STATUTORY INSTRUMENTS

2017 No. 737

CONSUMER PROTECTION

The Recreational Craft Regulations 2017

Made - - - -	*11th July 2017*
Laid before Parliament	*12th July 2017*
Coming into force - -	*3rd August 2017*

The Secretary of State is a Minister designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in respect of measures relating to craft intended for recreational purposes.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State, in exercise of the powers conferred by section 2(2) of and paragraph 1A of Schedule 2(**3**) to the European Communities Act 1972, makes the following Regulations.

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Recreational Craft Regulations 2017 and come into force on 3rd August 2017 ("the commencement date").

Interpretation

2.—(1) In these Regulations—

"the 1987 Act" means the Consumer Protection Act 1987(**4**);

(**1**) S.I. 1995/2983.
(**2**) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1) and the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1.
(**3**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008.
(**4**) 1987 c.43.

"accreditation" has the meaning set out in point 10 of Article 2 of RAMS (as amended from time to time);

"accreditation certificate" means a certificate, issued by the United Kingdom Accreditation Service (a company limited by guarantee incorporated in England and Wales under number 03076190) or a national accreditation body of another Member State, attesting that a conformity assessment body meets the notified body requirements;

"adaptor" means a person who adapts an engine for use in watercraft;

"authorised representative" means a person appointed in accordance with regulation 39;

"CE marking" means a marking which takes the form set out in Annex II of RAMS (as amended from time to time);

"Commission" means the Commission of the European Union;

"competent national authority" means an authority having responsibility for enforcing the law of a Member State which implements the Directive;

"components" means the components of watercraft listed in Schedule 2 when placed on the EU market separately and when intended for installation in watercraft;

"conformity assessment" means the process demonstrating whether the essential requirements relating to a product have been fulfilled;

"conformity assessment body" means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

"Decision 768/2008" means Decision No.768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products(**5**);

the "Directive" means Directive 2013/53/EU of the European Parliament and of the Council on recreational craft and personal watercraft repealing Directive 94/25/EC(**6**);

"distributor" means a person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;

"district council" means a district council within the meaning of the Local Government Act (Northern Ireland) 1972(**7**);

"economic operator" means a manufacturer, an authorised representative, an importer or a distributor;

"enforcing authority" means any person enforcing these Regulations under regulation 66;

"engine family" means the manufacturer's grouping of engines which, through their design, have similar exhaust or noise emission characteristics;

"essential requirements" means the requirements set out in regulation 6;

"EU declaration of conformity" means the declaration required to be drawn up in accordance with regulation 10(1)(a) (EU declaration of conformity and CE marking);

"harmonised standard" has the meaning set out in paragraph (c) of Article 2(1) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European Standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC2004/22/EC, 2007/23/EC2009/23/EC and 2009/105/EC of the European Parliament and of the Council, and repealing Council Decision 87/95/EEC and Decision 1673/2006/EC of the European Parliament and of the Council(**8**) (as amended from time to time);

(**5**) OJ L 218, 13, 8, 2008, p.82.
(**6**) OJ No L 354, 28.12.2013, p.90.
(**7**) 1972 c.9.
(**8**) OJ No L 316, 14.11.2012, p.12.

"hull length" means the length of the hull measured in accordance with the harmonised standard;

"importer" means a person who—

(a) is established within the EU, and

(b) places a product from a third country on the EU market;

"major craft conversion" means a conversion of a watercraft which—

(a) changes the means of propulsion of the watercraft;

(b) involves a major engine modification; or

(c) alters the watercraft to such an extent that it may not meet the applicable essential requirements;

"major engine modification" means the modification of a propulsion engine which—

(a) could potentially cause the engine to exceed the emissions limits set out in Part B of Schedule 1; or

(b) increases the rated power of the engine by more than 15%;

"making available on the market" means any supply for distribution, consumption or use on the EU market in the course of a commercial activity, whether in return for payment or free of charge and related expressions must be construed accordingly;

"manufacturer" means a person who—

(a) manufactures a product or has such a product designed or manufactured; and

(b) markets that product under that person's name or trademark;

"market surveillance authority" has the meaning set out in regulation 65 (designation of market surveillance authorities);

"means of propulsion" means the method by which the watercraft is propelled;

"national accreditation body" means national accreditation body as defined in point 11 of Article 2 of RAMS) (as amended from time to time);

"notified body requirements" means the requirements set out in Schedule 11;

"personal watercraft" means a watercraft intended for sports and leisure purposes of less than 4 metres in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;

"placing on the market" means the first making available of a product on the EU market, and related expressions are to be construed accordingly;

"private importer" means a person established within the EU who imports in the course of a non-commercial activity a watercraft from a third country into the EU with the intention of putting it into service for that person's own use;

"product" means a product to which these Regulations apply, in accordance with regulation 3;

"propulsion engine" means any spark or compression ignition internal combustion engine used directly or indirectly for propulsion purposes;

"putting into service" means the first use of a product in the EU market by its end-user and related expressions are to be construed accordingly;

"RAMS" means Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) 339/93(**9**);

(**9**) OJ No L 218, 13.8.2008, p.30.

"recall" means any measure aimed at achieving the return of a watercraft that has already been made available to the end-user and related expressions must be construed accordingly;

"recreational craft" means any watercraft of any type, excluding personal watercraft, intended for sports and leisure purposes of hull length from 2.5 metres to 24 metres, regardless of the means of propulsion;

"relevant conformity assessment procedure" means a conformity assessment procedure referred to in regulation 42 (applicable conformity assessment procedures);

"small or medium-sized enterprise" has the same meaning as in Commission Recommendation 2003/361/EC(**10**);

"technical documentation" has the meaning given in regulation 9 (technical documentation and conformity assessment);

"watercraft" means any recreational craft or personal watercraft;

"watercraft built for own use" means any watercraft predominantly built by its future user for that user's own use; and

"withdrawal" means any measure aimed at preventing a watercraft in the supply chain from being made available on the market and related expressions must be construed accordingly.

(2) In these Regulations, a reference to a product being "in conformity with Part 2" means that—

(a) the product is in conformity with the essential requirements;

(b) each economic operator has complied with the obligations imposed on them by Part 2 of these Regulations which must be satisfied at or before the time at which the product is made available on the market.

(3) In these Regulations, except regulation 34 (monitoring) and Schedule 1, "risk" means a risk to—

(a) human health;

(b) the safety of consumers; or

(c) the environment.

(4) In these Regulations, a reference to a Member State is to be read as a reference to an EEA State and references to the EU are to be read as references to the European Economic Area.

(5) In these Regulations (except in Part 4 (notification of conformity assessment bodies) and Schedule 11 (notified body requirements) and 12 (obligations of notified bodies)), "notified body" means—

(a) a notified body within the meaning set out in regulation 55 (notified body); or

(b) a notified body under the laws of any other member State which implement the Directive.

Scope

3.—(1) Subject to regulation 4 (exclusions) these Regulations apply to the following products—

(a) recreational craft and partly completed recreational craft;

(b) personal watercraft and partly completed personal watercraft;

(c) components;

(d) propulsion engines which are installed or specifically intended for installation on or in watercraft;

(**10**) OJ No L 124, 20.5.2003, p.36.

(e) propulsion engines installed on or in watercraft that are subject to a major engine modification;

(f) watercraft that have been subject to major craft conversion.

(2) A watercraft that can also be used for charter or for sports and leisure training is covered by these Regulations when it is placed on the market for recreational purposes.

Exclusions

4.—(1) The design and construction requirements set out in Part A of Schedule 1 do not apply to the following watercraft—

(a) watercraft intended solely for racing, including rowing racing boats and training boats, labelled as such by the manufacturer;

(b) canoes and kayaks designed to be propelled solely by human power, gondolas and pedalos;

(c) surfboards designed to be propelled by wind and to be operated by a person or persons standing;

(d) other surfboards;

(e) original historical watercraft and individual replicas thereof designed before 1950 built predominantly with the original materials and labelled as such by the manufacturer;

(f) experimental watercraft, unless they are placed on the market;

(g) watercraft built for own use, provided that such watercraft are not subsequently placed on the EU market for a period of five years beginning with the date on which the watercraft was put into service;

(h) watercraft specifically intended to be crewed and to carry passengers for commercial purposes, except when they fall within regulation 3(2), regardless of the number of passengers;

(i) submersibles;

(j) air cushion vehicles;

(k) hydrofoils;

(l) external combustion steam powered watercraft, fuelled by coal, coke, wood, oil or gas;

(m) amphibious vehicles, that is to say wheeled or track-laying motor vehicles, which are able to operate both on water and on solid land.

(2) The exhaust emission requirements set out in Part B of Schedule 1 do not apply to the following—

(a) propulsion engines installed or specifically intended for installation in the following products—

(i) watercraft intended solely for racing and labelled as such by the manufacturer;

(ii) experimental watercraft, unless they are placed on the market;

(iii) watercraft specifically intended to be crewed and to carry passengers for commercial purposes, except when they fall within regulation 3(2) regardless of the number of passengers;

(iv) submersibles;

(v) air cushion vehicles;

(vi) hydrofoils;

(vii) amphibious vehicles, that is to say wheeled or track-laying motor vehicles, which are able to operate on water and on solid land;