

SCHEDULE 36

Regulation 39

Amendment of Regulation (EU) 2016/426 and the Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018

PART 1

Amendment of subordinate legislation

Amendment of the Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018

1.—(1) The Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 are amended as follows.

(2) In regulation 1—

(a) in paragraph (2), at the appropriate place, insert—

“Regulation 2016/426 (pre-exit)” means Regulation (EU) 2016/426 of the European Parliament and of the Council on appliances burning gaseous fuels and repealing [Directive 2009/142/EC](#) as it had effect immediately before exit day;”;

(b) in paragraph (3)—

(i) after “In these Regulations”, insert “(unless otherwise stated)”;

(ii) in sub-paragraph (a), omit “unless otherwise stated”;

(iii) in sub-paragraph (b), after “paragraph of an Article” in both places insert “, Chapter”;

(c) in paragraph (4), after “EU Regulation 2016/426” in the second place it occurs, insert “unless otherwise stated”.

(3) In regulation 2—

(a) in paragraph (4), for “The” substitute “Subject to the modifications made in paragraph (4A), the”;

(b) after paragraph (4), insert—

“(4A) The modifications referred to in paragraph (4) are as follows—

(a) any reference to the “Community” is to be read as including the United Kingdom;

(b) any reference to “member State” is to be read as though the United Kingdom were a member State;

(c) regulation 10(6) is to be read as if the words from “and, on request made by it” to the end were omitted;

(d) regulation 13(2) is to be read as if sub-paragraph (b) were omitted;

(e) regulation 15(2) is to be read as if sub-paragraph (b) were omitted.”.

(4) After regulation 2, insert—

“Obligations which are met by complying with obligations in Regulation 2016/426 (pre-exit)

2A.—(1) In this regulation, “harmonised standard” has the meaning given in Article 2(23) of Regulation 2016/426 (pre-exit).

- (2) Paragraph (3) applies where before placing an appliance or fitting on the market, or using an appliance for their own purposes, the manufacturer—
- (a) ensures that the appliance or fitting has been designed and manufactured in accordance with the essential requirements set out in Annex I to Regulation 2016/426 (pre-exit);
 - (b) carries out the applicable conformity assessment procedure referred to in Article 14 of Regulation 2016/426 (pre-exit), or has it carried out;
 - (c) draws up the technical documentation referred to in Annex III to Regulation 2016/426 (pre-exit);
 - (d) ensures that the technical documentation and other records and correspondence relating to the conformity assessment procedures are prepared in or translated into English;
 - (e) affixes a CE marking and the inscriptions provided for in Annex IV of Regulation 2016/426 (pre-exit), in accordance with Articles 16, 17(1) to (4) and 18 of Regulation 2016/426 (pre-exit);
 - (f) draws up an EU declaration of conformity, in accordance with Article 15 of Regulation 2016/426 (pre-exit); and
 - (g) ensures that the EU declaration of conformity is prepared in or translated into English.
- (3) Where this paragraph applies—
- (a) the requirements of Articles 7(1) and (2) and 14 to 18 are to be treated as being satisfied;
 - (b) the requirement in Article 7(5) to ensure that appliances and fittings bear inscriptions, is to be treated as being satisfied;
 - (c) Articles 7(3), (4) and (7), 8(2) and point 1.7 of Annex I (referred to in Article 7(7)) and regulations 7(1) and 8(3)(a) apply subject to the modifications in paragraph (8); and
 - (d) Article 40 does not apply.
- (4) Paragraph (5) applies where before placing an appliance or fitting on the market, the importer ensures that—
- (a) the applicable conformity assessment procedure referred to in Article 14 of Regulation 2016/426 (pre-exit) has been carried out;
 - (b) the manufacturer has drawn up the technical documentation referred to in Annex III of Regulation 2016/426 (pre-exit); and
 - (c) the appliance or fitting bears the CE marking in accordance with Articles 16 and 17(1) to (4) of Regulation 2016/426 (pre-exit).
- (5) Where this paragraph applies—
- (a) the requirements in the first or second subparagraph of Article 9(2), as applicable, to ensure that—
 - (i) the appropriate conformity assessment procedure referred to in Article 14 has been carried out;
 - (ii) the manufacturer has drawn up the technical documentation; and
 - (iii) the appliance or fitting bears the UK marking,are to be treated as being satisfied;

- (b) the third subparagraph of Article 9(2), Article 9(5) and (8), and regulations 7(1) and 8(3)(b) apply subject to the modifications in paragraph (8); and
 - (c) in relation to fittings, the second subparagraph of Article 9(2) (other than those requirements treated as being satisfied), point 1.7 of Annex I (referred to in that subparagraph) and the second subparagraph of Article 9(4) also apply subject to the modifications in paragraph (8).
- (6) Paragraph (7) applies where, before placing an appliance or fitting on the market, a distributor ensures that the appliance or fitting bears the CE marking in accordance with Articles 16 and 17(1) to (4) of Regulation 2016/426 (pre-exit).
- (7) Where this paragraph applies—
- (a) the requirement in the first or second subparagraph of Article 10(2), as applicable, for the distributor to verify that the appliance or fitting bears the UK marking, is to be treated as being satisfied;
 - (b) the third subparagraph of Article 10(2), Article 10(3) and regulation 7(1) apply subject to the modifications in paragraph (8); and
 - (c) in relation to fittings, the second subparagraph of Article 10(2) (other than that requirement treated as being satisfied) and point 1.7 of Annex I (referred to in that subparagraph) also apply subject to the modifications in paragraph (8).
- (8) The modifications referred to in paragraphs (3)(c), (5)(b) and (c), and (7)(b) and (c) are that—
- (a) any reference to a “declaration of conformity” is to be read as a reference to an EU declaration of conformity, referred to in Article 15 of Regulation 2016/426 (pre-exit);
 - (b) any reference to “essential requirements” is to be read as a reference to the essential requirements set out in Annex I of Regulation 2016/426 (pre-exit);
 - (c) any reference to “designated standard” is to be read as a reference to a harmonised standard;
 - (d) any reference to “technical documentation” is a reference to the technical documentation referred to in Annex III to Regulation 2016/426 (pre-exit);
 - (e) in regulations 7(1) and 8(3), any reference to a numbered Article is to be read as a reference to the equivalent Article of Regulation 2016/426 (pre-exit).

Conformity assessment procedure obligation which is met by complying with Regulation 2016/426 (pre-exit)

2B.—(1) Paragraph (2) applies where, before placing an appliance or fitting on the market the manufacturer ensures that its conformity with Regulation 2016/426 (pre-exit) has been assessed by means of the conformity assessment procedure set out in point 1 of Annex III to Regulation 2016/426 (pre-exit) and referred to in Article 14(2) of Regulation 2016/426 (pre-exit) as EU type-examination, in accordance with that Article.

- (2) Where this paragraph applies—
- (a) the requirement in Article 14(2) that the conformity of appliances and fittings with Regulation EU 2016/426 be assessed by means of the type-examination set out in point 1 of Annex III is to be treated as being satisfied;
 - (b) any reference to “conformity assessment procedure” in Articles 7(2) and 9(2) (first and second subparagraphs) is to be read as including the conformity assessment procedure referred to in Article 14(2) of Regulation 2016/426 (pre-exit) as EU type-examination;

- (c) any reference to “technical documentation” in Articles 7(2), 7(3), 9(2) (first and second subparagraphs) and 9(8) is to be read as including the technical documentation relating to the design of the appliance or fitting as referred to in point 1 of Annex III to Regulation 2016/426 (pre-exit).”
- (5) In regulation 6, for the words from “or other matter within its knowledge” to the end, substitute “in accordance with Chapter 5”.
- (6) In regulation 7(1)(e), for “CE” substitute “UK”.
- (7) In regulation 8(3), omit “EU” in both places in which it occurs.
- (8) In regulation 12(1), omit “at national level”.

PART 2

Amendment of retained direct EU legislation

Amendment of Regulation (EU) 2016/426

2.—(1) Regulation (EU) 2016/426 of the European Parliament and of the Council on appliances burning gaseous fuels and repealing [Directive 2009/142/EC](#) is amended as follows.

- (2) In Article 1—
 - (a) in paragraph 2(b), for “Member States in their communication pursuant to” substitute “the Secretary of State under”;
 - (b) in paragraph 4, for “acts of Union harmonisation legislation” substitute “enactments”;
 - (c) in paragraph 5, for “a measure adopted pursuant to Article 15 of [Directive 2009/125/EC](#)” substitute “an implementing measure within the meaning given in the Ecodesign for Energy-Related Products Regulations 2010(1)”;
 - (d) omit paragraph 6.
- (3) In Article 2—
 - (a) in points (14), (15), and (16), for “Union” substitute “United Kingdom”;
 - (b) for point (18), substitute—
 - “(18) ‘authorised representative’ means—
 - (a) a person who—
 - (i) immediately before exit day was established in the United Kingdom or an EEA state and was appointed by a manufacturer by written mandate to perform specified tasks for that manufacturer, in accordance with Article 8 of Regulation 2016/426 (pre-exit), and
 - (ii) on or after exit day continues to be so established and appointed by the manufacturer to perform those tasks; or
 - (b) a person who, on or after exit day, is appointed in accordance with Article 8;”;
 - (c) for point (19), substitute—
 - “(19) ‘importer’ means a person who—
 - (a) is established in the United Kingdom, and

(1) [S.I. 2010/2617](#), amended by [S.I. 2011/1043](#), [S.I. 2011/2677](#), [S.I. 2012/3005](#), [S.I. 2013/1232](#), [S.I. 2014/1290](#), [S.I. 2015/469](#), [S.I. 2016/838](#) and [S.I. 2017/1143](#).

- (b) places an appliance or fitting from a country outside of the United Kingdom on the market.”;
- (d) omit points (23) to (25), and (30) to (31);
- (e) after point (31), insert—
 - “(32) ‘approved body’ has the meaning given in Article 19;
 - (33) ‘designated standard’ has the meaning given in Article 6A;
 - (34) ‘enforcement authority’ means a person enforcing this Regulation under regulation 4 of the Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 (S.I. 2018/389);
 - (35) ‘UK marking’ means the marking in the form published in accordance with Article 30(1) of Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) 339/93;
 - (36) ‘UK national accreditation body’ means the body appointed by the Secretary of State in accordance with Article 4 of Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) 339/93;
 - (37) ‘Regulation 2016/426 (pre-exit)’ means Regulation (EU) 2016/426 of the European Parliament and of the Council on appliances burning gaseous fuels and repealing Directive 2009/142/EC, as it had effect immediately before exit day;
 - (38) In this Regulation, references to “the market surveillance authority” are to be construed in accordance with regulation 3 of the Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018.”.
- (4) Omit Article 3(3).
- (5) For Article 4, substitute—

“Article 4

Gas supply conditions

1. The Secretary of State must publish information, in accordance with Annex II, about the types of gas and corresponding supply pressures of gaseous fuels used in the United Kingdom.
2. The information that is published under paragraph 1, may be—
 - (a) published in such form and manner as the Secretary of State considers appropriate;
 - (b) reviewed by the Secretary of State at any time, and if it is revised following such a review, the Secretary of State must publish revised information as soon as reasonably practicable following that review.
3. Where the Secretary of State considers it necessary to do so to take account of any technical developments with regard to gas supply conditions, the Secretary of State may by regulations amend the content of the information regarding gas supply conditions as set out in Annex II.
4. Before making regulations under this Article, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
5. Where regulations are made under this Article, the Secretary of State must, as soon as reasonably practicable after those regulations come into force, publish revised information in accordance with Annex II as amended by those regulations.

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, *The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019* ISBN 978-0-11-118040-2

6. Regulations made under this Article may—
 - (a) make different provisions for different cases; and
 - (b) make such supplemental, consequential and transitional provisions as the Secretary of State considers appropriate.
7. Regulations made under this Article are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.
- (6) In Article 6—
 - (a) for the heading, substitute—

“Making available, putting into service and exhibition at trade fairs, etc”;
 - (b) in paragraphs 1 and 2—
 - (i) for “Member States shall not” substitute “Nothing in this Regulation prohibits, restricts or impedes”;
 - (ii) omit “prohibit, restrict or impede”;
 - (c) in paragraph 3, for “Members States shall not prevent” substitute “nothing in this Regulation prevents”.
- (7) After Article 6, insert—

“Article 6A

Designated standard

1. Subject to paragraphs 6 and 7, in this Regulation a “designated standard” means a technical specification which is—
 - (a) adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory; and
 - (b) designated by the Secretary of State, by publishing the reference to the standard and maintaining that publication in a manner the Secretary of State considers appropriate.
2. For the purposes of paragraph 1, “technical specification” means a document that prescribes technical requirements to be fulfilled by a product, process, service or system and which lays down one or more of the following—
 - (a) the characteristics required of a product, including—
 - (i) levels of quality, performance, interoperability, environmental protection, health, safety or dimensions, and
 - (ii) the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures; and
 - (b) production methods and processes relating to the product, where these have an effect on the characteristics of the product.
3. For the purposes of this Article, a “recognised standardisation body” means any one of the following organisations—
 - (a) the European Committee for Standardisation (CEN);
 - (b) the European Committee for Electrotechnical Standardisation (Cenelec);
 - (c) the European Telecommunications Standards Institute (ETSI);
 - (d) the British Standards Institution (BSI).

4. When considering whether the manner of publication of a reference is appropriate in accordance with paragraph 1(b), the Secretary of State must have regard to whether the publication will draw the standard to the attention of any person who may have an interest in the standard.

5. Before publishing the reference to a technical specification adopted by the British Standards Institution, the Secretary of State must have regard to whether the technical specification is consistent with technical specifications adopted by the other recognised standardisation bodies.

6. The Secretary of State may remove from publication the reference to a standard which has been published in accordance with paragraph 1(b).

7. Where the Secretary of State removes the reference to a standard from publication, that standard is no longer a designated standard.

8. In this Article, a reference to a “product” is a reference to an appliance or fitting to which this Regulation applies.

9. The Secretary of State may, by regulations, amend paragraph 3 to reflect any changes in the name or structure of the recognised standardisation bodies.

10. Regulations made under paragraph 9 must be made by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament.”.

(8) In Article 7—

- (a) in paragraph 2, in the second subparagraph (beginning “Where compliance of”)—
 - (i) for “an EU” substitute “a”;
 - (ii) for “CE” substitute “UK”;
- (b) in paragraph 3, omit “EU”;
- (c) in paragraph 4, for “harmonised” substitute “designated”;
- (d) in paragraph 6, in the first and second subparagraphs, for “market surveillance authorities” substitute “market surveillance authority”;
- (e) in paragraph 7—
 - (i) in the first and second subparagraphs, for the words from “in a language which” to the end, substitute “that are clear, legible and in easily understandable English”;
 - (ii) in the second and third subparagraphs, omit “EU”;
- (f) in paragraph 8, for the words from “competent national authorities” to “available on the market”, substitute “enforcement authority”;
- (g) in paragraph 9, for “a competent national authority” substitute “the enforcement authority”.

(9) In Article 8—

- (a) in paragraph 1, after “appoint” insert “a person established in the United Kingdom as their”, and omit “an”;
- (b) in paragraph 2—
 - (i) in point (a)—
 - (aa) omit “EU”;
 - (bb) for “national market surveillance authorities” substitute “the market surveillance authority”;

- (ii) in point (b), for “a competent national authority” substitute “the enforcement authority”;
 - (iii) in point (c), for “competent national authorities” substitute “enforcement authority”.
- (10) In Article 9—
- (a) in paragraph 2—
 - (i) in the first and second subparagraphs, for “CE” substitute “UK”;
 - (ii) in the second subparagraph omit “EU”;
 - (iii) in the third subparagraph (beginning “Where an importer”), for “authorities” substitute “authority”;
 - (b) in paragraph 3—
 - (i) in the first and second subparagraphs—
 - (aa) omit the words from “or, where” to the end of the first sentence;
 - (bb) for “authorities” substitute “authority”;
 - (ii) after the second subparagraph insert—

“The obligation set out in the first and second subparagraphs of this paragraph 3 to indicate information on the appliance or fitting does not apply where—

 - (a) either—
 - (i) it is not possible to indicate that information on the appliance or fitting, or
 - (ii) the importer has imported the appliance or fitting from an EEA state and places it on the market within the period of 18 months beginning with exit day, and
 - (b) before placing the appliance or fitting on the market, the importer sets out the information referred to in the first and second subparagraphs on the packaging of the appliance or fitting or in a document accompanying the appliance or fitting.”;
 - (c) in paragraph 4—
 - (i) in the first and second subparagraphs, for the words from “in a language which” to the end, substitute “that are clear, legible and in easily understandable English”;
 - (ii) in the second subparagraph omit “EU”;
 - (d) in paragraph 7, for the words from “competent national authorities” to “available on the market” substitute “enforcement authority”;
 - (e) in paragraph 8—
 - (i) omit “EU”;
 - (ii) for “authorities” in the first place it occurs, substitute “authority”;
 - (iii) for “those authorities” substitute “that authority”;
 - (f) in paragraph 9, for “a competent national authority” substitute “the enforcement authority”.
- (11) In Article 10—
- (a) in paragraph 2—
 - (i) in the first subparagraph (beginning “Before making an appliance”)—
 - (aa) for “CE” substitute “UK”;

- (bb) for the words from “in a language which” to “made available on the market” substitute “that are clear, legible and in easily understandable English”;
 - (ii) in the second subparagraph (beginning “Before making a fitting”)—
 - (aa) for “CE” substitute “UK”;
 - (bb) omit “EU”;
 - (cc) for the words from “in a language which” to “Member State concerned” substitute “that are clear, legible and in easily understandable English”;
 - (iii) in the third subparagraph (beginning “Where a distributor”), for “authorities” at the end, substitute “authority”;
 - (b) in paragraph 4, for the words from “competent national authorities” to “on the market” substitute “enforcement authority”;
 - (c) in paragraph 5, for “a competent national authority” substitute “the enforcement authority”.
- (12) In Article 12 (in the first sentence), for “authorities” substitute “authority”.
- (13) For Article 13, substitute—

“Article 13

Presumption of conformity of appliances and fittings

1. Appliances and fittings which are in conformity with a designated standard or part thereof shall be presumed to be in conformity with the essential requirements set out in Annex I covered by that standard or part thereof.
 2. The presumption in paragraph 1 is rebuttable.”.
- (14) In Article 14—
- (a) in paragraph 2, omit “EU”;
 - (b) in paragraph 4—
 - (i) for the words from “an official language of the Member State” to “established” to the end, substitute “English”;
 - (ii) for “that body” substitute “the approved body”.
- (15) In Article 15—
- (a) in the heading, and in paragraphs 1, 5 and 6, omit “EU”;
 - (b) in paragraph 2—
 - (i) omit “EU”;
 - (ii) for the words from “translated into the language” to the end, substitute “prepared in or translated into English”;
 - (c) in paragraph 3—
 - (i) omit “EU” in both places;
 - (ii) for the words from “a language which” to the end, substitute “English”;
 - (d) for paragraph 4, substitute—
 - “4. Where an appliance or a fitting is subject to more than one enactment requiring a declaration of conformity, the manufacturer must draw up a single declaration of conformity which identifies each enactment by its title.”;
- (16) In Article 16, and in the heading to that Article, for “CE” substitute “UK”.

- (17) In Article 17—
- (a) in the heading, and in paragraphs 1, 2 and 4, for “CE” substitute “UK”;
 - (b) in paragraph 3—
 - (i) for “CE”, in both places, substitute “UK”,
 - (ii) for “notified”, in both places, substitute “approved”;
 - (c) omit paragraph 5.
- (18) In the heading to Chapter IV for “Notification of Conformity Assessment Bodies” substitute “Approval of Conformity Assessment Bodies”.
- (19) For Article 19, substitute—

“Article 19

Approved bodies

1. An approved body is a conformity assessment body which—
 - (a) has been approved by the Secretary of State pursuant to the procedure set out in Article 20 (approval of conformity assessment bodies); or
 - (b) immediately before exit day was a notified body in respect of which the Secretary of State had taken no action under Article 29 (changes to notifications) of Regulation 2016/426 (pre-exit), to suspend or withdraw the body’s status as a notified body.
 2. Paragraph 1 has effect subject to Article 29 (restriction, suspension or withdrawal of approval).
 3. In this Chapter—

“notified body” means a body—

 - (a) which the Secretary of State had, before exit day, notified to the European Commission and the member States of the European Union in accordance with Article 19 of Regulation 2016/426 (pre-exit); and
 - (b) in respect of which no objections had been raised, as referred to in Article 27(5) of Regulation 2016/426 (pre-exit);

“approved body requirements” means the requirements set out in Article 23.”.
- (20) For Article 20 substitute—

“Article 20

Approval of conformity assessment bodies

1. The Secretary of State may approve only those conformity assessment bodies that qualify for approval.
2. A conformity assessment body qualifies for approval if the first and second conditions below are met.
3. The first condition is that the conformity assessment body has applied to the Secretary of State to become an approved body and that application is accompanied by—
 - (a) a description of—
 - (i) the conformity assessment activities that the conformity assessment body intends to carry out;

- (ii) the conformity assessment procedure in respect of which the conformity assessment body claims to be competent; and
- (iii) the category of appliance or fitting in respect of which the conformity assessment body claims to be competent; and

(b) either—

- (i) an accreditation certificate; or
- (ii) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the approved body requirements.

4. The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the approved body requirements.

5. For the purposes of paragraph 4, the Secretary of State may accept an accreditation certificate provided in accordance with paragraph 3(b)(i), as sufficient evidence that the conformity assessment body meets the approved body requirements.

6. When deciding whether to approve a conformity assessment body that qualifies for approval, the Secretary of State may—

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
- (b) set conditions that the conformity assessment body must meet.

7. For the purposes of this Article, “accreditation certificate” means a certificate issued by the UK national accreditation body, attesting that a conformity assessment body meets the approved body requirements.”.

(21) For Article 21 substitute—

“Article 21

UK national accreditation body

The Secretary of State may authorise the UK national accreditation body to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the approved body requirements;
- (b) monitoring approved bodies in accordance with Article 22; and
- (c) compiling and maintaining the register of approved bodies, in accordance with Article 28.”.

(22) For Article 22 substitute—

“Article 22

Monitoring obligations

The Secretary of State must monitor each approved body with a view to verifying that the body—

- (a) continues to meet—
 - (i) the approved body requirements;
 - (ii) any conditions set by the Secretary of State under Article 20(6)(b); and
- (b) carries out its functions in accordance with this Regulation.”.

(23) In Article 23—

- (a) for the heading, substitute—
 - “*Approved Body Requirements*”;
 - (b) in paragraph 1, for “notification” substitute “approval”;
 - (c) in paragraph 2, for “under the national law of a Member State” substitute “in the United Kingdom”;
 - (d) in paragraphs 4, in the second subparagraph, and 7(a), for “notified” substitute “approved”;
 - (e) in paragraph 6—
 - (i) for “notified” in the first two places in which it occurs, substitute “approved”;
 - (ii) in point (b), for “a notified body” substitute “an approved body”;
 - (f) in paragraph 7(c)—
 - (i) for “harmonised” substitute “designated”;
 - (ii) for “Union harmonisation legislation and of national legislation” substitute “this Regulation and any other relevant United Kingdom legislation”;
 - (g) in paragraph 9, for “liability is assumed by the State in accordance with national law, or the Member State itself” substitute “the Secretary of State”;
 - (h) in paragraph 10—
 - (i) for “national” substitute “United Kingdom”;
 - (ii) for “competent authorities of the Member State in which its activities are carried out” substitute “enforcement authority”;
 - (i) in paragraph 11—
 - (aa) for “the notified” substitute “any approved”;
 - (bb) for “pursuant to Article 35” substitute “by the Secretary of State”.
- (24) For Article 24 substitute —

“Article 24

Presumption of conformity of approved bodies

1. Where a conformity assessment body demonstrates its conformity with the criteria laid down in a designated standard (or part of such a standard), the Secretary of State must presume that the conformity assessment body meets the approved body requirements covered by that standard (or the part of that standard).
 2. The presumption in paragraph 1 is rebuttable.”.
- (25) For Article 25 substitute—

“Article 25

Subsidiaries of, and subcontracting by, approved bodies

1. An approved body may subcontract specific conformity assessment activities, or use a subsidiary to carry out such activities provided—
 - (a) the body is satisfied that the subcontractor or subsidiary meets the approved body requirements;
 - (b) the body has informed the Secretary of State that it is satisfied that the subcontractor or subsidiary meets those requirements; and

- (c) the economic operator for whom the activities are to be carried out has consented to the activities being carried out by that person.
 - 2. The approved body which subcontracts specific conformity assessment activities or uses a subsidiary to carry out such activities remains responsible for the proper performance of those activities (irrespective of where the subcontractor or subsidiary is established).
 - 3. Where an approved body subcontracts, or uses a subsidiary to carry out, a specific conformity assessment activity, the approved body must, for a period of 10 years beginning on the day on which the activity is first carried out, keep available for inspection by the Secretary of State all relevant documentation concerning—
 - (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
 - (b) the conformity assessment activity carried out by the subcontractor or subsidiary.
 - 4. In this Article, “subsidiary” has the meaning given to it by section 1159 of the Companies Act 2006(2).”.
- (26) Omit Articles 26 and 27.
- (27) For Article 28, substitute—

“Article 28

Identification numbers and register of approved bodies

- 1. The Secretary of State must—
 - (a) assign an approved body identification number to each approved body; and
 - (b) compile and maintain a register of—
 - (i) approved bodies;
 - (ii) their approved body identification numbers;
 - (iii) the activities for which they have been approved; and
 - (iv) any restrictions on those activities.
 - 2. The register referred to in paragraph 1 must be made publicly available.”.
- (28) For Article 29, substitute—

“Article 29

Restriction, suspension or withdrawal of approval

- 1. Where the Secretary of State determines that an approved body—
 - (a) no longer meets an approved body requirement, or
 - (b) is failing to fulfil its obligations under these Regulations, other than a condition referred to in Article 20(6)(b),the Secretary of State must restrict, suspend or withdraw the body’s status as an approved body under Article 20.
- 2. Where the Secretary of State determines that an approved body no longer meets a condition referred to in Article 20(6)(b), the Secretary of State may restrict, suspend or withdraw the body’s status as an approved body under Article 20.

3. In deciding what action to take under paragraph 1 or 2, the Secretary of State must have regard to the seriousness of the non-compliance.
 4. Before taking action under paragraph 1 or 2, the Secretary of State must—
 - (a) give notice in writing to the approved body of the proposed action and the reasons for it;
 - (b) give the approved body an opportunity to make representations to the Secretary of State regarding the proposed action within a reasonable period from the date of the notice; and
 - (c) consider any such representations made by the approved body.
 5. Where the Secretary of State has taken action in respect of an approved body under paragraph 1 or 2, or where an approved body has ceased its activity, the approved body must, at the request of the Secretary of State—
 - (a) transfer its files relating to the activities it has undertaken as an approved body to another approved body or to the Secretary of State; or
 - (b) keep its files relating to the activities it has undertaken as an approved body available for inspection by the Secretary of State and market surveillance authority for a period of 10 years from the date they were created.
 6. The activities undertaken as an approved body referred to in paragraph 5 include any activities that the body has undertaken as a notified body.”.
- (29) Omit Article 30.
- (30) In Article 31—
 - (a) in the heading, and in paragraph 5, for “notified” substitute “approved”;
 - (b) in paragraph 1, for “Notified” substitute “Approved”;
 - (c) after paragraph 1 insert—

“**1A.** Subject to the terms of its appointment, an approved body must carry out the conformity assessment activities and procedures in respect of which —

 - (a) the body’s approval was given under Article 20; or
 - (b) the body’s notification as a notified body was made.”;
 - (d) in paragraphs 3 and 4, for “a notified” substitute “an approved”;
 - (e) in paragraph 3 for “harmonised” substitute “designated”.
- (31) In Article 32—
 - (a) for “Notified” substitute “Approved”; and
 - (b) in the heading, for “notified” substitute “approved”.
- (32) In Article 33—
 - (a) in the heading, for “notified” substitute “approved”;
 - (b) in paragraph 1—
 - (i) for—
 - (aa) “Notified” substitute “Approved”;
 - (bb) “notifying authority” substitute “Secretary of State”;
 - (ii) in point (b), for “notification” substitute “their approval”;
 - (iii) in point (c), for “market surveillance authorities” substitute “the market surveillance authority”;

- (iv) in point (d), for “notification” substitute “approval”;
- (c) in paragraph 2—
 - (i) for “Notified” in the first place it occurs, substitute “Approved”;
 - (ii) for “the other bodies notified” substitute “other approved bodies”.
- (33) Omit Article 34 and 35.
- (34) For the heading to Chapter V, substitute—

*“MARKET SURVEILLANCE AND CONTROL OF APPLIANCES
AND FITTINGS ENTERING THE UNITED KINGDOM MARKET”*

- (35) In Article 36—
 - (a) for the heading, substitute—

*“Market surveillance and control of appliances
and fittings entering the United Kingdom market”*;
 - (b) for “Article 15(3) and Articles 16 to 29” substitute “Articles 15(3), 16 to 22 and 26 to 29”.
- (36) In Article 37—
 - (a) in the heading, omit “at national level”;
 - (b) in paragraph 1—
 - (i) in the first subparagraph (beginning “Where the market”)—
 - (aa) for “authorities of one Member State have” substitute “authority has”;
 - (bb) for “they” substitute “the authority”;
 - (cc) in the last sentence, for “authorities” substitute “authority”;
 - (ii) in the second subparagraph (beginning “Where, in the course of the evaluation”)—
 - (aa) for “authorities find” substitute “authority finds”;
 - (bb) for “they” in both places, substitute “the authority”;
 - (iii) in the third subparagraph (beginning “The market surveillance authorities”)—
 - (aa) for “authorities”, substitute “authority”;
 - (bb) for “notified” substitute “approved”;
 - (c) omit paragraph 2;
 - (d) in paragraph 3, omit “throughout the Union”;
 - (e) in paragraph 4—
 - (i) in the first subparagraph (beginning “Where the relevant”)—
 - (aa) for “authorities”, substitute “authority”;
 - (bb) omit “provisional”;
 - (cc) for “their national market” substitute “the market”;
 - (ii) omit the second subparagraph (beginning “The market surveillance authorities shall”);
 - (f) omit paragraphs 5 to 8.
- (37) Omit Article 38.
- (38) In Article 39—

- (a) in paragraph 1, for “a Member State” substitute “the enforcement authority”;
 - (b) in paragraph 2, omit “throughout the Union”;
 - (c) omit paragraphs 3 to 5.
- (39) In Article 40—
- (a) in paragraph 1—
 - (i) in the first sentence, for “a Member State” substitute “the enforcement authority”;
 - (ii) in points (a) and (b), for “CE” substitute “UK”;
 - (iii) in point (d), for “notified” substitute “approved”;
 - (iv) in points (e) and (f), omit “EU”;
 - (b) in paragraph 2, for “Member State concerned” substitute “enforcement authority”.
- (40) Omit Articles 41 to 43.
- (41) For Article 44, substitute—

“Article 44

Transitional provision in relation to EU exit

1. In this Article, “pre-exit period” means the period beginning with 21 April 2018 and ending immediately before exit day.

2. Subject to paragraph 3, where an appliance or fitting was made available on the market during the pre-exit period, despite the amendments made by Schedule 36 of the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019⁽³⁾, any obligation to which a person was subject under Regulation 2016/426 (pre-exit), continues to have effect as it did immediately before exit day, in relation to that appliance or fitting.

3. Paragraph 2 does not apply to—

- (a) any obligation of the enforcement authority to inform the European Commission or the member States of any matter, or
- (b) any obligation to take action outside of the United Kingdom in respect of that appliance or fitting.

4. Where during the pre-exit period—

- (a) an appliance or fitting has not been placed on the market; and
- (b) a manufacturer has taken any action under Article 14 of Regulation 2016/426 (pre-exit) in relation to that appliance or fitting,

that action has effect as if it had been done under Article 14 of this Regulation.”.

(42) Omit Articles 45 and 46.

(43) After Article 46, omit—

- (a) the words “This Regulation shall be binding” to the end;
- (b) “Done at Strasbourg, 9 March 2016”;
- (c) the signatory text.

(44) In Annex I—

- (a) in paragraph 1.7, omit “EU”;
- (b) in paragraph 3.1.7—

(3) S.I. 2019/XXXX.

- (i) for “[Directive 2014/53/EU](#) of the European Parliament and of the Council” substitute “the Radio Equipment Regulations 2017(4)”;
- (ii) for “[Directive 2014/35/EU](#) of the European Parliament and of the Council” substitute “the Electrical Equipment (Safety) Regulations 2016(5)”;
- (c) in paragraph 3.1.8—
 - (i) for “[Directive 2014/53/EU](#)” substitute “the Radio Equipment Regulations 2017”
 - (ii) for “[Directive 2014/30/EU](#) of the European Parliament and of the Council” substitute “the Electromagnetic Compatibility Regulations 2016(6)”.
- (45) In Annex II—
 - (a) in the heading, omit “of the Member States communications”, and after “Conditions” insert “to be published under Article 4”;
 - (b) in paragraph 1, for the words “The communications” to “the following content” substitute “The Secretary of State must provide the following content in the information that is published under Article 4”.
- (46) In Annex III—
 - (a) in the heading at paragraph 1 and in paragraphs 1.1, 1.2, 1.3, 1.3.1(c)(8), 1.3.2(a) in both places, 1.6 in the second subparagraph, 1.7 in the second subparagraph in both places, 1.8 in each place and 1.9, omit “EU”;
 - (b) in paragraph 1.1, for “a notified” substitute “an approved”;
 - (c) in paragraph 1.3, for “a single notified” substitute “a single approved”;
 - (d) in paragraphs 1.3.1(b), 1.3.1(d), 1.3.2 in both places, 1.4, 1.5 in both places, 1.6 in the first and fourth subparagraphs, 1.7 in each place, and 1.8 in each place, for “notified” substitute “approved”;
 - (e) in paragraph 1.3.1—
 - (i) in point (c)(4) in each place it occurs, and in point (e), for “harmonised” substitute “designated”;
 - (ii) in point (c)(4), omit the words from “the references of” to “Union”;
 - (f) in paragraphs 1.4.2, 1.4.3 and 1.4.4, for “harmonised” substitute “designated”;
 - (g) in paragraph 1.5, for “notifying authorities” substitute “Secretary of State”;
 - (h) in paragraph 1.6, in the first subparagraph (beginning “Where the appliance”), and in the fourth subparagraph (beginning “Where the type”), for “an EU” substitute “a”;
 - (i) in paragraph 1.8—
 - (i) in the first subparagraph (beginning “Each notified body shall inform its”), for “its notifying authority” in both places, substitute “the Secretary of State”,
 - (ii) in the third subparagraph (beginning “The Commission”)—
 - (aa) for “The Commission, the Member States” substitute “The Secretary of State”;
 - (bb) for “Commission and the Member States” substitute “Secretary of State”;
 - (j) in paragraph 1.9, for “national authorities” substitute “enforcement authority”;
 - (k) in paragraphs 2.1, 2.2, 2.4.1 and 2.4.2 in each place, and in the heading at paragraph 2.4, omit “EU”;

(4) [S.I. 2017/1206](#). There is an amendment not relevant to this instrument.

(5) [S.I. 2016/1101](#). There are amendments not relevant to this instrument.

(6) [S.I. 2016/1091](#).

- (l) in paragraph 2.3—
 - (i) in the first subparagraph (beginning “A notified body”)—
 - (aa) for “A notified” substitute “An approved”;
 - (bb) for “the notified”, in both place it occurs, substitute “the approved”;
 - (cc) for “harmonised” substitute “designated”;
 - (ii) in the third subparagraph (beginning “The manufacturer shall”), for “notified”, in both places, substitute “approved”;
- (m) in the heading at paragraph 2.4 and in paragraph 2.4.1, for “CE” substitute “UK”;
- (n) in paragraph 2.4.2—
 - (i) in the first subparagraph (beginning “The manufacturer shall”), for “national authorities” substitute “enforcement authority”;
 - (ii) in the second subparagraph (beginning “A copy of”), for “relevant authorities” substitute “enforcement authority”;
- (o) in paragraphs 3.1, 3.3.1(e), 3.3.2 in the first subparagraph, 3.5.1 and 3.5.2 in each place, and in the heading at paragraph 3.5, omit “EU”;
- (p) in paragraphs 3.3.1 in both places, 3.3.3 in the first subparagraph, 3.3.5 in both places, 3.4.2, 3.4.3, 3.4.4 in each place, 3.5.1, 3.6(c), 3.7 in each place, and in the heading at paragraph 3.4, for “notified” substitute “approved”;
- (q) in paragraph 3.3.3, in the second subparagraph (beginning “It shall presume”), for “harmonised” substitute “designated”;
- (r) in the heading at paragraph 3.5 and in paragraph 3.5.1, for “CE” substitute “UK”;
- (s) in paragraph 3.5.2—
 - (i) in the first subparagraph (beginning “The manufacturer shall”), for “national authorities” substitute “enforcement authority”;
 - (ii) in the second subparagraph (beginning “A copy of”), for “relevant authorities” substitute “enforcement authority”;
- (t) in paragraph 3.6, in the first sentence, for “national authorities” substitute “enforcement authority”;
- (u) in paragraph 3.7, in the first subparagraph (beginning “Each notified body shall inform its”) for “its notifying authority”, in both places, substitute “the Secretary of State”;
- (v) in paragraphs 4.1, 4.3.1(e), 4.3.2 in the first sentence, 4.5.1, 4.5.2 in each place, and in the heading at paragraph 4.5, omit “EU”;
- (w) in paragraphs 4.3.1 in both places, 4.3.3 in the first subparagraph, 4.3.5 in both places, 4.4.2, 4.4.3, 4.4.4 in each place it occurs, 4.5.1, 4.6(c), and 4.7 in each place it occurs, and in the heading at paragraph 4.4, for “notified” substitute “approved”;
- (x) in paragraph 4.3.3, in the second subparagraph (beginning “It shall presume”), for “harmonised” substitute “designated”;
- (y) in the heading at paragraph 4.5 and in paragraph 4.5.1, for “CE” substitute “UK”;
- (z) in paragraph 4.5.2—
 - (i) in the first subparagraph (beginning “The manufacturer”), for “national authorities” substitute “enforcement authority”;
 - (ii) in the second subparagraph (beginning “A copy of”), for “relevant authorities” substitute “enforcement authority”;

- (aa) in paragraph 4.6, in the first sentence, for “national authorities” substitute “enforcement authority”;
- (bb) in paragraph 4.7, in the first subparagraph (beginning “Each notified body shall inform its”), for “its notifying authority” in both places it occurs, substitute “the Secretary of State”;
- (cc) in paragraphs 5.1, 5.2, 5.3 in the first subparagraph, 5.4.1 in the first subparagraph, 5.6.1 and 5.6.2 in each place, and in the heading at paragraph 5.6, omit “EU”;
- (dd) in paragraph 5.3, in the first subparagraph (beginning “A notified body”), for “A notified” substitute “An approved”;
- (ee) in paragraphs 5.4.1 in both places and 5.5.2 in both places, for “harmonised” substitute “designated”;
- (ff) in paragraphs 5.4.1 in the second subparagraph, 5.4.2 in the first subparagraph, 5.5.2, 5.5.3, 5.5.4 in the second subparagraph, 5.5.5 in both places, 5.6.1, 5.6.2 in the third subparagraph in both places and 5.7 in both places, for “notified” substitute “approved”;
- (gg) in paragraph 5.4.2, in the second subparagraph (beginning “The manufacturer”), for “national authorities” substitute “enforcement authority”;
- (hh) in paragraph 5.5.4, in the third subparagraph (beginning “The manufacturer”), for “national authorities” substitute “enforcement authority”;
- (ii) in paragraph 5.5.5, for “competent authority” substitute “enforcement authority”;
- (jj) in the heading at paragraph 5.6 and in paragraph 5.6.1, for “CE” substitute “UK”;
- (kk) in paragraph 5.6.2—
 - (i) in the first subparagraph (beginning “The manufacturer”), for “national authorities” substitute “enforcement authority”;
 - (ii) in the second subparagraph (beginning “A copy of”), for “relevant authorities” substitute “enforcement authority”;
- (ll) in paragraphs 6.2, 6.2.2 in the first subparagraph and in point (c), 6.4 in the second and third subparagraphs, and 6.5.1, for “notified” substitute “approved”;
- (mm) in paragraph 6.2.1(d)—
 - (i) for “harmonised” in each place it occurs, substitute “designated”;
 - (ii) omit the words from “the references of which” to “Union”;
- (nn) in paragraphs 6.2.2(a) in both places and 6.5.2 in each place, and in the heading at paragraph 6.5, omit “EU”;
- (oo) in paragraph 6.2.2 in the second subparagraph (beginning “The manufacturer”), for “relevant national authorities” substitute “enforcement authority”;
- (pp) in paragraph 6.4—
 - (i) in the first subparagraph (beginning “A notified body”)—
 - (aa) for “A notified” substitute “An approved”;
 - (bb) for “harmonised” in both places, substitute “designated”;
 - (cc) for “the notified” substitute “the approved”;
 - (ii) in the fourth subparagraph (beginning “The manufacturer”), for “national authorities” substitute “enforcement authority”;
- (qq) in the heading at paragraph 6.5 and in paragraph 6.5.1, for “CE” substitute “UK”;
- (rr) in paragraph 6.5.2—

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, *The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019* ISBN 978-0-11-118040-2

- (i) in the first subparagraph (beginning “The manufacturer”), for “national authorities” substitute “enforcement authority”;
 - (ii) in the second subparagraph (beginning “A copy of”), for “relevant authorities” substitute “enforcement authority”.
- (47) In Annex IV, in the first sentence, for “CE” substitute “UK”;
- (48) In Annex V—
- (a) in the heading omit “EU”;
 - (b) in paragraph 5—
 - (i) for “Union harmonisation legislation” substitute “statutory requirements”;
 - (ii) omit “(reference to the other Union acts applied)”;
 - (c) in paragraph 6, for “harmonised” substitute “designated”;
 - (d) in paragraph 7, for “notified” substitute “approved”;
- (49) Omit Annex VI.