

# DIRECTIVES

## COMMISSION DIRECTIVE 2012/4/EU

of 22 February 2012

amending Directive 2008/43/EC setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses<sup>(1)</sup>, and in particular the second sentence of the second paragraph of Article 14 thereof,

Whereas:

(1) Fuses, including safety fuses as well as cap-type primers, are subject to Directive 93/15/EEC, but they are used for pyrotechnic rather than for explosive purposes. The potential effects of their misuse are likely to be similar to the effects of misuse of pyrotechnic articles which present a low level of hazard and therefore those effects are much less severe in comparison with the other types of explosives. For reasons of proportionality, fuses, including safety fuses as well as cap-type primers, should be exempted from the system for the identification and traceability of explosives for civil use.

(2) The development of the computerised systems needed to implement the system for the identification and traceability of explosives has taken longer than initially expected. A postponement of the application of Commission Directive 2008/43/EC<sup>(2)</sup> is necessary to provide the explosives industry with extra time to fully develop, test, validate and, thereby, to increase the security of the electronic systems required to implement Directive 2008/43/EC. In order to allow this, the obligation on manufacturers and importers to mark explosives should be postponed by 1 year to 5 April 2013. Additional time is necessary to have the requisite electronic tracking systems implemented by all actors along the supply chain. Furthermore, stocks of explosives with longer shelf-lives which were produced earlier and were not to be marked in accordance with Directive 2008/43/EC will still be in the supply chain and it is impractical to oblige companies to maintain

different types of records. The obligations on data collection and record keeping should therefore be postponed by 3 years to 5 April 2015.

(3) Certain articles are too small to affix the code of the manufacturing site and the electronically readable information. On certain other articles, affixing a unique identification is technically impossible due to their shape or design. In those cases, the required identification should be affixed on each smallest packaging unit. Future technical progress may make it possible to affix the code of the manufacturing site and the electronically readable information on those articles. The Commission should therefore carry out a review by the end of 2020 to assess whether the required information can be affixed on the articles themselves.

(4) Directive 2008/43/EC should therefore be amended accordingly.

(5) The measures provided for in this Directive are in accordance with the opinion of the Committee established by Article 13(1) of Directive 93/15/EC,

HAS ADOPTED THIS DIRECTIVE:

### Article 1

Directive 2008/43/EC is amended as follows:

(1) in Article 2, the following points (d), (e) and (f) are added:

(d) fuses, which are cord-like non-detonating igniting devices;

(e) safety fuses, which consist of a core of fine grained black powder surrounded by a flexible woven fabric with one or more protective outer coverings and which, when ignited, burn at a predetermined rate without any external explosive effect;

(f) cap-type primers, which consist of a metal or plastic cap containing a small amount of primary explosive mixture that is readily ignited by impact and which serve as igniting elements in small arms cartridges or in percussion primers for propelling charges.;

<sup>(1)</sup> OJ L 121, 15.5.1993, p. 20.

<sup>(2)</sup> OJ L 94, 5.4.2008, p. 8.

(2) Article 7 is replaced by the following:

*'Article 7*

**Plain detonators**

For plain detonators the unique identification shall consist of an adhesive label or direct printing or stamping on the detonator shell. An associated label shall be placed on each case of detonators.

In addition, undertakings may use a passive inert electronic tag attached to each detonator, and an associated tag for each case of detonators.;

(3) Articles 9 and 10 are replaced by the following:

*'Article 9*

**Primers and boosters**

For primers other than those referred to in Article 2 and for boosters the unique identification shall consist of an adhesive label or direct printing on such primers and boosters. An associated label shall be placed on each case of such primers and boosters.

In addition, undertakings may use a passive inert electronic tag attached to each such primer and booster, and an associated tag for each case of such primers and boosters.

*Article 10*

**Detonating cords**

For detonating cords the unique identification shall consist of an adhesive label or direct printing on the bobbin. The unique identification will be marked every 5 meters on either the external envelope of the cord or the plastic extruded inner layer immediately under the exterior fibre of the cord. An associated label shall be placed on each case of detonating cord.

In addition, undertakings may use a passive inert electronic tag inserted within the cord, and an associated tag for each case of cord.;

(4) the second subparagraph of Article 15(1) is replaced by the following:

'They shall apply those provisions from 5 April 2013. However, they shall apply the provisions necessary to comply with Article 3(6) and Articles 13 and 14 from 5 April 2015.;

(5) the following Article 15a is inserted:

*'Article 15a*

By 31 December 2020, the Commission shall carry out a review to assess whether technical progress has made it possible to revoke the exemptions set out in point 3 of the Annex.;

(6) in point 3 of the Annex, the following paragraphs are added:

'For articles too small to affix the information under point 1(b)(i) and (ii) and point 2 or where it is technically impossible due to their shape or design to affix a unique identification, a unique identification shall be affixed on each smallest packaging unit.

Each smallest packaging unit shall be closed with a seal.

Each plain detonator or booster falling under the exemption set out in the second paragraph shall be marked in a durable way so as to ensure that it is clearly legible with the information under point 1(b)(i) and (ii). The number of plain detonators and boosters contained shall be printed on the smallest packaging unit.

Each detonating cord falling under the exemption set out in the second paragraph shall be marked with the unique identification on the reel or spool and, where applicable, on the smallest packaging unit.'

*Article 2*

1. Member States shall adopt and publish, by 4 April 2012 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 and a correlation table between those provisions and this Directive.

They shall apply those provisions from 5 April 2013.

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*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 22 February 2012.

*For the Commission*

*The President*

José Manuel BARROSO

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