

Directive 2006/32/EC of the European Parliament and of the Council  
of 5 April 2006 on energy end-use efficiency and energy services and  
repealing Council Directive 93/76/EEC (Text with EEA relevance) (repealed)

DIRECTIVE 2006/32/EC OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL

of 5 April 2006

on energy end-use efficiency and energy services  
and repealing Council Directive 93/76/EEC

(Text with EEA relevance) (repealed)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular  
Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions<sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>(3)</sup>,

Whereas:

- (1) In the Community there is a need for improved energy end-use efficiency, managed demand for energy and promotion of the production of renewable energy, as there is relatively limited scope for any other influence on energy supply and distribution conditions in the short to medium term, either through the building of new capacity or through the improvement of transmission and distribution. This Directive thus contributes to improved security of supply.
- (2) Improved energy end-use efficiency will also contribute to the reduction of primary energy consumption, to the mitigation of CO<sub>2</sub> and other greenhouse gas emissions and thereby to the prevention of dangerous climate change. These emissions continue to increase, making it more and more difficult to meet the Kyoto commitments. Human activities attributed to the energy sector cause as much as 78 % of the Community greenhouse gas emissions. The Sixth Community Environment Action Programme, laid down by Decision N° 1600/2002/EC of the European Parliament and of the Council<sup>(4)</sup>, envisages that further reductions are required to achieve the United Nations Framework Convention on Climate Change long-term objective of stabilising greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Therefore, concrete policies and measures are necessary.

- (3) Improved energy end-use efficiency will make it possible to exploit potential cost-effective energy savings in an economically efficient way. Energy efficiency improvement measures could realise these energy savings and thus help the Community reduce its dependence on energy imports. Furthermore, a move towards more energy-efficient technologies can boost the Community's innovativeness and competitiveness as underlined in the Lisbon strategy.
- (4) The Communication from the Commission on the implementation of the first phase of the European Climate Change Programme listed a directive on energy demand management as one of the priority climate change measures to be taken at Community level.
- (5) This Directive is consistent with Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity<sup>(5)</sup> and with Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas<sup>(6)</sup>, which provide for the possibility of using energy efficiency and demand-side management as alternatives to new supply and for environmental protection, allowing Member State authorities, *inter alia*, to tender for new capacity or to opt for energy efficiency and demand-side measures, including systems for white certificates.
- (6) This Directive is without prejudice to Article 3 of Directive 2003/54/EC, which requires that Member States ensure that all household customers and, where Member States deem it appropriate, small enterprises, enjoy universal service, that is the right to be supplied with electricity of a specified quality within their territory at reasonable, easily and clearly comparable, and transparent prices.
- (7) The aim of this Directive is not only to continue to promote the supply side of energy services, but also to create stronger incentives for the demand side. The public sector in each Member State should thus set a good example regarding investments, maintenance and other expenditure on energy-using equipment, energy services and other energy efficiency improvement measures. Therefore, the public sector should be encouraged to integrate energy efficiency improvement considerations into its investments, depreciation allowances and operating budgets. Furthermore, the public sector should endeavour to use energy efficiency criteria in tendering procedures for public procurement, a practice allowed under Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors<sup>(7)</sup>, and Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts<sup>(8)</sup>, the principle of which was confirmed by the judgment of 17 September 2002 of the Court of Justice in Case C-513/99<sup>(9)</sup>. In view of the fact that administrative structures vary widely between Member States, the different types of measures which the public sector may take should be taken at the appropriate national, regional and/or local level.
- (8) There is a large variety of ways in which the public sector can fulfil its exemplary role: besides the applicable measures listed in Annex III and VI, the public sector

may, for example, initiate energy-efficiency pilot projects and stimulate energy-efficient behaviour of employees. In order to achieve the desired multiplier effect, a number of such actions should be communicated in an effective way to individual citizens and/or to companies, whilst emphasising the cost benefits.

- (9) The liberalisation of the retail markets for final customers for electricity, natural gas, coal and lignite, heating, and in some cases even district heating and cooling, has almost exclusively led to improved efficiency and lower costs on the energy generation, transformation and distribution side. This liberalisation has not led to significant competition in products and services which could have resulted in improved energy efficiency on the demand side.
- (10) In its Resolution of 7 December 1998 on energy efficiency in the European Community<sup>(10)</sup>, the Council endorsed a target for the Community as a whole to improve energy intensity of final consumption by an additional one percentage point per annum up to the year 2010.
- (11) Member States should therefore adopt national indicative targets to promote energy end-use efficiency and to ensure the continued growth and viability of the market for energy services, and thus contribute to the implementation of the Lisbon strategy. The adoption of national indicative targets to promote energy end-use efficiency provides effective synergy with other Community legislation that will, when applied, contribute to the achievement of those national targets.
- (12) This Directive requires action to be undertaken by the Member States, with the fulfilment of its objectives depending on the effects that such action has on the final consumers of energy. The end result of Member States' action is dependent on many external factors which influence the behaviour of consumers as regards their energy use and their willingness to implement energy saving methods and use energy saving devices. Therefore, even though Member States commit themselves to making efforts to achieve the target figure of 9 %, the national energy savings target is indicative in nature and entails no legally enforceable obligation for Member States to achieve it.
- (13) In aiming to achieve their national indicative target, Member States may set themselves a target higher than 9 %.
- (14) The improvement of energy efficiency will benefit from an exchange of information, experience and best practice at all levels, including, in particular, the public sector. Therefore, Member States should list measures undertaken in the context of this Directive, and review their effect as far as possible, in energy efficiency action plans.
- (15) When striving for energy efficiency on the basis of technological, behavioural and/or economic changes, substantial negative environmental impact should be avoided, and social priorities should be respected.
- (16) The funding of supply and the costs of the demand side have an important role to play in energy services. The creation of funds to subsidise the implementation of energy efficiency programmes and other energy efficiency improvement measures and to promote the development of a market for energy services can constitute an appropriate tool for the provision of non-discriminatory start-up funding in such a market.

- (17) Improved energy end-use efficiency can be achieved by increasing the availability of and demand for energy services or by other energy efficiency improvement measures.
- (18) In order to realise the energy savings potential in certain market segments where energy audits are generally not sold commercially, such as households, Member States should ensure the availability of energy audits.
- (19) The Council Conclusions of 5 December 2000 list the promotion of energy services through the development of a Community strategy as a priority area for action to improve energy efficiency.
- (20) Energy distributors, distribution system operators and retail energy sales companies can improve energy efficiency in the Community if the energy services they market include efficient end-use, such as indoor thermal comfort, domestic hot water, refrigeration, product manufacturing, illumination and motive power. Profit maximisation for energy distributors, distribution system operators and retail energy sales companies thus becomes more closely related to selling energy services to as many customers as possible than to selling as much energy as possible to each customer. Member States should endeavour to avoid any distortion of competition in this area, in order to guarantee a level playing field between all energy service providers; they can, however, delegate this task to the national regulator.
- (21) Taking full account of the national organisation of market actors in the energy sector and in order to favour the implementation of energy services and of the measures to improve energy efficiency provided for in this Directive, Member States should have the option of making it compulsory for energy distributors, distribution system operators or retail energy sales companies or, where appropriate, for two or all of these market actors, to provide such services and to participate in such measures.
- (22) The use of third-party financing arrangements is an innovative practice that should be stimulated. In these, the beneficiary avoids investment costs by using part of the financial value of energy savings that result from the third party's investment to repay the third party's investment and interest costs.
- (23) With a view to making tariffs and other regulations for net-bound energy more conducive to efficient energy end-use, unjustifiable volume-driving incentives should be removed.
- (24) The promotion of the market for energy services can be achieved by a variety of means, including non-financial ones.
- (25) The energy services, energy efficiency improvement programmes and other energy efficiency improvement measures put into effect to reach the energy savings target may be supported and/or implemented through voluntary agreements between stakeholders and public sector bodies appointed by the Member States.
- (26) The voluntary agreements which are covered by this Directive should be transparent and contain, where applicable, information on at least the following issues: quantified and staged objectives, monitoring and reporting.

- (27) The motor fuel and transport sectors have an important role to play regarding energy efficiency and energy savings.
- (28) In defining energy efficiency improvement measures, account should be taken of efficiency gains obtained through the widespread use of cost-effective technological innovations, for instance electronic metering. In the context of this Directive, competitively priced individual meters include accurate calorimeters.
- (29) In order to enable final consumers to make better-informed decisions as regards their individual energy consumption, they should be provided with a reasonable amount of information thereon and with other relevant information, such as information on available energy efficiency improvement measures, comparative final consumer profiles or objective technical specifications for energy-using equipment, which may include 'Factor Four' or similar equipment. It is recalled that some such valuable information should already be made available to final customers under Article 3(6) of Directive 2003/54/EC. In addition, consumers should be actively encouraged to check their own meter readings regularly.
- (30) All types of information relating to energy-efficiency should be widely disseminated in an appropriate form, including through billing, to relevant target audiences. This can include information on financial and legal frameworks, communication and promotion campaigns, and the widespread exchange of best practice at all levels.
- (31) With the adoption of this Directive, all substantive provisions of Council Directive 93/76/EEC of 13 September 1993 to limit carbon dioxide emissions by improving energy efficiency (SAVE)<sup>(11)</sup> are covered by other Community legislation and therefore Directive 93/76/EEC should be repealed.
- (32) Since the objectives of this Directive, namely to promote energy end-use efficiency and to develop a market for energy services, cannot be sufficiently achieved by the Member States and can be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (33) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(12)</sup>,

HAVE ADOPTED THIS DIRECTIVE:

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*Status: This is the original version (as it was originally adopted).*

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- (1) [OJ C 120, 20.5.2005, p. 115.](#)
- (2) [OJ C 318, 22.12.2004, p. 19.](#)
- (3) Opinion of the European Parliament of 7 June 2005 (not yet published in the Official Journal), Council Common Position of 23 September 2005 ([OJ C 275 E, 8.11.2005, p. 19](#)) and Position of the European Parliament of 13 December 2005 (not yet published in the Official Journal), Council Decision of 14 March 2006.
- (4) [OJ L 242, 10.9.2002, p. 1.](#)
- (5) [OJ L 176, 15.7.2003, p. 37.](#) Directive as amended by Council Directive 2004/85/EC ([OJ L 236, 7.7.2004, p. 10](#)).
- (6) [OJ L 176, 15.7.2003, p. 57.](#)
- (7) [OJ L 134, 30.4.2004, p. 1.](#) Directive as last amended by Commission Regulation (EC) No 2083/2005 ([OJ L 333, 20.12.2005, p. 28](#)).
- (8) [OJ L 134, 30.4.2004, p. 114.](#) Directive as last amended by Regulation (EC) No 2083/2005.
- (9) C-513/99: Concordia Bus Finland Oy Ab, formerly Stagecoach Finland Oy Ab v Helsingin kaupunki and HKL-Bussiliikenne (2002 ECR I-7213).
- (10) [OJ C 394, 17.12.1998, p. 1.](#)
- (11) [OJ L 237, 22.9.1993, p. 28.](#)
- (12) [OJ L 184, 17.7.1999, p. 23.](#)