Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

COUNCIL DIRECTIVE 98/24/EC

of 7 April 1998

on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth 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 the proposal from the Commission[(1)], drawn up after consultation with the Advisory Committee on Safety, Hygiene and Health Protection at Work,

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

Acting in accordance with the procedure laid down in Article 189c of the Treaty[(3)],

(1) Whereas Article 118a of the Treaty provides that the Council shall adopt by means of Directives minimum requirements for encouraging improvements, especially in the working environment, to guarantee a better level of protection of the safety and health of workers;

(2) Whereas, pursuant to that Article, such Directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

(3) Whereas the improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations;

(4) Whereas the respect of minimum requirements on the protection of the health and safety of workers from the risks related to chemical agents aims to ensure not only 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 which avoids any possible distortion in the area of competition;

(5) Whereas a consistent level of protection from the risks related to chemical agents has to be established for the Community as a whole; whereas that level of protection has to be set not by detailed prescriptive requirements but by a framework of general principles to enable Member States to apply the minimum requirements consistently;

(6) Whereas a work activity involving chemical agents is likely to expose workers to risk;

(7) Whereas Council Directive 80/1107/EEC of 27 November 1980 on the protection of workers from the risks related to exposure to chemical, physical and biological agents

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at work[4], Council Directive 82/605/EEC of 28 July 1982 on the protection of workers from the risks related to exposure to metallic lead and its ionic compounds at work (first individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)[5] and Council Directive 88/364/EEC of 9 June 9 1988 on the protection of workers by the banning of certain specific agents and/or certain work activities (fourth individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)[6], for the sake of consistency and clarity as well as for technical reasons, should be revised and included in a single Directive laying down minimum requirements for the protection of the health and safety of workers in work activities involving chemical agents; whereas these Directives can be repealed;

(8) Whereas this Directive is an individual Directive within the meaning of Article 16(1) of Council Directive 89/391//EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work[7];

(9) Whereas therefore the provisions of the said Directive apply in full to the exposure of workers to chemical agents, without prejudice to more stringent and/or specific provisions contained in this Directive;

(10) Whereas more stringent and/or specific provisions relating to the transport of hazardous chemical agents are contained in binding international agreements and conventions incorporated into Community provisions on transport of dangerous goods by road, rail, water and air;

(11) Whereas in Directive 67/548/EEC[8] and Directive 88/379/EEC[9] on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of, respectively, dangerous substances and preparations, the Council laid down a system of criteria for the classification of dangerous substances and preparations;

(12) Whereas the definition of hazardous chemical agent should include any chemical substance which meets these criteria and also any chemical substance which whilst not meeting these criteria may because of its physico-chemical, chemical or toxicological properties, and the way it is used or is present in the workplace, present a risk to the safety and health of workers;

(13) Whereas in Directive 90/492/EEC[10] the Commission defined and laid down a system of specific information on dangerous substances and preparations, in the form of safety data sheets principally intended for industrial users to enable them to take the measures necessary to ensure the protection of the safety and health of workers; whereas Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)[11] establishes a system for marking containers and pipes used for dangerous substances or preparations at work;

(14) Whereas the employer should assess any risk to the safety and health of workers arising from the presence of hazardous chemical agents at the workplace, in order to take the necessary preventive and protective measures set out in this Directive;

(15) Whereas the preventive measures identified by the assessment of risk and taken by the employer should be consistent with the need to protect public health and the environment;

(16) Whereas, to supplement the information available to workers so as to ensure an improved level of protection, it is necessary for workers and their representatives to be informed about the risks which chemical agents can pose for their safety and health and about the measures necessary to reduce or eliminate those risks, and for them to be in a position to check that the necessary protective measures are taken;

(17) Whereas the health surveillance of workers for whom the results of the aforementioned assessment reveal a risk to health, can contribute to the prevention and protection measures to be undertaken by the employer;

(18) Whereas the employer must on a regular basis carry out evaluation and measurements and be aware of new developments in technology with a view to improving the protection of workers's safety and health;

(19) Whereas the latest scientific data should be evaluated by independent scientists to assist the Commission in setting occupational exposure limit values;

(20) Whereas, although in some cases scientific knowledge may not be such that a level of exposure to a chemical agent can be established below which risks to health cease to exist, a reduction in exposure to these chemical agents will nonetheless reduce these risks;

(21) Whereas in Directive 91/322/EEC[(12)] and Directive 96/94/EC[(13)] the Commission laid down indicative limit values as provided for by Directive 80/1107/EEC; whereas the former Directives should be maintained as part of the current framework;

(22) Whereas necessary technical adjustments to this Directive should be drawn up by the Commission in cooperation with the Committee set up by Directive 89/391/EEC to assist the Commission in making technical adaptations to individual Directives adopted under the framework of that Directive; whereas the Commission, after first seeking the advice of the Advisory Committee on Safety, Hygiene and Health Protection at Work in accordance with Decision 74/325/EEC[(14)], should also draw up practical guidelines for the application of this Directive;

(23) Whereas the repeal of Directive 80/1107/EEC must not give rise to the lowering of the present standards of worker protection from chemical, physical and biological agents; whereas standards resulting from the existing Directives on biological agents, the proposed Directive on physical agents, this Directive and any amendments to these texts should reflect and at least maintain the standards laid down in the said Directive;

(24) Whereas this Directive is a practical contribution towards creating the social dimension of the internal market,

HAS ADOPTED THIS DIRECTIVE:

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SECTION I

GENERAL PROVISIONS

Article 1

Objective and scope

1 This Directive, which is the fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC, lays down minimum requirements for the protection of workers from risks to their safety and health arising, or likely to arise, from the effects of chemical agents that are present at the workplace or as a result of any work activity involving chemical agents.

2 The requirements of this Directive apply where hazardous chemical agents are present or may be present at the workplace, without prejudice to the provisions for chemical agents to which measures for radiation protection apply pursuant to Directives adopted under the Treaty establishing the European Atomic Energy Community.

3 For carcinogens at work the provisions of this Directive shall apply without prejudice to more stringent and/or specific provisions contained in Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens (sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)[15].

4 The provisions of Directive 89/391/EEC shall apply fully to the whole field referred to in this Article, without prejudice to more stringent and/or specific provisions contained in this Directive.

5 As far as the transport of hazardous chemical agents is concerned, the provisions of this Directive shall apply without prejudice to more stringent and/or specific provisions contained in Directive 94/55/EC[16], in Directive 96/49/EC[17], in the provisions of the IMDG Code, IBC Code and IGC Code as defined in Article 2 of Directive 93/75/EEC[18], in the provisions of the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterway and of the Regulation for the Carriage of Dangerous Substances on the Rhine as incorporated in Community law and in the technical instructions for the safe transport of dangerous goods issued, at the date of entry into force of this Directive, by the International Civil Aviation Organisation.

Article 2

Definitions

For the purpose of this Directive, the terms used shall have the following meanings:

(a) ‘Chemical agent’ means any chemical element or compound, on its own or admixed, as it occurs in the natural state or as produced, used or released, including release as waste, by any work activity, whether or not produced intentionally and whether or not placed on the market;

(b) ‘Hazardous chemical agent’ means:

(i) [F1any chemical agent which meets the criteria for classification as hazardous within any physical and/or health hazard classes laid down in Regulation

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(EC) No 1272/2008 of the European Parliament and of the Council[19], whether or not that chemical agent is classified under that Regulation;**]**

(ii) **[**[F2]. . . . .**]**

(iii) **[**[F1]any chemical agent which, whilst not meeting the criteria for classification as hazardous in accordance with point (i) of point (b) of this Article may, because of its physico-chemical, chemical or toxicological properties and the way it is used or is present in the workplace, present a risk to the safety and health of workers, including any chemical agent that is assigned an occupational exposure limit value under Article 3;**]**

(c) 'Activity involving chemical agents' means any work in which chemical agents are used, or are intended to be used, in any process, including production, handling, storage, transport or disposal and treatment, or which result from such work;

(d) 'Occupational exposure limit value' means, unless otherwise specified, the limit of the time-weighted average of the concentration of a chemical agent in the air within the breathing zone of a worker in relation to a specified reference period;

(e) 'Biological limit value' means the limit of the concentration in the appropriate biological medium of the relevant agent, its metabolite, or an indicator of effect;

(f) 'Health surveillance' means the assessment of an individual worker to determine the state of health of that individual, as related to exposure to specific chemical agents at work;

(g) 'Hazard' means the intrinsic property of a chemical agent with the potential to cause harm;

(h) 'Risk' means the likelihood that the potential for harm will be attained under the conditions of use and/or exposure.

Textual Amendments

F1 Substituted by Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

F2 Deleted by Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

Article 3

Occupational exposure limit values and biolgocial limit values

1 The Commission shall evaluate the relationship between the health effects of hazardous chemical agents and the level of occupational exposure by means of an independent scientific assessment of the latest available scientific data.

2 On the basis of the evaluation described in paragraph 1, the Commission, after first consulting the Advisory Committee on Safety, Hygiene and Health protection at Work, shall