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.