

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*.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

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.