

**EXPLANATORY MEMORANDUM TO**  
**THE RECREATIONAL CRAFT (AMENDMENT) REGULATIONS 2004**  
**2004 No.3201**

1. This explanatory memorandum has been prepared by Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This instrument has been made to correct errors in the text of the Recreational Craft Regulations 2004, SI 2004 No. 1464, (the “2004 Regulations”) which transposed Directive 2003/44/EC in the UK. The 2004 Regulations consolidated the provisions of the Recreational Craft Regulations 1996 and the Recreational Craft (Amendment) Regulations 1998 with the amendments required by Directive 2003/44/EC.

**3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments**

3.1 Because of the nature of the errors which have been identified, this instrument is being issued free of charge to any known purchaser of the 2004 Regulations and the availability of the instrument will be publicised on the Department’s website relating to the 2004 Regulations.

3.2 One of the errors relates to the reference to section 38 of the Consumer Protection Act 1987 which appears in Schedule 17 to the 2004 Regulations. That section has been repealed by the Enterprise Act 2002 and replaced by provisions in Part 9 of that Act. The reference to section 38 is now revoked by this instrument and the provisions of Part 9 applied to the 2004 Regulations by including a reference to those Regulations in the Enterprise Act 2002 (Part 9 Restriction on Disclosure of Information) (Specification) Order 2004 (S.I. 2004/693): the existing designation of the Recreational Craft Regulations 1996 (S.I. 1996/1353) for the purposes of Part 9 of the Enterprise Act 2002 has been maintained in that Order to the extent that those Regulations have not been revoked by the 2004 Regulations.

3.3 The amendment of the definition of “component” in the 2004 Regulations is made following the earlier comments of the Joint Committee and to provide the elucidation referred to in the Department’s response to those comments.

## 4. Legislative Background

4.1 The Recreational Craft Directive 94/25/EC, containing essential safety requirements for the design and construction of recreational craft and specific components, was implemented in the Recreational Craft Regulations 1996 (as amended) which came fully into effect in the United Kingdom on 16 June 1998. A minor amendment was made in 1998. The 1996 Regulations applied to recreational craft measuring between 2.5 and 24 metres in hull length, intended for sport and leisure purposes. On 12 October 2000, the European Commission presented a proposal for an amendment to the Directive 94/25/EC, which has since been adopted in Directive 2003/44/EC, extending the scope to include personal watercraft and adding further essential requirements covering exhaust emissions from propulsion engines for recreational craft and noise emissions from such craft. Both Directives are made under Article 95 of the EC Treaty.

4.2 The amendments made by Directive 2003/44/EC apply to the same variety of recreational craft as Directive 94/25/EC, whether powered by outboard engines, stern drive engines or inboard engines but with the addition of personal watercraft (propelled by a water jet pump).

4.3 The exhaust emission requirements take the form of limits of acceptable emissions of carbon monoxide, hydrocarbons, nitrogen oxides and, in the case of diesel engines, particulates. The noise emission requirements are presented in terms of maximum acceptable sound pressure levels determined from a pass-by test or by an alternative calculation method. As with other New Approach Directives of its kind, the manufacturer will be able to demonstrate compliance with those additional requirements of the amending Directive through the technical means provided in harmonised standards.

4.4 The objectives of Directive 2003/44/EC are primarily to remove technical barriers to trade arising out of Member States' differing requirements for personal watercraft as well as for exhaust and noise emissions, but are also to protect the health and well-being of citizens by reducing their overall exposure to pollutants and nuisance arising from the recreational craft. The effect of the amending Directive will be to apply the provisions of the original Directive not only to craft and propulsion engines coming new on to the market but also to existing craft and engines that undergo major modifications and conversions.

4.5 As indicated, the requirements of Directive 94/25/EC as amended by Directive 2003/44/EC have now been implemented by way of consolidation in the 2004 Regulations. Unfortunately, since making the 2004 Regulations it has transpired that there are some errors in the text which require correction by this instrument. A limited part of the 2004 Regulations are already in force but the remainder of the provisions will come into force on 1<sup>st</sup> January 2005; the corrections made by this instrument will also come into force on that date.

## **5. Extent**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

### **6.1 The Parliamentary Under Secretary of State for Science and Technology has made the following statement regarding Human Rights**

In my view, the provisions of the Recreational Craft (Amendment) Regulations 2004 are compatible with the Convention rights.

## **7. Policy background**

7.1 This instrument corrects errors in the 2004 Regulations by way of clarification of the term “component” in regulation 2(1) of the 2004 Regulations, regularisation of the references to Annexes in regulation 10(7)(c) and other places, as well as the application of the provisions of Part 9 of the Enterprise Act 2002 (in place of the revoked reference to section 38 of the Consumer Protection Act 1987) relating to disclosure of information by way of amendment of the relevant specification Order.

7.2 Having identified the errors which required correction, it was necessary for an amendment instrument to be made to come into force on 1<sup>st</sup> January 2005 i.e. the same timescale as the main provisions of the 2004 Regulations. However, bearing in mind the provisions of this instrument, it was not considered appropriate to have a further period of consultation or to produce an additional transposition note to supplement that prepared for the 2004 Regulations. In the circumstances, this instrument is being published free of charge and steps are being taken to draw it to the attention of relevant parties.

## **8. Impact**

8.1 In view of the nature of amendments a further Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies in addition to those identified for the 2004 Regulations. A Regulatory Impact Assessment (RIA) was carried out in connection with the amendments required to implement Directive 2003/44/EC in the 2004 Regulations and was scrutinised by both Houses. The original RIA, published in April 2001, was seen by the Commons European Scrutiny Committee and the Lords Select Committee. The original RIA identified that the Commission's proposal, as originally drafted, would result in considerable cost burden on SMEs (boat builders and engine builders) as well as individual boat owners. The UK negotiating strategy took this into account and sought to reduce costs as far as possible. This resulted in a considerable, overall, Policy Cost saving of some £90m. We are satisfied of the reasonable balance between costs and benefits identified in the revised RIA.

## **9. Contact**

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