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COUNCIL DIRECTIVE

of 21 December 1989

amending for the eighth 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

(89/677/EEC)

(OJ L 398, 30.12.1989, p. 19)

Corrected by:

►**C1** Corrigendum, OJ L 250, 23.9.1999, p. 14 (89/677)

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amending for the eighth 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

(89/677/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 measures for the progressive establishment of the internal market over the period up to 31 December 1992 have to be adopted; whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is guaranteed;

Whereas, despite the ban on the marketing of certain ornamental objects intended to produce effects of light and comprising glass receptacles containing dangerous liquids as defined by Directive 67/548/EEC (4), as last amended by Directive 86/431/EEC (5), objects presenting the same hazards are still being marketed for use in games for one or more participants, sometimes with an ornamental function;

Whereas there should be a review of the content (0,01 % by weight — 100 ppm) of PCB/PCT in preparations, including waste oils; whereas, in Council Directive 87/101/EEC of 22 December 1986 amending Directive 75/439/EEC on the disposal of waste oils (6), this content was set at 0,005 % by weight;

Whereas benzene (CAS No 71-34-2) is a toxic substance likely to affect the central nervous and hematopoietic systems and to cause cancer and in particular leukaemia; whereas this substance is classified as carcinogen category I in Directive 67/548/EEC; whereas ILO (International Labour Organization) Convention 136 and ILO Recommendation 144 lay down provisions on protection against hazards arising from benzene;

Whereas the following substances: 2-naphthylamine (CAS No 91-59-8), 4-nitrodiphenyl (CAS No 92-93-3), 4-aminodiphenyl (CAS No 92-67-1) and benzidine (CAS No 92-87-5) may cause cancer and in particular cancer of the urinary system; whereas these substances are classified as carcinogens category I in Directive 67/548/EEC; whereas although, within the Community, they are now produced only in minimal, supervised quantities intended exclusively for research, they may nevertheless be present in the form of impurities in other substances or preparations;

Whereas, apart from the specific measures applying solely to workplaces, the laying down of a maximum concentration limit and a limit on the use of these substances as such or as constituents of preparations would help to present the incidence of cancer at work and protect consumers;

(1) OJ No C 43, 16. 2. 1988, p. 9.
(2) OJ No C 96, 17. 4. 1989, p. 190, and OJ No C 256, 9. 10. 1989, p. 70.
(3) OJ No C 175, 4. 7. 1988, p. 10, and OJ No C 337, 31. 12. 1987, p. 7.
(4) OJ No 196, 16. 8. 1967, p. 1.
(5) OJ No L 247, 1. 9. 1986, p. 1.
(6) OJ No L 42, 12. 2. 1987, p. 43.

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Whereas lead compounds in general, and in particular lead salts that are readily soluble in the stomach, are dangerous to health; whereas compounds of this type are still occasionally used as pigment for certain decorative paints; whereas their use in such cases should be regulated; whereas ILO Convention 13 regulates the use of white lead in painting;

Whereas certain anti-fouling preparations applied as protective coatings to boat hulls and/or underwater equipment have harmful effects on living aquatic organisms as a result of the use of certain chemical compounds and in particular arsenic, mercury and tin compounds; whereas, in order better to protect the environment, the use of such compounds in preparations of this type should be regulated;

Whereas not only di-μ-oxo-di-n-butylstanniohydroxyborane ($C_8H_{19}BO_3S_n$, CAS No 75113-37-0) but also its decomposition/degradation products are substances that are dangerous to man and to the environment, and in particular the aquatic environment; whereas the use of those substances should be regulated;

Whereas limitations on use or marketing already adopted by certain Member States in respect of the substances referred to above or of preparations containing them have a direct incidence on the establishment and functioning of the internal market; whereas it is therefore necessary to approximate the legislative provisions of the Member States in this field, and consequently to amend Annex I to Directive 76/769/EEC ([1]), as last amended by Directive 85/610/EEC ([2]);

Whereas present Community legislation concerning the possible adoption by Member States of more stringent restrictions on the use of the substances and preparations in question at the workplace is unaffected by this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 76/769/EEC is hereby amended as follows:

1. in point 1 of the left-hand column,
‘0,01 %’ appearing in the third indent is replaced by
‘0,005 %’;

2. point 3 is replaced by the following:

‘3. Liquid substances or preparations, which are regarded as dangerous according to the definitions in Article 2 (2) and the criteria in Annex VI, Part II.D to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ([1]), as last amended by Directive 86/431/EEC ([2]).	May not be used in: — ornamental objects intended to produce light or colour effects by means of different phases, for example in ornamental lamps and ashtrays, — tricks, jokes, — games for one or more participants, or any object intended to be used as such, even with ornamental aspects.

([1]) OJ No 196, 16. 8. 1967, p. 1.

([2]) OJ No L 247, 1. 9. 1986, p. 1.’;

3. the following is added to point 5 (benzene) in the right-hand column:

([1]) OJ No L 262, 27. 9. 1976, p. 201.
([2]) OJ No L 375, 31. 12. 1985, p. 1.