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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	2 October 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2020) 6661 final
Subject:	COMMISSION DELEGATED DIRECTIVE (EU) .../... of 2.10.2020 amending the Annexes to Directive 2008/68/EC of the European Parliament and of the Council as regards adaptation to scientific and technical progress

Delegations will find attached document C(2020) 6661 final.

Encl.: C(2020) 6661 final



Brussels, 2.10.2020
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COMMISSION DELEGATED DIRECTIVE (EU) .../...

of 2.10.2020

amending the Annexes to Directive 2008/68/EC of the European Parliament and of the Council as regards adaptation to scientific and technical progress

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods¹ lays down common rules for the safe and secure transport of dangerous goods within and between EU countries by road, rail or inland waterway. It also covers aspects such as loading and unloading, the transfer to and from another mode of transport, as well as the stops in the course of the transport process. It extends the application of international rules to national transport of dangerous goods.

The international carriage of dangerous goods is regulated by: the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR); the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID), which constitute the Appendix C to the Convention concerning the International Carriage by Rail (COTIF); and the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN).

Directive 2008/68/EC makes the provisions of the international agreements compulsory also for national transport within the territory of each Member State.

The international rules mentioned above are regularly amended by their decision making bodies in order to adapt them to technical and scientific progress.

The amendments adopted during the biennium 2018-2020 by the relevant bodies were notified to the ADR and ADN contracting parties and to RID contracting states on 1 July 2020. In the absence of objections in the conditions laid down, respectively, in article 14 (3) of the ADR and in article 20, paragraph 5 of the ADN, within three months from the date of their notification, i.e. on 1 October 2020, they will enter into force on 1 January 2021. The same date for entry into force is foreseen for RID, in accordance with Article 35 of the Convention concerning International Carriage by Rail (COTIF).

In order to take into account those amendments to the Annexes to the ADR, to the Regulations annexed to the ADN and to the Annex to RID, it is necessary to amend the Annexes to Directive 2008/68/EC. According to Article 8(1) of that Directive, as recently amended by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union, the Commission is empowered to adopt delegated acts to this end.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Expert Group on inland transport of dangerous goods was set up in order to assist the Commission in the preparation of delegated acts with a view to adapting to scientific and technical progress the annexes to Directive 2008/68/EC on inland transport of dangerous goods.

Adaptation to scientific and technical progress refers to the amendments to ADR, RID and ADN, introduced in the last biennium during the relevant meetings of the

¹ OJ L 260, 30.9.2008, p. 13.

United Nations and the Intergovernmental Organisation for International Carriage by Rail.

The Expert Group was consulted on the draft act on 17 July 2020.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 8 of Directive 2008/68/EC as amended empowers the Commission to adopt delegated acts in order to take account of amendments to the ADR, RID and ADN, while the procedure for adoption of such acts is stipulated in its Article 8 (a). The present Directive incorporates into EU law the amendments to scientific and technical progress brought to ADR, RID and ADN during the biennium 2018-2020 and which are due to enter into force on 1 January 2021, and replaces Section I.1 of Annex I, Section II.1 of Annex II and Section III.1 of Annex III of Directive 2008/68/EC.

Member States are consequently invited to create an explanatory document containing the specific references to the amendments introduced in order to comply with this Directive. These explanatory documents should indicate in which laws, regulations or administrative provisions the reference to the Directive, the Annex for which the transposition is being made and the date of entry into force of the national measure is mentioned. It is not necessary to refer into detail to the actual technical provisions and the specific requirements for each new provision inserted in this edition of ADR, RID and ADN.

COMMISSION DELEGATED DIRECTIVE (EU) .../...

of 2.10.2020

amending the Annexes to Directive 2008/68/EC of the European Parliament and of the Council as regards adaptation to scientific and technical progress

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods², and in particular Article 8(1) thereof,

Whereas:

- (1) Section I.1 of Annex I, Section II.1 of Annex II and Section III.1 of Annex III to Directive 2008/68/EC refer to provisions set out in international agreements on the inland transport of dangerous goods by road, rail and inland waterways as defined in Article 2 of that Directive.
- (2) The provisions of those international agreements are updated every two years. Their last amended versions apply as from 1 January 2021, with a transitional period until 30 June 2021.
- (3) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents³, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments.
- (4) Section I.1 of Annex I, Section II.1 of Annex II and Section III.1 of Annex III to Directive 2008/68/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2008/68/EC

Directive 2008/68/EC is amended as follows:

1. in Annex I, Section I.1 is replaced by the following:
‘I.1 ADR

² OJ L 260, 30.9.2008, p. 13.

³ OJ C 369, 17.12.2011, p. 14.

Annexes A and B to the ADR, as applicable with effect from 1 January 2021, it being understood that ‘contracting party’ is replaced by ‘Member State’ as appropriate.’;

2. in Annex II, Section II.1 is replaced by the following:

‘II.1 RID

The Annex to the RID, as applicable with effect from 1 January 2021, it being understood that ‘RID Contracting State’ is replaced by ‘Member State’ as appropriate.’;

3. in Annex III, Section III.1 is replaced by the following:

‘III.1 ADN

The Annexed Regulations to the ADN, as applicable with effect from 1 January 2021, as well as Articles 3(f), 3(h), 8(1) and 8(3) of the ADN, it being understood that ‘contracting party’ is replaced by ‘Member State’ as appropriate.’.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2021 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

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

Entry into force

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

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 2.10.2020

For the Commission

The President

Ursula VON DER LEYEN