



Department for
Business, Energy
& Industrial Strategy

**RECREATIONAL CRAFT &
PERSONAL WATERCRAFT
DIRECTIVE (2013/53/EU)**

Consultation on the draft UK
Regulations

DECEMBER 2016

Contents

Recreational Craft & personal Watercraft Directive: Consultation on draft UK Regulations

1. Executive Summary.....	5
2. Referendum Result.....	5
3. How to respond.....	6
4. Confidentiality and data protection.....	6
5. Help with queries.....	6
6. The Proposals.....	7
7. Public sector equality duty.....	8
8. Family test.....	8
9 Consultation questions.....	8
10. What happens next?.....	9
Annex 1: Consultation principles.....	10
Annex 2: List of individuals/organisations consulted.....	12
Annex 3: Impact Assessment.....	18
Annex 4: The New Legislative Framework.....	19
Annex 5: Draft UK Regulations.....	21
Annex 6: Consultation Response Form.....	22

Recreational Craft & Personal Watercraft Directive: Consultation on draft UK Regulations

The Government seeks views from stakeholders on the UK Implementation of the Recreational Craft & Personal Watercraft Directive 2013/53/EU. A link to the Directive text can be found here:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0053&from=EN>

The Directive is a revision of the current Directive 94/25/EC, as amended. It ensures that recreational craft & personal watercraft placed on the market or put into service in the EU and EEA (European Economic Area), along with certain engines and components, meet the essential health & safety requirements of the Directive. The Directive also contains environmental requirements for engine exhaust and noise emissions.

The Directive is one of a number of Directives that support the free movement of goods within the EU and EEA. This consultation seeks views on the Government's proposed implementation of the Directive into UK laws. There are a number of questions that are relevant to the UK implementation of the Directive. We are seeking views from stakeholders about three key areas of our proposed implementation:

- The way it is proposed to implement the Directive into UK law as set out in the draft Regulations;
- Enforcement of the UK Regulations
- The UK Impact Assessment on the Regulations.

Issued: 8 December 2016

Respond by: 22 January 2017

Enquiries to: Kevin Lane, Directive Policy Advisor (Recreational Craft, Lifts & Machinery), BEIS, 1 Victoria Street, London SW1H 0ET Tel +44 (0) 20 7215 1774
Kevin.Lane@beis.gov.uk

This consultation is relevant to: manufacturers, importers and distributors of recreational craft and personal watercraft and certain engines and other specified components; enforcement authorities; trade associations; Notified Bodies; consumers; other Government Departments and Agencies including Department for Transport, Maritime & Coastguard Agency and the Department for Environment, Food & Rural Affairs.

The Government consulted on the proposal for a European Directive in November 2011(URN 11/1359). The outcome of that consultation can be found at:

<https://www.gov.uk/government/consultations/consultation-proposal-for-a-directive-on-recreational-craft-and-personal-watercraft>

1. Executive summary

This consultation seeks views on the implementation in to UK law of the Directive on Recreational Craft and Personal Watercraft (2013/53/EU). This Directive will address the safety and environmental impact of recreational craft and personal watercraft.

The main changes from the current legislation will be to set stricter exhaust emission limits and incorporate the principles of the New Legislative Framework which addresses traceability of products through the supply chain; sets out specific duties and obligations to various economic operators in the supply chain and to private persons importing craft for their own use. There are also some improvements and clarifications to the scope and essential requirements. It also clarifies the responsibilities on manufacturers, importers, distributors, authorised representatives and the responsibilities of a private importer in cases where these are not fulfilled by the manufacturer.

The Directive was made on 20 November 2013 and published in the Official Journal of European Union on 28 December 2013 and it now remains for the Directive to be implemented by each of the Member States. As far as possible, the Directive will be implemented into UK law by following the Guiding Principles:

<https://www.gov.uk/government/publications/guiding-principles-for-eu-legislation>

In particular we have sought to use “copy out” which means the UK implementing regulations will follow the wording in the Directive as closely as that legal transposition allows.

Some of the Articles in the Directive instruct Member States (MS) and the European Commission to carry out certain administrative tasks and these do not need to be covered in the Regulations. However, some requirements of the Directive are left to each MS to decide how to implement the requirements into national legislation such as arrangements for enforcement.

The draft UK Regulations (published alongside this document), set out the Government’s proposals for the UK enforcement regime where breach of an essential health and safety requirement would give rise to safety risk. The draft UK Regulations will provide powers to enforcement authorities to investigate any such breaches of the Directive.

This consultation is aimed all stakeholders with an interest in the recreational craft and personal watercraft industry.

2. Referendum Result

There will be no immediate changes to our relationship with the EU. Until we have left the EU, the UK will remain a member of the EU with all of the rights and obligations that membership entails. The UK will in due course be leaving the EU. Until we do so, we will meet our legal obligations. Transposing this Directive forms part of this work

3. How to respond

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

You can reply to this consultation online.

The consultation response form is available electronically on the consultation page:

<https://www.gov.uk/government/consultations/XXX> (until the consultation closes). A copy of the response form can be found at Annex 6. The form can be submitted online/by email:

Kevin Lane

Product Safety, Regulatory Delivery

Department for Business, Energy & Industrial Strategy

Tel: 020 7215 1774

Email Kevin.Lane@beis.gov.uk

4. Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please tell us that in the response please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

5. Help with queries

Questions about the policy issues raised in the document can be addressed to:

Kevin Lane

Single Market Product Safety

Department for Business, Energy & Industrial Strategy

Tel: 020 7215 1774

Email: Kevin.Lane@beis.gov.uk

The consultation principles are set out in Annex 1.

6. The proposals

The Directive on Recreational Craft 94/25/EC as amended (the Directive) regulates the safety of recreational craft within the European Union. There are also limits for noise and exhaust emission levels for certain propulsion engines. A proposal to revise the Directive was published by the European Commission in July 2011. Directive 2013/53/EU on Recreational Craft and Personal Watercraft (the New Directive) was published in the Official Journal on 28th December 2013. The new Directive will clarify some arrangements for placing on the market or putting into service products within scope to make it clearer to economic operators what their responsibilities are. There will also be a small number of changes to the some essential requirements and it will set stricter exhaust emission limits and align the text of the new Directive with the New Legislative Framework (NLF).

The Government supports the principles of safety of recreational craft and personal watercraft. The measures in the new Directive are in line with UK policy to improve environmental protection by reducing emissions from exhausts. It will be beneficial to UK industry to align the emission limits with those in the United States. This view is supported by manufacturers as it will assist in setting a global limit, which will create opportunities for UK exports to markets such as the US.

The NLF alignment is consistent with the alignment of a number of other Directives, in order to improve traceability and place obligations on all economic operators in the supply chain. The NLF is a common set of principles which aims to make legislation on the Single Market for Goods clearer, more consistent and more understandable for all products that are subject to EU harmonisation legislation. It was adopted as Regulation 765/2008/EC and Decision 768/2008/EC in July 2008 (see Annex 6).

There are also some improvements and clarifications to the scope and essential requirements including:

- Powered canoes and kayaks coming within scope;
- Clarification of Post-Construction Assessment to make it clear that this covers all products within scope;

- “Partly completed” craft will have to meet the requirements of the new Directive at whatever point they are put into service;

The obligations on private importers, where these have not been carried out by the manufacturer, have been set out more clearly. Previously the private importer was dealt in the same way as any person importing for business, which was considered overly severe.

7. Public Sector Equality Duty

The Government has to carry out an assessment of the impact that its implementation of EU legislation may have on people who have ‘protected characteristics’. The assessment is carried out in order to ensure that the UK regulations do not discriminate against people in certain protected groups. This is in accordance with the ‘Public Sector Equality Duty’ under the Equality Act 2010.

The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership.

Our assessment is that the new Directive does not discriminate against people with the protected characteristics. However, if you have any reason to believe that the Directive does discriminate against people in any way, please let us know and provide justification for your view.

8. Family Test

A range of government activity has a direct or indirect impact on families. The Family Test was introduced in August 2014. The objective of the test is to introduce a family perspective into policy making and to ensure that potential impacts on family relationships are recognised in the process of developing new policy.

Our initial assessment is that the Recreational Craft & Personal Watercraft Directive will not have a negative impact on families. However, if you feel that the directive will have a negative impact on families please let us know and provide a justification for your view.

9. Consultation questions

- 1) Does the draft Impact Assessment (IA) adequately reflect the effect of the new Directive on micro businesses (less than 10 employees) in the recreational craft industry? (See accompanying copy of the IA).
- 2) Does the draft IA adequately reflect the effect of the new Directive as a whole? (See the accompanying copy of the IA).
- 3) What is your estimate of the costs on a yearly basis for your business to comply with the draft Regulations?
- 4) What are the benefits on a yearly basis for your business to comply with the draft Regulations?

5) Have you any concerns about how the UK Regulations will be effectively enforced in view of the new responsibilities for distributors and importers? (See Annex 6: The New Legislative Framework).

6) Could you suggest any areas covered by the new Directive on which it would be beneficial to have more guidance for both consumers and manufacturers?

7) In your view do the draft regulations impose requirements on you which go beyond the requirements set out in the new Directive?

8) Do you have any other comments that might aid the consultation process as a whole?

10. What happens next?

This consultation is necessary to inform the implementation into UK law of the Recreational Craft & Personal Watercraft Directive (2013/53/EU). Following consideration of responses to this consultation the Government will publish its response. The Government's Response Document will be placed on the GOV.UK website and copies of the responses made available on request.

Annex 1: Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

- A. Consultations should be clear and concise
- B. Consultations should have a purpose
- C. Consultations should be informative
- D. Consultations are only part of a process of engagement.
- E. Consultations should last for a proportionate amount of time
- F. Consultations should be targeted.
- G. Consultations should take account of the groups being consulted
- H. Consultations should be agreed before publication
- I. Consultation should facilitate scrutiny
- J. Government responses to consultations should be published in a timely fashion
- K. Consultation exercises should not generally be launched during local or national election periods.

This document does not have legal force and is subject to statutory and other legal requirements.

www.gov.uk/government/publications/consultation-principles-guidance

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Angela Rabess
BEIS Consultation Co-ordinator
1 Victoria Street
London
SW1H 0ET

Tel: 020 7215 1661

Email: angela.rabess@beis.gov.uk

However if you wish to comment on the specific policy proposals you should contact the policy lead (see section 5‘Help with queries’).

Annex 2: List of individuals/organisations consulted

Acoustical Investigation & Research Organisation

Peter Applegate

Irish Sailing Association

Steve Austen

Tony Baker

Edward J Baldwin

Birchwood Marine International

Belfast City Trading Standards

Andrew Blyth

British Marine Federation

BSI Product Services

Buccaneer Boats & Mouldings

Boat Safety Scheme

Broads Authority

David Bull

David Burdett

Calcutt Boats Ltd

Canal Boat and Inland Waterways

Marco Cara

Cardiff Trading Standards

CBS Products Ltd

CE Proof Ltd

Cheetah Marine

CJ Broom & Sons Ltd

Michael Clarke

Peter Clubbe

Clifton Cruisers Ltd

Commercial Boat Operators Association

Matt Cooper

Cornish Crabbers

Cruising Journal

Delta Power

Department for Communities & Local Government

Department for Enterprise, Trade & Investment Northern Ireland

Department for Environment, Food & Rural Affairs

Department for Health

Department for Transport

Doncaster Trading Standards

Bob Draper

Environment Agency

Fairline Boats Ltd

Falmouth Boat Construction

Phil Flanders

FSB Marine Ltd

Gloucestershire Trading Standards

GOBA News

Goodchild Marine Ltd

Anthony Graham

Ian Graham

Jonathan Greenway

Mike Gregory

Haines Marine

Richard Hallows

Hampshire Trading Standards

Roger Hardy

Hardy Marine

Gill Harman

Harbour Marine Services Ltd

Henshaw Inflatables Ltd

Robert Henville

Harry Hermon

Hobie Cat in the UK

Home Office

Cheryl Howes

HPi Verification Ltd

H2O Kayaks

Hydraulic Projects Ltd

Inland Waterways Association

Island Marine Craft Ltd

JL Pinder & Sons

AW Jones

Kings Boat Yard

Langford Jillings

Languard Marine Ltd

Lewmar Ltd

LGC Group

Loch Lomond & the Trossachs National Park

London Borough of Richmond-upon-Thames TS

Classic Boat Magazine

David Mallett

Clive Mant

Maritime & Coastguard Agency

Medicines & healthcare products Regulatory Agency

Rosemary McLellan

Tom Montagu

Motor Boats Monthly

Yachting Monthly

Pyranha Mouldings

Sydney Nash

National Measurement Office

Corbett Narrowboats

Newcastle Trading Standards

GOBA News

Peter Nicholls

Norfolk Boat Sales

Norfolk Trading Standards

Sarah Norbury

Northamptonshire Trading Standards

North Lanarkshire Trading Standards

Northshore Yachts Ltd

North Yorkshire Trading Standards

Ofcom

Oyster Marine

Stephen Penton

Perkins Engine Company Ltd

Plamcraft Marine Ltd

Princess Yachts International

Plas Menai

Pyranha

Steven Rea

Reid Steel

Revenger

Stephen Roberts

Fiona Rogers

Royal Institute of Naval Architects

Royal Yachting Association

Scorpion Ribs Ltd

Scottish Canals

Sealine International Ltd

Selway Fisher Design

Simco Marine Ltd

Speed Sails

Bob Southerland

Stephen Goldborough Boats

Bob Stevens

Suffolk Trading Standards

Suzuki GB Plc

Inge Kathrine Svendsen

Telford Trading Standards

Richard Titchener

Trafford Trading Standards

Trading Standards Institute

UKAS

University of Southampton

Vehicle Certification Agency

Vehicle Operator Services Agency

Guy Walker

Warrington Trading Standards

Weltonfields Narrowboats

Waterways World

Yachting World

Andrew Wright

Annex 3: Impact Assessment

An Impact Assessment has been prepared and is published alongside this document.

Annex 4: The New Legislative Framework

In 2006 the European Commission conducted a review of the way that the internal market for goods was working. The Commission found that though the harmonised legislation was working effectively across and within EU Member States to ensure the majority of products on the market were safe, experience showed that in some respects its performance could be significantly improved. They identified three main problems (i) the number of products that were on the EU market that did not comply with product safety legislation; (ii) the unsatisfactory performance of some Notified Bodies (the bodies which determine whether a product meets the essential requirements of the legislation) and (iii) difficulties in using and understanding the current legislation. The Commission proposed a Decision to provide a framework to be used in future Union legislation to address these issues.

The New Legislative Framework (NLF) which resulted from the review provides a common set of principles which aims to make legislation on the Single Market for Goods clearer, more consistent in the obligations that it imposes in relation to different products and easier to understand. It was adopted as an EU Regulation 765/2008/EC and an EU Decision 768/2008/EC in July 2008. Over time all single market directives are to be aligned to the NLF as they are revised. An “Alignment Package” was introduced to align nine existing EU Directives to the NLF. The Recreational Craft Directive was revised separately from the Alignment Package, because the New Directive, in addition to being aligned to the requirements of the NLF, also introduces technical changes relating to the manufacture of recreational craft, such as stricter exhaust emissions.

The main purpose of the NLF is to introduce common definitions and responsibilities for Economic Operators i.e. manufacturers, importers and distributors. The NLF also clarifies what economic operators must do when a product is non-compliant e.g. distributors who suspect a product does not comply must take corrective action to make it compliant or take steps to recall it. Further information on the NLF can be found in the Impact Assessment at Annex 3. A summary of the obligations placed upon economic operators as a result of the changes introduced by the NLF are set out below:

(i) All economic operators

Economic operators including manufacturers, importers and distributors will all have new record keeping responsibilities and will have to provide the following to enforcement authorities on request:

- Identification of any economic operator who has supplied them with a product within scope
- Identification of any economic operator to whom they have supplied a product within scope
- Keep this information for 10 years

In addition Notified Bodies may pass on costs from their new requirements (revised notification process, obligations to share information) to UK business customers.

(ii) Manufacturers

There are new requirements for manufacturers which include:

- Keeping technical documentation and declaration of conformity (DoC) for 10 years for products that are assessed under Module G (unit verification) not previously required for this module.
- Keeping a record of the type, batch or serial number on the product or packaging.
- Carrying out sample testing following a justified request and keeping a register of complaints
- Complying with the economic operators obligations above

Although the Directive will require the labelling to include a product, batch or serial number, the choice between these different numbers will be left to the manufacturer. It is expected that most manufacturers will choose to include a product number (at a relatively small cost), rather than a batch number at a much large cost. Therefore this new labelling requirement is not expected to give rise to significant new costs for manufacturers.

(iii) Importers

New requirements for importers include:

- Keeping technical documentation and declaration of conformity (DoC) for 10 years
- Keeping a record of the type, batch or serial number on the product or packaging.
- Carrying out sample testing following a justified request and keeping a register of complaints

(iv) Distributors

New requirements for distributors including:

- Where distributors consider or have reason to believe that a product within scope is not in conformity with the essential requirements, they must not make that product available on the market
- Ensuring that storage and transport conditions do not jeopardise compliance the essential requirements
- Complying with the economic operators obligations above.

Annex 5: Draft UK Regulations

The draft UK Regulations are published alongside this document

Annex 4: Consultation Response Form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 8 December 2016

Name:

Organisation (if applicable):

Address:

Please return completed forms to:

Kevin Lane, Product Safety Team, Regulatory Delivery, Department for Business, Energy & Industrial Strategy, 1 Victoria Street, London SW1H 0ET

Telephone: + 44 (0) 20 7215 1774

Email: Kevin.Lane@beis.gov.uk

Please indicate from the list of options that best describes you as a respondent

	Respondent type
<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Question 1 (please see the draft Impact Assessment)

1. Does the draft Impact Assessment (IA) adequately reflect the effect of the new Directive on micro businesses (less than 10 employees) in the recreational craft industry?

Comments:

Question 2 (please see draft Impact Assessment)

2. Does the draft IA adequately reflect the effect of the new Directive as a whole?

Comments:

Question 3

3. What is your estimate of the costs on a yearly basis for your business to comply with the draft Regulations?

Comments:

Question 4

4. What are the benefits on a yearly basis for your business to comply with the draft Regulations?

Comments:

Question 5

5. Have you any concerns about how enforcement of the UK Regulations will be carried out in view of the new responsibilities for distributors and importers? (See Annex 4: The New Legislative Framework).

Comments:

Question 6

6. Could you suggest any areas covered by the new Directive on which you feel it would be beneficial to have more guidance for both consumers and manufacturers?

Comments:

Question 7

7. In your view do the draft Regulations impose requirements upon you which go beyond the requirements set out in the new Directive?

Comments:

Question 8

8. Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for taking the time to let us have your views on this consultation. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No

© Crown copyright 2013

--	--	--	--	--	--



© Crown copyright 2016

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication available from www.gov.uk/beis

Contact us if you have any enquiries about this publication, including requests for alternative formats, at:

Department for Business, Energy and Industrial Strategy
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

Email: enquiries@bis.gsi.gov.uk

BEIS/16/7