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(Acts whose publication is obligatory)

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 94/60/EC

of 20 December 1994

amending for the 14th time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission [1],

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

Acting in accordance with the procedure referred to in Article 189b of the Treaty [3],

Whereas measures should be adopted for the achievement of the internal market; whereas the internal market is an area without internal frontiers in which the free movement of goods, persons, services and capital is guaranteed;

Whereas work on the internal market should also gradually improve the quality of life, health protection and consumer safety; whereas the measures proposed by this Directive are in line with the Council resolution of 9 November 1989 on future priorities for relaunching consumer protection policy [4];

Whereas the Council and the Representatives of the Governments of the Member States, meeting within the Council, adopted Decision 90/238/Euratom, ECSC, EEC [5] concerning a 1990 to 1994 action plan in the context of the 'Europe against Cancer' programme;

Whereas the substances which appear in Annex I to Council Directive 67/548/EEC [6] and are classified as carcinogens category 1 or 2 may cause cancer; whereas to improve health protection such substances and preparations containing them should not be placed on the market for use by the general public;

Whereas the substances which appear in Annex I to Directive 67/548/EEC and are classified as mutagens category 1 or 2 may cause heritable genetic damage; whereas to improve health protection such substances and preparations containing them should not be placed on the market for use by the general public;

Whereas the substances which appear in Annex I to Directive 67/548/EEC and are classified as toxic for reproductive purposes category 1 or 2 may cause birth defects; whereas to improve health protection such substances and preparations containing them should not be placed on the market for use by the general public;

Whereas, for reasons of transparency and clarity, such substances should be referred to using a recognized nomenclature, preferably that of the Iupac (International Union of Pure and Applied Chemistry); whereas Annex I to Directive 67/548/EEC ('List of dangerous substances') is regularly updated by way of adaptation to technical progress; whereas the Commission will submit to the

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(1) OJ No C 157, 24. 6. 1992, p. 6.
(2) OJ No C 332, 16. 12. 1992, p. 8.
(3) Opinion of the European Parliament of 19 January 1994 (OJ No C 44, 14. 2. 1994, p. 2), Council common position of 16 June 1994 (OJ No C 244, 31. 8. 1994, p. 1) and Decision of the European Parliament of 26 October 1994 (OJ No C 323, 21. 11. 1994).
(4) OJ No C 294, 23. 11. 1989, p. 1.
(5) OJ No L 137, 30. 5. 1990, p. 31.
(6) OJ No 196, 16. 8. 1967, p. 1/67. Directive as last amended by Commission Directive 91/632/EEC (OJ No L 338, 10. 12. 1991, p. 23).

European Parliament and the Council, no later than six months after publication of such adaptation to technical progress in the *Official Journal of the European Communities*, a proposal for a Directive governing the substances newly classified as carcinogenic in categories 1 and 2, mutagenic in categories 1 and 2, and toxic for reproductive purposes in categories 1 and 2, so as to update this Directive;

Whereas the said proposal from the Commission will take account of the risks and advantages of the substances newly classified as well as of the Community legislative provisions on risk analysis;

Whereas Annex I to Directive 67/548/EEC lays down individual concentration limits for such substances and, in the absence of such limits, Table VI of Annex I to Council Directive 88/379/EEC [1], lays down general concentration limits which apply to such substances contained in preparations;

Whereas creosote, as defined in the Annex to this Directive, may be damaging to health because of its content of known carcinogens; whereas for these reasons the use of creosote in wood treatment and the marketing and use of creosote-treated wood should be limited;

Whereas some of the components of creosote are poorly degradable and deleterious to certain organisms in the environment; whereas these components may enter the environment as a result of the use of treated wood;

Whereas some chlorinated solvents present a danger to health and should not be marketed to the general public in substances and preparations;

Whereas the restrictions on the use of creosote in wood treatment, on the marketing and use of creosote-treated wood and on the marketing and use of chlorinated solvents laid down by this Directive take into account the current state of knowledge and techniques regarding safer alternatives;

Whereas restrictions already adopted by certain Member States on the marketing and use of the substances mentioned above or the preparations containing them directly affect the establishment and functioning of the internal market; whereas it is therefore necessary to approximate the laws of the Member States in this field and consequently amend Annex I to Council Directive 76/769/EEC [2];

Whereas this Directive does not affect Community legislation laying down minimum requirements for the protection of workers contained in Council Directive 89/391/EEC [3] and in individual directives based thereon, in particular Directive 90/394/EEC [4],

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 76/769/EEC is hereby amended as set out in the Annex hereto.

Article 2

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive no later than one year after the date of its adoption and shall forthwith inform the Commission thereof.

They shall apply these provisions as from 20 June 1995.

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 Member States.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 20 December 1994.

For the European Parliament	*For the Council*
The President	*The President*
K. HÄNSCH	K. KINKEL

(1) OJ No L 187, 16. 7. 1988, p. 14. Directive as last amended by Commission Directive 93/18/EEC (OJ No L 104, 29. 4. 1993, p. 46).

(2) OJ No L 262, 27. 9. 1976, p. 201. Directive as last amended by Commission Directive 91/659/EEC (OJ No L 363, 31. 12. 1991, p. 36).

(3) OJ No L 183, 29. 6. 1989, p. 1.

(4) OJ No L 196, 26. 7. 1990, p. 1.

ANNEX

The following is added to Annex I to Directive 76/769/EEC:

'Designation of the substance, of the group of substances or of the preparation	Conditions of restriction
29. Substances which appear in Annex I to Directive 67/548/EEC classified as carcinogen category 1 or carcinogen category 2 and labelled at least as "Toxic (T)" with risk phrase R45: "May cause cancer" or risk phrase R49: "may cause cancer by inhalation", and listed as follows: Carcinogen category 1 See List 1 in the Appendix Carcinogen category 2 See List 2 in the Appendix	May not be used in substances and preparations placed on the market for sale to the general public in individual concentration equal to or greater than: — either the concentration specified in Annex I to Directive 67/548/EEC, or — the concentration specified in point 6, Table VI, of Annex I to Directive 88/379/EEC where no concentration limit appears in Annex I to Directive 67/548/EEC. Without prejudice to the implementation of other Community provisions relating to the classification, packaging and labelling of dangerous substances and preparations, the packaging of such substances and preparations must be marked legibly and indelibly as follows: "Restricted to professional users. Attention — Avoid exposure — obtain special instructions before use". By way of derogation, this provision shall not apply to: (a) medicinal or veterinary products as defined by Directive 65/65/EEC [1]; (b) cosmetic products as defined by Directive 76/768/EEC [2]; (c) — motor fuels which are covered by Directive 85/210/EEC [3], — mineral oil products intended for use as fuel in mobile or fixed combustion plants, — fuels sold in closed systems (e.g. liquid gas bottles); (d) other substances and preparations listed in Annex I to this Directive, under points other than 30 and 31; (e) artists' paints covered by Directive 88/379/EEC [4].
30. Substances which appear in Annex I to Directive 67/548/EEC classified as mutagen category 1 or mutagen category 2 and labelled with risk phrase R46: "May cause	May not be used in substances and preparations placed on the market for sale to the general public in individual concentration equal to or greater than:

(1) OJ No 22, 9. 2. 1965, p. 369/65. Directive as last amended by Directive 93/39/EEC (OJ No L 214, 24. 8. 1993, p. 22).
(2) OJ No L 262, 27. 9. 1976, p. 169. Directive as last amended by Directive 93/35/EEC (OJ No L 151, 23. 6. 1993, p. 32).
(3) OJ No L 96, 3. 4. 1985, p. 25.
(4) OJ No L 187, 16. 7. 1988, p. 14.

heritable genetic damage", and listed as follows:

Mutagen category 1
See List 3 in the Appendix

Mutagen category 2
See List 4 in the Appendix

— either the concentration specified in Annex I to Directive 67/548/EEC, or

— the concentration specified in point 6, Table VI, of Annex I to Directive 88/379/EEC where no concentration limit appears in Annex I to Directive 67/548/EEC.

Without prejudice to the implementation of other Community provisions relating to the classification, packaging and labelling of dangerous substances and preparations, the packaging of such substances and preparations must be marked legibly and indelibly as follows: "Restricted to professional users. Attention — Avoid exposure — obtain special instructions before use".

By way of derogation, this provision shall not apply to:

(a) medicinal or veterinary products as defined by Directive 65/65/EEC;

(b) cosmetic products as defined by Directive 76/768/EEC;

(c) motor fuels which are covered by Directive 85/210/EEC:

— mineral oil products intended for use as fuel in mobile or fixed combustion plants,

— fuels sold in closed systems (e.g. liquid gas bottles);

(d) other substances and preparations listed in Annex I to this Directive, under points other than 29 and 31;

(e) artists' paints covered by Directive 88/379/EEC.

31. Substances which appear in Annex I to Directive 67/548/EEC classified as toxic for reproductive purposes category 1 or toxic for reproductive purposes category 2 and labelled with risk phrase R60: "May impair fertility" and/or R61: "May cause harm to the unborn child", and listed as follows:

Toxic for reproductive purposes category 1
See List 5 in the Appendix

Toxic for reproductive purposes category 2
See List 6 in the Appendix

May not be used in substances and preparations placed on the market for sale to the general public in individual concentration equal to or greater than:

— either the concentration specified in Annex I to Directive 67/548/EEC, or

— the concentration specified in point 6, Table VI, of Annex I to Directive 88/379/EEC where no concentration limit appears in Annex I to Directive 67/548/EEC.

Without prejudice to the implementation of other Community provisions relating to the classification, packaging and labelling of dangerous substances and preparations, the packaging of such substances and preparations must be marked legibly and indelibly as follows: "Restricted to professional users. Attention — Avoid exposure — obtain special instructions before use".

By way of derogation, this provision shall not apply to:

(a) medicinal or veterinary products as defined by Directive 65/65/EEC;