

Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC (Text with EEA relevance)

CHAPTER 5

SAFEGUARD PROCEDURES

Article 30

Procedure for dealing with transportable pressure equipment presenting a risk at national level

1 Where the market surveillance authorities of one Member State have taken action pursuant to Article 20 of Regulation (EC) No 765/2008 or where they have sufficient reason to believe that transportable pressure equipment covered by this Directive presents a risk to the health or safety of persons or to other aspects of public interest protection covered by this Directive, they shall carry out an evaluation in relation to the transportable pressure equipment concerned covering all the requirements laid down in this Directive. The relevant economic operators shall cooperate as necessary with the market surveillance authorities, including granting access to their premises and providing samples as appropriate.

Where, in the course of that evaluation, the market surveillance authorities find that the transportable pressure equipment does not comply with the requirements set out in the Annexes to Directive 2008/68/EC and in this Directive, they shall without delay require the relevant economic operator to take all appropriate corrective action to bring the transportable pressure equipment into compliance with those requirements, to withdraw the transportable pressure equipment from the market or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the corrective action referred to in the second subparagraph of this paragraph.

2 Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.

3 The economic operator shall ensure that all appropriate corrective action is taken in respect of transportable pressure equipment that it has made available on the Union market.

4 Where the relevant economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the transportable pressure equipment being made available on their national market, to withdraw the equipment from that market or to recall it.

They shall inform the Commission and the other Member States, without delay, of those measures.

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.

5 The information referred to in paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant transportable pressure equipment, the origin of the equipment, the nature of the alleged non-compliance and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either:

- a failure of the transportable pressure equipment to meet requirements relating to the health or safety of persons or to other aspects of public interest protection set out in the Annexes to Directive 2008/68/EC and in this Directive, or
- b shortcomings in the standards or technical codes referred to in the Annexes to Directive 2008/68/EC or in other provisions of that Directive.

6 Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the transportable pressure equipment concerned, and, in the event of disagreement with the notified national measure, of their objections.

7 Where, within two months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

8 Member States shall ensure that appropriate restrictive measures are taken in respect of the transportable pressure equipment concerned, such as withdrawal of the transportable pressure equipment from their market, without delay.