



Council of the  
European Union

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DELACTION 25

#### COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	3 February 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2021) 441 final - C(2021) 441 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 3.2.2021 amending, for the purposes of its adaptation to technical and scientific progress, Part 1 of Annex VI to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures

Delegations will find attached document C(2021) 441 final - C(2021) 441 final.

Encl.: C(2021) 441 final - C(2021) 441 final



EUROPEAN  
COMMISSION

Brussels, 3.2.2021  
C(2021) 441 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 3.2.2021**

**amending, for the purposes of its adaptation to technical and scientific progress, Part 1 of Annex VI to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

The objectives of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures (CLP) are to ensure a high level of protection of human health and the environment as well as the free movement of substances, mixtures and articles. These objectives are fulfilled, *inter alia*, by establishing a list of substances with their harmonised classifications and labelling elements at Union level. Part 1 of Annex VI lists Notes in subsection 1.1.3. which are assigned to a harmonised classification and labelling entry and relate to the identification, classification and labelling of substances as well as the classification and labelling of mixtures. These Notes have the purpose of providing legal clarity and certainty in applying harmonised classification and labelling. It has been requested by Member States and stakeholders to amend certain Notes given that the current wording of those notes is inaccurate and brings in some uncertainty as to the correct interpretation of legal obligations. It is thus appropriate to amend certain Notes in Part 1 of Annex VI related to the entries in Table 3 of Part 3 of Annex VI.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

Pursuant to Article 53a(4) of Regulation (EC) No 1272/2008, experts designated by each Member State were consulted in the relevant expert group CARACAL (Competent authorities for REACH and CLP). In accordance with point 10 of the Annex to the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>1</sup> the European Parliament and the Council have been invited to participate in the CARACAL expert group.

Stakeholders were consulted in the CARACAL expert group in accordance with point 6 of the Annex to that agreement.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The legal act amends Regulation (EC) No 1272/2008. The legal basis of this delegated act is Article 53(1) of Regulation (EC) No 1272/2008.

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<sup>1</sup> OJ L 123 of 12.05 2016, p. 1.

**Commission Delegated Regulation (EU) .../... of 3.2.2021 amending, for the purposes of its adaptation to technical and scientific progress, Part 1 of Annex VI to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006<sup>2</sup>, and in particular Article 53(1) thereof,

Whereas:

- (1) Member States and stakeholders have requested that a number of the notes set out in subsection 1.1.3 of Part 1 of Annex VI to Regulation (EC) No 1272/2008 be amended.
- (2) The Commission accepts that the wording of those notes needs to be improved. Some of the notes related to substances are inaccurate and bring in some uncertainty as to the correct interpretation of legal obligations. In particular, some of those notes could be interpreted as not requiring the substances with respect of which those notes apply to be classified at all under certain conditions, whereas, in fact, they should not be covered by the harmonised classification and labelling but should still be subject to classification in accordance with Title II of Regulation (EC) No 1272/2008 (self-classification).
- (3) Regulation (EC) No 1272/2008 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

*Amendments to Regulation (EC) No 1272/2008*

Part 1 of Annex VI to Regulation (EC) No 1272/2008 is amended as set out in the Annex to this Regulation.

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<sup>2</sup> OJ L 353, 31.12.2008, p. 1

## *Article 2*

### *Entry into force*

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3.2.2021

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*