DIRECTIVE 2001/45/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 June 2001

amending Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 137(2) thereof,

Having regard to the proposal from the Commission, submitted after consulting the Advisory Committee on Safety, Hygiene and Health Protection at Work [1],

Having regard to the opinion of the Economic and Social Committee [2],

After consulting the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty [3],

Whereas:

(1) Article 137(2) of the Treaty provides that the Council may 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) Pursuant to the said Article, such Directives must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized enterprises.

(3) The improvement of occupational safety, hygiene and health is an objective which may not be subordinated to purely economic considerations.

(4) Compliance with the minimum requirements designed to ensure a better standard of health and safety in the use of work equipment provided for temporary work at a height is essential to ensure the health and safety of workers.

(5) The provisions adopted pursuant to Article 137(2) of the Treaty do not prevent any Member State from maintaining or introducing such more stringent measures for the protection of working conditions as are compatible with the Treaty.

(6) Work at a height may expose workers to particularly severe risks to their health and safety, notably to the risks of falls from a height and other serious occupational accidents, which account for a large proportion of all accidents, especially of fatal accidents.

(7) Self-employed persons and employers, where they themselves pursue an occupational activity and personally use work equipment intended for carrying out temporary work at a height, may affect employees' health and safety.

(8) Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) [4], imposes on these categories of persons the obligation to respect *inter alia* Article 4 and Annex I of Directive 89/655/EEC [5].

(9) Any employer who intends to have temporary work carried out at a height must select equipment affording adequate protection against the risks of falls from a height.

(10) In general collective protection measures to prevent falls offer better protection than personal protection measures. The selection and use of equipment appropriate to each specific site for preventing and eliminating risks should be accompanied by specific training and supplementary investigations where appropriate.

(11) Ladders, scaffolding and ropes are the equipment most commonly used in performing temporary work at a height and the safety and health of workers engaged in this type of work therefore depend to a significant extent on their correct use; the manner in which such equipment can most safely be used by workers must therefore be specified; adequate specific training of the workers is therefore required.

(12) This Directive is the most appropriate means of achieving the desired objectives and does not go beyond what is necessary for that purpose.

(13) This Directive is a practical contribution towards creating the social dimension of the internal market.

[1] OJ C 247 E, 31.8.1999, p. 23 and OJ C 62 E, 27.2.2001, p. 113.
[2] OJ C 138, 18.5.1999, p. 30.
[3] Opinion of the European Parliament of 21 September 2000 (OJ C 146, 17.5.2001, p. 78), Council Common Position of 23 March 2001 (OJ C 142, 15.5.2001, p. 16) and Decision of the European Parliament of 14 June 2001.
[4] OJ L 245, 26.8.1992, p. 6.
[5] OJ L 393, 30.12.1989, p. 1.

(14) Member States should be given the opportunity to make use of a transitional period to take account of the particular problems which SMEs have to face,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The text annexed to this Directive shall be added to Annex II to Directive 89/655/EEC.

Article 2

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive not later than 19 July 2004. They shall forthwith inform the Commission thereof.

Member States shall have the right, as regards the implementation of section 4 of the Annex, to make use of a transitional period of not more than two years from the date mentioned in the first subparagraph, in order to take account of the various situations which might arise from the practical implementation of this Directive in particular by small and medium-sized enterprises.

2. 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 reference shall be laid down by the Member States.

3. Member States shall notify the Commission of the provisions of national law which they have already adopted or adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 27 June 2001.

For the European Parliament	*For the Council*
The President	*The President*
N. FONTAINE	A. BOURGEOIS