



STATUTORY INSTRUMENTS.

S.I. No. 288 of 2023

EUROPEAN UNION (RECREATIONAL CRAFT AND PERSONAL
WATERCRAFT) (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 2013/53/EU of the European Parliament and of the Council of 20 November 2013¹ and full effect to Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008² as amended by Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019³, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Recreational Craft and Personal Watercraft) (Amendment) Regulations 2023.
2. In these Regulations “Principal Regulations” means the European Union (Recreational Craft and Personal Watercraft) Regulations 2017 (S.I. No. 65 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 “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
 - (ii) 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 2008² as amended by Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019³;”, and
 - (b) by the substitution of the following paragraph for paragraph (2):

¹ OJ No. L. 354, 28.12.2013, p. 90

² OJ No. L. 218, 13.8.2008, p. 30

³ OJ No. L. 169, 25.6.2019, p. 1

“(2) A word or expression which is used in these Regulations and which is also used in the Directive or in the Commission Implementing Regulation 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 in the Commission Implementing Regulation or in Regulation (EC) No. 765/2008, as the case may be.”.

4. Regulation 35 is amended by the substitution of the following paragraph for paragraph (3):

“(3) The provisions of Regulation (EU) 2019/1020 set out in the correlation table in Annex III to that Regulation, to which references to Articles 15(3) and 16 to 29 of Regulation (EC) No. 765/2008 are to be construed as being pursuant to Article 39(2) of Regulation (EU) 2019/1020, apply to the products to which these Regulations apply.”.

5. Regulation 36 of the Principal Regulations is amended in paragraph (4) by the substitution of the following subparagraph for subparagraph (a):

“(a) the economic operator or operators concerned, requiring the economic operator, within a reasonable period stated in the prohibition notice, to-

- (i) take all appropriate corrective action to bring the product 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,
- (ii) prevent the product from being made available on the market,
- (iii) withdraw the product from the market,
- (iv) recall the product immediately and alert the public to the risk presented,
- (v) destroy the product or otherwise render the product inoperable, or
- (vi) where the product 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 product 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 product concerned available on the market, 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.”.

6. Regulation 37 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 products 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.”.

7. Regulation 41 of the Principal Regulations is amended –

- (a) in paragraph (1) –
 - (i) by the substitution of “compliance with their requirements, to identify non-compliance or to obtain evidence, as appropriate,” for “compliance with their requirements”,
 - (ii) 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

- (iii) 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 (13), by the substitution of “vehicle, or any means of transport.” for “vehicle.”, and
- (c) in paragraph (14)(b), by the substitution of “electronically, embedded software,” for “electronically.”.

8. Regulation 45 of the Principal Regulations is amended in paragraph (2)(c) by the deletion of “or 37(5)”.



L.S.

GIVEN under my Official Seal,
6 June, 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 (Recreational Craft and Personal Watercraft) Regulations 2017 (S.I. No. 65 of 2017), which gave effect to Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and further effect 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.

The Regulations give further effect to amendments to Regulation (EC) No. 765/2008 of 9 July 2008 arising from Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products, in relation to recreational craft and personal watercraft.

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