II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 20 June 1991

amending Directive 89/392/EEC on the approximation of the laws of the Member States relating to machinery

(91/368/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas machinery entailing specific risks due either to its mobility or its ability to lift loads, or to both these phenomena together, must satisfy both the general health and safety requirements set out in Directive 89/392/EEC (4) and the health and safety requirements relating to those specific risks;

Whereas it is unnecessary to provide for certification procedures for those types of machinery other than those initially provided for in Directive 89/392/EEC.

Whereas prescribing supplementary essential health and safety requirements for the specific risks due to mobility and the lifting of loads can be effected by amending Directive 89/392/EEC to inlcude these complementary provisions; whereas this amendment can be used to correct certain imperfections in the essential health and safety requirements applying to all machinery;

Whereas it is necessary to provide for transitional arrangements enabling Member States to authorize the placing on the market and putting into service of machinery manufactured in accordance with the national rules in force on 31 December 1992;

Whereas certain equipment or machinery covered by existing Directives comes within the scope of this Directive; whereas it is preferable to have one single Directive to cover all equipment; whereas it is therefore desirable that the relevant existing Directives be repealed on the date this Directive is applied,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 89/392/EEC is hereby amended as follows:

1. Article 1 is amended as follows:

(1) OJ No C 37, 17. 2. 1990, p. 5; and OJ No C 268, 24. 10. 1990, p. 12.
(2) OJ No C 175, 16. 7. 1990, p. 119; and OJ No C 129, 20. 5. 1991.
(3) OJ No C 168, 10. 7. 1990, p. 15.
(4) OJ No L 183, 29. 6. 1989, p. 9.

(a) in paragraph 2, the following subparagraph shall be added:

'"Machinery" also means interchangeable equipment modifying the function of a machine, which is placed on the market for the purpose of being assembled with a machine or a series of different machines or with a tractor by the operator himself in so far as this equipment is not a spare part or a tool';

(b) in paragraph 3:

— the first indent is deleted,

— the second indent is replaced by the following:

'— lifting equipment designed and constructed for raising and/or moving persons with or without loads, except for industrial trucks with elevating operator position.',

— in the third indent, the following phrase is added:

'unless it is a machine used for lifting or lowering loads,',

— the following indents are added:

'— means of transport, i.e. vehicles and their trailers intended solely for transporting passengers by air or on road, rail or water networks, as well as means of transport in so far as such means are designed for transporting goods by air, on public road or rail networks or on water. Vehicles used in the mineral extraction industry shall not be excluded,

— seagoing vessels and mobile offshore units together with equipment on board such vessels or units,

— cableways for the public or private transportation of persons,

— agricultural and forestry tractors, as defined in Article 1 (1) of Council Directive 74/150/EEC of 4 March 1974 on the approximation of the laws of the Member States relating to the type-approval of wheeled agricultural or forestry tractors (1), as lasted amended by Directive 88/297/EEC (2),

— machines specially designed and constructed for military or police purposes.

(1) OJ No L 84, 28. 3. 1974, p. 10.
(2) OJ No L 126, 20. 5. 1988, p. 52.'

2. In Article 2 (3), first sentence, the phrase '... provisions of this Directive' is replaced by 'Community provisions in force'.

3. In Article 4 (2), the following subparagraph is added:

'"Interchangeable equipment", within the meaning of the third subparagraph of Article 1 (2), shall be regarded as machinery and accordingly must in all cases bear the EC mark and be accompanied by the EC declaration of conformity referred to in Annex II (A).'

4. In Article 8, the following paragraph is added:

'7. The obligations laid down in paragraph 6 shall not apply to persons who assemble with a machine or tractor interchangeable equipment as provided for in Article 1, provided that the parts are compatible and each of the constituent parts of the assembled machine bears the EC mark and is accompanied by the EC declaration of conformity.'

5. Article 13 is replaced by the following:

'*Article 13*

1. Before 1 January 1992 Member States shall adopt and publish the laws, regulations and administrative provisions necessary in order to comply with this Directive. They shall forthwith inform the Commission thereof.

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 a reference shall be laid down by the Member States.

The Member States shall apply the measures in question with effect from 1 January 1993, except as regards the equipment referred to in Directives 86/295/EEC (1), 86/296/EEC (2) and 86/663/EEC (3), for which these measures shall apply from 1 July 1995.

2. Furthermore, Member States shall allow, for the period until 31 December 1994, except as regards the equipment referred to in Directives 86/295/EEC, 86/296/EEC and 86/663/EEC, for which this period shall end on 31 December 1995, the placing on the market and putting into service of machinery in conformity with the national regulations in force in their territory on 31 December 1992.

Directives 86/295/EEC, 86/296/EEC and 86/663/EEC shall not impede implementation of paragraph 1 as from 1 July 1995.

3. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

4. The Commission shall, before 1 January 1994, examine the progess made in the stadardization work relating to this Directive and propose any appropriate measures.

(1) OJ No L 186, 8. 7. 1986, p. 1.
(2) OJ No L 186, 8. 7. 1986, p. 10.
(3) OJ No L 384, 31. 12. 1986, p. 12.'

6. Annex I is amended as follows:

(a) In section 1.3.7 the following paragraph is added:

'All necessary steps must be taken to prevent accidental blockage of moving parts involved in the work. In cases where, despite the precautions taken, a blockage is likely to occur, specific protection devices or tools, the instruction handbook and possibly a sign on the machinery should be provided by the manufacturer to enable the equipment to be safely unblocked.';

(b) The following section is inserted:

'1.6.5. *Cleaning of internal parts*

The machinery must be designed and constructed in such a way that it is possible to clean internal parts which have contained dangerous substances or preparations without entering them; any necessary unblocking must also be possible from the outside. If it is absolutely impossible to avoid entering the machinery, the manufacturer must take steps during its construction to allow cleaning to take place with the minimum of danger.';

(c) In section 1.7.0 the following paragraph is added:

'Where the health and safety of exposed persons may be endagered by a fault in the operation of unsupervised machinery, the machinery must be equipped to give an appropriate acoustic or light signal as a warning.';

(d) In section 1.7.3 the following paragraphs are added:

'Where a machine part must be handled during use with lifting equipment, its mass must be indicated legibly, indelibly and unambiguously.

The interchangeable equipment referred to in Article 1 (2), third subparagraph must bear the same information.';

(e) In section 1.7.4 (a) the following indent is added:

'— where necessary, the essential characteristics of tools which may be fitted to the machinery.';

(f) In section 1.7.4 (f) the third paragraph is replaced by the following:

'Where the harmonized standards are not applied, sound levels must be measured using the most appropriate method for the machinery.';

(g) Sections 3 to 5.7 set out in Annex I to this Directive are added.

7. In Annex II (B) the following indents are inserted after the second indent:

'— where appropriate, the name and address of the notified body and the number of the EC type-examination certificate,

— where appropriate, the name and address of the notified body to which the file has been forwarded in accordance with the first indent of Article 8 (2) (c),

— where appropriate, the name and address of the notified body which has carried out the verification referred to in the second indent of Article 8 (2) (c),

— where appropriate, a reference to the harmonized standards.'

8. In Annex IV, item 12 is replaced by items 12 to 15 set out in Annex II to this Directive.

Article 2

The following are hereby repealed as from 31 December 1994:

— Articles 2 and 3 of Council Directive 73/361/EEC of 19 November 1973 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the certification and marking of wire ropes, chains and hooks (1), as lasted amended by Directive 76/434/EEC (2),

— Commission Directive 76/434/EEC of 13 April 1976 adapting to technical progress the Council Directive of 19 November 1973 on the approximation of the laws of the Member States relating to the certification and marking of wire ropes, chains and hooks.

(1) OJ No L 335, 5. 12. 1973, p. 51.
(2) OJ No L 122, 8. 5. 1976, p. 20.

The following are hereby repealed as from 31 December 1995:

— Council Directive 86/295/EEC of 26 May 1986 on the approximation of the laws of the Member States relating to roll-over protective structures (ROPS) for certain construction plant [1],

— Council Directive 86/296/EEC of 26 May 1986 on the approximation of the laws of the Member States relating to falling-object protective structures (FOPS) for certain construction plant [2],

— Council Directive 86/663/EEC of 22 December 1986 on the approximation of the laws of the Member States relating to self-propelled industrial trucks [3], as last amended by Directive 89/240/EEC [4].

Article 3

1. Before 1 January 1992 Member States shall adopt and publish the laws, regulations and administrative provisions necessary in order to comply with this Directive. They shall forthwith inform the Commission thereof.

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 a reference shall be laid down by the Member States.

They shall apply these measures with effect from 1 January 1993.

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

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 20 June 1991.

For the Council

The President

R. GOEBBELS

(1) OJ No L 186, 8. 7. 1986, p. 1.
(2) OJ No L 186, 8. 7. 1986, p. 10.
(3) OJ No L 384, 31. 12. 1986, p. 12.
(4) OJ No L 100, 12. 4. 1989, p. 1.

ANNEX I

Sections 3 to 5.7 are added to Annex I to Directive 89/392/EEC:

'3. ESSENTIAL HEALTH AND SAFETY REQUIREMENTS TO OFFSET THE PARTICULAR HAZARDS DUE TO THE MOBILITY OF MACHINERY

In addition to the essential health and safety requirements given in the sections 1 and 2, machinery presenting hazards due to mobility must be designed and constructed to meet the requirements below.

Risks due to mobility always exist in the case of machinery which is self-propelled, towed or pushed or carried by other machinery or tractors, is operated in working areas and whose operation requires either mobility while working, be it continuous or semi-continuous movement, between a succession of fixed working positions.

Risks due to mobility may also exist in the case of machinery operated without being moved, but equipped in such a way as to enable it to be moved more easily from one place to another (machinery fitted with wheels, rollers, runners, etc. or placed on gantries, trolleys, etc.).

In order to verify that rotary cultivators and power harrows do not present unacceptable risks to the exposed persons, the manufacturer or his authorized representative established within the Community must, for each type of machinery concerned, perform the appropriate tests or have such tests performed.

3.1. **General**

3.1.1. *Definition*

"Driver" means an operator responsible for the movement of machinery. The driver may be transported by the machinery or may be on foot, accompanying the machinery, or may be guiding the machinery by remote control (cables, radio, etc.).

3.1.2. *Lighting*

If intended by the manufacturer to be used in dark places, self-propelled machinery must be fitted with a lighting device appropriate to the work to be carried out, without prejudice to any other regulations applicable (road traffic regulations, navigation rules, etc.).

3.1.3. *Design of machinery to facilitate its handling*

During the handling of the machine and/or its parts, there must be no possibility of sudden movements or of hazards due to instability as long as the machine and/or its parts are handled in accordance with the manufacturer's instructions.

3.2. **Work stations**

3.2.1. *Driving position*

The driving position must be designed with due regard to ergonomic principles. There may be two or more driving positions and, in such cases, each driving position must be provided with all the requisite controls. Where there is more than one driving position, the machinery must be designed so that the use of one of them precludes the use of the others, except in emergency stops. Visibility from the driving position must be such that the driver can in complete safety for himself and the exposed persons, operate the machinery and its tools in their intended conditions of use. Where necessary, appropriate devices must be provided to remedy hazards due to inadequate direct vision.

Machinery must be so designed and constructed that, from the driving position, there can be no risk to the driver and operators on board from inadvertent contact with the wheels or tracks.

The driving position must be designed and constructed so as to avoid any health risk due to exhaust gases and/or lack of oxygen.