



EUROPEAN COMMISSION

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Subject: Notification 2023/417/IE

Road Traffic (Electric Scooters) Regulations 2023

Delivery of comments pursuant to Article 5(2) of Directive (EU) 2015/1535 of 9 September 2015

Sir,

Within the framework of the notification procedure laid down by Directive (EU) 2015/1535⁽¹⁾, the Irish authorities notified to the Commission on 5 July 2023 the draft '*Road Traffic (Electric Scooters) Regulations 2023*' (hereinafter, 'the notified draft').

According to the notification message, the notified draft sets down technical standards for electric scooters intended for use in public places. The notified draft imposes the use of standard I.S. EN 17128:2020 for the design and manufacturing of electric scooters used in public spaces.

Examination of the notified draft has prompted the Commission to deliver the following comments pursuant to Article 5 (2) of Directive (EU) 2015/1535.

COMMENTS

The notified draft regulates products that fall within the scope of the Machinery Directive ⁽²⁾ and the Electromagnetic Compatibility Directive ⁽³⁾ (jointly 'the Directives').

¹() Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

²() Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast), OJ L 157, 9.6.2006, p. 24–86.

The Commission would like to highlight that Member States shall not impede, for the aspects covered by the Directives ⁽⁴⁾, the making available on the market of products which comply with the aspects covered by those Directives. Though the notified draft sets out requirements and specifications on the road circulation of the concerned products, at the same time certain requirements or specifications of the notified draft, for example the requirements on the ‘electrical safety’ of the electrical scooters, or certain clauses of the standard (I.S. EN 17128:2020) which is referenced in the notified draft, relate to aspects regulated by the Directives.

The Directives set out the essential requirements that the covered products shall comply with, and the detailed technical specifications are set in voluntary standards, the references of which are cited in the *Official Journal of the European Union*.

Moreover, while the Commission encourages the use of EU harmonised standards as a means to provide presumption of conformity with the Directives, given their voluntary nature, requiring the explicit compliance with European standards that address aspects covered by the Directives, could be perceived as a technical barrier to trade.

It is also recalled that the Directives lay down a framework for market surveillance ⁽⁵⁾. In particular, the national market surveillance authorities shall follow the safeguard clause procedures specified in the Directives. ⁽⁶⁾

In that spirit, the Irish authorities should ensure that, when the notified draft is adopted and becomes applicable:

- electric scooters, which are in compliance with the applicable essential requirements of the Directives, but which do not comply with requirements or specifications of the notified draft relating to the aspects regulated by the Directives ⁽⁷⁾, could still be placed on the Irish Market, and
- the safeguard clause procedures specified in the Directives, in case of non-compliance of the electric scooters ⁽⁸⁾ with the aspects covered by the Directives ⁽⁹⁾, are followed.

The Commission invites the Irish authorities to take the above comments into account.

The Commission furthermore recalls that once the definitive text has been adopted, it must be communicated to the Commission in accordance with Article 5(3) of Directive (EU) 2015/1535.

³() Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (recast), OJ L 96, 29.3.2014, p. 79–106.

⁴() Directive 2006/42/EC regulates aspects relating to health and safety. Directive 2014/30/EU regulates aspects relating to electromagnetic compatibility. Both Directives regulate these aspects by setting out relevant essential requirements. However, none of these Directives address aspects relating to the road safety of the covered products while circulating on roads.

⁵() Article 11 of Directive 2006/42/EC and Chapter 5 of Directive 2014/30/EU.

⁶() Member States shall provide information to the Commission and the other Member States, without delay, of any measures taken for prohibiting, restricting, withdrawing or recalling products covered by the Directives.

⁷() Directive 2006/42/EC regulates aspects relating to health and safety. Directive 2014/30/EU regulates aspects relating to electromagnetic compatibility. However, none of these Directives address aspects relating to the road safety of the covered products while circulating on roads.

⁸ () Whether intended or not to circulate on public roads.

⁹ () As stated above, they are reflected in the applicable essential requirements of the Directives.

Yours faithfully,

For the Commission

Kerstin JORNA
Director-General

Directorate-General for Internal
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and SMEs