

COUNCIL DIRECTIVE 95/63/EC

of 5 December 1995

amending Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 118a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189c ⁽³⁾,

Whereas Article 118a of the Treaty provides that the Council shall adopt by means of directives, minimum requirements for encouraging improvements, especially in the working environment, as regards the health and safety of workers;

Whereas, pursuant to the said Article, such Directives must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

Whereas compliance with the minimum requirements designed to guarantee a better standard of safety and health in the use of work equipment is essential to ensure the safety and health of workers;

Whereas, therefore, Member States must take measures to facilitate implementation of the provisions of this Directive by undertakings, in particular small and medium-sized undertakings; whereas such measures may include training and information activities adapted to the specific requirements of the various sectors of the economy;

Whereas provisions adopted pursuant to Article 118a of the Treaty do not prevent each Member State from establishing and maintaining more stringent protective measures, compatible with this Treaty, governing conditions of work;

Whereas Article 9 (1) of Directive 89/655/EEC ⁽⁴⁾ provides for the addition to the Annex of the supplementary minimum requirements applicable to work equipment referred to in point 3 of the Annex, in accordance with the procedure provided for in Article 118a of the Treaty;

Whereas this Directive must confine itself to defining the objectives to be achieved and the principles to be respected leaving Member States free to decide how national legislation will be complied with and improved upon;

Whereas the Member States shall, after consultation with both sides of industry, and with due allowance for national legislation and/or practice, establish procedures whereby a level of safety may be attained corresponding to the objectives indicated by Annex II to this Directive;

Whereas this Directive constitutes a practical element in realizing the social dimension of the internal market,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/655/EEC is hereby amended as follows:

1. Article 4 shall be amended as follows:

(a) in paragraph 1 (a) (ii) and (b), 'in the Annex' shall be replaced by 'in Annex I';

(b) the following point is inserted in paragraph 1:

⁽¹⁾ OJ No C 104, 12. 4. 1994, p. 4; and OJ No C 246, 22. 9. 1995, p. 3.

⁽²⁾ OJ No C 397, 31. 12. 1994, p. 13.

⁽³⁾ Opinion of the European Parliament of 17 February 1995 (OJ No C 56, 6. 3. 1995, p. 175), Council common position of 24 July 1995 (OJ No C 281, 25. 10. 1995, p. 41) and Decision of the European Parliament of 17 November 1995 (OJ No C 323, 4. 12. 1995).

⁽⁴⁾ OJ No L 393, 30. 12. 1989, p. 13.

'(c) without prejudice to point (a) (i), and notwithstanding point (a) (ii) and point (b), specific work equipment subject to the requirements of point 3 of Annex I, which, if already provided to workers in the undertaking and/or establishment by 5 December 1998, complies with the minimum requirements laid down in Annex I, no later than four years after that date';

(c) the following paragraph shall be added:

'3. Member States shall, after consultation with both sides of industry, and with due allowance for national legislation and/or practice, establish procedures whereby a level of safety may be attained corresponding to the objectives indicated by the provisions of Annex II.'

2. The following Article shall be inserted:

'Article 4a

Inspection of work equipment

1. The employer shall ensure that where the safety of work equipment depends on the installation conditions, it shall be subject to an initial inspection (after installation and before first being put into service) and an inspection after assembly at a new site or in a new location by competent persons within the meaning of national laws and/or practices, to ensure that the work equipment has been installed correctly and is operating properly.

2. The employer shall ensure that work equipment exposed to conditions causing deterioration which is liable to result in dangerous situations is subject to:

- periodic inspections and, where appropriate, testing by competent persons within the meaning of national laws and/or practices,
- special inspections by competent persons within the meaning of national laws and/or practices each time that exceptional circumstances which are liable to jeopardize the safety of the work equipment have occurred, such as modification work, accidents, natural phenomena or prolonged periods of inactivity,

to ensure that health and safety conditions are maintained and that the deterioration can be detected and remedied in good time.

3. The results of inspections must be recorded and kept at the disposal of the authorities concerned. They must be kept for a suitable period of time.

When work equipment is used outside the undertaking it must be accompanied by physical evidence that the last inspection has been carried out.

4. Member States shall determine the conditions under which such inspections are made.;

3. the following Article shall be inserted:

'Article 5a

Ergonomics and occupational health

The working posture and position of workers while using work equipment and ergonomic principles must be taken fully into account by the employer when applying minimum health and safety requirements.;

4. the following subparagraph shall be added at the end of Article 6 (2):

'Workers must be made aware of dangers relevant to them, work equipment present in the work area or site, and any changes affecting them, in as much as they affect work equipment situated in their immediate work area or site, even if they do not use such equipment directly.;

5. in Article 8, 'the Annex' is replaced by 'the Annexes';

6. Article 9 shall be amended as follows:

— in the title to the Article, 'of the Annex' shall be replaced by 'of the Annexes',

— in paragraph 1, 'the Annex' where it appears twice in the text shall be replaced by 'Annex I',

— in paragraph 2, 'the Annex' shall be replaced by 'the Annexes';

7. the Annex, which becomes Annex I, shall be amended in conformity with Annex I to this Directive;

8. an Annex II shall be added, the text of which is set out in Annex II to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 5 December 1995. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the provisions of national law which they have already adopted or which they adopt in the field governed by this Directive.

3. The Commission shall periodically present a report on the implementation of this Directive to the European Parliament, the Council and the Economic and Social Committee.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 5 December 1995.

For the Council

The President

J. A. GRIÑÁN

ANNEX I

The Annex (which becomes Annex I) to Directive 89/655/EEC is amended as follows:

1. the following paragraph shall be added to the general comment:

'The following minimum requirements, in as much as they apply to work equipment in use, do not necessarily call for the same measures as the essential requirements concerning new work equipment.'

2. in point 2.1, the last paragraph is replaced by the following text:

'Control systems must be safe and must be chosen making due allowance for the failures, faults and constraints to be expected in the planned circumstances of use.'

3. Point 3 is replaced by the following text:

3. Additional minimum requirements applicable to specific types of work equipment

3.1. Minimum requirements for mobile work equipment, whether or not self-propelled

- 3.1.1. Work equipment with ride-on workers must be fitted out in such a way as to reduce the risks for workers during the journey.

Those risks must include the risks of contact with or trapping by wheels or tracks.

- 3.1.2. Where an inadvertent seizure of the drive unit between an item of mobile work equipment and its accessories and/or anything towed might create a specific risk, such work equipment must be equipped or adapted to prevent blockages of the drive units.

Where such seizure cannot be avoided, every possible measure must be taken to avoid any adverse effects on workers.

- 3.1.3. Where drive shafts for the transmission of energy between mobile items of work equipment can become soiled or damaged by trailing on the ground, facilities must be available for fixing them.

- 3.1.4. Mobile work equipment with ride-on workers must be designed to restrict, under actual conditions of use, the risks arising from work equipment rollover:

- either by a protection structure to ensure that the equipment does not tilt by more than a quarter turn, or
- a structure giving sufficient clearance around the ride-on workers if the tilting movement can continue beyond a quarter turn, or
- by some other device of equivalent effect.

These protection structures may be an integral part of the work equipment.

These protection structures are not required when the work equipment is stabilized during operation or where the design makes roll over impossible.

Where there is a risk of a ride-on worker being crushed between parts of the work equipment and the ground, should the equipment roll over, a restraining system for the ride-on workers must be installed.

- 3.1.5. Fork-lift trucks carrying one or more workers must be adapted or equipped to limit the risk of the fork-lift truck overturning, e. g.:

- by the installation of an enclosure for the driver, or
 - by a structure preventing the fork-lift truck from overturning, or
 - by a structure ensuring that, if the fork-lift truck overturns, sufficient clearance remains between the ground and certain parts of the fork-lift truck for the workers carried, or
 - by a structure restraining the workers on the driving seat so as to prevent them from being crushed by parts of the fork-lift truck which overturns.
- 3.1.6. Self-propelled work equipment which may, in motion, engender risks for persons must fulfil the following conditions:
- (a) the equipment must have facilities for preventing unauthorized start-up;
 - (b) it must have appropriate facilities for minimizing the consequences of a collision where there is more than one item of track-mounted work equipment in motion at the same time;
 - (c) there must be a device for braking and stopping equipment. Where safety constraints so require, emergency facilities operated by readily accessible controls or automatic systems must be available for braking and stopping equipment in the event of failure of the main facility;
 - (d) where the driver's direct field of vision is inadequate to ensure safety, adequate auxiliary devices must be installed to improve visibility;
 - (e) work equipment designed for use at night or in dark places must be equipped with lighting appropriate to the work to be carried out and must ensure sufficient safety for workers;
 - (f) work equipment which constitutes a fire hazard, either on its own or in respect of whatever it is towing and/or carrying and which is liable to endanger workers, must be equipped with appropriate fire-fighting appliances where such appliances are not available sufficiently nearby at the place of use;
 - (g) remote-controlled work equipment must stop automatically once it leaves the control range;
 - (h) remote-controlled work equipment which may in normal conditions engender a crushing or impact hazard must have facilities to guard against this risk, unless other appropriate devices are present to control the impact risk.
- 3.2. *Minimum requirements for work equipment for lifting loads*
- 3.2.1. When work equipment for lifting loads is installed permanently, its strength and stability during use must be assured, having regard, in particular, to the loads to be lifted and the stress induced at the mounting or fixing point of the structures.
- 3.2.2. Machinery for lifting loads must be clearly marked to indicate its nominal load, and where appropriate a load plate giving the nominal load for each configuration of the machinery.
- Accessories for lifting must be marked in such a way that it is possible to identify the characteristics essential for safe use.
- Work equipment which is not designed for lifting persons but which might be so used in error must be appropriately and clearly marked to this effect.
- 3.2.3. Permanently installed work equipment must be installed in such a way as to reduce the risk of the load:
- (a) striking workers;
 - (b) drifting dangerously or falling freely;
 - (c) being released unintentionally.

3.2.4. Work equipment for lifting or moving workers must be such as to:

- (a) prevent the risk of the car falling, where one exists, by suitable devices;
- (b) prevent the risk of the user himself falling from the car, where one exists;
- (c) prevent the risk of the user being crushed, trapped or struck, in particular through inadvertent contact with objects;
- (d) ensure that persons trapped in the car in the event of an incident are not exposed to danger and can be freed.

If, for reasons inherent in the site and height differences, the risks referred to in point (a) cannot be avoided by any safety measures, an enhanced safety coefficient suspension rope must be installed and checked every working day.'

ANNEX II

ANNEX II

PROVISIONS CONCERNING THE USE OF WORK EQUIPMENT REFERRED TO IN
ARTICLE 4 (3)0. **General comment**

The obligations laid down in this Annex apply having regard to the provisions of this Directive and where the corresponding risk exists for the work equipment in question.

1. **General provisions for all work equipment**

- 1.1. Work equipment must be installed, located and used in such a way as to reduce risks to users of the work equipment and for other workers, for example by ensuring that there is sufficient space between the moving parts of work equipment and fixed or moving parts in its environment and that all forms of energy and substances used or produced can be supplied and/or removed in a safe manner.
- 1.2. Work equipment must be erected or dismantled under safe conditions, in particular observing any instructions which may have been furnished by the manufacturer.
- 1.3. Work equipment which may be struck by lightning while being used must be protected by devices or appropriate means against the effects of lightning.

2. **Provisions concerning the use of mobile equipment, whether or not self-propelled**

- 2.1. Self-propelled work equipment shall be driven only by workers who have been appropriately trained in the safe driving of such equipment.
- 2.2. If work equipment is moving around in a work area, appropriate traffic rules must be drawn up and followed.
- 2.3. Organizational measures must be taken to prevent workers on foot coming within the area of operation of self-propelled work equipment.

If work can be done properly only if workers on foot are present, appropriate measures must be taken to prevent them from being injured by the equipment.
- 2.4. The transport of workers on mechanically driven mobile work equipment is authorized only where safe facilities are provided to this effect. If work must be carried out during the journey, speeds must be adjusted as necessary.
- 2.5. Mobile work equipment with a combustion engine may not be used in working areas unless sufficient quantities of air presenting no health or safety risk to workers can be guaranteed.

3. **Provisions concerning the use of work equipment for lifting loads**3.1. *General considerations*

- 3.1.1. Work equipment which is mobile or can be dismantled and which is designed for lifting loads must be used in such a way as to ensure the stability of the work equipment during use under all foreseeable conditions, taking into account the nature of the ground.

- 3.1.2. Persons may be lifted only by means of work equipment and accessories provided for this purpose.

Without prejudice to Article 5 of Directive 89/391/EEC, exceptionally, work equipment which is not specifically designed for the purpose of lifting persons may be used to this effect, provided appropriate action has been taken to ensure safety in accordance with national legislation and/or practice laying down appropriate supervision.

While workers are on work equipment designed for lifting loads the control position must be manned at all times. Persons being lifted must have reliable means of communication. In the event of danger, there must be reliable means of evacuating them.

- 3.1.3. Unless required for the effective operation of the work, measures must be taken to ensure that workers are not present under suspended loads.

Loads may not be moved above unprotected workplaces usually occupied by workers.

Where that is the case, if work cannot be carried out properly any other way, appropriate procedures must be laid down and applied.

- 3.1.4. Lifting accessories must be selected as a function of the loads to be handled, gripping points, attachment tackle and the atmospheric conditions having regard to the mode and configuration of slinging. Lifting accessory tackle must be clearly marked so that users are aware of its characteristics where such tackle is not dismantled after use.

- 3.1.5. Lifting accessories must be stored in a way that ensures that they will not be damaged or degraded.

3.2. *Work equipment for lifting non-guided loads*

- 3.2.1. When two or more items of work equipment used for lifting non-guided loads are installed or erected on a site in such a way that their working radii overlap, appropriate measures must be taken to avoid collision between loads and/or the work equipment parts themselves.

- 3.2.2. When using mobile work equipment for lifting non-guided loads, measures must be taken to prevent the equipment from tilting, overturning or, if necessary, moving or slipping. Checks must be made to ensure that these measures are executed properly.

- 3.2.3. If the operator of work equipment designed for lifting non-guided loads cannot observe the full path of the load either directly or by means of auxiliary equipment providing the necessary information, a competent person must be in communication with the operator to guide him and organizational measures must be taken to prevent collisions of the load which could endanger workers.

- 3.2.4. Work must be organized in such a way that when a worker is attaching or detaching a load by hand, it can be done safely, in particular through the worker retaining direct or indirect control of the work equipment.

- 3.2.5. All lifting operations must be properly planned, appropriately supervised and carried out to protect the safety of workers.

In particular, if a load has to be lifted by two or more pieces of work equipment for lifting non-guided loads simultaneously, a procedure must be established and applied to ensure good coordination on the part of the operators.

- 3.2.6. If work equipment designed for lifting non-guided loads cannot maintain its hold on the load in the event of a complete or partial power failure, appropriate measures must be taken to avoid exposing workers to any resultant risks.

Suspended loads must not be left without surveillance unless access to the danger zone is prevented and the load has been safely suspended and is safely held.

- 3.2.7. Open-air use of work equipment designed for lifting non-guided loads must be halted when meteorological conditions deteriorate to the point of jeopardizing the safe use of the equipment and exposing workers to risks. Adequate protection measures, in particular, to avoid work equipment turning over must be taken to avoid any risks to workers.'
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