

Directive 2009/142/EC of the European Parliament and of the Council of 30 November 2009 relating to appliances burning gaseous fuels (codified version) (Text with EEA relevance)

CHAPTER 1

SCOPE, DEFINITIONS, PLACING ON THE MARKET AND FREE MOVEMENT

Article 1

1 This Directive shall apply to appliances and fittings.

Appliances specifically designed for use in industrial processes carried out on industrial premises shall be excluded from its scope.

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

- a 'appliances' means appliances burning gaseous fuels used for cooking, heating, hot water production, refrigeration, lighting or washing and having, where applicable, a normal water temperature not exceeding 105 °C. Forced draught burners and heating bodies to be equipped with such burners shall also be considered as appliances;
- b 'fittings' means safety devices, controlling devices or regulating devices and sub-assemblies, other than forced draught burners and heating bodies to be equipped with such burners, separately marketed for trade use and designed to be incorporated into an appliance burning gaseous fuel or assembled to constitute such an appliance;
- c 'gaseous fuel' means any fuel which is in a gaseous state at a temperature of 15 °C under a pressure of 1 bar.

3 For the purposes of this Directive, an appliance is said to be 'normally used' when it is:

- a correctly installed and regularly serviced in accordance with the manufacturer's instructions;
- b used with a normal variation in the gas quality and a normal fluctuation in the supply pressure; and
- c used in accordance with its intended purpose or in a way which can be reasonably foreseen.

Article 2

1 Member States shall take all necessary steps to ensure that appliances may be placed on the market and put into service only if, when normally used, they do not compromise the safety of persons, domestic animals and property.

2 Member States shall communicate in good time to the other Member States and the Commission all changes to the types of gas and corresponding supply pressures used on their territory which have been communicated in accordance with Article 2(2) of Directive 90/396/EEC.

The Commission shall ensure that this information is published in the *Official Journal of the European Union*.

Article 3

Appliances and fittings shall satisfy the essential requirements applicable to them set out in Annex I.

Article 4

1 Member States may not prohibit, restrict or impede the placing on the market and the putting into service of appliances which comply with this Directive and which bear the CE marking provided for in Article 10.

2 Member States may not prohibit, restrict or impede the placing on the market of fittings accompanied by a certificate as referred to in Article 8(4).

Article 5

1 Member States shall presume compliance with the essential requirements set out in Annex I of appliances and fittings when they conform to:

- a the national standards applicable to them implementing the harmonised standards the reference numbers of which have been published in the *Official Journal of the European Union*;
- b the national standards applicable to them in so far as, in the areas covered by such standards, no harmonised standards exist.

2 Member States shall publish the reference numbers of the national standards referred to in paragraph 1(a).

They shall communicate to the Commission the texts of their national standards as referred to in paragraph 1(b) which they regard as complying with the essential requirements set out in Annex I.

The Commission shall forward these national standards to the other Member States. In accordance with the procedure provided for in Article 6(2), it shall notify the Member States of those national standards which are presumed to conform with the essential requirements set out in Annex I.

Article 6

1 Where a Member State or the Commission considers that the standards referred to in Article 5(1) do not entirely meet the essential requirements set out in Annex I, the Commission or the Member State concerned shall bring the matter before the standing committee established under Article 5 of Directive 98/34/EC, hereinafter referred to as 'the committee', giving the reasons therefor.

The committee shall deliver an opinion without delay.

In the light of the committee's opinion, the Commission shall inform the Member States whether or not it is necessary to withdraw those standards from the publications referred to in the first subparagraph of Article 5(2).

2 After receipt of the communication referred to in the second subparagraph of Article 5(2), the Commission shall consult the committee.

Upon receipt of the committee's opinion, the Commission shall, within one month, inform the Member States whether the national standard(s) in question are to enjoy the presumption of conformity. If they are, the Member States shall publish the reference numbers of those standards.

The Commission shall also publish them in the *Official Journal of the European Union*.

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Article 7

1 Where a Member State finds that normally used appliances bearing the CE marking might compromise the safety of persons, domestic animals or property, it shall take all appropriate measures to withdraw those appliances from the market and prohibit or restrict their being placed on the market.

The Member State concerned shall immediately inform the Commission of any such measure, indicating the reasons for its decision and, in particular, whether non-compliance is due to:

- a failure to meet the essential requirements set out in Annex I, where the appliance does not correspond to the standards referred to in Article 5(1);
- b incorrect application of the standards referred to in Article 5(1);
- c shortcomings in the standards referred to in Article 5(1) themselves.

2 The Commission shall enter into consultation with the parties concerned as soon as possible. Where, after such consultation, the Commission finds that any measure as referred to in paragraph 1 is justified, it shall immediately so inform the Member State that took the measure and the other Member States.

Where the decision referred to in paragraph 1 is attributed to shortcomings in the standards, the Commission, after consulting the parties concerned, shall bring the matter before the committee within two months if the Member State which has taken the measures intends to maintain them, and shall initiate the procedures referred to in Article 6.

3 Where an appliance which does not comply bears the CE marking, the competent Member State shall take appropriate action against whomsoever has affixed the CE marking and shall inform the Commission and the other Member States thereof.

4 The Commission shall ensure that the Member States are kept informed of the progress and outcome of the procedures.

CHAPTER 2

MEANS OF CERTIFICATION OF CONFORMITY

Article 8

- 1 The means of certification of conformity of series-manufactured appliances shall be:
- a the EC type-examination as referred to in point 1 of Annex II; and
 - b prior to their being placed on the market, at the choice of the manufacturer:
 - (i) the EC declaration of conformity to type referred to in point 2 of Annex II, or
 - (ii) the EC declaration of conformity to type (guarantee of production quality) referred to in point 3 of Annex II, or
 - (iii) the EC declaration of conformity to type (guarantee of product quality) referred to in point 4 of Annex II, or
 - (iv) EC verification as referred to in point 5 of Annex II.

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2 In the case of production of an appliance as a single unit or in small quantities, EC verification by single unit, as referred to in point 6 of Annex II, may be chosen by the manufacturer.

3 After completion of the procedures referred to in paragraphs 1(b) and 2, the CE marking shall be affixed to conforming appliances in accordance with Article 10.

4 The means of certification of conformity referred to in paragraph 1 shall be applied in respect of fittings with the exception of the affixing of the CE marking and, where appropriate, the drawing-up of the declaration of conformity.

A certificate shall be issued declaring the conformity of the fittings with the provisions of this Directive which apply to them and stating their characteristics and how they must be incorporated into an appliance or assembled to assist compliance with the essential requirements applicable to finished appliances set out in Annex I.

The certificate shall be supplied with the fitting.

5 Where the appliances are covered by other Directives dealing with other aspects and specifying the affixing of the CE marking, the latter shall indicate that the appliances are also presumed to conform to the provisions of those Directives.

However, where one or more of these Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity to the provisions only of those Directives applied by the manufacturer. In this case, particulars of the Directives applied, as published in the *Official Journal of the European Union*, must be given in the documents, notices or instructions required by the Directives and accompanying such devices.

6 Records and correspondence relating to the means of certification of conformity shall be drawn up in the official language(s) of the Member State where the body responsible for carrying out these procedures is established or in a language accepted by it.

Article 9

1 Member States shall notify the Commission and the other Member States of the bodies which they have appointed to carry out the procedures referred to in Article 8 together with the specific tasks which these bodies have been appointed to carry out and the identification numbers assigned to them beforehand by the Commission.

The Commission shall, for information, publish in the *Official Journal of the European Union*, a list of those bodies, and the identification numbers it has assigned to them and shall ensure that the list is kept up to date.

2 Member States shall apply the criteria set out in Annex V for assessing the bodies to be notified.

Bodies which satisfy the assessment criteria laid down in the applicable harmonised standards shall be presumed to satisfy the criteria set out in that Annex.

3 A Member State which has notified a body must withdraw approval if it finds that the body no longer meets the criteria set out in Annex V. It shall immediately inform the Commission and the other Member States accordingly.

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CHAPTER 3

CE MARKING

Article 10

1 The CE marking and the inscriptions set out in Annex III shall be affixed in a visible, easily legible and indelible form to the appliance or to a data plate attached to it. The data plate shall be so designed that it cannot be re-used.

2 The affixing of markings on the appliances which are likely to deceive third parties as to the meaning and form of the CE marking shall be prohibited. Any other marking may be affixed to the appliance or to the data plate provided that the visibility and legibility of the CE marking are not thereby reduced.

Article 11

Without prejudice to Article 7:

- (a) where a Member State establishes that the CE marking has been affixed unduly, the manufacturer or his authorised representative established within the Community shall be obliged to make the product comply as regards the provisions concerning the CE marking and to end the infringement under conditions imposed by that Member State;
- (b) where non-compliance continues, the Member State must take all appropriate measures to restrict or prohibit the placing on the market of the appliance in question or to ensure that it is withdrawn from the market in accordance with the procedure laid down in Article 7.

CHAPTER 4

FINAL PROVISIONS

Article 12

Any decision taken pursuant to this Directive which includes restriction on the placing on the market and/or putting into service of an appliance shall state the precise grounds on which it is based. It shall be notified without delay to the party concerned, who shall at the same time be informed of the legal remedies available to him under the laws in force in the Member State in question and of the time-limits to which such remedies are subject.

Article 13

Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 14

Directive 90/396/EEC, as amended by the Directive listed in Annex VI, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex VI, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VII.

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Article 15

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

Article 16

This Directive is addressed to the Member States.

Done at Brussels, 30 November 2009.

For the European Parliament

The President

J. BUZEK

For the Council

The President

B. ASK