

## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DIRECTIVE

of 25 June 1991

amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)

(91/382/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission drawn up following consultation with the Advisory Committee on Safety, Hygiene and Health Protection at Work <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

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, to ensure a better level of protection of the safety and health of workers;

Whereas, under the terms of that Article, such directives are to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-size undertakings.

Whereas the communication from the Commission on its programme concerning safety, hygiene and health at work <sup>(4)</sup> provides for the adoption of directives designed to guarantee the safety and health of workers;

Whereas the Council, in its resolution of 21 December 1987 on safety, hygiene and health at work <sup>(5)</sup>, took note of the Commission's intention of submitting to the Council in the near future minimum requirements at Community level concerning protection against the risks resulting from dangerous substances, including carcinogenic substances; whereas it considered that in this connection the principle of substitution using a recognized non-dangerous or less dangerous substance should be taken as a basis;

Whereas asbestos is a particularly hazardous agent which can cause serious illness and which is found in various forms in a large number of circumstances at work;

Whereas, in view of the progress made in scientific knowledge and technology and in the light of experience gained in applying Council Directive 83/447/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) <sup>(6)</sup>, the protection of workers

<sup>(1)</sup> OJ No C 161, 30. 6. 1990, p. 14.

<sup>(2)</sup> OJ No C 284, 12. 11. 1990, p. 98 and OJ No C 129, 20. 5. 1991, p. 93.

<sup>(3)</sup> OJ No C 332, 31. 12. 1990, p. 162.

<sup>(4)</sup> OJ No C 28, 3. 2. 1988, p. 3.

<sup>(5)</sup> OJ No C 28, 3. 2. 1988, p. 1.

<sup>(6)</sup> OJ No L 263, 24. 9. 1983, p. 25.

should be improved and the action levels and limit values laid down in Directive 83/477/EEC should be reduced;

Whereas the prohibition of the application of asbestos by means of the spraying process is not sufficient to prevent asbestos fibres being released into the atmosphere; whereas other working procedures that involve the use of certain materials containing asbestos must also be prohibited;

Whereas a decision cannot yet be taken establishing a single method for measurement of asbestos-in-air concentrations at Community level;

Whereas this Directive should be reviewed by 31 December 1995, taking account, in particular, of progress made in scientific knowledge and technology and of experience gained in applying this Directive;

Whereas Decision 74/325/EEC <sup>(1)</sup>, as last amended by the 1985 Act of Accession, provides that the Advisory Committee on Safety, Hygiene and Health Protection at Work is to be consulted by the Commission for the purpose of drafting proposals in this field,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

Directive 83/477/EEC is hereby amended as follows:

#### 1. Article 3 (3) shall be replaced by the following:

'3. If the assessment referred to in paragraph 2 shows that the concentration of asbestos fibres in the air at the place of work in the absence of any personal protective equipment is, at the option of the Member States, at a level as measured or calculated:

##### (a) for chrysotile

- lower than 0,20 fibres per cm<sup>3</sup> in relation to an eight-hour reference period, and/or
- lower than a cumulative dose of 12,00 fibre-days per cm<sup>3</sup> over a three-month period;

##### (b) for all other forms of asbestos either alone or in mixtures, including mixtures containing chrysotile:

- lower than 0,10 fibres per cm<sup>3</sup> in relation to an eight-hour reference period, and/or
- lower than a cumulative dose of 6,00 fibre-days per cm<sup>3</sup> over a three-month period,

Articles 4, 7, 13, 14 (2), 15 and 16 shall not apply.'

#### 2. Article 5 shall be replaced by the following:

##### 'Article 5

The application of asbestos by means of the spraying process and working procedures that involve using low-density (less than 1g/cm<sup>3</sup>) insulating or soundproofing materials which contain asbestos shall be prohibited.'

#### 3. In point (1) of Article 7, the third paragraph shall be replaced by the following:

'In accordance with Article 118a of the Treaty and taking account in particular of progress made in scientific knowledge and technology and of experience gained in applying this Directive, the Council shall review the provisions of the first sentence of the first paragraph by 31 December 1995, with a view to establishing a single method for measurement of asbestos-in-air concentrations as Community level;'

#### 4. Article 8 shall be replaced by the following:

##### 'Article 8

The following limit values shall be applied:

##### (a) concentration of chrysotile fibres in the air at the place of work:

0,60 fibres per cm<sup>3</sup> measured or calculated in relation to an eight-hour reference period;

##### (b) concentration in the air at the place of work of all other forms of asbestos fibres, either alone or in mixtures, including mixtures containing chrysotile:

0,30 fibres per cm<sup>3</sup> measured or calculated in relation to an eight-hour reference period.'

#### 5. Article 9 shall be replaced by the following:

##### 'Article 9

1. Without prejudice to the third paragraph of point 1 of Article 7, in accordance with Article 118a of the Treaty and taking account in particular of progress made in scientific knowledge and technology and of experience gained in applying this Directive, the Council shall review the provisions of this Directive by 31 December 1995.

2. The amendments required to adapt the Annexes to this Directive to take account of technical progress shall be made in accordance with the procedure described in Articles 9 and 10 of Council Directive 80/1107/EEC of 27 November 1980 on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (\*).

(<sup>1</sup>) OJ No L 185, 9. 7. 1974, p. 15.

(\*) OJ No L 327, 3.12.1980, p. 8.'

## 6. Article 12 is hereby amended as follows:

## (a) the following subparagraph shall be added to paragraph 2:

'At the request of the competent authorities, the plan shall include information on the following:

- the nature and probable duration of the work,
- the place where the work is carried out,
- the methods applied where the work involves the handling of asbestos or of materials containing asbestos,
- the characteristics of the equipment used for:
  - protection and decontamination of those carrying out the work,
  - protection of other persons present on or near the worksite.'

## (b) the following paragraph shall be added:

'3. At the request of the competent authorities, the plan referred to in paragraph 1 must be notified to them before the start of the projected work.'

*Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1993.

They shall forthwith inform the Commission thereof.

When Member States adopt these measures, 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 a reference shall be laid down by the Member States.

The date 1 January 1993 shall, however, be replaced by 1 January 1996 in the case of asbestos-mining activities.

However, as regards the Hellenic Republic:

- the date referred to in the first subparagraph shall be 1 January 1996,
- the date referred to in the fourth subparagraph shall be 1 January 1999.

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

*Article 3*

This Directive is addressed to the Member States,

Done at Luxembourg, 25 June 1991.

*For the Council*

*The President*

J.-C. JUNCKER