

COUNCIL

COUNCIL DIRECTIVE

of 19 February 1973

on the harmonization of the laws of Member States relating to
electrical equipment designed for use within certain voltage limits

(73/23/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the
European Economic Community, and in particular
Article 100 thereof;

Having regard to the proposal from the
Commission;

Having regard to the Opinion of the European
Parliament;

Having regard to the Opinion of the Economic and
Social Committee;

Whereas the provisions in force in the Member
States designed to ensure safety in the use of
electrical equipment used within certain voltage
limits may differ, thus impeding trade;

Whereas in certain Member States in respect of
certain electrical equipment, the safety legislation
takes the form of preventive and repressive
measures by means of binding provisions;

Whereas in other Member States in order to
achieve the same objective, the safety legislation
provides for reference to technical standards laid
down by Standards Bodies; whereas such a system
offers the advantage of rapid adjustment to
technical progress without neglecting safety
requirements;

Whereas certain Member States carry out
administrative operations to approve standards;
whereas such approval neither affects the technical
content of the standards in any way nor limits their
conditions of use; whereas such approval cannot
therefore alter the effects, from a Community point
of view, of harmonized and published standards;

Whereas within the Community the free movement
of electrical equipment should follow when this
equipment complies with certain safety
requirements recognized in all Member States;
whereas without prejudice to any other form of
proof, the proof of compliance with these

requirements may be established by reference to
harmonized standards which incorporate these
conditions; whereas these harmonized standards
should be established by common agreement by
bodies to be notified by each Member State to the
other Member States and to the Commission and
should be publicized as widely as possible;
whereas such harmonization should for the
purposes of trade eliminate the inconveniences,
resulting from differences between national
standards;

Whereas, without prejudice to any other form of
proof, the compliance of electrical equipment with
the harmonized standards may be presumed from the
affixing or issue of marks or certificates by the
competent organizations or, in the absence thereof,
from a manufacturer's declaration of compliance;
whereas in order to facilitate the removal of
barriers to trade the Member States should
recognize such marks or certificates or such
declaration as elements of proof; whereas, with his
end in view, the said marks or certificates should
be publicized in particular by their publication in
the Official Journal of the European Communities;

Whereas as a transitional measure, the free
movement of electrical equipment for which
harmonized standards do not yet exist may be
achieved by applying the safety provisions or
standards already laid down by other international
bodies or by one of the bodies which establish
harmonized standards;

Whereas it is possible that electrical equipment
may be placed in free circulation even though it
does not comply with the safety requirements, and
whereas it is therefore desirable to lay down
suitable provisions to minimize this danger;

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive 'electrical
equipment' means any equipment designed for use

with a voltage rating of between 50 and 1 000 v for alternating current and between 75 and 1 500 v for direct current, other than the equipment and phenomena listed in Annex II.

Article 2

1. The Member States shall take all appropriate measures to ensure that electrical equipment may be placed on the market only if, having been constructed in accordance with good engineering practice in safety matters in force in the Community, it does not endanger the safety of persons, domestic animals or property when properly installed and maintained and used in applications for which it was made.

2. The principal elements of the safety objectives referred to in paragraph 1 are listed in Annex I.

Article 3

The Member States shall take all appropriate measures to ensure that if electrical equipment is of such a nature as to comply with the provisions of Article 2, subject to the conditions laid down in Articles 5, 6, 7 and 8, the free movement thereof within the Community shall not be impeded for reasons of safety.

Article 4

In relation to electrical equipment the Member States shall ensure that stricter safety requirements than those laid down in Article 2 are not imposed by electricity supply bodies for connection to the grid, or for the supply of electricity to users of electrical equipment.

Article 5

The Member States shall take all appropriate measures to ensure that, in particular, electrical equipment which complies with the safety provisions of harmonized standards shall be regarded by their competent administrative authorities as complying with the provisions of Article 2, for the purposes of placing on the market and free movement as referred to in Articles 2 and 3 respectively.

Standards shall be regarded as harmonized once they are drawn up by common agreement between the bodies notified by the Member States in accordance with the procedure laid down in Article 11, and published under national procedures. The standards shall be kept up to date in the light of technological progress and the developments in good engineering practice in safety matters.

For purposes of information the list of harmonized standards and their references shall be published in the Official Journal of the European Communities.

Article 6

1. Where harmonized standards as defined in Article 5 have not yet been drawn up and published, the Member States shall take all appropriate measures to ensure that, for the purposes of placing on the market or free movement as referred to in Articles 2 and 3 respectively, their competent administrative authorities shall also regard, as complying with the provisions of Article 2, electrical equipment which complies with the safety provisions of the International Commission on the Rules for the Approval of Electrical Equipment (CEE) or of the International Electrotechnical Commission (IEC) in respect of which the publication procedure laid down in paragraphs 2 and 3 has been applied.

2. The safety provisions referred to in paragraph 1 shall be notified to the Member States by the Commission as from the entry into force of this Directive, and thereafter as and when they are published. The Commission, after consulting the Member States, shall state the provisions and in particular the variants which it recommends to be published.

3. The Member States shall inform the Commission within a period of three months of such objections as they may have to the provisions thus notified stating the safety grounds on account of which the provisions should not be recognized.

For purposes of information those safety provisions against which no objection has been raised shall be published in the Official Journal of the European Communities.

Article 7

Where harmonized standards within the meaning of Article 5 or safety provisions published in accordance with Article 6 are not yet in existence, the Member States shall take all appropriate measures to ensure that, for the purpose of placing on the market or free movement as referred to in Articles 2 and 3 respectively, their competent administrative authorities shall also regard as complying with the provisions of Article 2, electrical equipment manufactured in accordance with the safety provisions of the standards in force in the Member State of manufacture, if it ensures a safety level equivalent to that required in their own territory.

Article 8

1. The Member States shall take all appropriate steps to ensure that their competent administrative authorities shall also allow the placing on the market or free movement, as referred to in Articles 2 and 3 respectively, of electrical equipment which, although not conforming with the harmonized standards referred to in Article 5 or the provisions of Articles 6 and 7, complies with the provisions of Article 2.

2. In the event of a challenge the manufacturer of importer may submit a report, drawn up by a body, which is notified in accordance with the procedure set out in Article 11, on the conformity of the electrical equipment with the provisions of Article 2.

Article 9

1. If, for safety reasons, a Member State prohibits the placing on the market of any electrical equipment or impedes its free movement, it shall immediately inform the other Member States concerned and the Commission, indicating the grounds for its decision and stating in particular:

- whether its non-conformity with Article 2 is attributable to a shortcoming in the harmonized standards referred to in Article 5, the provisions referred to in Article 5, the provisions referred to in Article 6 or the standards referred to in Article 7;
- whether its non-conformity is attributable to faulty application of such standards or publications or to failure to comply with good engineering practice as referred to in Article 2.

2. If other Member States raise objections to the decision referred to in paragraph 1, the Commission shall immediately consult the Member States concerned.

3. If an agreement has not been reached within three months from the date of notification as laid down in paragraph 1, the Commission shall obtain the opinion of one of the bodies notified in accordance with the procedure laid down in Article 11 having its registered office outside the territory of the Member States concerned and which has not been involved in the procedure provided for in Article 8. The opinion shall state the extent to which the provisions of Article 2 have not been complied with.

4. The Commission shall communicate the opinion of this body to all the Member States which may, within a period of one month, make their observations known to the Commission. The Commission shall at the same time note any

observation by the parties concerned on the abovementioned opinion.

5. Having taken note of these observations the Commission shall, if necessary, formulate the appropriate recommendations or opinions.

Article 10

1. Without prejudice to other methods of proof, the Member States shall take all appropriate steps to ensure that their competent administrative authorities shall accept that there is a presumption of conformity with the provisions of Articles 5, 6 and 7 where a mark has been placed on the electrical equipment denoting conformity, or where a certificate of conformity is produced or, in the absence thereof, and in particular in the case of industrial equipment, the manufacturer's declaration of conformity.

2. The marks or certificates shall be established, separately or by common agreement, by the bodies notified in accordance with the procedure laid down in Article 11. Specimens of these marks or certificates shall be published by these bodies and, for information purposes in the Official Journal of the European Communities.

Article 11

Each Member State shall inform the other Member States and the Commission of the following:

- the bodies referred to in Article 5;
- the bodies which may establish the marks and certificates in accordance with the provisions of Article 10;
- the bodies which may make a report in accordance with the provisions of Article 8 or give an opinion in accordance with the provisions of Article 9;
- the place of publication referred to in Article 5(2);

Any amendment to the above shall be notified by each Member State to the other Member States and to the Commission.

Article 12

This Directive shall not apply to electrical equipment intended for export to third countries.

Article 13

1. The Member States shall put into force the laws, regulations and administrative provisions necessary to comply with the requirements of this Directive within eighteen months of its notification and shall forthwith inform the Commission thereof.

However, in the case of Denmark, the time limit shall be extended to five years.

2. The Member States shall communicate to the Commission the texts of the main provisions of

national laws which they adopt in the field covered by this Directive.

Article 14

This Directive is addressed to the Member States.
Done at Brussels, 19 February 1973.

For the Council
The President
A. Lavens

ANNEX I

PRINCIPAL ELEMENTS OF THE SAFETY OBJECTIVES FOR ELECTRICAL EQUIPMENT DESIGNED FOR USE WITH CERTAIN VOLTAGE LIMITS

1. General conditions

- a) The essential characteristics, the recognition and observance of which will ensure that electrical equipment will be used safely and in applications for which it was made, shall be marked on the equipment, or, if this is not possible, on an accompanying notice.
- b) The manufacturer or brand name or trade mark should be clearly printed on the electrical equipment or, where that is not possible, on the packaging.
- c) The electrical equipment, together with its component parts should be made in such a way as to ensure that it can be safely and properly assembled and connected.
- d) The electrical equipment should be so designed and manufactured as to ensure that protection against the hazards set out in points 2 and 3 of this Annex is assured providing that the equipment is used in applications for which it was made and is adequately maintained.

2. Protection against hazards arising from the electrical equipment

Measures of a technical nature should be prescribed in accordance with point 1, in order to ensure:

- a) that persons and domestic animals are adequately protected against danger of physical injury or other harm which might be caused by electrical contact direct or indirect;
- b) that temperatures, arcs or radiation which would cause a danger, are not produced;
- c) that persons, domestic animals and property are adequately protected against non-electrical dangers caused by the electrical equipment which are revealed by experience;
- d) that the insulation must be suitable for foreseeable conditions.

3. Protection against hazards which may be caused by external influences on the electrical equipment

Technical measures are to be laid down in accordance with point 1, in order to ensure:

- a) that the electrical equipment meets the expected mechanical requirements in such a way that persons, domestic animals and property are not endangered;
- b) that the electrical equipment shall be resistant to non-mechanical influences in expected environmental conditions, in such a way that persons, domestic animals and property are not endangered;
- c) that the electrical equipment shall not endanger persons, domestic animals and property in foreseeable conditions of overload.

ANNEX II

EQUIPMENT AND PHENOMENA OUTSIDE THE SCOPE OF THE DIRECTIVE

Electrical equipment for use in an explosive atmosphere

Electrical equipment for radiology and medical purposes

Electrical parts for goods and passenger lifts

Electricity meters

Plugs and socket outlets for domestic use

Electric fence controllers

Radio-electrical interference

Specialized electrical equipment, for use on ships, aircraft or railways, which complies with the safety provisions drawn up by international bodies in which the Member States participate.

Article 13

Directive 73/23/EEC is hereby amended as follows:

1. in the preamble the following two recitals are added to the end:

'Whereas Decision 90/683/EEC (*) establishes the modules for the various phases of the conformity assessment procedures which are intended to be used in the technical harmonization Directives;

Whereas the choice of procedures must not lead to a lowering of safety standards of electrical equipment, which have already been established throughout the Community,

(*) OJ No L 380, 31. 12. 1990, p. 13.;

2. in Article 8 the first paragraph is replaced by the following text:

'1. Before being placed on the market, the electrical equipment referred to in Article 1 must have affixed to it the CE marking provided for in Article 10 attesting to its conformity to the provisions of this Directive, including the conformity assessment procedure described in Annex IV.;

3. the following paragraph 3 is added to Article 8:

'3. (a) Where electrical equipment is subject to other Directives concerning other aspects which also provide for the affixing of the CE marking, the latter shall indicate that the equipment in question is also presumed to conform to the provisions of those other Directives.

(b) However, where one or more of these Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate conformity to the provisions only of those Directives applied by the manufacturer. In this case, particulars of the Directives applied, as published in the *Official Journal of the European Communities*, must be given in the documents, notices or instructions required by the Directives and accompanying the electrical equipment.;

4. Article 10 is replaced by the following text:

Article 10

1. The CE conformity marking referred to in Annex III shall be affixed by the manufacturer or his authorized representative established within the Community to the electrical equipment or, failing that, to the packaging, the introduction sheet or the guarantee certificate so as to be visible, easily legible and indelible.

2. The affixing on electrical equipment of any markings liable to deceive third parties as to the meaning and form of the CE marking shall be prohibited. However, any other marking may be affixed to the electrical equipment, its packaging, the instruction sheet or the guarantee certificate provided that the visibility and legibility of the CE marking is not thereby reduced.

3. Without prejudice to Article 9:

(a) where a Member State establishes that the CE marking has been affixed unduly, the manufacturer or his agent established within the Community market shall be obliged to make the electrical equipment comply as regards the provisions concerning the CE marking and to end the infringement under conditions imposed by the Member State;

(b) where non-compliance continues, the Member State must take all appropriate measures to restrict or prohibit the placing on the market of the electrical equipment in question or to ensure that it is withdrawn from the market in accordance with the procedure laid down in Article 9.;

5. in Article 11 the second indent is deleted;

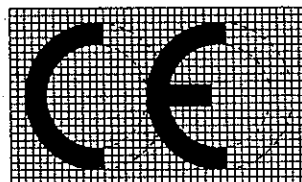
6. the following Annexes are added:

ANNEX III

CE CONFORMITY MARKING AND EC DECLARATION OF CONFORMITY

A. CE conformity marking

The CE conformity marking shall consist of the initials "CE" taking the following form:



— If the CE marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.

— The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5 mm.

B. EC declaration of conformity

The EC declaration of conformity must contain the following elements:

— name and address of the manufacturer or his authorized representative established within the Community,

- a description of the electrical equipment,
 - reference to the harmonized standards,
 - where appropriate, references to the specifications with which conformity is declared,
 - identification of the signatory who has been empowered to enter into commitments on behalf of the manufacturer or his authorized representative established within the Community,
 - the last two digits of the year in which the CE marking was affixed.
- results of design calculations made, examinations carried out, etc.
 - test reports.
4. The manufacturer or his authorized representative must keep a copy of the declaration of conformity with the technical documentation.
 5. The manufacturer must take all measures necessary in order that the manufacturing process shall ensure compliance of the manufactured products with the technical documentation referred to in point 2 and with the requirements of this Directive that apply to them.

ANNEX IV

INTERNAL PRODUCTION CONTROL

1. Internal production control is the procedure whereby the manufacturer or his authorized representative established within the Community, who carries out the obligations laid down in point 2, ensures and declares that the electrical equipment satisfies the requirements of this Directive that apply to it. The manufacturer or his authorized representative established within the Community must affix the CE marking to each product and draw up a written declaration of conformity.
2. The manufacturer must establish the technical documentation described in point 3 and he or his authorized representative established within the Community must keep it on Community territory at the disposal of the relevant national authorities for inspection purposes for a period ending at least 10 years after the last product has been manufactured.

Where neither the manufacturer nor his authorized representative is established within the Community, this obligation is the responsibility of the person who places the electrical equipment on the Community market.

3. Technical documentation must enable the conformity of the electrical equipment to the requirements of this Directive to be assessed. It must, as far as relevant for such assessment, cover the design, manufacture and operation of the electrical equipment. It must include:
 - a general description of the electrical equipment,
 - conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
 - descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the electrical equipment,
 - a list of the standards applied in full or in part, and descriptions of the solutions adopted to satisfy the safety aspects of this Directive where standards have not been applied,