

Appliances burning gaseous fuels

2014/0136(COD) - 09/03/2016 - Final act

PURPOSE: to update internal market rules applicable to gas appliances to ensure that appliances and their fittings respect requirements for a high level of protection of the health and safety of persons, domestic animals and property, as well as for sensible energy use.

LEGISLATIVE ACT: Regulation (EU) 2016/426 of the European Parliament and of the Council on appliances burning gaseous fuels and repealing Directive 2000/142/EC.

CONTENT: the new Regulation revises the provisions of Directive 2009/142/EC. It **covers appliances and fittings which are new to the Union market when they are placed on the market**; that is to say, they are either new appliances and fittings made by a manufacturer established in the Union or appliances and fittings, whether new or second-hand, imported from a third country.

Scope: the Regulation applies to domestic and non-domestic appliances intended for a number of specified applications and to fittings designed to be incorporated into such appliances. Typical appliances burning gaseous fuels include boilers, gas cookers/ovens/barbecues and patio heaters.

Appliances specifically designed for use on aircrafts and railways or for research purposes for temporary use in laboratories are excluded from the scope.

The Regulation does not prevent Member States from:

- **laying down rules concerning commissioning or periodic inspections of appliances** or other measures such as installer training or certification, in order to ensure the correct installation, use and maintenance of appliances, including precautionary safety measures;
- **laying down requirements** as they may deem necessary concerning installation aspects, space ventilation conditions and aspects relating to the safety of the building itself and its energy performance, provided that those requirements do not impose design requirements on appliances.
- adopting **measures with respect to the promotion of the use of energy from renewable sources** and to the energy efficiency of buildings, provided that such measures are compatible with the TFEU.

Obligations of economic operators (manufacturers, importers, distributors): all economic operators intervening in the supply and distribution chain must take appropriate measures to ensure that they make available on the market only appliances which are in conformity with the Regulation. In particular, **manufacturers** must ensure that appliances have been designed and manufactured in accordance with the applicable **essential health and safety requirements** set out in Annex I. They must particularly:

- **implement the conformity assessment procedures** established by the Regulation;
- **keep the technical documentation and the EU declaration of conformity** for 10 years after the appliance has been placed on the market;
- **carry out sample testing** of appliances made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming appliances and fittings and recalls of such appliances and fittings, and shall keep distributors informed of any such monitoring;
- ensure that their appliances and fittings bear **a type, batch or serial number** or other element allowing their identification;

- indicate on the appliance their **name, registered trade name or registered trade mark, and the postal address** at which they can be contacted or, where that is not possible, on the packaging or in a document accompanying the appliance;
- ensure that **instructions and safety information**, as well as any labelling, is clear, understandable, intelligible and legible;
- further to a reasoned request from a **competent national authority**, provide it with all the information and documentation necessary to demonstrate the conformity of the appliance with the Regulation, in a language which can be easily understood by that authority;
- immediately take the **corrective measures** necessary to bring the appliance into conformity, to withdraw it or recall it, if appropriate.

For their part, **importers** must make sure that the appliances and fittings they place on the market comply with the requirements and do not present a risk. They must also make sure that conformity assessment procedures have been carried out and that the CE marking and documentation drawn up by manufacturers are available for inspection by the competent national authorities.

CE marking: before the appliance is placed on the market, the CE marking shall be affixed **visibly, legibly and indelibly** to the appliance or to its data plate, or where that is not possible, it shall be affixed to the packaging and to the accompanying documents. The CE marking and the identification number may be followed by any other mark indicating a special risk or use. Member States shall take appropriate action in the event of **improper use** of that marking.

Notifying authorities: the Regulation sets requirements for notifying authorities responsible for conformity assessment bodies. These bodies must apply the conformity assessment procedures without creating unnecessary burdens for economic operators. Interested parties have the **right to appeal** against the result of a conformity assessment carried out by a notified body.

Market surveillance: in the context of aligning the legislation on subsystems and safety components with the new legislative framework for the marketing of products, and in order to ensure legal certainty, the rules on Union market surveillance and control of products entering the Union market provided for in [Regulation \(EC\) No 765/2008](#) apply to appliances and equipment referred to in the Regulation.

The new Regulation also contains provisions regarding procedures at national level for dealing with appliances or equipment presenting a risk, Union safeguard procedures, and compliant appliances which present a risk to health and safety.

Transitional provisions: Member States shall not impede the making available on the market of products which are in conformity with Directive 2009/9/EC and which were placed on the market before 21 April 2018.

ENTRY INTO FORCE: 20.4.2016.

APPLICATION: from 21.4.2018, with the exception of certain provisions that apply from 21.10.2016 or from 21.3.2018.

DELEGATED ACTS: the Commission may adopt delegated acts in respect of in respect of the content of the Member States' communications on the gas supply conditions on their territory. The power to adopt delegated acts shall be conferred on the Commission for a **period of 5 years (which may be tacitly extended) from 21 April 2018**. The European Parliament or the Council may raise objections to a delegated act within two months from the date of notification (which may be extended by two months). If the European Parliament or the Commission raise objections, the delegated act will not enter into force.