

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 2

OBLIGATIONS OF ECONOMIC OPERATORS

Article 4

Obligations of manufacturers

1 When placing their transportable pressure equipment on the market, manufacturers shall ensure that the equipment has been designed, manufactured and documented in accordance with the requirements set out in the Annexes to Directive 2008/68/EC and in this Directive.

2 Where the compliance of the transportable pressure equipment with the applicable requirements has been demonstrated through the conformity assessment process set out in the Annexes to Directive 2008/68/EC and in this Directive, manufacturers shall affix the Pi marking in accordance with Article 15 of this Directive.

3 Manufacturers shall keep the technical documentation specified in the Annexes to Directive 2008/68/EC. This documentation shall be kept for the period specified therein.

4 Manufacturers who consider or have reason to believe that transportable pressure equipment which they have placed on the market is not in conformity with the Annexes to Directive 2008/68/EC or with this Directive shall immediately take the corrective measures necessary to bring the transportable pressure equipment into conformity, to withdraw it or to recall it, if appropriate. Furthermore, where the transportable pressure equipment presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the transportable pressure equipment available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

5 Manufacturers shall document all such instances of non-compliance and corrective measures.

6 Manufacturers shall, further to a reasoned request from the competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the transportable pressure equipment, in a language easily understood by that authority. They shall cooperate with that authority, at its request, as regards any action taken to eliminate the risks posed by transportable pressure equipment which they have placed on the market.

7 Manufacturers shall only provide information to operators which complies with the requirements set out in the Annexes to Directive 2008/68/EC and in this Directive.

Article 5

Authorised representatives

1 Manufacturers may, by a written mandate, appoint an authorised representative.

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The obligations set out in Article 4(1) and (2) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.

2 An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:

- a keep the technical documentation at the disposal of national surveillance authorities for at least the period as specified in the Annexes to Directive 2008/68/EC for manufacturers;
- b further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the transportable pressure equipment in a language easily understood by that authority;
- c cooperate with the competent national authorities, at their request, on any action taken to eliminate the risks posed by transportable pressure equipment covered by the mandate.

3 The identity and address of the authorised representative shall be indicated on the certificate of conformity specified in the Annexes to Directive 2008/68/EC.

4 Authorised representatives shall only provide information to operators which complies with the requirements set out in the Annexes to Directive 2008/68/EC and in this Directive.

Article 6

Obligations of importers

1 Importers shall only place on the Union market transportable pressure equipment which is in conformity with the Annexes to Directive 2008/68/EC and with this Directive.

2 Before placing transportable pressure equipment on the market, importers shall ensure that the appropriate conformity assessment procedure has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation and that the transportable pressure equipment bears the Pi marking and is accompanied by the certificate of conformity specified in the Annexes to Directive 2008/68/EC.

Where an importer considers or has reason to believe that the transportable pressure equipment is not in conformity with the Annexes to Directive 2008/68/EC or with this Directive, he shall not place the transportable pressure equipment on the market until it has been brought into conformity. Furthermore, where the transportable pressure equipment presents a risk, the importer shall inform the manufacturer and the market surveillance authorities to that effect.

3 Importers shall indicate their name and the address at which they can be contacted either in, or attached to, the certificate of conformity specified in the Annexes to Directive 2008/68/EC.

4 Importers shall ensure that, while transportable pressure equipment is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in the Annexes to Directive 2008/68/EC.

5 Importers who consider or have reason to believe that transportable pressure equipment which they have placed on the market is not in conformity with the Annexes to Directive 2008/68/EC or with this Directive shall immediately take the corrective measures necessary to bring the transportable pressure equipment into conformity, to withdraw it or to recall it, if appropriate. Furthermore, where the transportable pressure equipment presents a risk,

importers shall immediately inform the manufacturer and the competent national authorities of the Member States in which they made the transportable pressure equipment available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Importers shall document all such instances of non-compliance and corrective measures.

6 Importers shall, for at least the period specified in the Annexes to Directive 2008/68/EC for manufacturers, keep a copy of the technical documentation at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities upon request.

7 Importers shall, further to a reasoned request from the competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the transportable pressure equipment, in a language easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by transportable pressure equipment which they have placed on the market.

8 Importers shall only provide information to operators which complies with the requirements set out in the Annexes to Directive 2008/68/EC and in this Directive.

Article 7

Obligations of distributors

1 Distributors shall only make available on the Union market transportable pressure equipment which is in conformity with the Annexes to Directive 2008/68/EC and with this Directive. Before making transportable pressure equipment available on the market distributors shall verify that the transportable pressure equipment bears the Pi marking, and that it is accompanied by the certificate of conformity and the contact address referred to in Article 6(3) of this Directive.

Where a distributor considers or has reason to believe that transportable pressure equipment is not in conformity with the Annexes to Directive 2008/68/EC or with this Directive, he shall not make the transportable pressure equipment available on the market until it has been brought into conformity. Furthermore, where the transportable pressure equipment presents a risk, the distributor shall inform the manufacturer or the importer to that effect as well as the market surveillance authorities.

2 Distributors shall ensure that, while transportable pressure equipment is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in the Annexes to Directive 2008/68/EC.

3 Distributors who consider or have reason to believe that transportable pressure equipment which they have made available on the market is not in conformity with the Annexes to Directive 2008/68/EC or with this Directive shall make sure that the corrective measures necessary to bring that transportable pressure equipment into conformity, to withdraw it or to recall it, if appropriate, are taken. Furthermore, where the transportable pressure equipment presents a risk, distributors shall immediately inform the manufacturer, the importer, where relevant, and the competent national authorities of the Member States in which they made the transportable pressure equipment available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

Distributors shall document all such instances of non-compliance and corrective measures.

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4 Distributors shall, further to a reasoned request from the competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the transportable pressure equipment in a language easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by transportable pressure equipment which they have made available on the market.

5 Distributors shall only provide information to operators which complies with the requirements set out in the Annexes to Directive 2008/68/EC and in this Directive.

Article 8

Obligations of owners

1 Where an owner considers or has reason to believe that transportable pressure equipment is not in conformity with the Annexes to Directive 2008/68/EC, including the requirements for periodic inspection, and with this Directive, he shall not make it available or use it until it has been brought into conformity. Furthermore, where the transportable pressure equipment presents a risk, the owner shall inform the manufacturer or the importer or the distributor to that effect as well as the market surveillance authorities.

Owners shall document all such instances of non-compliance and corrective measures.

2 Owners shall ensure that, while transportable pressure equipment is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in the Annexes to Directive 2008/68/EC.

3 Owners shall only provide information to operators which complies with the requirements set out in the Annexes to Directive 2008/68/EC and in this Directive.

4 This Article shall not apply to private individuals intending to use or using transportable pressure equipment for their personal or domestic use or for their leisure or sporting activities.

Article 9

Obligations of operators

1 Operators shall only use transportable pressure equipment which is in conformity with the requirements set out in the Annexes to Directive 2008/68/EC and in this Directive.

2 Where the transportable pressure equipment presents a risk, the operator shall inform the owner to that effect as well as the market surveillance authorities.

Article 10

Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Directive and subject to the obligations of the manufacturer pursuant to Article 4, where he places transportable pressure equipment on the market under his name or trademark or modifies transportable pressure equipment already placed on the market in such a way that compliance with the applicable requirements may be affected.

Article 11

Identification of economic operators

Economic operators shall, on request from the market surveillance authority, identify the following to it for a period of at least 10 years:

- (a) any economic operator who has supplied them with transportable pressure equipment;
- (b) any economic operator to whom they have supplied transportable pressure equipment.