



Department of Trade and Industry

**THE PRESSURE EQUIPMENT
REGULATIONS 1999**

PROPOSAL FOR AN AMENDMENT

A CONSULTATION DOCUMENT

MARCH 2000

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THE PRESSURE EQUIPMENT REGULATIONS 1999

PROPOSAL TO AMEND THE REGULATIONS FOR NON-COMMERCIAL MANUFACTURE AND IMPORT FOR OWN USE

A CONSULTATION DOCUMENT

The Department of Trade and Industry (DTI) would welcome your comments on consideration of a proposal to amend the Pressure Equipment Regulations 1999 SI No 1999/2001 ("PER") to assist those - including in particular amateur model engineers but also some traction engine owners - who manufacture or import pressure equipment for their own use not in the course of business and who subsequently dispose of that equipment.

The PER implement, in the UK, EC Pressure Equipment Directive 97/23/EC, which was adopted by the European Parliament and Council on 29 May 1997. The PER came into force on 29 November 1999 but are not mandatory until 30 May 2002. The purpose of the PER is to remove technical barriers to trade for pressure equipment and assemblies across the European Union.

As the legislation currently stands, amateur model engineers (and other such manufacturers) who have built their own pressure equipment, in particular boilers, any time prior to May 2002 and who have not placed them on the market will need to ensure that the equipment complies with the PER if they subsequently sell the engines containing those boilers. The same provisions will apply where amateur model engineers have given or bequeathed such engines to other parties who sell them after May 2002. Given that the purpose of the Pressure Equipment Directive is to remove barriers to trade, the Government considers it is undesirable that non-commercial private activities should be covered more than is necessary. It therefore is considering taking one of two possible options described at Annex A.

DTI would be grateful if any comments on the options could, where possible, be co-ordinated through trade or representative organisations. Comments are required within 16 weeks and no later than 10 July 2000. This consultation relates only to the proposed amendment and not to the PER themselves.

A draft Regulatory Impact Assessment is attached at Annex B. Comments and advice on the estimated benefits to amateur model engineers and traction engine owners (and others who may be affected by such a proposal) from the two options would be welcome. It would also be useful to have views from professional model manufacturers and others who manufacture in the course of business of the likelihood of any costs to their commercial activities that might arise from the second option in particular.

Co-ordinated responses should be sent to Claire Chaubert at the address below. However, if Email is available then such means are preferred. Further copies of this document can be obtained from the same address.

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It should also be noted that replies will be treated as open unless respondents state that they wish them or any part of them (including the identity of the respondent) to be treated as confidential.

Department of Trade and Industry, London

Option 1

Revise regulation 6(1) by extending the exclusion to certain acts of placing on the market after the pressure equipment or assembly has been used otherwise than in the course of business. The following illustrates a suitable text –

“Subject to paragraph (2), these Regulations shall not apply to pressure equipment and assemblies manufactured before 29 May 2002 –

- (a) placed on the market on or before 29 May 2002; or
- (b) placed on the market after 29 May 2002 where such pressure equipment or assembly has been used by
 - (i) the manufacturer of that pressure equipment or assembly; or
 - (ii) by the importer of that pressure equipment or assembly from a country or territory outside the Community,

in either case otherwise than in the course of business, which comply with any provisions with which they would have been required to comply for them to be placed on the market in the United Kingdom on 28 November 1999.”

The aim of this option would be to add an exclusion for all pressure equipment or assemblies manufactured or imported (from outside the Community) for own use, not in the course of business on or before 29 May 2002 from the requirements of the PER. It would remove the problem for such equipment already in use but would mean that any equipment manufactured after this date would have to comply if it were subsequently placed on the market.

Option 2

Retain regulation 2(3) but revise the definition of “responsible person” in regulation 2(2).
The following illustrates a suitable text –

“responsible person” means-

- (a) the manufacturer or his authorised representative established within the Community; or

- (b) where neither the manufacturer nor his authorised representative is established within the Community, the person who places the pressure equipment or assembly on the market or puts it into service as the case may be;

but does not include the manufacturer or other person who has acquired the equipment from him when placing the equipment on the market after the equipment has been put into service by the manufacturer otherwise than in the course of business.

This would exclude all pressure equipment manufactured or imported for own use not in the course of business from the range of obligations imposed on a “responsible person”. This would return such manufacturers and importers (including amateur model engineers) to their current position. DTI is, however, concerned to ensure that this would not adversely affect companies manufacturing in the course of business, for example boilers for model engineers and traction engine owners where the full force of the PER would apply.

It should be noted that where a party, who is not a responsible person, supplies pressure equipment or assemblies they are still required to ensure that such equipment is safe (regulation 10 of PER).

REGULATORY IMPACT ASSESSMENT OF AN AMENDMENT TO THE PRESSURE EQUIPMENT REGULATIONS 1999 (DRAFT)

1. Purpose and Intended Effect

Issue

1.1 In the UK there is a significant amateur model engineering fraternity (around 150,000) and also a large number of traction engine owners, some of whom build, as a hobby, model engines and part size traction engines. This equipment comprises pressure equipment, most notably boilers. The Pressure Equipment Regulations (the Regulations) came into force on 29 November 1999, but are not mandatory until 30 May 2002. The Regulations apply to a broad range of pressure equipment and assemblies (products), including model boilers, and set out the requirements which must be met if such products are placed on the market, put into service or supplied in the UK or elsewhere in the European Community.

1.2 As the legislation currently stands, amateur model engineers who have built their own boilers any time prior to 30 May 2002 and who have not placed them on the market will fall under the PER if they subsequently sell the engines containing those boilers. The same will apply where amateur model engineers have given or bequeathed such engines to other parties who subsequently sell them. Given that the purpose of the Directive which the Regulations implement was to remove barriers to trade, the Government considers it is undesirable that non-commercial private activities should be covered more than is necessary.

Objective

1.3 To assist those - including in particular amateur model engineers but also some traction engine owners - who manufacture or import pressure equipment for their own use not in the course of business who subsequently dispose of that equipment.

2. Risk Assessment

2.1 Currently model engineers are largely self regulated with well-developed codes of practice and insurance arrangements. The options are detailed below. The first option would ensure equipment currently in use did not have to meet these new requirements whilst the second option returns the amateur model engineers and traction engine owners to their current position. Neither option is thought to present a health and safety hazard but the opinion and views of the Health and Safety Commission and local authorities are sought in this matter.

3. Options.

3.1 Two possible options have been identified:

Option 1: To exempt all pressure equipment manufactured or imported for own use not in the course of a business before 29 May 2002 from the requirements of the PER if the equipment is subsequently placed on the market.

This would remove the problem for such equipment already in use but would mean that any equipment manufactured after this date would have to comply with the PER if it were subsequently sold.

Option 2: To exempt all pressure equipment or assemblies manufactured or imported for own use not in the course of business from those obligations imposed on a “responsible person”.

This has the advantage of simplicity and would return amateur model engineers to their current position. DTI is, however, concerned to ensure that this would not adversely impact on market potential for companies manufacturing boilers for model engineers and traction engine owners to whom the full force of the PER will apply.

4. Benefits

4.1 The benefits are reducing or removing the burden faced by those amateur model engineers and traction engine owners who build their own boilers or import historic examples from outside the Community.

	Option 1	Option 2
Benefits	Makes explicit that pressure equipment currently in use not in the course of business before May 2002 will not have to meet the requirements of the Regulations upon future sale. Amateur model engineers & traction engine owners have until May 2002 to familiarise themselves with the Regulations’ requirements.	Same as Option 1 but continuing indefinitely, save regulation 10 of the Regulations will apply. It would limit the application of the Regulations to commercial operations.
Disbenefits	Pressure equipment made after May 2002, for own use not in the course of business, would have to meet the requirements of the Regulations if it were subsequently sold. The Regulations were designed for industrial circumstances and may be difficult to interpret and apply in the amateur context. It might impact on the hobby as a whole and thereby any businesses supplying to the hobby.	Possible adverse impact on professional manufacturers’ market potential for sale to amateur hobbyists, and potential distortion of the market if the amateur product finds its way onto the market. An exemption for amateur built model engines would separate the amateurs from the professionals and might lead to amateur built models becoming less valuable and saleable than professionally built CE marked ones

4.2 Views are invited on the benefits and disbenefits of the two options.

4.3 It should be noted that where a party, who is not a responsible person, supplies pressure equipment or assemblies they are still required to ensure that such equipment is safe (regulation 10).

5. Business Sectors Affected

5.1 There are around 150,000 model engineers and up to 3,500 traction engine owners in the UK, although only a small proportion of the latter would be affected by either proposed amendment as most do not make their own boilers. Around 50,000 model engineers belong to clubs which are affiliated to the Northern or Southern Associations. There are many other smaller or specialist associations and societies to which model engineers may belong although some prefer not to belong to any. The main association for traction engine owners is the National Traction Engine Trust (NTET).

5.2 In addition there are around 50 professional manufacturers of boilers and a number of other suppliers of allied pressure equipment to this sector in the UK. Most are small firms employing less than 10 people and making around 50-100/150 boilers per year each.

6. Compliance Costs

6.1 Under Option 1 there will be some compliance costs for amateur model engineers after May 2002. These will vary depending upon the size of the engine and views are invited on the expected costs. There are no compliance costs for amateur model engineers under Option 2.

7. Consultation with Small Business

7.1 Three small boiler manufacturers were contacted to assess the impact, if any, of the proposed options on their businesses. The first company was a specialist copper boiler manufacturer employing 3 people with a turnover of £75,000 per annum. The company did not believe that either Option would impact on its business and favoured exempting amateur model engineers, as detailed in Option 2. The company's view was that amateurs should not be penalised and it would be better to assist amateurs by providing a full exemption. Otherwise people could be frightened away from the hobby which would, in the process, damage the business. The company's view was that hobbyists chose to make their own boilers depending upon their competence and type of interest.

7.2 The second firm, a boiler manufacturer making steel boilers, employed 2 people and had a turnover of £60,000 per annum. The company did not think Option 1 would have any adverse impact on its business but were unsure whether Option 2 would affect it or not. The Company felt that if Option 2 was taken up there should be a review in 2003 to see if it was having an impact on professional manufacturers.

7.3 The third firm was a specialist copper boiler manufacturer employing 2 people with a turnover of £70,000 per annum. The company did not see any difficulty with Option 1. However, Option 2 might impact to a small extent on the business but the firm was unsure how much. The firm wouldn't necessarily oppose a full exemption but had some concerns that it would separate the amateurs from the professionals and could lead to amateur built models becoming less valuable and saleable than professionally built CE marked ones.

8. Other Costs

8.1 Other than DTI staff costs of preparing the amendment (between £5,000-£10,000), there are no additional costs arising from either option.

9. Results of Consultations

9.1 Informal consultations have been taking place through a series of meetings since August 1999 with those in the heritage sector. This draft Regulatory Impact Assessment is appended to the consultation document for comments. The Consultation began on 17 March and will run for 16 weeks until 10 July. The major hobbyist magazines and the major associations have been provided with copies of the consultation paper and this assessment, as have many manufacturers. The Health and Safety Executive, The Health and Safety Commission and the Local Authority Co-ordinating Body on Trading Standards (LACOTS) are asked for their views on these options.

10. Summary

10.1 Both Options achieve the objective of improving the position for amateur model engineers and those traction engine owners who are affected. Option 2 goes further than Option 1 as it is not time limited. Views are sought from consultees on the options presented.

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