Council Directive of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (89/656/EEC)

COUNCIL DIRECTIVE

of 30 November 1989

on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

(89/656/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Article 118a thereof,

Having regard to the Commission proposal[(1)], submitted after consultation with the Advisory Committee on Safety, Hygiene and Health Protection at Work,

In cooperation with the European Parliament[(2)],

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

Whereas Article 118a of the Treaty provides that the Council shall adopt, by means of directives, minimum requirements designed to encourage improvements, especially in the working environment, to guarantee greater protection of the health and safety of workers;

Whereas, under the said 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;

Whereas the Commission communication on its programme concerning safety, hygiene and health at work[(4)] provides for the adoption of a directive on the use of personal protective equipment at work;

Whereas the Council, in its resolution of 21 December 1987 concerning safety, hygiene and health at work[(5)], noted the Commission's intention of submitting to it in the near future minimum requirements concerning the organization of the safety and health of workers at work;

Whereas compliance with the minimum requirements designed to guarantee greater health and safety for the user of personal protective equipment is essential to ensure the safety and health of workers;

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[(6)]; whereas, consequently, the

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provisions of the said Directive apply fully to the use by workers of personal protective equipment at the workplace, without prejudice to more stringent and/or specific provisions contained in this Directive;

Whereas this Directive constitutes a practical step towards the achievement of the social dimension of the internal market;

Whereas collective means of protection shall be accorded priority over individual protective equipment; whereas the employer shall be required to provide safety equipment and take safety measures;

Whereas the requirements laid down in this Directive should not entail alterations to personal protective equipment whose design and manufacture complied with Community directives relating to safety and health at work;

Whereas provision should be made for descriptions which Member States may use when laying down general rules for the use of individual protective equipment;

Whereas, pursuant to Decision 74/325/EEC[7], as last amended by the 1985 Act of Accession, the Advisory Committee on Safety, Hygiene and Health Protection at Work is consulted by the Commission with a view to drawing up proposals in this field,

HAS ADOPTED THIS DIRECTIVE:

SECTION I

GENERAL PROVISIONS

Article 1

Subject

1 This Directive, which is the third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC, lays down minimum requirements for personal protective equipment used by workers at work.

2 The provisions of Directive 89/391/EEC are fully applicable to the whole scope referred to in paragraph 1, without prejudice to more **[**[X1]stringent**]** and/or specific provisions contained in this Directive.

Editorial Information

X1 Substituted by Corrigendum to Council Directive 89/656/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use by workers of personal protective equipment at the workplace (third individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of the European Communities No L 393 of 30 December 1989).

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Article 2

Definition

1 For the purposes of this Directive, personal protective equipment shall mean all equipment designed to be worn or held by the worker to protect him against one or more hazards likely to endanger his safety and health at work, and any addition or accessory designed to meet this objective.

2 The definition in paragraph 1 excludes:

a ordinary working clothes and uniforms not specifically designed to protect the safety and health of the worker;

b equipment used by emergency and rescue services;

c personal protective equipment worn or used by the military, the police and other public order agencies;

d personal protective equipment for means of road transport;

e sports equipment;

f self-defence or deterrent equipment;

g portable devices for detecting and signalling risks and nuisances.

Article 3

General rule

Personal protective equipment shall be used when the risks cannot be avoided or sufficiently limited by technical means of collective protection or by measures, methods or procedures of work organization.

SECTION II

EMPLOYERS' OBLIGATIONS

Article 4

General provisions

1 Personal protective equipment must comply with the relevant Community provisions on design and manufacture with respect to safety and health.

All personal protective equipment must:

a be appropriate for the risks involved, without itself leading to any increased risk;

b correspond to existing conditions at the workplace;

c take account of ergonomic requirements and the worker's state of health;

d fit the wearer correctly after any necessary adjustment.

2 Where the presence of more than one risk makes it necessary for a worker to wear simultaneously more than one item of personal protective equipment, such equipment must be compatible and continue to be effective against the risk or risks in question.

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3 The conditions of use of personal protective equipment, in particular the period for which it is worn, shall be determined on the basis of the seriousness of the risk, the frequency of exposure to the risk, the characteristics of the workstation of each worker and the performance of the personal protective equipment.

4 Personal protective equipment is, in principle, intended for personal use.

If the circumstances require personal protective equipment to be worn by more than one person, appropriate measures shall be taken to ensure that such use does not create any health or hygiene problem for the different users.

5 Adequate information on each item of personal protective equipment, required under paragraphs 1 and 2, shall be provided and made available within the undertaking and/or establishment.

6 Personal protective equipment shall be provided free of charge by the employer, who shall ensure its good working order and satisfactory hygienic condition by means of the necessary maintenance, repair and replacements.

However, Member States may provide, in accordance with their national practice, that the worker be asked to contribute towards the cost of certain personal protective equipment in circumstances where use of the equipment is not exclusive to the workplace.

7 The employer shall first inform the worker of the risks against which the wearing of the personal protective equipment protects him.

8 The employer shall arrange for training and shall, if appropriate, organize demonstrations in the wearing of personal protective equipment.

9 Personal protective equipment may be used only for the purposes specified, except in specific and exceptional circumstances.

It must be used in accordance with instructions.

Such instructions must be understandable to the workers.

Article 5

Assessment of personal protective equipment

1 Before choosing personal protective equipment, the employer is required to assess whether the personal protective equipment he intends to use satisfies the requirements of Article 4(1) and (2).

This assessment shall involve:

a an analysis and assessment of risks which cannot be avoided by other means;

b the definition of the characteristics which personal protective equipment must have in order to be effective against the risks referred to in (a), taking into account any risks which this equipment itself may create;

c comparison of the characteristics of the personal protective equipment available with the characteristics referred to in (b).

2 The assessment provided for in paragraph 1 shall be reviewed if any changes are made to any of its elements.

Article 6[8]

Rules for use

1 Without prejudice to Articles 3, 4 and 5, Member States shall ensure that general rules are established for the use of personal protective equipment and/or rules covering cases and situations where the employer must provide the personal protective equipment, taking account of Community legislation on the free movement of such equipment.

These rules shall indicate in particular the circumstances or the risk situations in which, without prejudice to the priority to be given to collective means of protection, the use of personal protective equipment is necessary.

Annexes I, II and III, which constitute a guide, contain useful information for establishing such rules.

2 When Member States adapt the rules referred to in paragraph 1, they shall take account of any significant changes to the risk, collective means of protection and personal protective equipment brought about by technological developments.

3 Member States shall consult the employers' and workers' organization on the rules referred to in paragraphs 1 and 2.

Article 7

Information for workers

Without prejudice to Article 10 of Directive 89/391/EEC, workers and/or their representatives shall be informed of all measures to be taken with regard to the health and safety of workers when personal protective equipment is used by workers at work.

Article 8

Consultation of workers and workers' participation

Consultation and participation of workers and/or of their representatives shall take place in accordance with Article 11 of Directive 89/391/EEC on the matters covered by this Directive, including the Annexes thereto.

SECTION III

MISCELLANEOUS PROVISIONS

I[F1] *Article 9*

Amendments to the Annexes

The Commission is empowered to adopt delegated acts in accordance with Article 9a to make strictly technical amendments to the Annexes, in order to take account of technical harmonisation and standardisation relating to personal protective equipment, technical