

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 1

### SCOPE AND DEFINITIONS

#### *Article 1*

##### **Scope**

- 1 This Directive sets out detailed rules concerning transportable pressure equipment to enhance safety and ensure free movement of such equipment within the Union.
- 2 This Directive shall apply to:
  - a new transportable pressure equipment as defined in Article 2(1), which does not bear the conformity markings provided for in Directives 84/525/EEC, 84/526/EEC, 84/527/EEC or 1999/36/EC, for the purpose of making it available on the market;
  - b transportable pressure equipment as defined in Article 2(1), bearing the conformity markings provided for in this Directive or in Directives 84/525/EEC, 84/526/EEC, 84/527/EEC or 1999/36/EC, for the purposes of its periodic inspections, intermediate inspections, exceptional checks and use;
  - c transportable pressure equipment as defined in Article 2(1), which does not bear the conformity markings provided for in Directive 1999/36/EC, for the purposes of reassessment of conformity.
- 3 This Directive shall not apply to transportable pressure equipment which was placed on the market before the date of implementation of Directive 1999/36/EC and which has not been subject to a reassessment of conformity.
- 4 This Directive shall not apply to transportable pressure equipment used exclusively for the transport of dangerous goods between Member States and third countries, carried out in accordance with Article 4 of Directive 2008/68/EC.

#### *Article 2*

##### **Definitions**

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

- (1) ‘transportable pressure equipment’ means:
  - (a) all pressure receptacles, their valves and other accessories when appropriate, as covered in Chapter 6.2 of the Annexes to Directive 2008/68/EC;
  - (b) tanks, battery vehicles/wagons, multiple-element gas containers (MEGCs), their valves and other accessories when appropriate, as covered in Chapter 6.8 of the Annexes to Directive 2008/68/EC;

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when the equipment under (a) or (b) is used in accordance with those Annexes for the transport of Class 2 gases, excluding gases or articles with figures 6 and 7 in the classification code, and for the transport of the dangerous substances of other classes specified in Annex I to this Directive.

Transportable pressure equipment shall be understood as including gas cartridges (UN No 2037) and excluding aerosols (UN No 1950), open cryogenic receptacles, gas cylinders for breathing apparatus, fire extinguishers (UN No 1044), transportable pressure equipment exempted according to 1.1.3.2 of the Annexes to Directive 2008/68/EC and transportable pressure equipment exempted from the rules for construction and testing of packaging according to special provisions in 3.3 of the Annexes to Directive 2008/68/EC;

- (2) ‘Annexes to Directive 2008/68/EC’ means Section I.1 of Annex I, Section II.1 of Annex II, and Section III.1 of Annex III to Directive 2008/68/EC;
- (3) ‘placing on the market’ means the first making available of transportable pressure equipment on the Union market;
- (4) ‘making available on the market’ means any supply of transportable pressure equipment for distribution or use on the Union market in the course of a commercial or public service activity, whether in return for payment or free of charge;
- (5) ‘use’ means filling, temporary storage linked to carriage, emptying and refilling of transportable pressure equipment;
- (6) ‘withdrawal’ means any measure aimed at preventing transportable pressure equipment from being made available on the market or from being used;
- (7) ‘recall’ means any measure aimed at achieving the return of transportable pressure equipment that has already been made available to the end user;
- (8) ‘manufacturer’ means any natural or legal person who manufactures transportable pressure equipment, or parts thereof, or who has such equipment designed or manufactured and markets it under his name or trademark;
- (9) ‘authorised representative’ means any natural or legal person established within the Union who has received a written mandate from the manufacturer to act on his behalf in relation to specified tasks;
- (10) ‘importer’ means any natural or legal person established within the Union, who places transportable pressure equipment or parts thereof from a third country on the Union market;
- (11) ‘distributor’ means any natural or legal person established within the Union, other than the manufacturer or the importer, who makes transportable pressure equipment or parts thereof available on the market;
- (12) ‘owner’ means any natural or legal person established within the Union who owns transportable pressure equipment;
- (13) ‘operator’ means any natural or legal person established in the Union using transportable pressure equipment;
- (14) ‘economic operator’ means the manufacturer, the authorised representative, the importer, the distributor, the owner or the operator acting in the course of a commercial or public service activity, whether in return for payment or free of charge;

- (15) ‘conformity assessment’ means the assessment and the procedure for the assessment of conformity set out in the Annexes to Directive 2008/68/EC;
- (16) ‘Pi marking’ means a marking which indicates that the transportable pressure equipment is in conformity with the applicable conformity assessment requirements set out in the Annexes to Directive 2008/68/EC and in this Directive;
- (17) ‘reassessment of conformity’ means the procedure undertaken, at the request of the owner or operator, for the subsequent assessment of the conformity of transportable pressure equipment manufactured and placed on the market before the date of implementation of Directive 1999/36/EC;
- (18) ‘periodic inspection’ means the periodic inspection and the procedures governing the periodic inspection as set out in the Annexes to Directive 2008/68/EC;
- (19) ‘intermediate inspection’ means the intermediate inspection and the procedures governing the intermediate inspection as set out in the Annexes to Directive 2008/68/EC;
- (20) ‘exceptional check’ means the exceptional check and the procedures governing the exceptional check set out in the Annexes to Directive 2008/68/EC;
- (21) ‘national accreditation body’ means the sole body in a Member State that performs accreditation with authority derived from the State;
- (22) ‘accreditation’ means an attestation by a national accreditation body that a notified body meets the requirements set out in the second paragraph of 1.8.6.8 of the Annexes to Directive 2008/68/EC;
- (23) ‘notifying authority’ means the authority designated by a Member State pursuant to Article 17;
- (24) ‘notified body’ means an inspection body meeting the requirements set out in the Annexes to Directive 2008/68/EC and the conditions set out in Articles 20 and 26 of this Directive and notified in accordance with Article 22 of this Directive;
- (25) ‘notification’ is the process of awarding notified body status to an inspection body and includes communication of this information to the Commission and to the Member States;
- (26) ‘market surveillance’ means the activities carried out and measures taken by public authorities to ensure that transportable pressure equipment during its life cycle complies with the requirements set out in Directive 2008/68/EC and this Directive and does not endanger health, safety or any other aspect of public interest protection.

### *Article 3*

#### **On-site requirements**

Member States may on their territory establish on-site requirements for the mid- or long-term storage or the on-site use of transportable pressure equipment. However, Member States shall not establish additional requirements for the transportable pressure equipment itself.