

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

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 and of the Council on classification, labelling and packaging of substances and mixtures

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers⁽¹⁾, and in particular Article 5 thereof,

Whereas:

- (1) Directive 75/324/EEC provides for the classification of aerosol dispensers as ‘non-flammable’, ‘flammable’ or ‘extremely flammable’, according to the classification criteria provided for in its Annex. Where an aerosol dispenser is classified as ‘flammable’ or ‘extremely flammable’, it must bear the flame symbol and the safety phrases S2 and S16 provided for in Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances⁽²⁾.
- (2) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures⁽³⁾ provides for the harmonisation of the classification and labelling of substances and mixtures within the Union. It incorporates at Union level the criteria for classification and labelling of substances and mixtures provided for by the Globally Harmonised System of Classification and Labelling of Chemicals which has been adopted at the international level, within the structure of the United Nations.
- (3) Regulation (EC) No 1272/2008 will repeal and replace Directive 67/548/EEC and Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations⁽⁴⁾ as from 1 June 2015. It is therefore necessary to adapt the labelling provisions of Directive 75/324/EEC to that Regulation.

- (4) In accordance with Regulation (EC) No 1272/2008, a distinction should be made between the date of applicability of national transposition provisions for aerosol dispensers containing a single substance and the date of applicability of national transposition provisions for aerosol dispensers containing mixtures. However, manufacturers of aerosol dispensers containing mixtures should be allowed to apply the labelling requirements of this Directive earlier, on a voluntary basis.
- (5) In accordance with Regulation (EC) No 1272/2008, and in order to avoid imposing unnecessary burdens on enterprises, a transitional period is provided for aerosol dispensers containing mixtures, labelled in accordance with the applicable provisions before 1 June 2015 and placed on the market until that date, allowing them their further marketing without relabelling.
- (6) The measures provided for in this Directive are in accordance with the opinion of the Committee on the Adaptation to Technical Progress of the Directive on aerosol dispensers,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 75/324/EEC

Directive 75/324/EEC is amended as follows:

- (1) in Article 8, paragraph 1 is amended as follows:
- (a) the introductory sentence is replaced by the following:
1. Without prejudice to Regulation (EC) No 1272/2008 of the European Parliament and of the Council⁽⁵⁾, 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;:
- (b) point (d) is replaced by the following:
- (d) the details referred to in point 2.2 of the Annex,;
- (2) the Annex is amended as follows:
- (a) in point 1, the following points 1.7a and 1.7b are inserted:
- 1.7a. **Substance**
- “Substance” means substance as defined in Article 2(7) of Regulation (EC) No 1272/2008.
- 1.7b. **Mixture**
- “Mixture” means mixture as defined in Article 2(8) of Regulation (EC) No 1272/2008;
- (b) in point 2, points 2.2 to 2.4 are replaced by the following:

2.2. Labelling

Without prejudice to Regulation (EC) No 1272/2008, each aerosol dispenser must visibly bear the following legible and indelible marking:

- (a) whatever its contents:
 - (i) the hazard statement H229: “Pressurised container: May burst if heated”;
 - (ii) the precautionary statements P210 and P251 provided for in Part 1, Table 6.2 of Annex IV to Regulation (EC) No 1272/2008;
 - (iii) the precautionary statement P410 + P412 provided for in Part 1, Table 6.4 of Annex IV to Regulation (EC) No 1272/2008;
 - (iv) the precautionary statement P102 provided for in Part 1, Table 6.1 of Annex IV to Regulation (EC) No 1272/2008, where the aerosol dispenser is a consumer product;
 - (v) any additional operating precautions which alert consumers to the specific dangers of the product; if the aerosol dispenser is accompanied by separate instructions for use, the latter must also reflect such operating precautions;
- (b) where the aerosol is classified as “non-flammable” according to the criteria of point 1.9, the signal word “Warning”;
- (c) where the aerosol is classified as “flammable” according to the criteria of point 1.9, the signal word “Warning” and the other label elements for “Flammable Aerosols Category 2” provided for in Table 2.3.2 of Annex I to Regulation (EC) No 1272/2008;
- (d) where the aerosol is classified as “extremely flammable” according to the criteria of point 1.9, the signal word “Danger” and the other label elements for “Flammable Aerosols Category 1” provided for in Table 2.3.2 of Annex I to Regulation (EC) No 1272/2008.

2.3. Volume of the liquid phase

The volume of the liquid phase at 50 °C must not exceed 90 % of the net capacity.

Article 2

Transitional provisions

1 By way of derogation from the third subparagraph of Article 3(1), aerosol dispensers containing mixtures may be labelled in accordance with Article 1 before 1 June 2015.

2 By way of derogation from the third subparagraph of Article 3(1), aerosol dispensers containing mixtures and placed on the market before 1 June 2015 are not required to be relabelled in accordance with Article 1 until 1 June 2017.

Article 3

Transposition

1 Member States shall adopt and publish, by 19 March 2014 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 19 June 2013 as regards aerosol dispensers containing a substance.

They shall apply those provisions from 1 June 2015 as regards aerosol dispensers containing mixtures.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 4

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Directive is addressed to the Member States.

Done at Brussels, 19 March 2013.

For the Commission

The President

José Manuel BARROSO

- (1) OJ L 147, 9.6.1975, p. 40.
- (2) OJ 196, 16.8.1967, p. 1.
- (3) OJ L 353, 31.12.2008, p. 1.
- (4) OJ L 200, 30.7.1999, p. 1.
- (5) OJ L 353, 31.12.2008, p. 1.?’;