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COUNCIL DIRECTIVE 94/33/EC
of 22 June 1994
on the protection of young people at work
(OJ L 216, 20.8.1994, p. 12)

Amended by:

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► <u>M1</u>	Directive 2007/30/EC of the European Parliament and of the Council of 20 June 2007	L 165	21	27.6.2007
► <u>M2</u>	Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014	L 65	1	5.3.2014
► <u>M3</u>	Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019	L 198	241	25.7.2019

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COUNCIL DIRECTIVE 94/33/EC
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on the protection of young people at work

SECTION I

Article 1

Purpose

1. Member States shall take the necessary measures to prohibit work by children.

They shall ensure, under the conditions laid down by this Directive, that the minimum working or employment age is not lower than the minimum age at which compulsory full-time schooling as imposed by national law ends or 15 years in any event.

2. Member States ensure that work by adolescents is strictly regulated and protected under the conditions laid down in this Directive.

3. Member States shall ensure in general that employers guarantee that young people have working conditions which suit their age.

They shall ensure that young people are protected against economic exploitation and against any work likely to harm their safety, health or physical, mental, moral or social development or to jeopardize their education.

Article 2

Scope

1. This Directive shall apply to any person under 18 years of age having an employment contract or an employment relationship defined by the law in force in a Member State and/or governed by the law in force in a Member State.

2. Member States may make legislative or regulatory provision for this Directive not to apply, within the limits and under the conditions which they set by legislative or regulatory provision, to occasional work or short-term work involving:

(a) domestic service in a private household, or

(b) work regarded as not being harmful, damaging or dangerous to young people in a family undertaking.

▼B*Article 3***Definitons**

For the purposes of this Directive:

- (a) ‘young person’ shall mean any person under 18 years of age referred to in Article 2 (1);
- (b) ‘child’ shall mean any young person of less than 15 years of age or who is still subject to compulsory full-time schooling under national law;
- (c) ‘adolescent’ shall mean any young person of at least 15 years of age but less than 18 years of age who is no longer subject to compulsory full-time schooling under national law;
- (d) ‘light work’ shall mean all work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed:
 - (i) is not likely to be harmful to the safety, health or development of children, and
 - (ii) is not such as to be harmful to their attendance at school, their participation in vocational guidance or training programmes approved by the competent authority or their capacity to benefit from the instruction received;
- (e) ‘working time’ shall mean any period during which the young person is at work, at the employer's disposal and carrying out his activity or duties in accordance with national legislation and/or practice;
- (f) ‘rest period’ shall mean any period which is not working time.

*Article 4***Prohibition of work by children**

1. Member States shall adopt the measures necessary to prohibit work by children.
2. Taking into account the objectives set out in Article 1, Member States may make legislative or regulatory provision for the prohibition of work by children not to apply to:
 - (a) children pursuing the activities set out in Article 5;
 - (b) children of at least 14 years of age working under a combined work/training scheme or an in-plant work-experience scheme, provided that such work is done in accordance with the conditions laid down by the competent authority;

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(c) children of at least 14 years of age performing light work other than that covered by Article 5; light work other than that covered by Article 5 may, however, be performed by children of 13 years of age for a limited number of hours per week in the case of categories of work determined by national legislation.

3. Member States that make use of the opinion referred to in paragraph 2 (c) shall determine, subject to the provisions of this Directive, the working conditions relating to the light work in question.

*Article 5***Cultural or similar activities**

1. The employment of children for the purposes of performance in cultural, artistic, sports or advertising activities shall be subject to prior authorization to be given by the competent authority in individual cases.

2. Member States shall by legislative or regulatory provision lay down the working conditions for children in the cases referred to in paragraph 1 and the details of the prior authorization procedure, on condition that the activities:

- (i) are not likely to be harmful to the safety, health or development of children, and
- (ii) are not such as to be harmful to their attendance at school, their participation in vocational guidance or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

3. By way of derogation from the procedure laid down in paragraph 1, in the case of children of at least 13 years of age, Member States may authorize, by legislative or regulatory provision, in accordance with conditions which they shall determine, the employment of children for the purposes of performance in cultural, artistic, sports or advertising activities.

4. The Member States which have a specific authorization system for modelling agencies with regard to the activities of children may retain that system.

SECTION II*Article 6***General obligations on employers**

1. Without prejudice to Article 4 (1), the employer shall adopt the measures necessary to protect the safety and health of young people, taking particular account of the specific risks referred to in Article 7 (1).

2. The employer shall implement the measures provided for in paragraph 1 on the basis of an assessment of the hazards to young people in connection with their work.

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The assessment must be made before young people begin work and when there is any major change in working conditions and must pay particular attention to the following points:

- (a) the fitting-out and layout of the workplace and the workstation;
- (b) the nature, degree and duration of exposure to physical, biological and chemical agents;
- (c) the form, range and use of work equipment, in particular agents, machines, apparatus and devices, and the way in which they are handled;
- (d) the arrangement of work processes and operations and the way in which these are combined (organization of work);
- (e) the level of training and instruction given to young people.

Where this assessment shows that there is a risk to the safety, the physical or mental health or development of young people, an appropriate free assessment and monitoring of their health shall be provided at regular intervals without prejudice to Directive 89/391/EEC.

The free health assessment and monitoring may form part of a national health system.

3. The employer shall inform young people of possible risks and of all measures adopted concerning their safety and health.

Furthermore, he shall inform the legal representatives of children of possible risks and of all measures adopted concerning children's safety and health.

4. The employer shall involve the protective and preventive services referred to in Article 7 of Directive 89/391/EEC in the planning, implementation and monitoring of the safety and health conditions applicable to young people.

Article 7

Vulnerability of young people — Prohibition of work

1. Member States shall ensure that young people are protected from any specific risks to their safety, health and development which are a consequence of their lack of experience, of absence of awareness of existing or potential risks or of the fact that young people have not yet fully matured.

2. Without prejudice to Article 4 (1), Member States shall to this end prohibit the employment of young people for:

- (a) work which is objectively beyond their physical or psychological capacity;

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- (b) work involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affect human health;
- (c) work involving harmful exposure to radiation;
- (d) work involving the risk of accidents which it may be assumed cannot be recognized or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or
- (e) work in which there is a risk to health from extreme cold or heat, or from noise or vibration.

Work which is likely to entail specific risks for young people within the meaning of paragraph 1 includes:

- work involving harmful exposure to the physical, biological and chemical agents referred to in point I of the Annex, and
- processes and work referred to in point II of the Annex.

3. Member States may, by legislative or regulatory provision, authorize derogations from paragraph 2 in the case of adolescents where such derogations are indispensable for their vocational training, provided that protection of their safety and health is ensured by the fact that the work is performed under the supervision of a competent person within the meaning of Article 7 of Directive 89/391/EEC and provided that the protection afforded by that Directive is guaranteed.

SECTION III

*Article 8***Working time**

1. Member States which make use of the option in Article 4 (2) (b) or (c) shall adopt the measures necessary to limit the working time of children to:
- (a) eight hours a day and 40 hours a week for work performed under a combined work/training scheme or an in-plant work-experience scheme;
 - (b) two hours on a school day and 12 hours a week for work performed in term-time outside the hours fixed for school attendance, provided that this is not prohibited by national legislation and/or practice;

in no circumstances may the daily working time exceed seven hours; this limit may be raised to eight hours in the case of children who have reached the age of 15;

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- (c) seven hours a day and 35 hours a week for work performed during a period of at least a week when school is not operating; these limits may be raised to eight hours a day and 40 hours a week in the case of children who have reached the age of 15;
- (d) seven hours a day and 35 hours a week for light work performed by children no longer subject to compulsory full-time schooling under national law.

2. Member States shall adopt the measures necessary to limit the working time of adolescents to eight hours a day and 40 hours a week.

3. The time spent on training by a young person working under a theoretical and/or practical combined work/training scheme or an in-plant work-experience scheme shall be counted as working time.

4. Where a young person is employed by more than one employer, working days and working time shall be cumulative.

5. Member States may, by legislative or regulatory provision, authorize derogations from paragraph 1 (a) and paragraph 2 either by way of exception or where there are objective grounds for so doing.

Member States shall, by legislative or regulatory provision, determine the conditions, limits and procedure for implementing such derogations.

Article 9

Night work

- 1. (a) Member States which make use of the option in Article 4 (2) (b) or (c) shall adopt the measures necessary to prohibit work by children between 8 p.m. and 6 a.m.
- (b) Member States shall adopt the measures necessary to prohibit work by adolescents either between 10 p.m. and 6 a.m. or between 11 p.m. and 7 a.m.
- 2. (a) Member States may, by legislative or regulatory provision, authorize work by adolescents in specific areas of activity during the period in which night work is prohibited as referred to in paragraph 1 (b).

In that event, Member States shall take appropriate measures to ensure that the adolescent is supervised by an adult where such supervision is necessary for the adolescent's protection.

- (b) If point (a) is applied, work shall continue to be prohibited between midnight and 4 a.m.

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However, Member States may, by legislative or regulatory provision, authorize work by adolescents during the period in which night work is prohibited in the following cases, where there are objective grounds for so doing and provided that adolescents are allowed suitable compensatory rest time and that the objectives set out in Article 1 are not called into question:

- work performed in the shipping or fisheries sectors;
- work performed in the context of the armed forces or the police;
- work performed in hospitals or similar establishments;
- cultural, artistic, sports or advertising activities.

3. Prior to any assignment to night work and at regular intervals thereafter, adolescents shall be entitled to a free assessment of their health and capacities, unless the work they do during the period during which work is prohibited is of an exceptional nature.

*Article 10***Rest period**

1. (a) Member States which make use of the option in Article 4 (2) (b) or (c) shall adopt the measures necessary to ensure that, for each 24-hour period, children are entitled to a minimum rest period of 14 consecutive hours.

(b) Member States shall adopt the measures necessary to ensure that, for each 24-hour period, adolescents are entitled to a minimum rest period of 12 consecutive hours.

2. Member States shall adopt the measures necessary to ensure that, for each seven-day period:

— children in respect of whom they have made use of the option in Article 4 (2) (b) or (c), and

— adolescents

are entitled to a minimum rest period of two days, which shall be consecutive if possible.

Where justified by technical or organization reasons, the minimum rest period may be reduced, but may in no circumstances be less than 36 consecutive hours.

The minimum rest period referred to in the first and second subparagraphs shall in principle include Sunday.

3. Member States may, by legislative or regulatory provision, provide for the minimum rest periods referred to in paragraphs 1 and 2 to be interrupted in the case of activities involving periods of work that are split up over the day or are of short duration.

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4. Member States may make legislative or regulatory provision for derogations from paragraph 1 (b) and paragraph 2 in respect of adolescents in the following cases, where there are objective grounds for so doing and provided that they are granted appropriate compensatory rest time and that the objectives set out in Article 1 are not called into question:

- (a) work performed in the shipping or fisheries sectors;
- (b) work performed in the context of the armed forces or the police;
- (c) work performed in hospitals or similar establishments;
- (d) work performed in agriculture;
- (e) work performed in the tourism industry or in the hotel, restaurant and café sector;
- (f) activities involving periods of work split up over the day.

*Article 11***Annual rest**

Member States which make use of the option referred to in Article 4 (2) (b) or (c) shall see to it that a period free of any work is included, as far as possible, in the school holidays of children subject to compulsory full-time schooling under national law.

*Article 12***Breaks**

Member States shall adopt the measures necessary to ensure that, where daily working time is more than four and a half hours, young people are entitled to a break of at least 30 minutes, which shall be consecutive if possible.

*Article 13***Work by adolescents in the event of *force majeure***

Member States may, by legislative or regulatory provision, authorize derogations from Article 8 (2), Article 9 (1) (b), Article 10 (1) (b) and, in the case of adolescents, Article 12, for work in the circumstances referred to in Article 5 (4) of Directive 89/391/EEC, provided that such work is of a temporary nature and must be performed immediately, that adult workers are not available and that the adolescents are allowed equivalent compensatory rest time within the following three weeks.

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SECTION IV

*Article 14***Measures**

Each Member State shall lay down any necessary measures to be applied in the event of failure to comply with the provisions adopted in order to implement this Directive; such measures must be effective and proportionate.

▼M3*Article 15***Amendments to the Annex**

The Commission is empowered to adopt delegated acts in accordance with Article 15a to make strictly technical amendments to the Annex, in the light of technical progress, changes in international rules or specifications and advances in knowledge concerning the protection of young people at work.

*Article 15a***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 15 shall be conferred on the Commission for a period of five years from 26 July 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 15 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹⁾.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 15 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

⁽¹⁾ OJ L 123, 12.5.2016, p. 1.

▼B*Article 16***Non-reducing clause**

Without prejudice to the right of Member States to develop, in the light of changing circumstances, different provisions on the protection of young people, as long as the minimum requirements provided for by this Directive are complied with, the implementation of this Directive shall not constitute valid grounds for reducing the general level of protection afforded to young people.

*Article 17***Final provisions**

1. (a) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 22 June 1996 or ensure, by that date at the latest, that the two sides of industry introduce the requisite provisions by means of collective agreements, with Member States being required to make all the necessary provisions to enable them at all times to guarantee the results laid down by this Directive.
- (b) The United Kingdom may refrain from implementing the first subparagraph of Article 8 (1) (b) with regard to the provision relating to the maximum weekly working time, and also Article 8(2) and Article 9 (1) (b) and (2) for a period of four years from the date specified in subparagraph (a).

The Commission shall submit a report on the effects of this provision.

The Council, acting in accordance with the conditions laid down by the Treaty, shall decide whether this period should be extended.

- (c) Member States shall forthwith inform the Commission thereof.

2. When Member States adopt the measures referred to in paragraph 1, such measures 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.

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

▼M1*Article 17a***Implementation report**

Every five years, the Member States shall submit to the Commission a report on the practical implementation of this Directive in the form of a specific chapter of the single report referred to in Article 17a(1), (2) and (3) of Directive 89/391/EEC, which serves as a basis for the Commission's evaluation, in accordance with Article 17a(4) of that Directive.

▼B*Article 18*

This Directive is addressed to the Member States.

▼ B*ANNEX***Non-exhaustive list of agents, processes and work**

(Article 7(2), second subparagraph)

I. Agents1. *Physical agents*

- (a) Ionizing radiation;
- (b) Work in a high-pressure atmosphere, e. g. in pressurized containers, diving.

2. *Biological agents***▼ M2**

- (a) Biological agents of risk groups 3 and 4 within the meaning of points 3 and 4 of second paragraph of Article 2 of Directive 2000/54/EC of the European Parliament and of the Council ⁽¹⁾.

▼ B3. *Chemical agents***▼ M2**

- (a) Substances and mixtures which meet the criteria for classification under Regulation (EC) No 1272/2008 of the European Parliament and of the Council ⁽²⁾ in one or more of the following hazard classes and hazard categories with one or more of the following hazard statements:

- acute toxicity, category 1, 2 or 3 (H300, H310, H330, H301, H311, H331);
- skin corrosion, category 1A, 1B or 1C (H314);
- flammable gas, category 1 or 2 (H220, H221);
- flammable aerosols, category 1 (H222);
- flammable liquid, category 1 or 2 (H224, H225);
- explosives, categories ‘Unstable explosive’, or explosives of Divisions 1.1, 1.2, 1.3, 1.4, 1.5 (H200, H201, H202, H203, H204, H205);
- self-reactive substances and mixtures, type A, B, C or D (H240, H241, H242);
- organic peroxides, type A or B (H240, H241);
- specific target organ toxicity after single exposure, category 1 or 2 (H370, H371);
- specific target organ toxicity after repeated exposure, category 1 or 2 (H372, H373);

⁽¹⁾ Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 262, 17.10.2000, p. 21).

⁽²⁾ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

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- respiratory sensitisation, category 1, subcategory 1A or 1B (H334);
- skin sensitisation, category 1, subcategory 1A or 1B (H317);
- carcinogenicity, category 1A, 1B or 2 (H350, H350i, H351);
- germ cell mutagenicity, category 1A, 1B or 2 (H340, H341);
- reproductive toxicity, category 1A or 1B (H360, H360F, H360FD, H360Fd, H360D, H360Df).

(d) Substances and mixtures referred to in point (ii) of point (a) of Article 2 of Directive 2004/37/EC of the European Parliament and of the Council ⁽¹⁾;

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- (e) Lead and compounds thereof, inasmuch as the agents in question are absorbable by the human organism;
- (f) Asbestos.

II. Processes and work**▼M2**

1. Processes at work referred to in Annex I to Directive 2004/37/EC.

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2. Manufacture and handling of devices, fireworks or other objects containing explosives.
3. Work with fierce of poisonous animals.
4. Animal slaughtering on an industrial scale.
5. Work involving the handling of equipment for the production, storage or application of compressed, liquified or dissolved gases.
6. Work with vats, tanks, reservoirs or carboys containing chemical agents referred to in 1.3.
7. Work involving a risk of structural collapse.
8. Work involving high-voltage electrical hazards.
9. Work the pace of which is determined by machinery and involving payment by results.

⁽¹⁾ Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (OJ L 158, 30.4.2004, p. 50).