

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)

DIRECTIVE 2010/35/EU OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 16 June 2010

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) Council Directive 1999/36/EC of 29 April 1999 on transportable pressure equipment⁽³⁾ was adopted as a first step towards enhancing transport safety for transportable pressure equipment, whilst ensuring the free movement of transportable pressure equipment in a single transport market.
- (2) In the light of developments in transport safety, it is necessary to update certain technical provisions of Directive 1999/36/EC.
- (3) Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods⁽⁴⁾ extended the application of the provisions of certain international agreements to cover national traffic in order to harmonise the conditions under which dangerous goods are transported by road, rail and inland waterways across the Union.
- (4) It is therefore necessary to update the provisions of Directive 1999/36/EC accordingly to avoid conflicting rules, in particular as regards conformity requirements, conformity assessment and conformity assessment procedures in relation to transportable pressure equipment.
- (5) In order to enhance safety with regard to transportable pressure equipment approved for the inland transport of dangerous goods and to ensure free movement, including placing on the market, making available on the market and use of such transportable pressure

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equipment within the Union, it is necessary to lay down detailed rules concerning the obligations of the various operators and the requirements to be fulfilled by the equipment concerned.

- (6) Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products⁽⁵⁾ constitutes a general framework of a horizontal nature for future legislation harmonising the conditions for the marketing of products. This framework should apply where appropriate for the transportable pressure equipment sector in line with the objective of harmonising rules on the free movement of products.
- (7) In order not to hinder transport operations between Member States and third countries, this Directive should not apply to transportable pressure equipment exclusively used for the transport of dangerous goods between the territory of the Union and that of third countries.
- (8) The obligations of the different economic operators, including owners and operators of transportable pressure equipment, should be clearly defined in the interests of transport safety and the free movement of transportable pressure equipment.
- (9) Economic operators should in relation to their respective roles in the supply chain be responsible for the compliance of transportable pressure equipment with the safety and market access rules.
- (10) Compliance of new transportable pressure equipment with the technical requirements of the Annexes to Directive 2008/68/EC and this Directive should be demonstrated by means of a conformity assessment to provide evidence that the transportable pressure equipment is safe.
- (11) Periodic inspections, intermediate inspections and exceptional checks of transportable pressure equipment should be carried out in accordance with the Annexes to Directive 2008/68/EC and with this Directive to ensure continued compliance with their safety requirements.
- (12) Transportable pressure equipment should bear a mark indicating its compliance with Directive 2008/68/EC and this Directive to ensure its free movement and free use.
- (13) This Directive should not apply to transportable pressure equipment which was placed on the market before the relevant date of implementation of Directive 1999/36/EC and which has not been subject to reassessment of conformity.
- (14) Where existing transportable pressure equipment not previously assessed for conformity with Directive 1999/36/EC is to benefit from free movement and free use, it should be subject to reassessment of conformity.
- (15) It is necessary to set requirements for authorities responsible for the assessment, notification and monitoring of notified bodies in order to ensure a consistent level of quality in the performance of notified bodies.
- (16) The conformity assessment procedures provided for in the Annexes to Directive 2008/68/EC and in this Directive require the intervention of inspection bodies setting

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out detailed operational requirements to ensure a uniform level of performance throughout the Union. These inspection bodies should then be notified by the Member States to the Commission.

- (17) The notifying authority should retain responsibility for monitoring the notified body regardless of where the notified body performs its activities in order to ensure clear responsibility for ongoing monitoring.
- (18) It is necessary to lay down common rules for the mutual recognition of notified bodies which ensure compliance with Directive 2008/68/EC and this Directive. Those common rules will have the effect of eliminating unnecessary costs and administrative procedures related to the approval of the equipment and of eliminating technical barriers to trade.
- (19) Member States should be able to take measures to limit or prohibit the placing on the market and use of equipment in cases where such equipment presents a risk to safety in certain specified circumstances, including when such equipment is in compliance with Directive 2008/68/EC and with this Directive.
- (20) The Commission should draw up specific guidelines to facilitate the practical implementation of the technical provisions of this Directive, taking into account the results of the exchange of experiences as foreseen in Articles 28 and 29.
- (21) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) in respect of certain adaptations of the Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (22) Council Directive 76/767/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to common provisions for pressure vessels and methods for inspecting them⁽⁶⁾, Council Directive 84/525/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to seamless, steel gas cylinders⁽⁷⁾, Council Directive 84/526/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to seamless, unalloyed aluminium and aluminium alloy gas cylinders⁽⁸⁾, Council Directive 84/527/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to welded unalloyed steel gas cylinders⁽⁹⁾ and Directive 1999/36/EC have become obsolete and should therefore be repealed.
- (23) In accordance with paragraph 34 of the Interinstitutional Agreement on better law-making⁽¹⁰⁾, Member States are encouraged to draw up, for themselves and in the interest of the Union, their own tables, which will, as far as possible, illustrate the correlation between this Directive and their transposition measures, and to make those tables public,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) Opinion of 17 February 2010 (not yet published in the Official Journal).
- (2) Position of the European Parliament of 5 May 2010 (not yet published in the Official Journal) and Decision of the Council of 31 May 2010.
- (3) [OJ L 138, 1.6.1999, p. 20.](#)
- (4) [OJ L 260, 30.9.2008, p. 13.](#)
- (5) [OJ L 218, 13.8.2008, p. 82.](#)
- (6) [OJ L 262, 27.9.1976, p. 153.](#)
- (7) [OJ L 300, 19.11.1984, p. 1.](#)
- (8) [OJ L 300, 19.11.1984, p. 20.](#)
- (9) [OJ L 300, 19.11.1984, p. 48.](#)
- (10) [OJ C 321, 31.12.2003, p. 1.](#)