



Office for Product
Safety & Standards

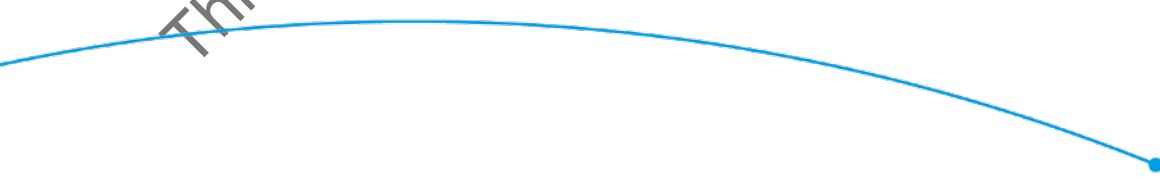
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RECREATIONAL CRAFT REGULATIONS 2017 as amended by the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019

Guidance

September 2019

This will only apply if the UK leaves the EU without a deal.



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1. Introduction

The Recreational Craft Regulations 2017 set out the essential requirements which must be met before products can be placed on the UK market. The purpose of the legislation is to ensure safe products are placed on the market by requiring manufacturers to show how their products meet the 'essential requirements'.

This guidance is designed to help you understand the Recreational Craft Regulations 2017, now the UK has left the EU, as amended by the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019, ("2017 Regulations").

This guidance is relevant to manufacturers, importers (including private importers) and distributors of recreational craft, personal watercraft and certain engines and other specified components. It will also be of interest to consumers and approved bodies.

This guidance also sets out the enforcement regime.

2. Legislative Background

The Recreational Craft Regulations 2017 implement Directive 2013/53/EU on recreational craft and personal watercraft. The EU Withdrawal Act 2018 preserves the 2017 Regulations and enables them to be amended so as to continue to function effectively now the UK has left the EU. Accordingly, the the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 fix any deficiencies that arose from the UK leaving the EU (such as references to EU institutions) and make specific provision for the UK market.

3. Scope

The products covered by the Regulations are as follows (collectively referred to as "products" in this guidance):

1. Recreational craft and partly completed recreational craft which are watercraft excluding personal watercraft intended for sports and leisure purposes of hull length from 2.5m to 24m regardless of the means of propulsion.
2. Personal watercraft (e.g. jet skis) and partly completed personal watercraft, which are watercraft for sports and leisure purposes of less than 4m in hull length which use a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of the hull.
3. Components of watercraft listed in Schedule 2 (when placed on the market separately and when intended for installation in watercraft).
4. Propulsion engines installed or intended for use in watercraft.

There are a number of exclusions from the Regulations including:

1. Watercraft intended solely for racing (labelled as such by the manufacturer);
2. Canoes and kayaks designed to be propelled solely by human power, gondolas and pedalos;
3. Surfboards;
4. Submersibles e.g. submarines;
5. Aircushion vehicles e.g. hovercraft;
6. Hydrofoils; and

7. Amphibious vehicles

This is not a full list of the exclusions. For a full list of exclusions please refer to the Regulations: <http://www.legislation.gov.uk/ukxi/2017/737/contents/made>

4. Obligations of manufacturers

A manufacturer is a person who manufactures a product, or has a product designed or manufactured, and markets that product under their name or trademark.

The obligations of manufacturers of products include:

1. Before making a product available on the market or putting them into service, manufacturers must ensure that they have been designed and manufactured in accordance with the essential requirements set out in Schedule 1 of the Regulations and that they do not endanger the health and safety of persons, property or the environment, when used correctly as intended.
2. The manufacturer must carry out the applicable conformity assessment procedure referred to in Part 3 of the Regulations. Schedule 15 to the Regulations introduced by the the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 sets out all the different types of conformity assessment procedures. The manufacturer must also draw up the required technical documentation (Regulation 9 and Schedule 9). Once this has been done, a manufacturer must draw up a declaration of conformity in the model format set out in Schedule 4 (or for partly completed watercraft, in Schedule 3). The declaration must accompany the product when the product is placed on the market. The manufacturer must also put the UKCA marking on the product or where applicable, a watercraft's builder's plate or propulsion engine (for components, where it is not possible or warranted to affix the marking to the product it can be affixed to is packaging and accompanying documentation). This must be done after a relevant conformity assessment procedure has been carried out; where an approved body has been involved in the conformity assessment procedure, the manufacturer must ensure that the UKCA marking is followed by the identification number of the approved body.
3. Manufacturers must keep the declaration of conformity up to date. The manufacturer must be able to provide the market surveillance authority with the relevant technical documentation for 10 years after the specific product was placed on the market.
4. Manufacturers must also label products (or where in the case of components, it is not possible, on accompanying documentation or packaging) with their name, registered trade name or registered trademark and also their address. Other information required to be on the product is the type batch or serial number (or other information identifying the manufacturer). This applies to all products.
5. When placing products on the market, a manufacturer must ensure that they are accompanied by instructions and safety information in English.
6. Manufacturers must, when appropriate with regard to any risk posed to consumers, carry out sample testing of products they have placed on the market and investigate any complaints that the products are not in conformity with the relevant legal requirements in the Regulations and keep records of these complaints, as well as records of any products that are not in conformity and any products recalled.

7. Manufacturers must take action where they have reason to believe that any product is not in conformity with the Regulations (either to bring the product into conformity, withdraw it or recall it); where there is a risk to consumers they must inform the relevant market surveillance authority. In Great Britain this is local Trading Standards authorities and in Northern Ireland this is every district council. Manufacturers must take appropriate corrective action and co-operate with the enforcement authority.
8. Manufacturers that require a manufacturer's code (MIC) in relation to watercraft identification as set out in Schedule 1, 2.1 (3) must obtain one from [British Marine](#) who are authorised to issue MICs on behalf of the Secretary of State. Manufacturer's who have a MIC from British Marine or the Secretary of State will not have to re-apply for a new code but can continue to use the code they have. Currently, post-exit, manufacturers who have an EU MIC can continue to use that code.

5. Obligations of authorised representatives

Manufacturers are able to appoint authorised representatives to perform certain tasks on their behalfs.

Authorised representatives based in an EU Member State appointed before the UK left the EU continue to be recognised by the UK to act in the UK. However, authorised representatives appointed after the UK left the EU to act in the UK must be based in the UK to be recognised under UK law.

Businesses with an existing authorised representative based in an EU Member State can therefore continue to use the same authorised representative.

No UK-based authorised representatives are recognised under EU law. This means they cannot carry out tasks on the manufacturer's behalf for products being placed on the EU market. Therefore, a manufacturer exporting products to the EU, who wishes to appoint an authorised representative to carry out tasks for them in respect of those products, must appoint an authorised representative recognised in EU law.

The authorised representative needs to comply with all the duties imposed on the manufacturer under the 2017 Regulations that they are mandated to perform. A manufacturer who has appointed an authorised representative to perform tasks on their behalf remains responsible for the proper performance of those tasks.

As far as those duties are concerned as well as penalties for failure to comply with those duties any references in the 2017 Regulations to the manufacturer are to be taken as including the authorised representative when appropriate.

6. Obligations of importers

An importer is a person or business established in the UK who places a product on the UK market from a country outside the UK. UK businesses who pre-exit used to act as a 'distributor' legally become an 'importer' if they place products from an EEA country on the UK market.

Importers have additional legal obligations which go beyond those of distributors, such as checking that manufacturers have carried out the right conformity assessment procedures and included their name, registered trade name or mark and a postal address on the equipment.

Importers need to ensure that their address appears on the product or in accompanying documentation. Where it is not possible to indicate the information on a component, the importer can set put their details on the packaging or in accompanying documentation. To assist with the transition, the UK is applying a transitional period of 18 months to allow UK businesses who import from EEA states (and therefore become importers) to provide their details on the accompanying documentation as an alternative to placing them on the product itself.

The EU does not have any such transitional provision. In the absence of this, some products being exported from the UK to the EU must be labelled with the EU-based importer's address.

The obligations of importers include:

1. The importer must ensure that, the relevant conformity assessment has been carried out by the manufacturer; the manufacturer has drawn up the technical documentation; the product has the relevant conformity mark and is accompanied by the required documents and that the manufacturer has complied with the labelling requirements imposed on the manufacturer.

2. When an importer has reason to believe that a product to which the Regulations apply is not in conformity with the essential requirements, the importer must not place the product on the market.

The importer must ensure that when placing products on the UK market, that they are accompanied by instructions which are in English.

3. The importer must, when appropriate and taking into account the risks to the health and safety of consumers, carry out testing of the products and investigate complaints about products that are not in conformity with the 2017 Regulations and keep a register of those complaints.

4. The importer must take action where they have reason to believe that products that they have placed on the market are not in conformity with the 2017 Regulations. Where they are considered to present a risk to consumers then the importer is required to inform the market surveillance authority (Trading Standards in Great Britain or Northern Ireland district councils).

The importer must ensure that when products are under their responsibility they are stored and transported under conditions that do not affect their conformity with the essential requirements.

5. The importer must keep a copy of the relevant technical documentation and declaration of conformity for a period of 10 years after the products have been placed on the market and must co-operate with and provide information to the market surveillance authorities following any requests.

7. Obligations of distributors

UK businesses which were distributors of products within the EU single market should now consider whether they are importers from the EU single market and therefore what additional requirements they might face – see section 6 above.

A distributor is any person, other than the manufacturer or importer, who makes a product available on the market.

The obligations of distributors include:

1. Before making available products on the market a distributor must take due care to ensure that they are in conformity with Part 2 of the Regulations, meaning that they comply with the essential requirements and that each economic operator has complied with their obligations in relation to them. If a distributor believes that a product is not in conformity with the essential requirements, the distributor must not make that product available on the market. The distributor must also verify that the products bear the UKCA marking; are accompanied by the required documents, the instructions and safety information; and that the manufacturer and importer have complied with their labelling and identification requirements
2. The distributor must ensure that while products are under their responsibility, their storage and transport conditions do not jeopardise their conformity with the essential health and safety requirements.
3. The distributor must take action where they have reason to believe that the products that they have made available on the market are not in conformity with the Regulations or which present a risk to consumers. They must inform the market surveillance authority and they must not make them available on the market until they meet the requirements of the Regulations.
4. The distributor must also cooperate with and provide information to enforcing authorities following any requests.

8. Obligations of private importers

A private importer is any natural or legal person (e.g. a company) established in the UK who imports in the course of a non-commercial activity a product from a country outside the UK with the intention of putting it into service for their own use.

The obligations of private importers include:

- If a private importer imports a product that has not previously been placed on the UK market, where the manufacturer has not carried out the relevant conformity assessment procedure, the private importer will have to carry out a post construction assessment to demonstrate conformity with the Regulations, as set out in Schedule 5.
- The private importer must ensure before putting recreational craft into service that it has been designed and manufactured in accordance with the essential requirements.
- The private importer must ensure that the obligations for manufacturer covering technical documentation; declaration of conformity; relevant marking; instructions and safety information; provision of information and cooperation have been met or carried out.
- Where technical documentation is not available from the manufacturer, the private importer must have this drawn up using the appropriate expertise.
- The private importer must ensure that the name and postal address of the approved body that carried out the relevant conformity assessment procedure in relation to the product is marked on the craft.

9. Transitional arrangements

'Deeming' provision

Products which have undergone full conformity assessment under the equivalent EU requirements and bear the CE conformity mark will be deemed compliant with the UK legislation and can be placed on the UK market as if they had been UKCA conformity marked.

The UK continues to recognise the competency of EU recognised conformity assessment bodies (notified bodies) to assess products for the UK. Products assessed by an EU notified body prior to the UK leaving the EU do not need reassessment before being placed on the UK market. This means that for a time-limited period, products assessed by an EU recognised notified body can be placed on the UK market.

(For the status of UK notified bodies, please see section 10 below).

This 'deeming provision' is available for a time-limited period. This will be the subject of amending legislation in the future at a time yet to be decided. The Government will consult with industry and provide notice before ending this time-limited period.

10. UK Conformity Mark

Assessment through third-party organisations:

The UKCA conformity mark will replace the CE marking for products placed on the UK market which have been assessed by a UK approved body. In all other cases, manufacturers will be able to continue using the CE marking (indicating compliance with EU rules) for products being placed on the UK market instead of the new UKCA marking for a time-limited period. The Government will engage with industry before making any decision on when this period will end.

Rules around physically affixing the new UKCA conformity marking mirror those which currently apply for the application of the CE marking.

Self-assessment:

CE marking based on self-declaration of conformity by the manufacturer is still possible where it was possible pre-exit, including when exporting to the EU.

Manufacturers selling goods on the UK market can alternatively affix the new UKCA conformity marking before placing a product on the UK market. It will also be possible to affix both the UKCA marking and the CE marking to the same product on the basis of self-declaration. When exporting to the EU, the CE marking remains mandatory.

Placing CE marked goods on the UK market:

Products that meet EU regulatory requirements, including those with a CE marking, which have been assessed by an EU recognised conformity assessment body or which have been self-declared can still be placed on the UK market for a time-limited period. 'EU-recognised' does not include UK approved bodies. Manufacturers which have had their products assessed by EU recognised bodies are obliged to use the CE marking and cannot use the UKCA marking.

Testing Certificates:

Where conformity assessment is a 2-stage process, it is possible for products to have an EU-type-examination certification (1st stage) followed by a UK declaration by the manufacturer or third party of the production process under the responsibility of a UK Approved Body (2nd stage). Such equipment and protective systems should have the UK conformity mark followed by the UK Approved Body Number.

Further guidance on UKCA marking can be found here:

<https://www.gov.uk/government/publications/prepare-to-use-the-ukca-mark-after-brexit/using-the-ukca-marking-if-the-uk-leaves-the-eu-without-a-deal>

Recreational Craft exported to the EU Single Market must comply with EU Directive 2013/53/EU.

11. Approved Bodies

The UK has established a new framework for UK based bodies to assess products against UK rules. Existing UK notified bodies have been granted new UK 'approved body' status and are listed on a new UK database. There is no need for existing notified bodies to seek re-accreditation in order to benefit from UK approved body status. These approved bodies have been given a 4-digit approved body number.

Approved bodies can assess products for the UK market against UK essential requirements (which are substantially the same as EU essential requirements).

Approved bodies are conformity assessment bodies which were UK notified bodies before the UK left the EU or have been approved by the Secretary of State to carry out the procedures for conformity assessment and certification for the UK market set out in the 2017 Regulations.

UK Approved bodies must be established in the UK and be independent of the manufacturer. Approved bodies must examine the technical documentation and supporting evidence in respect of recreational craft to assess the adequacy of the technical design.

A list of UK approved bodies can be found [link to be added].

12. Enforcement and penalties

Enforcement

In Great Britain, the local weights and measures authorities and in Northern Ireland every district council (more commonly referred to as "Trading Standards"), are the market surveillance authorities responsible for enforcement of these Regulations.

The Regulations also provide powers to the Secretary of State or a person appointed to act on their behalf to enforce the Regulations and RAMS (Regulation (EC 765/2008), as amended by the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019, which sets out requirements for market surveillance of products).

The Regulations provide the power for market surveillance authorities to take action against economic operators for products that are not in conformity with the Regulations. There are requirements on economic operators and private importers to co-operate with the enforcement authority as appropriate on request.

Market surveillance authorities (local Trading Standards authorities) must continue to have regard to the Regulators' Code when developing the policies and operational procedures that guide their regulatory activities in this area. They should carry out their activities in a way that supports those they regulate to comply and grow, including choosing proportionate approaches that reflect risk.

In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required, or decisions taken, and the reasons for these. Unless immediate action is needed to prevent a serious breach, regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent. The Secretary of State takes account of the provisions of both the Regulators' Code and the Growth Duty in exercising his regulatory functions.

A link to the Regulators' Code can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14705-regulators-code.pdf

The UK market surveillance authority will take all appropriate measures to withdraw from the market, to prohibit or restrict the supply of products which may endanger the health and safety of persons, property or the environment.

Penalties

A person committing an offence under the Regulations may be liable to a penalty. Penalties can include a fine or a prison sentence of up to three months for the most serious offences. It is matter for the enforcing authority to decide whether prosecution is appropriate in each case taking into account the circumstances of the case and the enforcement authorities' own policies, operational procedures and practices in line with the Regulators' Code. Should a prosecution take place, it is at the discretion of the court to decide the penalties imposed on the offender.

13. Where to find guidance about Directive 2013/53/EU

Products that are placed on the EU market must comply with Directive 2019/53/EU. You can find further and more detailed guidance on Directive 2013/53/EU here:

http://ec.europa.eu/growth/sectors/maritime/recreational-crafts_en

The European Commission's Blue Guide aims to give a better understanding of EU product safety rules and to their application across different sectors and throughout the EU single market. You can view that here:

<http://ec.europa.eu/DocsRoom/documents/18027>

14. Glossary


- **Approved Bodies** – A conformity assessment body which has been approved by the Secretary of State or was a UK 'Notified Body' prior to the UK leaving the EU.
- **Authorised Representative** – A person appointed in writing by a manufacturer to perform specific tasks for the manufacturer. Manufacturers remain ultimately responsible for ensuring these tasks are carried out properly. This includes persons who are based in the EU, if they were appointed before the UK left the EU.

- **Declaration of conformity** – A document prepared by the manufacturer which must detail, amongst other things, the following:
 - The specific product to which the declaration is referring;
 - The name and address of the manufacturer and, where applicable, their authorised representative.

This must be kept by the manufacturer for a period of ten years from the date on which the product was placed on the market. This declaration must be made available to the enforcing authority upon request.

- **Distributor** – Any person in the UK supply chain, other than the manufacturer or the importer, who makes products available on the UK market.
- **Market Surveillance Authority** – In Great Britain, this is local authority Trading Standards. In Northern Ireland this is district councils.
- **Importer** – A person established in the UK who places a product from a country outside of the UK on the market. A person who before the UK left the EU distributed recreational craft within the EU (including the UK) will now be an importer if they are bringing recreational craft into the UK from another country (including EU Member States).
- **Manufacturer** – A person who manufactures products or has a product designed or manufactured and markets those products under their name or trademark.
- **UK Conformity Marking** – The UKCA (UK Conformity Assessed) marking is the new UK conformity marking used for certain goods being placed on the UK market, in place of the CE marking which is the conformity marking used in the European Union.

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Office for Product Safety and Standards

Department for Business, Energy and Industrial Strategy

Lower Ground Floor, Victoria Square House, Victoria Square, Birmingham B2 4AJ

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