

DIRECTIVES

COMMISSION DIRECTIVE (EU) 2016/2037

of 21 November 2016

amending Council Directive 75/324/EEC as regards the maximum allowable pressure of aerosol dispensers and to adapt its labelling provisions to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers ⁽¹⁾, and in particular Article 5 thereof,

Whereas:

- (1) Directive 75/324/EEC lays down rules for the placing on the market of aerosol dispensers. It harmonises the safety requirements for aerosol dispensers, including the requirements relating to the nominal capacities, filling and other pressure hazards and labelling requirements of aerosol dispensers falling within its scope and placed on the market under the provisions of that Directive.
- (2) Technical progress and innovation led in the recent years to the development of aerosol dispensers with innovative non-flammable propellants, mainly compressed gases as nitrogen, compressed air or carbon dioxide. However, the current maximum allowable pressure of aerosol dispensers provided for by Directive 75/324/EEC limits the development of aerosol dispensers with non-flammable propellants as it negatively affects the spray effectiveness of such aerosol dispensers throughout their lifetime. More particularly, the drop of pressure of such aerosol dispensers during their use results to a less efficient yield of contents and to a noticeable deterioration in their performance.
- (3) Commission Directive 2008/47/EC ⁽²⁾ increased the maximum allowable pressure of aerosol dispensers with a non-flammable propellant from 12 to 13,2 bar, which was at the time the maximum pressure limit allowing to guarantee safety. However, further technical progress and innovation makes possible a new adaptation of that limit without affecting the safety of those aerosol dispensers. It is therefore possible to allow a new increase in order to improve the delivery rate and the spray quality of such aerosol dispensers placed on the market, providing thus a wider and more effective choice to consumers.
- (4) The increase in the allowable pressure of aerosol dispensers with a non-flammable propellant would provide a wider choice for manufacturers and thus the possibility to use such aerosol dispensers for more applications. It would therefore allow to switch as far as possible from flammable to non-flammable propellants, improving thus the efficiency and the environmental performance of aerosol dispensers and guarantee at the same time the current safety levels provided for by Directive 75/324/EEC.
- (5) Regulation (EC) No 1272/2008 of the European Parliament and of the Council ⁽³⁾ provides for the harmonisation of the classification and labelling of substances and mixtures within the Union. Although the labelling provisions

⁽¹⁾ OJ L 147, 9.6.1975, p. 40.

⁽²⁾ Commission Directive 2008/47/EC of 8 April 2008 amending, for the purposes of adapting to technical progress, Council Directive 75/324/EEC on the approximation of the laws of the Member States relating to aerosol dispensers (OJ L 96, 9.4.2008, p. 15).

⁽³⁾ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures (OJ L 353, 31.12.2008, p. 1).

of Directive 75/324/EEC have already been aligned to that Regulation by Commission Directive 2013/10/EU ⁽¹⁾, a further adaptation is necessary so as to take into account the subsequent modifications provided for by Commission Regulation (EU) No 487/2013. ⁽²⁾ It is therefore appropriate to increase legal clarity and coherence with the labelling requirements of Regulation (EC) No 1272/2008 without however imposing any new obligations.

- (6) Directive 75/324/EEC should therefore be amended accordingly.
- (7) As the increase of the maximum allowable pressure of aerosol dispensers with non-flammable propellants would not result to any new obligations for manufacturers but it only provides for an additional option in case of use of non-flammable propellants, it is not necessary to provide for a transitional period.
- (8) It is necessary to ensure that the new legislation applies as from the same date for all Member States, independently of the date of transposition.
- (9) The measures provided for in this Directive are in accordance with the opinion of the Committee on the Adaptation to Technical Progress of the Directive on aerosol dispensers,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 75/324/EEC

The Annex to Directive 75/324/EEC is amended as follows:

- (a) Point 2.2 is replaced by the following:

'2.2. Labelling

Without prejudice to Regulation (EC) No 1272/2008, each aerosol dispenser must visibly bear the following legible and indelible marking:

- (a) where the aerosol is classified as 'non-flammable' according to the criteria of point 1.9, the signal word 'Warning' and the other label elements for Aerosols Category 3 provided for in Table 2.3.1 of Annex I to Regulation (EC) No 1272/2008;
- (b) where the aerosol is classified as 'flammable' according to the criteria of point 1.9, the signal word 'Warning' and the other label elements for Aerosols Category 2 provided for in Table 2.3.1 of Annex I to Regulation (EC) No 1272/2008;
- (c) where the aerosol is classified as 'extremely flammable' according to the criteria of point 1.9, the signal word 'Danger' and the other label elements for Aerosols Category 1 provided for in Table 2.3.1 of Annex I to Regulation (EC) No 1272/2008;
- (d) where the aerosol dispenser is a consumer product, the precautionary statement P102 provided for in Part 1, Table 6.1 of Annex IV to Regulation (EC) No 1272/2008;
- (e) any additional operating precautions which alert consumers to the specific dangers of the product; if the aerosol dispenser is accompanied by separate instructions for use, the latter must also reflect such operating precautions.'

⁽¹⁾ Commission Directive 2013/10/EU of 19 March 2013 amending Council Directive 75/324/EEC on the approximation of the laws of the Member States relating to aerosol dispensers in order to adapt its labelling provisions to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (OJ L 77, 20.3.2013, p. 20).

⁽²⁾ Commission Regulation (EU) No 487/2013 of 8 May 2013 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (OJ L 149, 1.6.2013, p. 1).

(b) Point 3.1.2 is replaced by the following:

‘3.1.2 The pressure at 50 °C in the aerosol dispenser must not exceed the values provided for in the following table, depending upon the content of gases in the aerosol dispenser:

Content of gases	Pressure at 50 °C
Liquefied gas or mixture of gases having a flammable range with air at 20 °C and a standard pressure of 1,013 bar	12 bar
Liquefied gas or mixture of gases not having a flammable range with air at 20 °C and a standard pressure of 1,013 bar	13,2 bar
Compressed gases or gases dissolved under pressure not having a flammable range with air at 20 °C and a standard pressure of 1,013 bar	15 bar’

Article 2

Transposition

1. Member States shall adopt and publish, by 12 December 2017 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 12 February 2018.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Directive is addressed to the Member States.

Done at Brussels, 21 November 2016.

For the Commission
The President
Jean-Claude JUNCKER