
STATUTORY INSTRUMENTS

1995 No. 1629

CONSUMER PROTECTION

The Gas Appliances (Safety) Regulations 1995

<i>Made</i>	- - - -	<i>23rd June 1995</i>
<i>Laid before Parliament</i>		<i>27th June 1995</i>
<i>Coming into force</i>		
<i>(except regulation 1(3))</i>		<i>18th July 1995</i>
<i>regulation 1(3)</i>		<i>1st January 1996</i>

Whereas the Secretary of State has, in accordance with section 11(5) of the Consumer Protection Act 1987⁽¹⁾, consulted such organisations as appear to him to be representative of interests substantially affected by these Regulations, such other persons as he considers appropriate and the Health and Safety Commission:

And whereas the Secretary of State is a Minister designated⁽²⁾ for the purposes of section (2) of the European Communities Act 1972⁽³⁾ in relation to measures relating to safety as regards appliances burning gaseous fuels:

Now, therefore, the Secretary of State in exercise of powers conferred on him by section 11 of the said Act of 1987, and by section 2 of the said Act of 1972 and of all other powers enabling him in that behalf hereby makes the following Regulations:—

Preliminary

Citation, commencement, revocation and consequential amendment

1.—(1) These Regulations may be cited as the Gas Appliances (Safety) Regulations 1995.

(2) These Regulations (except paragraph (3) below) shall come into force on 18th July 1995 and the said paragraph (3) shall come into force on 1st January 1996.

(3) To the extent only that they apply to appliances or fittings to which these Regulations apply, the Gas Cooking Appliances (Safety) Regulations 1989⁽⁴⁾ and the Heating Appliances (Fireguards) (Safety) Regulations 1991⁽⁵⁾ are hereby disappplied.

(1) 1987 c. 43.
(2) S.I. 1991/755.
(3) 1972 c. 68.
(4) S.I. 1989/149.

(4) The Gas Appliances (Safety) Regulations 1992⁽⁶⁾ are hereby revoked provided that the said Regulations of 1992 shall continue to apply to gas appliances and fittings to which these Regulations do not apply by virtue of paragraph (4) of regulation 4 below.

(5) In Schedule 1 to the Provision and Use of Work Equipment Regulations 1992⁽⁷⁾, for paragraph 33 there shall be substituted, “Council Directive [90/396/EEC](#) on the approximation of the laws of the member States relating to appliances burning gaseous fuels (O.J. No. L196, 26.7.1990, p. 15) as amended by Article 10 of Council Directive [93/68/EEC](#) (O.J. No. L220, 30.8.1993, p.1).”

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⁽⁸⁾;

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

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978⁽⁹⁾

“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;

“CE Marking” means the CE conformity marking referred to in regulation 25 consisting of the initials “CE” taking the form of the specimen given in Schedule 2;

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

“the Community” means the European Community and other member States;

“the Department” means the Department of 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⁽¹⁰⁾; as amended by Council Directive [93/68/EEC](#)⁽¹¹⁾;

“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 19, 20 or 21;

“EC declaration of conformity (EC verification)” shall be construed in accordance with regulation 17;

“EC declaration of conformity (EC unit verification)” shall be construed in accordance with regulation 18;

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

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

(6) S.I. [1992/711](#).

(7) S.I. [1992/2932](#).

(8) [1974 c. 37](#).

(9) S.I. [1978/1039 \(N.I.9\)](#).

(10) O.J. No. L196, 26.7.1990, p.15.

(11) O.J. No. L220, 30.8.1993, p.220.

“EC declaration of conformity to type” shall be construed in accordance with regulation 23;

“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;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the protocol signed at Brussels on 17th March 1993⁽¹²⁾;

“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;

“member State” shall mean a state which is a contracting party to the EEA Agreement;

“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 and identification number is notified by him to the Commission and to other member States in accordance with regulation 5(1); and
- (b) in the expression “a notified body” in regulations 24(3)(b) and 24(1)(a), “all other notified bodies” in regulations 10(6), 12(2)(b), 13(2)(b), 14(6)(b)(ii), 15(2)(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 and identification number 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(5) 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

⁽¹²⁾ Protocol 47 and certain Annexes to the EEA Agreement were amended by Decision No. 7/94 of the EEA Joint Committee which came into force on 1st July 1994, (O.J. No. L160, 26.8.1994, p.1). Council Directive 93/68/EEC was added to Chapter XXII of Annex II to the EEA Agreement by item p in Annex 3 to the said Decision No. 7/94.

“type” has the meaning assigned to it in paragraph (2)(a) of regulation 10 and “approved type” means 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 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⁽¹³⁾, as amended, by Council Directive [88/182/EEC](#)⁽¹⁴⁾ and Commission Decision 92/400/EEC⁽¹⁵⁾; 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 CE Marking; or

(b) any fitting in respect of which a fitting certificate has not been issued,

⁽¹³⁾ O.J. No. L109, 26.4.1983, p.8.

⁽¹⁴⁾ O.J. No. L81, 26.3.1988, p.75.

⁽¹⁵⁾ O.J. No. L221, 6.8.1992, p.55.

and which in either case, was supplied for the first time in the Community before 1st January 1992;

- (c) any fitting, whenever manufactured, supplied for incorporation in appliances which appliances—
 - (i) do not bear the CE Marking, and
 - (ii) were supplied for the first time in the Community before 1st January 1996.
- (2) Before 1st January 1996,—
 - (a) in the case of any appliance or fitting to which the Gas Cooking Appliances (Safety) Regulations 1989⁽¹⁶⁾ or the Heating Appliances (Fireguards) (Safety) Regulations 1991⁽¹⁷⁾ 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 (or Article 7 of the 1978 Order) (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 said 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 or Article 7 of the 1978 Order) under section 33(1)(a) of the 1974 Act or of Article 31(1)(a) of the said 1978 Order (offences).
- (4) Until 1st January 1997, these Regulations do not apply to any gas appliance or fitting which is supplied and which complies with the provisions of the Gas Appliances (Safety) Regulations 1992.
- (5) These Regulations do not have effect in relation to the supply by any person of an appliance or fitting which—
 - (a) has at any time been put into service by another person, and
 - (b) is supplied by a person who supplies appliances or fittings 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.

- (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.

⁽¹⁶⁾ S.I. 1989/149.

⁽¹⁷⁾ S.I. 1991/2693.

(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 19 and 21;
- (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 20;
- (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, 19, 20, 21 and 24 (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.

Supply of gas appliances and fittings

Appliances and fittings to satisfy the essential requirements and to be safe

7.—(1) No manufacturer or his authorised representative established in the Community shall supply an appliance or a fitting which does not satisfy the essential requirements.

(2) No person shall supply an appliance which, when normally used, is not safe; and, in this paragraph, “normally used” in relation to use means use—

- (a) when correctly installed and regularly serviced in accordance with the manufacturer’s instructions referred to in paragraph 1(2) of Annex 1 of the Directive (set out in Schedule 3);
- (b) within the normal variations of gas quality and pressure; and
- (c) in accordance with its intended purpose or in a way which can reasonably be foreseen.

(3) No person shall supply—

- (a) an appliance to which the CE Marking has not been affixed; or
- (b) a fitting without a fitting certificate which has been issued, as required by these Regulations.

Obligation on suppliers of appliances and fittings

8. No manufacturer or his authorised representative established in the Community shall supply an appliance or a fitting in respect of which there is not in force at that time—

- (a) an EC type-examination certificate and an EC declaration of conformity to type made in accordance with regulation 23; or
- (b) an EC type-examination certificate and
 - (i) either—
 - (aa) an EC declaration of conformity (guarantee of production or product quality) made in accordance with regulation 16; or
 - (bb) an EC declaration of conformity (EC verification) made in accordance with regulation 17; and
 - (ii) either—
 - (aa) an EC declaration of conformity issued by a notified body under regulation 19 or 20; or
 - (bb) a fitting certificate issued under regulation 25(4); or
- (c) an EC declaration of conformity (EC unit verification) made in accordance with regulation 18 and an EC certificate of conformity issued by a notified body under regulation 21,

or a corresponding declaration issued by a manufacturer or his authorised representative established in the Community, or a corresponding certificate issued, under the law of another member State.

Application of regulations 7 and 8

9. Regulations 7 and 8 do not apply in any case in which the person placing an appliance or fitting on the market reasonably believes that it will not be put into service in the United Kingdom or in any other member State.

Certification and attestation

EC type-examination

10.—(1) Where an application to a notified body for EC type-examination is made under these Regulations by the manufacturer or by his authorised representative established in the Community (“the applicant”), the application shall be in writing and shall include—

- (a) the name and address of the manufacturer and, if the application is lodged by the authorised representative, his name and address;
- (b) a declaration that an application for EC type-examination in respect of the appliance or fitting has not been made to any other notified body; and
- (c) the design documentation.

(2) The applicant shall supply to the notified body—

- (a) an appliance or fitting which, so far as concerns its characteristics relevant to any type of risk relevant to the essential requirements, is representative of the production envisaged (“the type”); and
- (b) such further appliances or fittings as the notified body may reasonably require for the purposes of this regulation,

and shall undertake to pay the appropriate fee to the notified body.

(3) On an application made to it under paragraph (1) above the notified body shall—

- (a) examine the design documentation and check that the type has been manufactured in conformity with that documentation; and
- (b) carry out, or have carried out, examinations and tests to check whether the type satisfies the essential requirements.

(4) Where the notified body, after carrying out its duties under paragraph (3) above, is satisfied that the type complies with the essential requirements which apply to it, the notified body shall, on payment of the appropriate fee, issue to the applicant an EC type-examination certificate in respect of that type.

(5) An EC type-examination certificate shall identify the type to which it relates and—

- (a) shall state the conclusions of the EC type-examination carried out by the notified body;
- (b) shall indicate any conditions to be satisfied for its continued validity;
- (c) shall be accompanied by the data and descriptions necessary for identification of the approved appliance or fitting; and
- (d) if relevant to its compliance with the essential requirements, shall be accompanied by a description of its functioning,

and there shall be annexed to the certificate all relevant drawings and diagrams.

(6) The notified body shall forthwith inform all other notified bodies of—

- (a) each EC type-examination certificate issued by it; and
- (b) particulars of additions and amendments relating to documents already issued,

and, on request made by it, shall send to any other notified body a copy of any EC type-examination certificate that it has issued and, if any other notified body satisfies the notified body that there is good reason why they should be made available to it, copies of the annexes to the certificate and reports on the examinations and tests which the notified body has carried out.

(7) Where—

- (a) an EC type-examination certificate issued under this regulation is in force in respect of an approved type; and
- (b) the manufacturer or his authorised representative established in the Community proposes to make modifications or additions to the approved type which affect its conformity with the essential requirements or with the prescribed conditions for use of the appliance,

the manufacturer or such representative (instead of making an application under paragraph (1) above) may make an application in writing to the notified body which issued the certificate for approval of modifications or additions to the approved type; and the foregoing provisions of this regulation shall have effect in relation to such an application as they have effect in relation to an application for an EC type-examination.

Application to be made to a single notified body

11.—(1) No person shall make an application for EC type-examination under regulation 10 in respect of a type at any time when there is pending in respect of that type an application for EC type-examination made by any person to any other notified body.

(2) Where—

- (a) an application for EC type-examination is made to a notified body under regulation 10 in respect of a type; and

(b) to the knowledge of the notified body, an application to another notified body for an EC type-examination certificate in respect of that type is pending,
the notified body shall not consider, or shall not further consider, the application until the other application has been determined or withdrawn.

Refusal of EC type-examination certificate

12.—(1) If a notified body is minded to refuse to issue an EC type-examination certificate under regulation 10, it shall give the applicant the opportunity, within a reasonable period, of making representations as to why it should not be refused.

(2) Where the notified body, after considering any representations made in accordance with paragraph (1) above, refuses to issue an EC type-examination certificate or to extend its period of validity, it shall in writing—

- (a) inform the applicant and the Secretary of State of its decision and the grounds for its decision; and
- (b) inform all other notified bodies of the decision.

Withdrawal of EC type-examination certificate

13.—(1) If it appears to a notified body—

- (a) that—
 - (i) there has been a breach of any condition subject to which the body issued an EC type-examination certificate, and
 - (ii) the person to whom it was issued is unable or unwilling to effect a sufficient remedy; or
- (b) that appliances or fittings which conform with the type in respect of which an EC type-examination certificate has been issued do not satisfy the essential requirements,

the notified body may withdraw the certificate after giving the person to whom it was issued the opportunity of making representations within a reasonable period as to why it should not be withdrawn.

(2) Where a notified body, having considered any representations made under paragraph (1) above, withdraws an EC type-examination certificate, it shall, in writing,—

- (a) inform the person to whom it was issued and the Secretary of State of the withdrawal of the certificate and of its reasons for the withdrawal; and
- (b) inform all other notified bodies of its withdrawal.

Quality system approval

14.—(1) Where an application for approval of—

- (a) a quality system relating to production quality; or
- (b) a quality system relating to product quality,

is made to a notified body (whether the relevant EC type-examination certificate was issued by it or by another notified body), the application shall be made in writing and shall be accompanied by an undertaking by the manufacturer—

- (i) to carry out the obligations arising from the approved quality system;
- (ii) to maintain the approved quality system to ensure its continuing suitability and effectiveness; and

- (iii) to pay the appropriate fee,
- and such systems shall be designed to secure that appliances and fittings comply with the essential requirements which apply to them.
- (2) The manufacturer shall make available to the notified body—
 - (a) a copy of the EC type-examination certificate;
 - (b) all relevant information including in particular the documentation of the quality system; and
 - (c) the design documentation of the appliances or fittings.
 - (3) The documentation of the quality system shall be systematic and shall permit a clear interpretation to be made of the manufacturer's quality programme, plans, manuals and records and shall include, in particular, descriptions of—
 - (a) the manufacturer's quality objectives relating to production of the appliances or fittings;
 - (b) the manufacturer's management structures and the responsibilities of managers within that structure which are relevant to the quality of production;
 - (c) in the case of an application under paragraph (1)(a) above,—
 - (i) the manufacturing process, quality control and quality assurance techniques and systems employed in production of the appliances or fittings, and
 - (ii) the nature and frequency of examinations and tests carried out before, during and after the manufacture of appliances or fittings;
 - (d) in the case of an application under paragraph (1)(b) above, the nature of examinations and tests carried out after the manufacture of each appliance or fitting;
 - (e) the method employed to monitor attainment of the quality objectives referred to in subparagraph (a) above; and
 - (f) the method employed to monitor the effectiveness of the examinations and tests referred to in subparagraph (d) above.
 - (4) On an application made to it under paragraph (1) above the notified body shall take all necessary steps to examine and evaluate the quality system.
 - (a) (5) (a) if the notified body is minded to refuse to approve the quality system, it shall give the applicant the opportunity, within a reasonable period, of making representations as to why it should not be refused.
 - (b) Where the notified body, after considering any representations made to it in accordance with paragraph (a) above, refuses to approve a quality system, it shall in writing—
 - (i) inform the Secretary of State of its decision and the grounds for its decision; and
 - (ii) inform all other notified bodies of the decision.
 - (6) The notified body shall, in writing,—
 - (a) inform the manufacturer of—
 - (i) the results of the examination, and
 - (ii) the reasons for the decision;
 - (b) if it is satisfied that the quality system satisfies the relevant provisions of Annex II of the Directive, on payment of the appropriate fee,—
 - (i) notify the applicant of its approval of the quality system; and
 - (ii) inform all other notified bodies of its decision.
 - (7) Where—

- (a) an approval of a quality system under this regulation is in force; and
- (b) the manufacturer proposes to make modifications or additions to the approved quality system,

the manufacturer (instead of making an application under paragraph (1) above) may make an application in writing to the notified body which gave the approval for approval of modifications or additions to the quality system; and the foregoing provisions of this regulation shall have effect in relation to such an application as they have effect in relation to an application for approval of a quality system.

Withdrawal of quality system approval

15.—(1) If it appears to a notified body which approved a quality system under regulation 14 that the person to whom it was issued—

- (a) has failed to implement the approved system; and
- (b) is unable or unwilling to effect a sufficient remedy,

the notified body may withdraw the approval after giving the person to whom it was issued the opportunity of making representations within a reasonable period as to why it should not be withdrawn.

(2) Where the notified body, having considered any representations made under paragraph (1) above, withdraws a quality system approval, it shall, in writing,—

- (a) inform the person to whom it was issued and the Secretary of State of the withdrawal of the approval and of its reasons for the withdrawal; and
- (b) inform all other notified bodies of its withdrawal.

EC declaration of conformity (guarantee of product or production quality)

16. Where a manufacturer has implemented a quality system which has been approved under regulation 14 or under a corresponding provision of the law of another member State and the manufacturer or his authorised representative established in the Community is satisfied that an appliance or a fitting has been manufactured in conformity with an approved type,

- (a) in the case of an appliance,
 - (i) he may issue and if he does so shall retain a declaration that the appliance conforms with the relevant EC type-examination certificate and satisfies the relevant essential requirements (an “EC declaration of conformity (guarantee of product or production quality)”), and
 - (ii) if he does so, shall affix the CE Marking in accordance with regulation 25; and
- (b) in the case of a fitting, shall supply a fitting certificate.

EC declaration of conformity (EC verification)

17.—(1) Where an EC type-examination certificate has been issued in respect of a type and the manufacturer or his authorised representative established in the Community is satisfied that an appliance or fitting has been manufactured in accordance with an approved type and that the requirements of the Directive that apply to it are satisfied in relation to an appliance or fitting,—

- (a) in the case of an appliance,
 - (i) he may issue an EC declaration of conformity to type (EC verification), and
 - (ii) if he does so, shall affix the CE Marking in accordance with regulation 25;
- (b) in the case of a fitting, shall supply a fitting certificate,

but subject to regulation 19 or 20.

(2) An EC declaration of conformity to type (EC verification) may relate to more than one appliance and shall be retained by the manufacturer, or as the case may be his authorised representative established in the Community.

EC declaration of conformity (EC unit verification)

18.—(1) Where a manufacturer of an appliance or his authorised representative established in the Community is satisfied that the requirements of the Directive that apply to it are satisfied in relation to the appliance he may issue and if he does so shall retain an EC declaration of conformity (EC unit verification).

(2) If the manufacturer or his authorised representative established in the Community issues an EC declaration of conformity to type (EC Unit verification), he shall affix the CE Marking in accordance with regulation 25 but subject to regulation 21.

EC verification (individual appliances and fittings)

19.—(1) Where a manufacturer or his authorised representative established in the Community submits an appliance or fitting to a notified body for verification under this regulation together with an undertaking to pay the appropriate fee, the notified body shall examine the appliance or fitting and carry out tests to establish whether it satisfies the provisions of these Regulations which apply to it and in the case of an appliance, it conforms with the relevant EC type-examination certificate.

(2) If having carried out the examination, the notified body is satisfied that an EC certificate of conformity should be issued, it shall, on payment of the appropriate fee, issue an EC certificate of conformity (which may relate to one or more appliance or fitting and shall be retained by the manufacturer or his authorised agent established in the Community) and in the case of an appliance shall affix or cause to be affixed its identification number on each appliance.

EC verification by batch (statistical method)

20.—(1) Where a manufacturer or his authorised representative established in the Community submits a batch of appliances or fittings to a notified body for verification under this regulation together with an undertaking to pay the appropriate fee, the approved body shall carry out an examination and tests of appliances or fittings in the batch in accordance with paragraph (2) below to establish whether items in the batch—

- (a) conform with the relevant EC type-examination certificate; and
- (b) in the case of an appliance satisfy the provisions of these Regulations which apply to it.

(2) The notified body shall examine and carry out tests on appliances or fittings in the batch by reference to a sampling plan designed to ensure—

- (a) a standard quality level corresponding to a 95% probability of acceptance with a range of non-conformity between 0.5% and 1.5%; and
- (b) a limit quality corresponding to a 5% probability of acceptance with a percentage of non-conformity between 5% and 10%.

(3) If, having carried out the examination, the notified body is satisfied that an EC certificate of conformity should be issued it shall, on payment of the appropriate fee, issue an EC certificate of conformity which—

- (a) shall identify any appliance or fitting in the batch with which the notified body is not satisfied having regard to the foregoing provisions of this regulation; and
- (b) shall be retained by the manufacturer or his authorised representative established in the Community;

- (c) in the case of an appliance, affix or cause to be affixed its identification number.
- (4) In order to comply with the provision of paragraph (3)(c) above a notified body may authorise a manufacturer to affix its identification number during the manufacturing process.
- (5) Where the notified body issues an EC certificate of conformity in respect of a batch, the manufacturer or his authorised agent established in the Community—
 - (a) may supply any appliance or fitting in the batch other than one within subparagraph (b) below; and
 - (b) shall not supply any appliance or fitting which is identified in the EC certificate of conformity as one with which the notified body was not satisfied.
- (6) Where the notified body declines to issue an EC certificate of conformity in respect of a batch,—
 - (a) the notified body shall take all reasonable steps to ensure that no appliance or fitting in the batch is supplied by any person; and
 - (b) no person shall supply any appliance or fitting which was comprised in the batch.
- (7) If, having regard to the objectives of the Directive, it appears to the notified body that the number of batches of appliances or fittings to which an EC type-examination certificate applies and in respect of which it has declined to issue an EC certificate of conformity is unsatisfactory, it may suspend verification under this regulation in respect of appliances or fittings to which that EC type-examination certificate applies.
- (8) In this regulation, “batch” means a number of appliances or fittings all of which are of the same model, have the same design characteristics; and have been manufactured under the same conditions.

EC unit verification

21.—(1) Where a manufacturer or his authorised representative established in the Community desires that an EC certificate of conformity shall be issued by a notified body under this regulation, he shall—

- (a) inform the notified body of his desire;
- (b) provide the design documentation to the notified body; and
- (c) either—
 - (i) submit the appliance to the notified body, or
 - (ii) if the notified body so decides, make provision for the notified body to carry out its functions under this regulation at the place where the appliance is installed,

and shall undertake to pay the appropriate fee to the notified body.

(2) The notified body shall examine the appliance and carry out tests to establish whether it satisfies the essential requirements and the provisions of these Regulations which apply to it.

(3) If, having carried out the examination and tests, the notified body is satisfied that an EC certificate of conformity should be issued, it shall, on payment of the appropriate fee,—

- (a) issue an EC certificate of conformity, which shall be retained by the manufacturer or his authorised representative established in the Community; and
- (b) affix or cause to be affixed its identification number to the approved appliance.

Refusal to issue certificate of conformity

22.—(1) If a notified body is minded to refuse to issue an EC certificate of conformity under any of regulations 19, 20 and 21, it shall give the applicant the opportunity of making representations within a reasonable period as to why it should not be refused.

(2) Where a notified body, having considered any representations made in accordance with paragraph (1) above, refuses an EC certificate of conformity, it shall, in writing, inform the applicant of its decision and the grounds for its decision.

EC declaration of conformity to type (type-examination)

23.—(1) Where an EC type-examination certificate has been issued in respect of a type and the manufacturer or his authorised representative established in the Community is satisfied—

- (a) that an appliance or a fitting has been manufactured in conformity with that certificate; and
- (b) that the requirements of regulation 7 are satisfied in relation to the appliance or fitting,

subject to regulation 24, he may—

- (i) in the case of an appliance, issue an EC declaration of conformity to type; and
- (ii) in the case of a fitting, supply a fitting certificate.

(2) An EC declaration of conformity to type may relate to more than one appliance or fitting and shall be retained by the manufacturer or his authorised representative established in the Community.

(3) If the manufacturer or his authorised representative established in the Community issues an EC declaration of conformity to type he shall, in the case of an appliance, affix the CE Marking in accordance with regulation 25.

Surveillance by notified bodies

24.—(1) Subject to the following provisions of this regulation where a manufacturer or his authorised representative established in the Community issues an EC declaration of conformity to type or a fitting certificate under regulation 23, he shall—

- (a) appoint a notified body for the purposes of EC surveillance under the Directive, and
- (b) undertake to pay from time to time the appropriate fee for work done by a notified body under this regulation;

and the notified body shall carry out checks under this paragraph.

(2) Where a quality system was approved under regulation 14, the notified body which approved the quality system shall be the body to carry out EC surveillance under this paragraph.

(3) In carrying out EC surveillance under this regulation, the notified body,—

- (a) in the case of surveillance under paragraph (1) above, shall, at intervals of not more than one year, carry out sufficient random examinations and checks in order to ensure that appliances or fittings manufactured by the manufacturer conform to the relevant EC type-examination certificate and the relevant essential requirements; and
- (b) in the case of surveillance under paragraph (2) above,—
 - (i) shall, at intervals of not more than two years, carry out checks in order to ensure that the manufacturer is maintaining and applying the quality system; and
 - (ii) may, from time to time as it thinks fit, carry out visits at the places of manufacture, inspection, testing and storage and carry out, or have carried out, tests on appliances or fittings to check whether the manufacturer is maintaining and applying the quality system,

and shall, in each case, provide the manufacturer with a report on its findings.

(4) A manufacturer shall, upon request made by it (if it is not the notified body which made the report) provide to the notified body which issues the EC type-examination certificate a copy of any report made to him under paragraph (3) above and shall permit inspection of the original thereof.

(5) For the purpose of assisting the notified body to carry out EC surveillance under paragraph (2) above, the manufacturer shall, in respect of each appliance or fitting keep available for inspection by the notified body all necessary information, including—

- (a) the documentation of the quality system;
- (b) the design documentation of the appliance or fitting; and
- (c) the quality records.

(6) For the purposes of the foregoing provisions of this regulation, a duly authorised officer of the notified body responsible for EC surveillance may, on production if requested of his credentials, at all reasonable times enter any premises used for the purpose of manufacture CE, inspection, testing or storage of any appliance or fitting by or on behalf of the manufacturer.

(7) If the notified body is not satisfied that the appliances or fittings tested by it satisfy the requirements of the relevant EC type-examination certificate or of these Regulations, it shall give to the manufacturer a report advising him of the steps necessary to remedy the non-compliance and,—

- (a) if—
 - (i) it is the notified body which issued the EC type-examination certificate, consider whether it should exercise its powers under regulation 13, or
 - (ii) it is not the notified body which issued the EC type-examination certificate, notify the notified body which issued it; or
- (b) if—
 - (i) it is the notified body which approved the quality system, consider whether it should exercise its powers under regulation 15, or
 - (ii) it is not the notified body which approved the quality system, notify the notified body which issued it.

(8) Upon receipt of a notification under paragraph (7) above, it shall be the duty of a notified body to consider whether it should exercise its powers under regulation 13 or 15.

(9) A manufacturer shall, on demand, pay to the notified body the appropriate fee for work done by it under this regulation.

Affixing of ce marking etc

CE Marking to be affixed to appliances and fitting certificate to be supplied with fittings

25.—(1) In accordance with the preceding provisions of these Regulations, there shall be affixed by the manufacturer or his authorised representative established in the Community, to each appliance (or on a data plate securely affixed to the appliance) in a visible, easily legible and indelible form—

- (a) the CE Marking by way of confirmation—
 - (i) that the appliance conforms with a type in respect of which an EC type-examination certificate is in force in accordance with these Regulations, or
 - (ii) that an EC certificate of conformity has been issued by it in accordance with these Regulations in respect of the appliance;
- (b) the name (or, if it enables him to be identified, the trade name, trade mark or other identification symbol) of—
 - (i) the manufacturer of the appliance, if he is established in the Community; or
 - (ii) his authorised representative established in the Community, if he is not so established;
- (c) the trade name of the appliance;

- (d) the type of any electrical supply to be used in connection with the appliance;
- (e) the appliance category; and
- (f) the last 2 digits of the year in which the CE Marking was affixed.

(2) No person shall affix to an appliance any markings likely to deceive third parties as to the meaning and form of the CE Marking affixed in accordance with these Regulations or which reduces the visibility or legibility of the CE Marking so affixed.

(3) A data plate shall be so designed that it cannot be re-used.

(4) In the case of a fitting, the manufacturer or his authorised representative established in the Community shall, in accordance with the preceding provisions of these Regulations, issue a certificate (which may relate to a number of identical fittings and is, in these Regulations, called a “fitting certificate”) by way of confirmation that the fitting to which the certificate relates conforms with the provisions of these Regulations which relate to it; and a fitting certificate shall describe—

- (a) the characteristics of the fitting; and
- (b) the manner in which the fitting is to be incorporated into an appliance, or in which it and other fittings are to be assembled, in order to comply with the essential requirements,

and it shall be the duty of the manufacturer or his authorised representative established in the Community to supply a copy of the certificate with the fitting.

Conformity with other Directives

26.—(1) Subject to paragraph (2) below, where the appliance is the subject of Community Directives other than the Directive, in addition to the Directive, which provide among other things for the affixing of the CE Marking, the CE Marking, affixed in relation to the Directive shall indicate that the appliance conforms to the provisions of those other Community Directives.

(2) Where any of the said Community Directives referred to in paragraph (1) above allows the manufacturer during a transitional period, to choose which arrangements apply, the CE Marking shall indicate conformity only to the Community Directives applied by the manufacturer. In this case, particulars of the Community Directives applied, as published in the Official Journal of the European Communities, must be given in the documents, notices or instructions required by the Community Directives and accompanying such appliances.

Enforcement

Compliance notices

27.—(1) Except in the case of an appliance or fitting which in the opinion of the enforcement authority is likely to jeopardise the safety or health of any person, where an enforcement authority has reasonable grounds for suspecting that the affixing of the CE Marking to an appliance to which these Regulations apply or in the case of a fitting to which these Regulations apply, the issue of a fitting certificate, involves a contravention of these Regulations or any part of them, it may serve a notice (a “compliance notice”) on the manufacturer of that appliance or fitting or his authorised representative established in the Community and in such a case sections 13, 14, 16 or 17 of the 1987 Act or sections 21 or 22 of the 1974 Act shall not be applied until such a notice has been so served and the person upon whom it has been served has failed to comply with its requirements.

(2) Schedule 4 shall have effect in respect of a compliance notice.

Duties of enforcement authorities

28. Every authority and council on whom a duty is imposed by virtue of section 27 of the 1987 Act shall give immediate notice to the Secretary of State of—

- (a) any compliance notice served by it in respect of any appliance or fitting to which these Regulations apply;
- (b) any suspension notice served by it in respect of any appliance or fitting to which these Regulations apply;
- (c) any application made by it for an order for forfeiture of such an appliance or fitting; and
- (d) any other thing done in respect of any appliance or fitting for the purposes of, or in connection with, sections 14 to 17 of that Act.

Offences relating to domestic animals and to property

29.—(1) Any person who without reasonable excuse contravenes or fails to comply with regulation 7(1) or (2) in so far as it applies to injury or impairment to the health or safety of any domestic animal or damage to any property shall be guilty of an offence under this paragraph and punishable on summary conviction with imprisonment for not more than three months or with a fine of not more than level 5 on the standard scale.

(2) Where the commission by any person of an offence under paragraph (1) above is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

(3) Where an offence under this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed guilty of the offence.

(4) Where the affairs of a body corporate are managed by its members, paragraph (3) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Proceedings

30.—(1) A magistrates' court,—

- (a) in England and Wales, may try an information, and
- (b) in Northern Ireland, may try a complaint,

in respect of an offence committed under—

- (i) section 12 of the 1987 Act in relation to a contravention of these Regulations, or
- (ii) regulation 29,

if the information is laid or the complaint is made, as the case may require, within twelve months from the time when the offence is committed.

(2) In Scotland, summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed.

(3) Without prejudice to the provisions of paragraphs (1) and (2) above, regulation 31 and the provisions of Part IV of the 1987 Act, in so far as these Regulations apply in relation to such appliances as are mentioned in paragraph (4) below—

- (a) the Executive (or, for Northern Ireland, the Department) may make arrangements for the enforcement of these Regulations; and

- (b) the provisions of the 1974 Act or the 1978 Order mentioned in paragraph (5) below shall apply as if—
- (i) subject to paragraph (6) below, these Regulations were health and safety regulations and, accordingly, relevant statutory provisions within the meaning of the 1974 Act (or the 1978 Order),
 - (ii) any reference therein to an enforcing authority were a reference to the Executive (or the Department),
 - (iii) any reference therein to any provision of the 1974 Act (or the 1978 Order) were a reference to that provision as, and so far as, it is applied by this paragraph, and section 34(3) of the 1974 Act and Article 32(3) of the 1978 Order shall have effect with the substitution for the words “six months” of the words “twelve months”.
- (4) The appliances referred to in paragraph (3) above are—
- (a) appliances or fittings designed for use or operation, whether exclusively or not, by persons at work; and
 - (b) appliances or fittings designed for use, otherwise than at work, in non-domestic premises made available to persons as a place where they may use the appliances or fittings provided for their use there.
- (5) The provisions referred to in paragraph (3) above are section 18(6) and (7)(b), sections 19 to 26 (save for subsections (3), (4) and (6) of section 23), subsections (1)(e) to (h) and (o), (2), (2A), (3) (save for the words “Subject to any provision made by virtue of section 15(6)(d) or (e) or by virtue of paragraph 2(2) of Schedule 3”) and 4(e) of section 33, section 34(3), (4) and (5), sections 35 to 39 (save for subsection (3) of section 36) and section 42 of the 1974 Act and articles 2(3), 21 to 28, paragraphs (1)(e) to (l), (2), (4), (5)(d) and (e) and (6) of article 31, paragraphs (3) and (4) of article 32 and articles 33 to 36 of the Order.
- (6) Any criminal proceedings for a contravention of these Regulations brought by virtue of paragraphs (3) to (5) above shall be brought under section 12 of the 1987 Act or, where appropriate, under that section taken with regulation 29(1).
- (7) The Executive or the Department shall, where action has been taken by it to prohibit or restrict the supply of any appliance which bears the CE Marking or of any fitting in respect of which a fitting certificate has been issued, forthwith inform the Secretary of State of the action taken, and the reason for it, with a view to this information being passed by him to the Commission.

General

Requirement to give information about appliance which does not bear the CE Marking

31. A person who supplies

- (a) an appliance which does not bear the CE Marking; or
- (b) a fitting which is not accompanied by a fitting certificate,

shall, on his being required at a reasonable time to give such information, give to an enforcement authority, the Executive or the Department, or to any of its officers, all the information which he has about—

- (i) the date when the appliance or fitting was first supplied in the Community; and
- (ii) the basis on which the appliance is not so marked or the fitting is not accompanied by a fitting certificate.

Regulations to be treated as safety regulations within the meaning of the 1987 Act

32. Subject to regulation 29, these Regulations shall be treated for all purposes as if they were safety regulations within the meaning of section 45(1) of the 1987 Act.

23rd June 1995

Ferrers
Minister of State for Small Firms and Consumer
Affairs,
Department of Trade and Industry

SCHEDULE 1

Regulation 2(1)

ANNEX IV OF COUNCIL DIRECTIVE OF 29TH JUNE 1990 ON THE APPROXIMATION OF THE LAWS OF MEMBER STATES RELATING TO APPLIANCES BURNING GASEOUS FUELS

DESIGN DOCUMENTATION

The design documentation must contain the following information, in so far as it is required by the notified body for assessment:

- a general description of the appliance,
- conceptual designs and manufacturing drawings and diagrams of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of the above, including the operation of the appliances,
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements where the standards referred to in Article 5 have not been applied,
- test reports,
- manuals for installation and use.

Where appropriate, the design documentation must contain the following elements:

- attestations relating to the equipment incorporated in the appliance,
- attestations and certificates relating to the methods of manufacture and/or inspection and/or monitoring of the appliance,
- any other document making it possible for the notified body to improve its assessment.

SCHEDULE 2

Regulation 2(1)

SPECIMEN FORM OF CE MARKING TO BE PLACED ON OR TO ACCOMPANY APPLIANCES

The CE Marking consists of the initials “CE” as shown below. The CE Marking must be followed by the identification number of the notified body involved in the production control phase.

If the CE Marking is reduced or enlarged, the proportion given in the above graduated drawing must be respected.

The various components of the CE Marking must have substantially the same vertical dimension which may not be less than 5 mm.

SCHEDULE 3

Regulation 2(1)

ANNEX 1 OF COUNCIL DIRECTIVE OF 29TH JUNE 1990 ON THE APPROXIMATION OF THE LAWS OF MEMBER STATES RELATING TO APPLIANCES BURNING GASEOUS FUELS ESSENTIAL REQUIREMENTS

Preliminary remark

The obligations resulting from the essential requirements for appliances in this Annex also apply to fittings where the corresponding risk exists.

1 General Conditions

1.1 Appliances must be so designed and built as to operate safely and present no danger to persons, domestic animals or property when normally used as defined in Article 1(4) of this Directive.

1.2 When placed on the market, all appliances must:

- be accompanied by technical instructions intended for the installer,
- be accompanied by instructions for use and servicing, intended for the user,
- bear appropriate warning notices, which must also appear on the packaging.

The instructions and warning notices must be in the official language or languages of the member States of destination.

1.2.1 The technical instructions intended for the installer must contain all the instructions for installation, adjustment and servicing required to ensure that those operations are correctly performed and that the appliance may be used safely. In particular, the instructions must specify:

- the type of gas used,
- the gas supply pressure used,
- the flow of fresh air required,
for the combustion air supply,
to avoid the formation of dangerous unburned gas mixtures for
appliances not fitted with the device referred to in point 3.2.3,
- the conditions for the dispersal of combustion products,
- for forced draught burners and heating bodies intended to be equipped with such burners, their characteristics, the requirements for assembly, to assist compliance with the essential requirements applicable to finished appliances and, where appropriate, the list of combinations recommended by the manufacturer.

1.2.2 The instructions for use and servicing intended for the user must contain all the information required for safe use, and must in particular draw the user's attention to any restrictions on use.

1.2.3 The warning notices on the appliance and its packaging must clearly state the type of gas used, the gas supply pressure and any restrictions on use, in particular the restriction whereby the appliance must be installed only in areas where there is sufficient ventilation.

- 1.3 Fittings intended to be part of an appliance must be so designed and built as to fulfil correctly their intended purpose when incorporated in accordance with the instructions for installation.

The instructions for installation, adjustment, operation and maintenance must be provided with the fittings concerned.

2 Materials

- 2.1 Materials must be appropriate for their intended purpose and must withstand the technical, chemical and thermal conditions to which they will foreseeably be subjected.
- 2.2 The properties of materials that are important for safety must be guaranteed by the manufacturer or the supplier of the appliance.

3 Design and Construction

3.1 General

- 3.1.1 Appliances must be so constructed that, when used normally, no instability, distortion, breakage or wear likely to impair their safety can occur.
- 3.1.2 Condensation produced at the start-up and/or during use must not affect the safety of appliances.
- 3.1.3 Appliances must be so designed and constructed as to minimise the risk of explosion in the event of a fire of external origin.
- 3.1.4 Appliances must be so constructed that water and inappropriate air penetration into the gas circuit does not occur.
- 3.1.5 In the event of a normal fluctuation of auxiliary energy, appliances must continue to operate safely.
- 3.1.6 Abnormal fluctuation or failure of auxiliary energy or its restoration must not lead to an unsafe situation.
- 3.1.7 Appliances must be so designed and constructed as to obviate hazards of electrical origin. In the area in which it applies, compliance with the safety objectives in respect of electrical hazards laid down in Directive [73/23/EEC\(18\)](#) shall be equivalent to fulfilment of this requirement.
- 3.1.8 All pressurised parts of an appliance must withstand the mechanical and thermal stresses to which they are subjected without any deformation affecting safety.
- 3.1.9 Appliances must be so designed and constructed that failure of a safety, controlling or regulating device may not lead to an unsafe situation.
- 3.1.10 If an appliance is equipped with safety and controlling devices, the functioning of the safety devices must not be overruled by that of the controlling devices.
- 3.1.11 All parts of appliances which are set or adjusted at the stage of manufacture and which should not be manipulated by the user or the installer must be appropriately protected.
- 3.1.12 Levers and other controlling and setting devices must be clearly marked and give appropriate instructions so as to prevent any error in handling. Their design must be such as to preclude accidental manipulation.

3.2 Unburned gas release

- 3.2.1 Appliances must be so constructed that the gas leakage rate is not dangerous.

(18) O.J. No. L77, 26.3.1973, p.29 – as amended by Council Directive [93/68/EEC](#), O.J. No. L220, 30.8.93, p.220.

3.2.2 Appliances must be so constructed that gas release during ignition and re-ignition and after flame extinction is limited in order to avoid a dangerous accumulation of unburned gas in the appliance.

3.2.3 Appliances intended to be used in indoor spaces and rooms must be fitted with a special device which avoids a dangerous accumulation of unburned gas in such spaces or rooms.

Appliances which are not fitted with such devices must be used only in areas where there is sufficient ventilation to avoid a dangerous accumulation of unburned gas.

Member States⁽¹⁹⁾ may define on their territory adequate space ventilation conditions for the installation of such appliances, bearing in mind the features peculiar to them.

Large-scale kitchen appliances and appliances powered by gas containing toxic components must be equipped with the aforesaid device.

3.3 Ignition

Appliances must be so constructed that, when used normally:

- ignition and re-ignition is smooth,
- cross lighting is assured.

3.4 Combustion

3.4.1 Appliances must be so constructed that, when used normally, flame stability is assured and combustion products do not contain unacceptable concentrations of substances harmful to health.

3.4.2 Appliances must be so constructed that, when used normally, there will be no accidental release of combustion products.

3.4.3 Appliances connected to a flue for the dispersal of combustion products must be so constructed that in abnormal draught conditions there is no release of combustion products in a dangerous quantity into the room concerned.

3.4.4 Independent flueless domestic heating appliances and flueless instantaneous water heaters must not cause, in the room or space concerned, a carbon monoxide concentration likely to present a danger to the health of persons exposed, bearing in mind the foreseeable duration of their exposure.

3.5 Rational use of energy

Appliances must be so constructed as to ensure rational use of energy, reflecting the state of the art and taking into account safety aspects.

3.6 Temperatures

3.6.1 Parts of the appliance which are intended to be placed in close proximity to the floor or other surfaces must not reach temperatures which present a danger in the surrounding area.

3.6.2 The surface temperature of knobs and levers of appliances intended to be manipulated must not present a danger to the user.

3.6.3 The surface temperatures of external parts of appliances intended for domestic use, with the exception of surfaces or parts which are associated with the transmission of heat, must not under operating conditions present a danger to the user and in particular to children, for whom an appropriate reaction time must be taken into account.

⁽¹⁹⁾ The United Kingdom has not defined any space ventilation conditions of the nature mentioned.

3.7 Foodstuffs and water used for sanitary purposes

Without prejudice to the Community rules in this area, materials and components used in the construction of an appliance, which may come into contact with food or water used for sanitary purposes, must not impair their quality.

SCHEDULE 4

Regulation 27

SPECIMEN FORM OF COMPLIANCE NOTICE**1. The notice shall—**

- (a) specify the description of the appliance or fitting to which the notice relates;
- (b) state that the enforcement authority suspects that affixing of the CE Marking to the appliance, or in the case of a fitting the issue of a fitting certificate, involves a contravention of a provision or provisions of these Regulations and the reasons for that suspicion;
- (c) specify the provision or provisions referred to in paragraph (b) above;
- (d) require that person—
 - (i) to secure that any appliance or fitting to which the notice relates conforms as regards the provisions concerning the CE Marking, or issue of a fitting certificate, and to end the infringement within such period as may be specified by the notice; or
 - (ii) to provide evidence within that period to the satisfaction of the enforcement authority that all the provisions of these Regulations have been complied with; and
- (e) warn that person that if the non-conformity continues (or if satisfactory evidence has not been produced under sub-paragraph (ii) of paragraph (d) above) within the period specified in the notice, further action may be taken under these Regulations in respect of that appliance or fitting or an appliance or fitting of the same type supplied by that person.

2. The notice may include directions as to the measures to be taken by that person to secure conformity of that appliance or fitting with the provisions of these Regulations including different ways of securing conformity.

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations consolidate with amendments the Gas Appliances (Safety) Regulations 1992 (S.I.1992/711) (the “1992 Regulations”). They implement Council Directive [90/396/EEC](#) (O.J. No. L196, 26.7.1990, p. 15) on the approximation of the laws of the member States relating to appliances burning gaseous fuels (“the Gas Appliances Directive”), as amended by Council Directive [93/68/EEC](#) (O.J. No. L220, 30.8.1993, p. 1) (the “CE Marking Directive”).

The 1992 Regulations required the gas appliances and fittings to which they applied to conform with the essential requirements detailed in Schedule 3 and to be safe when normally used. Series-manufactured products were also required to undergo EC type-examination together with one of a

number of prescribed options for production control, at the choice of the manufacturer, conducted by third-party notified bodies (regulations 8, 10–18, 20–23). Single appliances or small numbers may be subject to EC unit verification (regulations 8 and 19). The 1992 Regulations are subject to transitional arrangements which applied until 31st December 1995, in which the manufacturer could choose to comply with the provisions of the 1992 Regulations which implemented the Directive or with the legislative provisions which applied before 1st January 1992 (regulation 4).

These Regulations re-enact those requirements (with certain minor amendments) (regulations 4(1) (c) and 4(5), 8 and 23).

Second-hand appliances are not covered by these Regulations but they retain in force, for second-hand gas appliances only, the Gas Cooking Appliances (Safety) Regulations 1989⁽²⁰⁾ and the Heating Appliances (Fireguard) (Safety) Regulations 1991⁽²¹⁾ (regulation 1(3)).

Those provisions of the CE Marking Directive which relate to gas appliances are implemented for the first time by these Regulations as follows—

- (a) provision is made to require manufacturers choosing the production monitoring procedures described as EC verification and EC unit verification to ensure and make a declaration to the effect that the appliance conforms with the Directive (an EC Declaration of Conformity) (EC verification or EC unit verification) (regulations 17 and 18);
- (b) the appliance category is required on the appliance or data plate to accompany the CE Marking (regulation 25(1));
- (c) other markings on the product likely to deceive third parties as to the meaning and form of CE Marking are prohibited (regulation 25(2));
- (d) during the transitional period of any Directives which might apply, the accompanying documentation must state which Directives have been applied (regulation 26(2));
- (e) the issuing of a compliance notice is provided for in respect of gas appliances to which the CE Marking has been unduly affixed, save where the gas appliance in question is likely to damage the health or safety of any person (regulation 27);
- (f) the CE Marking is redefined, to be followed by the identification number of the notified body involved in the production control phase (Schedule 2).

The Regulations come into force on 18th July 1995 but they do not apply to any gas appliances which are placed on the market before 1st January 1997 and which comply with the provisions of the 1992 Regulations (regulation 4(4)).

A Compliance Cost Assessment in respect of these Regulations is available and a copy can be obtained from the Consumer Affairs Division of the Department of Trade and Industry, 4.E.6 , 1 Victoria Street, London SW1H 0ET. A copy has also been placed in the Library of both Houses of Parliament.

⁽²⁰⁾ S.I. 1989/149.

⁽²¹⁾ S.I. 1991/2693.