

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 and repealing Regulation (EEC) No 339/93 (Text with EEA relevance)

CHAPTER VI

FINAL PROVISIONS

Article 38

Technical guidelines

In order to facilitate the implementation of this Regulation, the Commission shall draw up non-binding guidelines in consultation with stakeholders.

Article 39

Transitional provision

Accreditation certificates issued before 1 January 2010 may remain valid until the date of their expiry, but no later than 31 December 2014. This Regulation shall, however, apply in the case of their extension or renewal.

Article 40

Review and reporting

By 2 September 2013, the Commission shall submit to the European Parliament and to the Council a report on the application of this Regulation, of Directive 2001/95/EC and of any other relevant Community instrument addressing market surveillance. That report shall, in particular, analyse the consistency of Community rules in the field of market surveillance. If appropriate, it shall be accompanied by proposals to amend and/or consolidate the instruments concerned, in the interests of better regulation and simplification. It shall include an evaluation of the extension of the scope of Chapter III of this Regulation to all products.

By 1 January 2013, and every five years thereafter, the Commission, in cooperation with the Member States, shall produce and submit to the European Parliament and to the Council a report on the implementation of this Regulation.

Article 41

Penalties

The Member States shall lay down rules on penalties for economic operators, which may include criminal sanctions for serious infringements, applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure

that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive and may be increased if the relevant economic operator has previously committed a similar infringement of the provisions of this Regulation. The Member States shall notify the Commission of those provisions by 1 January 2010 and shall notify it without delay of any subsequent amendment affecting them.

Article 42

Amendment to Directive 2001/95/EC

Article 8(3) of Directive 2001/95/EC shall be replaced by the following:

3. In the case of products posing a serious risk, the competent authorities shall with due dispatch take the appropriate measures referred to in paragraph 1(b) to (f). The existence of a serious risk shall be determined by the Member States, assessing each individual case on its merits and taking into account the guidelines referred to in point 8 of Annex II..

Article 43

Repeal

Regulation (EEC) No 339/93 is hereby repealed with effect from 1 January 2010.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 44

Entry into force

This Regulation shall enter into force on the 20th day after its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2010.