

Directive 2014/28/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses (recast) (Text with EEA relevance)

CHAPTER 2

OBLIGATIONS OF ECONOMIC OPERATORS

Article 5

Obligations of manufacturers

1 When placing their explosives on the market or when using them for their own purposes, manufacturers shall ensure that they have been designed and manufactured in accordance with the essential safety requirements set out in Annex II.

2 Manufacturers shall draw up the technical documentation referred to in Annex III and have the relevant conformity assessment procedure referred to in Article 20 carried out.

Where compliance of an explosive with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up an EU declaration of conformity and affix the CE marking.

3 Manufacturers shall keep the technical documentation and the EU declaration of conformity for 10 years after the explosive has been placed on the market.

4 Manufacturers shall ensure that procedures are in place for series production to remain in conformity with this Directive. Changes in design or characteristics of the explosive and changes in the harmonised standards or in other technical specifications by reference to which conformity of an explosive is declared shall be adequately taken into account.

5 Manufacturers shall ensure that explosives which they have placed on the market bear a unique identification in accordance with the system for the identification and traceability of explosives set out in Article 15. For explosives excluded from that system, manufacturers shall:

- a ensure that explosives which they have placed on the market bear a type, batch or serial number or other element allowing their identification, or, where the small size, shape or design of the explosive does not allow it, that the required information is provided on its packaging or in a document accompanying the explosive;
- b indicate on the explosive their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the explosive. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by end-users and market surveillance authorities.

6 Manufacturers shall ensure that explosives which they have placed on the market are accompanied by instructions and safety information in a language which can be easily understood by end-users, as determined by the Member State concerned. Such instructions and safety information, as well as any labelling, shall be clear, understandable and intelligible.

7 Manufacturers who consider or have reason to believe that an explosive which they have placed on the market is not in conformity with this Directive shall immediately take

the corrective measures necessary to bring that explosive into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the explosive presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the explosive available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

8 Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of the explosive with this Directive, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by explosives which they have placed on the market.

Article 6

Authorised representatives

1 A manufacturer may, by a written mandate, appoint an authorised representative.

The obligations laid down in Article 5(1) and the obligation to draw up technical documentation referred to in Article 5(2) shall not form part of the authorised representative's mandate.

2 An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:

- a keep the EU declaration of conformity and the technical documentation at the disposal of national market surveillance authorities for 10 years after the explosive has been placed on the market;
- b further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of an explosive;
- c cooperate with the competent national authorities, at their request, on any action taken to eliminate the risks posed by explosives covered by the authorised representative's mandate.

Article 7

Obligations of importers

1 Importers shall place only compliant explosives on the market.

2 Before placing an explosive on the market importers shall ensure that the appropriate conformity assessment procedure referred to in Article 20 has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation, that the explosive bears the CE marking and is accompanied by the required documents, and that the manufacturer has complied with the requirements set out in Article 5(5).

Where an importer considers or has reason to believe that an explosive is not in conformity with the essential safety requirements set out in Annex II, he shall not place the explosive on the market until it has been brought into conformity. Furthermore, where the explosive presents a risk, the importer shall inform the manufacturer and the market surveillance authorities to that effect.

3 Importers shall indicate, on the explosive, their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the explosive. The contact details shall be in a language easily understood by end-users and market surveillance authorities.

4 Importers shall ensure that the explosive is accompanied by instructions and safety information in a language which can be easily understood by end-users, as determined by the Member State concerned.

5 Importers shall ensure that, while an explosive is under their responsibility, its storage or transport conditions do not jeopardise its compliance with the essential safety requirements set out in Annex II.

6 Importers who consider or have reason to believe that an explosive which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring that explosive into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the explosive presents a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the explosive available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

7 Importers shall, for 10 years after the explosive has been placed on the market, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.

8 Importers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of an explosive in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by explosives which they have placed on the market.

Article 8

Obligations of distributors

1 When making an explosive available on the market distributors shall act with due care in relation to the requirements of this Directive.

2 Before making an explosive available on the market distributors shall verify that the explosive bears the CE marking, that it is accompanied by the required documents and by instructions and safety information in a language which can be easily understood by end-users in the Member State in which the explosive is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 5(5) and Article 7(3) respectively.

Where a distributor considers or has reason to believe that an explosive is not in conformity with the essential safety requirements set out in Annex II, he shall not make the explosive available on the market until it has been brought into conformity. Furthermore, where the explosive presents a risk, the distributor shall inform the manufacturer or the importer to that effect as well as the market surveillance authorities.

3 Distributors shall ensure that, while an explosive is under their responsibility, its storage or transport conditions do not jeopardise its compliance with the essential safety requirements set out in Annex II.

4 Distributors who consider or have reason to believe that an explosive which they have made available on the market is not in conformity with this Directive shall make sure that the corrective measures necessary to bring that explosive into conformity, to withdraw it or recall it, if appropriate, are taken. Furthermore, where the explosive presents a risk, distributors shall immediately inform the competent national authorities of the Member States in which they made the explosive available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

5 Distributors shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of an explosive. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by explosives which they have made available on the market.

Article 9

Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Directive and he shall be subject to the obligations of the manufacturer under Article 5, where he places an explosive on the market under his name or trade mark or modifies an explosive already placed on the market in such a way that compliance with this Directive may be affected.

Article 10

Identification of economic operators

For explosives not covered by the system set out in Article 15, economic operators shall, on request, identify the following to the market surveillance authorities:

- (a) any economic operator who has supplied them with an explosive;
- (b) any economic operator to whom they have supplied an explosive.

Economic operators shall be able to present the information referred to in the first paragraph for 10 years after they have been supplied with the explosive and for 10 years after they have supplied the explosive.