II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 March 2003

on the publication of the reference of standard EN 613:2000 'Independent gas-fired convection heaters' in accordance with Council Directive 90/396/EEC

(notified under document number C(2003) 710)

(Text with EEA relevance)

(2003/189/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/396/EEC of 29 June 1990 on the approximation of the laws of the Member States relating to appliances burning gaseous fuels [1], as amended by Directive 93/68/EEC [2], and in particular Article 6(1) thereof,

Having regard to the opinion of the Standing Committee set up in accordance with Article 5 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services [3], as amended by Directive 98/48/EC [4],

Whereas:

(1) Article 2 of Directive 90/396/EEC stipulates that gas appliances may be placed on the market and put into service only if, when normally used, they do not compromise the safety of persons, domestic animals and property.

(2) Under Article 5 of Directive 90/396/EEC, gas appliances are presumed to comply with the essential requirements referred to in Article 3 of that Directive if they conform to the national standards applicable to them transposing the harmonised standards the reference numbers of which have been published in the *Official Journal of the European Union*.

(3) Member States are required to publish the reference numbers of national standards transposing harmonised standards the reference numbers of which have been published in the *Official Journal of the European Union*.

(4) The United Kingdom raised a formal objection in respect of harmonised standard EN 613:2000 'Independent gas-fired convection heaters', adopted by the European Committee for Standardisation (CEN) on 13 July 2000, the reference number of which was published in the *Official Journal of the European Communities* on 18 July 2001 [5], on the grounds that it does not fully satisfy the essential requirements of Directive 90/396/EEC, especially those under points 2.1 and 3.2.2 of Annex I, thereto, because the design requirements for decorative glass-fronted fires are not sufficient to ensure a high level of safety. The United Kingdom is particularly concerned that, in case of such products, a dangerous situation could arise should a build up of gas occur, because the accumulated unburned gas could then ignite, causing serious injury.

(5) On the basis of the information received in the framework of the consultation of the national authorities, of CEN and of the Committee set up by Directive 98/34/EC, no evidence was found to substantiate the risk of gas accumulation or gas explosion. Consequently, it has not been demonstrated that harmonised standard EN 613:2000 fails to meet the essential requirements of Directive 90/396/EEC,

[1] OJ L 196, 26.7.1990, p. 15.
[2] OJ L 220, 30.8.1993, p. 1.
[3] OJ L 204, 21.7.1998, p. 37.
[4] OJ L 217, 5.8.1998, p. 18.
[5] OJ C 202, 18.7.2001, p. 5.

HAS ADOPTED THIS DECISION:

Article 1

The reference of standard EN 613:2000 'Independent gas-fired convection heaters', adopted by the European Committee For Standardisation (CEN) on 13 July 2000 and published for the first time in the *Official Journal of the European Communities* of 18 July 2001, shall not be withdrawn from the list of standards published in the *Official Journal of the European Union*. The standard shall therefore continue to confer the presumption of conformity to the relevant provisions of Directive 90/396/EEC.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 18 March 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission