
STATUTORY INSTRUMENTS

2016 No. 1105

The Pressure Equipment (Safety) Regulations 2016

PART 5

Market surveillance and enforcement

Enforcement action in cases of formal non-compliance **E+W+S**

74.—(1) Where an enforcing authority makes one of the following findings in relation to pressure equipment or an assembly, it must require a relevant economic operator to remedy the non-compliance within a specified period—

- (a) the [^{F1}UK] marking—
 - (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulations 39 (Prohibition on improper use of [^{F1}UK] marking) and 49 ([^{F1}UK] marking);
- (b) where [^{F2}an approved] body is involved in the production control phase for the pressure equipment or assembly, the identification number of [^{F3}the approved] body—
 - (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulation 49;
- (c) the ^{F4}... declaration of conformity—
 - (i) has not been drawn up;
 - (ii) has been drawn up otherwise than in accordance with regulations 11 (^{F4}... declaration of conformity and [^{F5}UK] marking) and 48 (^{F4}... declaration of conformity);
- (d) the technical documentation is either not available or not complete;
- (e) the following information is absent, false or incomplete—
 - (i) the information specified in regulation 13 (labelling of pressure equipment and assemblies); or
 - (ii) the information specified in regulation 14 (instructions and safety information);
- (f) any other administrative requirement imposed on the manufacturer or importer under Part 2 has not been fulfilled.

(2) Until the specified period has elapsed, the enforcing authority must not commence proceedings under these Regulations, or take any other enforcement action under these Regulations, against the relevant economic operator in respect of the non-compliance concerned.

(3) Where the non-compliance referred to in paragraph (1) persists, the enforcing authority must take appropriate measures to—

- (a) restrict or prohibit the pressure equipment or assembly being made available on the market;
- (b) ensure that the pressure equipment or assembly is withdrawn; or

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 74. (See end of Document for details)

(c) ensure that the pressure equipment or assembly is recalled.

(4) Nothing in this regulation is to prevent an enforcing authority from taking action under regulation 71 (enforcement action in respect of pressure equipment or assemblies which are not in conformity and which present a risk)^{F6}... or 73 (pressure equipment or assemblies which are in conformity but present a risk).

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. 74\(1\)\(a\)](#) 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. 40\(a\)](#) (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** Words in [reg. 74\(1\)\(b\)](#) substituted (E.W.S.) (31.12.2020) by [S.I. 2019/696](#), [Sch. 24 para. 40\(aa\)\(i\)](#) (as inserted by [The Product Safety, Metrology and Mutual Recognition Agreement \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1246\)](#), regs. 1(3), [14\(b\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F3** Words in [reg. 74\(1\)\(b\)](#) substituted (E.W.S.) (31.12.2020) by [S.I. 2019/696](#), [Sch. 24 para. 40\(aa\)\(ii\)](#) (as inserted by [The Product Safety, Metrology and Mutual Recognition Agreement \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1246\)](#), regs. 1(3), [14\(b\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F4** Word in [reg. 74\(1\)\(c\)](#) 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. 40\(b\)](#) (with [Sch. 24 para. 41](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F5** Word in [reg. 74\(1\)\(c\)\(ii\)](#) 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. 40\(a\)](#) (with [Sch. 24 para. 41](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F6** Words in [reg. 74\(4\)](#) 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. 40\(c\)](#) (with [Sch. 24 para. 41](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

Enforcement action in cases of formal non-compliance **N.I.**

74.—(1) Where an enforcing authority makes one of the following findings in relation to pressure equipment or an assembly, it must require a relevant economic operator to remedy the non-compliance within a specified period—

- (a) the CE marking—
- (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulations 39 (Prohibition on improper use of CE marking) and 49 (CE marking);
- [^{F7}(aa) the UK(NI) indication—
- (i) has not been affixed, in contravention of regulation 49A; or
 - (ii) has been affixed other than in accordance with regulation 49A;]
- (b) where a notified body is involved in the production control phase for the pressure equipment or assembly, the identification number of the notified body—
- (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulation 49;
- (c) the EU declaration of conformity—

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Changes to legislation: There are currently no known outstanding effects for the The Pressure Equipment (Safety) Regulations 2016, Section 74. (See end of Document for details)

- (i) has not been drawn up;
 - (ii) has been drawn up otherwise than in accordance with regulations 11 (EU declaration of conformity and CE marking) and 48 (EU declaration of conformity);
 - (d) the technical documentation is either not available or not complete;
 - (e) the following information is absent, false or incomplete—
 - (i) the information specified in regulation 13 (labelling of pressure equipment and assemblies); or
 - (ii) the information specified in regulation 14 (instructions and safety information);
 - (f) any other administrative requirement imposed on the manufacturer or importer under Part 2 has not been fulfilled.
- (2) Until the specified period has elapsed, the enforcing authority must not commence proceedings under these Regulations, or take any other enforcement action under these Regulations, against the relevant economic operator in respect of the non-compliance concerned.
- (3) Where the non-compliance referred to in paragraph (1) persists, the enforcing authority must take appropriate measures to—
- (a) restrict or prohibit the pressure equipment or assembly being made available on the market;
 - (b) ensure that the pressure equipment or assembly is withdrawn; or
 - (c) ensure that the pressure equipment or assembly is recalled.
- (4) Nothing in this regulation is to prevent an enforcing authority from taking action under regulation 71 (enforcement action in respect of pressure equipment or assemblies which are not in conformity and which present a risk), 72 (EU safeguard procedure) or 73 (pressure equipment or assemblies which are in conformity but present a risk).

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

- F7** [Reg. 74\(1\)\(aa\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), reg. 1(2), **Sch. 2 para. 10(4)**

Status:

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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 74.