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STATUTORY INSTRUMENTS

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**2016 No. 1105**

**The Pressure Equipment (Safety) Regulations 2016**

**PART 5**

Market surveillance and enforcement

**Enforcement action in respect of pressure equipment or assemblies which are not in conformity and which present a risk E+W+S**

71.—(1) Where, in the course of an evaluation referred to in regulation 70, an enforcing authority finds that pressure equipment or an assembly is not in conformity with Part 2, it must, without delay, require a relevant economic operator to—

- (a) take all appropriate corrective action to bring the pressure equipment or assembly into conformity with those requirements within a prescribed period;
- (b) withdraw the pressure equipment or assembly within a prescribed period; or
- (c) recall the pressure equipment or assembly within a prescribed period.

(2) The enforcing authority must inform the [<sup>F1</sup>approved] body which carried out the conformity assessment procedure in respect of the pressure equipment or assembly of—

- (a) the respect in which the pressure equipment or assembly is not in conformity with Part 2; and
- (b) the action which the enforcing authority has required the relevant economic operator to take.

<sup>F2</sup>(3) .....

<sup>F2</sup>(4) .....

(5) Where the relevant economic operator does not take adequate corrective action within the prescribed period referred to in paragraph (1), the enforcing authority must take all appropriate measures to—

- (a) prohibit or restrict the pressure equipment or assembly being made available on the market in the United Kingdom;
- (b) withdraw the pressure equipment or assembly from the United Kingdom market; or
- (c) recall the pressure equipment or assembly.

(6) Where the enforcing authority is not the Secretary of State and it takes measures under paragraph (5), it must notify the Secretary of State of those measures without delay.

<sup>F3</sup>(7) .....

(8) The [<sup>F4</sup>notice in paragraph (6)] must include all available details about the pressure equipment or assembly and, in particular—

- (a) the data necessary for the identification of the pressure equipment or assembly;
- (b) the origin of the pressure equipment or assembly;

*Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W+S - England, Wales and Scotland extent N.I. - Northern Ireland extent*  
*Changes to legislation: There are currently no known outstanding effects for the The Pressure Equipment (Safety) Regulations 2016, Section 71. (See end of Document for details)*

- (c) the nature of the lack of conformity alleged and the risk involved;
  - (d) the nature and duration of the measures taken;
  - (e) the arguments put forward by the relevant economic operator; and
  - (f) whether the lack of conformity is due to either of the following—
    - (i) failure of the pressure equipment or assembly to meet relevant requirements relating to a risk;
    - (ii) shortcomings in a [<sup>F5</sup>designated] standard referred to in regulation 40 conferring a presumption of conformity.
- (9) In this regulation, “prescribed period” means a period which is—
- (a) prescribed by the enforcing authority; and
  - (b) reasonable and commensurate with the nature of the risk presented by the pressure equipment or assembly.

#### Extent Information

- E1** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F1** Word in reg. 71(2) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 24 para. 37(a)** (with Sch. 24 para. 41) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Reg. 71(3)(4) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 24 para. 37(b)** (with Sch. 24 para. 41) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Reg. 71(7) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 24 para. 37(b)** (with Sch. 24 para. 41) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 71(8) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 24 para. 37(c)** (with Sch. 24 para. 41) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in reg. 71(8)(f)(ii) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 24 para. 37(d)** (with Sch. 24 para. 41) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

#### Enforcement action in respect of pressure equipment or assemblies which are not in conformity and which present a risk **N.I.**

**71.—(1)** Where, in the course of an evaluation referred to in regulation 70, an enforcing authority finds that pressure equipment or an assembly is not in conformity with Part 2, it must, without delay, require a relevant economic operator to—

- (a) take all appropriate corrective action to bring the pressure equipment or assembly into conformity with those requirements within a prescribed period;
  - (b) withdraw the pressure equipment or assembly within a prescribed period; or
  - (c) recall the pressure equipment or assembly within a prescribed period.
- (2) The enforcing authority must inform the notified body which carried out the conformity assessment procedure in respect of the pressure equipment or assembly of—

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- (a) the respect in which the pressure equipment or assembly is not in conformity with Part 2; and
- (b) the action which the enforcing authority has required the relevant economic operator to take.

(3) Where the enforcing authority is not the Secretary of State and it considers that the lack of conformity referred to in paragraph (1) is not restricted to [<sup>F6</sup>Northern Ireland], it must notify the Secretary of State of—

- (a) the results of the evaluation; and
- (b) the actions which it has required the economic operator to take.

(4) [<sup>F7</sup>Subject to paragraph 4(A),] where the Secretary of State receives a notice under paragraph (3) or otherwise considers that the lack of conformity referred to in paragraph (1) is not restricted to [<sup>F8</sup>Northern Ireland], the Secretary of State must inform the European Commission and the other [<sup>F9</sup>relevant states] of—

- (a) the results of the evaluation; and
- (b) the action which the enforcing authority has required the economic operator to take.

[<sup>F10</sup>(4A) Paragraph (4) does not require the Secretary of State to inform the Commission or other relevant states where the lack of conformity extends only to any of England or Wales or Scotland.]

(5) Where the relevant economic operator does not take adequate corrective action within the prescribed period referred to in paragraph (1), the enforcing authority must take all appropriate measures to—

- (a) prohibit or restrict the pressure equipment or assembly being made available on the market in [<sup>F11</sup>Northern Ireland];
- (b) withdraw the pressure equipment or assembly from the [<sup>F12</sup>market in Northern Ireland]; or
- (c) recall the pressure equipment or assembly.

(6) Where the enforcing authority is not the Secretary of State and it takes measures under paragraph (5), it must notify the Secretary of State of those measures without delay.

(7) Where the Secretary of State receives a notice under paragraph (6), or takes measures under paragraph (5), the Secretary of State must notify the European Commission and the other [<sup>F13</sup>relevant states] of those measures without delay.

(8) The notices in paragraphs (6) and (7) must include all available details about the pressure equipment or assembly and, in particular—

- (a) the data necessary for the identification of the pressure equipment or assembly;
- (b) the origin of the pressure equipment or assembly;
- (c) the nature of the lack of conformity alleged and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the relevant economic operator; and
- (f) whether the lack of conformity is due to either of the following—
  - (i) failure of the pressure equipment or assembly to meet relevant requirements relating to a risk;
  - (ii) shortcomings in a harmonised standard referred to in regulation 40 conferring a presumption of conformity.

(9) In this regulation, “prescribed period” means a period which is—

- (a) prescribed by the enforcing authority; and

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- (b) reasonable and commensurate with the nature of the risk presented by the pressure equipment or assembly.

#### **Extent Information**

- E2** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

#### **Textual Amendments**

- F6** Words in [reg. 71\(3\)](#) substituted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), [Sch. 2 para. 6\(1\)\(a\)](#)
- F7** Words in [reg. 71\(4\)](#) inserted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), [Sch. 2 para. 6\(1\)\(c\)](#)
- F8** Words in [reg. 71\(4\)](#) substituted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), [Sch. 2 para. 6\(1\)\(a\)](#)
- F9** Words in [reg. 71\(4\)](#) substituted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), [Sch. 2 para. 6\(1\)\(b\)](#)
- F10** [Reg. 71\(4A\)](#) inserted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), [Sch. 2 para. 6\(1\)\(d\)](#)
- F11** Words in [reg. 71\(5\)\(a\)](#) substituted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), [Sch. 2 para. 6\(1\)\(e\)\(i\)](#)
- F12** Words in [reg. 71\(5\)\(b\)](#) substituted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), [Sch. 2 para. 6\(1\)\(e\)\(ii\)](#)
- F13** Words in [reg. 71\(7\)](#) substituted (N.I.) (31.12.2020) by [The Pressure Vessels \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/678\)](#), reg. 1(b), [Sch. 2 para. 6\(1\)\(b\)](#)

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**Changes to legislation:**

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