

DIRECTIVE 94/48/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 7 December 1994

amending for the 13th time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure referred to in Article 189b of the Treaty ⁽³⁾,

Whereas Article 7a of the Treaty establishes an area without internal frontiers in which it must be possible for goods, persons, services and capital to move freely;

Whereas the progress of the internal market should gradually improve the quality of life, the health protection and the safety of consumers; whereas the measures proposed by this Directive are in line with the Council resolution of 9 November 1989 on future priorities for relaunching consumer protection policy ⁽⁴⁾;

Whereas certain substances and preparations used in aerosol generators are of a particularly flammable nature;

Whereas risks to consumers arise from the increasing use in aerosol generators of flammable substances in place of chlorofluorocarbons (CFC); whereas such risks are particularly acute in the case of aerosol generators intended for entertainment and decorative purposes;

Whereas these risks can be offset by adapting to technical progress Council Directive 75/324/EEC of 20 May 1975

on the harmonization of the laws of the Member States relating to aerosol dispensers ⁽⁵⁾ and by limiting thereby the use of flammable substances in aerosol generators intended for entertainment and decorative purposes;

Whereas the limits planned by one Member State on the marketing of certain aerosol generators intended for entertainment and decorative purposes directly affect the completion and functioning of the internal market; whereas it is therefore necessary to approximate the laws of the Member States in this field and consequently amend Annex I to Directive 76/769/EEC ⁽⁶⁾;

Whereas, according to the scope and effects of the proposed action, the Community measures envisaged by this Directive are not only necessary but also indispensable for the attainment of the stated objectives; whereas these objectives cannot be achieved by Member States individually and whereas, furthermore, their attainment at Community level is already provided for by Directive 76/769/EEC,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 76/769/EEC is hereby amended in accordance with the Annex hereto.

Article 2

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than:

— either six months after adoption of a Commission Directive adjusting Directive 75/324/EEC on aerosol dispensers to technical progress to cover all testing procedures used to certify the conformity of products with this Directive,

⁽¹⁾ OJ No 306, 12. 11. 1993, p. 14.

⁽²⁾ OJ No C 133, 16. 5. 1994, p. 15.

⁽³⁾ Opinion of the European Parliament of 15 December 1993 (OJ No C 20, 24. 1. 1994, p. 77), Council common position of 27 June 1994 (OJ No C 244, 31. 8. 1994, p. 13) and Decision of the European Parliament of 15 September 1994 (not yet published in the Official Journal).

⁽⁴⁾ OJ No C 294, 23. 11. 1989, p. 1.

⁽⁵⁾ OJ No L 147, 9. 6. 1975, p. 40, Directive as last amended by Directive 94/1/EC (OJ No L 23, 28. 1. 1994, p. 28).

⁽⁶⁾ OJ No L 262, 27. 9. 1976, p. 201, Directive as last amended by Directive 91/339/EEC (OJ No L 186, 12. 7. 1991, p. 64).

— or one year after the adoption of this Directive if that date is later than the first.

Article 3

They shall apply these provisions six months after expiry of the relevant period.

This Directive is addressed to the Member States.

Done at Brussels, 7 December 1994.

2. When Member States adopt the provisions referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

For the European Parliament

The President

K. HÄNSCH

For the Council

The President

G. REXRODT

ANNEX

Substances

either

- appearing in Annex I to Directive 67/548/EEC which are classified as flammable or extremely flammable and labelled as such,
 - or
 - not yet appearing in Annex I to Directive 67/548/EEC but conforming to the criteria of flammability of Annex VI to Directive 67/548/EEC and being provisionally classified and labelled as flammable, highly flammable or extremely flammable according to Article 5 (2) of Directive 67/548/EEC.
1. May not be used as such or in the form of preparations in aerosol generators marketed and intended for sale to the general public for entertainment and decorative purposes such as the following:
 - metallic glitter intended mainly for decoration,
 - artificial snow and frost,
 - 'whoopie' cushions,
 - silly string aerosols,
 - imitation excrement,
 - horns for parties,
 - decorative flakes and foams,
 - artificial cobwebs,
 - stink bombs,
 - etc.
 2. Without prejudice to the application of other Community provisions on the classification, packaging and labelling of dangerous substances, the following words must appear legibly and indelibly on the packaging of aerosol generators referred to above; 'For professional users only'.
 3. By way of derogation, paragraphs 1 and 2 shall not apply to the aerosol generators referred to in Article 9a of Directive 75/324/EEC.
 4. The products referred to above may not be placed on the market unless they conform to the requirements indicated.
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