

# **RCD 2013/53/EU GUIDELINES**

**GUIDE TO APPLICATION OF THE DIRECTIVE 2013/53/EU OF  
THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 20  
NOVEMBER 2013 ON THE HARMONISATION OF THE LAW OF  
THE MEMBER STATES RELATING TO RECREATIONAL CRAFT  
AND PERSONAL WATERCRAFT**

*2<sup>nd</sup> EDITION – January 2022*

**DIRECTIVE 2013/53/EU OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL**

**of 20 November 2013**

**on recreational craft and personal watercraft and repealing Directive  
94/25/EC**

**(Text with EEA relevance)**

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**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1**  
**Subject matter**

This Directive lays down requirements for the design and manufacture of products referred to in Article 2(1) and rules on their free movement in the Union.

Directive 2013/53/EU (Recreational Craft Directive, RCD or the Directive)<sup>1</sup> is a full harmonisation Directive in the sense that it supersedes existing national legislation in the field covered: watercraft (recreational craft and personal watercraft), propulsion engines or designated components may only be placed on the market if they are in conformity with the Directive's requirements and, on the other hand, Member States may not impede free circulation or the marketing of compliant products.

Recreational Craft Directive carries specific obligations for natural or legal persons who make the products in scope available on the market and/or puts into service be it the economic operator (manufacturers, authorized representatives, importers and distributors) or "non-economic operator" (private importers, persons who modifies or converts the products, builders of boat for own use).

The Directive is applicable to all forms of supplying products intended to be made available on the Union market, regardless of the selling technique. So, it includes also distance selling and selling through electronic means (internet, e-commerce etc.). See Chapter 2.1 "product coverage" of the "The 'Blue Guide' on the implementation of EU product rules" for further guidance. [http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item\\_id=7326](http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=7326)

Chapter I. of the Directive introduces the general provisions of the Recreational Craft Directive which includes articles on scope, definitions, essential requirements and conditions of placing the products on the Union market or putting it into service and its free movement.

**Article 2**  
**Scope**

1. This Directive shall apply to the following products:

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<sup>1</sup> OJ L 354, 28.12.2013, p. 90.

**(a) recreational craft and partly completed recreational craft;**

The scope and the objectives of the Directive remain unchanged from the previous Directive 94/25/EC, to ensure free movement of products in scope in the Union territory. Therefore, the RCD provides for harmonised requirements and procedures to establish compliance for products placed on the market or put into service, that are either products manufactured in the EU/EEA or products imported from a third country (irrespective whether new or second-hand).

Recreational craft are defined in Article 3(2) of the Directive.

Design and construction requirements for recreational craft and partly completed recreational craft are specified in Annex I.A of the Directive. Requirements for exhaust and noise emissions of recreational craft are provided by Annexes I.B and I.C of the Directive.

A partly completed recreational craft is an incomplete craft consisting of a hull or a hull and fitted components (parts of the craft other than Annex II components). It might be possible that components, as referred to in Annex II of the Directive, are installed on a partly completed recreational craft. These Annex II components are subject to conformity assessment, as explained in the comments to Article 2(1) (c) below. Boat kits consisting of panels and parts to make the boat, including its hull, typically of wood or metal, may also be considered as partly completed recreational craft (see note on kit boats below).

Partly completed recreational craft must fulfil all the relevant essential safety, health, environmental protection requirements of the Directive when made available on the market. It is destined to be completed by another party who will be regarded as the manufacturer and who will need to ensure that completed craft meet the essential requirements.

The product becomes a completed recreational craft when placed on the market and/or put into service as a recreational craft. The final responsibility of this action lies with the one who places it on the market or puts it into service.

Watercraft, i.e. recreational craft and personal watercraft, which after their completion have been partly dismantled (e.g. having their propulsion engines taken out), and are placed on the market as such, cannot be considered as partly completed craft. For further clarification, see the comments to the provisions on post construction assessment under Article 23 and set out in Annex V of the Directive.

**Note: Kit Boats**

Kit boats are considered as partly completed watercraft purchased from a manufacturer where all parts necessary to complete the construction of the boat in compliance with the essential requirements of the Directive are provided. When the kit boat manufacturer has supplied all parts necessary for completion, as defined above, CE marking shall be fixed accordingly by the person placing the product on the market or putting it into service. Compliance with the Directive shall in these cases be

ensured for all variations available from the manufacturer, especially those that would change the stability characteristics from the basic model e.g. variations in mast configuration and rigging.

When a kit boat is bought by its end user, from the kit boat manufacturer, and completed not in accordance with the kit manufacturer's instructions but to the “desires” of the end user, the party that undertakes the completion of the kit boat is considered to assume the responsibility as manufacturer for the watercraft's conformity with the Directive before placing such watercraft on the market or putting it into service.

The above does not absolve the kit manufacturer of his responsibilities, within the modular system, as detailed under Article 19 (1) of the Directive.

**(b) personal watercraft and partly completed personal watercraft;**

Personal watercraft (PWC) is defined in Article 3(3) of the Directive.

Design and construction requirements for personal watercraft and partly completed personal watercraft are specified in Annex I.A of the Directive. Requirements for exhaust and noise emissions of personal watercraft are provided by Annexes I.B and I.C of the Directive.

A partly completed personal watercraft is an incomplete craft consisting of a hull or a hull and fitted components (other than Annex II components). It might be possible that components, as referred to in Annex II, are installed on a partly completed personal watercraft. These Annex II components are subject to conformity assessment, as explained in the comments to Article 2(1)(c) below.

Application of the actual harmonised standard EN ISO 13590 Personal watercraft – Construction and system installation requirements provides, in accordance with Article 14 of the Directive, the presumption of conformity with the Directive's relevant design and construction requirements for personal watercrafts, in as far as those requirements are covered by this standard. Note however that the actual EN ISO 8666 Small craft – principal data remains the harmonized standard to be referenced for hull length measurement, and Commission Implementing Regulation on Watercraft Identification (Commission Implementing Regulation (EU) 2017/1)<sup>2</sup>

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017R0001> together with a harmonised standard for the craft identification.

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<sup>2</sup> OJ L 1, 4.1.2017, p. 1-5.



(c) components listed in Annex II when placed on the Union market separately, hereinafter referred to as ‘components’;

Components falling in scope of the Directive are listed in Annex II. The components are:

- Ignition-protected equipment for inboard and sterndrive SI (petrol) engines & petrol tank spaces
- Start-in-gear protection devices for outboard engines
- Steering wheels, steering mechanisms and cable assemblies
- Fuel tanks intended for fixed installations and fuel hoses
- Prefabricated hatches, and port lights.

Article 2(1)(c) of the Directive indicate that the Directive’s requirements apply to all components referred to in Annex II when they are placed separately on the Union market as components and when intended for installation on or in recreational craft and personal watercraft. It means that these components are subject to conformity assessment and CE marking before being placed on the market separately with the intention to be installed in watercraft.

When components are produced by watercraft manufacturer and installed in the watercraft which he is manufacturing, such components are not considered to be placed on the market separately, as they are covered by the DoC and technical documentation of watercraft issued by the manufacturer and therefore the provisions of Article 2(1)(c) are not applicable to such components. It means, for example, that a watercraft manufacturer using conformity assessment module A will not have to separately require third party assessment for components which they have manufactured.

When components are produced by engine manufacturers and part of integrated propulsion systems only, these components are not considered to be placed on the market separately as they are covered by the DoC of engine issued by the manufacturer and therefore the provision of Article 2(1)(c) are not applicable to such components.

(d) propulsion engines which are installed or specifically intended for installation on or in watercraft;

Propulsion engines are defined in Article 3(5) of the Directive.

They are subject to requirements of Annex I.A.5 of the Directive with respect to their installation on watercraft and Annex I.B of the Directive with respect to engine’s identification, exhaust emission requirements, durability and requirements on owner’s manual.

The exhaust emission requirements specify limit values for the quantities of specified exhaust pollutants from propulsion engines that may not be exceeded when these

engines are in normal use. The exhaust emission requirements therefore apply only to engines installed or specifically intended for installation for propulsion of the recreational craft or personal watercraft.

An engine installed or intended for installation to be used both for on-board generator and for propulsion purposes, for example diesel electric systems combined for propulsion and general electric generation, falls within the scope of the Directive.

An engine installed or intended for installation to be used exclusively for operating as an on-board generator, is outside of the scope of the Directive provided that there are batteries between the generator and the electric motor then it is only a generator charging the batteries. If the generator serves primarily to supply electricity to the motor, then the generator is in scope.

Whenever a watercraft with an installed propulsion engine is placed on the market or put into service that watercraft only complies with the Directive if it is ensured that its propulsion engine complies with the exhaust emission requirements of the Directive.

(e) propulsion engines installed on or in watercraft that are subject to a major engine modification;

Major engine modification is defined by Article 3(6) of the Directive. Propulsion engines that are modified to the extent as defined in Article 3(6) must comply with the exhaust emission requirements of the Directive when they are made available on the market or put into service after modification.

(f) watercraft that are subject to major craft conversion

Major craft conversion is defined in Article 3(7) of the Directive. Watercraft is subject to major craft conversion when it changes the means of propulsion of the watercraft, involves a major engine modification, or alters the watercraft to such an extent that it may not meet the applicable essential safety and environmental requirements laid down in the Directive; A watercraft subject to a major craft conversion as defined in Article 3(7) must still comply with the requirements of the Directive when it is made available or put into service after conversion. Such converted watercraft shall be subject to post-construction assessment according to the Article 19(3) of the Directive. The provision does not apply to watercraft placed on the market or put into service before 16<sup>th</sup> of June 1998.

2. This Directive shall not apply to the following products:

(a) with regard to the design and construction requirements set out in Part A of Annex I:

Article 2(2)(a) of the Directive contains a list of watercraft which is excluded from the scope of the Directive with regard to the design and construction requirements. Whilst it is for the manufacturer to decide whether or not a watercraft is eligible under one of these exemptions or not, advice may be sought from the competent Member State administration to check the validity of the exemption mainly in case of innovative products.

(i) watercraft intended solely for racing, including rowing racing boats and training rowing boats, labelled as such by the manufacturer;

This exclusion concerns watercraft intended solely for racing and designated as such by their manufacturer.

Racing boats which are characterised by their design and their racing profile would not meet the design and construction requirements of the Directive. A manufacturer who decides, to label the watercraft “intended solely for racing” is stating the intended prime purpose of the watercraft. Such labelling shall be clearly visible as affixed to the watercraft. If, in the future this craft is placed on the market and/or put into service no longer as a racing craft the watercraft then needs to meet the requirements of the Directive as this would constitute the “first placing on the market and/or putting into service” as a watercraft.

(ii) canoes and kayaks designed to be propelled solely by human power, gondolas and pedalos;

This exclusion concerns canoes, kayaks, gondolas and pedalos, which by their design are incompatible with some of the essential requirements when propelled by human power.

Canoes and kayaks are usually small lightweight narrow watercraft having a length / width ratio of at least 3:1, typically pointed at both ends, designed to be propelled solely by human power.

If canoes, kayaks, gondolas and pedalos are so designed and constructed that they can be fitted with a propulsion engine or with sails and placed on the market and/or put into service as such, they are covered by the Directive.

(iii) surfboards designed solely to be propelled by wind and to be operated by a person or persons standing;  
(iv) surfboards;

Surfboards are considered to be watercraft carrying no more than 2 persons sitting, standing or kneeling on the watercraft's hull.

Powered surfboards are covered by the Directive. Surfboards, with internal combustion propulsion engine as defined in the Article 3(5), are considered to be a personal watercraft if they meet the definition of personal watercraft as defined in the Article 3(3). Surfboards with electric propulsion engines and longer than 2.5 m are considered to be a recreational craft as defined in the Article 3(2), therefore they are covered by the Directive with exception of the exhaust emission requirements set out in Annex I.B.2.

(v) original historical watercraft and individual replicas thereof designed before 1950, built predominantly with the original materials and labelled as such by the manufacturer;

This provision excludes craft designed before 1950 from the scope of the Directive. In addition this exclusion is also intended to exclude watercraft and/or types or classes of watercraft which were designed or developed before 1950 and of which replicas are individually constructed predominantly but not exclusively using the original materials. Builders of historical craft are able to build the same authentic bygone design, one craft after another.

These craft are still unique and individual, when built using methods and materials consistent with the original design, and retain their aesthetic charm and characteristics. In this respect, predominantly means using the original material for both the hull and the deck, but allowing contemporary use of materials e.g. plywood instead of solid timber, laminated frames, modern adhesives, paints, sealant and fastenings.

It is noted that some classes of craft that were designed before 1950 that were originally made exclusively of wood are now produced of modern plastics. These contemporary constructions are considered to fall within the scope of the Directive as the criteria regarding “predominantly with the original materials” is not fulfilled.

Member States may have individual craft designs that are peculiar to that State or region thereof, e.g. “pattini” in Italy or “treehandiri” in Greece. These boats are generally:

- of a design pre-dating 1950,
- built in specialist yards of original materials.

Of the two indents above, the first takes predominance. The Member State must be satisfied that such an exclusion from the Directive would not give carte blanche for series production.

(vi) experimental watercraft, provided that they are not placed on the Union market;

This exclusion concerns experimental watercraft. Such watercraft is considered for testing of certain innovative characteristics on the watercraft and may only be placed on the market if their design and construction is subsequently assessed in conformity with the Directive.

(vii) watercraft built for own use, provided that they are not subsequently placed on the Union market during a period of five years from the putting into service of the watercraft;

This exclusion concerns watercraft substantially built by their future user, provided that they are not placed on the market in the EU within five years from being put into service. This does not preclude the contracting, by the builder, of specialists in certain aspects of the fitting out of the craft e.g. electrical or electronic engineers.

A member of the general public building his own watercraft (in his garage or garden, for example), from materials bought on the open market is deemed to be “building a watercraft for his own use”. This watercraft lies outside the scope of the Directive and does not require compliance with the essential requirements and thus CE marking. If for whatever reason this situation changes then the provisions detailed above would be seen to apply.

It should be made clear that a private person who enters into a contractual arrangement with a professional company, yard or individual constructor to build a one off watercraft (be-spoke) is deemed to have entered into an arrangement where there will be a transfer of ownership. Such a watercraft is deemed to fall under the Directive and will have to comply with the essential requirements of the Directive and applicable conformity assessment procedures. Watercraft built for own use have the concept that a person is building their own watercraft and not having it built by others.

If, for whatever reason, a watercraft built for own use is intended to be placed on the Union market, whether completed or partly completed, within the 5 year period, then conformity assessment by a person or persons fulfilling the role of manufacturer would be required in accordance with the provisions of Article 19(4) of the Directive by post-construction assessment, according Article 23 of the Directive. These persons would take the responsibility for the equivalent conformity of the design, construction and environmental performance of the watercraft, and any modification to it necessary to achieve this equivalent conformity. The assessment of the equivalent conformity with essential requirements of the Directive requires the involvement of a notified body (see comments to Annex V of the Directive).

Kit boat cannot be considered as a watercraft built for own use.

(viii) watercraft specifically intended to be crewed and to carry passengers for commercial purposes, without prejudice to paragraph 3, regardless of the number of passengers;

This exclusion concerns watercraft specifically intended and designed as such by their manufacturer to be crewed and to carry passengers for commercial purposes. In contrary, the watercraft which are crewed and used for charter, sports or leisure purposes, are not excluded.

(ix) submersibles;

(x) air cushion vehicles;

(xi) hydrofoils;

These three categories of products are excluded from scope of the Directive, as their physical characteristics are not consistent with the essential requirements. Similar watercrafts which meet these considerations are also considered to lie outside the scope of the Directive.

#### Hydrofoils

Hydrofoil is understood as "Hydrofoil watercraft". A hydrofoil watercraft is a watercraft, the hull of which is designed to be supported completely clear above the water surface in non-displacement mode by hydrodynamic forces generated on foils. Watercraft with foils, that provide only partial lift, are included in the scope of the Directive.

(xii) external combustion steam powered watercraft, fuelled by coal, coke, wood, oil or gas;

Where a watercraft uses a steam engine(s) as described above for propulsion, it is excluded from the scope of the Directive with regard to the design and construction requirements. An external combustion steam engine used for propulsion is excluded from the emission requirements as it is not an internal combustion engine (see Article 3(5) of the Directive for the definition of 'propulsion engine').

(xiii) amphibious vehicles, i.e. wheeled or track-laying motor vehicles, which are able to operate both on water and on solid land;

An amphibious vehicle is a wheeled or track-laying motor vehicle. It differs from an amphibious watercraft in sense that it is a vehicle to be predominantly used on solid land but has the ability to overcome a water obstacle. The wheels or tracks can be foldable or fixed. The vehicle is able to operate and provide its own propulsion both on water and on solid land.

(b) with regard to exhaust emission requirements set out in Part B of Annex I:

The following propulsion engines are excluded from the exhaust emission requirements of the Directive.

(i) propulsion engines installed or specifically intended for installation on the following products:

- watercraft intended solely for racing and labelled as such by the manufacturer;

Engines for propulsion of racing watercraft are excluded from the exhaust emission requirements of the Directive provided that the racing watercraft are marked with a label stating that they are 'intended solely for racing' (see also comments to Article

2(2).(a)(i) of the Directive). Such engines would typically be tuned or otherwise race-prepared for use in competitions for engine-powered racing watercraft.

- experimental watercraft, provided that they are not placed on the Union market;
- watercraft specifically intended to be crewed and to carry passengers for commercial purposes,
  - without prejudice to paragraph 3, regardless of the number of passengers;
- submersibles;
- air cushion vehicles;
- hydrofoils;
- amphibious vehicles, i.e. wheeled or track-laying motor vehicles, which are able to operate both on water and on solid land;

(ii) original and individual replicas of historical propulsion engines, which are based on a pre-1950 design, not produced in series and fitted on watercraft referred to in points (v) or (vii) of point (a);

Individual replica engines based on pre-1950 designs are excluded from the exhaust emission requirements provided that they are intended to be fitted to historical watercraft or watercraft built for own use as referred by Article 2(2)(a)(v) and (vii) of the Directive. In this context 'individual replicas' may be built one after another and still excluded, provided that they are built to order and not series produced.

Historical engines built prior to 1950 are excluded from the scope of application of the exhaust emission requirements. Note that propulsion engines built after 1950 and first placed on the market or put into service in the Union territory prior to 1<sup>st</sup> January 2005 (date of entry into application of the provisions of Directive 2003/44/EC) or, ultimately either until the 31<sup>st</sup> December 2005 (end of the transitional period specified in Article 3(2)(b) of Directive 2003/44/EC for compression ignition and four-stroke spark ignition engines) or the 31<sup>st</sup> December 2006 (end of the transitional period specified in Article 3(2)(c) of Directive 2003/44/EC for two-stroke spark ignition engines) are also excluded from the exhaust emission requirements of the Directive.

(iii) propulsion engines built for own use provided that they are not subsequently placed on the Union market during a period of five years from the putting into service of the watercraft;

(c) with regard to noise emission requirements referred to in Part C of Annex I:

The following watercraft is excluded from the noise emission requirements of the Directive.

(i) all watercraft referred to in point (b);

Accordingly racing watercraft, experimental watercraft and watercraft specifically intended to be crewed and to carry passengers for commercial purposes that are

fulfilling the conditions specified in Article 2(2)(b), submersibles, air cushion vehicles, hydrofoils and amphibious vehicles are all excluded from the noise emission requirements of the Directive.

(ii) watercraft built for own use, provided that they are not subsequently placed on the Union market during a period of five years from the putting into service of the watercraft.

Watercraft built for own use are excluded from the noise emission requirements provided that they are not placed on the Union market within 5 years from first being put into service. To qualify for this exclusion from the noise emission requirements, a watercraft 'built for own use' must have been substantially built and used exclusively by the owner. A watercraft that is completed by the owner by the addition of fittings and finishing parts is not considered as 'built for own use'. Clarification on watercraft built for own use are given in the comments to Article 2(2)(a)(vii) of the Directive.

3. The fact that the same watercraft could also be used for charter or for sports and leisure training shall not prevent it being covered by this Directive when it is placed on the Union market for recreational purposes.

It is specified that chartered, i.e. hired, watercraft are covered by the Directive, as well as the watercraft used for recreational boating training. In both cases, the activity is not a commercial passenger transport activity but one for sports or leisure purposes, even if the watercraft is hired with crew.

### Article 3 Definitions

For the purposes of this Directive the following definitions shall apply:

(1) 'watercraft' means any recreational craft or personal watercraft;

For the purpose of the Directive, the term "watercraft" shall cover recreational craft and personal watercraft. Any reference to the generic term "watercraft" in the Directive, as well as in this Guide, should therefore be understood as including both "recreational craft" and "personal watercraft".

(2) 'recreational craft' means any watercraft of any type, excluding personal watercraft, intended for sports and leisure purposes of hull length from 2,5 m to 24 m, regardless of the means of propulsion;

Any reference to 'recreational craft' in the Directive is intended to include all watercraft covered by the above definition unless they are excluded by Article 2(2) or as defined as personal watercraft.

These craft are defined, not by their type or means of propulsion, but:

– by their hull length of 2,5 to 24 m, and, in particular,



– by their intended use for sports and leisure purposes.

The relevant harmonised standard for measuring the craft's hull length is the current version of EN ISO 8666 Small craft – Principal data.

(3) 'personal watercraft' means a watercraft intended for sports and leisure purposes of less than 4 m in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;

Other types of watercraft with water jet propulsion units that are less than 4,0 m in hull length, such as mini jet boats and small RIBs (rigid hull inflatable boats) with water jet propulsion, are not 'personal watercraft'. They should be treated as recreational craft (if they are 2,5 m in hull length or above) and must meet the relevant design and construction, exhaust and noise emission requirements.

Unlike the recreational craft, personal watercraft is defined by the hull length of 0-4 m, therefore the personal watercraft having the hull length less than 2.5 m is covered by the Directive.

Watercraft that are covered by the definition of personal watercraft - except that their hull length is equal to or greater than 4,0 m (when measured according to EN ISO 8666) - should be treated as recreational craft and meet the relevant design and construction, exhaust and noise emission requirements.

According to the definition above to the intended use of personal watercraft, any personal watercraft that is placed on the Union market solely for commercial use and not for sports and leisure is outside of the scope of the Directive.

(4) 'watercraft built for own use' means a watercraft predominantly built by its future user for his own use;

Watercraft 'built for own use' must have been substantially built and used predominantly by the owner. A watercraft that is completed by the owner by the addition of fittings and finishing parts is not considered as 'built for own use'.

This does not preclude the contracting, by the builder, of specialists in certain aspects of the fitting out of the watercraft e.g. electrical or electronic engineers.

(5) 'propulsion engine' means any spark or compression ignition, internal combustion engine used directly or indirectly for propulsion purposes;

The definition of propulsion engine is limited to spark or compression ignition internal combustion engines (e.g. petrol or diesel engines respectively) and accordingly electric engines or steam engines are excluded from the emission requirements even if they are the sole source of power for propulsion.

If a spark or compression ignition internal combustion engine is used in conjunction with another type of engine, such as diesel-electric propulsion, directly or indirectly for propulsion purposes, then the internal combustion engine is a propulsion engine and must comply with the emission requirements. If a spark or compression ignition internal combustion engine is installed to power a hydraulic motor drive for propulsion then the internal combustion engine is a propulsion engine and must meet the emission requirements.

(6) ‘major engine modification’ means the modification of a propulsion engine which could potentially cause the engine to exceed the emission limits set out in Part B of Annex I or increases the rated power of the engine by more than 15 %;

A ‘major engine modification’ is relevant for propulsion engines that are installed on or in watercraft and which have been subsequently subject to a modification in accordance with this definition.

The first part provides that routine engine maintenance and replacement of engine components within the manufacturer’s specifications does not qualify as a ‘major engine modification’. Such maintenance may extend to a complete engine rebuild within the manufacturer’s specifications.

If an engine is more extensively modified in a way that the exhaust emissions could potentially exceed the limits of the Directive, then it would be considered a major engine modification even if the power output increases by less than 15%.

(7) ‘major craft conversion’ means a conversion of a watercraft which changes the means of propulsion of the watercraft, involves a major engine modification, or alters the watercraft to such an extent that it may not meet the applicable essential safety and environmental requirements laid down in this Directive;

The first part refers to changing the means of propulsion as defined in Article 3(8) of the Directive. The replacement of the propulsion engine(s) with another engine(s) of the same type is not changing the means of propulsion as defined and accordingly engine replacement is not a ‘major craft conversion’, unless the watercraft’s rated engine power is exceeded. Installation of a new propulsion engine, where the rated engine’s power exceeds the maximum rated engine power declared by the manufacturer, constitutes ‘major craft conversion’, because the handling characteristics (as set out in Annex I.A.4) may be affected.

The second part means that major craft conversion occurs also when the propulsion engine is modified as defined in Article 3(6) of the Directive.

The third part on alterations to the watercraft is intended to cover alterations to an extent that the craft should be considered as a new craft.

Re-building or modifying of a product in the context of manufacturer responsibility means that the product has been changed to such an extent that compliance with the essential requirements are altered from those of the product when originally

assessed. This would mean, for example, that the stability and buoyancy characteristics of a recreational craft might have been changed due to the addition of new flybridge accommodation or rigging arrangement. Such modification would mean that the “new” craft presents a new overall design which creates new risks. In this respect such a modification of a craft would require compliance with the Directive if placed on the Union market or put into service.

As a general principle, the ultimate responsibility to define risks connected to craft's conversion and so to identify the severity of the conversion lies, in analogy to the manufacturer, with the person modifying the craft. If the person modifying the craft does not have sufficient expertise to carry out this assessment of risks under his own responsibility he/she is advised to seek technical expertise.

(8) ‘means of propulsion’ means the method by which the watercraft is propelled;

In accordance with this definition, a change to the means of propulsion would be, for example, changing from a conventional propeller shaft drive to a water jet propulsion unit or surface piercing propellers.

(9) ‘engine family’ means the manufacturer’s grouping of engines which, through their design, have similar exhaust or noise emission characteristics;

This definition implies that engines in the same family have similar design and exhaust or the similar design and noise emissions characteristics. Details for choosing the parent engine for engines with similar design and exhaust emissions characteristics are given in Annex I.B, point 2.4 of the Directive.

Application of the "engine family" rule for noise emissions can only be applied by engine manufacturers to ‘outboard engines’ and ‘stern drive engines with integral exhaust’, because maximum sound pressure level limits are for propulsion engine separately, whilst for ‘recreational craft with inboard or stern drive engines without integral exhaust’ and ‘personal watercraft’ the maximum sound pressure level limits are for a watercraft with installed propulsion engine(s).

The term “stern drive with integral exhaust” also includes through hull thruster applications and similar solutions with integral exhaust.

(10) ‘hull length’ means the length of the hull measured in accordance with the harmonised standard;

The relevant harmonised standard for measuring the watercraft’s hull length is the current version of EN ISO 8666 Small craft – Principal data.

(11) ‘making available on the market’ means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

A product is made available on the market when supplied for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge. Such supply includes any offer for distribution, consumption or use on the Union market which could result in actual supply (e.g. an invitation to purchase, advertising campaigns).

Supplying a product is only considered as making available on the Union market, when the product is intended for end use on the Union market. The supply of products whether for further distribution, for incorporation into a final product or for further processing or refinement with the aim to export the final product outside the Union market is not considered as making available. Commercial activity is understood as providing goods in a business related context. Non-profit organisations may be considered as carrying out commercial activities if they operate in such a context. This can only be appreciated on a case by case basis taking into account the regularity of the supplies, the characteristics of the product, the intentions of the supplier etc. In principle, occasional supplies by charities or hobbyists should not be considered as taking place in a business related context.

‘Use’ refers to the intended purpose of the product as defined by the manufacturer under conditions which can be reasonably foreseen. Usually, this is the end use of the product.

The central role that the concept of making available plays in Union harmonisation legislation is related to the fact that all economic operators in the supply-chain have traceability obligations and need to have an active role in ensuring that only compliant products circulate on the Union market.

The concept of making available refers to each individual product, not to a type of product, and whether it was manufactured as an individual unit or in series.

The making available of a product supposes an offer or an agreement (written or verbal) between two or more legal or natural persons for the transfer of ownership, possession or any other right concerning the product in question after the stage of manufacture has taken place. The transfer does not necessarily require the physical handover of the product.

This transfer can be for payment or free of charge, and it can be based on any type of legal instrument. Thus, a transfer of a product is considered to have taken place, for instance, in the circumstances of sale, loan, hire, leasing and gift. Transfer of ownership implies that the product is intended to be placed at the disposal of another legal or natural person.

The Directive applies when the product is placed on the market or put into service and to any subsequent making available until the product reaches the end-user. A product

still in the distribution chain falls under the obligations of the Directive as long as it is a new product. Private importer who might import also the used products is not considered to make the product available as he imports the product in the course of non-commercial activity and put it into service for own use.

Therefore, once the product reaches the end-user, it is no longer considered a new product and the Directive no longer applies. Except the cases set out in Article 19(3) and 19(4) of the Directive, the end-user is not one of the economic operators who bear responsibilities under the Directive. However, such an operation or transaction might fall under another regulatory regime, in particular at national level.

Other information on this concept may be found in points 2.1 and 2.2 of The ‘Blue Guide’ on the implementation of EU product rules.

(12) ‘placing on the market’ means the first making available of a product on the Union market;

A product is placed on the market when it is made available for the first time on the Union market. The operation is reserved for manufacturers, importers as well as for persons building the boat for own use but selling it earlier than 5 years from putting it to the service, for persons changing the intended purpose of watercraft and for persons carrying out major engine modification or major craft conversion. The latter two can be also just put into service. When those persons supply a product to a distributor or an end-user for the first time, the operation is always labelled in legal terms as “placing on the market”. Any subsequent operation, for instance, from a distributor to distributor or from a distributor to an end-user is defined as making available.

As for “making available”, the concept of placing on the market refers to each individual product, not to a type of product, and whether it was manufactured as an individual unit or in series. Consequently, even though a product model or type has been supplied before new Union harmonisation legislation laying down new mandatory requirements entered into force, individual units of the same model or type, which are placed on the market after the new requirements have become applicable, must comply with these new requirements.

Placing a product on the market requires an offer or an agreement (written or verbal) between two or more legal or natural persons for the transfer of ownership, possession or any other property right concerning the product in question after the stage of manufacture has taken place. This transfer could be for payment or free of charge. It does not require the physical handover of the product.

Placing on the market is considered not to take place where a product is:

- manufactured for one’s own use: In the context of the Directive watercraft built for own use are excluded from the scope provided that they are not subsequently placed

on the Union market during a period of five years from the putting into service of the watercraft;

- bought by a consumer in a third country while physically present in that country and brought by the consumer into the EU for the personal use of that person. In this case it constitutes putting into service;
- transferred from the manufacturer in a third country to an authorised representative in the Union whom the manufacturer has engaged to ensure that the product complies with the Union harmonisation legislation;
- introduced from a third country in the EU customs territory and has not been released for free circulation. This includes the cases of products in transit, placed in free zones, warehouses or temporary storage or other special customs procedures (temporary admission or inward processing);
- manufactured in a Member State with a view to exporting it to a third country (this includes components supplied to a manufacturer for incorporation into a final product to be exported into a third country);
- transferred for testing or validating pre-production units considered still in the stage of manufacture;
- displayed or operated under controlled conditions at trade fairs, exhibitions or demonstrations and labelled not to be for sale; or
- in the stocks of the manufacturer (or the authorised representative established in the Union) or the importer, where the product is not yet made available that is, when it is not being supplied for distribution, consumption or use.

The placing on the market is the most decisive point in time concerning the application of the Union harmonised legislation. When made available on the market, products must be in compliance with the Union harmonisation legislation applicable at the time of placing on the market. Accordingly, new products manufactured in the Union and all products imported from third countries – whether new or used – must meet the provisions of the applicable Union harmonisation legislation when placed on the market i.e. when made available for the first time on the Union market. Compliant products once they have been placed on the market may subsequently be made available along the delivery chain without additional considerations, even in case of revisions to the applicable legislation or the relevant harmonised standards.

Member States have an obligation in the framework of market surveillance to ensure that only safe and compliant products are placed on the market. Used products, which are on the Union market, are subject to free movement according to the principles laid down by Articles 34 and 36 TFEU.

Concept of placing on the market covers also the sales by online operators. Further information on this issue may be found in point 2.3 of The ‘Blue Guide’ on the implementation of EU product rules.

(13) ‘putting into service’ means the first use of a product covered by this Directive in the Union by its end-user;

Putting into service takes place at the moment of the first use of a product covered by the Directive in the Union territory by its end user for the purposes for which it was intended.

A product which is ready for use at the moment of placing on the market and which does not have to be assembled, and where distribution, storage or transport would make no difference to the integrity or performance of the product, is considered to have been put into service as soon as it is placed on the market. The above does not apply when it is reasonably possible to determine when the product was first used for its intended purpose, floated, became operational, etc.

A product imported from a third country for the private importer's own use, and put into service is subject to the Directive. Products after major craft conversion or products whose intended purpose has been changed into recreational use which are put into service are also subject to this Directive.

Other information on this concept may be found in point 2.5 of The ‘Blue Guide’ on the implementation of EU product rules.

(14) ‘manufacturer’ means any natural or legal person who manufactures a product or has such a product designed or manufactured, and markets that product under his name or trademark;

The manufacturer is any natural or legal person who is responsible for designing or manufacturing a product and places it on the market under his own name or trademark. The definition is dependent on two cumulative conditions: the person has to manufacture (or have a product manufactured) and to market the product under his own name or trademark. So, if the product is marketed under another person’s name or trademark, this person will be considered as the manufacturer.

The manufacturer may design and manufacture the product himself. As an alternative, he may have it designed, manufactured, assembled, packed, processed or labelled with a view to placing it on the market under his own name or trademark, and thus presenting himself as a manufacturer. Where subcontracting takes place, the manufacturer must retain the overall control for the product and ensure that he receives all the information that is necessary to fulfil his responsibilities according to the Directive. The manufacturer who subcontracts some or all of his activities may not discharge himself from his responsibilities, for example to an authorised representative, a distributor, a retailer, a wholesaler, a user or a subcontractor.

Other information on this concept may be found in point 3.1 of The ‘Blue Guide’ on the implementation of EU product rules.

(15) ‘authorised representative’ means any natural or legal person established within the Union who has received a written mandate from the manufacturer to act on his behalf in relation to specified tasks;

An authorised representative is a natural or legal person appointed by the manufacturer to act on his behalf in carrying out certain tasks required by the Directive, which have been delegated in writing to him by the manufacturer. Authorised representatives appointed by the manufacturer must be established in the Union territory in order to act on behalf of the manufacturer under the terms of the Directive. Commercial representatives of the manufacturer (such as authorised distributors or agents), are not to be confused with the authorised representative.

The authorised representative who is appointed by a manufacturer may be an importer or a distributor, in which case he must also to fulfil the obligations of the importer or distributor.

Other information on this concept may be found in point 3.2 of The ‘Blue Guide’ on the implementation of EU product rules.

(16) ‘importer’ means any natural or legal person established within the Union who places a product from a third country on the Union market;

The importer is economic operator established in the Union who places a product from a third country on the Union market. Unlike the authorised representative, the importer needs not a preferential relationship with the manufacturer in the third country. He has important and clearly defined responsibilities. To a large extent they build on the type of responsibilities which a manufacturer based in the EU is subjected to.

Other information on this concept may be found in point 3.3 of The ‘Blue Guide’ on the implementation of EU product rules.

(17) ‘private importer’ means any natural or legal person established within the Union who imports in the course of a non-commercial activity a product from a third country into the Union with the intention of putting it into service for his own use;

A natural or legal person established in the EU who buys a watercraft in a third country (whether new or second hand), imports it into EU territory for non-commercial purposes, and intends to put it into service for his own use, is considered a private importer. The same applies for any other new or second hand product covered by the Directive imported from a third country into the EU by a natural or legal person with a view to put it into service for his own use.

Such a product must comply with the provisions of the Directive. Before putting such an imported product into service the provisions of Article 23 and accordingly Annex V of the Directive become applicable (“post-construction assessment”).



(18) ‘distributor’ means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;

Along with manufacturers and importers, distributors are the third category of economic operators who are subject to specific obligations. Retailers, wholesalers and other distributors in the supply chain are not required to have a preferential relationship with the manufacturer like the authorised representative. A distributor acquires products for further distribution either from a manufacturer, from an importer, or from another distributor.

Other information on this concept may be found in point 3.4 of The ‘Blue Guide’ on the implementation of EU product rules.

(19) ‘economic operators’ means the manufacturer, the authorised representative, the importer and the distributor;

Apart of classic economic operators, the Directive refers, in its Article 19, to other persons which place the product on the market or put the product into service for their own use, therefore may be considered as "non-economic operators" (private importer, person who modifies or converts the products, builder of boat for own use). However when these persons place the product on the market or put it into service, then they take obligations on the assessment of the conformity of the product (for self-builder such placing must occur within 5 years from putting into service).

(20) ‘harmonised standard’ means harmonised standard as defined in point (c) of Article 2(1) of Regulation (EU) No 1025/2012;

Harmonised standard means a European standard adopted on the basis of standardisation request made by the European Commission for the application of the Directive. The standard becomes "harmonised" when its reference is published in the Official Journal of the European Union.

(21) ‘accreditation’ means accreditation as defined in point 10 of Article 2 of Regulation (EC) No 765/2008;

Accreditation means an attestation by a national accreditation body that a conformity assessment body meets the requirements set by harmonised standards and the attestation to carry out a specific conformity assessment activity.

(22) national accreditation body’ means national accreditation body as defined in point 11 of Article 2 of Regulation (EC) No 765/2008;

National accreditation body means the sole body in a Member State that performs accreditation with an authority granted by that Member State.

(23) ‘conformity assessment’ means the process demonstrating whether the requirements of this Directive relating to a product have been fulfilled;

The essential objective of a conformity assessment procedure is to demonstrate that products that are supposed to be placed on the market or put into service comply with the requirements of the Directive.

A product is subjected to conformity assessment during the design as well as production phase. Conformity assessment is the responsibility of the manufacturer. Should a manufacturer subcontract design or production, he still remains responsible for the execution of conformity assessment.

Conformity assessment must not be confused with market surveillance, which consists of controls by the national market surveillance authorities after the product has been placed on the market. However both techniques are complementary and equally necessary to ensure the protection of the public interests at stake and the smooth functioning of the internal market.

(24) ‘conformity assessment body’ means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

A conformity assessment body is a body that performs one or several elements of conformity assessment, including one or several of the following activities: calibration, testing, certification and inspection. Notified bodies are conformity assessment bodies which have been officially designated by their national authority to carry out the procedures for conformity assessment within the meaning of the Directive when a third party is required. They are called ‘notified bodies’ under EU harmonisation legislation.

Notified bodies take responsibilities in areas of public interest and, therefore, must remain accountable to the competent national authorities. To be eligible a body must be a legal entity established on the territory of a Member State and, thus, come under its jurisdiction. Otherwise Member States remain free to decide whether or not to notify a body which complies with the requirements laid down in the relevant Union harmonisation legislation.

(25) ‘recall’ means any measure aimed at achieving the return of a product that has already been made available to the end-user;

(26) ‘withdrawal’ means any measure aimed at preventing a product in the supply chain from being made available on the market;

These two measures are tools of market surveillance provided by the Regulation (EC) No 765/2008 for treating of the products which are non-compliant with the provisions of the Directive.

(27) ‘market surveillance’ means the activities carried out and measures taken by public authorities to ensure that products comply with the applicable requirements set out in Union harmonisation legislation and do not endanger health, safety or any other aspect of public interest protection;

Market surveillance aims at ensuring that products fulfil the applicable requirements providing a high level of protection of public interests such as health and safety, protection of consumers, protection of the environment and security while ensuring that the free movement of products is not restricted to any extent greater than that which is allowed under EU harmonisation legislation or any other relevant EU rule. Market surveillance entitles citizens to an equivalent level of protection throughout the single market, regardless of the origin of the product. Further, market surveillance is important for the interest of economic operators, because it helps to eliminate unfair competition.

(28) ‘CE marking’ means a marking by which the manufacturer indicates that the product is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing;

CE marking is a key indicator (but not proof) of a product’s compliance with EU legislation and enables the free movement of products within the Union market, whether they are manufactured in the Union or in another country. Member States of the European Economic Area (EU Member States and certain EFTA countries: Iceland, Norway and Liechtenstein) are not allowed to restrict the placing on the market or putting into service of CE marked products, unless such measures can be justified on the basis of evidence of the non-compliance of the product. This also applies to products coming from third countries which are placed on the Union market.

CE marking does not indicate that a product was made in the EU. The CE marking indicates conformity with the requirements laid down by the Directive. Therefore, it is to be considered as essential information to Member States’ authorities as well as other relevant parties (for example distributors). CE marking does not serve commercial purposes i.e. it is not a marketing tool.

CE marking is the visible consequence of a whole process comprising conformity assessment in a broad sense and indicates that a product is declared by the manufacturer as in conformity with the Directive and other EU harmonisation legislation when applicable.

(29) ‘Union harmonisation legislation’ means any Union legislation harmonising the conditions for the marketing of products.

Harmonisation legislation adopted by the European Union, for products in the single internal market, is mainly made by Regulations and Directives.

## Article 4 Essential requirements

1. The products referred to in Article 2(1) may be made available or put into service only if they do not endanger the health and safety of persons, property or the environment when correctly maintained and used in accordance with their intended purpose, and only on the condition that they meet the applicable essential requirements set out in Annex I.

Member States are obliged to take all necessary market surveillance measures described in Chapter VI of the Directive as well as in Chapter III of the Regulation (EC) No 765/2008 to ensure that products in scope can only be made available or put into service if they do not endanger the safety and health of persons, property or the environment and meet the applicable essential requirements of Annex I of the Directive. One of the prime objectives of the Directive was to ensure the free circulation of goods by removing technical barriers to trade. In this respect a product bearing CE marking is considered as fulfilling the requirements of Article 4(1) of the Directive.

2. Member States shall ensure that the products referred to in Article 2(1) are not made available on the market or put into service unless they comply with the requirements of paragraph 1.

The essential requirements set out in the Annex I of the Directive, which must be met by the products covered by the scope of the Directive, fall within the four areas referred to in paragraph 3 of Article 114 of Treaty on the Functioning of the European Union:

- safety,
- health,
- environmental protection, and
- consumer protection.

As far as the construction of recreational craft and personal watercraft is concerned, the concepts of health and safety are obviously linked when one considers the possible consequences of failure during use.

The concept of environmental protection is included, as this has to be taken into account from the design stage for certain watercraft, and has been further emphasised through the inclusion of the exhaust and noise emission requirements in Parts B and C of Annex I of the Directive.

The concept of consumer protection covers not only the users of the watercraft but also all other users of watercourses where the craft is used.

## Article 5

### National provisions concerning navigation

This Directive shall not prevent Member States from adopting provisions concerning navigation on certain waters for the purpose of protection of the environment, the fabric of waterways, and ensuring safety of waterways, provided that those provisions do not require modification to watercraft conforming to this Directive and that those provisions are justified and proportionate.

Article 5 makes it clear that the Directive leaves it to the Member States to adopt, in compliance with the Treaty, provisions concerning the safety of navigation, i.e. regulations on the use of watercraft, in order to protect the environment and both the fabric and safety of waterways.

However, the objective of the Directive to establish a single market is not jeopardised as these national rules cannot require any modification to be made to watercraft complying with the Directive. In addition national rules shall also not cause any distortion to technical or safety information available to the consumer, associated with compliance with the Directive e.g. design category, load capacity etc.

The navigation rules could concern in particular the imposition of speed limits in restrictive or sensitive areas, permission or otherwise to navigate certain canals depending on the size of the watercraft, visibility at night in certain local areas, problems of water and air pollution on certain waterways, problems of noise, etc.

These provisions should not have a discriminatory character or be used as a justification to the complete ban of use of certain type of watercraft. It is stressed that the provisions have to be justified and proportionate to its purpose of protection of the environment, the fabric of waterways, and ensuring safety of waterways.

## Article 6

### Free movement

1. Member States shall not impede the making available on the market or, without prejudice to Article 5, the putting into service in their territory of watercraft complying with this Directive.

The free movement of the products covered by the scope of the Directive is granted by the Member States provided the products bear the CE marking, which indicates their conformity with all provisions of the Directive, including the conformity assessment procedures. This does not affect the rights of Member States to use market surveillance measures under Articles 43 to 46 of the Directive.

Article 6 of the Directive establishes the conditions for free movement of the products referred to in Article 2(1):

- recreational craft

- partly completed recreational craft
- the components referred to in Annex II of the Directive
- personal watercraft
- partly completed personal watercraft
- propulsion engines

Article 6 specifies that all these products may freely move on the market in the territory of the EU Member States when these products are CE-marked. The CE-mark is indicating that they are in conformity with all the requirements of the Directive, including the relevant conformity assessment procedures.

For the first three categories of products (recreational craft, partly completed recreational craft and components referred to in Annex II of the Directive) which comply with the relevant requirements of the Directive, this right of free circulation on the market in the EU started to apply as from the date of entry into application of Directive 94/25/EC, i.e. as from the 16th June 1996.

The references to two other categories of products (personal watercraft and propulsion engines) have been added to scope of the Directive through the amending Directive 2003/44/EC. As a result, the right for free movement of these products when complying with the relevant requirements of the amended Directive, started to apply as from the date of entry into application of Directive 2003/44/EC, i.e. as from the 1st of January 2005.

The category of 'partly completed personal watercraft' was introduced by the Directive 2013/53/EU and therefore since then the previously used term 'partly completed boat' includes partly completed recreational craft and partly completed personal watercraft.

2. Member States shall not impede the making available on the market of partly-completed watercraft where the manufacturer or the importer declares, in accordance with Annex III, that they are intended to be completed by others.

Partly completed watercraft is either partly completed recreational craft or partly completed personal watercraft.

A partly completed watercraft is not given the CE marking since by definition it cannot be in conformity with all of the relevant essential requirements of the Directive but is the subject of the declaration by the manufacturer or importer as referred in Annex III, which provides the basis for their right for free circulation on the market.

With regard to watercraft that is designed to be operated in conjunction with an outboard engine or has the provision to be fitted with such a unit, this watercraft should not be considered as partly completed watercraft, and has therefore to comply with the provisions of Article 6(1) of the Directive in order to benefit from free circulation on the market. As explained below, outboard engines need to be separately CE-marked.

3. Member States shall not impede the making available on the market or putting into service of components complying with this Directive which are intended to be incorporated into

watercraft, in accordance with the declaration of the manufacturer or the importer, as referred to in Article 15.

**Components as referred to in Annex II of the Directive need to be CE marked and are also the subject of an EU declaration of conformity according to Annex IV of the Directive by the component manufacturer when placed on the market separately.**

4. Member States shall not impede the making available on the market or putting into service of any of the following propulsion engines:

(a) engines, whether or not installed in watercraft, complying with this Directive;

(b) engines installed in watercraft and type-approved in accordance with Directive 97/68/EC which are in compliance with stage III A, stage III B or stage IV emission limits for CI engines used in other applications than propulsion of inland waterway vessels, locomotives and railcars, as provided for in point 4.1.2. of Annex I to that Directive, complying with this Directive, with the exclusion of the exhaust emission requirements set out in Part B of Annex I;

(c) engines installed in watercraft and type-approved in accordance with Regulation (EC) No 595/2009, complying with this Directive, with the exclusion of the exhaust emission requirements set out in Part B of Annex I.

Points (b) and (c) of the first subparagraph shall apply subject to the condition that where an engine is adapted for installation in a watercraft, the person undertaking the adaptation shall ensure that full account is taken of the data and other information available from the engine manufacturer in order to ensure that, when installed in accordance with the installation instructions provided by the person adapting the engine, that engine will continue to meet the exhaust emission requirements of either Directive 97/68/EC or of Regulation (EC) No 595/2009, as declared by the engine manufacturer. The person adapting the engine shall declare, as referred to in Article 15, that the engine will continue to meet the exhaust emission requirements of either Directive 97/68/EC or of Regulation (EC) No 595/2009, as declared by the engine manufacturer, when installed in accordance with the installation instructions supplied by the person adapting the engine.

**The first indent above refers to propulsion engines that have been found to comply with the exhaust emission requirements of the Directive as a result of testing in accordance with the requirements of Article 21 and Annex I.B. Article 21 requires propulsion engines to be assessed on their conformity with the exhaust emission requirements in accordance with module B+C, B+D, B+E, or B+F or G or H if they are tested according to harmonised standard. If the engines are not tested according to harmonised standard then module B+C1, or G shall be used. These engines may be placed on the market if accompanied by the EU declaration of conformity in accordance with Annex IV of the Directive and if they are bearing the CE marking.**

**The second and third indents apply to engines intended for use as inboard propulsion engines or stern drive engines without integral exhaust that are type-approved (or**

from type-approved engine families) according to Directive 97/68/EC (stages III A, III B or IV) or Regulation (EC) No 595/2009. These engines have been type-approved initially by the engine manufacturer for other applications covered by that directive or regulation and may subsequently be placed on the market for installation in a watercraft by that manufacturer, provided that he states in his EU declaration of conformity that when installed in accordance with his supplied instructions the engine will meet the exhaust emission requirements of either Directive 2013/53/EU or Directive 97/68/EC (stages III A, III B or IV) or Regulation (EC) No 595/2009.

The type approval according to the Directive 97/68/EC was possible until 31<sup>st</sup> December 2018 as the Directive 97/68/EC has been revised and repealed by the Regulation (EU) 2016/1628 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery.

The Regulation (EU) 2016/1628 introduces the stage V of the exhaust emission limits which are stricter than the previous stages.

Article 64.2 of the Regulation (EU) 2016/1628 states that: “References to the repealed Directive shall be construed as references to this Regulation.” It means that the reference to the Directive 97/68/EC as stipulated in Article 6.4(b) of the RCD shall be understood also as a reference to the Regulation (EU) 2016/1628.

In particular, the reference to exhaust emission limits defined in Annex II, Table II-1: Stage V emission limits for engine category NRE of the Regulation (EU) 2016/1628 shall be understood in the same way as the reference to Articles 4.1.2.4 – 4.1.2.6 of Annex I of the Directive 97/68/EC.

**Adapting of engines for marine use referred to in Article 6.(4) of the Directive :**

A person undertaking the adaption of such engine for marine use (mariniser), may submit it for installation on watercraft without subjecting it to further testing and conformity assessment procedures under Directive 2013/53/EU, provided that the adaptation for marine use:

- remains within the engine manufacturer’s supplied instructions referred to in the appropriate statement of his EU declaration of conformity;
- does not entail a “major engine modification” as defined in Article 3(6), and
- remains within the exhaust emission limits of either Directive 2013/53/EU or Directive 97/68/EC (stages III A, III B or IV) or Regulation (EC) No 595/2009.

Otherwise, the responsibility for ensuring compliance with the exhaust emissions of Directive 2013/53/EU will have to be assumed by the mariniser, by applying the procedures of Annex I.B and Article 21 of the Directive.

The mariniser then supplies his installation instructions of such adapted engine. These installation instructions are to be respected in order to keep the engine's exhaust emissions within the limits of Directive 2013/53/EU or Directive 97/68/EC (stages III A, III B or IV) or Regulation (EC) No 595/2009. Equally, the mariniser adds the statement to the engine manufacturer's EU declaration of conformity that the



adapted engine will meet above mentioned limits if installed in accordance with provided mariniser's installation instructions.

5. At trade fairs, exhibitions, demonstrations and other similar events Member States shall not impede the showing of products referred to in Article 2(1) which do not comply with this Directive, provided that a visible sign clearly indicates that such products do not comply with this Directive and will not be made available or put into service in the Union until they have been made to comply.

This provision specifies the conditions for the showing at exhibitions of products referred to in Article 2(1) of the Directive, but which do not comply with the Directive.

Watercraft, partly completed watercraft, propulsion engines and components from Annex II of the Directive exhibited at boat shows do not necessarily have to comply with the requirements of the Directive. The display of these products at a boat show, whether a trade or retail show, does not constitute a “placing on the market”. However, if the product is not in full conformity with the applicable provisions of the Directive this fact must be clearly advertised next to the product being exhibited clearly stating that it may not be placed or put into service until it has been made to comply.

To require that all products comply with the requirements of the Directive when exhibited would mean that manufacturers could not show concept designs or prototypes. Thus the public would be deprived of products showing the “shape of things to come” and manufacturers from showing exciting new designs.

If a manufacturer, his authorised representative in the EU or the importer offers a product referred to in Article 2(1) of the Directive in a catalogue, it is deemed not to have been placed on the market until it is actually made available for the first time. Therefore products offered in a catalogue would not have to be in conformity with the Directive, but this fact must be clearly advertised in the catalogue.

**CHAPTER II**  
**OBLIGATIONS OF ECONOMIC OPERATORS AND PRIVATE IMPORTERS**

**Article 7**

**Obligations of manufacturers**

1. When placing their products on the market, manufacturers shall ensure that they have been designed and manufactured in accordance with the requirements set out in Article 4(1) and Annex I.

2. Manufacturers shall draw up the technical documentation in accordance with Article 25 and carry out the conformity assessment procedure applicable or have it carried out in accordance with Articles 19 to 22 and Article 24.

Where compliance of a product with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up a declaration, as referred to in Article 15 and mark and affix the CE marking, as set out in Articles 17 and 18.

3. Manufacturers shall keep the technical documentation and a copy of the declaration, as referred to in Article 15, for 10 years after the product has been placed on the market.

4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity. Changes in product design or characteristics and changes in the harmonised standards by reference to which conformity of a product is declared shall be adequately taken into account.

When deemed appropriate with regard to the risks presented by a product, manufacturers shall, to protect the health and safety of consumers, carry out sample testing of products made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming products and product recalls, and shall keep distributors informed of any such monitoring.

5. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the components does not allow it, that the required information is provided on the packaging or in a document accompanying the product.

6. Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. The address shall indicate a single point at which the manufacturer can be contacted.

7. Manufacturers shall ensure that the product is accompanied by instructions and safety information in the owner's manual in a language or languages which can be easily understood by consumers and other end users, as determined by the Member State concerned.

8. Manufacturers who consider or have reason to believe that a product which they have placed on the market is not in conformity with this Directive shall immediately take the

necessary corrective measures to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

9. Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the product, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

**The manufacturer has ultimate responsibility for the conformity of the product to the Directive, whether he designed and manufactured the product himself or is considered as a manufacturer because the product is placed on the market under his name or trademark.**

**Thus, when a product is transferred to a manufacturer for further measures such as assembling, packaging, processing or labelling, when placing the product on the market, he has the sole and ultimate responsibility for ensuring the conformity of the product to the applicable legislation, and must be able to do so.**

**The manufacturer is responsible for designing and manufacturing the product in accordance with essential requirements of the Directive and for carrying out conformity assessment in accordance with Article 19 of the Directive.**

**The manufacturer is obliged to understand both the design and construction of the product to be able to take the responsibility for the product being in compliance with all provisions of the Directive. This applies equally to situations where the manufacturer designs, manufactures, packs and labels the product himself, as to situations where some or all of these operations are carried out by a subcontractor. The manufacturer needs to have the relevant information, in particular technical documentation to demonstrate compliance of the product at its disposal.**

**The Directive does not require the manufacturer to be established in the European Union. Thus, when placing a product on the Union market, the responsibilities of a manufacturer are the same whether he is established outside the European Union or in a Member State.**

**As a general rule, when placing a product on the market the manufacturer must take all measures necessary to ensure that the manufacturing process assures compliance of the products and in particular:**

- 1. carry out the applicable conformity assessment or have it carried out, in accordance with the procedure(s) laid down by the Directive; the manufacturer may be required to submit the product to a third party (a notified body) to have the conformity assessment carried out, or to have the assessment made through the quality system approved by a notified body. In any case, the manufacturer bears full responsibility for product conformity.**

2. draw up the required technical documentation;
3. draw up the EU declaration of conformity;
4. accompany the product with instructions and safety information in the owner's manual as required by the Directive, in a language easily understood by consumers and other end-users, as determined by the Member State concerned. Instructions and safety information need to be provided, whether the product is intended for consumers or other end-users. It is for the manufacturer to determine the relevant information which should be included in the instructions and safety information. Manufacturers have to look beyond what they consider the intended use of a product and place themselves in the position of the average user of a particular product and envisage in what way they would reasonably consider to use the product.
5. satisfy the following traceability requirements:
  - Keep the technical documentation and a copy of the EU declaration of conformity for 10 years after the product has been placed on the market.
  - Ensure that watercraft bears watercraft identification number in accordance with the Annex I of the Directive.
  - Affix the watercraft builder's plate for watercraft and propulsion engine identification for propulsion engines, in accordance with the Annex I of the Directive. The contact address as a part of watercraft's and engine's identification shall be the single contact point at which the manufacturer can be contacted.
6. Affix the CE marking to the product in accordance with the Directive,
7. Ensure that procedures are in place for series production to remain in conformity. Changes in product design or characteristics and changes in the harmonised standards or in other technical specifications by reference to which conformity of a product is declared must be adequately taken into account. The kind of action to be taken by the manufacturer depends on the nature of changes in the harmonised standards or other technical specifications, in particular whether these changes are material with regard to the coverage of the essential or other legal requirements and whether they concern the product in question. This might require for instance to update the EU declaration of conformity, change the product design, contact the notified body, etc.
8. Where relevant, assess the product and/or the quality system.

**Manufacturers who consider or have reason to believe that a product which they have placed on the market is not in conformity with the Directive must immediately take the necessary corrective measures to bring that product into conformity, to withdraw it or**

recall it, if appropriate. Furthermore, where manufacturers have reason to believe that the product presents a risk to health, safety, property or the environment, they must immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the noncompliance and of any corrective measures taken.

Upon a reasoned request, the manufacturer has to provide the competent national authority with all the information and documentation necessary to demonstrate the conformity of a product, in a language which can be easily understood by that authority. Manufacturers must cooperate with the authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market. Manufacturers must on request by market surveillance authorities identify any economic operator to whom they have supplied a product. They must be able to present this information for a period of 10 years after they have supplied the product.

The idea is that the national authority might accept a language they understand and which is different from the national language(s). The language chosen is subject to negotiation with the authority and could be a third language, if accepted by the authority.

In case of a reasoned request it is sufficient for the manufacturer to provide the part of the technical documentation related to the claimed non-conformity and appropriate for demonstrating whether the issue has been dealt with by the manufacturer.

Therefore, any request for translation of technical documentation should be limited to these parts of the documentation. The request may indicate a deadline for the receipt of the requested documents. A shorter deadline can be fixed if the national authority justifies the urgency on the basis of an immediate serious risk.

As the Directive covers putting into service, the natural or legal person who puts the product into service must ensure that the product complies with the Directive.

See also point 3.1. "Manufacturer" in The 'Blue Guide' on the implementation of EU product rules.

## **Article 8**

### **Authorised representatives**

1. A manufacturer may, by a written mandate, appoint an authorised representative.
2. The obligations laid down in Article 7(1) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.
3. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:
  - (a) keep a copy of the declaration, as referred to in Article 15, and the technical documentation at the disposal of national surveillance authorities for 10 years after the product has been placed on the market;

(b) further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a product;

(c) cooperate with the competent national authorities, at their request, on any action taken to eliminate the risks posed by products covered by their mandate.

**When applicable, the manufacturer shall provide the authorised representative with a written mandate to act on his behalf.**

**The obligations, for which the manufacturer delegates responsibility, shall be detailed therein. However a manufacturer is not obliged to have an authorised representative.**

**By way of example, the authorised representative could be appointed to draw up and sign the EU declaration of conformity, affix the CE marking and hold the copy of EU declaration of conformity and technical documentation at the disposal of the competent authorities.**

**The tasks that may be delegated to the authorised representative are of an administrative nature. Thus, the manufacturer may neither delegate the measures necessary to ensure that the manufacturing process assures compliance of the products nor the drawing up of technical documentation. Further, an authorised representative cannot modify the product on his own initiative in order to bring it into line with the Directive.**

**See also point 3.2. "Authorised Representative" in The 'Blue Guide' on the implementation of EU product rules.**

### **Article 9 Obligations of importers**

1. Importers shall place only compliant products on the Union market.
2. Before placing a product on the market, importers shall ensure that the appropriate conformity assessment procedure has been carried out by the manufacturer. They shall also ensure that the manufacturer has drawn up the technical documentation, that the product bears the CE marking, as referred to in Article 17, and is accompanied by the documents required in accordance in Article 15 and point 2.5 of Part A of Annex I, point 4 of Part B of Annex I and point 2 of Part C of Annex I and that the manufacturer has complied with the requirements set out in Article 7(5) and (6).

Where an importer considers or has reason to believe that a product is not in conformity with the requirements set out in Article 4(1) and Annex I, he shall not place the product on the market until it has been brought into conformity. Furthermore, where the product presents a risk, the importer shall inform the manufacturer and the market surveillance authorities to that effect.

3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, in the case of components where that is not possible, on the packaging or in a document accompanying the product.

4. Importers shall ensure that the product is accompanied by instructions and safety information in the owner's manual in a language or languages which can be easily understood by consumers and other end-users, as determined by the Member State concerned.
5. Importers shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Article 4(1) and Annex I.
6. When deemed appropriate with regard to the risks presented by a product, importers shall, to protect the health and safety of consumers, carry out sample testing of products made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming products and product recalls, and shall keep distributors informed of such monitoring.
7. Importers who consider or have reason to believe that a product which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product presents a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.
8. Importers shall, for a period of 10 years after the product has been placed on the market, keep a copy of the declaration, as referred to in Article 15, at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.
9. Importers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

**The importer must ensure that the manufacturer has correctly fulfilled his obligations. The importer is not a simple re-seller of products, but has a key role to play in guaranteeing the compliance of imported products.**

**As a general rule, before placing a product on the market the importer must ensure:**

- 1. that the appropriate conformity assessment procedure has been carried out by the manufacturer. If he has any doubt about the conformity of the product, he must refrain from placing it on the market. If the product has already been placed on the market, he has to take corrective actions. In both cases the manufacturer might need to be contacted to clarify any doubt about the conformity of the product.**
- 2. that the manufacturer has drawn up the technical documentation, affixed the CE marking, fulfilled his traceability obligations and accompanied, the product by the instructions and safety information in a language easily understood by consumers and other end-users, as determined by the Member State concerned.**

**These obligations are meant to make sure that the importers are aware of their responsibility to place only compliant products on the market. Neither do they imply**

the need for importers to systematically resort to additional control procedures or (third party) testing, nor do they preclude them from doing so.

The importer also has to:

- Indicate the following three elements: his (1) name, (2) registered trade name or trade mark and (3) the address at which he can be contacted on the product or in the case of components where that is not possible, on the packaging or on the accompanying documentation. By doing so, he must not impede the visibility of any safety information printed on the product or the accompanying documents.

**Note:** Recommended indication of importer's contact data on a product (name, trade name, address) is to affix a flexible label to the product (watercraft, propulsion engine or component) in such a way that it can only be removed by the use of tools. Label should be affixed permanently. The characters should contrast or be on a different level to the background so that alterations will be obvious. The colours applied to the label should be fade resistant. The required information characters should be at least 5 mm in height. The label should be readily visible and shall adjoin to the builder's plate (where applicable) affixed by a manufacturer. The following information, required under the Directive 2013/53/EU, should be displayed on each importer's label.

- a) Importer's name.
- b) Importer's trade name or registered trade mark
- c) Address at which they can be contacted<sup>3</sup>

Example of importer's label



- Ensure that, while a product is under his responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in the Directive.

- Keep a copy of the EU declaration of conformity for 10 years after the product has been placed on the market.

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<sup>3</sup> For definition of 'contact address', see also point 4.2.2.2 of The 'Blue Guide' on the implementation of EU product rules



- Ensure that the technical documentation can be made available to the competent national authority upon request. The importer has to cooperate with that authority and upon a reasoned request, has to provide that authority with all the information and documentation necessary to demonstrate the conformity of the product in a language which can be easily understood by that authority. The idea is that the national authority might accept a language they understand and which is different from the national language(s). The language chosen is subject to negotiation with the authority and could be a third language, if accepted by the authority.

In the case of a reasoned request it is sufficient for the importer to provide the part of the technical documentation related to the claimed non-conformity and appropriate for demonstrating whether the issue has been dealt with by the manufacturer. Therefore, any request for translation of technical documentation should be limited to these parts of the documentation.

- On request by market surveillance authorities, the importer must identify any economic operator who has supplied him and to whom he has supplied the product. He must be able to present this information for a period of 10 years after he has been supplied with the product and for a period of 10 years after he has supplied the product.

Further, the importer, like a manufacturer, may be required to perform or have performed sample testing of products already placed on the market.

Equally, importers who have reason to believe that a product which they have placed on the market is not in conformity with the Directive, shall immediately take the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product presents a risk, importers shall immediately inform the competent national authorities.

The importer needs neither a mandate from the manufacturer, nor a preferential relationship with the manufacturer like the authorised representative. However, the importer must ensure, in order to fulfil his responsibilities, that a contact with the manufacturer can be established (e.g. to make the technical documentation available to the requesting authority).

The importer may wish to carry out administrative tasks on behalf of the manufacturer. In such a case, he has to be explicitly designated by the manufacturer in order to become an authorised representative.

See also point 3.3. "Importer" in The 'Blue Guide' on the implementation of EU product rules.

### **Article 10** **Obligations of distributors**

1. When making a product available on the market distributors shall act with due care in relation to the requirements of this Directive.
2. Before making a product available on the market distributors shall verify that the product bears the CE marking, as referred to in Article 17, that it is accompanied by the documents

required in Article 7(7), Article 15 and point 2.5 of Part A of Annex I, point 4 of Part B of Annex I and point 2 of Part C of Annex I and by instructions and safety information in a language or languages which can be easily understood by consumers and other end-users in the Member State in which the product is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 7(5) and (6) and Article 9(3).

Where a distributor considers or has reason to believe that a product is not in conformity with the requirements set out in Article 4(1) and Annex I, he shall not make the product available on the market until it has been brought into conformity. Furthermore, where the product presents a risk, the distributor shall inform the manufacturer or the importer, as well as the market surveillance authorities, to that effect.

3. Distributors shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Article 4(1) and Annex I.

4. Distributors who consider or have reason to believe that a product which they have made available on the market is not in conformity with this Directive shall make sure that the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate, are taken. Furthermore, where the product presents a risk, distributors shall immediately inform the competent national authorities of the Member States in which they made the product available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

5. Distributors shall, further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the product. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have made available on the market.

**Distributor must act with due care in relation to the applicable requirements. They have to know, for instance, which products must bear the CE marking, what information is to accompany the product (for example the EU declaration of conformity), what are the language requirements, user instructions or other accompanying documents, and what is a clear indication of the product being non-compliant. Distributors have an obligation to demonstrate to the national market surveillance authority that they have acted with due care and ensure that the manufacturer, or his authorised representative, or the person who provided him with the product has taken the measures required by the Directive.**

**Conformity assessment, drawing up and keeping the copy of EU declaration of conformity and the technical documentation remain the responsibility of the manufacturer and/or importer in the case of products from third countries. It is not part of the distributor's obligations to check whether a product already placed on the market is still in conformity with the legal obligations that are currently applicable in case these have changed. The obligations of the distributor refer to the legislation applicable when the product was placed on the market by the manufacturer or the importer.**

**The distributor must be able to identify the manufacturer, his authorised representative, the importer or the person who has provided him with the product in**

order to assist the market surveillance authority in its efforts to obtain the EU declaration of conformity and the necessary parts of the technical documentation. Market surveillance authorities have the possibility to address their request for the technical documentation directly to the distributor. The latter is however not expected to be in possession of the relevant documentation.

Before making a product available on the market, the distributor must verify the following formal requirements:

- that the product bears the required CE marking;
- that the product is accompanied by the relevant documents EU Declaration of Conformity and by owner's manual in a language which can be easily understood by consumers and other end-users as determined by the Member State.
- that the manufacturer and importer have indicated their name, registered trade name or trademark and the address at which they can be contacted on the product or, in the case of components where that is not possible, on its packaging and/or on the accompanying documentation, and that the product bears a type, batch or serial number or other element allowing the identification of the product.

Distributors must not supply products that they know or should have assumed, on the basis of information in their possession and as a professional, not to be in compliance with the legislation. Further, they must cooperate with the competent authority in actions taken to avoid or minimise these risks, inform the manufacturer or the importer as well as the competent national authorities.

Similar obligations bind distributors once a product is made available. If they have reasonable grounds to believe that a product is not in conformity, they have to make sure that corrective measures to bring the product into conformity are taken by the manufacturer or the importer and inform the competent national authorities. Distributors have to contact the importer or manufacturer to clarify any doubt about the conformity of the product.

In addition to verifying the conformity of the product with the formal requirements, the distributor must:

1. initiate corrective measures where there is suspicion of a non-conformity;
2. assist market surveillance authorities in identifying the manufacturer or importer responsible for the product;
3. upon a reasoned request<sup>4</sup> from a competent authority, cooperate with that authority and provide it with all the information and documentation necessary to demonstrate the conformity of a product

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<sup>4</sup> The reasoned request does not necessarily mean a formal decision by an authority. According to Article 19 (1), paragraph 2 of Regulation (EU) No 765/2008, “market surveillance authorities may require economic operators to make such documentation and information available as appear to them to be necessary for the purpose of carrying out their activities”.

4. on request by market surveillance authorities, identify any economic operator who has supplied them and to whom they have supplied the product. They must be able to present this information for a period of 10 years after they have been supplied with the product and for a period of 10 years after they have supplied the product.

The distribution conditions (for example transport or storage) may have an impact on maintaining the compliance of the product with the provisions of the Directive. Thus, the person in charge of the distribution conditions must take the necessary measures to protect the compliance of the product. This is to ensure that the product complies with the essential or other legal requirements at the moment of first use within the EU.

Retailers, wholesalers and other distributors in the supply chain are not required to have a preferential relationship with the manufacturer like the authorised representative. A distributor acquires products for further distribution either from a manufacturer, from an importer, or from another distributor.

See also point 3.4 "Distributor" of The 'Blue Guide' on the implementation of EU product rules.

#### Article 11

##### Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Directive and he shall be subject to the obligations of the manufacturer under Article 7, where he places a product on the market under his name or trademark or modifies a product already placed on the market in such a way that compliance with the requirements of this Directive may be affected.

The responsibilities of the manufacturer apply also to importers and distributors who assemble, pack, process or label ready-made products and place them on the market under their own name or trademark.

Further, the responsibility of the manufacturer is placed on another economic operator who changes the intended use of a product in such a way that the directive will become applicable or who conducts major craft conversion.

Modification of a product where the requirements of the directive are affected (ie. major craft conversion) presents new risks; therefore it shall trigger a new risk assessment.

Finally, if an importer or distributor modifies a product or supplies it under his name or trade mark, then he is to be considered the manufacturer and must undertake all the obligations incumbent on the manufacturer. Accordingly, he must ensure that the

product complies with the Directive and that the appropriate conformity assessment procedure has been carried out.

## Article 12

### Obligations of private importers

1. If the manufacturer does not fulfil the responsibilities for the conformity of the product with this Directive, a private importer, before putting the product into service, shall ensure that it has been designed and manufactured in accordance with the requirements set out in Article 4(1) and Annex I and carry out or have carried out the obligations of the manufacturer set out in Article 7(2), (3), (7) and (9).
2. If the required technical documentation is not available from the manufacturer, the private importer shall have it drawn up using appropriate expertise.
3. The private importer shall ensure that the name and address of the notified body which has carried out the conformity assessment of the product is marked on the product.

**When the manufacturer does not declare the conformity of a product with the Directive because he does not intend to export the product to the EU market or if he fails to fulfil his responsibilities for the conformity of a product, it is the private importer (any natural or legal person established within the Union who imports in the course of a non-commercial activity a product from a third country into the Union with the intention of putting it into service for his own use) who has to ensure the conformity of a product and fulfilling all administrative requirements, including draw-up the EU declaration of conformity and affix the CE marking.**

The private importer has to, among others, deliver and keep the technical documentation to the product as well as to carry out the conformity assessment procedure. If the required technical documentation is not available from the manufacturer, the private importer may use the service of an expert who is neither directly nor indirectly involved in the conformity assessment procedure. A notified body may also act as the referred expert if not involved in the conformity assessment procedure of product in question.

The private importer has to also ensure that the name and address of the notified body which made the conformity assessment are marked on the product and the product is accompanied by an owner's manual that meets requirements of the Directive.

## Article 13

### Identification of economic operators

1. Economic operators shall, on request, identify the following to the market surveillance authorities:
  - (a) any economic operator who has supplied them with a product;
  - (b) any economic operator to whom they have supplied a product.

Economic operators shall be able to present the information referred to in the first subparagraph for a period of 10 years after they have been supplied with the product and for a period of 10 years after they have supplied the product.

2. Private importers shall, on request, identify to the market surveillance authorities the economic operator who has supplied them with the product.

Private importers shall be able to present the information referred to in the first subparagraph for a period of 10 years after they have been supplied with the product.

**Economic operators have to cooperate with market surveillance authorities in identifying economic operators in supply chain who has supplied them or to whom they have supplied a product.**

**Private importers have to cooperate with market surveillance authorities in identifying economic operators (or persons) who has supplied the product.**

**Therefore, they shall keep this kind of information for 10 years after purchase or sale of a product.**

### **CHAPTER III**

#### **CONFORMITY OF THE PRODUCT**

Chapter III deals with presumption of conformity of products, the EU declaration of conformity and CE marking principles, rules and conditions.

Products are presumed to conform to the health, safety and environmental objectives of the Directive where the product has been manufactured in accordance with harmonised standards.

Alternatively, the manufacturer may construct the product in conformity with the essential requirements (health, safety and environmental objectives) of the Directive, without applying harmonised standards. In such a case the product will not benefit from presumption of conformity conferred by the use of such standards and the manufacturer must include in the technical documentation (see Annex IX of the Directive) a description of solutions adopted to satisfy the requirements of the Directive.

#### **Article 14**

##### **Presumption of conformity**

Products which are in conformity with harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union shall be presumed to be in conformity with the requirements covered by those standards or parts thereof, set out in Article 4(1) and Annex I.

Presumption of conformity of products is conferred by the use of European harmonised standards which titles and references are referred and published in the Official Journal of the European Union (OJEU).

European Standardisation Organisations (CEN, CENELEC and ETSI) and their specific Technical Committees, as well as other sectorial interested parties (national experts, notified bodies, industry, etc.) are involved in the development of European standards. These standards are likely the preferred option for demonstrating compliance once they become available as harmonised standards.

Voluntary harmonised standards are the only documents the application of which provides for presumption of conformity in the sense of the Directive. Manufacturers may also decide to use other existing European, international or national standards and/or other technical specifications regarded as important, relevant or useful to cover the applicable essential health, safety and environmental requirements of the Directive, together with additional controls addressing those other requirements not already covered.

Harmonised standards are amended and updated on a regular basis and in response to new technical knowledge, to reflect the available "state of the art". During the process of updating, a manufacturer may continue to use a current harmonised standard to claim full compliance with the Directive, until a new harmonised standard

replaces (supersedes) the previous one, at the end of the established transition period, as usually set.

The consolidated lists of references of European harmonised standards under the Directive 2013/53/EU, published on the Official Journal of the European Union (OJEU), can be found in all EU languages, on the Commission's website: [https://ec.europa.eu/growth/single-market/european-standards/harmonised-standards/recreational-craft\\_en](https://ec.europa.eu/growth/single-market/european-standards/harmonised-standards/recreational-craft_en).

European standards for the Directive are produced by and available from two European Standardisation Organisations:

- **European Committee for Standardization (CEN):** avenue Marnix 17, 1000 Brussels, Belgium; tel. (32-2) 550 08 11; fax (32-2) 550 08 19; website <http://www.cen.eu>;
- **European Committee for Electrotechnical Standardization (CENELEC):** avenue Marnix 17, 1000 Brussels, Belgium; tel. (32-2) 519 68 71; fax (32-2) 519 69 19; website <http://www.cenelec.eu>.

National transpositions of European harmonised standards are available from the national standardisation bodies, members of CEN and CENELEC.

Production of the European standards is based on a standardisation mandate drawn up by the European Commission. European Commission grants a mandate to CEN and CENELEC to produce European standards to be harmonised. The mandate covers the standardisation work necessary for providing technical specifications to the essential requirements.

### **Article 15**

#### **EU declaration of conformity and declaration in accordance with Annex III**

1. The EU declaration of conformity shall state that the fulfilment of requirements specified in Article 4(1) and Annex I or those referred to in points (b) or (c) of Article 6(4) has been demonstrated.

2. The EU declaration of conformity shall have the model structure set out in Annex IV to this Directive, shall contain the elements specified in the relevant modules set out in Annex II to Decision No 768/2008/EC as well as in Annex V to this Directive, and shall be continuously updated. It shall be translated into the language or languages required by the Member State on whose market the product is made available or put into service.

3. By drawing up the EU declaration of conformity, the manufacturer, private importer or the person adapting the engine referred to in points (b) and (c) of Article 6(4) shall assume responsibility for the compliance of the product.

4. The EU declaration of conformity referred to in paragraph 3 shall accompany the following products when they are made available on the market or put into service:

- (a) watercraft;
- (b) components when placed on the market separately;
- (c) propulsion engines.



5. The declaration by the manufacturer or the importer set out in Annex III for partly completed watercraft shall contain the elements specified in that Annex and shall accompany partly completed watercraft. It shall be translated into the language or languages required by the Member State on whose market the product is made available.

EU declaration of conformity is a legal statement by the manufacturer, his authorised representative established in the EU, private importer or the person marinising the engine bought from the original engine manufacturer, attesting that the concerned product complies with the essential requirements of the Directive.

The EU declaration of conformity must be signed by the manufacturer (by an individual working for the manufacturer) or his authorised representative, and the employee's function shall also be indicated. In parallel, the EU declaration of conformity must be signed by the private importer himself and the mariniser.

Annex IV of the Directive sets out the model structure of the EU declaration of conformity that must be followed. This model specifies the mandatory minimum content of the declaration of conformity. Therefore, if the eligible person produces a declaration of conformity that contains mandatory information as set out in Annex IV, they will be considered as fulfilling the requirements of the declaration of conformity.

To this end, the administrative cooperation group (ADCO) of market surveillance authorities adopted the sectorial specific templates of EU declaration of conformity for recreational craft, personal watercraft and propulsion engines which are recommended to be used by persons placing the products on the market. The templates are available on the CIRCABC collaborative web platform.

In case of partly completed watercraft, it is not appropriate to require the EU declaration of conformity as the watercraft will be completed by other natural or legal person who after completing the watercraft shall issue the EU declaration of conformity. A manufacturer or importer of partly completed watercraft shall declare the information required in Annex III of the Directive 2013/53/EU.

Products that were already in the supply chain before 18 January 2017 could continue to be made available on the Union market or put into service with the EC declaration of conformity referring to Directive 94/25/EC as amended by 2003/44/EC as they had already been lawfully placed on the market during the transitional period.

Declarations of conformity (EC or EU) remain valid according to the legislation in force when the product is placed on the market (= made available on the Union market for the first time). There is no need to change legislative references in documents accompanying the product.

For products placed on the Union market as of 18 January 2017 the EU declaration of conformity must be in accordance to the new Directive 2013/53/EU.

Article 15(2) of the Directive requires the declaration of conformity to be translated when required. When a market surveillance authority requests the declaration, it should be made available in the language required by the Member State on whose territory the product is placed or made available on the market or put into service. The Union harmonisation legislation does not specify which economic operator is required to fulfil this obligation.

It is recommended that any translation should be of sufficient quality to be acceptable to a Member State authority. However, if the time is lacking, the officially translated template in Annex IV in all EU languages, as part of the whole Directive translated text in the OJEU, can provide the necessary basis for the mandatory information to be supplied to the Member State concerned.

If a translation of the EU declaration of conformity is not signed by the manufacturer, a copy of the original EU declaration of conformity signed by the manufacturer must be provided together with the translated version.

Products in the scope of the Directive may be covered by other Union legislation too. To ensure effective access to information for market surveillance purposes, the information required to identify all Union acts applicable to the product concerned, should be available in a single EU declaration of conformity. In order to reduce the administrative burden on economic operators, that single EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity.

See also point 4.4 "EU Declaration of conformity" in The 'Blue Guide' on the implementation of EU product rules.

## Article 16

### General principles of the CE marking

The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

The CE marking declares conformity of the product with the essential requirements which is the result of the application of the conformity assessment procedures set out under the Recreational Craft Directive and all the other directives applicable.

Recital 30 of the Directive explains the CE marking should be the only marking of conformity indicating that the product covered by this Directive is in conformity with Union harmonisation legislation. However, other markings should be allowed as long

as they contribute to the improvement of consumer protection and are not covered by Union harmonisation legislation and do not create confusion with CE marking.

See also point 4.5.1 "CE marking" in The 'Blue Guide' on the implementation of EU product rules.

**Article 17**  
**Products subject to CE marking**

1. The following products are subject to CE marking when they are made available on the market or put into service:

- (a) watercraft;
- (b) components;
- (c) propulsion engines.

2. Member States shall presume that the products referred to in paragraph 1 bearing the CE marking comply with this Directive.

**Article 17 of the Directive makes clear which products are supposed to carry the CE marking demonstrating their compliance with the provisions of Directive 2013/53/EU. Watercraft, components and propulsion engines are meant to be those as defined in Article 3 of the Directive. Member States shall presume the compliance of such product with the Directive and shall not impede their making available on the market.**

**Article 18**  
**Rules and conditions for affixing the CE marking**

1. The CE marking shall be affixed visibly, legibly and indelibly to the products referred to in Article 17(1). In case of components, where that is not possible or not warranted on account of the size or nature of that product, it shall be affixed to the packaging and to the accompanying documents. In the case of watercraft, the CE marking shall be affixed on the watercraft builder's plate mounted separately from the watercraft identification number. In the case of a propulsion engine, the CE marking shall be affixed on the engine.

2. The CE marking shall be affixed before the product is placed on the market or put into service. The CE marking, and the identification number referred to in paragraph 3, may be followed by a pictogram or any other mark indicating a special risk or use.

3. The CE marking shall be followed by the identification number of the notified body, where that body is involved in the production control phase or in the post-construction assessment.

The identification number of the notified body shall be affixed by the body itself or, under its instructions, by the manufacturer or his authorised representative, or by the person referred to in Article 19(2), (3) or (4).

Article 18 of the Directive lays down the rules and conditions for affixing the CE marking. It must be noted that principles, conditions and rules for affixing of CE marking are laid down in Regulation (EC) No. 765/2008 and reference provisions in Decision No 768/2008/EC. The format and specification as laid down in the Regulation (EC) No 765/2008 must be followed when affixing the CE marking on the product.

See also point 4.5 on “Marking Requirements” in The 'Blue Guide' on the implementation of EU product rules which provides detailed guidance on CE marking requirements.

**CHAPTER IV**  
**CONFORMITY ASSESSMENT**

**Article 19**

**Applicable conformity assessment procedures**

1. The manufacturer shall apply the procedures set out in the modules referred to in Articles 20, 21 and 22 before placing on the market products referred to in Article 2(1).
2. The private importer shall apply the procedure referred to in Article 23 before putting into service a product referred to in Article 2(1) if the manufacturer has not carried out the conformity assessment for the product concerned.
3. Any person placing on the market or putting into service a propulsion engine or a watercraft after a major modification or conversion thereof, or any person changing the intended purpose of a watercraft not covered by this Directive in a way that it falls under its scope, shall apply the procedure referred to in Article 23 before placing the product on the market or putting it into service.
4. Any person placing on the market a watercraft built for own use before the end of the five-year period referred to in point (vii) of point (a) of Article 2(2) shall apply the procedure referred to in Article 23 before placing the product on the market.

**Article 19 of the Directive specifies which conformity assessment procedures shall be applied by relevant economic or “non-economic operator” before placing the product on the market or putting into service.**

**Manufacturers, placing on the market a new product, shall apply the design and construction conformity assessment procedures referred to in Articles 20, 21 and 22 of the Directive. These conformity assessment procedures are in details described in Annex II of the Decision No 768/2008/EC.**

**Annex VI of the RCD provides for further details when internal production control plus supervised product testing (module A1) is used.**

Module	Title	Description
A	Internal production control	Internal conformity assessment and production control by the manufacturer himself who draws up an EU declaration of conformity containing the information required in Annex IV of the Directive.
A1	Internal production control plus supervised product testing	Module A, plus tests of one or several watercraft representing the production of the manufacturer one or more tests, as defined in Annex VI, shall be carried out by the manufacturer under the responsibility of the notified body, which issues an examination report.
B	EC-Type Examination	Covers EC-Type Examination; the notified body issues an EC type-examination certificate for a representative production specimen which it has assessed in accordance

		with the essential requirements. This module applies only to the design phase and must be followed up by the manufacturer applying a module providing for assessment in the production phase.
C	Conformity to type based on internal production control	Supplements Module B. Manufacturer's declaration on the basis of conformity to type, approved by the notified body (Module B above), ensuring the products are in conformity with the type described in EC type examination certificate
C1	Conformity to type based on internal production control plus supervised product testing	Supplements Module B. Manufacturer's declaration on the basis of conformity to type (module C) plus tests of each individual product carried out by the manufacturer under the responsibility of the notified body, which issues an examination report.
D	Conformity to type based on quality assurance of production process	Supplements Module B. Notified body assesses the quality system for production, final product inspection and testing set up by the manufacturer.
E	Conformity to type based on product quality assurance	Supplements Module B. Notified body assesses the quality system for final product inspection and testing set up by the manufacturer.
F	Conformity to type based on product verification	Supplements Module B. Covers product verification at the production phase, with the involvement of a notified body, which controls conformity to type and issues the certificate of conformity.
G	Conformity based on unit verification	Covers unit verification of the design and production phase of each product controlled by a notified body, which issues a certificate of conformity.
H	Conformity based on full quality assurance	Notified body assesses the quality system for design, production, final product inspection and testing set up by the manufacturer.

**These classic conformity assessment procedures are not well suited for private importers, persons carrying out the major craft conversion on the product, persons changing the intended purpose of a watercraft not covered by the Directive in a way that it falls under its scope and persons placing a watercraft built for own use on the market before the end of the five-year period as these persons are often dealing with the used watercraft and in fact they are not the manufacturer. Therefore, they shall use the post construction assessment referred to in Annex V of the RCD to demonstrate the conformity of the product.**

**In case of partly completed watercraft a person placing it on the market shall issue declaration that the partly completed watercraft complies with the essential requirements that apply at this stage of construction. The declaration shall include references to the relevant harmonised standards used, or references to the specifications in relation to which compliance is declared at this stage of construction. Furthermore, the declaration shall make clear that the partly completed**

watercraft is intended to be completed by other legal or natural persons who will assume the responsibility for the full compliance with this Directive.

When partly completed craft is completed by another person with the intention to place it on the market or put into service, the conformity assessment shall be made with use of classic conformity assessment modules applicable for this Directive.

## Article 20 Design and construction

1. With regard to design and construction of recreational craft the following procedures set out in Annex II to Decision No 768/2008/EC shall apply:

The following paragraphs list the conformity assessment modules available for assessment of the design and construction requirements for recreational craft, personal watercraft and components referred to in Annex II of the Directive. The modules to be applied for conformity assessment of the exhaust and noise emission requirements are further given below. In some cases the modules applied for assessment of recreational craft's design and construction may therefore be different from the modules applied for the recreational craft's emission requirements.

(a) For design categories A and B referred to in point 1 of Part A of Annex I:

(i) For recreational craft of hull length from 2,5 m to less than 12 m, any of the following modules:

- Module A1 (internal production control plus supervised product testing);
- Module B (EU type-examination) together with Module C, D, E or F;
- Module G (conformity based on unit verification);
- Module H (conformity based on full quality assurance).

A third party assessment is obligatory for design categories A and B. Manufacturers may use the module A1 - internal production control when a notified body assesses, according Annex VI of the Directive, the stability, buoyancy and noise emissions of a recreational craft with a hull length from 2,5 m to less than 12 m. Manufacturers of such recreational craft who wish a notified body to assess the conformity of their craft with all the design and construction requirements may apply either an EC type-examination of the craft (module B) supplemented by module C, D, E or F, or a unit verification according to module G. Alternatively, full quality assurance assessment according to module H may be applied.

(ii) For recreational craft of hull length from 12 m to 24 m, any of the following modules:

- Module B (EU type-examination) together with Module C, D, E or F;

- Module G (conformity based on unit verification);
- Module H (conformity based on full quality assurance).

**Internal production control plus supervised product testing (module A1) is not available for the conformity assessment of recreational craft of design categories A and B with a hull length from 12 m to 24 m.**

(b) For design category C referred to in point 1 of Part A of Annex I:

(i) For recreational craft of hull length from 2,5 m to less than 12 m, any of the following modules:

— where the harmonised standards relating to points 3.2 and 3.3 of Part A of Annex I are complied with: Module A (internal production control), Module A1 (internal production control plus supervised product testing), Module B (EU type-examination) together with Module C, D, E or F, Module G (conformity based on unit verification) or Module H (conformity based on full quality assurance);

— where the harmonised standards relating to points 3.2 and 3.3 of Part A of Annex I are not complied with: Module A1 (internal production control plus supervised product testing), Module B (EU type-examination) together with Module C, D, E or F, Module G (conformity based on unit verification) or Module H (conformity based on full quality assurance);

**Full scale of conformity assessment modules applicable in the RCD is available for manufacturers of recreational craft of design category C with a hull length from 2,5 m to less than 12 m if they use the harmonized standards for stability and buoyancy for their conformity assessment.**

**Where the harmonized standards for stability and buoyancy are not employed in the conformity assessment, the module A (internal production control) cannot be used.**

(ii) For recreational craft of hull length from 12 m to 24 m, any of the following modules:

- Module B (EU type-examination) together with Module C, D, E or F;
- Module G (conformity based on unit verification);
- Module H (conformity based on full quality assurance).

**Both, neither internal production control (module A) nor internal production control plus supervised product testing (module A1) is available for the conformity assessment of recreational craft of design category C with a hull length from 12 m to 24 m.**

(c) For design category D referred to in point 1 of Part A of Annex I:

for recreational craft of hull length from 2,5 m to 24 m, any of the following modules:



- Module A (internal production control);
- Module A1 (internal production control plus supervised product testing);
- Module B (EU type-examination) together with Module C, D, E or F;
- Module G (conformity based on unit verification);
- Module H (conformity based on full quality assurance).

**Full scale of conformity assessment modules applicable in the RCD is available for manufacturers of recreational craft of design category D with a hull length from 2,5 m to 24 m.**

**2. With regard to design and construction of personal watercraft any of the following procedures set out in Annex II to Decision No 768/2008/EC shall apply:**

- (a) Module A (internal production control);
- (b) Module A1 (internal production control plus supervised product testing);
- (c) Module B (EU type-examination) together with Module C, D, E or F;
- (d) Module G (conformity based on unit verification);
- (e) Module H (conformity based on full quality assurance).

**All conformity assessment modules can be used for conformity assessment of design and construction requirements of personal watercraft.**

**However, compliance on exhaust emissions of the propulsion engine installed or intended for installation in the personal watercraft has to be demonstrated by the engine manufacturer in accordance with one of the modules specified for the exhaust emissions and the manufacturer of the personal watercraft has to demonstrate compliance with the noise requirements in accordance with one of the modules specified for noise emissions.**

**Accordingly a personal watercraft manufacturer may choose to apply internal production control (module A) for the design and construction requirements which do not require the intervention of a notified body. However, in case of application of Module A1, the manufacturer must involve a notified body for the conformity assessment of the stability, buoyancy and of noise emissions of the personal watercraft.**

**If module B is chosen the notified body shall conduct an EC type-examination of a specimen personal watercraft representative of the production envisaged, with respect to compliance with the design and construction requirements. This module has to be supplemented in the production stage with module C applied by the personal watercraft manufacturer, or by modules D, E or F with the involvement of the notified body that carried out the EC type-examination. A manufacturer of personal watercraft may also apply for unit verification according to module G or full quality assurance assessment in accordance with module H.**

3. With regard to design and construction of components any of the following procedures set out in Annex II to Decision No 768/2008/EC shall apply:

- (a) Module B (EU type-examination) together with Module C, D, E or F;
- (b) Module G (conformity based on unit verification);
- (c) Module H (conformity based on full quality assurance)

**A notified body involvement is obligatory for conformity assessment of components listed in Annex II of the RCD. A component manufacturer can neither use internal production control (module A) nor internal production control plus supervised product testing (module A1) for conformity assessment of components.**

### **Article 21 Exhaust emissions**

With regard to exhaust emissions, for products referred to in points (d) and (e) of Article 2(1), the engine manufacturer shall apply the following procedures set out in Annex II to Decision No 768/2008/EC:

- (a) where tests are conducted using the harmonised standard, any of the following modules:
  - (i) Module B (the EU type-examination) together with Module C, D, E or F;
  - (ii) Module G (conformity based on unit verification);
  - (iii) Module H (conformity based on full quality assurance);
- (b) where tests are conducted without using the harmonised standard, any of the following modules:
  - (i) Module B (the EU type-examination) together with Module C 1;
  - (ii) Module G (conformity based on unit verification).

**For the assessment of conformity of a propulsion engine with the exhaust emissions requirements, where tests are conducted using the harmonised standard, the engine manufacturer must request a notified body to conduct an EC type-examination of the engine specimen (module B) supplemented by modules C, D, E or F, or to apply unit verification (module G), or have a full quality assurance assessment (module H).**

**In case where tests are conducted without using the harmonised standard, the engine manufacturer must request a notified body to conduct also an EC type-examination supplemented in this case by module C1(modules B+C1) or apply the module G.**

**For propulsion engines that are subject to a major engine modification according to the definition in Article 3(6) of the Directive, the party responsible for placing the engine modified on the market or putting it into service must request a notified body to conduct post construction assessment in accordance with Article 19(3) and Annex**

V of the RCD. Anyway if the major engine modification is carried out by the engine manufacturer he should apply the assessment as in the case of assessment of the original engine. It would concern a major engine modification to an engine type certified according to module B, in which case the conformity assessment of the modified type has to be done according to module B, supplemented by module C, D, E or F or G or H in case of harmonized standard is used or module B supplemented by module C1 in case where harmonized standard is not used in assessment of the engines produced in conformity with the modified type.

## Article 22 Noise emissions

1. With regard to noise emissions for recreational craft with stern drive propulsion engines without integral exhausts or inboard propulsion engine installations and for recreational craft with stern drive propulsion engines without integral exhausts or with inboard propulsion engine installations which are subject to major craft conversion and subsequently placed on the market within five years following conversion, the manufacturer shall apply the following procedures set out in Annex II to Decision No 768/2008/EC:

(a) where tests are conducted using the harmonised standard for noise measurement, any of the following modules:

- (i) Module A1 (internal production control plus supervised product testing);
- (ii) Module G (conformity based on unit verification);
- (iii) Module H (conformity based on full quality assurance).

(b) Where tests are conducted without using the harmonised standard for noise measurement, Module G (conformity based on unit verification).

(c) Where the Froude number and power displacement ratio method is used for assessment, any of the following modules:

- (i) Module A (internal production control);
- (ii) Module G (conformity based on unit verification);
- (iii) Module H (conformity based on full quality assurance).

**Manufacturers of recreational craft with inboard propulsion engines or with stern drive engines without integral exhaust, where tests are conducted using the harmonised standard for noise measurement, shall apply module A1, module G or module H under the responsibility of a notified body.**

**In case where tests are conducted without using the harmonised standard, the conformity based on unit verification, with the involvement of a notified body, has to be applied (module G).**

Recreational craft with inboard propulsion engines, or with stern drive engines without integral exhaust, which are subject to a ‘major craft conversion’ and subsequently placed on the Union market or put into service must also comply with the essential requirements for noise emissions as specified in Annex I.C of the Directive. When noise measurements tests in accordance with the harmonised standard are used for the conformity assessment, the party responsible for placing the craft converted on the market must request a notified body to conduct a post construction assessment in accordance with Article 19(3) and Annex V of the RCD. Anyway if the craft conversion is carried out by the manufacturer he should apply the assessment as in the case of assessment of the original recreational craft.

Recreational craft with inboard propulsion engines or stern drive engines without integral exhaust that have a Froude number of  $\leq 1,1$  and a Power to Displacement ratio of  $\leq 40$ , and where the engine and exhaust system are installed in accordance with the engine manufacturer’s specifications (see the requirements of Annex I.C, points 1.2 and 1.3 of the Directive) are deemed to comply with the noise emission requirements. Such craft would typically be displacement (non-planing) motor boats or sailing boats with auxiliary propulsion engines.

The manufacturer of such recreational craft may apply internal production control (module A) for the noise emission requirements by calculating the Froude number and Power to Displacement ratio to demonstrate that they will be below the specified limits if the engine and exhaust system are installed in accordance with the engine manufacturer’s specifications. No involvement of a notified body is required for this assessment under module A, but the calculations and details of the engine and exhaust installation must be documented by the manufacturer in the technical documentation (see Annex IX of the Directive).

Demonstration of conformity with the noise emission requirements using the Froude number and Power to Displacement ratio method may also be made under module G (unit verification) or module H (full quality assurance), with the involvement of a notified body verifying and certifying the Froude number and Power to Displacement ratio calculations as well as whether the engine and exhaust system have been installed in accordance with the engine manufacturer’s specifications.

Recreational craft with inboard propulsion engines or with stern drive engines without integral exhaust which have been subject to a ‘major craft conversion’ and subsequently are placed on the Union market must also demonstrate compliance with the noise emission requirements. This may be done by applying the Froude number and Power to Displacement ratio method, if it is applicable for the craft, in accordance with one of the modules described above when craft conversion is carried out by the manufacturer. However if the placing on the market or putting into service of the converted craft is made by any person he/she shall apply for a post-construction assessment in accordance with Article 19(3) and Annex V of the RCD.

2. With regard to noise emissions for personal watercraft and outboard propulsion engines and stern drive propulsion engines with integral exhausts intended for installation on recreational craft, the personal watercraft or engine manufacturer shall apply the following procedures set

out in Annex II to Decision No 768/2008/EC:

(a) Where tests are conducted using the harmonised standard for noise measurement, any of the following modules:

(i) Module A1 (internal production control plus supervised product testing);

(ii) Module G (conformity based on unit verification);

(iii) Module H (conformity based on full quality assurance).

(b) Where tests are conducted without using the harmonised standard for noise measurement, Module G (conformity based on unit verification).

**Manufacturers of personal watercraft, outboard engines and stern drive engines with integral exhaust, where tests are conducted using the harmonised standard for noise measurement, shall apply internal production control (module A1), unit verification (module G) or full quality assurance assessment (module H) under the responsibility of a notified body.**

In case where tests are conducted without using the harmonised standard, the conformity based on unit verification, with the involvement of a notified body, has to be applied (module G).

The conformity assessment procedures according to the required module and in particular the affixing of the CE marking must take place prior to placing on the Union market and/or putting into service.

The following table summarizes the relevance of conformity assessment modules for particular products under the scope of the RCD.

**Table 1: Available conformity assessment modules:**

	Product type/Design category	Available modules	
Design and construction	Recreational craft	2,5m ≤ hull length <12m	12m ≤ hull length ≤ 24m
	A	A1, B+C, B+D, B+E, B+F, G or H	
	B		
	C	A, A1, B+C, B+D, B+E, B+F, G or H If harmonised standard for stability and buoyancy are complied with	B+C, B+D, B+E, B+F, G or H

		A1, B+C, B+D, B+E, B+F, G or H If harmonised standard for stability and buoyancy are not complied with	
	D	A, A1, B+C, B+D, B+E, B+F, G or H	
	PWC	A, A1, B+C, B+D, B+E, B+F, G or H	
	Components	B+C, B+D, B+E, B+F, G or H	
Exhaust	Recreational marine propulsion engines	B+C, B+D, B+E, B+F, G or H If harmonised standard for exhaust emission testing is complied with	
		B+C1 or G If harmonised standard for exhaust emission testing is not complied with	
Noise		Pass-by test	$F_n + P/D$ ratio method where the engine and exhaust system are installed in accordance with the engine manufacturer's specifications
	Outboard engines, Personal Watercraft and stern drive engines with integral exhaust	A1, G or H If harmonised standard for noise emissions measurement is complied with	
		G If harmonised standard for noise emissions measurement is not complied with	
Recreational craft with inboard engines or stern drive engines without integral	A1, G or H If harmonised standard for noise emissions measurement is complied with	A, G or H	

	exhaust	G If harmonised standard for noise emissions measurement is not complied with	
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### Article 23

#### Post-construction assessment

The post-construction assessment referred to in Article 19(2), (3) and (4) shall be carried out as set out in Annex V.

This Article specifies the procedures for post-construction assessment (PCA) of products in scope of the RCD in case the manufacturer or his authorised representative is not fulfilling the responsibilities for the product's conformity with the requirements of the Directive.

In this case a natural or legal person (non-economic operator) referred to in Article 19(2), (3) or (4) who is placing the product on the market or putting it into service under his own responsibility is assuming the responsibility for the equivalent conformity of the product.

In this context 'post-construction assessment' refers to conformity assessment that is required for product that is completed, and may even have been in use, prior to the assessment.

Example may be a used watercraft from a third country being imported by a private importer and hence put into service for own use. This would also include products manufactured in the EU/EEA for export outside the EU/EEA (and have not been subject to conformity assessment and CE marking), which afterwards return to the EU/EEA as second hand product.

It should be noted that the PCA has to cover the applicable requirements of the Directive.

In case of a watercraft that is designed and intended for inboard or stern drive engines (with or without integral exhaust) installation and/or from which the propulsion engine has been removed, the PCA can only be completed and be valid after the engine installation has been fitted and the craft/engine installation has been assessed on its compliance with the design & construction, exhaust and noise emission requirements.

In case of a watercraft that is designed and intended for outboard engine's installation and/or from which the propulsion engine has been removed, the PCA can only be completed and be valid after the engine installation has been fitted and the craft/engine installation has been assessed on its compliance with the design & construction requirements of the Directive.

Other example of using the PCA would be a watercraft built for own use and then placed on the Union market as a second hand product within 5 years after being first put into service.

The PCA shall be used also in case of major craft conversion when a watercraft changes the means of propulsion, carries out a major engine modification or alters the watercraft to such an extent that it may not meet the applicable essential safety and environmental requirements laid down in the Directive.

The PCA is equally involved in cases when the intended purpose of a watercraft not covered by the Directive is changed in a way that it falls under its scope. The typical examples can be a watercraft used for commercial purposes (transport of persons, goods, fishing purposes) or a watercraft used for racing but transformed into a watercraft used for sports and leisure purposes.

PCA should also be required for new product imported from third countries, by the private importer and for own use, which have not been designed and manufactured with a view to be placed on the Union market and for which the manufacturer has not applied the requirements of the Directive and hence not declared the product to be in conformity with the Directive.

#### Article 24

##### Supplementary requirements

1. When Module B of Annex II to Decision No 768/2008/EC is used, the EU type examination shall be carried out in the manner specified in the second indent of point 2 of that module.

A production type referred to in Module B may cover several versions of the product provided that:

- (a) the differences between the versions do not affect the level of safety and the other requirements concerning the performance of the product; and
- (b) versions of the product are referred to in the corresponding EU-type examination certificate, if necessary through amendments to the original certificate.

Decision No 768/2008/EC provides for a choice how the EU-type examination may be carried out. For sake of the RCD the only combination of production type and design type is possible. Therefore, the EU-type examination shall be carried out through the assessment of the adequacy of the technical design of the product through examination of the technical documentation and supporting evidence as referred to in point 3 of Annex II (module B), Decision No 768/2008/EC, plus examination of specimens, representative of the production envisaged, of one or more critical parts of the product.

Where this module is selected by an engine manufacturer for assessing the compliance of the engines with the exhaust emission requirements, the specimen chosen as “a specimen representative of the production envisaged” for application of this module, should be one ‘parent engine’ from each engine family in the



manufacturer's range. Each parent engine selected must be chosen to provide exhaust emission characteristics representative of all engines (expected to result in the highest specific emissions measured) in that engine family. If the parent engine meets the exhaust emission requirements, the engine family it represents is then type-approved in accordance with the Directive, not just the engine model tested. Where an engine is not part of an engine family, it is the individual engine model that is to be type-approved.

A production type may cover several versions of the product under the condition that the level of safety and performance of the product's versions remain the same. Above it, all these versions have to be listed in the EU-type examination certificate.

2. When Module A1 of Annex II to Decision No 768/2008/EC is used, the product checks shall be carried out on one or several watercraft representing the production of the manufacturer and the supplementary requirements set out in Annex VI to this Directive shall apply.

3. The possibility of using accredited in-house bodies referred to in Modules A1 and C1 of Annex II to Decision No 768/2008/EC shall not be applicable.

Article 24(2) of the Directive extends the requirement set out in point 4 of Module A1 on Annex II of Decision No 768/2008/EC by referring to Annex VI of the RCD. The Annex VI of the RCD states that one or more of the tests of stability, buoyancy and noise emissions shall be carried out on one or several watercraft or propulsion engines representing the production of the manufacturer.

It is specified in Article 24(3) of the Directive that mentioned tests shall be carried out under the responsibility of a notified body. The use of accredited in-house bodies is not allowed when modules A1 e C1 are used.

4. When Module F of Annex II to Decision No 768/2008/EC is used, the procedure described in Annex VII to this Directive shall apply for the assessment of conformity with the exhaust emission requirements.

Article 24(4) of the Directive states that the RCD contains certain specifications in addition to requirements described in Module F of Annex II to Decision No 768/2008/EC. In particular, it sets out the calculation to be used for verifying the conformity of an engine family to the exhaust emission requirements of the RCD.

5. When Module C of Annex II to Decision No 768/2008/EC is used, with regard to the assessment of conformity with the exhaust emission requirements of this Directive and if the manufacturer is not working under a relevant quality system as described in Module H of Annex II to Decision No 768/2008/EC, a notified body chosen by the manufacturer shall carry out product checks or have them carried out at random intervals determined by that body, in order to verify the quality of the internal checks on the product. When the quality level appears unsatisfactory or when it seems necessary to verify the validity of the data presented by the manufacturer, the procedure set out in Annex VIII to this Directive shall apply.

Article 24(5) of the Directive describes how the conformity with the exhaust emission requirements is assessed when a manufacturer uses Module C for conformity assessment but is not working under quality system as described in Module H. Notified body shall carry out product checks in order to verify the quality of the internal checks on the product and if necessary to apply the procedure described in Annex VIII of the RCD.

#### Article 25

##### Technical documentation

1. The technical documentation referred to in Article 7(2) shall contain all relevant data and details of the means used by the manufacturer to ensure that the product complies with the requirements set out in Article 4(1) and Annex I. It shall, in particular, contain the relevant documents listed in Annex IX.

2. The technical documentation shall ensure that the design, construction, operation and assessment of conformity may be clearly understood.

One of the manufacturer's and private importer's (if applicable) obligations is to draw up the technical documentation which contains all data relevant for the conformity assessment. In particular, the technical documentation must contain:

- (a) A general description of the type;
- (b) Conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, and other relevant data;
- (c) Descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product;
- (d) A list of the harmonized standards and descriptions of the solutions adopted to fulfil the essential requirements when the harmonized standards have not been applied;
- (e) Results of design calculations made, examinations carried out and other relevant data;
- (f) Test reports, or calculations namely on stability and on buoyancy;
- (g) Exhaust emissions test reports
- (h) Sound emissions test reports

**CHAPTER V**  
**NOTIFICATION OF CONFORMITY ASSESSMENT BODIES**

Chapter V of the Directive deals with the requirements and notification procedures for notifying authorities in the EU Member States and for the conformity assessment bodies notified by these notifying authorities to carry out the conformity assessment of products and verify its compliance with the essential requirements of the Directive. The Directive includes the related contents of the Decision No 768/2008/EC.

Notified bodies must provide the professional and independent judgements, which consequently enable manufacturers or their authorised representatives private importers and other persons according Article 19(3) and (4) to fulfil the procedures in order to presume conformity to the Directive. Their intervention is required:

- for examination of the technical design of a product which can be made by the examination of a specimen and issuing EU-type examination certificates;
- for inspection, verification and testing of products before they can be placed on the market and/or put into service;
- for the assessment of manufacturer's quality assurance system in the production phase.
- for post-construction assessment

*See also point 5.2. ("Conformity assessment bodies") and point 5.3 ("Notification") in The 'Blue Guide' on the implementation of EU product rules.*

**Article 26**  
**Notification**

**Member States shall notify the Commission and the other Member States of the bodies authorised to carry out third- party conformity assessment tasks under this Directive.**

The bodies responsible for undertaking the conformity assessment referred to in Articles 20-24 of the Directive must be notified by the Member State under whose jurisdiction they fall, on their own responsibility, to the European Commission and the other Member States. This notification also includes the relevant scope of competence for which that body has been assessed as technically competent to certify against the essential requirements as shown in the Directive. The responsibility of notification involves also the obligation to ensure that the notified bodies permanently maintain the technical competence required by Directive and that they keep their notifying authorities informed on the performance of their tasks.

If there is no technically competent body to notify, Member State is not required to make such notification or to create a notified body. A manufacturer always has the choice of contacting any other conformity assessment body with the appropriate scope of technical competence, which has been notified by a Member State.

On their own responsibility, Member States reserve the right not to notify a body and to restrict, suspend or withdraw notification. In this case the Member State shall inform the Commission and other Member States.

## Article 27

### Notifying authorities

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies for the purposes of this Directive, and for the monitoring of notified bodies, including compliance with the provisions of Article 32.
2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.
3. Where the notifying authority delegates or otherwise entrusts the assessment, notification or monitoring referred to in paragraph 1 to a body which is not a governmental entity that body shall be a legal entity and shall comply *mutatis mutandis* with the requirements laid down in Article 28. In addition, that body shall have arrangements to cover liabilities arising out of its activities.
4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

**A notifying authority is a governmental or public body that is assigned to designate and notify conformity assessment bodies under the Directive. Most often it is the national administration responsible for the implementation and management of the Directive under which the body is notified. Each Member State must designate a notifying authority to be responsible for the assessment, notification and monitoring of conformity assessment bodies. The notifying authority assumes full responsibility for the competence of the bodies it notifies.**

## Article 28

### Requirements relating to notifying authorities

1. A notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.
2. A notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.
3. A notifying authority shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.
4. A notifying authority shall not offer or provide any activities that conformity assessment bodies perform or consultancy services on a commercial or competitive basis.
5. A notifying authority shall safeguard the confidentiality of the information it obtains.

6. A notifying authority shall have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

Each Member State must establish its notifying authorities in such a way that there is no conflict of interest with conformity assessment bodies. They must be organised and operated so as to safeguard the objectivity and impartiality of their activities. Each decision relating to notification of a conformity assessment body must be taken by competent persons different from those who carried out the assessment.

Further requirements on a notifying authority are that it must not offer or provide any activities that conformity assessment bodies perform, or consultancy services on a commercial or competitive basis. It must safeguard the confidentiality of the information it obtains, and it must have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

### Article 29

#### Information obligation on notifying authorities

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Member States must send the Commission description of their procedures for the assessment and notification of conformity assessment bodies and their monitoring. The Commission makes that information publicly available on its NANDO website.

### Article 30

#### Requirements relating to notified bodies

1. For the purposes of notification under this Directive, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.

2. A conformity assessment body shall be established under national law and shall have legal personality.

3. A conformity assessment body shall be a third-party body independent of the organisation or the product it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the products which they assess, nor the

representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of such products for personal purposes.

A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design or manufacture, the marketing, installation, use or maintenance of those products, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

6. A conformity assessment body shall be capable of carrying out the conformity assessment tasks assigned to it by the provisions of Articles 19 to 24 and in relation to which it has been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure and each kind or category of products in relation to which it has been notified, a conformity assessment body shall have at its disposal the necessary:

(a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;

(b) descriptions of procedures in accordance with which conformity assessment is carried out ensuring the transparency and ability of reproduction of those procedures.

It shall have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;

(c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the technology of the product in question and the mass or serial nature of the production process.

It shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out the conformity assessment activities shall have the following:

(a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;

(b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;

(c) appropriate knowledge and understanding of the essential requirements, the applicable harmonised standards, the relevant Union harmonisation legislation and the relevant national legislation;

(d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

8. The impartiality of the conformity assessment bodies, their top level management and of the assessment personnel shall be guaranteed.

The remuneration of the top level management and assessment personnel of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

9. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the Member State in accordance with its national law, or the Member State itself is directly responsible for the conformity assessment.

10. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out their tasks under Articles 19 to 24 or any provision of national law giving effect to it, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.

11. Conformity assessment bodies shall participate in, or ensure that their assessment personnel are informed of, the relevant standardisation activities and the activities of the notified body coordination group established under Article 42, and shall apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

**Article 30 of the Directive defines the requirements that notified bodies must meet. Bodies which provide to their notifying authorities a proof of their conformity with such criteria by presenting a certificate of accreditation and evidence that all additional requirements have been met, or other means of documentary proof, are considered notifiable and in this respect they conform to Article 30 of the Directive.**

**Notified bodies are designated to assess conformity with the essential requirements of the Directive, and to ensure consistent technical application of these requirements according to the relevant procedures in the Directive. The notified bodies must have appropriate facilities and technical staff that enable them to carry out technical and**

administrative tasks related to conformity assessment. They must also apply appropriate procedures of quality control in relation to such services provided. Manufacturers are free to choose any notified body that has been designated to carry out the conformity assessment procedure in question according to the Directive.

A notified body wishing to offer services according to several conformity assessment procedures must fulfil the relevant requirements for the respective tasks, and this has to be assessed according to the requirements for each different procedure in question. However, a notified body does not need to be qualified to cover all products falling within the scope of the Directive, but may be notified for a defined range of products only.

Notified bodies must have appropriate structures and procedures to ensure that the conduct of conformity assessment and the issuing of certificates are subject to a review process. Relevant procedures must, in particular, cover obligations and responsibilities in relation to suspension and withdrawal of certificates, requests addressed to the manufacturer to take corrective measures, and reporting to the competent authority.

Notified bodies shall follow new publications of lists of titles and references of harmonised standards in the Official Journal of the EU in order to stay updated which standards actually provide presumption of conformity.

Notified bodies shall follow the activities of the relevant coordination group of notified bodies (RSG group of notified bodies) either by the direct physical or virtual participation at the meetings or by discussions on common position papers (called Recommendations for Use) on the RSG website. These common position papers shall be respected and applied by all notified bodies.

### **Article 31** **Presumption of conformity**

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union it shall be presumed to comply with the requirements set out in Article 30 in so far as the applicable harmonised standards cover those requirements.

Relevant harmonised standards provide useful and appropriate mechanisms towards presumption of conformity of notified bodies to the requirements set out in Article 30 of the Directive. However, this does not rule out the possibility that bodies not conforming to the harmonised standards may be notified, on the grounds that compliance is obligatory only with respect to the requirements set out in Article 30 to the Directive. It should also be noted that, where applicable, additional requirements including those set out in relevant sectorial schemes, are essential to carry out a specific conformity assessment activity.



## Article 32

### Subsidiaries of and subcontracting by notified bodies

1. Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 30 and shall inform the notifying authority accordingly.
2. Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.
3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.
4. Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the work carried out by them under Articles 19 to 24.

**A notified body may engage experts in support of its assessment activities but the experts' activities are to be controlled as if the expert were directly employed by the notified body under the same contractual obligations and operate within the notified body's own quality system.**

**Although assessment can be sub-contracted including assessment against the relevant essential requirements, the notified body remains entirely responsible for the whole operation and shall safeguard impartiality and operational integrity.**

**Client must always agree with subcontracting of some conformity assessment tasks.**

## Article 33

### Application for notification

1. A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.
2. The application referred to in paragraph 1 shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and the product or products for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 30.
3. Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 30.

### Article 34 Notification procedure

1. Notifying authorities may notify only conformity assessment bodies which have satisfied the requirements laid down in Article 30.
2. Notifying authorities shall notify the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.
3. The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules, product or products concerned and the relevant attestation of competence.
4. Where a notification is not based on an accreditation certificate as referred to in Article 33(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 30.
5. The body concerned may perform the activities of a notified body only where no objections are raised by the Commission or the other Member States within two weeks of a notification where an accreditation certificate is used or within two months of a notification where accreditation is not used.  
  
Only such a body shall be considered a notified body for the purposes of this Directive.
6. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

**Decision No 768/2008/EC established detailed requirements for notified bodies and national authorities concerning the application for notification and the notification procedure.**

**See also point 5.3. "Notification" in The 'Blue Guide' on the implementation of EU product rules.**

### Article 35 Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to each notified body.  
  
It shall assign a single such number even where the body is notified under several Union acts.  
  
Member States shall in addition assign an identification code to a notified body that has been authorised by a notifying authority to undertake the post-construction conformity assessments.

2. The Commission shall make publicly available the list of the bodies notified under this Directive, including the identification numbers and, if applicable, codes that have been allocated to them and the activities for which they have been notified.

The Commission shall ensure that that list is kept up to date.

When a body is notified for the first time under Union harmonisation legislation, the European Commission assigns to it an identification number, in the format "NB xxxx" (4-digits correlative number).

In addition, Member States assign the 3-digits post construction assessment code to those notified bodies which provide also the service of post construction assessment. Member States shall communicate this code to the Commission.

For information purposes, the lists of notified bodies are made publicly available by the Commission on a specific database on its EUROPA server, called NANDO ("New Approach Notified and Designated Organisations" information system), available on <http://ec.europa.eu/growth/tools-databases/nando/index.cfm>.

The lists are updated as and when the notifications are published, and the website is refreshed daily to keep it up-to-date.

See also point 5.3.3. "*Publication by the Commission - the NANDO web site*" in The 'Blue Guide' on the implementation of EU product rules.

### Article 36 Changes to notifications

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 30, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.

2. In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying Member State shall take appropriate steps to ensure that the files of that body are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

In case of changes to notifications, the relevant national authority must substantially follow the same procedure for notification with regard to information to the Commission and the other EU Member States, in order to keep duly updated the list of notified bodies.

See also point 5.3.4. "*Monitoring of the competence of notified bodies – suspension - withdrawal - appeal*" in The 'Blue Guide' on the implementation of EU product rules.

### Article 37

#### Challenge of the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.
2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the body concerned.
3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.
4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall adopt an implementing act requesting the notifying Member State to take the necessary corrective measures, including withdrawal of notification if necessary.

That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 50(2).

**Decision No 768/2008/EC establishes the possibility to raise objections concerning a notified body, its competence and its activities. In such cases, the Commission has to carry out an investigation and, when the results demonstrate that a notified body does not meet or no longer meets the requirements for its notification, the Commission will adopt an implementing act (as an "Implementing Commission Decision") requesting the notifying Member State to take the necessary corrective measures, including withdrawal of notification if necessary.**

### Article 38

#### Operational obligations of notified bodies

1. Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in Articles 19 to 24.
2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators and private importers. Conformity assessment bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

In so doing they shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the product with this Directive.

3. Where a notified body finds that requirements laid down in Article 4(1) and Annex I or in corresponding harmonised standards have not been met by a manufacturer or a private

importer, it shall require that manufacturer or private importer to take appropriate corrective measures and shall not issue a conformity certificate.

4. Where, in the course of the monitoring of conformity following the issue of a certificate, a notified body finds that a product is no longer in compliance, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate if necessary.

5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates, as appropriate.

**Operational obligations of notified bodies when performing their activities are described in the conformity assessment modules as set out in Decision No 768/2008/EC.**

**A body notified under the RCD may also perform the activities of post-construction assessment (excluding compilation of available documents and technical file) which are described under module PCA in Annex V of the Directive**

**A body notified under this Directive shall issue the following documents according to the provisions of the relevant conformity assessment procedures:**

- **Internal production control plus supervised product testing, certificate of conformity Module A1**
- **EU-type examination certificate, Module B**
- **Conformity to type based on quality assurance of the production process, Mod. D**
- **Conformity to type based on product quality assurance, Module E**
- **Conformity to type based on internal production control plus supervised product testing, Module C1**
- **Conformity to type based on product verification, certificate of conformity - Module F**
- **Conformity based on unit verification, certificate of conformity, Module G**
- **Conformity based on full quality assurance, notification of conformity, Module H**
- **Post Construction Assessment, PCA certificate of conformity**

**These documents need not accompany the product.**

**Apart from carrying out certain responsibilities in the field of public interest, notified bodies must regard themselves as rendering services to industry. Thus, they should provide relevant information to the manufacturer and the authorised representative regarding the legislation in question, apply the conformity assessment procedure without unnecessary burdens for the economic operators, and refrain from proposing additional certification or marking that is not mandatory and has no added value for the conformity assessment of the product. The latter activities must be clearly separated from the activities of the body as a notified body. Notified bodies cannot use their notified body name and number to carry out these activities.**

**To avoid unnecessary burdens for economic operators and help in ensuring the protection of confidential data or intellectual property rights, the technical**

documentation provided to notified bodies has to be limited to that which is required solely for the purpose of assessing conformity to the legislation.

Obligation of monitoring of conformity following the issue of a certificate means to carry out periodic audits of manufacturer including the unexpected visits at the manufacturer's premises for conformity assessment modules related to quality assurance (modules D, E and H).

For other conformity assessment modules, the Directive does not require the periodic audits but monitoring of conformity of issued certificate. Therefore, the role of notified body is to monitor the state of art of legislative framework and related standardisation output.

At the first instance, the manufacturers are obliged to inform notified body if their product has changed in a way that it is no longer in conformity with the issued certificate. However, in case of changes either in legislative framework or in related standards to the extent that a product is no longer in compliance, the notified body shall require manufacturer to take appropriate corrective measures.

If the notified body finds the product in compliance with the modified applicable legislation or related standards, the notified body shall, upon request by the market surveillance authorities, document the results of such assessment.

The notified bodies accredited to the standard EN ISO/IEC 17065:2012 are required on basis of that standard to verify the implementation of changes by their clients. In that context the notified body may request visiting the premises of the manufacturer. Such request must be justified and proportional to the whole conformity assessment exercise. In this case, manufacturer should not prevent the notified body from accessing its premises.

### Article 39 Appeal procedure

Member States shall ensure that an appeal procedure against decisions of the notified bodies is available.

Decisions taken by notified bodies – in particular concerning issuing or refusing of certificates – must be appealable by manufacturers or any other interested parties, through appropriate legal procedures set out by Member States. This should take into consideration the specific private/civil legal framework in which contractual agreements are stipulated between notified bodies and their customers (manufacturers or their authorised representatives).

### Article 40 Information obligation on notified bodies

1. Notified bodies shall inform the notifying authority of the following:

(a) any refusal, restriction, suspension or withdrawal of a certificate;

- (b) any circumstances affecting the scope of and conditions for notification;
  - (c) any request for information which they have received from market surveillance authorities regarding conformity assessment activities;
  - (d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.
2. Notified bodies shall provide the other bodies notified under this Directive carrying out similar conformity assessment activities covering the same products with relevant information on issues relating to negative and, on request, positive conformity assessment results.

**Notified bodies have specific information obligations with regard to their activities, to be provided to the notifying authorities by default or on their request.**

**Exchange of information among notified bodies about faulty products causing a negative conformity assessment result shall be made via specific templates on the RSG group of notified bodies' website.**

#### **Article 41** **Exchange of experience**

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for notification policy.

This kind of activity is usually carried out in the framework of the activities of horizontal/inter-sectorial working parties organized by the Commission with Member States representatives, such as the *Internal Market for Products - Market Surveillance Group (IMP-MSG)* and the *Senior Officials Group on Standardisation and Conformity Assessment Policy - Market Surveillance (SOGS-MSG)*, as well as within the sectorial Administrative Co-operation Group (RCD ADCO). Specifically, the RCD ADCO Group is composed of representatives of market surveillance authorities and other stakeholders. It usually meets twice a year to inform about, discuss and interchange experiences and practices, and to make proposals to be submitted to the RCD Committee.

#### **Article 42** **Coordination of notified bodies**

The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Directive are put in place and properly operated in the form of a sectoral group or groups of notified bodies.

Member States shall ensure that the bodies notified by them participate in the work of that group or groups, directly or by means of designated representatives.

All notified bodies are required to participate in appropriate co-ordination activities. It is RSG group of notified bodies under the Directive 2013/53/EU.

The RSG is run by notified bodies in order to assist in achieving a uniform application of the Directive in conformity assessment issues and other technical matters. While it is independent of the RCD Committee and its Working Group, it nonetheless needs to work closely with those bodies and with the European Commission services, all of which have a responsibility for the effective and uniform application of the Directive.

The RSG plays an important role as coordinator of notified bodies, as well as a technical reference and feedback to standardisers. The group meets 3 times per year, twice in subgroups for seeking common positions in technical matters and once for adopting those common positions. The common papers are called Recommendations for Use (RfUs). When adopted by the RSG group, these are submitted to the Member States (gathered in RCD Committee) for the endorsement of the proposed Recommendations for Use. When endorsed by Member States, the Recommendations for Use are published in the RSG guidelines and on RSG website and in CIRCABC platform.

Communication among notified bodies is ensured via the specific RSG website ([www.rsg.be](http://www.rsg.be)) where a notified body must register.

Notifying authorities in Member States should control the participation of its notified bodies in the activities of the RSG group using various sources of information (such as the Commission services, RSG chairman or RSG Technical Secretary). Non-participation in activities or non-application of the common positions (adopted RfUs) constitutes the reason for withdrawing of notification of such body.

*See also point 5.2.4. "Coordination between notified bodies" in The 'Blue Guide' on the implementation of EU product rules.*



## CHAPTER VI

### UNION MARKET SURVEILLANCE, CONTROL OF PRODUCTS ENTERING THE UNION MARKET AND SAFEGUARD PROCEDURES

Chapter VI of the Directive deals with EU market surveillance, control of products entering the EU market and the EU safeguard procedure.

See also point 7. "Market surveillance" in The 'Blue Guide' on the implementation of EU product rules.

#### Article 43

##### Union market surveillance and control of products entering the Union market

Article 15(3) and Articles 16 to 29 of Regulation (EC) No 765/2008 shall apply to products covered by this Directive.

Regulation (EC) No 765/2008 sets out requirements for accreditation and market surveillance relating to the marketing of products. The referred articles apply to all products falling into the Directive's scope irrespective of person placing the product on the market or putting it in service.

See also point 7.3. "Control of products from third countries by customs" in The 'Blue Guide' on the implementation of EU product rules.

#### Article 44

##### Procedure for dealing with products presenting a risk at national level

1. Where the market surveillance authorities of one Member State have sufficient reason to believe that a product covered by this Directive presents a risk to the health or safety of persons, to property or to the environment, they shall carry out an evaluation in relation to the product concerned covering the relevant requirements laid down in this Directive. The relevant economic operators or the private importer shall cooperate as necessary with the market surveillance authorities.

In the case of an economic operator, where, in the course of that evaluation, the market surveillance authorities find that the product does not comply with the requirements laid down in this Directive, they shall without delay require the relevant economic operator to take the appropriate corrective action to bring the product into compliance with those requirements, to withdraw the product from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

In the case of a private importer, where, in the course of that evaluation, the market surveillance authorities find that the product does not comply with the requirements laid down in this Directive, the private importer shall be informed without delay of the appropriate corrective action to be taken to bring the product into compliance with those requirements, to

suspend the putting into service of the product or to suspend the use of the product, commensurate with the nature of the risk.

The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second and third subparagraphs of this paragraph.

2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the relevant economic operator to take.

3. The economic operator shall ensure that the appropriate corrective action is taken in respect of all the products concerned that it has made available on the market throughout the Union.

The private importer shall ensure that the appropriate corrective action is taken in respect of the product that he has imported in the Union for his own use.

4. Where the relevant economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the product being made available on their national market, to withdraw the product from that market or to recall it.

Where the private importer does not take adequate corrective action, the market surveillance authorities shall take all appropriate provisional measures to prohibit the putting into service of the product, or prohibit or restrict the use of the product in their territory.

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

5. The information referred to in paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant product, the origin of the product, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator or the private importer. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either:

(a) failure of the product to meet requirements relating to the health or safety of persons, the protection of property or the environment laid down in this Directive; or

(b) shortcomings in the harmonised standards referred to in Article 14 conferring a presumption of conformity.

6. Member States other than the Member State initiating the procedure under this Article shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the

product concerned, and, in the event of disagreement with the notified national measure, of their objections.

7. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

8. Member States shall ensure that appropriate restrictive measures are taken in respect of the product concerned, such as withdrawal of the product from their market, without delay.

The Article describes procedures which shall be used when a market surveillance authority discovers a product presenting a risk on their territory. When it is probable that the product is placed on the market in other EU countries, the market surveillance authority should share their findings about non-compliant product with other Member States in order to protect health, safety of all Union customers, to limit costs on testing of such product as well as to prevent less-scrupulous economic operators or private importers to enter the single market by placing the product in another EU country or using it.

The platform for informing other Member States and the Commission about the imposed measures prohibiting placing on the market is the ICSMS. The other Member States and the Commission may object the measure within 3 months. If the measure imposed by one Member State is not objected, it is deemed as justified and shall be equally applied in all EU Member States towards product in question.

*See also points 7.4.4. "Market surveillance procedures", 7.4.5. "Corrective measures - bans – withdrawals - recalls" and 7.4.6. "Sanctions" in The 'Blue Guide' on the implementation of EU product rules.*

#### Article 45

#### Union safeguard procedure

1. Where, on completion of the procedure set out in Article 44(3) and (4), objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators or the private importer and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall adopt an implementing act determining whether the national measure is justified or not.

The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators or the private importer.

2. If the national measure is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant product is withdrawn from their market, and shall

inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.

3. Where the national measure is considered to be justified and the non-compliance of the product is attributed to shortcomings in the harmonised standards referred to in point (b) of Article 44(5) of this Directive, the Commission shall apply the procedure of Article 11 of Regulation (EU) No 1025/2012.

Where objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union legislation, the Commission must carry out a process of consultation with the parties concerned, it is to say, the Member States, the manufacturer or his authorised representative established within the EU or, failing them, the person who placed the product on the EU market.

The consultation procedure enables the Commission to assess whether the restrictive measure is justified or not, on the basis of the information provided by the market surveillance authorities, as well as the positions of all the parties concerned, in particular regarding the reasons why the essential health, safety or environmental requirements laid down in the Directive have not been complied with by the product concerned.

Where the Commission finds, following such consultation, that the measures are justified, it informs all the parties concerned. All the Member States must take appropriate measures to ensure that the non-compliant product is withdrawn from their market. On the contrary, if the national measure is considered unjustified, the Member State concerned must withdraw that measure and immediately take the appropriate action to re-establish the free movement of the products in question on its territory.

*See also point 7.5.1 "Safeguard mechanisms" and point 7.5.2 "The application of Safeguard mechanisms step by step" in The 'Blue Guide' on the implementation of EU product rules.*

#### Article 46 Formal non-compliance

1. Without prejudice to Article 44, where a Member State makes one of the following findings, it shall require the relevant economic operator or the private importer to put an end to the non-compliance concerned:

- (a) the CE marking, has been affixed in violation of Article 16, Article 17 or Article 18;
- (b) the CE marking, as referred to in Article 17, has not been affixed;
- (c) the EU declaration of conformity or the declaration referred to in Annex III has not been drawn up;

- (d) the EU declaration of conformity or the declaration referred to in Annex III has not been drawn up correctly;
- (e) the technical documentation is either not available or not complete;
- (f) the information set out in Article 7(6) or Article 9(3) is absent, false or incomplete;
- (g) any other administrative requirement provided for in Article 7 or Article 9 is not fulfilled.

**Non-compliance of a product is considered as formal when it is not directly related to a health, safety or environmental risk, but it could be an indicator of possible risks.**

**In case of formal non-compliance only (i.e. without a risk), the market surveillance authority should first oblige relevant economic operator to make the product intended to be placed on the market and, if necessary, the product already on the market, comply with the provisions and to remedy the infringement within a reasonable time period. If no result can be achieved, the market surveillance authority has to, ultimately, take a further step to restrict or prohibit the placing on the market of the product and, if necessary, to ensure that it is also withdrawn or recalled from the market.**

**Relevant economic operators are manufacturer, the authorised representative, the importer and the distributor. All economic operators may be instructed to recall or withdraw the products with formal non-compliance from the market as well as may be subject to sanctions if they do not act according to their responsibilities.**

**The cases listed in Article 46(1) of the Directive include defects in markings, documents and other information linked or to be provided with the product.**

***See also point 7.4.5 "Corrective Measures – Bans – Withdrawals – Recalls" in The 'Blue Guide' on the implementation of EU product rules.***

**2. Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the product being made available on the market or ensure that it is recalled or withdrawn from the market, or in the case of a product imported by a private importer for his own use, that its use is prohibited or restricted.**

**CHAPTER VII**  
**DELEGATED ACTS AND IMPLEMENTING ACTS**

The competence to adopt the EU legislation is normally given to two EU legislative bodies – the Council and the European Parliament (EP). However, the Treaty on Functioning of the European Union (TFEU or Lisbon Treaty) enabled the two legislators to confer legislative power on the European Commission under certain conditions.

Delegated power means that the Commission is empowered to supplement or amend some enumerated provisions of the Directive. These acts become legally binding when not objected by legislators (Council and the EP) in period of two months. Council or EP could however enlarge the period for more two months.

Implementing power means that the Commission is empowered to adopt certain provisions aiming the uniform application of the Directive. Any proposed implementing act has to be consulted with the RCD Committee (Member States representatives). If the Committee would express the negative opinion by its qualified majority, the Commission cannot adopt the proposed implementing act.

**Article 47**  
**Delegated power**

The Commission shall be empowered to adopt delegated acts in accordance with Article 48 to amend the following:

- (a) in order to take into account the progress of technical knowledge and new scientific evidence:
  - (i) points 2.3, 2.4 and 2.5 as well as Section 3 of Part B and Section 3 of Part C of Annex I;
  - (ii) Annexes VII and IX; and
- (b) Annex V in order to take into account the progress of technical knowledge, the adequacy of ensuring equivalent conformity and new scientific evidence.

**Article 48**  
**Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 47 shall be conferred on the Commission for a period of five years from 17 January 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical

duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 47 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 47 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

**For this Directive, the two legislators have conferred on Commission the power to supplement or amend some provisions of the Directive in case of the progress of technical knowledge and new scientific evidence.**

**The Commission is empowered to redefine or amend the test cycles and test fuels used for the assessment of the exhaust emissions. Further, the Commission may amend the rules describing the verification of conformity of a propulsion engine family and choice of parent propulsion engine and the provisions on durability of the propulsion engines.**

**The power to adopt delegated acts is conferred on the Commission for a period of five years from 17 January 2014 with a possible extension of this delegation.**

#### **Article 49**

#### **Implementing acts**

1. In order to take into account the progress of technical knowledge and to ensure that this Directive is applied in a uniform manner, the Commission may adopt implementing acts concerning the following:

(a) detailed procedures for the implementation of Article 24, taking into account the specific conformity assessment needs of the products covered by this Directive;

(b) the detailed application of the watercraft design categories set out in point 1 of Part A of Annex I, including on the use of weather terminology and measurement scales used therein;

(c) detailed procedures for the watercraft identification set out in point 2.1 of Part A of Annex I, including clarification of terminology, and assignment and administration of manufacturer's codes granted to manufacturers established outside the Union;

- (d) the information on the builder's plate set out in point 2.2 of Part A of Annex I;
- (e) the application of the Regulations on navigation lights set out in point 5.7 of Part A of Annex I;
- (f) arrangements for discharge prevention, in particular as regards operation of holding tanks, set out in point 5.8 of Part A of Annex I;
- (g) the installation and testing of gas appliances and permanently installed gas systems on watercraft;
- (h) the format and content of owner's manuals;
- (i) the format and content of the reporting questionnaire to be completed by Member States as referred to in Article 51.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 50(3).

2. On duly justified imperative grounds of urgency when a product presents a serious risk to the health and safety of persons, property or to the environment, in respect of points (a), (b), (e), (f) and (g) of paragraph 1, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 50(4).

**The most important goal of proposing any implementing legislation is to ensure that this Directive is applied in a uniform manner within Member States. Therefore, if a provision adopted by legislators in the Directive lacks clarity or if the practical application of a Directive's provision requires some guidance or clarification of procedures, the Commission may develop in cooperation with the RCD Committee) and adopt (upon positive opinion of RCD Committee) an act implementing the rules embedded in the Directive.**

**The Commission may adopt such implementing act only for eight listed essential requirements and for the format and content of reporting questionnaire as set out in Article 51 of the Directive.**

**Implementing acts shall be adopted upon the reaching of qualified majority of votes in the RCD Committee. The acts are applicable when officially adopted by the European Commission and published in the OJEU. In exceptional cases (on duly justified situations of urgency when a product presents a serious risk to the health and safety of persons, property or to the environment), the Commission shall adopt immediately applicable implementing act in a fast-track regime.**



**Article 50**  
**Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.
5. The committee shall be consulted by the Commission on any matter for which consultation of sectoral experts is required by Regulation (EU) No 1025/2012 or by any other Union legislation.
6. The Committee may furthermore examine any other matter concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure

The RCD Committee has a specific role in examining different questions related to the implementation, application and management of the Directive. The Committee sets up its own rules of procedure and it is chaired by the Commission and composed of the representatives of EU Member States and those states which signed either the EU-EEA agreement or the Customs Union Agreement with the EU. RCD Committee creates the RCD Working Group enlarged to representatives of other EU-wide interested parties, such as standards makers, notified bodies, industry, consumers etc.

Regulation (EU) No 182/2011 (the "Comitology Regulation") establishes the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. In its Article 3 "Common provisions" it defines the role and composition of committees; when Article 4 deals with the "Advisory procedure" and Article 5 with the "Examination procedure", also in conjunction with Article 8 on "Immediately applicable implementing acts".

Reference to Regulation (EU) No 1025/2012 on European standardisation recalls consultation of sectoral experts on matters regarding requests for European standards or objections to harmonised standards.

**CHAPTER VIII**  
**SPECIFIC ADMINISTRATIVE PROVISIONS**

**Article 51**  
**Reporting**

By 18 January 2021 and every five years thereafter, Member States shall complete a questionnaire issued by the Commission on the application of this Directive.

By 18 January 2022 and every five years thereafter, the Commission, with reference to the responses of Member States to the questionnaire referred to in the first paragraph, shall draw up and submit to the European Parliament and to the Council a report on the application of this Directive.

**While the legislation is drafted by the European Commission and adopted by the EU legislators (the Council and the European Parliament), practical application of Directive's provisions is within the competence of the Member States' authorities. Therefore, it's important for legislators to get a feedback of possible weak or missing points.**

**The Commission will prepare a questionnaire on the application of the Directive which shall be responded by the Member States authorities. On the base of these responses, the Commission will draw up a report for legislators on the application of the Directive.**

**Article 52**  
**Review**

By 18 January 2022 the Commission shall submit a report to the European Parliament and to the Council on the following:

(a) the technical feasibility for further reducing the emissions of marine propulsion engines and introducing requirements for evaporative emissions and fuel systems that apply to propulsion engines and systems taking into account the cost efficiency of technologies and the need to agree globally harmonised values for the sector, taking into account any major market initiatives; and

(b) the impact on consumer information and on manufacturers, in particular small and medium-sized enterprises, of the watercraft design categories listed in Annex I, which are based on resistance to wind force and significant wave height, taking into account developments in international standardisation. That report shall include an evaluation of whether the watercraft design categories require additional specifications or subdivisions, and shall suggest additional sub categories, as appropriate.

The reports referred to in points (a) and (b) of the first paragraph shall, where appropriate, be accompanied by legislative proposals.

Following the report of the Commission which may include legislative proposals, the legislators reserve the right to continue with a further regulation of the exhaust emissions, including evaporative emissions and fuel systems if the technical development in the sector of marine propulsion engines and economic feasibility will enable to do so. In the same time the regulations on the exhaust emission limits should keep in mind the concern of international harmonisation of emission rules.

### **Article 53**

#### **Penalties**

Member States shall lay down rules on penalties which may include criminal sanctions for serious infringements, applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented.

The penalties provided for shall be effective, proportionate and dissuasive and may be increased if the relevant economic operator or the private importer has previously committed a similar infringement of this Directive.

**National market surveillance authorities must be able to impose appropriate penalties if the provisions of the Directive are not correctly applied. Such penalties must be foreseen by the national legislative acts transposing the provisions of the Directive into national law.**

**CHAPTER IX**  
**FINAL AND TRANSITIONAL PROVISIONS**

**Article 54**  
**Transposition**

1. Member States shall adopt and publish, by 18 January 2016, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those measures.

They shall apply those measures from 18 January 2016. When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

**The Member States' legal acts to be adopted and published by 18 January 2016 (the day of applicability of the Directive 2013/53/EU) transposing the Directive into the national legislation of each EU Member State must comply with the Directive's provisions.**

**The texts of those legal measures (as laws, regulations, administrative provisions etc.) must be communicated to the Commission.**

**Article 55**  
**Transitional period**

1. Member States shall not impede the making available on the market or the putting into service of products covered by Directive 94/25/EC which are in conformity with that Directive and which were placed on the market or put into service before 18 January 2017.

2. Member States shall not impede the making available on the market or the putting into service of outboard SI propulsion engines with power equal to or less than 15 kW which comply with the stage I exhaust emission limits laid down in point 2.1 of Part B of Annex I and which were manufactured by small and medium-sized enterprises as defined in Commission Recommendation 2003/361/EC and placed on the market before 18 January 2020.

**Economic operators active in the sector got the definite information about the new EU legislation at the end of 2013 when the new Directive was published in the OJEU. To enable economic operators to get prepared for the new rules as well as to sell out their stocks of the products complying with the rules of the previous Directive, it was possible until 17 January 2017 to place on the market the products complying with the Directive 94/25/EC.**

Depending on the moment of their placing on the market or putting into service, products must be accompanied by the appropriate Declaration of Conformity. It means that from 18 January 2017 is not possible to use the conformity assessment certificates referring to the Directive 94/25/EC amended by Directive 2003/44/EC (with exception of products referred to in Art. 55.2).

If an engine manufacturer places on the market a propulsion engine compliant and CE-marked according to Directive 94/25/EC before 18 January 2017, such an engine shall be considered to be placed on the market before expiry of the transitional period so may be installed into a watercraft even when the watercraft will be placed on the market after expiry of transitional period (18 January 2017). However, the watercraft itself would have to meet the constructional essential requirements of Annex I.A and noise emission requirements of I.C (applicable for recreational craft with inboard or stern drive engines without integral exhaust and personal watercraft) of the new Directive 2013/53/EU in case it is placed on the market from 18 January 2017 onwards.

Special attention is drawn to the protection of the small and medium engine manufacturers who may use the paragraph 2 of the Article 55 of the Directive to sell out their stocks of low-powered outboard SI engines until 18 January 2020.

In this case outboard spark ignition propulsion engines with power equal to or less than 15 kW manufactured by small and medium-sized enterprises may be placed on the market or put into service until 18 January 2020 if the engines are compliant with the exhaust emission limits set out in Directive 94/25/EC as amended by Directive 2003/44/EC. For reference the definition of small and medium-size enterprises is established in Recommendation 2003/361/EC.

See the link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>

In order to allow the use of that option by these engine manufacturers the Commission will keep available in NANDO database the list of notified bodies competent to assess the exhaust emissions according to Directive 94/25/EC until that date.

See the link: [http://ec.europa.eu/growth/tools-databases/nando/index.cfm?fuseaction=directive.notifiedbody&dir\\_id=15](http://ec.europa.eu/growth/tools-databases/nando/index.cfm?fuseaction=directive.notifiedbody&dir_id=15)

### Article 56 Repeal

Directive 94/25/EC is repealed with effect from 18 January 2016. References to the repealed Directive shall be construed as references to this Directive.

The new Directive 2013/53/EU repeals the previous Directive 94/25/EC on 18<sup>th</sup> January 2016. However, some provisions in the new Directive guarantee the continuing validity of provisions of the old directive. In particular, it is the case of Article 55 of new Directive 2013/53/EU which guarantees the possibility to place on the market products

complying with the old Directive 94/25/EC by a limited period of time even when the old directive is legally repealed.

**Article 57**  
**Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

The Directive was published in the Official Journal of the European Union (OJEU) on 28<sup>th</sup> December 2013 and entered into force on 18<sup>th</sup> January 2014. Provided the two years transposition period, the Directive is applicable as from 18<sup>th</sup> January 2016. It means that products complying with the Directive are being placed on the EU market from 18<sup>th</sup> January 2016.

**Article 58**  
**Addressees**

This Directive is addressed to the Member States.

The Directive is addressed to the EU Member States, since the transposition of the Directive's provisions into national law is necessary in order to create binding legal obligations for the economic operators.

The Directive is signed by the Presidents of the European Parliament and of the Council at the date, since it was adopted by these EU Institutions according to the ordinary legislative procedure (formerly known as "co-decision") set out in Article 294 of the TFEU.

**ANNEX I**  
**ESSENTIAL REQUIREMENTS**

**A. Essential requirements for the design and construction of products referred to in Article 2(1)**

Article 4 of the Directive on essential requirements requires that products referred to in Article 2(1) shall meet the essential safety, health, environmental protection and property protection requirements set out in Annex I.

**I. WATERCRAFT DESIGN CATEGORIES**

<i>Design category</i>	<i>Wind force (Beaufort scale)<sup>5</sup></i>	<i>Significant wave height (H <sup>1</sup>/<sub>3</sub>, metres)</i>
A	exceeding 8	exceeding 4
B	up to, and including, 8	up to, and including, 4
C	up to, and including, 6	up to, and including, 2
D	up to, and including, 4	up to, and including, 0,3

**Explanatory notes:**

A. recreational craft given design category A is considered to be designed for winds that may exceed wind force 8 (Beaufort scale) and significant wave height of 4 m and above but excluding abnormal conditions, such as storm, violent storm, hurricane, tornado and extreme sea conditions or rogue waves.

**The definition for design category A excludes abnormal conditions, such as storms, hurricanes and tornadoes and extreme sea conditions or freak and rogue waves.**

B. recreational craft given design category B is considered to be designed for a wind force up to, and including, 8 and significant wave height up to, and including, 4 m.

C. watercraft given design category C is considered to be designed for a wind force up to, and including, 6 and significant wave height up to, and including, 2 m.

D. watercraft given design category D is considered to be designed for a wind force up to, and including, 4 and significant wave height up to, and including, 0,3 m, with occasional waves of 0,5 m maximum height.

<sup>5</sup> The Beaufort scale is an empirical measure that relates wind speed to observed conditions at sea or on land. The formula  $v = 0.836 B^{3/2}$  m/s indicates "v" as the equivalent wind speed at 10 metres above the sea surface and "B" is Beaufort scale number. For example,  $B = 9.5$  is related to 24.5 m/s which is equal to the lower limit of "10 Beaufort". Using this formula the highest winds in hurricanes would be 23 in the scale.

The definition for design category D states the upper limit for the significant wave height to 0,3 m, but makes allowance for occasional waves of 0,5 m maximum height that may be generated by passing vessels or other local disturbances.

Watercraft in each design category must be designed and constructed to withstand the parameters in respect of stability, buoyancy, and other relevant essential requirements listed in this Annex, and to have good handling characteristics.

The main purpose for having watercraft design categories is to differentiate between the various levels of risks related to be taken into consideration in the construction of watercraft and to choose among the various conformity assessment modules the adequate modules for each design category, taking also into account the hull length.

Watercraft design categories refer just to the combination of weather and water conditions. They do not describe the typical areas where such conditions may be experienced. These design categories' parameters are intended to define the physical conditions that might arise in any category for design evaluation, and should not be used to limit the geographical areas of operation due to the variety of physical conditions likely to be met in different geographical areas.

The Directive does not include any navigation or usage rules and there is no link between the design categories and any such rules; taking in account the safety conditions in the construction, the user is only clearly informed of what the watercraft was designed and built for in relation to certain parameters of significant wave height and wind force.

The physical conditions shall be determined from the maximum wind force and wave profiles, where wave profiles are consistent with waves generated by wind blowing at the maximum stated force for a prolonged period subject to the limits of the implied fetch and of the maximum stated wave heights, and excluding abnormal factors such as sudden change in depth or tidal races.

The “significant wave height” is considered to be the primary factor and other parameters (e.g. meteorological) are descriptions of when these wave heights may be expected to occur.

It is possible for a watercraft to be simultaneously assigned more than one design category with different maximum capacities corresponding to each design category assigned (number of persons, engine power, maximum weight), if all relevant essential requirements for each of the assigned categories are satisfied. The assigned design categories and their corresponding data concerning number of persons and maximum load, should be clearly and consistently indicated on the builder's plate, in the owner's manual and on the relevant certificates.



## 2. GENERAL REQUIREMENTS

### 2.1. Watercraft identification

Each watercraft shall be marked with an identification number including the following information:

- (1) country code of the manufacturer,
- (2) unique code of the manufacturer assigned by the national authority of the Member State,
- (3) unique serial number,
- (4) month and year of production,
- (5) model year.

Detailed requirements for the identification number referred to in the first paragraph are set out in the relevant harmonised standard.

**Country code of the manufacturer indicates where the manufacturer is established. It means the country where the manufacturer has its registered office, in case of a legal person, or a permanent address, in case of a natural person.**

**The unique code of the manufacturer shall be assigned only by a national authority or national body appointed by the EU Member State. A third country manufacturer has to have their unique code approved by a national authority or national body of an EU member state before placing the product on the EU market.**

**Model year is the year when each individual watercraft is intended to be placed on the market. For example, if a manufacturer builds multiple identical units of the same series, the model year represents the year in which the builder intends to place the individual watercraft on the market.**

**The model year assigned to a specific craft is a period of twelve months and can extend across two calendar years. The manufacturer decides which of these is the model year.**

**Further details about the procedures of application and assigning of unique codes of the manufacturer as well as about definitions unique serial number, time of production and model year of are defined in the Commission Implementing Regulation (EU) 2017/1.**

**It should be noted that for a watercraft which equivalent conformity has been assessed with the Directive through post construction assessment (PCA), the country code of the manufacturer shall be the country of establishment of the notified body and the unique code of the manufacturer in the watercraft identification number should be the identification code assigned by Member State's authority for the notified body that has carried out the PCA (as in this case there is no manufacturer assuming the responsibility for the conformity of the watercraft). The fields in the watercraft identification number for the month and year of production and for the model year shall be used to indicate the month and year of the post-construction assessment.**

The watercraft identification number shall be 14-digit and its composition shall comply with relevant harmonised standard.

**Relevant Harmonised Standard:**

**EN ISO 10087:2019 Small craft — Craft Identification – Coding System**

## **2.2. Watercraft builder's plate**

Each watercraft shall carry a permanently affixed plate mounted separately from the watercraft identification number, containing at least the following information:

- (a) manufacturer's name, registered trade name or registered trade mark, as well as contact address;
- (b) CE marking, as provided for in Article 18;
- (c) watercraft design category in accordance with Section 1;
- (d) manufacturer's maximum recommended load derived from point 3.6 excluding the weight of the contents of the fixed tanks when full;
- (e) number of persons recommended by the manufacturer for which the watercraft was designed.

In the case of post-construction assessment, the contact details and the requirements referred to in point (a) shall include those of the notified body which has carried out the conformity assessment.

The requirement to state the manufacturer's maximum recommended load on the builder's plate has been amended by excluding the weight of the liquids in any fixed tanks from the weight shown on the builder's plate. This is to avoid the possibility of users accidentally overloading their watercraft because they thought that the weight shown for the content of tanks could be used for carry-on items, luggage etc.

A watercraft should be designed to minimise the risks of falling overboard (ESR, Annex I.A.2.3) for the manufacturer's maximum recommended number of persons (ESR, Annex I.A.3.6). Particular attention should be given to design of high-speed craft providing sufficient individual protection features (such as individual seats, body supports and/or handholds) for all persons on board to minimise the risks of falling overboard.

Some watercraft builders may wish to add the maximum rated engine power to the builder's plate. This information is already contained in the owner's manual: such a practice is considered acceptable, provided the information in the owner's manual and on the builder's plate is fully consistent.

The builder's plate normally refers to the manufacturer of the watercraft. However, in the case of post-construction assessment of a watercraft for which neither the manufacturer nor his authorised representative fulfils the responsibilities for the watercraft's conformity to the Directive, the private importer who puts into service the

watercraft is assuming these responsibilities. The builder's plate should mention contact details of notified body which has carried out the conformity assessment as the manufacturer's name. In this case the builder's plate must in addition to the information described in essential requirement in Annex I.A.2.2 of the Directive, also include the wording "post-construction assessment".

In the case of watercraft that are modified to an extent that they can be considered "new", the person carrying out the modification and intending to place the watercraft on the market or put it into service for sports and leisure purposes has to assume the responsibilities for the conformity of the modified craft with the requirements in Article 19(3) of the Directive. As the re-building or modification could change the information on the original builder's plate (load capacity, number of persons and even manufacturer's name) a new builder's plate should be provided in addition to the remaining requirements of the Directive.

*Relevant Harmonised Standard: EN ISO 14945:2021 Small craft — Builder's plate*

### **2.3. Protection from falling overboard and means of reboarding**

Watercraft shall be designed to minimise the risks of falling overboard and to facilitate reboarding. Means of reboarding shall be accessible to or deployable by a person in the water unaided.

Therefore, as far as this essential requirement is concerned, the reduction of the possibility of falling overboard and the provision of "means of reboarding" should be considered for all watercraft to be assessed.

Means of reboarding should be sufficient to enable to person falling overboard, the reboarding without a help of another person.

*Relevant Harmonised Standard: EN ISO 15085:2003/A2:2018 Small craft – Man-overboard prevention and recovery*

### **2.4. Visibility from the main steering position**

For recreational craft, the main steering position shall give the operator, under normal conditions of use (speed and load), good all-round visibility.

All recreational craft are expected to have good all-round visibility from the main steering position.

In case of sailing recreational craft, the deck, where is possible to adjust the speed, can be considered as the main steering position.

*Relevant Harmonised Standard: not available*

### **2.5. Owner's manual**

Each product shall be provided with an owner's manual in accordance with Article 7(7) and Article 9(4). That manual shall provide all the information necessary for safe use of the

product drawing particular attention to set up, maintenance, regular operation, prevention of risks and risk management.

The owner's manual is provided as guidance to the watercraft's owner and end user, most particularly on instructions and safety issues. This manual should be provided in a language(s) easily understood by end users as determined by the Member State concerned.

It should include all the necessary information for the safe use of the product, to enable the user to assemble, install, operate, store, maintain, and dispose of the product. Instructions on operation should include information for restriction of use, need for personal protective equipment, maintenance and cleaning or repair. The manual should also cover risks applicable to the type of product. Information not relevant to the product must be deleted to avoid confusion.

The owner's manual does not have to include complete technical service information, but should contain a trouble-shooting part, for example how to change fuel filter or to get rid of air in the fuel system. The manual should contain also a section related to identification of possible risks and good practices to prevent those risks. Some sections of the manual may be filled in by hand, especially when related to one particular watercraft design.

While it is recommended that the safety information are provided on paper, it is not required that all the set of instructions is also provided on paper but they can also be on electronic or other data storage format. However, a paper version should be available free of charge for the end users who should be informed that they can request it.

*Relevant Harmonised Standards: not available*

### **3. INTEGRITY AND STRUCTURAL REQUIREMENTS**

#### **3.1. Structure**

The choice and combination of materials and its construction shall ensure that the watercraft is strong enough in all respects. Special attention shall be paid to the design category in accordance with Section 1, and the manufacturer's maximum recommended load in accordance with point 3.6.

*Relevant Harmonised Standards:*

**EN ISO 12215-1:2018 Small craft - Hull construction and scantlings – Part 1: Materials: Thermosetting resins, glass-fibre reinforcement, reference laminate**

**EN ISO 12215-2:2018 Small craft - Hull construction and scantlings - Part 2: Materials: Core materials for sandwich construction, embedded materials**

**EN ISO 12215-3:2018 Small craft - Hull construction and scantlings - Part 3: Materials: Steel, aluminium alloys, wood, other materials**

**EN ISO 12215-4:2018 Small craft - Hull construction and scantlings - Part 4: Workshop and manufacturing**

**EN ISO 12215-5:2019 Small craft - Hull construction and scantlings - Part 5: Design pressures for monohulls, design stresses, scantlings determination**

**EN ISO 12215-6:2018 Small craft - Hull construction and scantlings - Part 6: Structural arrangements and details**

**EN ISO 12215-8:2018 Small craft - Hull construction and scantlings - Part 8: Rudders**

**EN ISO 12215-9:2018 Small craft - Hull construction and scantlings - Part 9: Sailing craft appendages**

**EN ISO 6185-1:2018 Inflatable boats - Part 1: Boats with a maximum motor power rating of 4,5 kW**

**EN ISO 6185-2:2018 Inflatable boats - Part 2: Boats with a maximum motor power rating of 4,5 kW to 15 kW inclusive**

**EN ISO 6185-3:2018 Inflatable boats - Part 3: Boats with a maximum motor power rating of 15 kW and greater**

**EN ISO 6185-4:2018 Inflatable boats - Part 4: Boats with a hull length of between 8 m and 24 m with a motor power rating of 15 kW and greater**

**EN ISO 13590:2018 Small craft – Personal watercraft – Construction and system installation requirements**

### **3.2. Stability and freeboard**

The watercraft shall have sufficient stability and freeboard considering its design category in accordance with Section 1 and the manufacturer's maximum recommended load in accordance with point 3.6.

### **3.3. Buoyancy and flotation**

The watercraft shall be constructed as to ensure that it has buoyancy characteristics appropriate to its design category in accordance with Section 1 and the manufacturer's maximum recommended load in accordance with point 3.6. All habitable multihull recreational craft susceptible of inversion shall have sufficient buoyancy to remain afloat in the inverted position.

Watercraft of less than 6 metres in length that are susceptible to swamping when used in their design category shall be provided with appropriate means of flotation in the swamped condition.

Sections 3.2 and 3.3 of the essential requirements in Annex I of the Directive are specially referred to in Article 20(1)(b)(i), first indent: recreational craft of design category C, from 2.5 to 12 m hull length. Further to Article 20(1)(c), recreational craft of design category D and Article 20(2), personal watercraft. Compliance with the relevant harmonised standards permits the manufacturer to use the internal production control (module A) without third party intervention.

**Relevant Harmonised Standards:**

**EN ISO 12217-1:2017 Small craft – Stability and buoyancy assessment and categorisation - Part 1: Non-sailing boats of hull length greater than or equal to 6 m**

**EN ISO 12217-2:2017 Small craft – Stability and buoyancy assessment and categorisation - Part 2: Sailing boats of hull length greater than or equal to 6 m**

**EN ISO 12217-3:2017 Small craft – Stability and buoyancy assessment and categorisation - Part 3: Boats of hull length less than 6 m**

### **3.4. Openings in hull, deck and superstructure**

Openings in hull, deck(s) and superstructure shall not impair the structural integrity of the watercraft or its weather tight integrity when closed.

Windows, port lights, doors and hatch covers shall withstand the water pressure likely to be encountered in their specific position, as well as point loads applied by the weight of persons moving on deck.

Through hull fittings designed to allow water passage into the hull or out of the hull, below the waterline corresponding to the manufacturer's maximum recommended load in accordance with point 3.6, shall be fitted with a means of shutoff which shall be readily accessible.

The cockpit and windows, portlights and hatches may be included as possible tests, equivalent calculations or controls, in the assessment carried out by or on the responsibility of the notified body in the context of a module A1 conformity assessment, as it may be argued that the design and construction of these details are inseparable parts of the issue and therefore should also be assessed.

**Relevant Harmonised Standards:**

**EN ISO 9093-1:2018 Small craft - Seacocks and through hull fittings – Part 1: Metallic**

**EN ISO 9093-2:2018 Small craft - Seacocks and through hull fittings – Part 2: Non-metallic**

**EN ISO 12216:2018 Small craft – Windows, portlights, hatches, deadlights and doors - Strength and watertightness requirements**

### **3.5. Flooding**

All watercraft shall be designed so as to minimise the risk of sinking.

Where appropriate, particular attention shall be paid to:

- (a) cockpits and wells, which should be self-draining or have other means of keeping water out of the watercraft interior;
- (b) ventilation fittings;
- (c) removal of water by pumps or other means.

**Relevant Harmonised Standards:**

**EN ISO 11812:2018 Small craft - Watertight cockpits and quick-draining cockpits**  
**EN ISO 15083:2018 Small craft – Bilge-pumping systems (ISO 15083)**

### **3.6. Manufacturer's maximum recommended load**

The manufacturer's maximum recommended load (fuel, water, provisions, miscellaneous equipment and people (in kilograms)) for which the watercraft was designed, shall be determined in accordance with the design category (Section 1), stability and freeboard (point 3.2) and buoyancy and flotation (point 3.3).

This essential requirement governs the maximum load in relation to design category, stability and buoyancy and flotation. Fixed fuel and water tanks are to be assumed to be full when the recommended load is assigned and excluded from the load specified on the builder's plate.

The manufacturer's maximum recommended load is to be mentioned in the owner's manual together with the load information specified on the builder's plate. (See essential requirement in Annex I.A.2.5 of the Directive on the Owner's manual)

*Relevant Harmonised Standard:*

**EN ISO 14946:2021 Small craft - Maximum load capacity**

### **3.7. Life raft stowage**

All recreational craft of design categories A and B, and recreational craft of design categories C and D longer than 6 metres shall be provided with one or more stowage points for a life raft (life rafts) large enough to hold the number of persons the recreational craft was designed to carry as recommended by the manufacturer. Life raft stowage point(s) shall be readily accessible at all times.

It is specified that this essential requirement applies to recreational craft. The requirement refers only to the need to provide a suitable point or space for a liferaft, where appropriate. It does not lay down dimensions for liferaft stowage nor does it specify that any specific fittings, brackets, lockers or tie-down points should be provided.

### **3.8. Escape**

All habitable multihull recreational craft susceptible of inversion shall be provided with viable means of escape in the event of inversion. Where there is a means of escape provided for use in the inverted position, it shall not compromise the structure (point 3.1), the stability (point 3.2) or buoyancy (point 3.3) whether the recreational craft is upright or inverted.

Every habitable recreational craft shall be provided with viable means of escape in the event of fire.

Habitable recreational craft are those, which contain living space designed for sleeping in and which is equipped with bunks.

**Relevant Harmonised Standards:**

**EN ISO 9094:2017 Small craft - Fire protection**

**EN ISO 12216:2018 Small craft - Windows, portlights, hatches, deadlights and doors - Strength and watertightness requirements**

**EN ISO 12217-1:2017 Small craft – Stability and buoyancy assessment and categorisation - Part 1: Non-sailing boats of hull length greater than or equal to 6 m**

**EN ISO 12217-2:2017 Small craft – Stability and buoyancy assessment and categorisation - Part 2: Sailing boats of hull length greater than or equal to 6 m**

**EN ISO 12217-3:2017 Small craft – Stability and buoyancy assessment and categorisation - Part 3: Boats of hull length less than 6 m**

### **3.9. Anchoring, mooring and towing**

All watercraft, taking into account their design category and their characteristics, shall be fitted with one or more strong points or other means capable of safely accepting anchoring, mooring and towing loads.

**Relevant Harmonised Standard:**

**EN ISO 15084:2018 Small craft - Anchoring, mooring and towing - Strong points**

### **4. HANDLING CHARACTERISTICS**

The manufacturer shall ensure that the handling characteristics of the watercraft are satisfactory with the most powerful propulsion engine for which the watercraft is designed and constructed. For all propulsion engines, the maximum rated engine power shall be declared in the owner's manual.

The purpose of the last sentence is to require that the owner's manual for the watercraft shall state the maximum rated engine power.

**Relevant Harmonised Standards:**

**EN ISO 8665:2017 Small craft – Marine propulsion engines and systems: power measurements and declarations (ISO 8665)**

**EN ISO 11592-1:2016 - Small craft -- Determination of maximum propulsion power rating -- Part 1: Craft with a length of hull less than 8 m**

**EN ISO 11592-2 not yet available**



## 5. INSTALLATION REQUIREMENTS

### 5.1. Engines and engine compartments

#### 5.1.1. Inboard engine

All inboard mounted engines shall be placed within an enclosure separated from living quarters and installed so as to minimise the risk of fires or spread of fires as well as hazards from toxic fumes, heat, noise or vibrations in the living quarters.

Engine parts and accessories that require frequent inspection and/or servicing shall be readily accessible.

The insulating materials inside the engine compartment shall not sustain combustion.

**Non-combustible material refers to materials not sustaining combustion.**

*Relevant Harmonised Standards:*

*EN ISO 8846:2017 Small craft – Electrical devices – Protection against ignition of surrounding flammable gases*

*EN ISO 9094:2017 Small craft – Fire protection*

*EN ISO 7840:2018 Small craft – Fire resistant fuel hoses*

*EN ISO 10088:2017 Small craft – Permanently installed fuel systems and fixed fuel tanks*

*EN ISO 10133:2017 Small craft – Electrical equipment – Extra low- voltage DC installations*

*EN ISO 11105:2017 Small craft – Ventilation of petrol engines and/or petrol tank compartments*

*EN ISO 15584:2017 Small craft - Inboard petrol engines – Engine-mounted fuel and electrical components*

*EN ISO 16147:2021 Small craft – Inboard diesel engines – Engine-mounted fuel and electrical components*

#### 5.1.2. Ventilation

The engine compartment shall be ventilated. The ingress of water into the engine compartment through openings must be minimised.

*Relevant Harmonised Standards:*

*EN ISO 11105:2020 Small craft – Ventilation of petrol engine and/or petrol tank compartments*

*EN ISO 12217-1:2017 Small craft – Stability and buoyancy assessment and categorisation – Part 1: Non-sailing boats of hull length greater than or equal to 6 m*

*EN ISO 12217-2:2017 Small craft – Stability and buoyancy assessment and categorisation – Part 2: Sailing boats of hull length greater than or equal to 6 m*

*EN ISO 12217-3:2017 Small craft – Stability and buoyancy assessment and categorisation – Part 3: Boats of hull length less than 6 m*

### 5.1.3. Exposed parts

Unless the engine is protected by a cover or its own enclosure, exposed moving or hot parts of the engine that could cause personal injury shall be effectively shielded.

### 5.1.4. Outboard propulsion engine starting

Every outboard propulsion engine fitted on any watercraft shall have a device to prevent the engine being started in gear, except:

- (a) when the engine produces less than 500 Newton's (N) of static thrust;
- (b) when the engine has a throttle limiting device to limit thrust to 500 N at the time of starting the engine.

#### **Relevant Harmonised Standard:**

**EN ISO 11547:2018 Small craft – Start-in-gear protection**

### 5.1.5. Personal watercraft running without driver

Personal watercraft shall be designed either with an automatic propulsion engine cut-off or with an automatic device to provide reduced speed, circular, forward movement when the driver dismounts deliberately or falls overboard.

Personal watercraft have to be provided with an engine cut-off device, or a device to automatically reduce speed and to put the craft in a circular forward movement mode, to facilitate re-boarding when the driver dismounts deliberately or falls overboard when the craft is under way.

Note that as for sailing dinghies that are capsize-recoverable as defined by EN ISO 12217 Part 3, the assumption has been made that the important requirement for a personal watercraft is the ability of the user to recover from a stability incident.

**5.1.6. Tiller-controlled outboard propulsion engines shall be equipped with an emergency stopping device which can be linked to the helmsman.**

## 5.2. Fuel system

### 5.2.1. General

The filling, storage, venting and fuel-supply arrangements and installations shall be designed and installed so as to minimise the risk of fire and explosion.

All fuel systems components from the fuel filling opening to the point of connection with the propulsion or auxiliary engine, such as i.e. filters, non-metallic and metallic, complying with harmonised standard EN ISO 10088 as applicable, are presumed to comply with this essential requirement. All engine-mounted fuel and electrical components on diesel and petrol inboard-mounted engines complying with

harmonised standards EN ISO 16147 (diesel) and EN ISO 15584 (petrol), are presumed to comply with this essential requirement.

Portable fuel tanks and their portable hoses are considered to lie outside the scope of the Directive.

*Relevant Harmonised Standards:*

*EN ISO 7840:2021 Small craft – Fire resistant fuel hoses*

*EN ISO 8469:2021 Small craft – Non-fire resistant fuel hoses*

*EN ISO 9094:2017 Small craft – Fire protection*

*EN ISO 10088:2017 Small craft – Permanently installed fuel systems and fuel tanks*

*EN ISO 11105:2020 Small craft – Ventilation of petrol engines and/or petrol tank compartments*

*EN ISO 14895:2016 Small craft – Liquid-fuelled galley stoves*

*EN ISO 15584:2017 Small craft - Inboard petrol engines – Engine-mounted fuel and electrical components*

*EN ISO 16147:2021 Small craft – Inboard diesel engines – Engine-mounted fuel and electrical components*

### **5.2.2. Fuel tanks**

Fuel tanks, lines and hoses shall be secured and separated or protected from any source of significant heat. The material the tanks are made of and their method of construction shall be in accordance with their capacity and the type of fuel.

Petrol fuel tank spaces shall be ventilated.

Petrol fuel tanks shall not form part of the hull and shall be:

- (a) protected against fire from any engine and from all other sources of ignition;
- (b) separated from living quarters.

Diesel fuel tanks may be integral with the hull.

All fuel tanks shall be provided with a means of preventing over or under-pressure during filling or draining by adjoining combustion machinery.

Petrol is defined in harmonised standard EN ISO 10088 as hydrocarbon fuel or blends thereof which are liquid at atmospheric pressure and are used in spark ignition engines.

Petrol fuel tanks can be installed in engine compartments according to harmonised standard EN ISO 10088, as this will satisfy the requirements of point 5.2.2 (a) of the Annex I of the Directive.

Annex I.A, points 5.2.1 and 5.3 of the Directive also apply to fuel supply arrangements and installations on the engine.

### **5.3. Electrical system**

Electrical systems shall be designed and installed so as to ensure proper operation of the watercraft under normal conditions of use and shall be such as to minimise risk of fire and electric shock.

All electrical circuits, except engine starting circuits supplied from batteries, shall remain safe when exposed to overload.

Electric propulsion circuits shall not interact with other circuits in such a way that either would fail to operate as intended.

Ventilation shall be provided to prevent the accumulation of explosive gases which might be emitted from batteries. Batteries shall be firmly secured and protected from ingress of water.

In so far as electrical safety is concerned the Low Voltage Directive 2014/35/EU (LVD) is applicable. Low voltage with regard to the LVD refers to 75 to 1500 volts DC or 50 to 1000 volts AC.

#### **Relevant Harmonised Standards:**

**EN ISO 8846:2017 Small craft – Electrical devices – Protection against ignition of surrounding flammable gases**

**EN ISO 10133:2017 Small craft – Electrical equipment – Extra-low-voltage d.c. installations**

**EN ISO 13297:2018 Small craft – Electrical equipment – Alternating current installations**

**EN ISO 15584:2017 Small craft - Inboard petrol engines – Engine-mounted fuel and electrical components**

**EN ISO 16147:2021 Small craft – Inboard diesel engines – Engine-mounted fuel and electrical components**

**EN 60092-507:2015 Electrical installations in ships – Part 507: Small vessels (This standard is applicable only to watercraft with three-phase electrical systems)**

### **5.4. Steering system**

#### **5.4.1. General**

Steering and propulsion control systems shall be designed, constructed and installed in order to allow the transmission of steering loads under foreseeable operating conditions.

#### **Relevant Harmonised Standards:**

**EN ISO 8847:2017 Small craft – Steering gear - cable and pulley systems**

**EN ISO 8848:2017 Small craft – Remote steering systems**

**EN ISO 9775:2017 Small craft – Remote steering systems for single outboard motors of 15kW to 40 kW power**

**EN ISO 10592:2017 Small craft – Hydraulic steering systems**

**EN ISO 13929:2017 Small craft – Steering gear – Geared link systems**

**EN ISO 15652:2017 Small craft – remote steering systems for inboard mini jet boats**

### **5.4.2. Emergency arrangements**

Every sailing recreational craft and single-propulsion engine non-sailing recreational craft with remote-controlled rudder steering systems shall be provided with emergency means of steering the recreational craft at reduced speed.

**In case of failure of the remote control system for the rudder steering, the emergency means of steering should enable a manual control of the rudder, e.g. by means of an emergency tiller or similar equipment. This requirement refers to all propulsion engines covered by the scope of the Directive.**

### **5.5. Gas system**

Gas systems for domestic use shall be of the vapour-withdrawal type and shall be designed and installed so as to avoid leaks and the risk of explosion and be capable of being tested for leaks. Materials and components shall be suitable for the specific gas used to withstand the stresses and exposures found in the marine environment.

Each gas appliance intended by the manufacturer for the application for which it is used shall be so installed in accordance with the manufacturer's instructions. Each gas-consuming appliance must be supplied by a separate branch of the distribution system, and each appliance must be controlled by a separate closing device. Adequate ventilation must be provided to prevent hazards from leaks and products of combustion.

All watercraft with a permanently installed gas system shall be fitted with an enclosure to contain all gas cylinders. The enclosure shall be separated from the living quarters, accessible only from the outside and ventilated to the outside so that any escaping gas drains overboard.

In particular, any permanently installed gas system shall be tested after installation.

**Relevant Harmonised Standard:**

**EN ISO 10239:2017 Small craft – Liquefied petroleum gas (LPG) systems**

### **5.6. Fire protection**

#### **5.6.1. General**

The type of equipment installed and the layout of the watercraft shall take account of the risk and spread of fire. Special attention shall be paid to the surroundings of open flame devices, hot areas or engines and auxiliary machines, oil and fuel overflows, uncovered oil and fuel pipes and routing of electrical wiring in particular away from heat sources and hot areas.

#### **5.6.2. Fire-fighting equipment**

Recreational craft shall be supplied with fire-fighting equipment appropriate to the fire hazard, or the position and capacity of fire-fighting equipment appropriate to the fire hazard shall be indicated. The craft shall not be put into service until the appropriate fire-fighting equipment is in place. Petrol engine compartments shall be protected by a fire extinguishing system that avoids the need to open the compartment in the event of fire. Where fitted,

portable fire extinguishers shall be readily accessible and one shall be so positioned that it can easily be reached from the main steering position of the recreational craft.

In case recreational craft are not supplied with fire-fighting equipment, the position and capacity of fire-fighting equipment appropriate to the fire hazard has to be indicated. It is further specified that when this option is applied the craft shall not be put into service until the appropriate fire-fighting equipment is in place. This statement takes into account that due to differing national regulations regarding fire-fighting equipment, only the requirement for designating the position for and the capacity of the fire-fighting equipment can be harmonised.

*Relevant Harmonised Standards:*

*EN ISO 9094:2017 Small craft – Fire protection*

### 5.7. Navigation lights, shapes and sound signals

Where navigation lights, shapes and sound signals are fitted, they shall comply with the 1972 COLREG (The International Regulations for Preventing Collisions at Sea) or CEVNI (European Code for Interior Navigations for inland waterways) Regulations as appropriate.

Navigation lights have to comply with the 1972 COLREG or CEVNI Rules. Rule 1b of 1972 COLREG, however, allows different national requirements for local use. Moreover, COLREG 1972, Annex I, point 13 specifies that the construction of light and shapes and the installation on board the vessel shall be to the satisfaction of the appropriate authority of the State whose flag the vessel is entitled to fly.

*Relevant Harmonised Standards:*

*EN ISO 16180:2018 Small craft - Navigation lights – Installation, placement and visibility*

*EN ISO 19009:2015 Small craft - Electric navigation lights – Performance of LED lights*

### 5.8. Discharge prevention and installations facilitating the delivery ashore of waste

Watercraft shall be constructed so as to prevent the accidental discharge of pollutants (oil, fuel, etc.) overboard.

Any toilet fitted in a recreational craft shall be connected solely to a holding tank system or water treatment system.

Recreational craft with installed holding tanks shall be fitted with a standard discharge connection to enable pipes of reception facilities to be connected with the recreational craft discharge pipeline.

In addition, any through-the-hull pipes for human waste shall be fitted with valves which are capable of being secured in the closed position.

Recreational craft with toilets shall always be fitted with either holding tank or water treatment system. The toilets shall be connected to this holding tank or water treatment system.

Recreational craft with permanently installed holding tanks shall be fitted with a standard outlet connection to enable discharge via a standard on-shore reception facility. The relevant harmonised standard EN ISO 8099-1 Toilet waste retention systems provides details of standard discharge connections.

The requirement for the valves to be capable of being secured in the closed position can be met by securing the valve opening/closing device in the closed position, for example by securing a seacock lever arm in the closed position mechanically by a bolt, wire etc.

*Relevant Harmonised Standard:*

*EN ISO 8099-1:2018 Small craft — Waste systems — Part 1: Waste water retention*

*EN ISO 8099-2:2021 Small craft — Waste systems — Part 2: Sewage treatment systems*

## **B. Essential requirements for exhaust emissions from propulsion engines**

Propulsion engines shall comply with the essential requirements for exhaust emissions set out in this Part.

Annex I.B of the Directive specifies the essential requirements for propulsion engines relating to exhaust emissions.

### **1. PROPULSION ENGINE IDENTIFICATION**

1.1 Each engine shall be clearly marked with the following information:

- (a) engine manufacturer's name, registered trade name or registered trade mark and contact address; and, if applicable, the name and contact address of the person adapting the engine;
- (b) engine type, engine family, if applicable;
- (c) a unique engine serial number;
- (d) CE marking, as provided for in Article 18.

1.2 The marks referred to in point 1.1 must be durable for the normal life of the engine and must be clearly legible and indelible. If labels or plates are used, they must be attached in such a manner that the fixing is durable for the normal life of the engine, and the labels/plates cannot be removed without destroying or defacing them.

1.3 The marks must be secured to an engine part necessary for normal engine operation and not normally requiring replacement during the engine life.

1.4 The marks must be located so as to be readily visible after the engine has been assembled with all the components necessary for engine operation.

## 2. EXHAUST EMISSION REQUIREMENTS

Propulsion engines shall be designed, constructed and assembled so that when correctly installed and in normal use, emissions shall not exceed the limit values obtained from point 2.1, Table 1 and point 2.2, Tables 2 and 3:

2.1. Values applying for the purposes of Article 55(2) and Table 2 of point 2.2:

**Table 1**

Type	Carbon monoxide CO = A + B/P <sub>N</sub> <sup>n</sup>			Hydrocarbons HC = A + B/P <sub>N</sub> <sup>n</sup>			Nitrogen oxides NO <sub>x</sub>	Particulates PT
	A	B	n	A	B	n		
Two-stroke spark ignition	150,0	600,0	1,0	30,0	100,0	0,75	10,0	Not applicable
Four-stroke spark ignition	150,0	600,0	1,0	6,0	50,0	0,75	15,0	Not applicable
Compression ignition	5,0	0	0	1,5	2,0	0,5	9,8	1,0

Where A, B and n are constants in accordance with the table, P<sub>N</sub> is the rated engine power in kW.

**Placing on the market or putting into service of propulsion engines complying with the old set of exhaust emission limit values set out in Directive 2003/44/EC and measured in accordance with the methodology of ISO 8178 was possible until 17 January 2017 when the transitional period set out in the Article 55(1) of the Directive ended.**

**In case of small outboard SI engines (P equal or less than 15 kW) which are manufactured by SMEs, the transitional period for their placing on the market or putting into service according to rules of Directive 2003/44/EC ends by 17 January 2020.**

2.2. Values applying from 18 January 2016:

**Table 2**

Exhaust emission limits for compression ignition (CI) engines (++)

Swept Volume SV (L/cyl)	Rated Engine Power P <sub>N</sub> (kW)	Particulates PT (g/kWh)	Hydrocarbons + Nitrogen Oxides HC + NO <sub>x</sub> (g/kWh)
	P <sub>N</sub> < 37	The values referred to in Table 1	
	37 ≤ P <sub>N</sub> < 75 (+)	0,30	4,7



SV < 0,9	75 ≤ P <sub>N</sub> < 3700	0,15	5,8
0,9 ≤ SV < 1,2	P <sub>N</sub> < 3700	0,14	5,8
1,2 ≤ SV < 2,5		0,12	5,8
2,5 ≤ SV < 3,5		0,12	5,8
3,5 ≤ SV < 7,0		0,11	5,8
(+)		<i>Alternatively, compression-ignition engines with rated engine power at or above 37 kW and below 75 kW and with a swept volume below 0,9 L/cyl shall not exceed a PT emission limit of 0,20 g/kWh and a combined HC + NO<sub>x</sub> emission limit of 5,8 g/kWh.</i>	
(++)	<i>Any compression-ignition engine shall not exceed a Carbon monoxide (CO) emission limit of 5,0 g/kWh.</i>		

Exhaust emission limits for CI engines are now divided according to engine categories and their swept volume. The limits for hydrocarbons and nitrogen oxides are grouped together to enable easier calibration of engines due to trade-off of these pollutants. For the engine category of 37 kW ≤ P < 75 kW and with a swept volume below 0,9 L/cyl there is the alternative combination of PT and HC+NO<sub>x</sub>.

**Table 3**

Exhaust emission limits for spark ignition (SI) engines

Type of engine	Rated Engine Power P <sub>N</sub> (kW)	Carbon monoxide CO (g/kWh)	Hydrocarbons + Nitrogen Oxides HC + NO <sub>x</sub> (g/kWh)
Stern-drive and inboard engines	P <sub>N</sub> ≤ 373	75	5
	373 < P <sub>N</sub> ≤ 485	350	16
	P <sub>N</sub> > 485	350	22
Outboard engines and PWC engines	P <sub>N</sub> ≤ 4,3	500 – (5,0 x P <sub>N</sub> )	30
	4,3 < P <sub>N</sub> ≤ 40	500 – (5,0 x P <sub>N</sub> )	$15,7 + \left( \frac{50}{P_N^{0,9}} \right)$
	P <sub>N</sub> > 40	300	$15,7 + \left( \frac{50}{P_N^{0,9}} \right)$

Exhaust emission limits for SI engines are now divided according to type (stern-drive and inboard engines, outboard engines and PWC engines) and engine categories.

### 2.3. Test cycles

Test cycles and weighting factors to be applied:

The following requirements of ISO standard 8178-4:2007 shall be used, taking into account the values set out in the table below.

For variable speed CI engines test cycle E1 or E5 shall be applied or alternatively, above 130 kW, test cycle E3 may be applied. For variable speed SI engines test cycle E4 shall be applied.

Cycle E1, Mode number	1	2	3	4	5
Speed	Rated speed		Intermediate speed		Low-idle speed
Torque, %	100	75	75	50	0
Weighting factor	0,08	0,11	0,19	0,32	0,3
Speed	Rated speed		Intermediate speed		Low-idle speed
Cycle E3, Mode number	1	2	3	4	
Speed, %	100	91	80	63	
Power, %	100	75	50	25	
Weighting factor	0,2	0,5	0,15	0,15	
Cycle E4, Mode number	1	2	3	4	5
Speed, %	100	80	60	40	Idle
Torque, %	100	71,6	46,5	25,3	0
Weighting factor	0,06	0,14	0,15	0,25	0,40
Cycle E5, Mode number	1	2	3	4	5
Speed, %	100	91	80	63	Idle
Power, %	100	75	50	25	0
Weighting factor	0,08	0,13	0,17	0,32	0,3

Notified bodies may accept tests carried out on the basis of other tests cycles as specified in a harmonised standard and as applicable for the engine duty cycle.

#### 2.4. Application of the propulsion engine family and choice of parent propulsion engine

The engine manufacturer shall be responsible for defining those engines from his range which are to be included in an engine family.

A parent engine shall be selected from an engine family in such a way that its emissions characteristics are representative for all engines in that engine family. The engine incorporating those features that are expected to result in the highest specific emissions (expressed in g/kWh), when measured on the applicable test cycle, should normally be selected as the parent engine of the family.

**2.5. Test fuels**

The test fuel used for exhaust emission testing shall meet the following characteristics:

<b>Petrol Fuels</b>				
Property	RF-02-99 Unleaded		RF-02-03 Unleaded	
	min	max	min	max
Research Octane Number (RON)	95	—	95	—
Motor Octane Number (MON)	85	—	85	—
Density at 15 oC (kg/m <sup>3</sup> )	748	762	740	754
Initial boiling point (°C)	24	40	24	40
Mass fraction of sulphur (mg/kg)	—	100	—	10
Lead content (mg/l)	—	5	—	5
Reid vapour pressure (kPa)	56	60	—	—
Vapour pressure (DVPE) (kPa)	—	—	56	60
<b>Diesel Fuels</b>				
Property	RF-06-99		RF-06-03	
	min	max	min	max
Cetane number	52	54	52	54
Density at 15 oC (kg/m <sup>3</sup> )	833	837	833	837
Final boiling point (°C)	—	370	—	370
Flash point (°C)	55	—	55	—
Mass fraction of sulphur (mg/kg)	To be reported	300 (50)	—	10
Mass fraction of ash (%)	To be reported	0,01	—	0,01

Notified bodies may accept tests carried out on the basis of other tests fuel as specified in a harmonised standard.

Points 2.3 and 2.5 of Annex I.B of the Directive refer to the international ISO and to the EU harmonised standards with respect to exhaust emission measurements. Therefore, it is recommended to use provisions of harmonised standard EN ISO 18854 apart of essential requirements set out in the Annex I.B.2 of the Directive. This applies particularly to the use of alternative test cycles and other test fuels as specified in this harmonised standard.

### **3. DURABILITY**

The manufacturer of the engine shall supply engine installation and maintenance instructions, which if applied should mean that the engine in normal use will continue to comply with the limits set out in points 2.1 and 2.2 throughout the normal life of the engine and under normal conditions of use.

This information shall be obtained by the engine manufacturer by use of prior endurance testing, based on normal operating cycles, and by calculation of component fatigue so that the necessary maintenance instructions may be prepared by the manufacturer and issued with all new engines when first placed on the market.

The normal life of the engine is as follows:

- (a) For CI engines: 480 hours of operation or 10 years, whichever occurs first;
- (b) For SI inboard or stern drive engines with or without integral exhaust:
  - (i) for the engine category  $P_N \leq 373$  kW : 480 hours of operation or 10 years, whichever occurs first,
  - (ii) for engines in the category  $373 < P_N \leq 485$  kW: 150 hours of operation or three years, whichever occurs first,
  - (iii) for the engine category  $P_N > 485$  kW : 50 hours of operation or one year, whichever occurs first;
- (c) personal watercraft engines: 350 hours of operation or five years, whichever occurs first;
- (d) outboard engines: 350 hours of operation or 10 years, whichever occurs first

**The engine manufacturer is responsible for endurance testing and calculation of component fatigue to ensure that these requirements for durability will be met. Involvement of a notified body in these tests must be in accordance with the requirements of the conformity assessment module chosen by the engine manufacturer, as referred in Article 21 of the Directive.**

**Bullet point (a) applies to CI inboard and stern drive engines with or without integral exhaust. Further, requirements of point (b) apply to SI inboard and stern drive engines with or without integral exhaust.**

**The engines mounted in personal watercraft are covered point (c) and the durability criteria of bullet point (d) apply to outboard engines (irrespective if CI or SI outboard engines).**

### **4. OWNER'S MANUAL**

Each engine shall be provided with an owner's manual in a language or languages which can be easily understood by consumers and other end-users, as determined by the Member State in which the engine is to be marketed.

The owner's manual shall:

- (a) provide instructions for the installation, use and maintenance needed to assure the proper functioning of the engine to meet the requirements of Section 3 (Durability);

(b) specify the power of the engine when measured in accordance with the harmonised standard.

Relevant harmonised standard for measurement of the engine's power is EN ISO 8665: Marine propulsion engines and systems - Power measurements and declarations. The engine power must be specified by the engine manufacturer in the owner's manual supplied with the engine.

According to harmonised standard EN ISO 8665 the engine's power shall be declared as a single value accompanied by a statement of the engine speed and whether the power is crank shaft power or propeller shaft power. For engines sold with a complete propulsion unit the propeller shaft power shall be declared and for engines sold with reduction and/or reversing gear the power at the coupling to the propeller shaft declared.

The engine power and speed may alternatively be presented as a power curve (see also notes on calculation of the Power/Displacement ratio in Annex I.C of the Directive)

### **C. Essential requirements for noise emissions**

Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall comply with the essential requirements for noise emissions set out in this Part.

Annex I.C of the Directive specifies the essential requirements for recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust relating to noise emissions.

Personal watercraft, outboard engines and stern drive engines with integral exhaust the noise emission levels must meet the limits specified in Annex I, point C.1.1 of the Directive reproduced below. The methodology of the relevant harmonised standard is considered to be a benchmark for this measurement.

For recreational craft with inboard engines, or with stern drive engines without integral exhaust, conformity with the noise emission requirements may, depending on the speed and other design parameters of the recreational craft, be demonstrated by one of 2 methods: either measurement by testing when methodology set out in harmonised standard serves as a benchmark (point 1.1 of Annex I.C of the Directive), or the application of the Froude number and Power to Displacement ratio method (points 1.2 and 1.3 below of Annex I.C of the Directive).

## 1. NOISE EMISSION LEVELS

1.1 Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall be designed, constructed and assembled so that noise emissions shall not exceed the limit values in the following table:

Rated Engine Power (single engine) In kW	Maximum Sound Pressure Level = LpASmax In dB
$P_N \leq 10$	67
$10 < P_N \leq 40$	72
$P_N > 40$	75

where  $P_N$  = rated engine power in kW of a single engine at rated speed and LpASmax = maximum sound pressure level in dB.

For twin-engine and multiple-engine units of all engine types an allowance of 3 dB may be applied.

Harmonised standard EN ISO 14509 provides for the noise emissions of outboard engines to be measured when they are installed on a common recreational craft and for noise emission measurement of sterndrive engines with integral exhausts using standard recreational craft.

The term “stern drive engines with integral exhaust” also includes through hull thruster applications and similar solutions with integral exhaust.

1.2 As an alternative to sound measurement tests, recreational craft with inboard engine configuration or stern drive engine configuration, without integral exhaust, shall be deemed to comply with the noise requirements set out in point 1.1 if they have a Froude number of  $\leq 1,1$  and a Power to Displacement ratio of  $\leq 40$  and where the engine and exhaust system are installed in accordance with the engine manufacturer’s specifications.

Recreational craft with inboard propulsion engines, or with stern drive engines without integral exhaust, that have a Froude number of  $\leq 1,1$  and a Power to Displacement ratio of  $\leq 40$  as specified below, and where the engine and exhaust system are installed in accordance with the engine manufacturer’s specifications are deemed to comply with the Directive’s noise emission requirements without the need for noise emission measurement tests. Such recreational craft will typically be displacement (non-planing) motor boats or sailing boats with auxiliary inboard engines – see the example calculations below.

Where this alternative is applied the calculations and details of the engine and exhaust system installation, which must be in accordance with the engine manufacturer’s

specifications, must be recorded and a statement made in the EU declaration of conformity for the recreational craft according to Annex IV of the Directive.

1.3 Froude number'  $F_n$  shall be calculated by dividing the maximum recreational craft speed  $V$  (m/s) by the square root of the waterline length  $lwl$  (m) multiplied by a given gravitational acceleration constant,  $g$  of  $9,8 \text{ m/s}^2$

$$F_n = \frac{V}{\sqrt{g \cdot lwl}}$$

The maximum recreational craft speed  $V$  (m/s) to be used in the above equation is to be taken as if measured with the recreational craft at performance test mass ( $m_P$ ) condition and the corresponding  $lwl$  (m) as specified in EN ISO 8666 Small craft - Principal data.

'Power to Displacement ratio' shall be calculated by dividing the rated engine power  $P_N$  (in kW) by the recreational craft's displacement  $D$  (in tonnes)

$$\text{Power to Displacement Ratio} = \frac{P_N}{D}$$

The engine power ( $P_N$ ) to be used for calculation of the Power to Displacement ratio in the above equation is the propeller shaft power (or the crank shaft power in accordance with EN ISO 8665).

The power has to be expressed in kW (note that where engine power data available are expressed in horse power (hp), the kilowatt (kW) power is obtained from multiplying the horse power data by 0,75).

The displacement ( $D$ ) to be used in the above equation is the recreational craft's displacement at performance test mass ( $m_P$ ) condition according to EN ISO 8666 Small craft - Principal data in tonnes (Kg/1000). Some examples of these calculations are given below.

Examples of 'Froude number' and 'Power to Displacement ratio' calculations

1) A typical motor cruiser could be as follows:

Waterline length	$lwl = 7,8$ metres
Displacement	$D = 4$ tonnes
Engine power	$P = 35\text{hp} = 26$ kW
Speed (max)	$V = 8$ knots = $4,1$ metres per second

The 'Froude number' would be calculated from:

$$Fn = \frac{4,1}{\sqrt{9,8 \times 7,8 \times \{9,8 \times 7,8\}}} = 0,47$$

The Power to Displacement ratio would be:  $P/D = 26/4 = 6,5$

As the 'Froude number' is less than 1,1 and the Power to Displacement ratio is less than 40 the craft in question will be deemed to comply with the noise emissions.

2) A sailing yacht could be as follows:

Water line length	lwl = 11,13 metres
Displacement	D = 12,56 tonnes
Engine power	P = 56hp = 42 kW
Speed (max)	V = 9knots = 4,6 metres per second

The 'Froude number' would be calculated from:

$$Fn = \frac{4,6}{\sqrt{9,8 \times 11,13 \times \{9,8 \times 11,13\}}} = 0,44$$

The Power to Displacement ratio would be:  $P/D = 42/12,56 = 3,34$

As the 'Froude number' is less than 1,1 and the Power to Displacement ratio is less than 40 the yacht in question will be deemed to comply with the noise emissions.

3) A faster motor cruiser could be as follows:

Waterline length	lwl = 10,2 metres
Displacement	D = 6 tonnes
Engine power	P = 300hp = 225 kW
Speed (max)	V = 22 knots = 11,3 metres per second

The 'Froude number' would be calculated from:

$$Fn = \frac{11,3}{\sqrt{9,8 \times 10,2 \times \{9,8 \times 10,2\}}} = 1,13$$

The Power to Displacement ratio would be:  $P/D = 225/6 = 37,5$

The Power to Displacement ratio is less than 40 but the 'Froude number' is more than 1,1 so the craft in question fails the criteria. This method may therefore not be applied and the craft must be tested in accordance with the pass-by test of ISO 14509 to establish if it complies with the noise emission requirements.



Chart for Froude number (Fn):

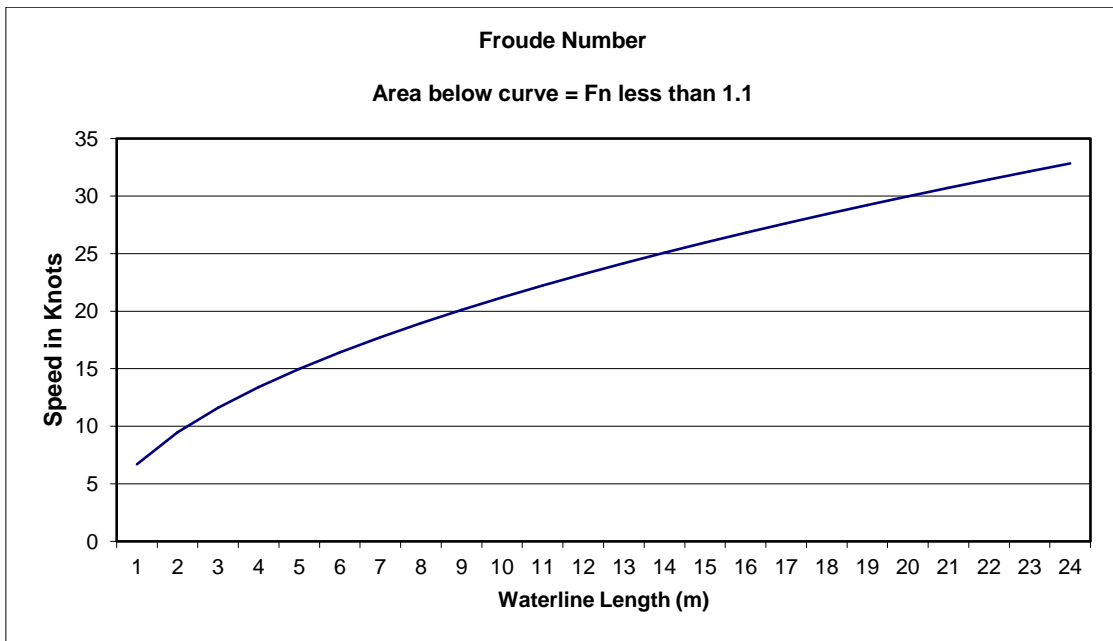
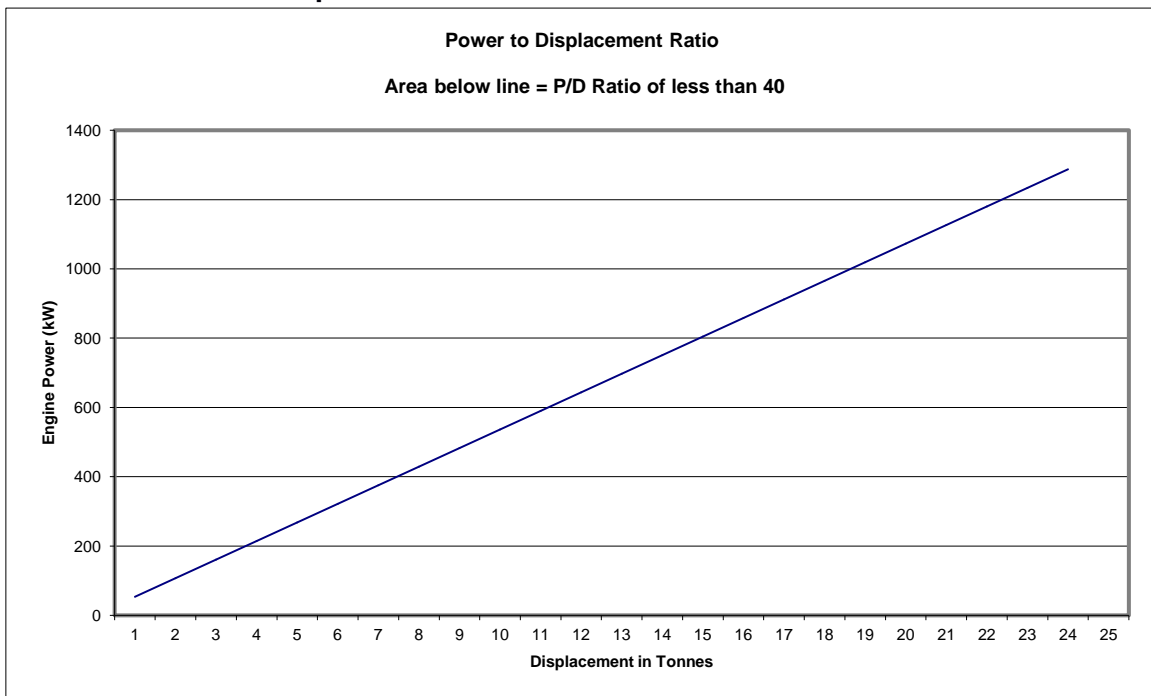


Chart for Power to Displacement Ratio:



## 2. OWNER'S MANUAL

For recreational craft with inboard engine or stern drive engines without integral exhaust and personal watercraft, the owner's manual required under point 2.5 of Part A, shall include information necessary to maintain the recreational craft and exhaust system in a condition that, insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

**Engine's owner's manual supplied with watercraft should, among others, specify information on maintenance of the watercraft, engine and exhaust system to ensure continued compliance with the noise limits.**

For outboard engines and stern drive engines with integral exhaust, the owner's manual required under Section 4 of Part B shall provide the instructions necessary to maintain the engine in a condition, that insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

**Engine's owner's manual supplied with the outboard engines and stern drive engines with integral exhaust shall include information on maintenance to ensure continued compliance with the noise emission limits.**

### ***3. DURABILITY***

The provisions on the durability in Section 3 of Part B shall apply *mutatis mutandis* to the compliance with the requirements on noise emissions set out in Section 1 of this part.

**Durability rules referring to the exhaust emissions set out in Annex I.B.3 of the Directive apply also to the requirements on noise emissions taking into account the necessary adjustments which need to be made.**

**ANNEX II**  
**Components of watercraft**

Annex II of the Directive gives five specific components listed under the Directive, which when placed on the market separately and when intended for installation requires their own conformity assessment procedure, including affixing the CE marking. According to Article 20(3) of the Directive six conformity assessment modules or combinations of modules can be applied to them. All these modules imply a third party intervention, either in the design phase only (module B+C) or in the design and production phase (module B+D, B+E or B+F, or G or H) which has to take place before the component is placed separately on the market.

**(1) Ignition-protected equipment for inboard and stern drive petrol engines and petrol tank spaces;**

For ignition-protected equipment for inboard and stern drive petrol engines, ignition-protected equipment for petrol engine rooms and petrol fuel tank spaces, refer to Annex I.A, points 5.1.1 and 5.2.2, first indent of the Directive and respective comments on this guide.

It is the intention here to emphasise the risk of ignition of flammable gases. This risk is significantly greater with petrol than with other less-volatile fuels. For this reason petrol engine installations (i.e. that using low-flashpoint fuel) are directly specified. However, ignition risks should be recognised in all installations.

**(2) Start-in-gear protection devices for outboard engines;**

For start-in-gear protection for outboard engines: refer in Annex I to point 5.1.4 of the Directive.

*Relevant Harmonised Standard:*  
*EN ISO 11547:2018 Small craft – Start-in-gear protection*

**(3) Steering wheels, steering mechanisms and cable assemblies;**

Steering mechanisms could include items such as the examples below. One is basically a type of pump which converts movement of the shaft (controlled by the wheel) into a flow of hydraulic oil which then controls actuators positioned near the rudders. Joysticks or electronic control heads which control steering only and not the engine throttle or gear-shift controls when placed separately on the market could also be considered as steering mechanisms although many of these are integrated into a single unit controlling both steering and thrust/engine etc.

The cables sold separately are not Annex II components. The Directive refers to “cable assemblies” in Annex II (3). Cable assemblies are defined as cables with end connections.

For steering wheels, steering mechanisms and cable assemblies: refer to Annex I.A, points 5.4.1 and 5.4.2 of the Directive.

**Relevant Harmonised Standards:**

**EN ISO 8847:2017 Small craft – Steering gear – Cable and pulley systems**

**EN ISO 8848:2017 Small craft – Remote steering systems**

**EN ISO 9775:2017 Small craft – Remote steering systems for single outboard motors of 15 kW to 40 kW power**

**EN ISO 13929:2017 Small craft – Steering gear – geared link systems**

**EN ISO 15652:2017 Small craft – remote steering systems for inboard mini jet boats**

**EN ISO 25197:2018 Small craft - Electrical/electronic steering system for steering, shift and throttle**

**(4) Fuel tanks intended for fixed installations and fuel hoses;**

It specifies that fuel tanks intended for fixed (permanent) installation in watercraft are covered by Annex II of the Directive only when placed on the market separately as components. Accordingly portable fuel tanks of any capacity are excluded from the scope of Annex II and therefore should not bear the CE marking for this Directive. Fuel tanks that are an integral part of the structure of the watercraft are also excluded from the scope of Annex II and therefore should not bear the CE marking.

For fuel tanks and fuel hoses: refer to Annex I.A, point 5.2.2

**(5) Prefabricated hatches, and port lights.**

For prefabricated hatches and portlights: refer to Annex I.A, point 3.4. of the Directive

A portlight is considered to be any port or window above the maximum load waterline whose watertightness is essential to maintain the integrity of the freeboard area.

**Relevant Harmonised Standard:**

**EN ISO 12216:2018 Small craft – Windows, portlights, hatches, deadlights and doors strength and watertightness requirements**

**ANNEX III**

***Declaration by the manufacturer or the importer of the partly completed watercraft (Article 6(2))***

The declaration by the manufacturer or the importer established in the Union referred to in Article 6(2) shall contain the following:

- (a) the name and address of the manufacturer;
- (b) the name and address of the representative of the manufacturer established in the Union or, if appropriate, of the person responsible for the placing on the market;
- (c) a description of the partly completed watercraft;
- (d) a statement that the partly completed watercraft complies with the essential requirements that apply at this stage of construction; this shall include references to the relevant harmonised standards used, or references to the specifications in relation to which compliance is declared at this stage of construction; furthermore, it is intended to be completed by other legal or natural persons in full compliance with this Directive.

Reference is made to the definitions given under Article 3(14) and 3(16) of the Directive of “manufacturer” and “importer”.

Some confusion may exist in case of a watercraft destined to be fitted with an outboard engine. In this case the “watercraft” is effectively finished / completed by the watercraft manufacturer and requires only the outboard engine to be provided. Many of these watercraft types are placed on the market without an engine, this being provided / purchased at the choice of the eventual owner: they are however suitable to be put into service. So this watercraft is not considered a partly completed watercraft and consequently should be accompanied by the EU declaration of conformity and also with CE marking.

When a manufacturer places a watercraft, requiring for its propulsion an inboard engine or a stern-drive engine without an integral exhaust, on the market without such an engine being mounted, this is considered to be a partly completed watercraft under the Directive which should be accompanied by the manufacturer's or importer's referred declaration. The requirements of Annex I of the Directive would therefore apply. In these few instances the engine is selected by the end user and not fitted by the watercraft manufacturer, prior to placing it on the market. It is considered that, in these cases, the owner of the watercraft will either fit the engine on his own or seek appropriate professional assistance to fit the engine in accordance with the instructions of the engine manufacturer. The owner of the watercraft, or the person placing the completed watercraft on the market or putting it into service, will then take responsibility to complete the watercraft and remaining conformity assessment procedures to comply with the requirements, including issuing the EU declaration of conformity and CE marking the watercraft accordingly.

In case of partly completed watercraft a person placing it on the market shall issue declaration that the partly completed watercraft complies with the essential requirements that apply at this stage of construction. The declaration shall include

references to the relevant harmonised standards used, or references to the specifications in relation to which compliance is declared at this stage of construction. Furthermore, the declaration shall make clear that the partly completed watercraft is intended to be completed by other legal or natural persons who will assume the responsibility for the full compliance with this Directive.

**ANNEX IV**

**EU Declaration of Conformity No. xxxxx**

1. No xxxxx (Product: product, batch, type, or serial number):
2. Name and address of the manufacturer or his authorised representative [The authorised representative must also give the business name and address of the manufacturer] or the private importer.
3. This declaration of conformity is issued under the sole responsibility of the manufacturer or the private importer or the person referred to in Article 19(3) or (4) of Directive 2013/53/EU.
4. Object of the declaration (identification of product allowing traceability. It may include a photograph, where appropriate):
5. The object of the declaration described in point 4 is in conformity with the relevant Union harmonisation legislation:
6. References to the relevant harmonised standards used or references to the other technical specifications in relation to which conformity is declared:
7. Where applicable, the notified body ... (name, number) performed ... (description of intervention) and issued the certificate:
8. Identification of the person empowered to sign on behalf of the manufacturer or his authorised representative
9. Additional information:

The EU declaration of conformity shall include a statement of the propulsion engine manufacturer and that of the person adapting an engine in accordance with points (b) and (c) of Article 6(4) that:

(a) when installed in a watercraft, in accordance with the installation instructions accompanying the engine, the engine will meet:

(i) the exhaust emission requirements of this Directive;

(ii) the limits of Directive 97/68/EC as regards engines type-approved in accordance with Directive 97/68/EC which are in compliance with stage III A, stage III B or stage IV emission limits for CI engines used in other applications than propulsion of inland waterway vessels, locomotives and railcars, as provided for in point 4.1.2 of Annex I to that Directive; or

(iii) the limits of Regulation (EC) No 595/2009 as regards engines type-approved in accordance with that Regulation.

The engine must not be put into service until the watercraft into which it is to be installed has been declared in conformity, if so required, with the relevant provision of this Directive.

If the engine has been placed on the market during the additional transitional period provided for in Article 55(2), the EU declaration of conformity shall contain an indication thereof.

**The person placing the product on the market or putting it into service is required to draw up and sign the EU declaration of conformity. Article 15 of the Directive sets out the principles and requirements of the EU declaration of conformity. The draw up of the EU declaration of conformity is as a general rule under the responsibility of the manufacturer or his authorised representative. However for this Directive the private importer, the persons placing on the market or putting into service a propulsion engine or a watercraft after a major modification or conversion thereof or any person**

changing the intended purpose of a watercraft not covered by this Directive in a way that it falls under its scope and also the person placing on the market a watercraft built for own use before the end of the five-year period have the responsibility for issuing the EU declaration of conformity, according point 4.2 of Annex V of the Directive.

Annex IV of the Directive includes a model structure for the EU declaration of conformity to be used by the person placing the product on the market or putting it into service, based on Annex III to the Decision No 768/2008/EC. It should contain sufficient information to enable all products covered by it to be traced back to it including the traceability of the responsible person.

The model structure is designed to contain information as a minimum which must be included in the EU declaration of conformity, therefore if the template in Annex IV is followed, the declaration of conformity will be considered as fulfilling the requirements with respect to the information required in it. However the responsible person may include other relevant information of the product covered by it as he thinks appropriate for traceability purposes. It must be noted that the requirement of Article 15(2) of the Directive on inclusion of the elements specified in Annex II to Decision No 768/2008/EC as well as in Annex V to the RCD to the EU declaration of conformity must be respected.

In order to ensure effective access to information for market surveillance purposes, where product is subject to more than one Union act requiring an EU declaration of conformity, the information required to identify all applicable Union acts should be available in a single EU declaration of conformity. But in order to reduce the administrative burden on economic operators, that single EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity.

The 'Blue Guide' on the implementation of EU product rules in its point 4.4 "EU declaration of conformity" covers guidance on the information that is expected to be included under each section of this model structure.

Administrative Co-ordination Working Group of Market Surveillance Authorities in the Member States (ADCO) developed the sectorial specific forms of EU Declaration of Conformity, respectively for recreational craft, personal watercraft, and propulsion engines. The templates are available on the CIRCABC collaborative web platform.

These forms have been used by the market surveillance authorities as a model to translate into national versions of the declaration of conformity in the official language(s) of the Member State when desired. Although the use of these common forms is not mandatory, it is highly recommended, since it will facilitate their acceptance throughout the EU/EEA as they provide all the essential information judged necessary by the market surveillance authorities in the EU/EEA Member States.



**ANNEX V**

***Equivalent Conformity based on Post-Construction Assessment (Module PCA)***

1. Conformity based on post-construction assessment is the procedure to assess the equivalent conformity of a product for which the manufacturer has not assumed the responsibility for the product's conformity with this Directive, and whereby a natural or legal person referred to in Article 19(2), (3) or (4) who is placing the product on the market or putting it into service under his own responsibility is assuming the responsibility for the equivalent conformity of the product. This person shall fulfil the obligations laid down in points 2 and 4 and ensure and declare on his sole responsibility that the product concerned, which has been subject to the provisions of point 3, is in conformity with the applicable requirements of this Directive.

**Post construction assessment is a specific conformity assessment module which addresses the scenarios which are particular to the RCD. Main principle is that the original manufacturer does not assume the responsibilities for the product's conformity with the requirements of the Directive. The possible scenarios are described in Article 19(2), (3) and (4). In these cases a natural or legal person (non-economic operator) who is placing the product on the market or putting it into service under his own responsibility is assuming the responsibility for the equivalent conformity of the product.**

2. The person who is placing the product on the market or putting it into service shall lodge an application for a post-construction assessment of the product with a notified body and must provide the notified body with the documents and technical file enabling the notified body to assess the conformity of the product with the requirements of this Directive and any available information on the use of the product after its first putting into service.

The person who is placing such a product on the market or putting it into service shall keep these documents and information at the disposal of the relevant national authorities for 10 years after the product has been assessed on its equivalent conformity in accordance with the post-construction assessment procedure.

**The person who places the product on the market and/or puts it into service must apply to a notified body to conduct the conformity assessment by examining the individual product and its documentation. This person should submit to a notified body all the documents and information (including the information on the use of product) which ensure assessment of conformity of the product to the Directive.**

However, the technical documentation is required in case of private imports (as stated in Article 12 of the Directive). The technical documentation shall be obtained either from the original manufacturer or drawn up by private importer using appropriate expertise. Private importer may have it drawn up by a technical expert.

**Copy of the technical documentation or available technical file that has been submitted to the notified body for the PCA assessment, has to be kept by the person who is placing such a product on the market or putting it into service at the disposal of the national authorities.**

Where the content of the technical documentation is described in Annex IX of the Directive, the technical file required to be demonstrated by persons described in Article 19(3) and 19(4) of the Directive should incorporate all the available documents referring to the product's first placing on the market or putting into service. These documents may include ownership papers, the manufacturer's certificate, surveyors' reports, the boat's original owner's manual, engine and other component manuals, specifications, drawings, stability booklet etc.

3. The notified body shall examine the individual product and carry out calculations, tests and other assessments, to the extent necessary to ensure that the equivalent conformity of the product with the relevant requirements of this Directive is demonstrated.

The notified body shall draw up and issue a certificate and a related report of conformity concerning the assessment carried out and shall keep a copy of the certificate and related report of conformity at the disposal of the national authorities for 10 years after it has issued these documents.

The notified body shall affix its identification number next to the CE marking on the approved product or have it affixed under its responsibility.

In case the assessed product is a watercraft, the notified body shall also have affixed, under his responsibility, the watercraft identification number as referred to in point 2.1 of Part A of Annex I, whereby the field for the country code of the manufacturer shall be used to indicate the country of establishment of the notified body and the fields for the unique code of the manufacturer assigned by the national authority of the Member State to indicate the post-construction assessment identification code assigned to the notified body, followed by the serial number of the post- construction assessment certificate. The fields in the watercraft identification number for the month and year of production and for the model year shall be used to indicate the month and year of the post-construction assessment.

**The responsibilities of the notified body assessing this equivalent conformity of the product in scope of RCD are:**

- **inform the person who is placing the product on the market or putting it into service of his obligations under the PCA (as described in Annex V(5))**
- **draw up and issue a certificate and a related report of conformity concerning the assessment**
- **affix notified body's identification number**
- **ensure affixing of watercraft identification number (for watercraft only)**

The notified bodies are supposed to satisfy themselves with such examination of the individual product which enables to demonstrate the equivalent conformity of the product with the relevant requirements of the Directive. They shall issue the PCA certificate and report of conformity and keep it at the disposal of the national authorities for next 10 years.

In case of PCA, the notified bodies are responsible for affixing its identification number next to the CE marking.

If the assessed product is a watercraft, the notified bodies are also responsible for affixing the watercraft identification number (as referred in Annex I.A.2.1 of the Directive). This is the shared responsibility together with the person who is placing

the watercraft on the market or putting it into service. The first two digits shall indicate the country of establishment of the notified body. The following three digits normally dedicated to the manufacturer's code shall indicate the PCA identification code assigned to the notified body. The month and year of production shall indicate the month and year of the post-construction assessment.

#### 4. CE marking and EU declaration of conformity

4.1. The person who is placing the product on the market or putting it into service shall affix the CE marking and, under the responsibility of the notified body referred to in Section 3, the latter's identification number to the product for which the notified body has assessed and certified its equivalent conformity with the relevant requirements of this Directive.

4.2. The person who is placing the product on the market or putting it into service shall draw up an EU declaration of conformity and keep it at the disposal of the national authorities for 10 years after the date the post-construction assessment certificate has been issued. The declaration of conformity shall identify the product for which it has been drawn up.

A copy of the EU declaration of conformity shall be made available to the relevant authorities upon request.

4.3. In the case the assessed product is a watercraft, the person who is placing the watercraft on the market or putting it into service shall affix to the watercraft the builder's plate described in point 2.2 of Part A of Annex I, which shall include the words 'post-construction assessment', and the watercraft identification number described in point 2.1 of Part A of Annex I, in accordance with the provisions set out in Section 3.

In scope of PCA, the responsibilities of the person who is placing the product on the market or putting it into service are:

- affix the CE marking
- draw up an EU declaration of conformity
- affix the builder's plate (for watercraft only)
- affix the watercraft identification number (for watercraft only)

The CE marking shall be accompanied by the notified body' identification number. The EU declaration of conformity shall be kept at the disposal of the national authorities for 10 years. Builder's plate described in Annex I.A.2.2 of the Directive shall include the words 'post-construction assessment'. The person placing the product on the market or putting it into service shall affix also the watercraft identification number described in Annex V(3) of the Directive. This is the shared responsibility together with the notified body assessing the watercraft.

5. The notified body shall inform the person who is placing the product on the market or putting it into service of his obligations under this post-construction assessment procedure.

Provided that the PCA as the equivalent conformity procedure is not supposed to be used by regular clients and on a regular basis like the 'standard' conformity assessment procedures, the notified bodies should provide the information service of their obligations to the persons placing the product on the market or putting it into service under the PCA.

## ANNEX VI

### *Supplementary Requirements when Internal Production Control plus Supervised Production Tests set out in Module A1 is used (Article 24(2))*

#### **Design and construction**

On one or several watercrafts representing the production of the manufacturer one or more of the following tests, equivalent calculation or control shall be carried out by the manufacturer or on his behalf:

- (a) test of stability in accordance with point 3.2 of Part A of Annex I;
- (b) test of buoyancy characteristics in accordance with point 3.3 of Part A of Annex I.

Annex VI of the Directive, part 'Design and construction' describes the additional procedure for assessing the design and construction of recreational craft and personal watercraft in accordance with Module A1, supplemented by:

- test of stability according to point 3.2 of the essential requirements in Annex I.A of the Directive,
- test of buoyancy according to point 3.3 of the essential requirements in Annex I.A of the Directive

These tests (or calculations or control) are carried out on the responsibility of a notified body chosen by the manufacturer.

The first sentence of Annex VI (Design and Construction), shall be understood to mean that tests, or equivalent calculation or control shall be carried out by the manufacturer, or on his behalf, to demonstrate that the watercraft meets the essential requirements of Annex I.A, points 3.2 and 3.3 of the Directive, as applicable.

In discussions with the manufacturer the notified body should agree on the type, number and scope of the tests, equivalent calculations or controls to be undertaken, and the number of watercraft upon which they have to be applied.

It shall be the notified body's responsibility to ensure that such test, equivalent calculation or control shall be carried out to demonstrate conformity with points 3.2 and 3.3 of the essential requirements of Annex I.A of the Directive.

Module A1 requires notified body intervention only for stability and buoyancy for the watercraft under assessment. It should be noted that there is no requirement for notified body's intervention in the manufacturing process.

#### **Noise emissions**

For recreational craft fitted with inboard or stern drive engines without integral exhaust and for personal watercraft, on one or several watercraft representing the production of the watercraft manufacturer, the sound emission tests defined in Part C of Annex I shall be carried out by the watercraft manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

For outboard engines and stern drive engines with integral exhaust, on one or several engines of each engine family representing the production of the engine manufacturer, the sound emission tests defined in Part C of Annex I shall be carried out by the engine manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

Where more than one engine of an engine family is tested, the statistical method described in Annex VII shall be applied to ensure conformity of the sample.

Recreational craft with inboard propulsion engines, or with stern drive engines without integral exhaust, and personal watercraft is recommended to use the harmonised standard (EN ISO 14509) for measurement of noise emissions (except for recreational craft with inboard propulsion engines or stern drive engines without integral exhaust in case when the alternative method referred to in Annex I, part C can be applied). If the manufacturer applies for conformity assessment according to module A1 these noise emission measurement tests must be conducted under the responsibility of a notified body. The noise emission measurement tests may be carried out by the manufacturer and witnessed and/or checked by the notified body. Alternatively the tests may be conducted by another party appointed by the manufacturer and witnessed and/or checked by the notified body, or conducted by the notified body. Another party appointed by the manufacturer could be the notified body itself, if that body has been assigned by a Member State for this purpose.

For outboard engines and stern drive engines with integral exhaust, the noise emission tests is recommended to be conducted in accordance with the harmonised standard (EN ISO 14509) using 'standard craft' as defined by the standard. If the manufacturer applies for conformity assessment according to module A1 these tests must be carried out under the responsibility of a notified body. The noise emission tests may be carried out by the engine manufacturer and witnessed and/or checked by the notified body. Alternatively the test may be conducted by another party appointed by the engine manufacturer and witnessed and/or checked by the notified body. Another party appointed by the manufacturer could be the notified body itself, if that body has been assigned by a Member State for this purpose.

The tests may be conducted on one engine from each engine family (see definition in Article 3(9) of the Directive) in the manufacturer's range, in which case the engine selected must be chosen to provide noise emission characteristics representative of all engines in that engine family. Where more than one engine is tested the average result of the sample and standard deviation shall be calculated according to Annex VII of the Directive to determine compliance.

**ANNEX VII**

**Conformity of production assessment for exhaust and noise emissions**

1. For verifying the conformity of an engine family, a sample of engines is taken from the series. The manufacturer shall decide the size (n) of the sample, in agreement with the notified body.

2. The arithmetical mean X of the results obtained from the sample shall be calculated for each regulated component of the exhaust and noise emission. The production of the series shall be deemed to conform to the requirements ("pass decision") if the following condition is met:

$$X + k \cdot S \leq L$$

S is standard deviation, where:

$$S^2 = \Sigma (x - X)^2 / (n - 1)$$

X = the arithmetical mean of the results

x = the individual results of the sample

L = the appropriate limit value

n = the number of engines in the sample

k = statistical factor depending on n (see table)

n	2	3	4	5	6	7	8	9	10
k	0,973	0,613	0,489	0,421	0,376	0,342	0,317	0,296	0,279
n	11	12	13	14	15	16	17	18	19
k	0,265	0,253	0,242	0,233	0,224	0,216	0,210	0,203	0,198

If  $n \geq 20$  then  $k = 0,860 / \sqrt{n}$ .

The annex VII of the Directive provides details of the statistical method to be applied to engine samples selected from an engine family for conformity assessment of exhaust and noise emissions under modules A1, C and F.

**ANNEX VIII**

***Supplementary Procedure to be applied under Conformity to Type based on Internal Production Control (Module C)***

In the cases referred to in Article 24(5) when the quality level appears unsatisfactory, the following procedure shall apply:

An engine is taken from the series and subjected to the test described in Part B of Annex I. Test engines shall have been run in, partially or completely, in accordance with the manufacturer's specifications. If the specific exhaust emissions of the engine taken from the series exceed the limit values in accordance with Part B of Annex I, the manufacturer may ask for measurements to be done on a sample of engines taken from the series and including the engine originally taken. To ensure the conformity of the sample of engines with the requirements of this Directive, the statistical method described in Annex VII shall be applied.

**Article 24(5) of the Directive describes how the conformity with the exhaust emission requirements is assessed when a manufacturer uses Module C for conformity assessment but is not working under quality system as described in Module H.**

**Notified body shall carry out product checks in order to verify the quality of the internal checks on the product.**

**The procedure described in the Annex VIII of the Directive applies when the quality level appears unsatisfactory or when it seems necessary to verify the validity of the data presented by the manufacturer.**

**ANNEX IX**  
**Technical Documentation**

The technical documentation referred to in Article 7(2) and Article 25 shall, as far as it is relevant for the assessment, contain the following:

- (a) A general description of the type;
- (b) Conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, and other relevant data;
- (c) Descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product;
- (d) A list of the standards referred to in Article 14, applied in full or in part, and descriptions of the solutions adopted to fulfil the essential requirements when the standards referred to in Article 14 have not been applied;
- (e) Results of design calculations made, examinations carried out and other relevant data;
- (f) Test reports, or calculations namely on stability in accordance with point 3.2 of Part A of Annex I and on buoyancy in accordance with point 3.3 of Part A of Annex I;
- (g) Exhaust emissions test reports demonstrating compliance with Section 2 of Part B of Annex I;
- (h) Sound emissions test reports demonstrating compliance with Section 1 of Part C of Annex I.

**The technical documentation shall include an adequate analysis and assessment of the risk(s). In this respect, the “Blue Guide” presupposes a good evaluation of the risks of the product and a match between the risks analyses and risks covered by the standards. But, the fact that harmonised standards are chosen to address the product risks, does not mean that a previous risk assessment of the product is not necessary.**

**On the contrary, manufacturer's analysis of the risks presented by product is indispensable. Any conformity assessment procedure requires the manufacturer to start a risk analysis of the specific risks of the product to address them in order to comply with the essential health, safety and environmental requirements because not all products present the same risks. For example, products may include new techniques that did not exist when a harmonised standard was drafted and such products may thus be associated with risks that are not addressed in the standard.**

**Once these risks are identified, the manufacturer is determining the measures to address those risks in order to comply with the safety and environmental objectives. For this purpose, he can choose to apply the harmonised standards or apply any other technical specification.**

**See also point 4.3 “Technical Documentation” of The ‘Blue Guide’ on the implementation of EU product rules. The diagram in point 4.1.2.2 of the referred Guide explains clearly the principle and the role of harmonised standards when addressing the risks covered by the essential requirements and how manufacturers can make use of them.**



**Exhaust emission test reports required by point (g) of Annex IX of the Directive should record all exhaust emissions measured in accordance with the harmonised standard EN ISO 18854:2015, the duty cycle and the reference fuels used to demonstrate compliance with the exhaust emission limits.**

**Sound emission test reports required by point (h) of Annex IX of the Directive should record all noise emissions measured in accordance with the tests defined in harmonised standard EN ISO 14509 to demonstrate compliance with the noise emission limits.**

**Annex IX of the Directive describes the content the technical documentation, which has to be supplied by the manufacturer and private importer when using one of the following conformity assessment modules: A (and by extension A1), B+C, B+D, B+E, G, H and PCA. These conformity assessment modules also require that the manufacturer and private importer has to keep the technical documentation at the disposal of national authorities for a period of at least 10 years after the product has been placed on the market.**