

Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (recast) (Text with EEA relevance)

DIRECTIVE 2009/125/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 21 October 2009

establishing a framework for the setting of
ecodesign requirements for energy-related products

(recast)

(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⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products⁽³⁾ has been substantially amended. Since further amendments, strictly limited to the extension of the scope of application of that Directive to include all energy-related products, are to be made, that Directive should be recast in the interests of clarity.
- (2) The disparities between the laws or administrative measures adopted by the Member States in relation to the ecodesign of energy-related products can create barriers to trade and distort competition in the Community and may thus have a direct impact on the establishment and functioning of the internal market. The harmonisation of national laws is the only means to prevent such barriers to trade and unfair competition. The extension of the scope to all energy-related products ensures that ecodesign requirements for all significant energy-related products can be harmonised at Community level.
- (3) Energy-related products account for a large proportion of the consumption of natural resources and energy in the Community. They also have a number of other important environmental impacts. For the vast majority of product categories available on the Community market, very different degrees of environmental impact can be noted though they provide similar functional performances. In the interest of sustainable development, continuous improvement in the overall environmental impact of those

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products should be encouraged, notably by identifying the major sources of negative environmental impacts and avoiding transfer of pollution, when this improvement does not entail excessive costs.

- (4) Many energy-related products have a significant potential for being improved in order to reduce environmental impacts and to achieve energy savings through better design which also leads to economic savings for businesses and end-users. In addition to products which use, generate, transfer, or measure energy, certain energy-related products, including products used in construction such as windows, insulation materials, or some water-using products such as shower heads or taps could also contribute to significant energy savings during use.
- (5) The ecodesign of products is a crucial factor in the Community strategy on Integrated Product Policy. As a preventive approach, designed to optimise the environmental performance of products, while maintaining their functional qualities, it provides genuine new opportunities for manufacturers, consumers and society as a whole.
- (6) Energy efficiency improvement — with one of the available options being more efficient end use of electricity — is regarded as contributing substantially to the achievement of greenhouse gas emission targets in the Community. Electricity demand is the fastest growing energy end use category and is projected to grow within the next 20 to 30 years in the absence of any policy action to counteract this trend. A significant reduction in energy consumption as suggested by the Commission in its European Climate Change Programme (ECCP) is possible. Climate change is one of the priorities of the Sixth Community Environment Action Programme, laid down by Decision No 1600/2002/EC of the European Parliament and of the Council⁽⁴⁾. Energy saving is the most cost-effective way to increase security of supply and reduce import dependency. Therefore, substantial demand-side measures and targets should be adopted.
- (7) Action should be taken during the design phase of energy-related products, since it appears that the pollution caused during a product's life cycle is determined at that stage, and most of the costs involved are committed then.
- (8) A coherent framework for the application of Community ecodesign requirements for energy-related products should be established with the aim of ensuring the free movement of those products which comply with such requirements and of improving their overall environmental impact. Such Community requirements should respect the principles of fair competition and international trade.
- (9) Ecodesign requirements should be set taking account of the goals and priorities of the Sixth Community Environment Action Programme, including, as appropriate, applicable goals of the relevant thematic strategies of that Programme.
- (10) This Directive seeks to achieve a high level of protection for the environment by reducing the potential environmental impact of energy-related products, which will ultimately be beneficial to consumers and other end-users. Sustainable development also requires proper consideration of the health, social and economic impact of the measures envisaged. Improving the energy and resource efficiency of products contributes to the security of the energy supply and to the reduction of the demand on

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natural resources, which are preconditions of sound economic activity and therefore of sustainable development.

- (11) A Member State that deems it necessary to maintain national provisions on grounds of overriding needs relating to the protection of the environment, or to introduce new provisions based on new scientific evidence relating to the protection of the environment on grounds of a problem specific to that Member State that arises after the adoption of the applicable implementing measure, may do so under the conditions laid down in Article 95(4), (5) and (6) of the Treaty, which provides for prior notification to, and approval from, the Commission.
- (12) In order to maximise the environmental benefits from improved design, it may be necessary to inform consumers about the environmental characteristics and performance of energy-related products and to advise them on how to use products in a manner which is environmentally friendly.
- (13) The approach set out in the Commission's Communication of 18 June 2003 entitled 'Integrated Product Policy — Building on Environmental Life-Cycle Thinking', which is a major innovative element of the Sixth Community Environment Action Programme, aims to reduce the environmental impacts of products across the whole of their life cycle, including in the selection and use of raw materials, in manufacturing, packaging, transport and distribution, installation and maintenance, use and end-of-life. Considering at the design stage a product's environmental impact throughout its whole life cycle has a high potential to facilitate improved environmental performance in a cost-effective way, including in terms of resource and material efficiency, and thereby to contribute to achieving the objectives of the Thematic Strategy on the Sustainable Use of Natural Resources. There should be sufficient flexibility to enable this factor to be integrated in product design whilst taking account of technical, functional and economic considerations.
- (14) Although a comprehensive approach to environmental performance is desirable, greenhouse gas mitigation through increased energy efficiency should be considered a priority environmental goal pending the adoption of a working plan.
- (15) It may be necessary and justified to establish specific quantified ecodesign requirements for some products or environmental aspects thereof in order to ensure that their environmental impact is minimised. Given the urgent need to contribute to the achievement of the commitments in the framework of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, and without prejudice to the integrated approach promoted in this Directive, some priority should be given to those measures with a high potential for reducing greenhouse gas emissions at low cost. Such measures can also contribute to a sustainable use of resources and constitute a major contribution to the 10-year framework of programmes on sustainable production and consumption agreed at the World Summit on Sustainable Development in Johannesburg from 26 August to 4 September 2002.
- (16) As a general principle and where appropriate, the energy consumption of energy-related products in stand-by or off-mode should be reduced to the minimum necessary for their proper functioning.

- (17) While the best-performing products or technologies available on the market, including on international markets, should be taken as a reference, the level of ecodesign requirements should be established on the basis of technical, economic and environmental analysis. Flexibility in the method for establishing the level of requirements can make swift improvement of environmental performance easier. Interested parties should be consulted and cooperate actively in this analysis. The setting of mandatory measures requires proper consultation of the parties involved. Such consultation may highlight the need for a phased introduction or transitional measures. The introduction of interim targets increases the predictability of the policy, allows for accommodating product development cycles and facilitates long-term planning for interested parties.
- (18) Priority should be given to alternative courses of action such as self-regulation by the industry where such action is likely to deliver the policy objectives faster or in a less costly manner than mandatory requirements. Legislative measures may be needed where market forces fail to evolve in the right direction or at an acceptable speed.
- (19) Self-regulation, including voluntary agreements offered as unilateral commitments by industry, can enable quick progress due to rapid and cost-effective implementation, and allows for flexible and appropriate adaptations to technological options and market sensitivities.
- (20) For the assessment of voluntary agreements or other self-regulation measures presented as alternatives to implementing measures, information on at least the following issues should be available: openness of participation, added value, representativeness, quantified and staged objectives, involvement of civil society, monitoring and reporting, cost-effectiveness of administering a self-regulatory initiative and sustainability.
- (21) The Commission's Communication of 17 February 2002, entitled 'Environmental Agreements at Community level within the Framework of the Action Plan on the Simplification and Improvement of the Regulatory Environment', could provide useful guidance when assessing self-regulation by industry in the context of this Directive.
- (22) This Directive should also encourage the integration of ecodesign in small and medium-sized enterprises (SMEs) and very small firms. Such integration could be facilitated by wide availability of, and easy access to, information relating to the sustainability of their products.
- (23) Energy-related products that comply with the ecodesign requirements laid down in implementing measures to this Directive should bear the 'CE' marking and associated information, in order to enable them to be placed on the internal market and move freely. The rigorous enforcement of implementing measures is necessary to reduce the environmental impact of regulated energy-related products and to ensure fair competition.
- (24) When preparing implementing measures and the working plan, the Commission should consult Member States' representatives as well as interested parties concerned with the product group, such as industry, including SMEs and craft industry, trade

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- unions, traders, retailers, importers, environmental protection groups and consumer organisations.
- (25) When preparing implementing measures, the Commission should also take due account of existing national environmental legislation, in particular that concerning toxic substances, which Member States have indicated should be preserved, without reducing the existing and justified levels of protection in the Member States.
- (26) Regard should be given to the modules and rules intended for use in technical harmonisation Directives set out in Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products⁽⁵⁾.
- (27) Surveillance authorities should exchange information on the measures envisaged within the scope of this Directive with a view to improving surveillance of the market, having regard to Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products⁽⁶⁾. Such cooperation should make the utmost use of electronic means of communication and relevant Community programmes. The exchange of information on environmental life cycle performance and on the achievements of design solutions should be facilitated. The accumulation and dissemination of the body of knowledge generated by the ecodesign efforts of manufacturers is one of the crucial benefits of this Directive.
- (28) A competent body is usually a public or private body, designated by the public authorities, that presents the necessary guarantees for impartiality and availability of technical expertise for carrying out a verification of the product with regard to its compliance with the applicable implementing measures.
- (29) Noting the importance of avoiding non-compliance, Member States should ensure that the necessary means are available for effective market surveillance.
- (30) In respect of training and information on ecodesign for SMEs, it may be appropriate to consider accompanying activities.
- (31) It is in the interest of the functioning of the internal market to have standards which have been harmonised at Community level. Once the reference to such a standard has been published in the *Official Journal of the European Union*, compliance with it should raise a presumption of conformity with the corresponding requirements set out in the implementing measure adopted on the basis of this Directive, although other means of demonstrating such conformity should be permitted.
- (32) One of the main roles of harmonised standards should be to help manufacturers in applying the implementing measures adopted under this Directive. Such standards could be essential in establishing measuring and testing methods. In the case of generic ecodesign requirements, harmonised standards could contribute considerably to guiding manufacturers in establishing the ecological profile of their products in accordance with the requirements of the applicable implementing measure. These standards should clearly indicate the relationship between their clauses and the requirements dealt with.

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The purpose of harmonised standards should not be to fix limits for environmental aspects.

- (33) For the purpose of the definitions used in this Directive it is useful to refer to relevant international standards such as ISO 14040.
- (34) This Directive is in accordance with certain principles for the implementation of the new approach as set out in the Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards⁽⁷⁾ and of making reference to harmonised European standards. The Council Resolution of 28 October 1999 on the role of standardisation in Europe⁽⁸⁾ recommends that the Commission examine whether the New Approach principle could be extended to sectors not yet covered as a means of improving and simplifying legislation wherever possible.
- (35) This Directive is complementary to existing Community instruments such as Council Directive 92/75/EEC of 22 September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances⁽⁹⁾, Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme⁽¹⁰⁾, Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)⁽¹¹⁾, Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment⁽¹²⁾, Directive 2006/121/EC of the European Parliament and of the Council of 18 December 2006 amending Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances in order to adapt it to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency⁽¹³⁾ and Regulation (EC) No 106/2008 of the European Parliament and of the Council of 15 January 2008 on a Community energy-efficiency labelling programme for office equipment⁽¹⁴⁾. Synergies between this Directive and the existing Community instruments should contribute to increasing their respective impacts and building coherent requirements for manufacturers to apply.
- [^{F1}(35a) Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings⁽¹⁵⁾ requires Member States to set energy performance requirements for building elements that form part of the building envelope and system requirements in respect of the overall energy performance, the proper installation, and the appropriate dimensioning, adjustment and control of the technical building systems which are installed in existing buildings. It is consistent with the objectives of this Directive that these requirements may in certain circumstances limit the installation of energy-related products which comply with this Directive and its implementing measures, provided that such requirements do not constitute an unjustifiable market barrier.]
- (36) 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⁽¹⁶⁾.

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- (37) In particular, the Commission should be empowered to amend or repeal Council Directive 92/42/EEC⁽¹⁷⁾, and Directives 96/57/EC⁽¹⁸⁾ and 2000/55/EC⁽¹⁹⁾ of the European Parliament and of the Council. Such amendment or repeal must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (38) In addition, the Commission should be empowered to adopt implementing measures laying down ecodesign requirements for defined energy-related products, including the introduction of implementing measures during the transitional period, and including where appropriate provisions on the balancing of the various environmental aspects. Since those measures are of general scope and are designed to amend non-essential elements of this Directive by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (39) The Commission should, on the basis of the experience gained from applying this Directive, Directive 2005/32/EC and implementing measures, review the operation, methods and effectiveness of this Directive and assess the appropriateness of extending its scope beyond energy-related products. Within that review, the Commission should consult Member States' representatives as well as concerned interested parties.
- (40) Member States should determine the penalties to be applied in the event of infringements of the national provisions adopted pursuant to this Directive. Those penalties should be effective, proportionate and dissuasive.
- (41) Since the objective of this Directive, namely to ensure the functioning of the internal market by requiring products to reach an adequate level of environmental performance, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, 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 that objective.
- (42) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with Directive 2005/32/EC. The obligation to transpose the provisions which are unchanged arises under Directive 2005/32/EC.
- (43) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex IX, Part B.
- (44) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽²⁰⁾, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables, illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

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Textual Amendments

- F1** Inserted by [Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC \(Text with EEA relevance\)](#).

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- (1) OJ C 100, 30.4.2009, p. 120.
- (2) Opinion of the European Parliament of 24 April 2009 (not yet published in the Official Journal) and Council Decision of 24 September 2009.
- (3) OJ L 191, 22.7.2005, p. 29.
- (4) OJ L 242, 10.9.2002, p. 1.
- (5) OJ L 218, 13.8.2008, p. 82.
- (6) OJ L 218, 13.8.2008, p. 30.
- (7) OJ C 136, 4.6.1985, p. 1.
- (8) OJ C 141, 19.5.2000, p. 1.
- (9) OJ L 297, 13.10.1992, p. 16.
- (10) OJ L 237, 21.9.2000, p. 1.
- (11) OJ L 37, 13.2.2003, p. 24.
- (12) OJ L 37, 13.2.2003, p. 19.
- (13) OJ L 396, 30.12.2006, p. 1.
- (14) OJ L 39, 13.2.2008, p. 1.
- (15) [^{F1}OJ L 153, 18.6.2010, p. 13.]
- (16) OJ L 184, 17.7.1999, p. 23.
- (17) OJ L 167, 22.6.1992, p. 17.
- (18) OJ L 236, 18.9.1996, p. 36.
- (19) OJ L 279, 1.11.2000, p. 33.
- (20) OJ C 321, 31.12.2003, p. 1.

Textual Amendments

- F1** Inserted by Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (Text with EEA relevance).