

DIRECTIVE 2008/28/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2005/32/EC establishing a framework for the setting of ecodesign requirements for energy-using products, as well as Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC, as regards the implementing powers conferred on the Commission

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down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁷⁾.

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

Having regard to the proposal from the Commission,

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

- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁸⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

After consulting the Committee of the Regions,

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

- (4) The statement comprises a list of instruments to be adjusted as a matter of urgency, including Directive 2005/32/EC. Adjusting that Directive necessitates adjusting Directives 92/42/EEC, 96/57/EC and 2000/55/EC.

Whereas:

- (1) Directive 2005/32/EC of the European Parliament and of the Council ⁽³⁾ and three directives which constitute implementing measures thereto within the meaning of Article 15 thereof, namely Council Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels ⁽⁴⁾, Directive 96/57/EC of the European Parliament and of the Council of 3 September 1996 on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof ⁽⁵⁾ and Directive 2000/55/EC of the European Parliament and of the Council of 18 September 2000 on energy efficiency requirements for ballasts for fluorescent lighting ⁽⁶⁾, stipulate that certain measures should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying

- (5) The Commission should be empowered to amend or repeal Directives 92/42/EEC, 96/57/EC and 2000/55/EC. 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.

- (6) In addition, the Commission should be empowered to adopt implementing measures laying down ecodesign requirements for defined energy-using 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 Directive 2005/32/EC by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 11 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 191, 22.7.2005, p. 29.

⁽⁴⁾ OJ L 167, 22.6.1992, p. 17. Directive as last amended by Directive 2005/32/EC.

⁽⁵⁾ OJ L 236, 18.9.1996, p. 36. Directive as amended by Directive 2005/32/EC.

⁽⁶⁾ OJ L 279, 1.11.2000, p. 33. Directive as amended by Directive 2005/32/EC.

⁽⁷⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁸⁾ OJ C 255, 21.10.2006, p. 1.

- (7) Directive 2005/32/EC and Directives 92/42/EEC, 96/57/EC and 2000/55/EC should therefore be amended accordingly.
- (8) Since the amendments made to Directive 2005/32/EC, as well as to Directives 92/42/EEC, 96/57/EC and 2000/55/EC, by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2005/32/EC

Directive 2005/32/EC is hereby amended as follows:

1. in Article 13, the following paragraph shall be inserted:

'1a. Guidelines covering specificities of SMEs active in the product sector affected may accompany an implementing measure. If necessary, and in accordance with paragraph 1, further specialised material may be produced by the Commission for facilitating implementation of this Directive by SMEs.;

2. Article 15 shall be amended as follows:

- (a) paragraph 1 shall be replaced by the following:

'1. When an EuP meets the criteria listed under paragraph 2, it shall be covered by an implementing measure or by a self-regulation measure in accordance with paragraph 3(b). Such implementing measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).;

- (b) paragraph 10 shall be replaced by the following:

'10. Where appropriate, an implementing measure laying down ecodesign requirements shall include provisions on the balancing of the various environmental aspects. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).;

3. Article 16(2) shall be amended as follows:

(a) in the introductory wording, the words 'the procedure laid down in Article 19(2) and' shall be deleted;

- (b) the following subparagraph shall be added:

'Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).;

4. Article 19(3) shall be replaced by the following:

'3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.'

Article 2

Amendment to Directive 92/42/EEC

In Article 10a of Directive 92/42/EEC, the words 'in accordance with Article 19(2) of Directive 2005/32/EC' shall be replaced by the words 'in accordance with Article 19(3) of Directive 2005/32/EC'.

Article 3

Amendment to Directive 96/57/EC

In Article 9a of Directive 96/57/EC, the words 'in accordance with Article 19(2) of Directive 2005/32/EC' shall be replaced by the words 'in accordance with Article 19(3) of Directive 2005/32/EC'.

Article 4

Amendment to Directive 2000/55/EC

In Article 9a of Directive 2000/55/EC, the words 'in accordance with Article 19(2) of Directive 2005/32/EC' shall be replaced by the words 'in accordance with Article 19(3) of Directive 2005/32/EC'.

Article 5

Entry into force

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

*Article 6***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ
