

Directive 2014/35/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 of electrical equipment designed for use within certain voltage limits (recast) (Text with EEA relevance)

DIRECTIVE 2014/35/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 of electrical
equipment designed for use within certain voltage limits

(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) A number of amendments are to be made to Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits⁽³⁾. In the interests of clarity, that Directive should be recast.
- (2) 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⁽⁴⁾ lays down rules on the accreditation of conformity assessment bodies, provides a framework for the market surveillance of products and for controls on products from third countries, and lays down the general principles of the CE marking.
- (3) 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⁾ lays down common principles and reference provisions intended to apply across sectoral legislation in order to provide a coherent basis for revision or recasts of that legislation. Directive 2006/95/EC should therefore be adapted to that Decision.

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- (4) This Directive covers electrical equipment designed for use within certain voltage limits which is new to the Union market when it is placed on the market; that is to say it is either new electrical equipment made by a manufacturer established in the Union or electrical equipment, whether new or second-hand, imported from a third country.
- (5) This Directive should apply to all forms of supply, including distance selling.
- (6) Economic operators should be responsible for the compliance of electrical equipment with this Directive, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as health and safety of persons, of domestic animals and property, and to guarantee fair competition on the Union market.
- (7) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market electrical equipment which is in conformity with this Directive. It is necessary to provide for a clear and proportionate distribution of obligations which correspond to the role of each economic operator in the supply and distribution chain.
- (8) In order to facilitate communication between economic operators, market surveillance authorities and consumers, Member States should encourage economic operators to include a website address in addition to the postal address.
- (9) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure. Conformity assessment should therefore remain solely the obligation of the manufacturer. There is no conformity assessment procedure in this Directive which requires the intervention of a notified body.
- (10) It is necessary to ensure that electrical equipment from third countries entering the Union market comply with this Directive, and in particular that appropriate conformity assessment procedures have been carried out by manufacturers with regard to that electrical equipment. Provision should therefore be made for importers to make sure that electrical equipment they place on the market comply with the requirements of this Directive and that they do not place on the market electrical equipment which does not comply with such requirements or present a risk. Provision should also be made for importers to make sure that conformity assessment procedures have been carried out and that marking of electrical equipment and documentation drawn up by manufacturers are available for inspection by the competent national authorities.
- (11) When placing electrical equipment on the market, every importer should indicate on the electrical equipment his name, registered trade name or registered trade mark and the postal address at which he can be contacted. Exceptions should be provided for in cases where the size or nature of the electrical equipment does not allow it. This includes cases where the importer would have to open the packaging to put his name and address on the electrical equipment.
- (12) The distributor makes electrical equipment available on the market after it has been placed on the market by the manufacturer or the importer and should act with due care to

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ensure that its handling of electrical equipment does not adversely affect the compliance of the electrical equipment.

- (13) Any economic operator that either places electrical equipment on the market under his own name or trade mark or modifies electrical equipment in such a way that compliance with this Directive may be affected should be considered to be the manufacturer and should assume the obligations of the manufacturer.
- (14) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by the competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the electrical equipment concerned.
- (15) Ensuring traceability of electrical equipment throughout the whole supply chain helps to make market surveillance simpler and more efficient. An efficient traceability system facilitates market surveillance authorities' task of tracing economic operators who made non-compliant electrical equipment available on the market. When keeping the information required under this Directive for the identification of other economic operators, economic operators should not be required to update such information in respect of other economic operators who have either supplied them with electrical equipment or to whom they have supplied electrical equipment.
- (16) This Directive should be limited to the expression of the safety objectives. In order to facilitate conformity assessment with those objectives it is necessary to provide for a presumption of conformity for electrical equipment which is in conformity with harmonised standards that are adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European Standardisation⁽⁶⁾ for the purpose of expressing detailed technical specifications of those objectives.
- (17) Regulation (EU) No 1025/2012 provides for a procedure for objections to harmonised standards where those standards do not entirely satisfy the safety objectives set out in this Directive.
- (18) The harmonised standards relevant to this Directive should also take into account the United Nations Convention on the Rights of Persons with Disabilities⁽⁷⁾.
- (19) The free movement of electrical equipment for which harmonised standards do not exist should be achieved by applying the safety provisions of the international standards laid down by the International Electrotechnical Commission or by applying national standards.
- (20) In order to enable economic operators to demonstrate and the competent authorities to ensure that electrical equipment made available on the market is in conformity with the safety objectives it is necessary to provide for conformity assessment procedures. Decision No 768/2008/EC establishes modules for conformity assessment procedures, which include procedures from the least to the most stringent, in proportion to the level of risk involved and the level of safety required. In order to ensure inter-sectoral coherence and to avoid ad-hoc variants, conformity assessment procedures should be chosen from among those modules.

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- (21) Manufacturers should draw up an EU declaration of conformity to provide information required under this Directive on the conformity of electrical equipment with this Directive and of other relevant Union harmonisation legislation.
- (22) To ensure effective access to information for market surveillance purposes, the information required to identify all applicable Union acts should be available in a single EU declaration of conformity. In order to reduce the administrative burden on economic operators, that single EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity.
- (23) The CE marking, indicating the conformity of electrical equipment, is the visible consequence of a whole process comprising conformity assessment in a broad sense. General principles governing the CE marking are set out in Regulation (EC) No 765/2008. Rules governing the affixing of the CE marking should be laid down in this Directive.
- (24) In order to ensure legal certainty, it is necessary to clarify that rules on Union market surveillance and control of products entering the Union market provided for in Regulation (EC) No 765/2008 apply to electrical equipment. This Directive should not prevent Member States from choosing the competent authorities to carry out those tasks.
- (25) Member States should take all appropriate measures to ensure that electrical equipment may be placed on the market only if, when properly stored and used for its intended purpose, or under conditions of use which can be reasonably foreseen, it does not endanger the health and safety of persons. Electrical equipment should be considered as non-compliant with the safety objectives laid down in this Directive only under conditions of use which can be reasonably foreseen, that is when such use could result from lawful and readily predictable human behaviour.
- (26) Directive 2006/95/EC already provides for a safeguard procedure which applies only in the event of disagreement between Member States over measures taken by a Member State. In order to increase transparency and to reduce processing time, it is necessary to improve the existing safeguard procedure, with a view to making it more efficient and drawing on the expertise available in Member States.
- (27) The existing system should be supplemented by a procedure under which interested parties are informed of measures intended to be taken with regard to electrical equipment presenting a risk to the health or safety of persons or domestic animals, or to property. It should also allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such electrical equipment.
- (28) Where the Member States and the Commission agree as to the justification of a measure taken by a Member State, no further involvement of the Commission should be required, except where non-compliance can be attributed to shortcomings of a harmonised standard.
- (29) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be

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exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁽⁸⁾.

- (30) The examination procedure should be used for the adoption of implementing acts with respect to compliant electrical equipment which presents a risk to the health or safety of persons or to other aspects of public interest protection.
- (31) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to compliant electrical equipment which presents a risk to the health or safety of persons, or to domestic animals or to property, imperative grounds of urgency so require.
- (32) In line with established practice, the committee set up by this Directive can play a useful role in examining matters concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure.
- (33) When matters relating to this Directive, other than its implementation or infringements, are being examined, i.e. in a Commission expert group, the European Parliament should in line with existing practice receive full information and documentation and, where appropriate, an invitation to attend such meetings.
- (34) The Commission should, by means of implementing acts and, given their special nature, acting without the application of Regulation (EU) No 182/2011, determine whether measures taken by Member States in respect of non-compliant electrical equipment are justified or not.
- (35) Member States should lay down rules on penalties applicable to infringements of provisions of national law adopted pursuant to this Directive and ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive.
- (36) It is necessary to provide for reasonable transitional arrangements that allow the making available on the market, without the need to comply with further product requirements, of electrical equipment which has already been placed on the market in accordance with Directive 2006/95/EC before the date of application of national measures transposing this Directive. Distributors should therefore be able to supply electrical equipment that has been placed on the market, namely stock that is already in the distribution chain, before the date of application of national measures transposing this Directive.
- (37) Since the objective of this Directive, namely to ensure that electrical equipment on the market fulfils the safety objectives providing for a high level of protection of health and safety of persons, and of domestic animals and property, while guaranteeing the functioning of the internal market cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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.

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- (38) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.
- (39) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and the dates of application of the Directives set out in Annex V,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 181, 21.6.2012, p. 105.](#)
- (2) Position of the European Parliament of 5 February 2014 (not yet published in the Official Journal) and decision of the Council of 20 February 2014.
- (3) [OJ L 374, 27.12.2006, p. 10.](#) Directive 2006/95/EC is the codification of Council Directive 73/23/EEC of 19 February 1973 on the harmonization of the laws of Member States relating to electrical equipment designed for use within certain voltage limits ([OJ L 77, 26.3.1973, p. 29](#)).
- (4) [OJ L 218, 13.8.2008, p. 30.](#)
- (5) [OJ L 218, 13.8.2008, p. 82.](#)
- (6) [OJ L 316, 14.11.2012, p. 12.](#)
- (7) Approved by Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities ([OJ L 23, 27.1.2010, p. 35](#)).
- (8) [OJ L 55, 28.2.2011, p. 13.](#)