Commission Directive 2019/1832 of 24 October 2019 amending Annexes I, II and III to Council Directive 89/656/EEC as regards purely technical adjustments

COMMISSION DIRECTIVE 2019/1832

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace[(1)], and in particular Article 9 thereof,

Whereas:

(1) Principle 10 of the European Pillar of Social Rights[(2)], proclaimed at Gothenburg on 17 November 2017, provides that every worker has the right to a healthy, safe and well-adapted working environment. The workers' right to a high level of protection of their health and safety at work and to a working environment that is adapted to their professional needs and that enables them to prolong their participation in the labour market includes the use of personal protective equipment at the workplace if risks cannot be avoided or sufficiently limited by other means, measures, methods or procedures of work organisation.

(2) The implementation of the directives related to the health and safety of workers at work, including Directive 89/656/EEC, was the subject of an *ex-post* evaluation, referred to as a REFIT evaluation. The evaluation looked at the directives' relevance, at research and at new scientific knowledge in the various fields concerned. The REFIT evaluation, referred to in the Commission Staff Working Document[(3)], concludes, among other things, that the use of personal protective equipment concerns approximately 40 % of the EU's workforce, as risks at the workplace cannot be avoided by any other means, and that there is a need to address difficulties in implementing Directive 89/656/EEC.

(3) In its Communication 'Safer and Healthier Work for All – Modernisation of the EU Occupational Safety and Health Legislation and Policy'[(4)], the Commission reiterated that while the REFIT evaluation of the Union's *acquis* on occupational health and safety confirmed that the legislation in this field is generally effective and fit-for-purpose, there is scope for updating outdated rules and ensuring better and broader protection, compliance and enforcement on the ground. The Commission emphasises the particular need to consider the definition of personal protective equipment and its use by different services and sectors, as set out in Article 2 of Directive 89/656/EEC.

(4) Directive 89/656/EEC lays down minimum requirements for the use of personal protective equipment used by workers at work, which is to be used when the risks

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concerned cannot be avoided or sufficiently limited by technical means of collective protection or by measures, methods or procedures of work organisation. To facilitate the establishment of the general rules required pursuant to Article 6 of Directive 89/656/EEC, Annexes I, II and III to Directive 89/656/EEC provide non-binding guidelines intended to facilitate and support the selection of appropriate personal protective equipment for the risks, activities and sectors concerned.

(5) Regulation (EU) 2016/425 of the European Parliament and of the Council[(5)] lays down the provisions regarding the design, manufacture and marketing of personal protective equipment. Regulation (EU) 2016/425 modified the risk categorisation of products, to enable employers to understand and thus to deploy personal protective equipment, as further explained in the Personal Protective Equipment Guidelines[(6)] that clarify procedures and matters referred to in Regulation (EU) 2016/425. It is considered appropriate to update Annexes I, II and III to Directive 89/656/EEC in order to ensure consistency with the risk classification laid down in Regulation (EU) 2016/425 and to align them with terminologies used and types of personal protective equipment referred to in Regulation (EU) 2016/425.

(6) Article 4(1) of Directive 89/656/EEC foresees that employers must provide personal protective equipment that complies with the relevant Union provisions on design and manufacture with respect to safety and health. Pursuant to that Article, employers who provide that personal protective equipment to their workers must ensure that such personal protective equipment fulfils the requirements laid down in Regulation (EU) 2016/425.

(7) Annex I to Directive 89/656/EEC sets out a specimen risk survey table for the use of personal protective equipment and sets out types of risks that could occur in workplaces in relation to different parts of the body to be protected by personal protective equipment. Annex I should be amended to take account of new types of risks that appear in workplaces and to ensure consistency with the risk classification and the terminology used, in particular in Regulation (EU) 2016/425.

(8) Annex II to Directive 89/656/EEC, which sets out a non-exhaustive guide list of types of personal protective equipment, should be amended to take account of the new types of risks identified in Annex I to that directive. Annex II should also be amended to include examples of personal protective equipment currently available on the market in conformity with Regulation (EU) 2016/425 and the terminology used in that Regulation.

(9) Annex III to Directive 89/656/EEC sets out a non-exhaustive guide list of activities and sectors of activity that could require the provision of personal protective equipment, bringing together the risk classifications set out in Annex I to that directive and the types of personal protective equipment described in Annex II to that directive. Annex III to Directive 89/656/EEC should be restructured to ensure consistency between the terminology and classifications used across the three annexes and with Regulation (EU) 2016/425. This will enable employers from different sectors and industries to better identify and provide personal protective equipment that corresponds to specific

activities and the specific types of risks that workers are exposed to, as indicated by the risk assessment.

(10) The Advisory Committee for Safety and Health at Work was consulted on the measures resulting from the adoption of the Commission's Communication 'Safer and Healthier Work for All – Modernisation of the EU Occupational Safety and Health Legislation and Policy' that are required to keep the Union's occupational health and safety legislation effective and fit-for-purpose.

(11) In its 'Opinion on the Modernisation of Six OSH Directives to Ensure Healthier and Safer Work for All'[(7)], adopted on 6 December 2017, the Advisory Committee for Safety and Health at Work recommends that Directive 89/656/EEC should be amended to enhance its relevance and effectiveness.

(12) In a subsequent 'Opinion on technical updates to the annexes of the Personal Protective Equipment Directive (89/656/EEC)'[(8)], adopted on 31 May 2018, the Advisory Committee for Safety and Health at Work recommends that specific updates to Annex I, II and III to Directive 89/656/EEC, taking into account the latest technological developments in the field and ensuring consistency with Regulation (EU) 2016/425, should be carried out.

(13) In preparing the current update of Annexes I, II and III to Directive 89/656/EEC, the Commission was assisted by experts representing Member States, who provided technical and scientific support.

(14) In accordance with the Joint Political Declaration on explanatory documents[(9)], adopted by the Member States and the Commission on 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments.

(15) The measures provided for in this Directive are in accordance with the opinion of the Committee established by Article 17 of Council Directive 89/391/EEC[(10)],

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I, II and III to Directive 89/656/EEC are replaced by the text in the Annex to this Directive.

Article 2

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 20 November 2021 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 24 October 2019.

For the Commission

The President

Jean-Claude JUNCKER