

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE

of 3 December 1991

adapting to technical progress Annex I to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (asbestos)

(91/659/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations⁽¹⁾, as last amended by Directive 91/339/EEC⁽²⁾, and in particular Article 2a thereof, introduced by Directive 89/678/EEC⁽³⁾,

Whereas the use of asbestos and even products containing it can, by releasing fibres, cause asbestosis, mesothelioma and lung cancer; whereas placing on the market and use should therefore be subject to the severest possible restrictions;

Whereas Council Directive 83/478/EEC⁽⁴⁾ amending for the fifth time Directive 76/769/EEC specified that the crocidolite type of asbestos fibre and products containing it may, with three possible exceptions, no longer be placed on the market and used; whereas this same Directive established obligatory labelling provisions for all products containing asbestos fibres;

Whereas Council Directive 85/610/EEC⁽⁵⁾ amending for the seventh time Directive 76/769/EEC specified that

asbestos fibres can no longer be placed on the market and used in toys, materials and preparations applied by spraying, retail products in powder form, smoking accessories, catalytic heaters, paints and varnishes;

Whereas improved monitoring of the marketing and use of dangerous asbestos fibres is necessary to protect human health, especially as there are for certain uses substitute products regarded, on the basis of risk analysis, as less dangerous;

Whereas a very effective way of protecting human health and the environment is to prohibit the use of certain fibres, such as those of amphibole asbestos, which according to some scientific sources are particularly dangerous; whereas for practical reasons such a prohibition can not for the time being be extended to naturally-occurring materials such as ores and sand containing asbestos fibres as natural impurities;

Whereas a fibre fixity test to assess the dangers posed by particular asbestos-containing products is not yet widely available; whereas, notwithstanding this, products should be promoted which reduce the overall risk to man and the environment;

Whereas Council Directive 91/382/EEC⁽⁶⁾ amends 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);

⁽¹⁾ OJ No L 262, 27. 9. 1976, p. 201.

⁽²⁾ OJ No L 186, 12. 7. 1991, p. 64.

⁽³⁾ OJ No L 398, 30. 12. 1989, p. 24.

⁽⁴⁾ OJ No L 263, 24. 9. 1983, p. 33.

⁽⁵⁾ OJ No L 375, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 206, 29. 7. 1991, p. 16.

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee for the Adaption to Technical Progress of the Directives on the Removal of Technical Barriers to Trade in Dangerous Substances and Preparations,

HAS ADOPTED THIS DIRECTIVE :

Article 1

Annex I to Directive 76/769/EEC is hereby adapted to technical progress as set out in the Annex hereto.

Article 2

1. Member States shall adopt and publish the provisions necessary to comply with this Directive by 1 January 1993 and shall forthwith inform the Commission thereof. They shall apply these provisions as from 1 July 1993.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission no later than 18 months after the date of its adoption the text of the basic provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 3 December 1991.

For the Commission

Martin BANGEMANN

Vice-President

ANNEX

In Annex I to Directive 76/769/EEC point 6 shall be replaced by the following point :

- '6.1. Crocidolite, CAS No 12001-28-4
- Amosite, CAS No 12172-73-5
- Anthophyllite asbestos, CAS No 77536-67-5
- Actinolite asbestos, CAS No 77536-66-4
- Tremolite asbestos, CAS No 77536-68-6

6.2. Chrysotile, CAS No 12001-29-5

6.1. The placing on the market and use of these fibres and of products containing these fibres intentionally added shall be prohibited.

6.2. The placing on the market and use of products containing this fibre shall be prohibited for :

- (a) toys ;
- (b) materials or preparations intended to be applied by spraying ;
- (c) finished products which are retailed to the public in powder form ;
- (d) items for smoking such as tobacco pipes and cigarette and cigar holders ;
- (e) catalytic filters and insulation devices for incorporation in catalytic heaters using liquefied gas ;
- (f) paints and varnishes ;
- (g) filters for liquids.

By way of derogation, this prohibition will not apply to filters for medicinal use until after 31 December 1994 ;

- (h) road surfacing material where the fibre content is greater than 2 % ;
- (i) mortars, protective coatings, fillers, sealants, jointing compounds, mastics, glues, decorative powders and finishes ;
- (j) low density insulating or soundproofing materials (density less than 1 g/cm³) ;
- (k) air filters and filters in transport distribution and utilization of natural gas and town gas ;
- (l) underlays for plastic floor and wall coverings ;
- (m) textiles finished in the form intended to be supplied to the end user unless treated to avoid fibre release.

By way of derogation, this prohibition will not apply to diaphragms for electrolysis processes until after 31 December 1998 ;

- (n) roofing felt.

Without prejudice to the application of other Community provisions on the classification, packaging and labelling of dangerous substances and preparations, the placing on the market and use of products containing this fibre may be permitted only if the products bear a label in accordance with the provisions of Annex II to Directive 76/769/EEC.'