

**EXPLANATORY MEMORANDUM TO**  
**THE RECREATIONAL CRAFT REGULATIONS 2017**  
**2017 No. 737**

**1. Introduction**

1.1 This explanatory memorandum (EM) has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty. This EM is a revision of the one laid in Parliament on 12 July 2017.

**2. Purpose of the instrument**

2.1 The purpose of the instrument is to implement the revised EU Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

3.1 None.

*Other matters of interest to the House of Commons*

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

4.1 This instrument was made in order to implement the provisions of the revised EU Directive on recreational craft and personal watercraft (2013/53/EU), which entered into force on 18 January 2016.

4.2 This instrument replaced and repealed the current Regulations, (the Recreational Craft Regulations 2006 (SI 2006 No 1464 as amended).

4.3 The implementation of Directive 2013/53/EU was delayed primarily due to the need to ensure that the penalties in the Regulations would be effective, dissuasive and proportionate. Lengthy consideration was given to the options for penalties and to ensure the right balance between criminal and civil penalties. Further delay was caused by the consultation being held back due the purdah period for the referendum last year and then the laying of the Regulations by the purdah period for the election in May this year.

**5. Extent and Territorial Application**

5.1 This extent of this instrument applies to all of the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

## 6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and only amends primary legislation to allow for standard enforcement powers to be utilised, The Minister for Small Business, Consumers and Corporate Responsibility, Margot James, has made the following statement regarding Human Rights: “In my view the provisions of the Recreational Craft Regulations 2017 are compatible with the Convention rights.”

## 7. Policy background

### *What is being done and why*

- 7.1 The Recreational Craft Directive 94/25/EC regulated the safety of recreational craft and the exhaust and noise emissions of certain engines. It was reviewed and aligned with the New Legislative Framework (NLF). NLF consists of EU Decision 768/2008/EC on a Common Framework for the Marketing of Products and EU Regulation 765/2008/EC on requirements for accreditation and market surveillance relating to the marketing of products.
- 7.2 The NLF seeks to apply a number of principles across all Single Market Product Directives:
- to address the number of non-compliant products that reach the market through improved traceability and clearer requirements on manufacturers, importers and distributors to co-operate with enforcement authorities;
  - to address inconsistent performance between Notified Bodies through a reinforced notification process;
  - to address the complexity of the current legislation through alignment of commonly used definitions and certain aspects of the conformity assessment process.
- 7.3 The Recreational Craft Regulations 2017 (“the Regulations”) repeal and replace the Recreational Craft Regulations 2004 to implement Directive 2013/53/EU into UK law.
- 7.4 The Regulations copy out the relevant parts of the revised Directive.
- 7.5 The Department for Business, Innovation and Skills submitted an Explanatory Memorandum on a number of proposals for the revised Directive in 2011 which was cleared by both the Lords and Commons Scrutiny Committees:
- 13336/11 Proposal for a Directive of the European Parliament and of the Council on recreational craft and personal watercraft + ADD 2.**
- The House of Commons European Scrutiny Committee cleared the EM but found it politically important (report 41, session 10/12). The House of Lords European Union Committee cleared the EM (sift 1437, session 10/12).**
- 7.6 On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of the exit negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

## **8. Consultation outcome**

- 8.1 The Department for Business, Innovation and Skills carried out a stakeholder consultation on the proposals for the revised Directive which ran from 11 November 2011 until 11 February 2012, which was used to inform the negotiating position regarding the wishes of stakeholders. A second consultation carried out by its successor the Department for Business Energy and Industrial Strategy on the draft regulations and Impact Assessment ran from 8 December 2016 until 22 January 2017, to give stakeholders an opportunity to comment on the regulations, outline the enforcement arrangements and to seek further data and evidence to feed into our Impact Assessment. Responses to both consultations were generally supportive of the measure. Copies of the consultation responses are available at:  
<https://www.gov.uk/government/consultations/consultation-proposal-for-a-directive-on-recreational-craft-and-personal-watercraft>  
<https://www.gov.uk/government/consultations/recreational-craft-and-personal-watercraft-directive-201353eu-consultation-on-the-draft-uk-regulations>

## **9. Guidance**

- 9.1 BEIS has produced updated guidance to reflect the Regulations alongside the existing information on gov.uk

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies is judged to be low.  
10.2 The impact on the public sector is negligible.  
10.3 An Impact Assessment is submitted with this memorandum and is published alongside the Explanatory Memorandum on the legislation.gov.uk website

## **11. Regulating small business**

- 11.1 The legislation applies to activities undertaken by small businesses. The Government considers that the legislation is not expected to impose a disproportionate cost to small firms.

## **12. Monitoring & review**

- 12.1 The Recreational Craft Regulations 2017 provide that a review should be carried out every five years after the date of entry into force of the Regulations on 3 August 2017.

## **13. Contact**

- 13.1 Kevin Lane at the Department for Business, Energy and Industrial Strategy Tel: 020 7215 1774 or email: [Kevin.Lane@beis.gov.uk](mailto:Kevin.Lane@beis.gov.uk) can answer any queries regarding the instrument.