

## Observations from the blue guide about who in the WICR supply chain takes responsibility for eco-design compliance

Observations from reading: *Guide to the implementation of directives based on the New Approach and the Global Approach, 2000.*

### **1. Prefabricated WICR kits will be ‘placed on the market’; customised cold rooms will be ‘put into service’**

According to the blue guide definitions, prefabricated WICR kits will be ‘placed on the market’; customised cold rooms will be ‘put into service’. The eco-design regulation must be worded to cover ‘putting into service’.

Blue guide section 2.3.2 page 19: *‘Putting into service takes place at the moment of first use within the Community by the end user’.*

The need to verify compliance for products being put into service is limited, but compliance would be necessary for WICR because they can certainly *‘only be used after an assembly... has been carried out’* (p19)

### **2. The person responsible is he who puts the cold room into service under his own name (or ‘on his own behalf’), thus taking on the responsibilities of a ‘manufacturer’. Those responsibilities remain his, even if some or all work is subcontracted.**

According to blue guide terminology, it appears important ‘in whose name’ (as supplier) the cold room is put into service. The panels as components would have to comply with certain regulations (and be CE marked), but once they are assembled into a cold room different regulations would apply and a fresh CE mark becomes applicable.

Blue guide section 3 page 21: *‘the responsibility of the manufacturer is placed on any person who changes the intended use of a product in such a way that different essential requirements will become applicable’.* This occurs in the case of a customised cold room.

The person in whose name the cold room is erected cannot discharge himself of responsibilities through subcontracting some or all of the work. He may have it designed, manufactured, assembled etc by subcontractors but if it is put into service in his name, he is responsible. Including being responsible for conformity issues arising during or as a result of that subcontracted work.

Blue guide section 3 page 21: *‘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 Community market under his own name, and thus presenting himself as a manufacturer’.*

Blue guide section 3 page 21: *‘The manufacturer who subcontracts some or all of his activities may in no circumstances discharge himself from his responsibilities’.*

Blue guide section 5 page 31: *‘Should a manufacturer subcontract design or production, he still remains responsible for the execution of conformity assessment for both phases’.*

That person is obliged to understand both the design and construction of the cold room to take responsibility for compliance.

Blue guide section 3 page 21: *‘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 relevant New Approach directives.’*

**3. Technical documentation must be drawn up by the person in whose name the cold room is put into service. The documentation should contain information to demonstrate the conformity of the product to the applicable requirements.**

Blue guide section 5.3 page 34: *‘The manufacturer must draw up a technical file (technical documentation). The technical documentation is intended to provide information on the design, manufacture and operation of the product’.*

Blue guide section 5.3 page 34: *‘New Approach directives oblige the manufacturer to draw up technical documentation containing information to demonstrate the conformity of the product to the applicable requirements’.*

**4. The ‘manufacturer’ (in whose name the cold room is put into service) must operate a quality control system.**

The operation of a quality control system is not widespread in the cold room construction sector.

Blue guide Annex 7 page 84: *‘[The Manufacturer] takes all measures necessary to ensure that the manufacturing process assures compliance of the products with the technical documentation and with the applicable requirements (i.e. operates a quality system)’.*

**5. The responsibilities of the assembler and installer will be limited to taking necessary measures that the cold room still complies with the requirements as a result of their role (unless it is being put into service in their name, in which case they take full responsibility)**

There are special provisions in the blue guide for the assembler and installer: However, my interpretation is that in the case where the cold room is being put into service in the name of a third party (for example the designer or main contractor) the obligations of the assembler and installer are limited to those of a subcontractor and are simply that they must take necessary measures to ensure that the cold room still complies with the essential requirements at the moment of first use.

Of course, if the cold room is being put into use in the name of the installer (i.e. the installer takes full responsibilities of the manufacturer) then he is responsible for compliance.

*Blue guide section 3.5 page 24: ‘The installer and assembler of a product, which is already placed on the market, should take necessary measures to ensure that it still complies with the essential requirements at the moment of first use within the Community. This applies to products where the directive in question covers putting into service, and where such manipulations may have an impact on the compliance of the product’.*

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