

DIRECTIVE 2008/12/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

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

After consulting the Committee of the Regions,

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

Whereas:

(1) Directive 2006/66/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(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.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ 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.

(4) The Commission should be empowered to adapt Annex III and to adopt and revise detailed rules for exports and for the labelling of batteries and accumulators. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2006/66/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 2006/66/EC should therefore be amended accordingly.

(6) Since the amendments made to Directive 2006/66/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

Directive 2006/66/EC is hereby amended as follows:

1. Article 10(4) shall be replaced by the following:

'4. Transitional arrangements may be laid down in accordance with the regulatory procedure referred to in Article 24(2) to address difficulties faced by a Member State in satisfying the requirements of paragraph 2 as a result of specific national circumstances.

⁽¹⁾ OJ C 175, 27.7.2007, p. 57.

⁽²⁾ Opinion of the European Parliament of 24 October 2007 (not yet published in the Official Journal) and Council Decision of 14 February 2008.

⁽³⁾ OJ L 266, 26.9.2006, p. 1.

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

A common methodology shall be established for the calculation of annual sales of portable batteries and accumulators to end-users by 26 September 2007. That measure, 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 24(3).';

2. the first sentence of Article 12(6) shall be replaced by the following:

'6. Annex III may be adapted or supplemented to take account of technical or scientific progress. Those measures, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 24(3).';

3. Article 15(3) shall be replaced by the following:

'3. Detailed rules for the implementation of this Article shall be laid down, in particular criteria for the assessment of equivalent conditions as referred to in paragraph 2. 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 24(3).';

4. Article 17 shall be replaced by the following:

'Article 17

Registration

Member States shall ensure that each producer is registered. Registration shall be subject to the same procedural requirements in each Member State. Such requirements for registration, designed to amend non-essential elements of this Directive by supplementing it, shall be established in accordance with the regulatory procedure with scrutiny referred to in Article 24(3).';

5. Article 21 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

'2. Member States shall ensure that the capacity of all portable and automotive batteries and accumulators is indicated on them in a visible, legible and indelible form by 26 September 2009. Detailed rules for the implementation of this requirement, including harmonised methods for the determination of capacity

and appropriate use, shall be laid down no later than 26 March 2009. 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 24(3).';

(b) paragraph 7 shall be replaced by the following:

'7. Exemptions from the labelling requirements of this Article may be granted. 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 24(3).';

6. Article 24(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

Entry into force

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

Article 3

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