

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 and repealing Regulation (EEC) No 339/93 (Text with EEA relevance)

## CHAPTER VI

### FINAL PROVISIONS

#### *Article 38*

##### **Technical guidelines**

In order to facilitate the implementation of this Regulation, the Commission shall draw up non-binding guidelines in consultation with stakeholders.

#### *Article 39*

##### **Transitional provision**

Accreditation certificates issued before 1 January 2010 may remain valid until the date of their expiry, but no later than 31 December 2014. This Regulation shall, however, apply in the case of their extension or renewal.

#### *Article 40*

##### **Review and reporting**

By 2 September 2013, the Commission shall submit to the European Parliament and to the Council a report on the application of this Regulation, of Directive 2001/95/EC and of any other relevant Community instrument addressing market surveillance. That report shall, in particular, analyse the consistency of Community rules in the field of market surveillance. If appropriate, it shall be accompanied by proposals to amend and/or consolidate the instruments concerned, in the interests of better regulation and simplification. It shall include an evaluation of the extension of the scope of Chapter III of this Regulation to all products.

By 1 January 2013, and every five years thereafter, the Commission, in cooperation with the Member States, shall produce and submit to the European Parliament and to the Council a report on the implementation of this Regulation.

#### *Article 41*

##### **Penalties**

The Member States shall lay down rules on penalties for economic operators, which may include criminal sanctions for serious infringements, applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure

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*Status: Point in time view as at 31/01/2020.*

*Changes to legislation: There are outstanding changes not yet made to Regulation (EC) No 765/2008 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive and may be increased if the relevant economic operator has previously committed a similar infringement of the provisions of this Regulation. The Member States shall notify the Commission of those provisions by 1 January 2010 and shall notify it without delay of any subsequent amendment affecting them.

#### *Article 42*

### **Amendment to Directive 2001/95/EC**

Article 8(3) of Directive 2001/95/EC shall be replaced by the following:

3. In the case of products posing a serious risk, the competent authorities shall with due dispatch take the appropriate measures referred to in paragraph 1(b) to (f). The existence of a serious risk shall be determined by the Member States, assessing each individual case on its merits and taking into account the guidelines referred to in point 8 of Annex II..

#### *Article 43*

### **Repeal**

Regulation (EEC) No 339/93 is hereby repealed with effect from 1 January 2010.

References to the repealed Regulation shall be construed as references to this Regulation.

#### *Article 44*

### **Entry into force**

This Regulation shall enter into force on the 20th day after its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2010.

**Status:**

Point in time view as at 31/01/2020.

**Changes to legislation:**

There are outstanding changes not yet made to Regulation (EC) No 765/2008 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.