and identify the elements which have been designed in accordance with the relevant provisions of the standards referred to in Article 5(14), as well as the components which have been designed without applying the relevant provisions of those standards;
  - 4.2. perform or have performed the appropriate examinations and necessary tests to check whether, where the standards referred to in Article 5 have not been applied, the solutions adopted by the manufacturer meet the Essential Requirements of the Directive;
  - 4.3. perform or have performed the appropriate examinations and necessary tests to check whether, where the manufacturer has chosen to apply the relevant standards, these have actually been applied;
  - 4.4. agree with the applicant the location where the examinations and necessary tests shall be carried out.
5. Where the type meets the provisions of the Directive, the notified body shall issue an EC type-examination certificate to the applicant. The certificate shall contain the name and address of the manufacturer, conclusions of the examination, conditions for its validity and the necessary data for identification of the approved type.

**(13)** Annex XIII is set out in Schedule 13.

**(14)** This is a reference to a transposed harmonised standard.

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A list of the relevant parts of the technical documentation shall be annexed to the certificate and a copy kept by the notified body.

If the manufacturer is denied a type certification, the notified body shall provide detailed reasons for such denial.

6. The applicant shall inform the notified body that holds the technical documentation concerning the EC type-examination certificate of all modifications to the approved product which must receive additional approval where such changes may affect the conformity with the essential requirements or the prescribed conditions for use of the product. This additional approval is given in the form of an addition to the original EC type-examination certificate.
7. Each notified body shall communicate to the other notified bodies the relevant information concerning the EC type-examination certificates and additions issued and withdrawn.
8. The other notified bodies may receive copies of the EC type-examination certificates and/or their additions. The annexes to the certificates shall be kept at the disposal of the other notified bodies.
9. The manufacturer or his authorized representative shall keep with the technical documentation copies of EC type-examination certificates and their additions for a period ending at least 10 years after the last product has been manufactured.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

(\* ) A type may cover several versions of the product provided that the differences between the versions do not affect the level of safety and the other requirements concerning the performance of the product.

## SCHEDULE 8

Regulation 10(2)

### (Annex VIII of the Directive) CONFORMITY TO TYPE (module C)

1. The manufacturer or his authorized representative established within the Community ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that applies to them. The manufacturer shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV).(15)
2. The manufacturer shall take all measures necessary to ensure that the manufacturing process assures compliance of the manufactured products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.
3. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last product has been manufactured. Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market (see Annex XIII).(16)

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(15) Annex XV is set out in Schedule 14.

(16) Annex XIII is set out in Schedule 13.

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## SCHEDULE 9

Regulation 10(2)

(Annex IX of the Directive)  
**PRODUCTION QUALITY ASSURANCE**  
 (module D)

1. The manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that apply to them. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV)(17). The CE marking shall be accompanied by the distinguishing number of the notified body responsible for the monitoring as specified in point 4.
2. The manufacturer shall operate an approved quality system for production, final product inspection and testing as specified in paragraph 3 and shall be subject to monitoring as specified in point 4.
3. Quality system
  - 3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body of his choice, for the products concerned.  
 The application shall include:
    - all relevant information for the product category envisaged,
    - the documentation concerning the quality system,
    - where appropriate, the technical documentation of the approved type (see Annex XIII)(18) and a copy of the EC type-examination certificate.
  - 3.2. The quality system shall ensure compliance of the products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.  
 All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation must permit a consistent interpretation of the quality programmes, plan, manuals and records.  
 It shall contain in particular an adequate description of:
    - the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
    - the manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
    - the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
    - the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
    - the means to monitor the achievement of the required product quality and the effective operation of the quality system.
  - 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume conformity with these requirements in respect of quality systems that implement the relevant harmonized standard.

(17) Annex XV is set out in Schedule 14.

(18) Annex XIII is set out in Schedule 13.

The auditing team shall have at least one member with experience of evaluation in the product technology concerned. The evaluation procedure shall include an inspection visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a reassessment is required.

It shall notify its decisions to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance under the responsibility of the notified body
- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.
- 4.2. The manufacturer shall allow the notified body entrance for inspection purposes to the locations of manufacture, inspection and testing, and storage and shall provide it with all necessary information, in particular:
- the quality system documentation,
  - the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.
- 4.3. The notified body shall periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.
- 4.4. Additionally the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may carry out, or cause to be carried out, tests to verify that the quality system is functioning correctly, if necessary. The notified body shall provide the manufacturer with a visit report and, if a test has taken place, with a test report.
5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:
- the documentation referred to in the second indent of the second subparagraph of point 3.1,
  - the updating referred to in the second subparagraph of point 3.4,
  - the decision and reports from the notified body which are referred to in the final subparagraph of point 3.4, point 4.3 and point 4.4.
6. Each notified body shall give the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

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## SCHEDULE 10

Regulation 10(2)

(Annex X of the Directive)  
**PRODUCT VERIFICATION**  
 (module F)

1. This module describes the procedure whereby a manufacturer or his authorized representative established within the Community checks and attests that the products subject to the provisions of point 3 are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that apply to them.
2. The manufacturer shall take all measures necessary in order that the manufacturing process ensures conformity of the products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each product and shall draw up a declaration of conformity (see Annex XV).(19)
3. The notified body shall carry out the appropriate examinations and tests in order to check the conformity of the product with the requirements of the Directive either by examination and testing of every product as specified in point 4 or by examination and testing of products on a statistical basis, as specified in point 5, at the choice of the manufacturer.
  - 3a. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last product has been manufactured.
4. Verification by examination and testing of every product
  - 4.1. All products shall be individually examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5(20) or equivalent tests shall be carried out in order to verify their conformity with the type as described in the EC type-examination certificate and the requirements of the Directive that apply to them.
  - 4.2. The notified body shall affix, or cause to be affixed, its distinguishing number to each approved product and draw up a written certificate of conformity relating to the tests carried out.
  - 4.3. The manufacturer or his authorized representative shall ensure that he is able to supply the notified body's certificates of conformity on request.
5. Statistical verification
  - 5.1. The manufacturer shall present his products in the form of homogeneous lots and shall take all measures necessary in order that the manufacturing process ensures the homogeneity of each lot produced.
  - 5.2. All products shall be available for verification in the form of homogeneous lots. A random sample shall be drawn from each lot. Products in a sample shall be individually examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, shall be carried out to ensure their conformity with the requirements of the Directive which apply to them and to determine whether the lot is accepted or rejected.
  - 5.3. The statistical procedure shall use the following elements:
    - the statistical method to be applied,
    - the sampling plan with its operational characteristics.

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(19) Annex XV is set out in Schedule 14.

(20) This is a reference to a transposed harmonised standard.

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- 5.4. In the case of accepted lots, the notified body shall affix, or cause to be affixed, its distinguishing number to each product and shall draw up a written certificate of conformity relating to the tests carried out. All products in the lot may be put on the market except those products from the sample which were found not to be in conformity.
- If a lot is rejected, the notified body or the competent authority shall take appropriate measures to prevent the putting on the market of that lot. In the event of frequent rejection of lots the notified body may suspend the statistical verification.
- The manufacturer may, under the responsibility of the notified body, affix the latter's distinguishing number during the manufacturing process.
- 5.5. The manufacturer or his authorized representative shall ensure that he is able to supply the notified body's certificates of conformity on request.

#### SCHEDULE 11

Regulation 10(2)

(Annex XI of the Directive)  
UNIT VERIFICATION  
(module G)

1. This module describes the procedure whereby the manufacturer ensures and declares that the product concerned, which has been issued with the certificate referred to in point 2, conforms to the requirements of the Directive that apply to it. The manufacturer or his authorized representative established within the Community shall affix the CE marking to the product and draw up a declaration of conformity (see Annex XV).(21)
2. The notified body shall examine the individual product and carry out the appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, to ensure its conformity with the relevant requirements of the Directive.  
The notified body shall affix, or cause to be affixed, its distinguishing number on the approved product and shall draw up a certificate of conformity concerning the tests carried out.
3. The aim of the technical documentation is to enable conformity with the requirements of the Directive to be assessed and the design, manufacture and operation of the product to be understood (see Annex XIII).(22)

#### SCHEDULE 12

Regulation 10(2)

(Annex XII of the Directive)  
FULL QUALITY ASSURANCE  
(module H)

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of paragraph 2 ensures and declares that the products concerned satisfy the requirements of the Directive that apply to them. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV)(23). The CE marking shall be accompanied by

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(21) Annex XV is set out in Schedule 14.

(22) Annex XIII is set out in Schedule 13.

(23) Annex XV is set out in Schedule 14.

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the distinguishing number of the notified body responsible for the surveillance as specified in point 4.

2. The manufacturer shall operate an approved quality system for design, manufacture and final product inspection and testing as specified in point 3 and shall be subject to surveillance as specified in point 4.

3. Quality system

- 3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body.

The application shall include:

- all relevant information for the product category envisaged,
- the quality system's documentation.

- 3.2. The quality system shall ensure compliance of the products with the requirements of the Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation shall ensure a common understanding of the quality policies and procedures such as quality programmes, plans, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to design and product quality,
- the technical design specifications, including standards, that will be applied and, where the standards referred to in Article 5(24) will not be applied in full, the means that will be used to ensure that the essential requirements of the Directive that apply to the products will be met,
- the design control and design verification techniques, processes and systematic actions that will be used when designing the products pertaining to the product category covered,
- the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required design and product quality and the effective operation of the quality system.

- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume compliance with these requirements in respect of quality systems that implement the relevant harmonized standard (EN 29001).

The auditing team shall have at least one member experienced as an assessor in the product technology concerned. The evaluation procedure shall include an assessment visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

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(24) This is a reference to a transposed harmonised standard.

- 3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a reassessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.
4. EC surveillance under the responsibility of the notified body
  - 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.
  - 4.2. The manufacturer shall allow the notified body entrance for inspection purposes to the locations of design, manufacture, inspection and testing, and storage, and shall provide it with all necessary information, in particular:
    - the quality system documentation,
    - the quality records as foreseen by the design part of the quality system, such as results of analyses, calculations, tests, etc.,
    - the quality records as foreseen by the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.
  - 4.3. The notified body shall periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.
  - 4.4. Additionally the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary; it shall provide the manufacturer with a visit report and, if a test has been carried out, with a test report.
5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:
  - the documentation referred to in the second indent of the second subparagraph of point 3.1,
  - the updating referred to in the second subparagraph of point 3.4,
  - the decisions and reports from the notified body which are referred to in the final subparagraph of point 3.4, point 4.3 and point 4.4.
6. Each notified body shall forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

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## SCHEDULE 13

Regulation 10(3)

(Annex XIII of the Directive)

## TECHNICAL DOCUMENTATION SUPPLIED BY THE MANUFACTURER

The technical documentation referred to in Annexes V, VII, VIII, IX and XI<sup>(25)</sup> must comprise all relevant data or means used by the manufacturer to ensure that components or craft comply with the essential requirements relating to them.

The technical documentation shall enable understanding of the design, manufacture and operation of the product, and shall enable assessment of conformity with the requirements of this Directive.

The documentation shall contain so far as relevant for assessment:

- a general description of the type,
- conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product,
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to fulfil the essential requirements when the standards referred to in Article 5 have not been applied,
- results of design calculations made, examinations carried out, etc.,
- test reports, or calculations namely on stability according to point 3.2 of the Essential Requirements and on buoyancy according to point 3.3 of the Essential Requirements.<sup>(26)</sup>

## SCHEDULE 14

Regulation 10(3)

(Annex XV of the Directive)

WRITTEN DECLARATION OF CONFORMITY<sup>(27)</sup>

1. The written declaration of conformity to the provisions of the Directive must always accompany:
  - the recreational craft and be joined to the owner's manual (Annex I, point 2.5),
  - the components as referred to in Annex II.
2. The written declaration of conformity shall include the following (1):
  - name and address of the manufacturer or his authorized representative established in the Community (2),
  - description of the recreational craft (3) or of the component (3),
  - references to the relevant harmonized standards used, or references to the specifications in relation to which conformity is declared,
  - where appropriate, reference to the EC type-examination certificate issued by a notified body,
  - where appropriate, the name and address of the notified body,
  - identification of the person empowered to sign on behalf of the manufacturer or his authorized representative established within the Community.

<sup>(25)</sup> These Annexes are respectively set out in Schedules 5, 7, 8, 9 and 11.

<sup>(26)</sup> The Essential Requirements in Annex I are set out in Schedule 1.

<sup>(27)</sup> Annexes I and II are respectively set out in Schedules 1 and 2.

- (1) and be drawn up in the language(s) as foreseen under point 2.5 of Annex I.
- (2) business name and full address; authorized representative must also give the business name and address of the manufacturer.
- (3) description of the product make, type, serial number, where appropriate.

## SCHEDULE 15

Regulation 16

### ENFORCEMENT

1. For the purposes of providing for the enforcement of these Regulations—
  - (a) an enforcement authority shall have the same duty to enforce these Regulations as it has in relation to Part II of the 1987 Act, and Part IV, sections 37 and 38 and sub-sections (3) and (4) of section 42 of that Act shall apply accordingly;
  - (b) section 13 of the 1987 Act (prohibition notices and notices to warn) shall (to the extent that it does not already do so) apply in relation to products to which these Regulations apply as it applies in relation to relevant goods under that section, as if the words “three months” were substituted for the words “six months” in section 13(4);
  - (c) subject to paragraph (d) below, these Regulations shall constitute safety provisions for the purposes of section 14 (suspension notices), 15 (appeals against suspension notices), 16 (forfeiture: England, Wales and Northern Ireland), 17 (forfeiture: Scotland) and 18 (power to obtain information) of the 1987 Act; and
  - (d) for the purposes of paragraph (c) above, the words “three months” shall be substituted for the words “six months” in section 14(6) of the 1987 Act.
2. An enforcement authority shall, where action has been taken by it to prohibit or restrict the placing on the market of any product to which these Regulations apply which bears the CE marking, forthwith inform the Secretary of State of the action taken and the reasons for it with a view to this information being passed by the Secretary of State to the Commission.

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Directive [94/25/EC](#) of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the member States relating to recreational craft (the Directive). Subject to certain limited exceptions, references in the Regulations to the Community or a member State include respectively a reference to the EEA or an EEA State, which are defined in regulation 2(2)(a).

Regulations 3 to 6 provide for the application of the Regulations. They apply to any product, which is a recreational craft, partly completed recreational craft or component (relevant definitions are contained in regulation 2(1)). The application of the Regulations is not prevented in the case of a recreational craft or partly completed recreational craft which could be used for charter or recreational boating training when placed on the market for recreational purposes (regulation 3(2)).

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The Regulations do not apply in the circumstances described in regulations 3(3), 4, 5 or 6. Regulation 3(3) relates to the showing of a product at any trade fair or similar event if there is a visible sign indicating that it must be made to comply before being placed on the market. Furthermore, the Regulations do not apply to specified excluded products (regulation 4) or products placed on the market before 16th June 1996 (regulation 5). There are transitional arrangements until 15th June 1998 subject to certain provisions relating to CE marking and provided that the product complies with national rules in force on 16th June 1994 (regulation 6).

Regulations 7 to 10 describe the requirements which various products must satisfy if they are to be placed on the market. (With the exception of regulations 3(2), 4(f) and (g), 7(2)(b)(i), 7(2)(c), 7(3)(b) and 16(2), “placing on the market” includes putting into service— regulation 2(1).) The basic requirements are set out in regulation 7: a product must satisfy the essential safety requirements which are applicable to it and meet certain other safety requirements. Except in the case of a partly completed craft and certain components, the appropriate conformity assessment procedure must have been carried out. In addition, the CE marking must be affixed to a product (other than a partly completed craft) or, in the case of a component, to the product or its packaging. In the case of a partly completed recreational craft, it must be accompanied by the declaration set out in paragraph (a) of Schedule 3; as regards a component which is to be incorporated into a recreational craft, a declaration may be made in accordance with paragraph (b) of Schedule 3 in which case compliance with the appropriate conformity assessment procedure is not required and the CE marking indicates that the component complies with the essential safety requirements relevant to it.

The essential safety requirements (Annex I of the Directive) are set out in Schedule 1.

The CE marking must be affixed in accordance with regulation 8 and Schedule 4. Regulation 9 makes provision for other markings and inscriptions.

The conformity assessment procedures are set out in various “Modules” in Annexes V to XII of the Directive (which are set out in Schedules 5 to 12). The appropriate conformity assessment procedure is determined in accordance with regulation 10 on the basis of certain categories of boat and for components: the boat categories are set out in the essential safety requirements. For the purposes of various Modules, the technical documentation to be supplied by the manufacturer or his authorised representative established in the Community and the written declaration of conformity described in Annexes XIII and XV of the Directive are set out in Schedules 13 and 14.

Provisions are made as regards the appointment of notified bodies to carry out conformity assessment procedures and/or surveillance together with the fees which such bodies may charge and the procedures required in the event of such a body being minded to refuse to issue an EC type-examination certificate (regulations 12 to 14).

Regulations 15 to 22 and Schedule 15 relate to enforcement of the Regulations. The enforcement authorities are the weights and measures authorities in Great Britain and the Department of Economic Development in Northern Ireland. In Scotland, proceedings are brought by the procurator-fiscal or Lord Advocate. Regulation 17 provides for offences and penalties for breaches of the Regulations; there are also provisions relating to the defence of due diligence (regulation 18) as well as liability of persons other than the principal offender (regulation 19). Regulation 20 requires a person who places on the market a recreational craft or component without a CE marking, or a partly completed recreational craft, to provide certain information and regulation 21 enables proceedings to be brought within a period of twelve months after the offence was committed. Regulation 22 provides that these Regulations are to be treated as safety regulations within the meaning in the Consumer Protection Act 1987.

A Compliance Cost Assessment in respect of these Regulations is available and a copy can be obtained from the Department of Trade and Industry, Standards and Technical Regulations Directorate 4, 3rd floor, 151 Buckingham Palace Road, London SW1W 9SS.

*Document Generated: 2021-04-23*

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