



STATUTORY INSTRUMENTS.

S.I. No. 560 of 2023



EUROPEAN UNION (MARINE EQUIPMENT) (AMENDMENT)
REGULATIONS 2023

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I, EAMON RYAN, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014¹, as amended by Commission Delegated Directive (EU) 2021/1206 of 30 April 2021², and to Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008³, as amended by Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019⁴, and to give full effect to Commission Implementing Regulation (EU) 2023/1667 of 8 August 2023⁵, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Marine Equipment) (Amendment) Regulations 2023.

2. In these Regulations “Principal Regulations” means the European Union (Marine Equipment) Regulations 2017 (S.I. No. 177 of 2017).

3. Regulation 2 of the Principal Regulations is amended—

(a) in paragraph (1) —

(i) by the substitution of the following definition for the definition of “Directive”:

“‘Directive’ means Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014¹, as amended by Commission Delegated Directive (EU) 2021/1206 of 30 April 2021²”,

(ii) by the substitution of the following definition for the definition of “economic operator”:

“‘economic operator’ means a manufacturer, an authorised representative, an importer, a distributor, a fulfilment service provider or any other natural or legal person who is subject to obligations in relation to the manufacture of products, making them available on the market or putting them into service in accordance with the relevant Union harmonisation legislation;”, and

¹ OJ No. L 257, 28.8.2014, p. 146

² OJ No. L 261, 22.7.2021, p. 45

³ OJ No. L 218, 13.8.2008, p. 30

⁴ OJ No. L 169, 25.6.2019, p. 1

⁵ OJ No. L 215, 31.8.2023, p. 1

- (iii) by the substitution of the following definition for the definition of “Regulation (EC) No. 765/2008”:

“‘Regulation (EC) No. 765/2008’ means Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008³, as amended by Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019⁴,”

- (b) by the substitution of the following paragraph for paragraph (2):

“(2) A word or expression which is used in these Regulations and which is also used in the Directive, or in Regulation (EC) No. 765/2008, has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive or Regulation, as the case may be.”

4. Regulation 10 of the Principal Regulations is amended in paragraph (2) by the substitution of the following subparagraph for subparagraph (b):

“(b) have the conformity assessment carried out, through a notified body, using one of the procedures referred to in Article 15(2)(a) or (b) of the Directive and the modules for conformity assessment set out in the Annex to Commission Implementing Regulation (EU) 2023/1667 of 8 August 2023⁵,”

5. Regulation 23 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (3):

“(3) The market surveillance authority shall, as regards marine equipment, subject to paragraphs (4) to (7), undertake market surveillance in accordance with the EU market surveillance framework laid down, pursuant to Article 39(2) of Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019⁴, in the provisions set out in the correlation table in Annex III to that Regulation, which correspond to Articles 15 to 29 of Regulation (EC) No. 765/2008.”

6. Regulation 24 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (4):

“(4) Where the market surveillance authority has reason to believe that action is required to prevent a risk to maritime safety, to health or to the environment, it may decide to give a prohibition notice stating that opinion to the relevant economic operator concerned requiring the economic operator, commensurate with the nature of the risk referred to in paragraph (1) and within a reasonable period specified in the notice, to—

- (a) take all appropriate corrective action to bring the marine equipment into compliance with the requirements of these

Regulations, including by rectifying identified non-compliance, and to ensure that the product no longer presents a risk,

- (b) prevent the marine equipment from being made available on the market in the State,
- (c) withdraw the marine equipment from the market in the State,
- (d) recall the marine equipment immediately from the market in the State and alert the public to the risk presented,
- (e) destroy the marine equipment or otherwise render the product inoperable, or
- (f) where the marine equipment is liable to present a risk only in certain conditions or only to certain end users, to do one or more of the following:
 - (i) to affix to the marine equipment suitable, clearly worded, easily comprehensible warnings of the risks that it might present in both the Irish and English languages, or in the English language only,
 - (ii) to comply with prior conditions set by the market surveillance authority for making the marine equipment concerned available on the market in the State, or
 - (iii) to alert the end users at risk immediately and in an appropriate form, including by publication of special warnings in both the Irish and English languages, or in the English language only.”.

7. Regulation 25 of the Principal Regulations is amended—

- (a) in paragraph (4), by the substitution of “to the environment, and where there is no other effective means available to eliminate the serious risk,” for “to the environment”,
- (b) by the deletion of paragraphs (5) and (6),
- (c) in paragraph (8), by the deletion of “and to any measures taken by the market surveillance authority under paragraph (5)”, and
- (d) by the insertion of the following paragraph after paragraph (8):
 - “(9) Where no other effective means are available to eliminate a serious risk, the market surveillance authority may –
 - (a) require the removal of content referring to the related product from an online interface or require the explicit display of a warning to end users when they access an online interface, or
 - (b) where a request in accordance with subparagraph (a) has not been complied with, require information

society service providers to restrict access to the online interface, including by requesting a relevant third party to implement such measures.”.

8. Regulation 33 of the Principal Regulations is amended—

- (a) in paragraph (1)—
 - (i) by the insertion of the following subparagraphs after subparagraph (h):
 - “(hh) require an economic operator or any person to provide to the authorised officer relevant information on the supply chain, on the details of the distribution network, on quantities of products on the market and on other product models that have the same technical characteristics as the products in question;
 - (hi) require an economic operator to provide relevant information that is required for the purpose of ascertaining the ownership of websites, where the information in question is related to the subject matter of an investigation under these Regulations;”, and
 - (ii) by the insertion of the following subparagraph after subparagraph (l):
 - “(ll) to acquire product samples, including under a cover identity in a public place, to inspect those samples and to reverse-engineer them in order to identify non-compliance and to obtain evidence;”,
- (b) in paragraph (9) by the insertion of “, (hh), (hi),” after “(h)”;
- (c) in paragraph (13)(a), by the substitution of “vehicle, or any means of transport.” for “vehicle.”, and
- (d) in paragraph (13)(b), by the substitution of “electronically, embedded software,” for “electronically,”.

9. Regulation 36 of the Principal Regulations is amended in paragraph (2)(c) by the deletion of “or 25(5)”.

10. The European Union (Marine Equipment) (Amendment) Regulations 2022 (S. I. No. 450 of 2022) are revoked.



GIVEN under my Official Seal,
16 November, 2023.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations amend the European Union (Marine Equipment) Regulations 2017 (S.I. No. 177 of 2017), which gave effect to Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment.

The Regulations give effect to amendments, in relation to marine equipment, to Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products, which were made by Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products.

The Regulations also take account of Commission Implementing Regulation (EU) 2023/1667 of 8 August 2023 laying down rules for the application of Directive 2014/90/EU of the European Parliament and of the Council, as regards design, construction and performance requirements and testing standards for marine equipment and repealing Implementing Regulation (EU) 2022/1157.

The Regulations revoke the European Union (Marine Equipment) (Amendment) Regulations 2022 (S.I. No. 450 of 2022).

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