
STATUTORY INSTRUMENTS

1992 No. 711

The Gas Appliances (Safety) Regulations 1992

Preliminary

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Gas Appliances (Safety) Regulations 1992.

(2) These Regulations (except paragraph (3) below) shall come into force on 6th April 1992 and the said paragraph (3) shall come into force on 1st January 1996.

(3) The Gas Cooking Appliances (Safety) Regulations 1989(1) and, to the extent only that they apply to appliances, the Heating Appliances (Fireguards) (Safety) Regulations 1991(2) are hereby revoked.

Interpretation

2.—(1) In these Regulations, subject to the provisions of this paragraph and unless the context otherwise requires,—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974(3);

“the 1987 Act” means the Consumer Protection Act 1987;

“appliance” means an appliance burning gaseous fuel (that is to say, any fuel which is in a gaseous state at a temperature of 15 degrees Celsius at a pressure of 1 bar) used for cooking, heating, hot water production, refrigeration, lighting or washing and having, where applicable, a normal water temperature not exceeding 105 degrees Celsius and includes forced draught burners and heating bodies to be equipped with such burners but does not include an appliance specifically designed for use in an industrial process carried out on industrial premises;

“appropriate fee” has the meaning assigned to it in regulation 6;

“the Commission” means the Commission of the European Communities;

“the Community” means the European Economic Community;

“the Department” means the Department for Economic Development;

“the Directive” means Council Directive [90/396/EEC](#) on the approximation of the laws of Member States relating to appliances burning gaseous fuels(4);

“design documentation” means the documentation referred to in Annex IV of the Directive which is set out in Schedule 1;

“documentation of the quality system” shall be construed in accordance with regulation 14(3);

“EC certificate of conformity” means a certificate of conformity issued under regulation 17 or 18;

(1) [S.I. 1989/149](#).

(2) [S.I. 1991/2693](#).

(3) [1974 c. 37](#).

(4) [OJNo. L196, 26.7.1990, p. 15](#).

“EC declaration of conformity (guarantee of product or production quality)” shall be construed in accordance with regulation 16;

“EC declaration of conformity to type” shall be construed in accordance with regulation 21;

“EC mark” means a mark consisting of the symbol “CE” (of which a form is shown for the purpose of illustration in Schedule 2) followed by the last two figures of the year in which it is marked on or in relation to an appliance together with the identification symbol of the relevant notified body;

“EC type-examination certificate” means a certificate issued by a notified body under regulation 10(4) or, as the case may be, issued under a corresponding provision of the law of another member State;

“essential requirements” means the requirements in Annex I of the Directive which is set out in Schedule 3;

“the Executive” means the Health and Safety Executive;

“fitting” means a safety device, a controlling device or a regulating device, and includes a sub-assembly of an appliance, but does not include a forced draught burner or heating body to be equipped with such a burner which is separately marketed for trade use and is designed to be incorporated into an appliance or assembled to constitute an appliance;

“fitting certificate”, in relation to a fitting, means a certificate to the effect that it conforms with the provisions of the Directive which apply to it;

“normally used” shall be construed in accordance with regulation 7(2) and “used normally” in Annex I of the Directive (set out in Schedule 3) shall be construed accordingly;

“notified body”—

- (a) means a body which is approved by the Secretary of State and whose name is notified by him to the Commission and to other member States in accordance with regulation 5(1); and
- (b) in the definition of “EC mark” in this paragraph and in the expressions “a notified body” in regulations 21(3)(b) and 22(1)(a), “all other notified bodies” in regulations 10(6), 12(2)(b), 13(2)(b), 14(6)(b)(ii), 15(2)(b) and 23(3)(b), “another notified body” in regulations 11(2)(b) and 14(1), “any other notified body” in regulations 10(6) and 11(1) and “relevant notified body” in Schedule 2 also means a body which is approved for the purposes of the Directive by another member State and whose name is notified to the Commission and other member States pursuant to article 9(1) of the Directive;

“quality system” means a system of which the purpose is to ensure that appliances conform with the type as described in the EC type-examination certificate and satisfy the essential requirements which apply to them;

“safe” has the same meaning as in section 19(1) of the 1987 Act except that the references in that subsection to “risk” shall be construed as including references to any risk of—

- (a) injury or impairment to the health or safety of any domestic animal; and
- (b) damage to any property;

“supply”, in relation to an appliance or a fitting,—

- (a) includes offering to supply, agreeing to supply, exposing for supply and possessing for supply, and
- (b) except in regulation 4(4) or in relation to an appliance which has previously been put into service by any person, includes its first putting into service in the United Kingdom by the manufacturer or by the importer into the United Kingdom;

and cognate expressions shall be construed accordingly; and

“type” has the meaning assigned to it in paragraph (2)(a) of regulation 10 and “approved type” means a type approved by a notified body under that regulation or approved under a corresponding provision of the law of another member State.

(2) Any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations.

Essential requirements

3.—(1) For the purposes of these Regulations—

(a) subject to paragraph (2) below, an appliance or a fitting shall be taken to satisfy the essential requirements,—

(i) if it satisfies a national standard which implements the relevant harmonised standard; or

(ii) where there is no relevant harmonised standard, if it satisfies a national standard of which the text is communicated to the Commission pursuant to Article 5(2) of the Directive and which, pursuant to that provision, is notified by the Commission to the member States as being presumed to conform to the essential requirements; and

(b) a quality system shall be taken to satisfy the requirements of these Regulations if it complies with a national standard which implements the relevant harmonised standard.

(2) Paragraph (1)(a) above has effect in any case only where—

(a) the national standard in question relates to all the matters relevant to the essential requirements, and

(b) there are no reasonable grounds for suspecting that the appliance or fitting does not satisfy the essential requirements.

(3) In paragraph (1) above, “harmonised standard”,—

(a) in relation to appliances and fittings, means a technical specification—

(i) which is adopted by one or both of the European Committee for Standardisation and the European Committee for Electrotechnical Standardisation upon a remit from the Commission in accordance with Council Directive [83/189/EEC](#) of 28th March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽⁵⁾, as amended, and

(ii) of which the reference number is published in the Official Journal of the European Communities in pursuance of article 5(1)(a) of the Directive; and

(b) in relation to quality systems, means a technical specification which is adopted by one or both of the European Committee for Standardisation and the European Committee for Electrotechnical Standardisation.

Application of Regulations

4.—(1) Subject to the following provisions of this regulation, these Regulations do not apply to—

(a) any appliance which does not bear the EC mark; or

(b) any fitting in respect of which a fitting certificate has not been issued, and which, in either case, was supplied for the first time in the Community before 1st January 1992.

(2) Before 1st January 1996,—

(5) OJ No. L109, 26.4.1983, p. 8.

- (a) in the case of any appliance or fitting to which the Gas Cooking Appliances (Safety) Regulations 1989⁽⁶⁾ or the Heating Appliances (Fireguards) (Safety) Regulations 1991⁽⁷⁾ apply, these Regulations do not apply if the said Regulations of 1989 or 1991, as the case may require, are complied with; and
 - (b) in the case of any other appliance or fitting, these Regulations do not apply if—
 - (i) the general safety requirement (construed in accordance with subsections (2) and (3) of section 10 of the 1987 Act (general safety requirement)), or
 - (ii) section 6 of the 1974 Act (general duties of manufacturers etc as regards articles and substances for use at work),is complied with.
- (3) Before 1st January 1996, a person shall not be guilty of an offence arising out of a failure to comply with any provision of these Regulations,—
- (a) in the case of appliances and fittings within paragraph (2)(a) above, if the failure also constitutes an offence in relation to the Regulations of 1989 or 1991, as the case may be; and
 - (b) in the case of appliances and fittings within paragraph (2)(b) above, if the failure is also an offence under section 10 (general safety requirement) of the 1987 Act or (being a failure to discharge a duty under the said section 6 of the 1974 Act) under section 33(1)(a) of the 1974 Act (offences).
- (4) These Regulations do not have effect in relation to the supply by any person of an appliance which—
- (a) has at any time been put into service by another person; and
 - (b) is supplied by a person who supplies appliances in the course of any business, whether after repairing or reconditioning them or not.

Appointment and functions of notified bodies

5.—(1) The Secretary of State may approve one or more bodies to perform functions under these Regulations and, where he does so, shall notify its or their names to the Commission and to the other member States.

(2) Any such approval—

- (a) may be given for an unlimited period or for a specified period; and
- (b) may be given subject to conditions,

and the Secretary of State may withdraw an approval if the body ceases to satisfy or comply with any such condition.

(3) A notified body may—

- (a) carry out or secure the carrying out of examinations and tests and issue EC type- examination certificates in respect of models of appliances and fittings under regulation 10;
- (b) carry out or secure the carrying out of examinations and evaluations and approve quality systems under regulation 14;
- (c) carry out or secure the carrying out of examinations and issue EC certificates of conformity of appliances and fittings under regulations 17 and 18;

⁽⁶⁾ S.I. 1989/149.
⁽⁷⁾ S.I. 1991/2693.

- (d) carry out or secure the carrying out of examinations and issue EC certificates of conformity in respect of batches of appliances and fittings under regulation 18;
- (e) require an applicant to supply further specimens of the model to which an application under regulation 10 relates; and
- (f) do such other things as may be required or permitted under these Regulations.

Fees

6. A notified body may require a fee to be paid by the applicant in connection with the performance of functions under regulations 10, 14, 17, 18, 19 and 22 (in those regulations referred to as “the appropriate fee”) and the fee in every case shall not exceed the sum of—

- (a) the costs of the notified body of and in connection with the functions carried out or to be carried out by it under the Regulations (“the relevant service”); and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
 - (i) the character and extent of the work done or to be done by the notified body in providing the relevant service, and
 - (ii) the commercial rate normally charged on account of profit for that work or similar work.