Council Directive of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers (75/324/EEC)

COUNCIL DIRECTIVE

of 20 May 1975

on the approximation of the laws of the Member States relating to aerosol dispensers

(75/324/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament[(1)];

Having regard to the Opinion of the Economic and Social Committee[(2)];

Whereas, in certain Member States, aerosol dispensers are required to comply with certain mandatory technical specifications; whereas such specifications differ from one Member State to another and, by so doing, hinder trade within the Community;

Whereas these barriers to the establishment and functioning of the common market can be removed if all the Member States adopt the same specifications, either in addition to or in place of those laid down in their present laws, and whereas these specifications must relate, more particularly, to the manufacture, filling and nominal capacities of aerosol dispensers;

Whereas, at the present stage of technical progress, the field of application of this Directive should be limited to aerosol dispensers made of metal, glass or plastic;

Whereas the technical specifications listed in the Annex to this Directive will need to be promptly adapted in line with technical progress; whereas, to facilitate the implementation of the appropriate necessary measures, a procedure should be laid down for close cooperation between the Member States and the Commission within a Committee on the adaptation to technical progress of the Directive on aerosol dispensers;

Whereas it is possible that some aerosol dispensers placed on the market may represent a safety risk even though they satisfy the requirements of this Directive and of the Annex thereto; whereas a procedure should therefore be laid down to obviate this risk,

HAS ADOPTED THE FOLLOWING DIRECTIVE:

Article 1

This Directive shall apply to aerosol dispensers as defined in Article 2, with the exception of those with a maximum capacity of less than 50 ml, and those with a

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maximum capacity greater than that specified in points 3.1, 4.1.1, 4.2.1, 5.1 and 5.2 respectively of the Annex to this Directive.

Article 2

For the purpose of this Directive, the term 'aerosol dispenser' shall mean any non-reusable container made of metal, glass or plastic and containing a gas compressed, liquefied or dissolved under pressure, with or without a liquid, paste or powder, and fitted with a release device allowing the contents to be ejected as solid or liquid particles in suspension in a gas, as a foam, paste or powder or in a liquid state.

Article 3

The person responsible for the marketing of aerosol dispensers shall affix the symbol '3' (inverted epsilon) to aerosol dispensers, as proof that they satisfy the requirements of this Directive and the Annex thereto.

Article 4

The Member States may not, for reasons related to the requirements laid down in this Directive and the Annex thereto, refuse, prohibit or restrict the marketing of any aerosol dispenser which complies with the requirements of this Directive and the Annex thereto.

[*F1 Article 5*

The Commission shall adopt the amendments required to adapt the Annex to this Directive to technical progress. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 7(2).**]**

Textual Amendments

F1 Substituted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.

Article 6

1 A committee on the adaptation to technical progress of the Directive on aerosol dispensers, hereinafter called the 'Committee', is hereby set up and shall consist of representatives of the Member States with a Commission representative as Chairman.

F22 . . . . . .

Textual Amendments

F2 Deleted by Council Regulation (EC) No 807/2003 of 14 April 2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (unanimity).

[F3 Article 7

1 The Commission shall be assisted by the Committee on the Adaptation to Technical Progress of the Directive on aerosol dispensers.

[F1 2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**]]**

F4 3 . . . . . .

Textual Amendments

F1 Substituted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.

F3 Substituted by Council Regulation (EC) No 807/2003 of 14 April 2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (unanimity).

F4 Deleted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.

Article 8

[F5 1 Without prejudice to Regulation (EC) No 1272/2008 of the European Parliament and of the Council(3), each aerosol dispenser or, where particulars cannot be put on the aerosol dispenser due to its small dimensions (maximum capacity of 150 ml or less) a label attached thereto must bear the following particulars in visible, legible and indelible characters:**]**

a the name and address or trade mark of the person responsible for marketing the aerosol dispenser,

b the symbol ‘3’ (inverted epsilon) certifying conformity with the requirements of this Directive,

c code markings enabling the filling batch to be identified,

[F5 d the details referred to in point 2.2 of the Annex,**]**

e the net contents by weight and by volume.

[F6 1a Where an aerosol dispenser contains flammable components as defined in point 1.8 of the Annex but the aerosol dispenser is not considered as ‘flammable’ or ‘extremely flammable’ according to the criteria set out in point 1.9 of the Annex, the quantity of flammable material contained in the aerosol dispenser must be stated clearly on the label, in the form of the following legible and indelible wording: ‘X % by mass of the contents are flammable’.**]**

2 Member States may make the marketing of aerosol dispensers in their territory conditional on the use of their national language or languages for the wording on the label.

Textual Amendments

F5 Substituted by Commission Directive 2013/10/EU of 19 March 2013 amending Council Directive 75/324/EEC on the approximation of the laws of the Member States relating to aerosol dispensers in order to adapt its labelling provisions to Regulation (EC) No 1272/2008 of the European Parliament

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and of the Council on classification, labelling and packaging of substances and mixtures (Text with EEA relevance).

F6 Inserted by Commission Directive 2008/47/EC of 8 April 2008 amending, for the purposes of adapting to technical progress, Council Directive 75/324/EEC on the approximation of the laws of the Member States relating to aerosol dispensers (Text with EEA relevance).

Article 9

Member States shall take all necessary measures to prevent the use on aerosol dispensers of markings or inscriptions which might be confused with the symbol '3' (inverted epsilon).

[F7 Article 9a

. . . . . .

Textual Amendments

F7 Deleted by Commission Directive 2008/47/EC of 8 April 2008 amending, for the purposes of adapting to technical progress, Council Directive 75/324/EEC on the approximation of the laws of the Member States relating to aerosol dispensers (Text with EEA relevance).

Article 10

1 If a Member State notes, on the basis of a substantive justification, that one or more aerosol dispensers, although complying with the requirements of the Directive, represent a hazard to safety or health, it may provisionally prohibit the sale of the dispenser or dispensers in its territory or subject it or them to special conditions. It shall immediately inform the other Member States and the Commission thereof, stating the grounds for its decision.

2 The Commission shall, within six weeks, consult the Member States concerned, following which it shall deliver its opinion without delay and take the appropriate steps.

[[F1]3 The Commission may adopt necessary technical adaptations of this Directive. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 7(2).

In that case, the Member State having adopted safeguard measures may maintain them until the entry into force of the adaptations.**]**

Textual Amendments

F1 Substituted by Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Two.

Article 11

1 The Member States shall bring into force the provisions necessary to comply with this Directive within 18 months of its notification and shall forthwith inform the Commission thereof.

2 The Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

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Article 12

This Directive is addressed to the Member States.