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EXECUTIVE SUMMARY

1.1 This consultation document seeks views on how it is proposed to implement, in the UK, Directive 2003/44/EC. This Directive amends Directive 94/25/EC which, currently, applies to the design and construction of recreation craft. The proposed draft UK Regulations are attached at Annex B, entitled “The Recreational Craft Regulations 2004”. The proposed Regulations will consolidate the existing Recreational Craft Regulations with the amendments required by the amending Directive.

1.2 The main objectives of the amending Directive are:

- to remove technical barriers to trade between Member States by harmonising some further requirements for recreational craft and to include, for the first time, personal watercraft (“jet skis”) within the design and construction requirements
- to protect the health and well-being of citizens

1.3 The proposed changes apply to recreational craft and to personal watercraft and their engines, at the time they are placed on the market for the first time. They will apply also to existing craft and their engines that undergo major modifications and conversions. However, it is important to note that the provisions of the amending Directive will only apply from 1 January 2005 ie craft and engines already in use before that date will not be affected by the changes. There is also no requirement in the amending Directive for checking noise or exhaust emission once the craft or engine is in use.

1.4 The main changes are:

- to limit engine emissions of carbon monoxide, hydrocarbons, nitrogen oxides and, in the case of diesel engines, particulates
- to limit the noise from recreational craft and personal water craft
- other detailed revisions of the Directive such as a system to allow used craft imported from outside the EU/EEA to be brought into conformity

1.5 We are seeking your views on the best, clearest way to implement the Directive in the UK. We would welcome your views in particular on the questions listed at paragraph 3, page 8 of this consultation document.

We are not seeking your views on the content of the Directive. The Directive was agreed by Ministers and the European Parliament on 16 June 2003. This followed a long period of consultation in the UK and negotiations in Brussels.
1.6 The Department is also seeking your views on the Regulatory Impact Assessment attached at Annex E

HOW TO RESPOND

1.7 When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

1.8 A response can also be submitted by letter, fax or email to:

Neeroo Girdharee
Standards and Technical Regulations Directorate 4 (STRD)
Bay 324
151 Buckingham Palace Road
London SW1W 9SS
Fax: 020 7215 1529
Tel: 020 7215 1411
Email: neeroo.girdharee@dti.gsi.gov.uk

Responses must be received by 8 March 2004.

CONFIDENTIALITY

1.9 Your responses may be made public by the DTI. If you do not want all or part of your response or name made public, please state this clearly in the response. Any confidentiality disclaimer that may be generated by your organisation’s IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been requested.

1.10 We will handle any personal data you provide appropriately in accordance with the Data Protection Act.

ADDITIONAL COPIES

1.11 The consultation document is available on the STRD website at: http://www.dti.gov.uk/strd/recreat.html and may also be obtained on request from Neeroo Girdharee, whose details are given in paragraph 1.8.
WHAT WILL HAPPEN NEXT

1.12 The amending Directive must be implemented in the UK and other Member States by 30 June 2004. We plan to ensure that this obligation is met in the UK by that date.

1.13 It is our intention to publish the outcome of this consultation within one month of the closing date for responses.

HELP WITH QUERIES

1.14 If you have any comments or complaints about the way this consultation has been conducted, these should be sent to:

Philip Martin
Consultation Co-ordinator
Department of Trade and Industry
Room 723
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 6206
Philip.martin@dti.gsi.gov.uk

A copy of the Code of Practice on Consultation is attached at Annex F
2.1 The Recreational Craft Directive 94/25/EC, containing essential safety requirements for the design and construction of recreational craft, came fully into effect in the United Kingdom on 16 June 1998. The Directive applies to recreational craft measuring between 2.5 and 24 metres in hull length, intended for sport and leisure purposes. On 12 October 2000, the European Commission presented a proposal for an amendment to the Directive, which has since been adopted, extending the scope to include personal watercraft and adding further essential requirements covering exhaust emissions from propulsion engines and noise emissions from craft. A copy of the amending Directive 2003/44/EC is attached at Annex A.

2.2 We propose to make new Regulations (Annex B) which will consolidate the existing Recreational Craft Regulations 1996 (Annex C) and the Recreational Craft (Amendment) Regulations 1998 (Annex D) with the amendments required by Directive 2003/44/EC.

2.3 The amendments made by the amending Directive will apply to the same variety of recreational craft as Directive 94/25/EC, whether powered by outboard engines, stern drive engines or inboard engines but with the addition of personal watercraft (propelled by a water jet pump). The exhaust emission requirements take the form of limits of acceptable emissions of carbon monoxide, hydrocarbons, nitrogen oxides and, in the case of diesel engines, particulates.

2.4 The noise emission requirements are presented in terms of maximum acceptable sound pressure levels determined from a pass-by test. Directive 2003/44/EC also provides for the use of a “Power Displacement Ratio” formula and a “Froude Number” as a means of compliance with the relevant requirements of the amending Directive. As with other New Approach Directives of its kind, the manufacturer will be able to demonstrate compliance with those requirements of the amending Directive through the technical means provided in harmonised standards.

2.5 Furthermore, the objectives of the amending Directive are primarily to remove technical barriers to trade arising out of Member States’ differing requirements for personal watercraft as well as for exhaust and noise emissions, but are also to protect the health and well-being of citizens by reducing their overall exposure to pollutants and nuisance arising from the recreational craft. The effect of the amending Directive will be to apply the provisions of the original Directive not only to craft and propulsion engines coming new on to the market but also to existing craft and engines that undergo major modifications and conversions.

2.6 The proposed Regulations are largely similar to those which give force in the United Kingdom to other product standard Directives adopted
under Article 95 of the Treaty. They also follow the basic formation of the 1996 Regulations, with appropriate amendments to reflect those made by Directive 2003/44/EC.

2.7 Member States are required to apply measures from 1 January 2005; those measures will take full effect from 1 January 2006, in the case of products falling under Article 1 (1)(a), compression ignition and four-stroke spark ignition engines and, in the case of two-stroke spark ignition engines, from 1 January 2007 – thus allowing two separate periods of transition.

2.8 A guidance booklet will be issued by the DTI to explain the requirements of the amending Directive in less formal terms and will be available from the DTI Publication Orderline on 0870 1502 500 and the STRD website at http://www.dti.gov.uk/strd/. This booklet (which does not have force in law) will be available in July 2004.

2.9 A Regulatory Impact Assessment (RIA) (Annex E) has been carried out in connection with the amendments made by the proposed Regulations. The RIA has identified three options for transposition of Directive 2003/44/EC and has outlined the risks associated with each option. The options are:

Option 1
Do nothing. Delay transposition of Directive 2003/44/EC until a later date or ignore completely. (This Option would leave the UK in breach of our Community obligations)

Option 2
Implement Directive 2003/44/EC by transposing into UK Law as currently drafted by way of further amending Regulations.

Option 3
Implement Directive 2003/44/EC by Consolidating Regulations

Option 3 is the recommended option on the basis that it will provide users of the legislation with one consolidated set of Regulations covering design and construction of recreational craft (Directive 94/25/EC), design and construction of personal watercraft, limits on noise from craft and limits on exhaust emissions from engines used in craft (Directive 2003/44/EC). The alternative (option 2) would leave the user with two sets of Regulations that would require constant cross referencing by the user. Option 1 would result in action being taken by the European Commission against the UK and could result in penalties being imposed and the UK forced to transpose the Directive eventually.
CONSULTATION QUESTIONS

3.1 Question 1

Do you agree or disagree with the DTI recommendation that option 3 be followed? If you agree, then tell us. If you disagree then tell us which option you would prefer and why.

3.2 Question 2

If Option 3 is to be adopted, are you content with the layout of the proposed Regulations attached at Annex B? If not, let us have your suggestions but bear in mind we cannot change the content which is drawn from the text of the two Directives. We can however consider the best layout of the material and to some extent the detail of what information we include which comes from other sources such as UK legislation on consumer protection.

3.3 Question 3

Is there some other way of dealing with the issue that we have not identified?

3.4 Question 4

Do you believe that the estimated RIA costs attributable to industry and users are accurate?

3.5 Question 5

Do you believe that the RIA assumptions in terms of the effect of this Directive on the market are reasonable?
DIRECTIVE 2003/44/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 16 June 2003
amending Directive 94/25/EC on the approximation of the laws, regulations and
administrative provisions of the Member States relating to recreational craft
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Economic and Social Committee (2),

Acting in accordance with the procedure laid down in Article 251 of the Treaty (3) in the light of the joint text approved by the Conciliation Committee on 9 April 2003,

Whereas:


(2) Directive 94/25/EC does not cover personal watercraft, while since its adoption some Member States have introduced laws, regulations and administrative provisions concerning such craft.

(3) The propulsion engines on recreational craft and personal watercraft produce exhaust emissions of carbon monoxide (CO), hydrocarbons (HC), nitrogen oxides (NOx), noise emissions and particle emissions which affect both human health and the environment.

(4) Exhaust emissions produced by the engines of such recreational craft and personal watercraft and noise emissions produced by such craft are also not covered by Directive 94/25/EC.

(5) It is now necessary to integrate environmental protection requirements into the various Community activities in order to promote sustainable development. Such provisions, which are already the subject of the Council Resolution of 3 December 1992 concerning the relationship between industrial competitiveness and environmental protection (5), were taken up in the conclusions of the Industry Council of 29 April 1999.

(6) Laws, regulations and administrative provisions are in force in some Member States limiting noise and exhaust emissions from recreational craft and engines in order to protect human health, the environment and, where appropriate, domestic animal health. Those measures differ and are likely to affect the free movement of such products and constitute barriers to trade within the Community.

(7) In the framework of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (6) Member States have notified draft national regulations aimed at reducing noise and exhaust emissions from the engines of recreational craft. Such technical regulations are considered, like the national provisions already in force, to be likely to affect the free movement of such products or to create obstacles to the proper functioning of the internal market. It is therefore necessary to draw up a binding Community instrument.

(8) The harmonisation of national laws is the only way to abolish such barriers to trade and unfair competition found in the internal market. The objective of limiting noise and exhaust emissions cannot be satisfactorily met by the Member States individually. The measures provided for in this Directive lay down only the essential requirements for the free movement of recreational craft, personal watercraft and all the types of engines to which this Directive applies.

(9) These measures are in accordance with the principles set out in the Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards (7), with reference being made to harmonised European standards.

(10) The provisions on exhaust and noise emissions laid down in this Directive should apply to all engines, whether inboard, outboard or stern drive with or without integral exhaust, and to personal watercraft in order to ensure optimum effectiveness in the protection of human health and the environment. Engines undergoing major modifications should be included as regards exhaust emissions. Craft with stern drive engines without integral exhausts or inboard propulsion engine installations undergoing major craft conversion should be included as regards noise emissions when placed on the Community market within five years following conversion.

(11) Conformity with the essential requirements for emissions from the engines concerned is essential to protect human health and the environment. Maximum authorised levels should be laid down for exhaust emissions of carbon monoxide (CO), hydrocarbons (HC), nitrogen oxide (NOx) and particulate pollutants. As far as noise emissions are concerned, the maximum levels should be broken down as a function of the power of such engines and the number and type of engines on board. These measures should be consistent with all other measures to reduce engine emissions in order to protect human beings and the environment.

(12) Member States should consider introducing national support measures to encourage the use of synthetic biodegradable lubrication oils to reduce water pollution by recreational craft. The introduction of measures at Community level should be considered during the review of this Directive.

(13) For the two types of emission in question, the data certifying their conformity should always accompany the recreational craft, personal watercraft or engine.

(14) Harmonised European standards, in particular as regards the measurement of levels and test methods, make it easier to demonstrate conformity with the essential requirements, also in the case of emissions from the recreational craft and personal watercraft covered by this Directive.

(15) In view of the nature of the risks involved, it is necessary to adopt conformity assessment procedures to ensure the necessary level of protection. The manufacturer or his authorised representative or, if they do not fulfil their obligations, the person placing the product on the market and/or putting it into service, should ensure that the products covered by this Directive comply with relevant essential requirements, when they are placed on the market and/or put into service. Adequate procedures should be laid down which provide a choice between procedures with equivalent stringency. Those procedures should comply with Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking which are intended to be used in technical harmonisation Directives (1).

(16) As far as exhaust emissions are concerned, all types of engines, including personal watercraft and other similar powered craft, should bear the CE mark affixed by the manufacturer or his authorised representative within the Community, except inboard engines and stern drive engines without integral exhaust, engines type-approved according to stage II of Directive 97/68/EC (2) and engines type-approved according to Directive 88/77/EEC (3) which should be accompanied by the manufacturer's declaration of conformity. As far as noise emissions are concerned, only outboard engines and stern drive engines with integral exhaust must bear the CE mark affixed by the manufacturer or his authorised representative or the person placing the product on the market and/or putting it into service within the Community. For noise emissions and for all types of engines, except outboard engines and of stern drive engines with integral exhaust, the CE mark affixed on the craft demonstrates conformity with the relevant essential requirements.

(17) Directive 94/25/EC should be amended also to take account of manufacturing needs, which require a greater choice of certification procedures.

(18) For the sake of legal certainty and to ensure the safe use of recreational craft, it is necessary to clarify a number of technical issues relating to the essential construction requirements of recreational craft concerning the boat design categories, the maximum recommended load, the craft identification number, the fuel tanks, the fire fighting equipment and the

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discharge prevention.

(19) The Commission should closely monitor the evolution of engine technology and the need to meet future environmental protection requirements in order to examine the possibility of further reducing emission limit values for noise and exhaust emissions.

(20) In order to facilitate the application of measures concerning the efficient functioning of legislation, the procedure establishing a close cooperation between the Commission and Member States in the framework of a Committee should be maintained and reinforced.

(21) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (1).

(22) It is necessary to provide for a transitional arrangement enabling certain products complying with the national rules in force on the date of entry into force of this Directive to be placed on the market and/or put into service,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 94/25/EC is hereby amended as follows:

1. Article 1 shall be replaced by the following:

"Article 1

Scope and definitions

1. This Directive shall apply:

(a) with regard to design and construction, to:

(i) recreational craft and partly completed boats;

(ii) personal watercraft;

(iii) components referred to in Annex II when placed on the Community market separately and when intended for installation;

(b) with regard to exhaust emissions, to:

(i) propulsion engines which are installed or specifically intended for installation on or in recreational craft and personal watercraft;

(ii) propulsion engines installed on or in these craft that are subject to a 'major engine modification';

(c) with regard to noise emissions, to:

(i) recreational craft with stern drive engines without integral exhausts or inboard propulsion engine installations;

(ii) recreational craft with stern drive engines without integral exhausts or with inboard propulsion installations which are subject to a major craft conversion and subsequently placed on the Community market within five years following conversion;

(iii) personal watercraft;

(iv) outboard engines and stern drive engines with integral exhausts intended for installation on recreational craft;

(d) for products falling under (a)(ii), (b) and, the provisions of this Directive shall only apply from the first placing on the market and/or putting into service after the date of entry into force of this Directive.

2. The following shall be excluded from the scope of this Directive:

(a) with regard to paragraph 1(a):

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

(ii) canoes and kayaks, gondolas and pedalos;

(iii) sailing surfboards;

(iv) surfboards, including powered surfboards;

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

(vi) experimental craft, provided that they are not subsequently placed on the Community market;

(vii) craft built for own use, provided that they are not subsequently placed on the Community market during a period of five years;

(viii) craft specifically intended to be crewed and to carry passengers for commercial purposes, without prejudice to
paragraph 3(a), in particular those defined in Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels(*), regardless of the number of passengers;

(ix) submersibles;

(x) air cushion vehicles;

(xi) hydrofoils;

(xii) External combustion steam powered craft, fuelled by coal, coke, wood, oil or gas;

(b) with regard to paragraph 1(b):

(i) propulsion engines installed or specifically intended for installation on the following:

- craft intended solely for racing and labelled as such by the manufacturer,

- experimental craft, provided that they are not subsequently placed on the Community market,

- craft specifically intended to be crewed and to carry passengers for commercial purposes, without prejudice to paragraph 3(a), in particular those defined in Directive 82/714/EEC, regardless of the number of passengers,

- Submersibles,

- air cushion vehicles,

- hydrofoils;

(ii) original and individual replicas of historical propulsion engines, which are based on a pre-1950 design, not produced in series and fitted on craft referred to in paragraph 2(a)(v) and (vii);

(iii) propulsion engines built for own use provided that they are not subsequently placed on the Community market during a period of five years;

(c) with regard to paragraph 1(c):

- all craft referred to in point (b) of this paragraph,

- craft built for own use, provided that they are not subsequently placed on the Community market during a period of five years.

3. For the purposes of this Directive the following definitions shall apply:

(a) 'recreational craft': any boat of any type intended for sports and leisure purposes of hull length from 2,5 m to 24 m, measured according to the harmonised standard, regardless of the means of propulsion; the fact that the same boat could be used for charter or for recreational boating training shall not prevent it being covered by this Directive when it is placed on the Community market for recreational purposes;

(b) 'personal watercraft': a vessel less than 4 m in length which uses an internal combustion 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;

(c) 'propulsion engine': any spark or compression ignition, internal combustion engine used for propulsion purposes, including two-stroke and four-stroke inboard, stern-drive with or without integral exhaust and outboard engines;

(d) 'major engine modification': the modification of an engine which:

- could potentially cause the engine to exceed the emission limits set out in Annex I.B. excluding routine replacement of engine components that do not alter the emission characteristics, or

- increases the rated power of the engine by more than 15%;

(e) 'major craft conversion': a conversion of a craft which:

- changes the means of propulsion of the craft,

- involves a major engine modification,

- alters the craft to such an extent that it is considered a new craft;

(f) 'means of propulsion': the mechanical method by which the craft is driven, in particular marine propellers or waterjet mechanical drive systems;

(g) 'engine family': the manufacturer's grouping of engines which, through their design, are expected to have similar exhaust emission characteristics and which comply with the exhaust emissions requirements of this Directive;

(h) 'manufacturer': any natural or legal person who designs and manufactures a product

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covered by this Directive or who has such a product designed and/or manufactured with a view to placing it on the market on his own behalf;

(i) 'authorised representative': any natural or legal person established in the Community who has received a written mandate from the manufacturer to act on his behalf with regard to the latter's obligation under this Directive."

2. Article 4 shall be replaced by the following:

"Article 4

Free movement of the products referred to in Article 1(1)

1. Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service in their territory of products referred to in Article 1(1) bearing the CE marking referred to in Annex IV, which indicates their conformity with all the provisions of this Directive, including the conformity procedures set out in Chapter II.

2. Member States shall not prohibit, restrict or impede the placing on the market of partly-completed boats where the builder or his authorised representative established in the Community or the person responsible for the placing on the market declares, in accordance with Annex IIIa, that they are intended to be completed by others.

3. Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service of components referred to in Annex II and bearing the CE marking referred to in Annex IV which indicates their conformity with the relevant essential requirements where these components are accompanied by a written declaration of conformity as provided for in Annex XV and are intended to be incorporated into recreational craft, in accordance with Annex IIIa, that they are intended to be completed by others.

4. Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service of:

- inboard engines and stern drive propulsion engines without integral exhaust,
- engines type-approved according to Directive 97/68/EC(*) which are in compliance with stage II provided for in section 4.2.3 of Annex I to that Directive and of,
- engines type-approved according to Directive 88/77/EEC(**);

where the manufacturer or his authorised representative established in the Community declares in accordance with Annex XV.3 that the engine will meet the exhaust emission requirements of this Directive, when installed in a recreational craft or personal watercraft in accordance with the manufacturer's supplied instructions.

5. At trade fairs, exhibitions, demonstrations, etc., Member States shall not create any obstacles to the showing of the products referred to in Article 1(1) which do not comply with this Directive, provided that a visible sign clearly indicates that such products may not be marketed or put into service until they have been made to comply.

6. Where the products referred to in Article 1(1) are subject to other Directives covering other aspects and which provide for the affixing of the CE marking, the latter shall indicate that such products are also presumed to conform to the provisions of those other Directives. The CE marking shall indicate conformity with the applicable Directives or relevant parts thereof. In this case, the particulars of the said Directives applied by the manufacturer, as published in the Official Journal of the European Union, must be given in the documents, declaration of conformity or instructions required by the Directives and accompanying such products."

3. the following Article shall be inserted:

"Article 6a


Committee procedure

1. Amendments which are necessary, in the light of evolution of technical knowledge and new scientific evidence, to the requirements of Annex I.B.2 and Annex I.C.1 excluding direct or indirect modifications to exhaust or noise emission values and to the Froude and P/D ratio values shall be adopted by the Commission assisted by the Standing Committee set up pursuant to Article 6(3), acting as a regulatory committee in accordance with the procedure referred to in paragraph 2. Issues to be dealt with shall include the reference fuels and the standards to be used for exhaust and noise emissions testing.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

4. the first subparagraph of Article 7(1) shall be replaced by the following:

"1. Where a Member State ascertains that products falling within the scope of Article 1 and bearing the CE marking referred to in Annex IV, when correctly designed, constructed, installed where appropriate, maintained and used in accordance with their intended purpose may endanger the safety and health of persons, property or the environment, it shall take all appropriate interim measures to withdraw them from the market or prohibit or restrict their being placed on the market and/or put into service."

5. Article 7(3) shall be replaced by the following:

"3. Where a non-complying product referred to in Article 1 bears the CE marking, the appropriate measures shall be taken by the Member State which has authority over whomsoever affixed the marking; that Member State shall inform the Commission and the other Member States thereof."

6. Article 8 shall be replaced by the following:

"Article 8

1. Before placing on the market, and/or putting into service, products referred to in Article 1(1) the manufacturer or his authorised representative established within the Community shall apply the procedures referred to in paragraphs 2, 3 and 4 of this Article.

In the case of post-construction assessment for recreational craft, if neither the manufacturer nor his authorised representative established within the Community fulfils the responsibilities for the product's conformity to this Directive, these can be assumed by any natural or legal person established within the Community who places the product on the market, and/or puts it into service, under his own responsibility. In such a case, the person who places the product on the market or puts it into service must lodge an application for a post-construction report with a notified body. The person who places the product on the market and/or puts it into service must provide the notified body with any available document and technical file referring to the first placing on the market of the product in the country of origin. The notified body shall examine the individual product and carry out calculations and other assessment to ensure its equivalent conformity with the relevant requirements of the Directive. In this case, the Builder's plate described in Annex I, 2.2 shall include the words ('Post-construction certificate'). The notified body shall draw up a report of conformity concerning the assessment carried out and shall inform the person who places the product on the market and/or puts it into service of his obligations. That person shall draw up a declaration of conformity (see Annex XV) and affix, or cause to be affixed, the CE mark accompanied by the distinguishing number of the relevant notified body on the product.

2. With regard to design and construction of products referred to in Article 1(1)(a), the boat manufacturer or his authorised representative established in the Community shall apply the following procedures for boat design categories A, B, C and D as referred to in section 1 of Annex I.A:

(a) for categories A and B:

(i) for boats from 2,5 m to 12 m hull length: the internal production control plus tests (module Aa) referred to in Annex VI, or the EC type-examination (module B) as described in Annex VII, supplemented by conformity to type (module C) referred to in Annex VIII, or any of the following modules: B+D, or B+E, or B+F, or G or H;

(ii) for boats from 12 m to 24 m hull length: the EC type-examination (module B) referred to in Annex VII supplemented by conformity to type (module C) referred to in Annex VIII, or any of the following modules: B+D, or B+E, or B+F, or G or H;
(b) for category C:

(i) for boats from 2,5 m to 12 m hull length:
- where the harmonised standards relating to Sections 3.2 and 3.3 of Annex I.A are complied with: the internal production control (module A), referred to in Annex V, or internal production control plus tests (module Aa) referred to in Annex VI, or the EC type-examination (module B) as described in Annex VII, supplemented by conformity to type (module C) referred to in Annex VIII, or any of the following modules: B+D, or B+E, or B+F, or G, or H;
- where the harmonised standards relating to Sections 3.2 and 3.3 of Annex I.A are not complied with: the internal production control plus tests (module Aa) referred to in Annex VI, or the EC type-examination (module B) as described in Annex VII, supplemented by conformity to type (module C) referred to in Annex VIII, or any of the following modules: B+D, or B+E, or B+F, or G, or H;

(ii) for boats from 12 m to 24 m hull length: the EC type-examination (module B) referred to in Annex VII followed by conformity to type (module C) referred to in Annex VIII, or any of the following modules: B+D, or B+E, or B+F, or G, or H;

(c) for category D:

for boats from 2,5 m to 24 m hull length: the internal production control (module A) referred to in Annex V, or the internal production control plus tests (module Aa) referred to in Annex VI, or the EC type-examination (module B) as described in Annex VII, supplemented by conformity to type (module C) referred to in Annex VIII, or any of the following modules: B+D, or B+E, or B+F or G or H;

(d) for personal watercraft:

the internal production control (module A) referred to in Annex V, or the internal production control plus tests (module Aa) referred to in Annex VI, or the EC type-examination (module B) as described in Annex VII followed by conformity to type (module C) referred to in Annex VIII, or any of the following modules: B+D, or B+E, or B+F, or G or H;

(e) for components referred to in Annex II: any of the following modules: B+C, or B+D, or B+F, or G or H.

3. With regard to exhaust emissions:

for products referred to in Article 1(1)(b), the engine manufacturer or his authorised representative established in the Community shall apply the EC type-examination (module B) as described in Annex VII followed by conformity to type (module C) referred to in Annex VIII, or any of the following modules: B+D, or B+E, or B+F, or G or H.

4. With regard to noise emissions:

(a) for products referred to in Article 1(1)(c)(i) and (ii), the boat manufacturer or his authorised representative established in the Community shall apply:

(i) where tests are conducted using the harmonised standard(*) for noise measurement: either internal production control plus tests (module Aa) referred to in Annex VI, or unit verification (module G) referred to in Annex XI, or full quality assurance (module H) referred to in Annex XII;

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* EN ISO 14509.
(ii) where the Froude number and power displacement ratio method is used for assessment: either the internal production control (module A) referred to in Annex V, or the internal production control plus tests (module Aa) referred to in Annex VI, or unit verification (module G) referred to in Annex XI, or full quality assurance (module H) referred to in Annex XII;

(iii) where certified reference boat data, established in accordance with point (i), is used for assessment: either internal production control (module A) referred to in Annex V, or internal production control plus supplementary requirements (module Aa) referred to in Annex VI, or unit verification (module G) referred to in Annex XI, or full quality assurance (module H) referred to in Annex XII;

(b) for products referred to in Article 1(1)(c)(iii) and (iv), the personal watercraft/engine manufacturer or his authorised representative established in the Community shall apply: internal production control plus supplementary requirements referred to in Annex VI (module Aa) or module G or H.

7. Article 10(1), (2) and (3) shall be replaced by the following:

"1. When the following products are placed on the market, they shall bear the CE marking of conformity:

(a) recreational craft, personal watercraft and components referred to in Annex II, which are regarded as meeting the corresponding essential requirements set out in Annex I;

(b) outboard engines which are regarded as meeting the essential requirements set out in Annex I.B and I.C.;

(c) stern drive engines with integral exhaust which are regarded as meeting the essential requirements set out in Annex I.B. and I.C.

2. The CE marking of conformity, as shown in Annex IV, must appear in a visible, legible and indelible form on the craft and the personal watercraft as in point 2.2 of Annex I.A, on components, as referred to in Annex II and/or on their packaging, and on outboard engines and stern drive engines with integral exhaust as in point 1.1 of Annex I.B.

The CE marking shall be accompanied by the identification number of the body responsible for implementation of the procedures set out in Annexes IX, X, XI, XII, and XVI.

3. The affixing of markings or inscriptions on products covered by this Directive which are likely to mislead third parties with regard to the meaning or the form of the CE marking shall be prohibited. Any other markings may be affixed to products covered by this Directive and/or on their packaging provided that the visibility and legibility of the CE marking is not thereby reduced."

8. Annex I is hereby amended as follows:

1. the heading shall be replaced by the following:

"ANNEX I

ESSENTIAL REQUIREMENTS

PRELIMINARY OBSERVATION

For the purposes of this Annex the term "craft" shall cover recreational craft and personal watercraft.

A. Essential safety requirements for the design and construction of craft."

2. the table under "1. BOAT DESIGN CATEGORIES" shall be replaced by the following:
A - "Ocean"
B - "Offshore"
C - "Inshore"
D – "Sheltered waters"

Exceeding 8
Up to, and including, 8
Up to, and including, 6
Up to, and including, 4

Exceeding 4
Up to, and including, 4
Up to, and including, 2
Up to, and including, 0.3'

3. the definition of Boat Design Category A shall be replaced by the following:

"A. Ocean: Designed for extended voyages where conditions may exceed wind force 8 (Beaufort scale) and significant wave heights of 4 m and above but excluding abnormal conditions, and vessels largely self-sufficient."

4. the definition of Boat Design Category D shall be replaced by the following:

"D. Sheltered waters - Designed for voyages on sheltered coastal waters, small bays, small lakes, rivers and canals when conditions up to, and including, wind force 4 and significant wave heights up to, and including, 0.3 m may be experienced, with occasional waves of 0.5 m maximum height, for example from passing vessels."

5. the last subparagraph under section 1. "Boat design categories" shall be replaced by the following:

"Craft 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."

6. the text under section 2. "General requirements" shall be replaced by the following:

"Products falling under Article 1(1)(a) shall comply with the essential requirements in so far as they apply to them."

7. in section 2.1:
(a) the title should read as follows: "Craft identification";
(b) the introductory wording shall read as follows:

"Each craft shall be marked with an identification number including the following information."

8. in section 2.2 "Builder's plate", the fourth indent shall read as follows:

"- manufacturer's maximum recommended load derived from section 3.6 excluding the weight of the contents of the fixed tanks when full"

9. in section 3.6 "Manufacturer's maximum recommended load" the following words shall be deleted:

"..., as marked on the builder's plate,..."

10. the following section shall be added in section 5 "Installation requirements":

---

"Design category Wind force Significant wave height
(Shelfort scale) (H 1/3, metres)

<table>
<thead>
<tr>
<th>Design category</th>
<th>Wind force</th>
<th>Significant wave height</th>
</tr>
</thead>
<tbody>
<tr>
<td>A - &quot;Ocean&quot;</td>
<td>Exceeding 8</td>
<td>Up to, and including, 8</td>
</tr>
<tr>
<td>B - &quot;Offshore&quot;</td>
<td>Up to, and including, 8</td>
<td>Up to, and including, 4</td>
</tr>
<tr>
<td>C - &quot;Inshore&quot;</td>
<td>Up to, and including, 6</td>
<td>Up to, and including, 2</td>
</tr>
<tr>
<td>D – &quot;Sheltered waters&quot;</td>
<td>Up to, and including, 4</td>
<td>Up to, and including, 0.3'</td>
</tr>
</tbody>
</table>
"5.1.5. Personal watercraft running without driver.

Personal watercraft shall be designed either with an automatic engine cut-off or with an automatic device to provide reduced speed, circular, forward movement when the driver dismounts deliberately or falls overboard.

11. section 5.2.2 shall be replaced by the following:

"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.

Petrol fuel 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;

Diesel fuel may be kept in tanks that are integral with the hull.

12. section 5.6.2 shall be replaced by the following:

"5.6.2. Fire-fighting equipment

Craft shall be supplied with fire-fighting equipment appropriate to the fire hazard, or the position and capacity of fire-fighting equipment appropriate to the fire hazard shall be indicated. The craft shall not be put into service until the appropriate fire-fighting equipment is in place. 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.

13. section 5.8 shall be replaced by the following:

"5.8. Discharge prevention and installations facilitating the delivery ashore of waste

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.

Craft with permanently installed holding tanks shall be fitted with a standard discharge connection to enable pipes of reception facilities to be connected with the craft discharge pipeline.

In addition, any through-the-hull pipes for human waste shall be fitted with valves which are capable of being secured in the closed position.

14. the following parts shall be added:

"B. Essential requirements for exhaust emissions from propulsion engines

Propulsion engines shall comply with the following essential requirements for exhaust emissions.
1. Engine identification

1.1. Each engine shall be clearly marked with the following information:

- engine manufacturer's trademark or trade-name,
- engine type, engine family, if applicable,
- a unique engine identification number,
- CE marking, if required under Article 10.

1.2. These marks must be durable for the normal life of the engine and must be clearly legible and indelible. If labels or plates are used, they must be attached in such a manner that the fixing is durable for the normal life of the engine, and the labels/plates cannot be removed without destroying or defacing them.

1.3. These marks must be secured to an engine part necessary for normal engine operation and not normally requiring replacement during the engine life.

1.4. These marks must be located so as to be readily visible to the average person after the engine has been assembled with all the components necessary for engine operation.

2. Exhaust emission requirements

Propulsion engines shall be designed, constructed and assembled so that when correctly installed and in normal use, emissions shall not exceed the limit values obtained from the following table:

<table>
<thead>
<tr>
<th>Type</th>
<th>Carbon monoxide</th>
<th>Hydrocarbons</th>
<th>Nitrogen oxides</th>
<th>Particles</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$CO = A + B/P_N^n$</td>
<td>$HC = A + B/P_N^n$</td>
<td>$O_x$</td>
<td>$PT$</td>
</tr>
<tr>
<td>Two-stroke spark ignition</td>
<td>150,0 600,0 1,0</td>
<td>30,0 100,0 0,75</td>
<td>10,0</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Four-stroke spark ignition</td>
<td>150,0 600,0 1,0</td>
<td>6,0 50,0 0,75</td>
<td>15,0</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Compression ignition</td>
<td>5,0 0 0</td>
<td>1,5 2,0 0,5</td>
<td>9,8</td>
<td>1,0</td>
</tr>
</tbody>
</table>

Where A, B and n are constants in accordance with the table, PN is the rated engine power in kW and the exhaust emissions are measured in accordance with the harmonised standard (16).

For engines above 130 kW either E3 (IMO) or E5 (recreational marine) duty cycles may be used.

The reference fuels to be used for the emissions test for engines fuelled with petrol and diesel shall be as specified in Directive 98/69/EC (Annex IX, Tables 1 and 2), and for those engines fuelled with Liquefied Petroleum Gas as specified in Directive 98/77/EC.
3. **Durability**

The manufacturer of the engine shall supply engine installation and maintenance instructions, which if applied should mean that the engine in normal use will continue to comply with the above limits throughout the normal life of the engine and under normal conditions of use.

This information shall be obtained by the engine manufacturer by use of prior endurance testing, based on normal operating cycles, and by calculation of component fatigue so that the necessary maintenance instructions may be prepared by the manufacturer and issued with all new engines when first placed on the market.

The normal life of the engine is considered to mean:
(a) inboard or stern drive engines with or without integral exhaust: 480 hours or 10 years, whichever occurs first;
(b) personal watercraft engines: 350 hours or five years, whichever occurs first;
(c) outboard engines: 350 hours or 10 years, whichever occurs first.

4. **Owner's manual**

Each engine shall be provided with an owner's manual in the Community language or languages, which may be determined by the Member State in which the engine is to be marketed. This manual shall:

(a) provide instructions for the installation and maintenance needed to assure the proper functioning of the engine to meet the requirements of paragraph 3, (Durability);
(b) specify the power of the engine when measured in accordance with the harmonised standard.

C. **Essential requirements for noise emissions**

Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall comply with the following essential requirements for noise emissions.

1. Noise emission levels

1.1. Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall be designed, constructed and assembled so that noise emissions measured in accordance with tests defined in the harmonised standard (**EN 14509**) shall not exceed the limit values in the following table:

---

(**EN 14509**)
Table 2

<table>
<thead>
<tr>
<th>Single engine power In kW</th>
<th>Maximum Sound Pressure Level = LpASmax In dB</th>
</tr>
</thead>
<tbody>
<tr>
<td>( P_N \leq 10 )</td>
<td>67</td>
</tr>
<tr>
<td>( 10 &lt; P_N \leq 40 )</td>
<td>72</td>
</tr>
<tr>
<td>( P_N &gt; 40 )</td>
<td>75</td>
</tr>
</tbody>
</table>

where \( P_N \) = rated engine power in kW at rated speed and \( L_{pAS\ max} \) = maximum sound pressure level in dB.

For twin-engine and multiple-engine units of all engine types an allowance of 3 dB may be applied.

1.2. As an alternative to sound measurement tests, recreational craft with inboard engine configuration or stern drive engine configuration, without integral exhaust, shall be deemed to comply with these noise requirements if they have a Froude number of \( \leq 1,1 \) and a power displacement ratio of \( \leq 40 \) and where the engine and exhaust system are installed in accordance with the engine manufacturer's specifications.

1.3. 'Froude number' shall be calculated by dividing the maximum boat speed \( V \) (m/s) by the square root of the waterline length \( l_{wl} \) (m) multiplied by a given gravitational constant, \( (g = 9,8 \text{ m/s}^2) \)

\[
F_n = \frac{V}{\sqrt{g \cdot l_{wl}}}
\]

'Power displacement ratio' shall be calculated by dividing the engine power \( P \) (kW) by the boat's displacement \( D \) (t) = \( \frac{P}{D} \)

1.4 As a further alternative to sound measurement tests, recreational craft with inboard or stern drive engine configurations without integral exhaust, shall be deemed to comply with these noise requirements if their key design parameters are the same as or compatible with those of a certified reference boat to tolerances specified in the harmonised standard.

1.5 'Certified reference boat' shall mean a specific combination of hull/inboard engine or stern drive engine without integral exhaust that has been found to comply with the noise emission requirements, when measured in accordance with section 1.1, and for which all appropriate key design parameters and sound level measurements have been included subsequently in the published list of certified reference boats.

2. Owner's Manual

For recreational craft with inboard engine or stern drive engines with or without integral exhaust and personal watercraft, the owner's manual required under Annex I.A Section 2.5, shall include information necessary to maintain the craft and exhaust system in a condition that, insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

For outboard engines, the owner's manual required under Annex I.B.4 shall provide instructions necessary to maintain the outboard engine in a condition, that insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.
9. Section 4 of Annex II shall read as follows:

"4. Fuel tanks intended for fixed installations and fuel hoses."

10. Annex VI shall be replaced by the following:

"ANNEX VI

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:

A. Design and construction

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:

(a) test of stability according to section 3.2 of the Essential Requirements (Annex IA);

(b) test of buoyancy characteristics according to section 3.3 of the Essential Requirements (Annex IA).

Provisions common to both variations:

These tests or calculations or control shall be carried out under the responsibility of a notified body chosen by the manufacturer.

B. Noise emissions

For recreational craft fitted with inboard or stern drive engines without integral exhaust and for personal watercraft:

On one or several craft representing the production of the craft manufacturer, the sound emission tests defined in Annex I.C shall be carried out by the craft manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

For outboard engines and stern drive engines with integral exhaust:

On one or several engines of each engine family representing the production of the engine manufacturer, the sound emission tests defined in Annex I.C shall be carried out by the engine manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

Where more than one engine of an engine family is tested, the statistical method described in Annex XVII shall be applied to ensure conformity of the sample.";
11. the following point shall be added to Annex VIII:

"4. With regard to the assessment of conformity with the exhaust emission requirements of this Directive and if the manufacturer is not working under a relevant quality system as described in Annex XII, a notified body chosen by the manufacturer may carry out or have carried out product checks at random intervals. When the quality level appears unsatisfactory or when it seems necessary to verify the validity of the data presented by the manufacturer, the following procedure shall be used:

An engine is taken from the series and subjected to the test described in Annex I.B. Test engines shall have been run in, partially or completely, according to the manufacturer's specifications. If the specific exhaust emissions of the engine taken from the series exceed the limit values according to Annex I.B, the manufacturer may ask for measurements to be done on a sample of engines taken from the series and including the engine originally taken. To ensure the conformity of the sample of engines defined above with the requirements of the Directive, the statistical method described in Annex XVII shall be applied."

12. the following subparagraph shall be added to section 5.3 in Annex X:

"For the assessment of conformity with the exhaust emission requirements, the procedure defined in Annex XVII shall be applied."

13. Annex XIII shall be replaced by the following:

"ANNEX XIII

TECHNICAL DOCUMENTATION SUPPLIED BY THE MANUFACTURER

The technical documentation referred to in Annexes V, VII, VIII, IX, XI and XVI 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) a general description of the type,

(b) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,

(c) descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product,

(d) 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,

(e) results of design calculations made, examinations carried out, etc.,

(f) test reports, or calculations namely on stability according to section 3.2 of the Essential Requirements and on buoyancy according to section 3.3 thereof (Annex I.A),

(g) exhaust emissions test reports demonstrating compliance with section 2 of the Essential Requirements (Annex I.B),

(h) sound emissions test reports or reference boat data demonstrating compliance with section 1 of the Essential Requirements (Annex I.C)."

14. point 1 of Annex XIV shall be replaced by the following:
"1. The body, its director and the staff responsible for carrying out the verification tests shall not be
the designer, manufacturer, supplier or installer of the products referred to in Article 1 which they
inspect, nor the authorised representative of any of these parties. They shall not become either
involved directly or as authorised representatives in the design, construction, marketing or
maintenance of the said products. This does not preclude the possibility of exchanges of technical
information between the manufacturer and the body.

1a. A notified body must be independent and must not be controlled by the manufacturers or by
suppliers."

15. Annex XV shall be replaced by the following:

"ANNEX XV

WRITTEN DECLARATION OF CONFORMITY

1. The written declaration of conformity to the provisions of the Directive must always accompany:

a) the recreational craft and the personal watercraft and must be included with the owner's manual
(Annex I.A section 2.5),

b) the components, as referred to in Annex II,

c) propulsion engines and must be included with the owner's manual (Annex I.B.4).

2. The written declaration of conformity shall include the following (*):

(a) name and address of the manufacturer or his authorised representative established in the
Community,**

(b) description of the product defined in point 1(***)

(c) references to the relevant harmonised standards used, or references to the specifications in
relation to which conformity is declared,

(d) where appropriate, the references of the other Community Directives applied,

(e) where appropriate, reference to the EC type-examination certificate issued by a notified body,

(f) where appropriate, the name and address of the notified body,

(g) identification of the person empowered to sign on behalf of the manufacturer or his authorised
representative established within the Community.

3. With regard to:

- inboard engines and stern drive propulsion engines without integral exhaust,
- engines type-approved according to Directive 97/68/EC which are in compliance with stage II
provided for in section 4.2.3 of Annex I of the latter Directive and,
- engines type-approved according to Directive 88/77/EEC,

the declaration of conformity shall include in addition to the information of point 2, a statement
of the

(*) Must be drawn up in the language(s) as provided for under section 2.5 of Annex I.A.
(**) Business name and full address; the authorised representative must also give the business name
and address of the manufacturer.
(***) Description of the product make, type, serial number, where appropriate."
manufacturer that the engine will meet the exhaust emission requirements of this Directive, when installed in a recreational craft, in accordance with the manufacturer's supplied instructions and that this engine must not be put into service until the recreational craft into which it is to be installed has been declared in conformity, if so required, with the relevant provision of the Directive;

16. the following Annexes shall be added:

"ANNEX XVI

PRODUCT QUALITY ASSURANCE (MODULE E)

1. This module describes the procedure whereby 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 authorised representative established within the Community must affix the CE mark to each product and draw up a written declaration of conformity. The CE mark must be accompanied by the identification symbol of the notified body responsible for surveillance as specified in point 4.

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

3. Quality system

3.1. The manufacturer must lodge an application for assessment of his quality system for the products concerned, with a notified body of his choice.

   The application must include:
   - all relevant information for the product category envisaged,
   - the quality system's documentation,
   - if applicable, the technical documentation of the approved type and a copy of the EC type-examination certificate.

3.2 Under the quality system, each product must be examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5 or equivalent tests shall be carried out in order to ensure its conformity with the relevant requirements of the directive. All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation must ensure a common understanding of the quality programmes, plans, manuals and records.

   It must contain in particular an adequate description of:

   - the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product quality,
   - the examinations and tests that will be carried out after manufacture,
   - the means to monitor the effective operation of the quality system,
   - quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

3.3 The notified body must assess the quality system to determine whether it satisfies the requirements referred to in point 3.2.

   It presumes conformity with these requirements in respect of quality systems that implement the relevant harmonised standard.

   The auditing team must have at least one member experienced as an assessor in the product technology concerned. The assessment procedure must include an assessment visit to the manufacturer's premises.
The decision must be notified to the manufacturer. The notification must contain the conclusions of the examination and the reasoned assessment decision.

3.4 The manufacturer must undertake to fulfil the obligations arising from the quality system as approved and to maintain it in an appropriate and efficient manner. The manufacturer or his authorised representative must keep the notified body which has approved the quality system informed of any intended updating of the quality system. The notified body must evaluate the modifications proposed and decide whether the modified quality system will still satisfy the requirements referred to in point 3.2 or whether a reassessment is required. It must notify its decision to the manufacturer. The notification must 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 must allow the notified body entrance for inspection purposes to the locations of inspection, testing and storage and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the technical 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 must periodically carry out audits to ensure that the manufacturer maintains and applies the quality system and must 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 must provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer must, 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 third 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, points 4.3 and 4.4.

6. Each notified body must forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

ANNEX XVII

CONFORMITY OF PRODUCTION ASSESSMENT FOR EXHAUST AND NOISE EMISSIONS

1. For verifying the conformity of an engine family, a sample of engines is taken from the series. The manufacturer shall decide the size (n) of the sample, in agreement with the notified body.

2. The arithmetical mean X of the results obtained from the sample shall be calculated for each regulated component of the exhaust and noise emission. The production of the series shall be deemed to conform to the requirements (pass decision) if the following condition is met:
\[ X + K \cdot L \leq L \]

S is standard deviation, where:

\[ S^2 = \sum \frac{(x - X)^2}{(n - 1)} \]

X = the arithmetical mean of the results

X = the individual results of the sample

L = the appropriate limit value

n = the number of engines in the sample

k = statistical factor depending on n (see table)

<table>
<thead>
<tr>
<th>n</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
</tr>
</thead>
<tbody>
<tr>
<td>k</td>
<td>0,973</td>
<td>0,613</td>
<td>0,489</td>
<td>0,421</td>
<td>0,376</td>
<td>0,342</td>
<td>0,317</td>
<td>0,296</td>
<td>0,279</td>
</tr>
<tr>
<td>n</td>
<td>1</td>
<td>11</td>
<td>21</td>
<td>31</td>
<td>41</td>
<td>51</td>
<td>61</td>
<td>71</td>
<td>81</td>
</tr>
<tr>
<td>k</td>
<td>0,265</td>
<td>0,253</td>
<td>0,242</td>
<td>0,233</td>
<td>0,224</td>
<td>0,216</td>
<td>0,210</td>
<td>0,203</td>
<td>0,198</td>
</tr>
</tbody>
</table>

If \( n \geq 20 \) then \( k = 0,860/\sqrt{n} \). k = 0,860/\sqrt{n}.

**Article 2**

By 31 December 2006 the Commission shall submit a report on the possibilities of further improving the environmental characteristics of engines and consider inter alia the need to revise the boat design categories. If deemed appropriate, in the light of this report, the Commission shall by 31 December 2007 submit appropriate proposals to the European Parliament and the Council. The Commission shall in the light of the experience gained take account of:

(a) the need to further reduce emissions of air pollutants and noise in order to meet environment protection requirements;

(b) the possible benefits of a system for “in-use compliance”;

(c) the availability of cost efficient techniques for controlling emissions;

(d) the need to reduce evaporation and spill of fuel;

(e) the possibility of agreeing on international standards for exhaust and noise emissions;

(f) possible simplifications of the system for conformity assessment procedures.

**Article 3**

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary
to comply with the requirements of this Directive by 30 June 2004. They shall immediately inform the Commission thereof.

Member States shall apply such measures as from 1 January 2005.

2. Member States shall permit the placing on the market and/or putting into service of products which comply with the rules in force in their territory on the date of entry into force of this Directive, as follows:

(a) until 31 December 2005 for the products falling under Article 1(1)(a);
(b) until 31 December 2005 for compression ignition and four-stroke spark ignition engines; and,
(c) until 31 December 2006 for two-stroke spark ignition engines.

3. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

4. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive.

Article 4

Member States shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties shall be effective, proportionate and dissuasive.

Article 5

This Directive shall enter into force on the day of its publication in the Official Journal of the European Union.

Article 6

This Directive is addressed to the Member States.

Done at Luxembourg, 16 June 2003.

For the European Parliament
The President
P. Cox
For the Council
The President
G. Papandreou
The Secretary of State, being a Minister designated (a) for the purposes of section 2(2) of the European Communities Act 1972 (b) in relation to measures relating to craft intended for recreational purposes, in exercise of the powers conferred upon her by that section, hereby makes the following Regulations:

Citation, commencement and revocation

1.-(1) These Regulations may be cited as the Recreational Craft Regulations 2004.

(2) This regulation, regulations 2, 12 and 13 shall come into force on 30th June 2004, except that regulation 2(2)(a) shall not have effect until the date of the coming into force of the Decision by the EEA Joint Committee by which the application of the amendment (c) of the Directive is extended to the EEA.

(3) The remaining regulations shall come into force on 1st January 2005.

(4) The Recreational Craft Regulations 1996 (d) are hereby revoked save as regards their application to:

(a) any product (as defined in those Regulations) placed on the market (as so defined) prior to 1st January 2005;

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(a) S.I. 1995/2983.
(b) 1972 c.68.
(b) any such product to which these Regulations do not apply by virtue of regulation 6; or

(c) any such product placed on the market in the EEA (other than in the Community) until such time as regulation 2(2)(a) has effect.

**Interpretation**

2.(1) In these Regulations, [unless the context otherwise requires][the following definitions shall apply]—

“the 1987 Act” means the Consumer Protection Act 1987 (a);

“authorised representative” means any person established in the Community who has received a written mandate from the manufacturer to act on his behalf with regard to the latter's obligation under the Directive;

“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 referred to in Schedule 2 when placed on the Community market and when intended for installation in recreational craft;


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

“engine family” means the manufacturer's grouping of engines which, through their design, are expected to have similar exhaust emission characteristics and which comply with the exhaust emissions requirements of the Directive;

“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 Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (c);

“major craft conversion” means a conversion of a craft which:

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(a) 1987 c.43.
(a) changes the means of propulsion of the craft;

(b) involves a major engine modification; or

(c) alters the craft to such an extent that it is considered a new craft;

“major engine modification” means the modification of an engine which:

(a) could potentially cause the engine to exceed the emission limits set out in Annex I.B., which is set out in Schedule 1, excluding routine replacement of engine components that do not alter the emission characteristics; or

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

“manufacturer” means any person who designs and manufactures a product or who has such a product designed and/or manufactured with a view to placing it on the market on his own behalf in respect of a product and which requires a declaration specified in Annex III, which is set out in Schedule 3, shall include the builder of that product;

“means of propulsion” means the mechanical method by which the craft is driven, in particular marine propellers or waterjet mechanical drive systems;

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

“personal watercraft” means a vessel less than 4 metres in length which uses an internal combustion 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” includes (except for the purposes of the definition of “component”, regulations 3(1)(c)(ii), 3(2), 4(a)(vi) and (Vii), 4(b)(i)(bb), 4(b)(iii), 4(c)(ii), 7(2)(b)(i) (second reference only), 7(2)(c), 7(3)(b) and 16(2)) putting into service, and cognate expressions shall be construed accordingly;

“product” means any product described in regulation 3(1);

“propulsion engine” means any spark or compression ignition, internal combustion engine used for propulsion purposes, including 2-stroke and 4-stroke inboard, stern-drive with or without integral exhaust and outboard engines;

“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” or “partly completed boat”, as the case may be, 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 she 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 [footnote]; and

(b) [unless the context otherwise requires,] a reference to an Annex is a reference to an Annex of the Directive.

Application

3.- (1) Subject to paragraph (3) and regulations 4, 5 and 6, these Regulations apply to any product of the following descriptions:

(a) with regard to design and construction, to -

   (i) recreational craft and partly completed boats;

   (ii) personal watercraft; and

   (iii) components;

(b) with regard to exhaust emissions, to -

   (i) propulsion engines which are installed or specifically intended for installation on or in recreational craft and personal watercraft; and
(ii) propulsion engines installed on or in these craft that are subject to a major engine modification; and

(c) with regard to noise emissions, to -

(i) recreational craft with stern drive engines without integral exhausts or inboard propulsion engine installations;

(ii) recreational craft with stern drive engines without integral exhausts or with inboard propulsion installations which are subject to a major craft conversion and subsequently placed on the Community market within five years following conversion;

(iii) personal watercraft; and

(iv) outboard engines and stern drive engines with integral exhausts intended for installation on recreational craft.

(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) with regard to products referred to in regulation 3(1)(a) -

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

(ii) canoes and kayaks, gondolas and pedalos;

(iii) sailing surfboards;

(iv) surfboards, including powered surfboards;

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

(vi) experimental craft, provided that they are not subsequently placed on the Community market;
(vii) craft built for own use, provided that they are not subsequently placed on the Community market during a period of five years;

(viii) 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 82/714/EEC of 4th October 1982 laying down technical requirements for inland waterway vessels, regardless of the number of passengers;

(ix) submersibles;

(x) air cushion vehicles;

(xi) hydrofoils; or

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

(b) with regard to products referred to in Regulation 3(1)(b) -

(i) propulsion engines installed or specifically intended for installation on the following:

(aa) craft intended solely for racing and labelled as such by the manufacturer,

(bb) experimental craft, provided that they are not subsequently placed on the Community market,

(cc) craft specifically intended to be crewed and to carry passengers for commercial purposes (without prejudice to Regulation 3(2)), in particular those defined in Directive 82/714/EEC, regardless of the number of passengers,

(dd) submersibles,

(ee) air cushion vehicles, or

(ff) hydrofoils;

(ii) original and individual replicas of historical propulsion engines, which are based on a pre-1950 design, not produced in series and fitted on craft referred to in paragraph (a)(v) and (vii); or

(iii) propulsion engines built for own use provided that they are not subsequently placed on the Community market during a period of five years; or

(c) with regard to products referred to in Regulation 3(1)(c) -

(a) OJ No. L301, 28.10.82, p.1.
(i) all craft referred to in paragraph (b); or

(ii) craft built for own use, provided that they are not subsequently placed on the Community market during a period of five years.

**Products placed on the market before 1st January 2005**

5. These Regulations do not apply to any product which is placed on the market before 1st January 2005.

**Exclusion until 31st December 2005 and 31st December 2006 of specified products complying with national rules in force on 16th June 2003**

6.-(1) These Regulations do not apply to:

   (a) any product referred to in regulation 3(1)(a) or compression ignition or 4-stroke spark ignition engine which is placed on the market on or before 31st December 2005; or

   (b) any 2-stroke spark ignition engine which is placed on the market on or before 31st December 2006,

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 2003.

(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

   (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) Subject to paragraph (4), 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;

(bb) by the manufacturer’s authorised representative established in the Community; or

(cc) in the case of post-construction assessment for recreational craft, if neither the manufacturer nor his authorised representative established within the Community fulfils the responsibilities for the product's conformity to the Directive, these can be assumed by any person established within the Community who places the product on the market under his own responsibility,

save that (in the case of (aa) or (bb)) 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) in the case of any of the products specified in regulation 8(1), 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, compliance with the appropriate conformity assessment procedure is not required where it is accompanied by a written declaration of conformity as provided for in Annex XV, which is set out in Schedule 14, and is intended to be incorporated into a recreational craft, in accordance with the declaration, referred to in 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.

(4) In the case of -

(a) inboard engines and stern drive propulsion engines without integral exhaust;

(b) engines which are type-approved in accordance with Directive 97/68/EC of the European Parliament and of the Council on the approximation of the laws of the member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machine(a) and which are in compliance with stage II as provided for in section 4.2.3 of Annex I to that Directive; or

(c) engines which are type-approved according to Council Directive 88/77/EEC on the approximation of the laws of the member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression ignition engines for use in vehicles, and the emission of gaseous pollutants from positive ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles(b),

where the manufacturer or his authorised representative established in the Community declares in accordance with Annex XV.3, which is set out in Schedule 14.3, that the engine will meet the exhaust emission requirements of the Directive, when installed in a recreational craft or personal watercraft in accordance with the manufacturer's supplied instructions, that engine shall be deemed to satisfy the exhaust emission requirements of these Regulations.

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CE marking

8.- (1) This regulation applies to –

   (a) recreational craft, personal watercraft and components, which are regarded as meeting the corresponding essential requirements set out in Annex I, which is set out in Schedule 1;

   (b) outboard engines which are regarded as meeting the essential requirements set out in Annex I.B and I.C., which is set out in Schedule 1; and

   (c) stern drive engines with integral exhaust which are regarded as meeting the essential requirements set out in Annex I.B and I.C., which is set out in Schedule 1.

(2) Subject to the following paragraphs of this regulation, the products referred to in paragraph (1) which either meet the relevant 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.

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

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

(5) In the case of any outboard engine or stern drive engine with integral exhaust, the CE marking shall be affixed in accordance with paragraph 1.1 of Annex 1.B which is set out in Schedule 1.

(6) The CE marking shall be accompanied by the identification number of the notified body responsible for carrying out the procedures in Annexes IX, X, XI, XII and XVI which are respectively set out in Schedules 9, 10, 11, 12 and 15.

(7) Subject to paragraph (8) below, where any product referred to in paragraph (1) is subject to any other directive or directives or relevant parts thereof, 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 product also fulfils the provisions of that other applicable directive or those directives or relevant parts thereof.

(8) Where one or more of the other directives, or parts thereof, referred to in paragraph (7) are applied by the manufacturer, the CE marking shall indicate that the product in question fulfils the provisions only of the directive or directives or relevant parts thereof applied by the manufacturer; and, in this case, particulars of the directives (and relevant parts thereof, as the case may be) 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 product in question.

Other markings and inscriptions

9.- (1) No person shall affix on any product, 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 product, or on their packaging, 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 -

(a) [except in the case of post-construction assessment for recreational craft in the circumstances referred to in regulation 7(2)(b)(i)(cc),] with regard to design and construction of products referred to in regulation 3(1)(a), in accordance with paragraph (2);

(b) [except as aforesaid,] with regard to exhaust emissions for products referred to in regulation 3(1)(b), in accordance with paragraph (3);

(c) [except as aforesaid,] with regard to noise emissions for products referred to in regulation 3(1)(c)(i) and (ii), in accordance with paragraph (4) and of products referred to in regulation 3(1)(c)(iii) and (iv), in accordance with paragraph (5); and

(d) in the case of post-construction assessment for recreational craft in the circumstances described in regulation 7(2)(b)(i)(cc), in accordance with paragraph (6).

(2) For boat design categories A, B, C and D as referred to in section 1 of Annex I.A, 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 from 2.5 metres to 12 metres hull length: the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, supplemented by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B+D, or B+E, or B+F, or G or H;

(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 E, 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.A are complied with, the internal production control (module A), referred to in Annex V, which is set out in Schedule 5, or internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, supplemented by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B+D, or B+E, or B+F, or G, or H,

(bb) where the harmonised standards relating to sections 3.2 and 3.3 of Annex I.A are not complied with, the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, supplemented by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B+D, or B+E, or B+F, or G, or H;

(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 conformity to type (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 E, 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, or the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, supplemented by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B+D, or B+E, or B+F or G or H;

(d) for personal watercraft, the internal production control (module A) referred to in Annex V, which is set out in Schedule 5, or the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, followed by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B+D, or B+E, or B+F, or G or H; and
(e) for components, any of the following modules: B plus C, or B plus D, or B plus F, or G or H.

(3) The engine manufacturer or his authorised representative established in the Community shall apply the EC type-examination (module B) as described in Annex VII, which is set out in Schedule 7, followed by conformity to type (module C) referred to in Annex VIII, which is set out in Schedule 8, or any of the following modules: B+D, or B+E, or B+F, or G or H.

(4) The boat manufacturer or his authorised representative established in the Community shall apply:

(a) where tests are conducted using the harmonised standard (a) for noise measurement: either internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or unit verification (module G) referred to in Annex XI, which is set out in Schedule 11, or full quality assurance (module H) referred to in Annex XII, which is set out in Schedule 12;

(b) where the Froude number and power displacement ratio method is used for assessment: either the internal production control (module A) referred to in Annex V, which is set out in Schedule 5, or the internal production control plus tests (module Aa) referred to in Annex VI, which is set out in Schedule 6, or unit verification (module G) referred to in Annex XI, which is set out in Schedule 11, or full quality assurance (module H) referred to in Annex XII which is set out in Schedule 12; and

(c) where certified reference boat data, established in accordance with sub-paragraph (a), is used for assessment: either internal production control (module A) referred to in Annex V, which is set out in Schedule 5, or internal production control plus supplementary requirements (module Aa) referred to in Annex VI, which is set out in Schedule 6, or unit verification (module G) referred to in Annex XI, which is set out in Schedule 11, or full quality assurance (module H) referred to in Annex XII which is set out in Schedule 12.

(5) The personal watercraft/engine manufacturer or his authorised representative established in the Community shall apply: internal production control plus supplementary requirements referred to in Annex VI (module Aa), which is set out in Schedule 6, or module G or H.

(6) The person who places the product on the market must-

(a) lodge an application for a post-construction report with a notified body; and

(a) EN ISO 14509.
(b) provide the notified body with any available document and technical file referring to the first placing on the market of the product in the country of origin.

The notified body shall examine the individual product and carry out calculations and other assessment to ensure its equivalent conformity with the relevant requirements of the Directive. In this case, the Builder's plate described in Annex I, 2.2, which is set out in Schedule 1, shall include the words "(Post-construction certificate)". The notified body shall draw up a report of conformity concerning the assessment carried out and shall inform the person who places the product on the market of his obligations. That person shall draw up a declaration of conformity (in accordance with Annex XV, which is set out in Schedule 14), and affix, or cause to be affixed, the CE mark accompanied by the distinguishing number of the relevant notified body on the product.

(7) For the purposes of this regulation—

(a) a reference to module B, C, D, E, F, G or H is a reference to the module which respectively comprises the conformity assessment procedure in Annex VII, VIII, IX, XVI, X, XI and XII and which is respectively set out in Schedule 7, 8, 9, 15, 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;

(b) appointed by a member State other than the United Kingdom; or

(c) recognised for the purpose of carrying out those functions by inclusion in a mutual recognition agreement, relating to the Directive, or a similar agreement (including a Protocol to the European Agreement, or other Agreement, on Conformity Assessment and Acceptance of Industrial Products) which has been concluded between the European Union and a State other than an EEA State,

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[... in the case of
paragraph (a) or (b),] 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 she 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 she 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 she 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, every district council.

(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 17 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 product 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 product referred to in regulation 8(1) or, in the case of a component, to its 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 17 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 product or, in the case of a component, to its 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 product 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 product or any product 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 product 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 any product which does not bear the CE marking or other product not required to bear the CE marking

20. A person who places on the market—

(a) a product specified in regulation 8(1) which does not bear a CE marking and, in the case of a component, no CE marking appears on its packaging; or
(b) a partly completed recreational craft, stern drive engine without integral exhaust or an inboard engine, 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 product was placed on the market in the Community; and

(ii) in the case of paragraph (a), the basis on which the product or, in the case of a component, 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.

[Date]

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 REQUIREMENTS

PRELIMINARY OBSERVATION

For the purposes of this Annex the term “craft” shall cover recreational craft and personal watercraft.

A. ESSENTIAL SAFETY REQUIREMENTS FOR THE DESIGN AND CONSTRUCTION OF RECREATIONAL CRAFT

1. BOAT DESIGN CATEGORIES

<table>
<thead>
<tr>
<th>Design Category</th>
<th>Wind force (Beaufort scale)</th>
<th>Significant wave height ($H\theta$, metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-‘Ocean’</td>
<td>exceeding 8</td>
<td>exceeding 4</td>
</tr>
<tr>
<td>B-‘Offshore’</td>
<td>up to, and including, 8</td>
<td>up to, and including, 4</td>
</tr>
<tr>
<td>C-‘Inshore’</td>
<td>up to, and including, 6</td>
<td>up to, and including, 2</td>
</tr>
<tr>
<td>D-‘Sheltered waters’</td>
<td>up to, and including, 4</td>
<td>up to, and including, 0.3</td>
</tr>
</tbody>
</table>

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 but excluding abnormal conditions, 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 sheltered coastal waters, small bays, small lakes, rivers and canals when conditions up to, and including, wind force 4 and significant wave heights up to, and including, 0.3 m may be experienced, with occasional waves of 0.5 m maximum height, for example from passing vessels.
Craft 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

Products falling under Article 1(1)(a)(a) shall comply with the essential requirements in so far as they apply to them.

2.1. Craft identification

Each craft shall be marked with an 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),(b)
— boat design category according to section 1,
— manufacturer’s maximum recommended load derived from section 3.6 excluding the weight of the contents of the fixed tanks when full,
— 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.

(a) These are the products described in regulation 3(1)(a).
(b) Annex IV is set out in Schedule 4.
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 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 (liferafts) 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

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.

5.1.5 Personal watercraft running without driver

Personal watercraft shall be designed either with an automatic engine cut-off or with an automatic device to provide reduced speed, circular, forward movement when the driver dismounts deliberately or falls overboard.

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.

Petrol fuel 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.

Diesel fuel 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, or the position and capacity of fire fighting equipment appropriate to the fire hazard shall be indicated. The craft shall not be put into service until the appropriate fire fighting equipment is in place. 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 and installations facilitating the delivery ashore of waste

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.

Craft with permanently installed holding tanks shall be fitted with a standard discharge connection to enable pipes of reception facilities to be connected with the craft discharge pipeline.
In addition, any through-the-hull pipes for human waste shall be fitted with valves which are capable of being secured in the closed position.

B. ESSENTIAL REQUIREMENTS FOR EXHAUST EMISSIONS FROM PROPULSION ENGINES

Propulsion engines shall comply with the following essential requirements for exhaust emissions.

1. ENGINE IDENTIFICATION

1.1. Each engine shall be clearly marked with the following information:

- engine manufacturer's trademark or trade-name,
- engine type, engine family, if applicable,
- a unique engine identification number,
- CE marking, if required under Article 10.(a)

1.2. These marks must be durable for the normal life of the engine and must be clearly legible and indelible. If labels or plates are used, they must be attached in such a manner that the fixing is durable for the normal life of the engine, and the labels/plates cannot be removed without destroying or defacing them.

1.3 These marks must be secured to an engine part necessary for normal engine operation and not normally requiring replacement during the engine life.

1.4. These marks must be located so as to be readily visible to the average person after the engine has been assembled with all the components necessary for engine operation.

2. EXHAUST EMISSION REQUIREMENTS

Propulsion engines shall be designed, constructed and assembled so that when correctly installed and in normal use, emissions shall not exceed the limit values obtained from the following table:

(a) Article 10 is implemented by regulation 8.
Table 1

<table>
<thead>
<tr>
<th>Type</th>
<th>Carbon Monoxide CO = A + B/P_n g/kWh</th>
<th>Hydrocarbons HC = A + B/P_n g/kWh</th>
<th>Nitrogen oxides NOx g/kWh</th>
<th>Particulates PT g/kWh</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two-stroke spark ignition</td>
<td>A 150,0 600,0 1,0</td>
<td>B 30,0 100,0 0,75</td>
<td>A 10,0</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Four-stroke spark ignition</td>
<td>A 150,0 600,0 1,0</td>
<td>B 6,0 50,0 0,75</td>
<td>A 15,0</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Compression ignition</td>
<td>A 5,0 0 0</td>
<td>B 1,5 2,0 0,5</td>
<td>A 9,8</td>
<td>1,0</td>
</tr>
</tbody>
</table>

Where A, B and n are constants in accordance with the table, P_N is the rated engine power in kW and the exhaust emissions are measured in accordance with the harmonised standard (a).

For engines above 130 kW either E3 (IMO) or E5 (recreational marine) duty cycles may be used.

The reference fuels to be used for the emissions test for engines fuelled with petrol and diesel shall be as specified in Directive 98/69/EC (b) (Annex IX, Tables 1 and 2), and for those engines fuelled with Liquefied Petroleum Gas as specified in Directive 98/77/EC (c).

3. DURABILITY

The manufacturer of the engine shall supply engine installation and maintenance instructions, which if applied should mean that the engine in normal use will continue to comply with the above limits throughout the normal life of the engine and under normal conditions of use.

This information shall be obtained by the engine manufacturer by use of prior endurance testing, based on normal operating cycles, and by calculation of component fatigue so that the necessary maintenance instructions may be prepared by the manufacturer and issued with all new engines when first placed on the market.

The normal life of the engine is considered to mean:

(a) inboard or stern drive engines with or without integral exhaust: 480 hours or 10 years, whichever occurs first;
(b) personal watercraft engines: 350 hours or 5 years, whichever occurs first;

(a) EN ISO 8178-1:1996.
(b) [to be completed].
(c) [to be completed].
4. OWNER'S MANUAL

Each engine shall be provided with an Owner's Manual in the Community language or languages, which may be determined by the Member State in which the engine is to be marketed. This manual shall:

(a) provide instructions for the installation and maintenance needed to assure the proper functioning of the engine to meet the requirements of paragraph 3, (Durability);

(b) specify the power of the engine when measured in accordance with the harmonised standard.

C. ESSENTIAL REQUIREMENTS FOR NOISE EMISSIONS

Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall comply with the following essential requirements for noise emissions.

1. NOISE EMISSION LEVELS

1.1. Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall be designed, constructed and assembled so that noise emissions measured in accordance with tests defined in the harmonised standard [Footnote] shall not exceed the limit values in the following table:

<table>
<thead>
<tr>
<th>Single Engine Power</th>
<th>Maximum Sound Pressure Level = $L_{pASmax}$</th>
</tr>
</thead>
<tbody>
<tr>
<td>In kW</td>
<td>In dB</td>
</tr>
<tr>
<td>$P_N \leq 10$</td>
<td>67</td>
</tr>
<tr>
<td>$10 &lt; P_N \leq 40$</td>
<td>72</td>
</tr>
<tr>
<td>$P_N &gt; 40$</td>
<td>75</td>
</tr>
</tbody>
</table>

where $P_N$ = rated engine power in kW at rated speed and $L_{pASmax}$ = maximum sound pressure level in dB.

For twin-engine and multiple-engine units of all engine types an allowance of 3 dB may be applied.
1.2. As an alternative to sound measurement tests, recreational craft with inboard engine configuration or stern drive engine configuration, without integral exhaust, shall be deemed to comply with these noise requirements if they have a Froude number of \( \leq 1.1 \) and a power displacement ratio of \( \leq 40 \) and where the engine and exhaust system are installed in accordance with the engine manufacturer's specifications.

1.3. "Froude number" shall be calculated by dividing the maximum boat speed \( V \) (m/s.) by the square root of the waterline length \( \text{lwl} \) (m.) multiplied by a given gravitational constant, \( (g = 9.8 \text{ m/s}^2) \)

\[
\text{Fn} = \frac{V}{\sqrt{(g \cdot \text{lwl})}}.
\]

"Power displacement ratio" shall be calculated by dividing the engine power \( P \) (kW) by the boat's displacement \( D \) (t) = \( \frac{P}{D} \).

1.4. As a further alternative to sound measurement tests, recreational craft with inboard or stern drive engine configurations without integral exhaust, shall be deemed to comply with these noise requirements if their key design parameters are the same as or compatible with those of a certified reference boat to tolerances specified in the harmonised standard.

1.5. "Certified reference boat" shall mean a specific combination of hull/inboard engine or stern drive engine without integral exhaust that has been found to comply with the noise emission requirements, when measured in accordance with section 1.1, and for which all appropriate key design parameters and sound level measurements have been included subsequently in the published list of certified reference boats.

2. OWNER'S MANUAL

For recreational craft with inboard engine or stern drive engines with or without integral exhaust and personal watercraft, the Owner's Manual required under Annex I.A Section 2.5, shall include information necessary to maintain the craft and exhaust system in a condition that, insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

For outboard engines, the Owner's Manual required under Annex I.B.4 shall provide instructions necessary to maintain the outboard engine in a condition, that insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.
SCHEDULE 2  Regulation 2(1)

(Annex II of the Directive)

COMPONENTS

1. Ignition-protected equipment for inboard and stern drive engines.
3. Steering wheels, steering mechanisms and cable assemblies.
4. Fuel tanks intended for fixed installations and fuel hoses.
5. Prefabricated hatches and portlights.

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:

[CE MARKING TO BE INSERTED]

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). (a)

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

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:

A. Design and construction

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:

(a) test of stability according to section 3.2 of the Essential Requirements Annex 1A);

(b) test of buoyancy characteristics according to section 3.3 of the Essential Requirements (Annex 1A).

Provisions common to both variations

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

(b) The essential safety requirements in Annex 1A are set out in Schedule 1A.
These tests or calculations or control shall be carried out on the responsibility of a notified body chosen by the manufacturer.

B. Noise Emissions:

For recreational craft fitted with inboard or stern drive engines without integral exhaust and for personal watercraft:

On one or several craft representing the production of the craft manufacturer, the sound emission tests defined in Annex I.C shall be carried out by the craft manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

For outboard engines and stern drive engines with integral exhaust:

On one or several engines of each engine family representing the production of the engine manufacturer, the sound emission tests defined in Annex I.C shall be carried out by the engine manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

Where more than one engine of an engine family is tested, the statistical method described in Annex XVII (a) shall be applied to ensure conformity of the sample.

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) Annex XVII is set out in Schedule 16.
— 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).(a)

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(b)((b) should be in bold, footnote), 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.

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.

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(a) Annex XIII is set out in Schedule 13.
(b) This is a reference to a transposed harmonised standard.
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). (a)

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.

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

4. With regard to the assessment of conformity with the exhaust emission requirements of this Directive and if the manufacturer is not working under a relevant quality system as described in Annex XII, a notified body chosen by the manufacturer may carry out or have carried out product checks at random intervals. When the quality level appears unsatisfactory or when it seems necessary to verify the validity of the data presented by the manufacturer, the following procedure shall be used:

An engine is taken from the series and subjected to the test described in Annex I.B. Test engines shall have been run in, partially or completely, according to the manufacturer's specifications. If the specific exhaust emissions of the engine taken from the series exceed the limit values according to Annex I.B, the manufacturer may ask for measurements to be done on a sample of engines taken from the series and including the engine originally taken. To ensure the conformity of the sample of engines defined above with the requirements of the Directive, the statistical method described in Annex XVII (b) shall be applied.

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(a) Annex XIII is set out in Schedule 13.
(b) Annex XVII is set out in Schedule 16.
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)(a). 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)(b) 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:

(a) Annex XV is set out in Schedule 14.
(b) Annex XIII is set out in Schedule 13.
— 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.

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.

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). (a)

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(b) 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.
For the assessment of conformity with the exhaust emission requirements, the procedure defined in Annex XVII [footnote] shall be applied.

(a) Annex XV is set out in Schedule 14.
(b) This is a reference to a transposed harmonised standard.
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).(a)

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).(b)

(a) Annex XV is set out in Schedule 14.
(b) Annex XIII is set out in Schedule 13.
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)(a). The CE marking shall be accompanied by 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(b) will not be applied in full, the

(a) Annex XV is set out in Schedule 14.
(b) This is a reference to a transposed harmonised standard.
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.

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.

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, XI and XVI(a) 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.

(a) These Annexes are respectively set out in Schedules 5, 7, 8, 9, 11 and 15.
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) a general description of the type,

(b) conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,

(c) descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product,

(d) 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,

(e) results of design calculations made, examinations carried out, etc.,

(f) test reports, or calculations namely on stability according to section 3.2 of the Essential Requirements and on buoyancy according to section 3.3 thereof (Annex 1.A),(a)

(g) exhaust emissions test reports demonstrating compliance with section 2 of the Essential Requirements (Annex I.B),

(h) sound emissions test reports or reference boat data demonstrating compliance with section 1 of the Essential Requirements (Annex I.C).

SCHEDULE 14 Regulation 10(3)

(Annex XV of the Directive)

WRITTEN DECLARATION OF CONFORMITY (b)

1. The written declaration of conformity to the provisions of the Directive must always accompany:

(a) the recreational craft and the personal watercraft and must be included with the owner’s manual (Annex I.A, section 2.5),

(b) the components as referred to in Annex II,

(c) propulsion engines and must be included with the owner’s manual (Annex I.B.4).

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(a) The Essential Requirements in Annex I are set out in Schedule 1.
(b) Annexes 1 and 11 are respectively set out in Schedules 1 and 2.
2. The written declaration of conformity shall include the following (1):

(a) name and address of the manufacturer or his authorised representative established in the Community (2),

(b) description of the product defined in point 1 (3),

(c) references to the relevant harmonised standards used, or references to the specifications in relation to which conformity is declared,

(d) where appropriate, the references of the other Community Directives applied,

(e) where appropriate, reference to the EC type-examination certificate issued by a notified body,

(f) where appropriate, the name and address of the notified body,

(g) identification of the person empowered to sign on behalf of the manufacturer or his authorised representative established within the Community.

3. With regard to:

– inboard engines and stern drive propulsion engines without integral exhaust,
– engines type-approved according to Directive 97/68/EC which are in compliance with stage II provided for in section 4.2.3 of Annex I of the latter Directive and,
– engines type-approved according to Directive 88/77/EEC,

the declaration of conformity shall include in addition to the information of point 2, a statement of the manufacturer that the engine will meet the exhaust emission requirements of this Directive, when installed in a recreational craft, in accordance with the manufacturer's supplied instructions and that this engine must not be put into service until the recreational craft into which it is to be installed has been declared in conformity, if so required, with the relevant provision of the Directive.

(1) and be drawn up in the language(s) as foreseen under section 2.5 of Annex I.A.

(2) business name and full address; authorised 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 10(2)

(Annex XVI of the Directive)

PRODUCT QUALITY ASSURANCE (MODULE E)

1. This module describes the procedure whereby 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 authorised representative established within the Community must affix the CE mark to each product and draw up a written declaration of conformity. The CE mark must be accompanied by the identification symbol of the notified body responsible for surveillance as specified in point 4.

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

3. Quality system

3.1. The manufacturer must lodge an application for assessment of his quality system for the products concerned, with a notified body of his choice.

The application must include:

- all relevant information for the product category envisaged,
- the quality system's documentation,
- if applicable, the technical documentation of the approved type and a copy of the EC type-examination certificate.

3.2. Under the quality system, each product must be examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5 or equivalent tests shall be carried out in order to ensure its conformity with the relevant requirements of the directive. All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation must ensure a common understanding of the quality programmes, plans, manuals and records.

It must contain in particular an adequate description of:

- the quality objectives and the organisational structure, responsibilities and powers of the management with regard to product quality,
- the examinations and tests that will be carried out after manufacture,
- the means to monitor the effective operation of the quality system,
quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

3.3. The notified body must assess the quality system to determine whether it satisfies the requirements referred to in point 3.2.

It presumes conformity with these requirements in respect of quality systems that implement the relevant harmonised standard.

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

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

3.4. The manufacturer must undertake to fulfil the obligations arising from the quality system as approved and to maintain it in an appropriate and efficient manner.

The manufacturer or his authorised representative must keep the notified body which has approved the quality system informed of any intended updating of the quality system.

The notified body must evaluate the modifications proposed and decide whether the modified quality system will still satisfy the requirements referred to in point 3.2 or whether a re-assessment is required.

It must notify its decision to the manufacturer. The notification must 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 must allow the notified body entrance for inspection purposes to the locations of inspection, testing and storage and shall provide it with all necessary information, in particular:

- the quality system documentation,
- the technical 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 must periodically carry out audits to ensure that the manufacturer maintains and applies the quality system and must 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 must provide the manufacturer with a visit report and, if a test has been carried out, with a test report.

5. The manufacturer must, 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 third 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, points 4.3 and 4.4.

6. Each notified body must forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.

   SCHEDULE 16

   Regulation 10(2)

   (Annex XVII of the Directive)

   CONFORMITY OF PRODUCTION ASSESSMENT FOR EXHAUST AND NOISE EMISSIONS

1. For verifying the conformity of an engine family, a sample of engines is taken from the series. The manufacturer shall decide the size (n) of the sample, in agreement with the notified body.

2. The arithmetical mean $X$ of the results obtained from the sample shall be calculated for each regulated component of the exhaust and noise emission. The production of the series shall be deemed to conform to the requirements ("pass decision") if the following condition is met:
\[ X + k \cdot S \leq L \]

\( S \) is standard deviation, where:
\[ S^2 = \Sigma \frac{(x - X)^2}{(n – 1)} \]
\( X \) = the arithmetical mean of the results
\( x \) = the individual results of the sample
\( L \) = the appropriate limit value
\( n \) = the number of engines in the sample
\( k \) = statistical factor depending on \( n \) (see table)

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<td>0,265</td>
<td>0,253</td>
<td>0,242</td>
<td>0,233</td>
<td>0,224</td>
<td>0,216</td>
<td>0,210</td>
<td>0,203</td>
<td>0,198</td>
</tr>
</tbody>
</table>

If \( n \geq 20 \) then \( k = 0,860 / \sqrt{n} \).

SCHEDULE 17  
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.
The Secretary of State, being a Minister designated[1] for the purposes of section 2(2) of the European Communities Act 1972[2] 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[3];

"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;


"enforcement authority" shall be construed in accordance with regulation 15;

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"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[5];

"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[6]; 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.

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.

[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.
(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[7], 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

(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

(c) 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.

(2) 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.

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

20th May 1996
The Recreational Craft (Amendment) Regulations 1998

Made 24th January 1998
Laid before Parliament 26th January 1998
Coming into force 28th February 1998

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

Citation and commencement
1. These Regulations may be cited as the Recreational Craft (Amendment) Regulations 1998 and shall come into force on 28th February 1998.

Amendment of the Recreational Craft Regulations 1996
2. In regulation 15(1)(b) of the Recreational Craft Regulations 1996[3], for the words "the Department of Economic Development" there shall be substituted the words "every district council".

{sg} John Battle,
Minister for Science, Energy and Industry, Department of Trade and Industry
24th January 1998

Code of Practice on Consultation

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.

2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.

3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks vies on. It should make it as easy as possible for readers to respond, make contact or complain.

4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.

5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.

6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and the reasons for decisions finally taken.

Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.
Annex G

List of Consultees

1. A & P Appledore (Falmouth) Ltd
2. A HODGES
3. A FUGE
4. A KIRWILLIAM AMTAC Group
5. A PARRY
6. A KEEBLE Downs Road Boatyard (Caterelle Ltd)
7. A SHARPE Design Council
8. A Jones Motor Boat and Yachting Magazine
9. ADRIAN STOTT Barge Association
10. AIRO
11. Alan Williams Plas Menai
12. Alison Edwards LACORS
13. Allister Denyer RN Diesel Engine Company Ltd
14. Anders Wissler Swedish Maritime Administration
15. Andrew Blyth Andrew G Blyth and Associates - Naval Architects
16. Andrew Yates RYA
17. Andy Wickes
18. ANN SHAW Signs & Labels Ltd
20. B CHISAM
21. B. Kennel Boatyard Association
22. BARBARA ARNOLD Great Ouse Boating Association Ltd
23. Barry Deakin University of Southampton
24. Barry Draper National Physical Laboratory
25. Bashir Khanbhai European Parliament
26. Ben Tudor IPC Media / Practical Boat Owner magazine
27. Bernhard Bieringer Austrian Ministry for Transport
28. Bob Draper
29. Bob Johnstone Canal Boat Builders Association
30. Bob Stevens Lewmar Ltd
31. BRIAN MORRIS Monitor NDT
32. Brian Perrett VERITEC
33. BRIAN TIMMS Bristol Chamber Of Commerce
34. C CAVAL UK Wayfarer Association
35. C CHANDLER Nautech Ltd
36. C DUVAL OMC(UK)Ltd
37. C Finlay Cornish Crabbers LTD
38. C GODSALL Royal Life Saving Society of the UK
39. C HENWOOD Henwood and Dean Boatbuilders
40. C HILL Offshore Instruments Ltd
41. C J ACKSON European Parliament
42. C WILSON British Surfing Association
43. C MORRIS BSI Testing Services
44. C PATES GPJ Ltd

154. Jane Gentry Yacht Brokers, Designers & Surveyors Association (YBDQA)
155. Jane Kerr WBTA
156. Jean Croquennoc French Gov Commission
157. Johan Renders European Commission
158. Johannah Keech DIT
159. Johan Akhurst Boat Safety Scheme
160. Johan Baylis Inland Waterways Association,
161. John Chillingworth
162. John Clarke BMF
163. John Cowley Lloyds
164. John Redmond Environment Agency
165. Jonathan Richardson Broad Authority
166. Judy Paillin
167. K DENHAM Avdel Ltd
168. K WATKINS National Federation of Anglers
169. K ANDERSON Institute of Marine Engineers
170. K Nichols Select Yacht Group Ltd,
171. KD Whittle The Oil Engine Co.
172. KEITH COOK
173. KEN BISWELL CARTC
174. Ken Kershaw RYA
175. L Thompson Vanguard Sailing Club
176. Len Barry Residential Boat Owners Association - RBOA
177. Les Davies Northshore Yachts Ltd
178. Lisa Rhodes UKREP
179. LORD POOLE Prime Minister's Office
180. LOUISE SUTHERLAND Scottish Trade International
181. Louise Zitkus BPF
182. M KNIGHT
183. M BARRETT Morse Controls Ltd
184. M Broom C J, Broom & Sons Ltd
185. M CLARKE Inland Waterways International
186. M COLLIS MER Collis Frina
187. M PENNELL Royal National Lifeboat Institution
188. M HASLAM British Dragon Boat Racing Association
189. M HOWES Vintage Wooden Boat Association
190. M LONG
191. M MAHMOOD American Bureau of Shipping (Europe) Ltd
192. M MUIRHEAD Boat Safe Ltd
193. M POPE Graves J ohn & Westrop (Underwriting) Ltd
194. M STYLES National School Sailing Association
C POUPARD  Salmon & Trout Association
CAPTAIN BANKS  Falmouth Harbour Commission
Carole Abel  BMF
CATHERINE CAVANAGH  Department of Finance and Personnel
CATHERINE RAOUSTI  Axa Insurance UK plc
Charlotte Edward  CCPR
Chris Coburn  Thames Boating Trades Association
Chris Collinson  Calcutt Boats Ltd
CHRIS TUNSTALL  Performance Sailcraft Europe Ltd
Chris Turner  ATYC
Christer Bergstrom
Costas Androploulos  DG Enterprise
D LEWIS
D LEITH  Balgouinie Technology Centre
D LOUGEE  Module design
D MALLETT  Boat Fisherman
D MOSSMAN  Eagle Star Insurance Ltd
D NEATE  Fire Master Extinguisher Ltd
D RALPH  Marine Safety Agency
D TREMLETT  Tremlett Boat Sales Ltd
D TROTTER  Swallow Yachts
D WHITMEE
Danny & Sheila Williamson  Gardner Engine Specialists
Dave Marsh  Motor Boat & Yachting ABSE
DAVID ALLISON  British Waterways Board
David Burdett  Yacht and Small Craft Designs
DAVID DAINES  Historic Narrow Boat Owners Club
David Evans  UKAS
DAVID HOWARD  Skipper Sailing Boats
DAVID PEARCE  Association of Waterways Cruising Clubs
DAVID SMITH  Association of Waterway Cruising Clubs
Dennis Hook  Perkins
Derek Chardin  Hunter Boats Ltd
Derek Gouldsworthy  Devon Yawl Association
DJ W BOWMAN  Didsbury Engineering Co Ltd
E BARRETT  Corribee Owners Assoc
E BERGOVIST  Ferry Boatyard
E LITTLE  Surf Life Saving Association
E WAKELIN  Broads Authority
E MAGGS  Maulden Engineering Co (Beds) Ltd
E OSBORN  Cruising Association

M Thwaites  Barnes Brinkcraft Ltd
M WEBSTER  S M Hudson Boatbuilder
MARIAN MARTIN  Boats Yachts Marinas.com
Marion Skidmore  GO-SE (Government Office - South East)
MARK O’HALLORAN  Hallmark GB Ltd
MARK POUTEN  Cummins Engine Co
Martin Harding  Teleflex Marine
MARTIN J JIGGENS  Historic Narrow Boat Owners Association
Massimo Cozzone  Environment Ministry Italy
Matthew Wilson  Perkins Engines Ltd
MICAHEL WOODING
Michael Clarke
Michael Wooding
MICK EDGE
MIKE FRIEND
Mike Garton  CIEH
Mike Gregory  Selva Marine Sales (UK) Ltd
Mike Humpherson  Hydraulic Projects Ltd
Mike Hunter  Marine Equipment Directive
Mike Hunter  MCA
MITCH MITCHELL  Honda UK Limited
B SIMS  Royal Life Saving Society UK
Nancy Turner  Ship And Boat International
Naomi Keeble  DEFRA, European Wildlife Division
Neil Chapman  RNLI
Neil Edwards  Inland Waterways Association
NEIL SMITH  Lloyds Underwriters (Yachts Committee)
Nick Davies
Nick Henly
Nick Mellor  Weltonfield Narrowboats
Nick Parker  BMF
Nigel Harmer  Maldon District Council
Nigel Parkinson  NABO
Nigel Saw  BMF
Norman Saw  BMF
NORMAN MITCHELL  Narrowboat Operators Association
Norman Mitchell  Commercial Boat Operators Association
P KEELING
P FROST  Steam Boat Association of Great Britain
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