

## COUNCIL DIRECTIVE

of 29 June 1990

on the approximation of the laws of the Member States relating to appliances burning gaseous fuels

(90/396/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Member States are responsible for ensuring the health and safety on their territory of their people and, where appropriate, of domestic animals and goods in relation to the hazards arising out of the use of appliances burning gaseous fuels;

Whereas, in certain Member States, mandatory provisions define in particular the safety level required of appliances burning gaseous fuels by specifying design, operating characteristics and inspection procedures; whereas these mandatory provisions do not necessarily lead to different safety levels from one Member State to another but do, by their disparity, hinder trade within the Community;

Whereas different conditions as regards types of gas and supply pressures are in force in the Member States; whereas these conditions are not harmonized because each Member State's energy supply and distribution situation is peculiar to it;

Whereas paragraphs 65 and 68 of the White Paper on the completion of the internal market, approved by the European Council in June 1985, provide for a new approach to legislative harmonization;

Whereas Community law provides — by way of derogation from one of the fundamental rules of the Community, namely the free movement of goods — that obstacles to movement within the Community resulting from disparities in national legislation relating to the marketing of products must be accepted in so far as such obstacles can be recognized as being necessary to satisfy mandatory requirements; whereas, therefore, the harmonization of legislation in the

present case must be limited to the provisions necessary to satisfy both the mandatory and essential requirements regarding safety, health and energy conservation in relation to gas appliances; whereas these requirements must replace the national provisions in this matter because they are essential requirements;

Whereas the maintenance or improvement of the level of safety attained in Member States constitutes one of the essential aims of this Directive and of safety as defined by the essential requirements;

Whereas the essential safety and health requirements must be observed in order to ensure that appliances burning gaseous fuels are safe; whereas energy conservation is considered essential; whereas these requirements must be applied with discernment to take account of the state of the art at the time of construction;

Whereas this Directive therefore contains only essential requirements; whereas, to facilitate proof of conformity with the essential requirements, it is necessary to have harmonized standards at European level in particular as to the construction, operation and installation of appliances burning gaseous fuels so that products complying with them may be assumed to conform to the essential requirements; whereas these standards, harmonized at European level, are drawn up by private bodies and must remain non-mandatory texts; whereas for that purpose the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (Cenelec) are recognized as the competent bodies for the adoption of harmonized standards in accordance with the general guidelines for cooperation between the Commission and those two bodies signed on 13 November 1984; whereas, for the purposes of this Directive, a harmonized standard is a technical specification (European standard or harmonization document) adopted by one or both of those bodies upon a remit from the Commission in accordance with Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations <sup>(4)</sup>, as last amended by Directive 88/182/EEC <sup>(5)</sup>, and the abovementioned general guidelines;

Whereas, pending the adoption of harmonized standards within the meaning of this Directive, conformity with the essential requirements and the free movement of appliances burning gaseous fuels should be facilitated by the acceptance, at Community level, of products conforming to the national

<sup>(1)</sup> OJ No C 42, 21. 2. 1989, p. 5 and OJ No C 260, 13. 10. 1989, p. 3.

<sup>(2)</sup> OJ No C 158, 26. 6. 1989, p. 218 and Decision of 13 June 1980 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 194, 31. 7. 1989, p. 18.

<sup>(4)</sup> OJ No L 109, 26. 4. 1983, p. 8.

<sup>(5)</sup> OJ No L 81, 26. 3. 1988, p. 75.

standards whose conformity with the essential requirements has been confirmed by a Community checking procedure;

Whereas a check on compliance with the relevant technical requirements is necessary in order to provide effective protection for users and third parties; whereas the existing certification procedures differ from one Member State to another; whereas, in order to avoid multiple inspections, which are in effect barriers to the free movement of appliances burning gaseous fuels, arrangements should be made for the mutual recognition of certification procedures by the Member States; whereas, in order to facilitate mutual recognition of certification procedures, harmonized Community procedures should be set up and the criteria for appointing the bodies responsible for carrying out these procedures should be harmonized;

Whereas the Member States' responsibility on their territory for safety, health and energy conservation covered by the essential requirements must be recognized in a safeguard clause providing for an adequate Community procedure;

Whereas the addressees of any decision taken under this Directive must be informed of the reasons for such a decision and the legal remedies available to them;

Whereas the Council adopted, on 17 September 1984, a framework Directive on gas appliances (84/530/EEC)<sup>(1)</sup>, as last amended by Directive 86/312/EEC<sup>(2)</sup>, and a separate Directive on gas water heaters (84/531/EEC)<sup>(3)</sup>, as last amended by Directive 88/665/EEC<sup>(4)</sup>; whereas those Directives cover the same area as this Directive and should therefore be repealed;

Whereas the measures aimed at the gradual establishment of the internal market must be adopted by 31 December 1992; whereas the internal market consists of an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured,

HAS ADOPTED THIS DIRECTIVE:

#### CHAPTER I

##### Scope, placing on the market and free movement

#### Article 1

1. This Directive shall apply to:

- appliances burning gaseous fuels used for cooking, heating, hot water production, refrigeration, lighting or

washing and having, where applicable, a normal water temperature not exceeding 105 °C, hereinafter referred to as 'appliances'. Forced draught burners and heating bodies to be equipped with such burners will also be considered as appliances,

- safety devices, controlling devices or regulating devices and sub-assemblies, other than forced draught burners and heating bodies to be equipped with such burners separately marketed for trade use and designed to be incorporated into an appliance burning gaseous fuel or assembled to constitute such an appliance, hereinafter referred to as 'fittings'.

2. Appliances specifically designed for use in industrial processes carried out on industrial premises are excluded from the scope defined in paragraph 1.

3. For the purposes of this Directive, 'gaseous fuel' means any fuel which is in a gaseous state at a temperature of 15 °C under a pressure of 1 bar.

4. For the purposes of this Directive, an appliance is said to be 'normally used' when it is:

- correctly installed and regularly serviced in accordance with the manufacturer's instructions,
- used with a normal variation in the gas quality and a normal fluctuation in the supply pressure, and
- used in accordance with its intended purpose or in a way which can be reasonably foreseen.

#### Article 2

1. Member States shall take all necessary steps to ensure that the appliances referred to in Article 1 may be placed on the market and put into service only if, when normally used, they do not compromise the safety of persons, domestic animals and property.

2. Member States shall communicate the types of gas and corresponding supply pressures used on their territory to the other Member States and the Commission before 1 January 1991. They shall also communicate all changes in good time. The Commission shall ensure that this information is published in the *Official Journal of the European Communities*.

#### Article 3

Appliances and fittings as referred to in Article 1 shall satisfy the essential requirements applicable to them set out in Annex I.

#### Article 4

1. Member States may not prohibit, restrict or impede the placing on the market and the putting into service of appliances which satisfy the essential requirements of this Directive.

<sup>(1)</sup> OJ No L 300, 19. 11. 1984, p. 95.

<sup>(2)</sup> OJ No L 196, 18. 7. 1986, p. 56.

<sup>(3)</sup> OJ No L 300, 19. 11. 1984, p. 106.

<sup>(4)</sup> OJ No L 382, 31. 12. 1988, p. 42.

2. Member States may not prohibit, restrict or impede the placing on the market of fittings as referred to in Article 1 accompanied by a certificate as referred to in Article 8 (4).

#### Article 5

1. Member States shall presume compliance with the essential requirements referred to in Article 3 of appliances and fittings when they conform to:

- (a) the national standards applicable to them implementing the harmonized standards whose reference numbers have been published in the *Official Journal of the European Communities*.

Member States shall publish the reference numbers of these national standards;

- (b) the national standards applicable to them referred to in paragraph 2 in so far as, in the areas covered by such standards, no harmonized standards exist.

2. Member States shall communicate to the Commission the texts of their national standards as referred to in paragraph 1 (b) which they regard as complying with the essential requirements referred to in Article 3. The Commission shall forward these national standards to the other Member States. In accordance with the procedure provided for in Article 6 (2), it shall notify the Member States of those national standards which are presumed to conform with the essential requirements referred to in Article 3.

#### Article 6

1. Where a Member State or the Commission considers that the standards referred to in Article 5 (1) do not entirely meet the essential requirements referred to in Article 3, the Commission or the Member State concerned shall bring the matter before the standing committee set up under Directive 83/189/EEC, hereinafter referred to as 'the committee', giving the reasons therefore. The committee shall deliver an opinion without delay.

In the light of the committee's opinion, the Commission shall inform the Member States whether or not it is necessary to withdraw those standards from the publications referred to in Article 5 (1).

2. After receipt of the communication referred to in Article 5 (2), the Commission shall consult the committee. Upon receipt of the latter's opinion, the Commission shall, within one month, inform the Member States whether or not the national standard(s) in question are to enjoy the presumption of conformity; if they are, the Member States shall publish the reference numbers of those standards. The Commission shall also publish them in the *Official Journal of the European Communities*.

#### Article 7

1. Where a Member State finds that normally used appliances bearing the EC mark might compromise the safety of persons, domestic animals or property, it shall take all appropriate measures to withdraw those appliances from the market and prohibit or restrict their being placed on the market.

The Member State concerned shall immediately inform the Commission of any such measure, indicating the reasons for its decision and, in particular, whether non-compliance is due to:

- (a) failure to meet the essential requirements referred to in Article 3, where the appliance does not correspond to the standards referred to in Article 5 (1);
- (b) incorrect application of the standards referred to in Article 5 (1);
- (c) shortcomings in the standards referred to in Article 5 (1) themselves.

2. The Commission shall enter into consultation with the parties concerned as soon as possible. Where, after such consultation, the Commission finds that any measure as referred to in paragraph 1 is justified, it shall immediately so inform the Member State that took the measure and the other Member States.

Where the decision referred to in paragraph 1 is attributed to shortcomings in the standards, the Commission, after consulting the parties concerned, shall bring the matter before the committee within two months if the Member State which has taken the measures intends to maintain them, and shall initiate the procedures referred to in Article 6.

3. Where an appliance which does not comply bears the EC mark, the competent Member State shall take appropriate action against whomsoever has affixed the mark and shall inform the Commission and the other Member States thereof.

4. The Commission shall ensure that the Member States are kept informed of the progress and outcome of the procedures.

### CHAPTER II

#### Means of certification of conformity

#### Article 8

1. The means of certification of conformity of series-manufactured appliances shall be:

- (a) the EC type-examination as referred to in section 1 of Annex II, and

(b) prior to their being placed on the market, at the choice of the manufacturer:

- the EC declaration of conformity to type referred to in section 2 of Annex II, or
- the EC declaration of conformity to type (guarantee of production quality) referred to in section 3 of Annex II, or
- the EC declaration of conformity to type (guarantee of product quality) referred to in section 4 of Annex II, or
- EC verification as referred to in section 5 of Annex II.

2. In the case of production of an appliance as a single unit or in small quantities, EC verification by single unit, as referred to in section 6 of Annex II, may be chosen by the manufacturer.

3. After completion of the procedures referred to in paragraphs 1 (b) and 2, the EC mark of conformity shall be affixed to conforming appliances in accordance with Article 10.

4. The procedures referred to in paragraph 1 shall be applied in respect of fittings as referred to in Article 1 with the exception of the affixing of the EC mark of conformity and, where appropriate, the drawing-up of the declaration of conformity. A certificate shall be issued declaring the conformity of the fittings with the provisions of this Directive which apply to them and stating their characteristics and how they must be incorporated into an appliance or assembled to assist compliance with the essential requirements applicable to finished appliances.

The certificate shall be supplied with the fitting.

5. Where the appliances are also subject to other Community Directives:

- their compliance with the essential requirements of this Directive shall be verified in accordance with the procedures laid down in paragraphs 1 and 2, and
- it shall be ensured that they also comply with the essential requirements of the other Directives in accordance with the procedures laid down in those Directives.

The affixing of the EC mark as referred to in paragraph 3 shall certify that the provisions of all the applicable Directives have been complied with.

6. Records and correspondence relating to the means of certification of conformity shall be drawn up in the official language(s) of the Member State where the body responsible for carrying out these procedures is established or in a language accepted by it.

#### Article 9

1. Each Member State shall notify the Commission and the other Member States of the bodies, hereinafter called the 'notified bodies', responsible for carrying out the procedures referred to in Article 8.

The Commission shall publish for information purposes in the *Official Journal of the European Communities* a list of the notified bodies with their identification symbols and shall ensure that the list is kept up to date.

2. Member States shall apply the criteria set out in Annex V for assessing the bodies to be notified.

Bodies which satisfy the assessment criteria laid down in the applicable harmonized standards shall be presumed to satisfy the criteria set out in that Annex.

3. A Member State which has notified a body must withdraw approval if it finds that the body no longer meets the criteria referred to in paragraph 2. It shall immediately inform the Commission and the other Member States accordingly.

### CHAPTER III

#### EC mark of conformity

##### Article 10

1. The EC mark of conformity and the inscriptions set out in Annex III shall be affixed in a visible, easily legible and indelible form to the appliance or to a data plate attached to it. The data plate shall be so designed that it cannot be re-used.

2. The affixing to appliances of marks which are likely to be confused with the EC mark shall be prohibited.

##### Article 11

Where it is established that the EC mark has been wrongly affixed to appliances or that certification for fittings has been wrongly attributed because:

- the appliances or the fittings do not conform to the appliance or fitting as referred to in the EC type-examination certificate,
- the appliances or the fittings conform to the appliance or fitting as referred to in the EC type-examination certificate but do not meet the essential requirements applicable to them,
- the manufacturer has failed to fulfil his obligations as specified in Annex II,

the notified body shall withdraw the right to affix the EC mark or to issue the certificate and shall so inform the other notified bodies and report to the Member State concerned.

## CHAPTER IV

## Final provisions

*Article 12*

Any decision taken pursuant to this Directive which includes restriction on the placing on the market and/or putting into service of an appliance shall state the precise grounds on which it is based. It shall be notified without delay to the party concerned, who shall at the same time be informed of the legal remedies available to him under the laws in force in the Member State in question and of the time limits to which such remedies are subject.

*Article 13*

Directives 84/530/EEC and 84/531/EEC are hereby repealed.

*Article 14*

1. Before 1 July 1991, Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall inform the Commission thereof.

They shall apply such provisions from 1 January 1992.

2. However, in derogation from Article 2, Member States may, during the period up to 31 December 1995 and without prejudice to Articles 30 to 36 of the Treaty, permit the placing on the market and/or the putting into service of appliances and fittings which comply with the regulations in force in the Member States before 1 January 1992.

3. 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.

*Article 15*

This Directive is addressed to the Member States.

Done at Luxembourg, 29 June 1990.

*For the Council*

*The President*

M. SMITH

## ANNEX I

## ESSENTIAL REQUIREMENTS

**Preliminary remark**

The obligations resulting from the essential requirements for appliances in this Annex also apply to fittings where the corresponding risk exists.

**1. GENERAL CONDITIONS**

1.1. Appliances must be so designed and built as to operate safely and present no danger to persons, domestic animals or property when normally used as defined in Article 1 (4) of this Directive.

1.2. When placed on the market, all appliances must:

- be accompanied by technical instructions intended for the installer,
- be accompanied by instructions for use and servicing, intended for the user,
- bear appropriate warning notices, which must also appear on the packaging.

The instructions and warning notices must be in the official language or languages of the Member States of destination.

1.2.1. The technical instructions intended for the installer must contain all the instructions for installation, adjustment and servicing required to ensure that those operations are correctly performed and that the appliance may be used safely. In particular, the instructions must specify:

- the type of gas used,
- the gas supply pressure used,
- the flow of fresh air required:
  - for the combustion air supply,
  - to avoid the formation of dangerous unburned gas mixtures for appliances not fitted with the device referred to in point 3.2.3,
- the conditions for the dispersal of combustion products,
- for forced draught burners and heating bodies intended to be equipped with such burners, their characteristics, the requirements for assembly, to assist compliance with the essential requirements applicable to finished appliances and, where appropriate, the list of combinations recommended by the manufacturer.

1.2.2. The instructions for use and servicing intended for the user must contain all the information required for safe use, and must in particular draw the user's attention to any restrictions on use.

1.2.3. The warning notices on the appliance and its packaging must clearly state the type of gas used, the gas supply pressure and any restrictions on use, in particular the restriction whereby the appliance must be installed only in areas where there is sufficient ventilation.

1.3. Fittings intended to be part of an appliance must be so designed and built as to fulfil correctly their intended purpose when incorporated in accordance with the instructions for installation.

The instructions for installation, adjustment, operation and maintenance must be provided with the fittings concerned.

**2. MATERIALS**

2.1. Materials must be appropriate for their intended purpose and must withstand the technical, chemical and thermal conditions to which they will foreseeably be subjected.

2.2. The properties of materials that are important for safety must be guaranteed by the manufacturer or the supplier of the appliance.

### 3. DESIGN AND CONSTRUCTION

#### 3.1. General

- 3.1.1. Appliances must be so constructed that, when used normally, no instability, distortion, breakage or wear likely to impair their safety can occur.
- 3.1.2. Condensation produced at the start-up and/or during use must not affect the safety of appliances.
- 3.1.3. Appliances must be so designed and constructed as to minimize the risk of explosion in the event of a fire of external origin.
- 3.1.4. Appliances must be so constructed that water and inappropriate air penetration into the gas circuit does not occur.
- 3.1.5. In the event of a normal fluctuation of auxiliary energy, appliances must continue to operate safely.
- 3.1.6. Abnormal fluctuation or failure of auxiliary energy or its restoration must not lead to an unsafe situation.
- 3.1.7. Appliances must be so designed and constructed as to obviate hazards of electrical origin. In the area in which it applies, compliance with the safety objectives in respect of electrical hazards laid down in Directive 73/23/EEC <sup>(1)</sup> shall be equivalent to fulfilment of this requirement.
- 3.1.8. All pressurized parts of an appliance must withstand the mechanical and thermal stresses to which they are subjected without any deformation affecting safety.
- 3.1.9. Appliances must be so designed and constructed that failure of a safety, controlling or regulating device may not lead to an unsafe situation.
- 3.1.10. If an appliance is equipped with safety and controlling devices, the functioning of the safety devices must not be overruled by that of the controlling devices.
- 3.1.11. All parts of appliances which are set or adjusted at the stage of manufacture and which should not be manipulated by the user or the installer must be appropriately protected.
- 3.1.12. Levers and other controlling and setting devices must be clearly marked and give appropriate instructions so as to prevent any error in handling. Their design must be such as to preclude accidental manipulation.

#### 3.2. Unburned gas release

- 3.2.1. Appliances must be so constructed that the gas leakage rate is not dangerous.
- 3.2.2. Appliances must be so constructed that gas release during ignition and re-ignition and after flame extinction is limited in order to avoid a dangerous accumulation of unburned gas in the appliance.
- 3.2.3. Appliances intended to be used in indoor spaces and rooms must be fitted with a special device which avoids a dangerous accumulation of unburned gas in such spaces or rooms.

Appliances which are not fitted with such devices must be used only in areas where there is sufficient ventilation to avoid a dangerous accumulation of unburned gas.

Member States may define on their territory adequate space ventilation conditions for the installation of such appliances, bearing in mind the features peculiar to them.

Large-scale kitchen appliances and appliances powered by gas containing toxic components must be equipped with the aforesaid device.

#### 3.3. Ignition

Appliances must be so constructed that, when used normally:

- ignition and re-ignition is smooth,
- cross-lighting is assured.

#### 3.4. Combustion

- 3.4.1. Appliances must be so constructed that, when used normally, flame stability is assured and combustion products do not contain unacceptable concentrations of substances harmful to health.

<sup>(1)</sup> OJ No L 77, 26. 3. 1973, p. 29.

- 3.4.2. Appliances must be so constructed that, when used normally, there will be no accidental release of combustion products.
- 3.4.3. Appliances connected to a flue for the dispersal of combustion products must be so constructed that in abnormal draught conditions there is no release of combustion products in a dangerous quantity into the room concerned.
- 3.4.4. Independent flueless domestic heating appliances and flueless instantaneous water heaters must not cause, in the room or space concerned, a carbon monoxide concentration likely to present a danger to the health of persons exposed, bearing in mind the foreseeable duration of their exposure.
- 3.5. **Rational use of energy**  
Appliances must be so constructed as to ensure rational use of energy, reflecting the state of the art and taking into account safety aspects.
- 3.6. **Temperatures**
- 3.6.1. Parts of appliances which are intended to be placed in close proximity to the floor or other surfaces must not reach temperatures which present a danger in the surrounding area.
- 3.6.2. The surface temperature of knobs and levers of appliances intended to be manipulated must not present a danger to the user.
- 3.6.3. The surface temperatures of external parts of appliances intended for domestic use, with the exception of surfaces or parts which are associated with the transmission of heat, must not under operating conditions present a danger to the user and in particular to children, for whom an appropriate reaction time must be taken into account.
- 3.7. **Foodstuffs and water used for sanitary purposes**  
Without prejudice to the Community rules in this area, materials and components used in the construction of an appliance, which may come into contact with food or water used for sanitary purposes, must not impair their quality.



## ANNEX II

## PROCEDURE FOR CERTIFICATION OF CONFORMITY

## 1. EC TYPE-EXAMINATION

- 1.1. The EC type-examination is that part of the procedure by which a notified body checks and certifies that an appliance, representative of the production envisaged, meets the provisions of this Directive which apply to it.
- 1.2. The application for type-examination must be lodged by the manufacturer or his authorized representative established within the Community with a single notified body.
- 1.2.1. The application must include:
- the name and address of the manufacturer and, if the application is lodged by the authorized representative, his name and address,
  - a written declaration that the application has not been lodged with any other notified body,
  - the design documentation, as described in Annex IV.
- 1.2.2. The manufacturer must place at the disposal of the notified body an appliance, representative of the production envisaged, hereinafter called 'type'. The notified body may request further samples of the type if needed for the test programme.
- The type may additionally cover variants of the product provided that those variants do not have different characteristics with respect to types of risk.
- 1.3. The notified body must:
- 1.3.1. examine the design documentation and verify that the type has been manufactured in conformity with the design documentation and identify the elements which have been designed in accordance with the applicable provisions of the standards referred to in Article 5 and the essential requirements of this Directive;
- 1.3.2. perform, or have performed, the appropriate examinations and/or tests to check whether the solutions adopted by the manufacturer meet the essential requirements where the standards referred to in Article 5 have not been applied;
- 1.3.3. perform, or have performed, the appropriate examinations and/or tests to check whether the applicable standards have effectively been applied where the manufacturer has chosen to do so, thereby assuring conformity with the essential requirements.
- 1.4. Where the type satisfies the provisions of this Directive, the notified body must issue an EC type-examination certificate to the applicant. The certificate must contain the conclusions of the examination, the conditions, if any, for its validity and the necessary data for identification of the approved type and, if relevant, descriptions of its functioning. Relevant technical elements such as drawings and diagrams must be annexed to the certificate.
- 1.5. The notified body must inform the other notified bodies forthwith of the issuing of the EC type-examination certificate and any additions to the said type as referred to in point 1.7. They may obtain a copy of the EC type-examination certificate and/or its additions and on a reasoned request may obtain a copy of the Annexes to the certificate and the reports on the examinations and tests carried out.
- 1.6. A notified body which refuses to issue or withdraws an EC type-examination certificate must inform the Member State which notified it and the other notified bodies accordingly, giving the reasons for its decision.
- 1.7. The applicant must keep the notified body that has issued the EC type-examination certificate informed of all modifications to the approved type which might affect conformity with the essential requirements.

Modifications to the approved type must receive additional approval from the notified body that issued the EC type-examination certificate where such changes affect conformity with the essential requirements or the prescribed conditions for use of the appliance. This additional approval is to be given in the form of an addition to the original EC type-examination certificate.

## 2. EC DECLARATION OF CONFORMITY TO TYPE

- 2.1. The EC declaration of conformity to type is that part of the procedure whereby the manufacturer declares that the appliances concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the essential requirements of this Directive which apply to them. The manufacturer must affix the EC mark on each appliance and draw up a written declaration of conformity. The declaration of conformity may cover one or more appliances and must be kept by the manufacturer. The EC mark must be accompanied by the identification symbol of the notified body responsible for the random checks set out in point 2.3.
- 2.2. The manufacturer must take all necessary measures to ensure that the manufacturing process, including final product inspection and testing, results in homogeneity of production and conformity of the appliances with the type as described in the EC type-examination certificate and with the requirements of this Directive which apply to them. A notified body, chosen by the manufacturer, must carry out random checks on the appliances as set out in point 2.3.
- 2.3. On-site checks of appliances must be undertaken at random by the notified body at intervals of one year or less. An adequate number of appliances must be examined and appropriate tests as set out in the applicable standards referred to in Article 5 or equivalent tests must be carried out in order to ensure conformity with the corresponding essential requirements of this Directive. The notified body shall in each case determine whether these tests need to be carried out in full or in part. Where one or more appliances are rejected, the notified body shall take the appropriate measures to prevent the marketing thereof.

## 3. EC DECLARATION OF CONFORMITY TO TYPE (guarantee of production quality)

- 3.1. The EC declaration of conformity to type (guarantee of production quality) is the procedure whereby a manufacturer who fulfils the obligations in point 3.2 declares that the appliances concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the essential requirements of this Directive which applies to them. The manufacturer must affix the EC mark to each appliance and draw up a written declaration of conformity. This declaration may cover one or more appliances and must be kept by the manufacturer. The EC mark must be accompanied by the identification symbol of the notified body responsible for EC surveillance.
- 3.2. The manufacturer shall apply a quality system that ensures conformity of the appliances with the type as described in the EC type-examination certificate and with the essential requirements of this Directive which apply to them. The manufacturer is subject to EC surveillance as specified in point 3.4.
- 3.3. **Quality system**
- 3.3.1. The manufacturer must lodge an application for approval of his quality system with a notified body of his choice for the appliances in question.
- The application must include:
- the quality system documentation,
  - an undertaking to carry out the obligations arising from the quality system as approved,
  - an undertaking to maintain the approved quality system to ensure its continuing suitability and effectiveness,
  - documentation relating to the approved type and a copy of the EC type-examination certificate.
- 3.3.2. All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and logical manner in the form of measures, procedures and written instructions. This quality system documentation must permit a uniform interpretation of the quality programmes, plans, manuals and records. It shall contain, in particular, an adequate description of:
- the quality objectives, the organizational structure and responsibilities of management and of their powers with regard to appliance quality,
  - the manufacturing processes, quality control and quality assurance techniques and systematic actions that will be used,

- the examinations and tests that will be carried out before, during and after manufacture and the frequency with which they will be carried out,
  - the method of monitoring attainment of the required appliance quality and the effective operation of the quality system.
- 3.3.3. The notified body shall examine and evaluate the quality system to determine whether it satisfies the requirements referred to in point 3.3.2. It will presume conformity with these requirements in respect of quality systems that implement the corresponding harmonized standard.
- It must notify its decision to the manufacturer and inform the other notified bodies thereof. The notification to the manufacturer must contain the conclusions of the examination, the name and address of the notified body and the reasoned assessment decision in respect of the appliances concerned.
- 3.3.4. The manufacturer must keep the notified body that has approved the quality system informed of any updating of the quality system in relation to changes brought about by, for example, new technologies and quality concepts.
- The notified body must examine the proposed modifications and decide whether the modified quality system complies with the relevant provisions or whether reappraisal is necessary. It must notify the manufacturer of its decision. The notification must include the conclusions of the inspection and the reasoned assessment decision.
- 3.3.5. A notified body that withdraws approval of a quality system must so inform the other notified bodies, giving the reasons for the decision.
- 3.4. EC surveillance
- 3.4.1. The purpose of EC surveillance is to ensure that the manufacturer duly fulfils the obligations arising out of the approved quality system.
- 3.4.2. The manufacturer must allow the notified body access for inspection purposes to the place of manufacture, inspection, testing and storage and must provide it with all necessary information, in particular:
- the quality system documentation,
  - the quality records, such as inspection reports and test data, calibration data, reports on qualifications of the staff concerned, etc.
- 3.4.3. The notified body must carry out a check at least once every two years to ensure that the manufacturer is maintaining and applying the approved quality system and must supply a report of the check to the manufacturer.
- 3.4.4. Furthermore, the notified body may make unannounced visits to the manufacturer. During these visits, the notified body may carry out tests on appliances or have them carried out. It must supply the manufacturer with an inspection report and, if appropriate, a test report.
- 3.4.5. The manufacturer may supply the notified body's report on request.
4. EC DECLARATION OF TYPE CONFORMITY (guarantee of product quality)
- 4.1. The EC declaration of type conformity (guarantee of product quality) is that part of the procedure whereby a manufacturer who fulfils the obligations in point 4.2 declares that the appliances concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the essential requirements of this Directive which apply to them. The manufacturer must affix the EC mark to each appliance and draw up a written declaration of conformity. This declaration may cover one or more appliances and must be kept by the manufacturer. The EC mark must be accompanied by the identification symbol of the notified body responsible for EC surveillance.
- 4.2. The manufacturer shall apply an approved quality system for the final inspection of the appliances and the tests, as specified in point 4.3, and is subject to EC surveillance as specified in point 4.4.
- 4.3. Quality system
- 4.3.1. Under this procedure, the manufacturer must lodge an application for approval of his quality system with a notified body of his choice for the appliances in question.
- The application must include:
- the quality system documentation,
  - an undertaking to carry out the obligations arising from the quality system as approved,

- an undertaking to maintain the approved quality system to ensure its continuing suitability and effectiveness,
- the documentation relating to the approved type and a copy of the EC type-examination certificate.

4.3.2. As part of the quality system, each appliance must be examined and appropriate tests as laid down in the applicable standard(s) referred to in Article 5 or equivalent tests carried out to check its conformity with the essential requirements relating to it in this Directive.

All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and logical manner in the form of measures, procedures and written instructions. This quality system documentation must permit a uniform interpretation of the quality programmes, plans, manuals and records.

The quality system documentation shall contain, in particular, an adequate description of:

- the quality objectives, the organizational structure and responsibilities of management and of their powers with regard to appliance quality,
- the checks and tests to be carried out after manufacture,
- the method of verifying the effective operation of the quality system.

4.3.3. The notified body shall examine and evaluate the quality system to determine whether it satisfies the requirements referred to in point 4.3.2. It will presume conformity with these requirements in respect of quality systems that implement the corresponding harmonized standard. It must notify the manufacturer of its decision and inform the other notified bodies thereof. The notification to the manufacturer must contain the conclusions of the examination, the name and address of the notified body and the reasoned assessment decision for the appliances concerned.

4.3.4. The manufacturer must keep the notified body which approved the quality system informed of any adaptation of the quality system made necessary, e.g. by new technology and quality concepts.

The notified body must examine the proposed changes and decide whether the amended quality system satisfies the relevant provisions or whether a reassessment is necessary. It must notify the manufacturer of its decision. The notification must contain the conclusions of the inspection and the reasoned assessment decision.

4.3.5. A notified body which withdraws approval of a quality system must inform the other notified bodies that it has done so and give reasons for its decision.

#### 4.4. EC surveillance

4.4.1. The purpose of EC surveillance is to ensure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

4.4.2. The manufacturer must allow the notified body access for inspection to the place of inspection, testing and storage and must provide it with all necessary information, in particular:

- the quality system documentation,
- the quality files such as inspection reports and test data, calibration data, report on qualifications of the staff concerned, etc.

4.4.3. The notified body must carry out a check at least once every two years to ensure that the manufacturer is maintaining and applying the approved quality system and must supply a report on the check to the manufacturer.

4.4.4. Furthermore, the notified body may make unannounced visits to the manufacturer. During these visits, the body may carry out tests on appliances or have them carried out. It must supply the manufacturer with an inspection report and, if appropriate, a test report.

4.4.5. The manufacturer may supply the notified body's report on request.

#### 5. EC VERIFICATION

5.1. EC verification is that part of the procedure whereby a notified body checks and certifies that the appliances are in conformity with the type as described in the EC type-approval certificate and satisfy the essential requirements of this Directive which apply to them.

5.2. EC verification may, at the choice of the manufacturer, be carried out by checking and testing each appliance as specified in point 5.3 or by checking and testing the appliance on a statistical basis as specified in point 5.4.

5.3. **Verification by checking and testing each appliance**

5.3.1. Each appliance must be examined and appropriate tests as defined in the relevant standards referred to in Article 5 or equivalent tests must be carried out in order to check its conformity with the relevant essential requirements of this Directive.

5.3.2. The notified body must affix the EC mark on each approved appliance and draw up a written certificate of conformity. The certificate may cover one or more appliances and is kept by the manufacturer. The EC mark must be accompanied by the identification symbol of the notified body.

5.4. **Statistical verification**

5.4.1. The manufacturer must submit his appliances in the form of homogeneous batches and take all necessary measures to ensure that the manufacturing process results in the homogeneity of each product batch.

5.4.2. Where appropriate, the manufacturer may affix the EC mark on each appliance during the manufacturing process. The EC mark must be accompanied by the identification symbol of the notified body responsible for the statistical verification.

5.4.3. Appliances must be subject to statistical control by attributes. They should be grouped into identifiable batches consisting of units of a single model which are manufactured under the same conditions. At random intervals a batch is examined. The appliances constituting a sample are examined individually and appropriate tests as laid down in the applicable standard(s) referred to in Article 5 or equivalent tests are carried out to determine whether the batch is to be accepted or rejected.

A sampling plan with the following operating characteristics is applied:

- a standard quality level corresponding to a 95 % probability of acceptance with a percentage of non-conformity between 0,5 and 1,5 %,
- a limit quality corresponding to a 5 % probability of acceptance with a percentage of non-conformity between 5 and 10 %.

5.4.4. If a batch is accepted, the notified body must draw up a written certificate of conformity which is kept by the manufacturer. All the appliances in the batch may be placed on the market, except those in the sample which have been identified as not conforming.

If a batch is rejected, the competent notified body must take the appropriate measures to prevent its being placed on the market. Should batches be rejected frequently, the notified body may suspend statistical verification.

6. **EC VERIFICATION BY UNIT**

6.1. EC verification by unit is the procedure whereby a notified body checks and certifies that an appliance is in conformity with the requirements of this Directive which apply to it. The notified body must affix the EC mark on the appliance and draw up a written certificate of conformity.

The certificate is kept by the manufacturer.

6.2. The design documentation referred to in Annex IV must be made available to the notified body.

6.3. The appliance must be examined and appropriate tests taking account of the design documentation carried out in order to ensure conformity of the appliance with the essential requirements of this Directive.

If deemed necessary by the notified body, the examinations and the appropriate tests may be carried out after installation of the appliance.

## ANNEX III

## EC MARK AND INSCRIPTIONS

1. The EC mark consists of the symbol CE as shown below, followed by the last two digits of the year in which the mark was affixed and the identification symbol of the notified body that has carried out the random checks, EC surveillance or EC verification.
2. The appliance or its data plate must bear the EC mark together with the following inscriptions:
  - the manufacturer's name or identification symbol,
  - the trade name of the appliance,
  - the type of electrical supply used, if applicable,
  - the appliance category.

Information needed for installation purposes may be added according to the nature of the appliance.

The image shows the CE mark in a large, bold, black font. The 'C' is a simple, thick, curved shape. The 'E' is also thick and stylized, with a horizontal bar across its middle. The two characters are positioned side-by-side with a small gap between them.

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**ANNEX IV****DESIGN DOCUMENTATION**

The design documentation must contain the following information, in so far as is required by the notified body for assessment:

- a general description of the appliance,
- conceptual designs and manufacturing drawings and diagrams of components, sub-assemblies, circuits, etc.,
- descriptions and explanations necessary for the understanding of the above, including the operation of the appliances,
- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements where the standards referred to in Article 5 have not been applied,
- test reports,
- manuals for installation and use.

Where appropriate, the design documentation must contain the following elements:

- attestations relating to the equipment incorporated in the appliance,
- attestations and certificates relating to the methods of manufacture and/or inspection and/or monitoring of the appliance,
- any other document making it possible for the notified body to improve its assessment.

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**ANNEX V****MINIMUM CRITERIA FOR ASSESSMENT OF NOTIFIED BODIES**

The notified bodies designated by the Member States must fulfil the following minimum conditions:

- availability of personnel and of the necessary means and equipment,
- technical competence and professional integrity of personnel,
- independence in carrying out tests, preparing reports, issuing certificates and performing the surveillance provided for in this Directive, of management and technical staff in relation to all circles, groups or persons directly or indirectly involved in the field of the appliances,
- maintenance of professional secrecy by staff,
- possession of civil liability insurance unless that liability is covered by the State under national law.

Fulfilment of the conditions in the first two indents must be periodically verified by the competent authorities of the Member States or by bodies designated by the Member States.

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