

Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air-conditioning systems in motor vehicles and amending Council Directive 70/156/EEC (Text with EEA relevance)

DIRECTIVE 2006/40/EC OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL

of 17 May 2006

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>(2)</sup>, in the light of the joint text approved by the Conciliation Committee on 14 March 2006,

Whereas:

- (1) The internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital must be ensured, and to that end a Community type-approval system for motor vehicles is in place. The technical requirements for the type-approval of motor vehicles with regard to air-conditioning systems should be harmonised to avoid the adoption of requirements that differ from one Member State to another and to ensure the proper functioning of the internal market.
- (2) A growing number of Member States intend to regulate the use of air-conditioning systems in motor vehicles as a consequence of Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder<sup>(3)</sup>. The Decision commits the Community and its Member States to reduce their aggregate anthropogenic emissions of greenhouse gases listed in Annex A to the Kyoto Protocol by 8 % compared to 1990 levels in the period from 2008 to 2012. The uncoordinated implementation of these commitments carries the risk of creating barriers to the free movement of motor vehicles in the Community. Therefore it is appropriate to lay down the requirements to be fulfilled by air conditioning systems fitted to vehicles in order to be allowed on the market and to prohibit from a certain date air conditioning systems designed to contain fluorinated greenhouse gases with a global warming potential higher than 150.

- (3) Emissions of hydrofluorocarbon-134a (HFC-134a), which has a global warming potential of 1 300, from air-conditioning systems in motor vehicles are of growing concern because of their impact on climate change. Cost-effective and safe alternatives to hydrofluorocarbon#134a (HFC-134a) are expected to be available in the near future. A review should be carried out to establish, in the light of progress in potential containment of emissions from, or replacement of, fluorinated greenhouse gases in such systems, whether this Directive should be extended to other categories of motor vehicle and whether the provisions concerning the global warming potential of these gases should be amended, taking account of technological and scientific developments and the need to respect industrial product planning timescales.
- (4) In order to ensure that the prohibition of certain fluorinated greenhouse gases is effective, there is a need to limit the possibility of retrofitting motor vehicles with air-conditioning systems designed to contain fluorinated greenhouse gases with a global warming potential higher than 150 and to prohibit filling air-conditioning systems with such gases.
- (5) In order to limit the emissions of certain fluorinated greenhouse gases from air conditioning systems in motor vehicles it is necessary to establish limit values for leakage rates and the test procedure for the assessment of leakage in air conditioning systems designed to contain fluorinated greenhouse gases with a global warming potential higher than 150 which are fitted to motor vehicles.
- (6) In order to contribute to the fulfilment of the commitments of the Community and its Member States under the UN Framework Convention on Climate Change, the Kyoto Protocol and Decision 2002/358/EC, Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases<sup>(4)</sup> and this Directive, which both contribute to the reduction of emissions of fluorinated greenhouse gases, should be adopted and published in the *Official Journal of the European Union* simultaneously.
- (7) Any manufacturer of vehicles should make available to the approval authority all relevant technical information regarding the installed air-conditioning systems and the gases used in them. In the case of air conditioning systems designed to contain fluorinated greenhouse gases with a global warming potential higher than 150, the manufacturer should also make available the leakage rate of these systems.
- (8) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(5)</sup>.
- (9) This Directive is one of the separate directives of the EC type-approval procedure which was established by Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers<sup>(6)</sup>. Consequently, Directive 70/156/EEC should be amended accordingly.
- (10) Since the objectives of this Directive, namely to control the leakage of the specific fluorinated greenhouse gases in the air-conditioning systems fitted to vehicles and to

prohibit from a certain date air-conditioning systems designed to contain fluorinated greenhouse gases with a global warming potential higher than 150, cannot be sufficiently achieved by the Member States acting alone and can therefore, by reason of the scale and effects of this Directive, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

- (11) In accordance with paragraph 34 of the Interinstitutional Agreement on better law-making<sup>(7)</sup>, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables which will, as far as possible, illustrate the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

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*Status: This is the original version (as it was originally adopted).*

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- (1) [OJ C 108, 30.4.2004, p. 62.](#)
- (2) Opinion of the European Parliament of 31 March 2004 ([OJ C 103 E, 29.4.2004, p. 600](#)), Council Common Position of 21 June 2005 ([OJ C 183 E, 26.7.2005, p. 17](#)) and Position of the European Parliament of 26 October 2005 (not yet published in the Official Journal). Legislative Resolution of the European Parliament of 6 April 2006 and Council Decision of 25 April 2006.
- (3) [OJ L 130, 15.5.2002, p. 1.](#)
- (4) See page 1 of this *Official Journal*.
- (5) [OJ L 184, 17.7.1999, p. 23.](#)
- (6) [OJ L 42, 23.2.1970, p. 1.](#) Directive as last amended by Commission Directive 2006/28/EC ([OJ L 65, 7.3.2006, p. 27](#)).
- (7) [OJ C 321, 31.12.2003, p. 1.](#)