

COUNCIL DIRECTIVE 97/42/EC

of 27 June 1997

amending for the first time Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work (Sixth 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 Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (Sixth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)⁽¹⁾, and in particular Article 16 thereof,

Having regard to the proposal from the Commission⁽²⁾, drawn up following consultation with the Advisory Committee on Safety, Hygiene and Health Protection at Work,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Acting in accordance with the procedure referred to in Article 189c of the Treaty⁽⁴⁾,

- (1) Whereas Article 118a of the Treaty provides that the Council is to 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;
- (2) 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;
- (3) Whereas Commission Directive 91/325/EEC of 1 March 1991 adapting to technical progress for the twelfth time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances⁽⁵⁾ introduces in Annex III new risk phrases to indicate

the health hazards resulting from prolonged exposure and the risk of cancer through inhalation;

- (4) Whereas in all work situations workers must be protected in respect of preparations containing one or more carcinogens and from carcinogenic compounds arising at work;
- (5) Whereas, for some agents it is necessary to consider all absorption pathways, including the possibility of penetration through the skin, in order to ensure the best possible level of protection;
- (6) Whereas the wording of point 2 of Annex I to Directive 90/394/EEC relating to polycyclic aromatic hydrocarbons has posed problems of interpretation in many Member States; whereas, therefore, a new, more precise wording is called for;
- (7) Whereas Article 16 of Directive 90/394/EEC makes provision for the establishment of exposure limit values on the basis of the available information, including scientific and technical data, in respect of all those carcinogens for which this is possible;
- (8) Whereas occupational exposure limit values must be regarded as an important component of the general arrangements for the protection of workers; whereas such limit values must be revised whenever this becomes necessary in the light of more recent scientific data;
- (9) Whereas benzene is a carcinogen which is present in many work situations; whereas, therefore, a large number of workers are exposed to a potential health risk; whereas, although current scientific knowledge is not such that a level can be established below which risks to health cease to exist, a reduction in exposure to benzene will nonetheless reduce these risks;
- (10) Whereas the respect of the minimum requirements on the protection of health and safety of workers from the specific risks related to carcinogens aims not only to ensure the protection of the health and safety of each individual worker but also to provide a level of minimum protection of all workers in the Community;
- (11) Whereas a consistent level of protection from the risks related to carcinogens has to be established for the Community as a whole and whereas that level of protection has to be set not by detailed prescriptive

⁽¹⁾ OJ No L 196, 26. 7. 1990, p. 1.

⁽²⁾ OJ No C 317, 28. 11. 1995, p. 16.

⁽³⁾ OJ No C 97, 1. 4. 1996, p. 25.

⁽⁴⁾ Opinion of the European Parliament of 20 June 1996 (OJ No C 198, 8. 7. 1996, p. 182), Council Common Position of 2 December 1996 (OJ No C 6, 9. 1. 1997, p. 15) and Decision of the European Parliament of 9 April 1997 (OJ No C 132, 28. 4. 1997).

⁽⁵⁾ OJ No L 180, 8. 7. 1991, p. 1.

requirements but by a framework of general principles to enable Member States to apply the minimum requirements consistently;

(12) Whereas this amendment constitutes a practical aspect of the realization of the social dimension of the internal market;

(13) Whereas, pursuant to Decision 74/325/EEC⁽¹⁾, the Advisory Committee on Safety, Hygiene and Health Protection at Work is to be consulted by the Commission with a view to drawing up proposals in this field,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 90/394/EEC is hereby amended as follows:

1. in Article 1, the following paragraph shall be added:

'4. As regards asbestos and vinyl chloride monomer, which are dealt with by specific Directives, the provisions of this Directive shall apply when they are more favourable to safety and health at work.'

2. Article 2 shall be replaced by the following:

'Article 2

For the purposes of this Directive,

(a) "carcinogen" means:

(i) a substance which meets the criteria for classification as a category 1 or 2 carcinogen set out in Annex VI of Directive 67/548/EEC;

(ii) a preparation composed of one or more substances referred to in point (i) where the concentration of one or more of the individual

substances meets the requirements for concentration limits for the classification of a preparation as a category 1 or 2 carcinogen set out either:

— in Annex I to Directive 67/548/EEC, or
— in Annex I to Directive 88/379/EEC where the substance or substances do not appear in Annex I to Directive 67/548/EEC or appear in it without concentration limits;

(iii) a substance, preparation or process referred to in Annex I as well as a substance or preparation released by a process referred to in Annex I;

(b) "limit value" means, unless otherwise specified, the limit of the time-weighted average of the concentration for a "carcinogen" in the air within the breathing zone of a worker in relation to a specified reference period as set out in Annex III.;

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

'3. Furthermore, when assessing the risk, account shall be taken of all other routes of exposure, such as absorption into and/or through the skin'.

4. in Article 5, the following paragraph shall be inserted after paragraph 3:

'4. Exposure shall not exceed the limit value of a carcinogen as set out in Annex III.'

Former paragraph 4 shall become paragraph 5.

5. item 2 of Annex I shall be replaced by the following:

'2. Work involving exposure to polycyclic aromatic hydrocarbons present in coal soot, coal tar or coal pitch'.

6. Part A of Annex III shall be replaced by the following:

'A. LIMIT VALUES FOR OCCUPATIONAL EXPOSURE

Name of agent	Einecs ⁽¹⁾	CAS ⁽²⁾	Limit values		Notation	Transitional measures
			mg/m ³ ⁽³⁾	ppm ⁽⁴⁾		
Benzene	200-753-7	71-43-2	3,25 ⁽⁵⁾	1 ⁽⁵⁾	Skin ⁽⁶⁾	Limit value: 3 ppm (= 9,75 mg/m ³) until (3 years after date in Article 2 (1) of Directive 97/42/EC ⁽⁷⁾)

⁽¹⁾ EINECS: European Inventory of Existing Chemical Substances.

⁽²⁾ CAS: Chemical Abstract Service Number.

⁽³⁾ mg/m³ = milligrams per cubic metre of air at 20 °C and 101,3 KPa (760 mm mercury pressure).

⁽⁴⁾ ppm = parts per million by volume in air (ml/m³).

⁽⁵⁾ Measured or calculated in relation to a reference period of eight hours.

⁽⁶⁾ Substantial contribution to the total body burden via dermal exposure possible.

⁽⁷⁾ OJ No L 179, 8. 7. 1997, p. 4.'

⁽¹⁾ OJ No L 185, 9. 7. 1974, p. 15. Decision as last amended by the 1994 Act of Accession.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 27 June 2000. 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 the Member States.

2. Member States shall communicate to the Commission the texts of the 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 Luxembourg, 27 June 1997.

For the Council

The President

A. MELKERT
