

Directive 2013/53/EU of the European Parliament and of the Council  
of 20 November 2013 on recreational craft and personal watercraft  
and repealing Directive 94/25/EC (Text with EEA relevance)

DIRECTIVE 2013/53/EU OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL

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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 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>(1)</sup>,

Acting in accordance with the ordinary legislative procedure<sup>(2)</sup>,

Whereas:

- (1) Directive 94/25/EC of the European Parliament and of the Council of 16 June 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft<sup>(3)</sup> was adopted in the context of establishing the internal market in order to harmonise safety characteristics of recreational craft in all Member States and to remove obstacles to trade in recreational craft between Member States.
- (2) Originally, Directive 94/25/EC covered only recreational craft of a minimum hull length of 2,5 m and a maximum length of 24 m. Directive 2003/44/EC of the Council and the European Parliament of 16 June 2003 amending Directive 94/25/EC<sup>(4)</sup> extended the scope of Directive 94/25/EC to include personal watercraft, and integrated environmental protection requirements into the amended Directive by adopting exhaust emission limits (CO, HC, NO<sub>x</sub> and particulates) and noise limits levels for propulsion engines, for both compression-ignition engines and spark-ignition engines.
- (3) Directive 94/25/EC is based on the New Approach principles, as set out in the Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards<sup>(5)</sup> Thus, it sets out only the essential requirements applying to recreational craft, whereas technical details are adopted by the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (Cenelec) in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical

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standards and regulations and of rules on Information Society services<sup>(6)</sup>. Conformity with the harmonised standards so set, the reference numbers of which are published in the *Official Journal of the European Union*, provides a presumption of conformity with the requirements of Directive 94/25/EC. Experience has shown that those basic principles have worked well in this sector and should be maintained and even further promoted.

- (4) Technological developments in the market have, however, raised new issues with respect to the environmental requirements of Directive 94/25/EC. In order to take account of those developments and to provide clarification in relation to the framework within which products covered by this Directive may be marketed, certain aspects of Directive 94/25/EC should be revised and enhanced and, in the interests of clarity, that Directive should be repealed and replaced by this Directive.
- (5) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products<sup>(7)</sup> lays down horizontal provisions on the accreditation of conformity assessment bodies, on the CE marking and on the Union market surveillance framework for, and controls of, products entering the Union market which also apply to products covered by this Directive.
- (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<sup>(8)</sup> provides common principles and reference provisions for the purposes of legislation based on the New Approach principles. In order to ensure consistency with other sectoral product legislation, it is appropriate to align certain provisions of this Directive to that Decision, in so far as sectoral specificities do not require a different solution. Therefore, certain definitions, the general obligations of economic operators, the presumption of conformity, rules on CE marking, requirements for conformity assessment bodies and notification procedures and the provisions concerning procedures dealing with products presenting a risk should be aligned to that Decision. Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation<sup>(9)</sup> provides for a procedure for objections to harmonised standards where those standards do not entirely satisfy the requirements of this Directive.
- (7) In order to facilitate the understanding and uniform application of this Directive by economic operators and national authorities, the scope and definitions of Directive 94/25/EC should be clarified. In particular, it should be clarified that amphibious vehicles are excluded from the scope of this Directive. It is also necessary to specify what kind of canoes and kayaks are excluded from the scope of this Directive and to clarify that only personal watercraft intended for sports and leisure are covered by this Directive.
- (8) It is also appropriate to provide definitions of ‘watercraft built for own use’, of ‘hull length’ and of ‘private importer’ specific to this sector in order to facilitate the understanding and uniform application of this Directive. It is necessary to extend the current definition of ‘propulsion engine’ to also cover innovative propulsion solutions.

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- (9) The products covered by this Directive that are placed on the Union market or put into service should comply with the relevant legislation of the Union, and economic operators should be responsible for the compliance of products, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as health and safety and the protection of consumers and of the environment, and to guarantee fair competition on the Union market.
- (10) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that products covered by this Directive do not endanger the health and safety of persons, property or the environment when correctly constructed and maintained and that they make available on the market only products which comply with the relevant legislation of the Union. This Directive should provide a clear and proportionate distribution of obligations which correspond to the role of each operator in the supply and distribution chain.
- (11) As certain tasks can be executed only by the manufacturer, it is necessary to distinguish clearly between the manufacturer and operators further down the distribution chain. It is also necessary to distinguish clearly between the importer and the distributor, as the importer introduces products from third countries to the Union market. The importer should thus make sure that those products comply with the applicable Union requirements.
- (12) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the complete conformity assessment procedure. Conformity assessment should therefore remain the obligation of the manufacturer alone.
- (13) It is necessary to ensure that products covered by this Directive entering the Union market from third countries comply with all applicable Union requirements, and in particular that appropriate assessment procedures have been carried out by manufacturers with regard to those products. Provision should therefore be made for importers to make sure that the products they place on the market comply with the applicable requirements and that they do not place on the market products which do not comply with such requirements or which present a risk. For the same reason, provision should also be made for importers to make sure that conformity assessment procedures have been carried out and that the CE marking and documentation drawn up by manufacturers are available for inspection by the supervisory authorities.
- (14) Where the distributor makes a product covered by this Directive available on the market after it has been placed on the market by the manufacturer or the importer, it should act with due care to ensure that its handling of the product does not adversely affect its compliance. Both importers and distributors are expected to act with due care in relation to the requirements applicable when placing or making products available on the market.
- (15) When placing a product covered by this Directive on the market, importers should indicate on the product their name and the address at which they can be contacted. Exceptions should be provided for in cases where the size or nature of a component does not allow for such an indication.

- (16) Any economic operator that either places a product on the market under its own name or trademark or modifies a product in such a way that compliance with the applicable requirements may be affected should be considered to be the manufacturer and should assume the obligations of the manufacturer.
- (17) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the product concerned.
- (18) The import of recreational craft and personal watercraft from third countries to the Union by natural or legal persons established within the Union is a specific feature of this sector. However, Directive 94/25/EC contains a small number of provisions which apply or could be deemed as applying to private importers as regards performing the conformity assessment (post-construction assessment). Therefore, there is a need to clarify the other obligations of private importers which should be in principle harmonised with those of manufacturers, with some exceptions related to the non-commercial nature of their activities.
- (19) Ensuring the traceability of a product throughout the whole supply chain helps to make market surveillance simpler and more efficient. An efficient traceability system facilitates the market surveillance authorities' task of tracing economic operators who made non-compliant products available on the market.
- (20) For reasons of clarity and consistency with other New Approach Directives, it is necessary to specify explicitly that products covered by this Directive may be placed on the market or put into service only if they meet the general requirement not to endanger the health and safety of persons, property or the environment, and only if they meet the essential requirements set out in this Directive.
- (21) For engines adapted for marine use as propulsion engines, where the source engine is already type-approved in accordance with Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery<sup>(10)</sup>, or Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (euro VI) and on access to vehicle repair and maintenance information<sup>(11)</sup>, persons adapting engines should be able to rely on the proof of conformity issued by the original engine manufacturer where those adaptations have not altered the exhaust emission characteristics.
- (22) Options for further reducing the exhaust emission limits of recreational marine engines have been assessed in the report on the possibilities of further improving the environmental characteristics of recreational craft engines, submitted pursuant to Article 2 of Directive 2003/44/EC. That report concluded that it is appropriate to set stricter limits than those set out in Directive 2003/44/EC. The limits should be set at a level that reflects the technical development of cleaner marine engine technologies and

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that allows progress towards the harmonisation of exhaust emission limits worldwide. The CO-limits, however, should be raised in order to allow the significant decrease of other air pollutants to reflect technological feasibility and to achieve the fastest possible implementation while ensuring that the socioeconomic impact on this economic sector is acceptable.

- (23) Depending on the fuel and power category, the test cycles for engines in marine applications described in the relevant harmonised standard should be used, and until they are available, those described in the relevant ISO standard, taking into account the values fixed in Annex I, Part B, point 2.3. Test cycles should be developed for all combustion engines which are part of the propulsion system, including hybrid power installations.
- (24) The test fuels used to assess the conformity of craft with the exhaust emission limits should reflect the composition of the fuels used in the relevant market and therefore the European test fuels should be used in the type approval in the Union. However, since manufacturers from third countries may not have access to European reference fuels, it is necessary to allow approval authorities to accept that engines be tested with other reference fuels. The choice of reference fuels should however be limited to those specifications set out in the relevant ISO standard in order to ensure quality and comparability of test results.
- (25) In order to contribute to the protection of the marine environment, it is appropriate to adopt a requirement imposing mandatory installation of holding tanks to watercraft fitted with toilets.
- (26) Accident statistics show that the risk of inversion of habitable multihull recreational craft is low. In spite of this low risk, it is appropriate to consider that there is a risk of inversion of habitable multihull recreational craft and, if susceptible to such inversion, they should remain afloat in the inverted position and escape should be practicable.
- (27) In accordance with the principle of subsidiarity, the provisions of this Directive should not affect Member States' entitlement to lay down such requirements as they may deem necessary concerning navigation on certain waters for the purpose of protection of the environment, including from noise pollution, the fabric of waterways, and ensuring safety of waterways, provided that those provisions do not require modification to the watercraft which is in conformity with this Directive and that those provisions are justified and proportionate to the objectives to be achieved.
- (28) The CE marking, indicating the conformity of a product, is the visible consequence of a whole process comprising conformity assessment in a broad sense. The general principles governing the CE marking are set out in Regulation (EC) No 765/2008. Rules governing the affixing of the CE marking to watercraft, components and propulsion engines should be laid down in this Directive. It is appropriate to enlarge the obligation to affix the CE marking also to all inboard engines and stern drive engines without integral exhaust which are regarded as meeting the essential requirements set out in this Directive.

- (29) It is crucial to make clear to manufacturers, private importers and users that by affixing the CE marking to the product, the manufacturer declares that the product is in conformity with all applicable requirements and takes full responsibility thereof.
- (30) The CE marking should be the only marking of conformity indicating that the product covered by this Directive is in conformity with Union harmonisation legislation. However, other markings should be allowed as long as they contribute to the improvement of consumer protection and are not covered by Union harmonisation legislation.
- (31) In order to ensure compliance with the essential requirements, it is necessary to lay down appropriate conformity assessment procedures to be followed by the manufacturer. Those procedures should be set by reference to conformity assessment modules laid down in Decision No 768/2008/EC. Those procedures should be devised in the light of the level of the risk which may be inherent in the watercraft, engines and components. Therefore each category of conformity should be supplemented by an appropriate procedure or a choice between several equivalent procedures.
- (32) Experience has shown that it is appropriate to allow a wider range of conformity assessment modules for components. As regards conformity assessment of exhaust emission and noise emission requirements, a distinction should be made between the cases where the harmonised standards have been used and where they have not, since in the latter cases, it is justified to require a more stringent conformity assessment procedure. Furthermore, the possibility of using the reference boat data for noise emissions testing should be suppressed as superfluous, since it has not been used in practice.
- (33) In order to provide clear information about the acceptable operating environment of watercraft, the titles of the watercraft design categories should only be based on the essential environmental conditions for navigation, namely wind force and significant wave height. Four design categories, A, B, C and D, specify ranges of wind force and of significant wave height for the purpose of design with explanatory notes.
- (34) Directive 94/25/EC contains rules on the post-construction assessment of recreational craft carried out by any natural or legal person established within the Union who places the product on the market or puts it into service in cases where the manufacturer does not fulfil the responsibilities for the product's conformity with the Directive. For consistency, it is appropriate to extend the scope of post-construction assessment to cover not only recreational craft but also personal watercraft. For the purpose of clarity, it should be specified in which situations post-construction assessment may be used. Furthermore, as regards import, its use should be restricted to cases of non-commercial import by private importers to prevent abuse of post-construction assessment for commercial purposes. There is also a need to widen the obligation of the person asking for the post-construction assessment to provide documents to the notified body in order to ensure a reliable assessment of the conformity of the product by the notified body.
- (35) Since it is necessary to ensure a uniformly high level of performance of bodies performing conformity assessment of products covered by this Directive throughout

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the Union, and since all such bodies should perform their functions at the same level and under conditions of fair competition, obligatory requirements should be set for conformity assessment bodies wishing to be notified in order to provide conformity assessment services under this Directive.

- (36) In order to ensure a consistent level of quality in the performance of conformity assessment of products covered by this Directive, it is necessary not only to consolidate the requirements that conformity assessment bodies wishing to be notified must fulfill, but also, in parallel, to set requirements that notifying authorities and other bodies involved in the assessment, notification and monitoring of notified bodies must fulfill.
- (37) Regulation (EC) No 765/2008 complements and strengthens the existing framework for the market surveillance of products covered by Union harmonisation legislation, including products covered by this Directive. Member States should therefore organise and carry out market surveillance of those products in accordance with that Regulation, and where applicable, in accordance with Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety<sup>(12)</sup>.
- (38) In order to increase transparency and to reduce processing time, it is necessary to improve the existing safeguard procedure allowing the Commission to examine the justification for a measure taken by a Member State against products it considers to be non-compliant, with the aim of making it more efficient and of drawing on expertise available in the Member States.
- (39) The existing system should be complemented by a procedure allowing interested parties to be informed of measures taken with regard to products covered by this Directive presenting a risk to the health and safety of persons or to other aspects of public interest protection. It should also allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such products.
- (40) Where Member States and the Commission agree as to the justification for a measure taken by a Member State, no further involvement of the Commission should be required.
- (41) In order to take into account the progress of technical knowledge and new scientific evidence, the power to adopt acts <sup>XI</sup>in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend points 2.3, 2.4 and 2.5 of Section 2 as well as Section 3 of Part B and Section 3 of Part C of Annex I, and Annexes V, VII and IX.] In the future, this will allow the Commission to include test cycles for hybrid engines and to introduce biofuel blended test fuels in the table of test fuels once those test fuels have been internationally accepted. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (42) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles

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concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>(13)</sup>.

- (43) The advisory procedure should be used for the adoption of implementing acts requesting the notifying Member State to take the necessary corrective measures in respect of notified bodies that do not meet or no longer meet the requirements for their notification.
- (44) The examination procedure should be used for the adoption of implementing acts ensuring that this Directive is applied in a uniform manner, in particular as regards the supplementary provisions set out in Article 24 on conformity assessment procedures, and as regards the requirements on the watercraft design categories, watercraft identification, builder's plate, owner's manual, gas system, discharge prevention, reporting questionnaire and navigation lights.
- (45) The Commission should, by means of implementing acts and, given their special nature, acting without the application of Regulation (EU) No 182/2011, determine whether measures taken by Member States in respect of a product presenting a risk to the health or safety of persons, to property or to the environment are justified.
- (46) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to conformity assessment, watercraft design categories, navigation lights, discharge prevention and gas appliances which present a risk to the health or safety of persons, property or to the environment, imperative grounds of urgency so require.
- (47) In line with established practice, the committee set up by this Directive can play a useful role in examining matters concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure.
- (48) In order to enforce the monitoring and the efficiency of this Directive, Member States should complete a questionnaire on the application of this Directive. The Commission should then draw up and publish a report on the application of this Directive.
- (49) Member States should lay down rules on penalties applicable to infringements of this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (50) In order to allow manufacturers and other economic operators sufficient time to adapt to the requirements laid down by this Directive, it is necessary to provide for a sufficient transitional period after the entry into force of this Directive during which products which comply with Directive 94/25/EC may still be placed on the market.
- (51) In order to facilitate the application of this Directive by small and medium-sized manufacturers of outboard spark-ignition propulsion engines with power equal to or less than 15 kW and to allow them to adapt to the new requirements, it is appropriate to provide for a specific transitional period for those manufacturers.
- (52) Since the objective of this Directive, namely to ensure a high level of protection of human health and safety and protection of environment whilst guaranteeing the functioning of the internal market by setting harmonised requirements for products covered by this Directive and minimum requirements for market surveillance, cannot



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be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(53) Directive 94/25/EC should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

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**Editorial Information**

**X1** Substituted by [Corrigendum to Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC \(Official Journal of the European Union L 354 of 28 December 2013\)](#).

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- (1) [OJ C 43, 15.2.2012, p. 30.](#)
- (2) Position of the European Parliament of 9 October 2013 (not yet published in the Official Journal) and decision of the Council of 15 November 2013.
- (3) [OJ L 164, 30.6.1994, p. 15.](#)
- (4) [OJ L 214, 26.8.2003, p. 18.](#)
- (5) [OJ C 136, 4.6.1985, p. 1.](#)
- (6) [OJ L 204, 21.7.1998, p. 37.](#)
- (7) [OJ L 218, 13.8.2008, p. 30.](#)
- (8) [OJ L 218, 13.8.2008, p. 82.](#)
- (9) [OJ L 316, 14.11.2012, p. 12.](#)
- (10) [OJ L 59, 27.2.1998, p. 1.](#)
- (11) [OJ L 188, 18.7.2009, p. 1.](#)
- (12) [OJ L 11, 15.1.2002, p. 4.](#)
- (13) [OJ L 55, 28.2.2011, p. 13.](#)