

2021 No. 000

EXITING THE EUROPEAN UNION

HEALTH AND SAFETY

The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2021

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| <i>Sift requirements satisfied</i> | 2021 |
| <i>Made</i> - - - - | 2021 |
| <i>Laid before Parliament</i> | 2021 |
| <i>Coming into force</i> - - | 1st January 2023 |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8(1) and 8B(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(a) (“the 2018 Act”).

The requirements of paragraph 3(2) of Schedule 7 to the 2018 Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

In accordance with paragraph 2(7) of Schedule 3 to the Railways Act 2005(b) the Secretary of State has consulted the Office of Rail and Road.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2021 and come into force on 1st January 2023.

(2) These Regulations extend to England and Wales and Scotland.

Amendment of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009

2. The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009(c) are amended as set out in regulations 3 to 17.

(a) 2018 c. 16. Section 8 was amended by section 27(2) to (6) of the European Union (Withdrawal Agreement) Act 2020 (c. 1), and section 8B was inserted by section 18 of that Act.
(b) 2005 c. 14. Paragraph 2(7) of Schedule 3 was amended by the Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), by which the Office of Rail Regulation was renamed the Office of Rail and Road.
(c) S.I. 2009/1348; relevant amending instruments are S.I. 2011/1885, 2014/469, 2019/598 and 2020/1111.

Amendment of regulation 2 (interpretation - general)

3. In regulation 2 (interpretation - general), in the Table in paragraph (5)—
- (a) in the meaning of the expression “making available on the GB market”, after “activity,” insert “including any supply on a hire, lease or rental basis,”,
 - (b) after the meaning of the expression “Northern Ireland competent authority” insert—

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| ““Northern Ireland TPE” | Transportable pressure equipment which— (a) complies with Part 4 of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010(a), and (b) is “qualifying Northern Ireland goods” within the meaning given in regulations made under section 8C(6) of the European Union (Withdrawal) Act 2018(b).” |
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- (c) in the meaning of the expression “pi marking” omit “, and may include a pi marking accompanied by the indication “UK(NI)”,
- (d) in the meaning of the expression “pi marked TPE”, at the end insert “, but excluding Northern Ireland TPE”.

Amendment of regulation 19A (general obligations)

4. In regulation 19A (general obligations), at the end of paragraph (5)(b) insert “and Northern Ireland TPE”.

Insertion of regulation 19AZA

5. After regulation 19A (general obligations) insert—

“Prohibition on placing or making available certain transportable pressure equipment on the GB market on or after 1st January 2023

19AZA.—(1) A manufacturer, importer, or distributor may only place equipment on the GB market on or after 1st January 2023 if the equipment is UK TPE or Northern Ireland TPE.

(2) Subject to paragraph (3), a manufacturer, importer, or distributor may only make equipment available on the GB market on or after 1st January 2023 if the equipment—

- (a) is UK TPE or Northern Ireland TPE; or
- (b) is pi marked TPE which was placed on the market prior to 1st January 2023.

(3) Where a conformity assessment has been carried out in relation to equipment by a notified body prior to IP completion day, a manufacturer, importer or distributor may only place the equipment on the market where—

- (a) the manufacturer arranges for the notified body conformity assessment and any technical documentation to be transferred to an appointed body;
- (b) the appointed body referred to in sub-paragraph (a) accepts responsibility for the notified body conformity assessment; and

(a) S.R. 2010 No. 160.

(b) 2018 c.16. Section 8C was inserted by section 21 of the European Union (Withdrawal Agreement) Act 2020. Regulations made under this provision are the Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020 (S.I. 2020/1454).

- (c) the appointed body issues a certificate of conformity relying, or relying in part, on any examinations or tests undertaken prior to the issue of the notified body conformity assessment.”.

Amendment of regulation 19AA (obligations of manufacturers prior to placing equipment on the GB market)

6. In regulation 19AA (obligations of manufacturers prior to placing equipment on the GB market), in paragraph (3) for “pi marked TPE” substitute “Northern Ireland TPE”.

Amendment of regulation 19AB (obligations of manufacturers after placing UK TPE on the GB market)

7. In regulation 19AB (obligations of manufacturers after placing UK TPE on the GB market)—

- (a) in the heading, after “UK TPE” insert “or Northern Ireland TPE”,
- (b) in paragraph (1), after “UK TPE marking” insert “and Northern Ireland TPE”,
- (c) in paragraph (2)—
 - (i) in the opening words, after “Annexes” insert “or with regulation 19AA(3) (as applicable)”,
 - (ii) for paragraphs (i) and (ii) of sub-paragraph (a) substitute—
 - “(i) regulation 19AA(2) and the Annexes, in respect of UK TPE; or
 - (ii) regulation 19AA(3) and the Annexes, in respect of Northern Ireland TPE;”,
- (d) for paragraph (3)(a) substitute—
 - “(a) the risk, including providing details of any non-compliance with—
 - (i) regulation 19AA(2) or the Annexes, in respect of UK TPE; and
 - (ii) regulation 19AA(3) or the Annexes, in respect of Northern Ireland TPE;”,
- (e) for paragraph (4)(a) substitute—
 - “(a) each instance of non-compliance with—
 - (i) regulation 19AA(2) or the Annexes, in respect of UK TPE; and
 - (ii) regulation 19AA(3) or the Annexes, in respect of Northern Ireland TPE;”,
- (f) in paragraph (5)(a), for paragraphs (i) and (ii) substitute—
 - “(i) regulation 19AA(2) and the Annexes, in respect of UK TPE; or
 - (ii) regulation 19AA(3) and the Annexes, in respect of Northern Ireland TPE;”.

Amendment of regulation 19B (obligations of manufacturers after placing pi marked TPE on the GB market)

8. In regulation 19B (obligations of manufacturers after placing pi marked TPE on the GB market), at the end of paragraph (1) insert “prior to 1st January 2023”.

Amendment of regulation 19BA (application of regulations 19AA to 19B to importers or distributors)

9. In regulation 19BA (application of regulations 19AA to 19B to importers or distributors), in paragraph (b)(ii), after “pi marked TPE” insert “or Northern Ireland TPE”.

Amendment of regulation 19BB (obligations of importers prior to placing equipment on the GB market)

10. In regulation 19BB (obligations of importers prior to placing equipment on the GB market), in paragraph (1)—

- (a) in sub-paragraph (a)—
 - (i) at the end of paragraph (i) insert “, in respect of equipment which an importer intends to place on the GB market as UK TPE”,
 - (ii) at the end of paragraph (ii) insert “, in respect of equipment which an importer intends to place on the GB market as Northern Ireland TPE”,
- (b) in sub-paragraph (b)(ii), for “pi marked TPE” substitute “Northern Ireland TPE”.

Amendment of regulation 19C (obligations of importers after placing pi marked TPE on the GB market)

11. In regulation 19C (obligations of importers after placing pi marked TPE on the GB market), at the end of paragraph (A1) insert “prior to 1st January 2023”.

Amendment of regulation 19CA (obligations of distributors prior to making equipment available on the GB market)

12. In regulation 19CA (obligations of distributors prior to making equipment available on the GB market), in paragraph (1)(a)—

- (a) at the end of paragraph (i) insert “, in respect of equipment which a distributor intends to make available on the GB market as UK TPE”,
- (b) at the end of paragraph (ii) insert “, in respect of equipment which a distributor intends to make available on the GB market as pi marked TPE and which was placed on the GB market prior to 1st January 2023, and in respect of equipment which a distributor intends to make available on the GB market as Northern Ireland TPE”.

Amendment of regulation 19D (obligations of distributors after making pi marked TPE available on the GB market)

13. In regulation 19D (obligations of distributors after making pi marked TPE available on the GB market)—

- (a) in the heading, after “pi marked TPE” insert “or Northern Ireland TPE”,
- (b) in paragraph (A1), after “pi marking” insert “, and Northern Ireland TPE,”.

Amendment of regulation 19E (obligations of owners)

14. In regulation 19E (obligations of owners), in paragraph (3), after “pi marked TPE” insert “, or Northern Ireland TPE,”.

Amendment of regulation 20 (authorised representatives)

15. In regulation 20 (authorised representatives)—

- (a) in paragraph (1)(a), after “UK TPE marking” insert “and equipment that is, or will become, Northern Ireland TPE”,
- (b) in paragraph (2)(c), after “pi marked TPE” insert “and Northern Ireland TPE”,
- (c) in paragraph (5)(b), after “pi marked TPE” insert “and Northern Ireland TPE”.

Amendment of regulation 22 (periodic inspection - pi marked TPE and repeated use)

16. In regulation 22 (periodic inspection - pi marked TPE and repeated use)—

- (a) in the heading, after “pi marked TPE” insert “and Northern Ireland TPE”,
- (b) in paragraph (1), after “pi marked TPE” insert “and Northern Ireland TPE”,
- (c) in paragraph (2), for “If the equipment bears a marking referred to in articles 14 and 15 of the Transportable Pressure Equipment Directive, it” substitute “The equipment”,

- (d) in paragraph (4), after “pi marked TPE” insert “and Northern Ireland TPE”.

Amendment of Schedule 3 (appointments)

17. In paragraph 2(2) of Schedule 3 (appointments)—

- (a) omit the “and” following paragraph (b),
- (b) at the end of paragraph (c) insert—
 - “; and
- (d) require the sharing of information held by the appointee in relation to its activities as a notified body prior to IP completion day, with a notified body”.

Date _____
Parliamentary Under Secretary of State
Department for Transport
Name

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(c)) arising from the withdrawal of the UK from the European Union.

The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (“the principal Regulations”) impose requirements and prohibitions in relation to the carriage of dangerous goods by road and rail, and to a limited extent by inland waterway. In doing so they implement certain Directives as respects Great Britain.

The principal Regulations were amended by the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1111) with effect from IP completion day, which made provision to implement Part 3 (separation provisions) of the “Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community” dated 19th October 2019 (the “Withdrawal Agreement”), and the “Protocol on Ireland/Northern Ireland” in the Withdrawal Agreement. Those amendments included amendments to Part 4 of the principal Regulations, which makes provision for the conformity assessment of transportable pressure equipment (“TPE”) which is placed on the market in Great Britain (“the GB market”). The amendments provided for the operation of a dual system after IP completion day under which both of the following may be placed on the GB market:

- (a) TPE which meets the EU conformity assessment requirements (bearing the “pi” marking set out in the Transportable Pressure Equipment Directive, known as “pi marked TPE”), and which includes TPE which has been conformity assessed by a notified body established in Northern Ireland and bearing the pi marking accompanied by the indication “UK(NI)”, and
- (b) TPE which meets the Great Britain conformity assessment requirements (bearing the “rho” marking prescribed by the principal Regulations, and known as “UK TPE”).

This dual system, under which EU conformity assessed TPE continues to be accepted on the GB market, is not reciprocal.

This instrument brings that dual system to an end with effect from 1st January 2023. It provides that the only TPE which may be placed on the GB market from that date is UK TPE, or TPE which complies with Part 4 of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010 and which are “qualifying Northern Ireland goods” within the meaning given in regulations made under section 8C(6) of the European

Union (Withdrawal) Act 2018 (referred to in these Regulations as “Northern Ireland TPE”), and it makes consequential changes to Part 4 of the principal Regulations. It implements Article 41 of the Withdrawal Agreement by providing that any EU assessed pi marked TPE which was placed on the GB market prior to that date may remain on the market, but subject to certain restrictions.

This instrument also makes provision to implement Article 46(1) of the Withdrawal Agreement, pursuant to section 8B(1)(a) of the 2018 Act. Article 46 requires the United Kingdom to ensure that certain information held by conformity assessment bodies in the United Kingdom is made available to notified bodies established in Member States. This instrument amends Schedule 3 of the principal Regulations to provide for conformity assessment bodies in Great Britain to be required to share information in those circumstances.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum is published alongside the Regulations at www.legislation.gov.uk.

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