COUNCIL DIRECTIVE

of 16 December 1988

amending Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work

(88/642/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the European Economic Community, and in particular Article 118a 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, for improved protection of workers with respect to chemical, physical and biological agents at work, it is necessary to strengthen the provisions contained in Council Directive 80/1107/EEC (4), as last amended by the Act of Accession of Spain and Portugal;

Whereas the Council resolution of 27 February 1984 on a second programme of action of the European Communities on safety and health at work (5) provides for the harmonization of provisions and measures regarding the protection of workers with respect to certain chemical, physical and biological agents; whereas, in the interests of balanced development, it is therefore necessary to harmonize and improve those measures, while adapting them to take account of technical progress; whereas this harmonization and improvement should be based on common principles;

Whereas the Council resolution of 21 December 1987 on safety, hygiene and health at work (6) stresses the importance of improving the safety and health of workers at the place of work;

Whereas, in accordance with Decision 74/325/EEC (7), as amended by the Act of Accession of Spain and Portugal, the Advisory Committee on Safety, Hygiene and Health at Work is to be consulted by the Commission with a view to drawing up proposals in this field;

Whereas, for certain agents, the Council will lay down, in individual Directives, the limit values of a binding nature for occupational exposure and, where appropriate, other specific requirements;

Whereas provision should be made at Community level for drawing up for the other agents indicative limit values which the Member States would, *inter alia*, take into account when establishing national limit values;

Whereas representatives of employers and workers have a role to play in the protection of workers;

Whereas the provisions of this Directive are minimum requirements and in no way prevent Member States from maintaining or taking other measures so as to protect workers furhter.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 80/1107/EEC is hereby amended as follows:

1. The following subparagraph is added to Article 3 (1):

'The Council, in accordance with the procedure laid down in Article 118a of the Treaty, may amend Annex I with a view, *inter alia*, to inserting in it agents in respect of which a binding limit value or binding limit values and/or other specific requirements appear necessary.'

2. Article 4 is amended as follows:

(a) point 4 is replaced by the following:

'4. (a) in the case of any activity likely to involve a risk of exposure of workers, determination of the nature and degree of the workers' exposure so that any risk to their safety or health can be assessed and the measures to be taken can be defined;

(b) establishment of limit values and of sampling procedures, measuring procedures and procedures for evaluating results; in the case of chemical agents, the establishment of sampling procedures, measuring procedures and procedures for evaluating results, in accordance with the reference method described in Annex II a or a method yielding equivalent results;

(c) when a limit value is exceeded, identification without delay of the reasons for the limit being exceeded and implementation as soon as possible of appropriate measures to remedy the situation.';

(1) OJ No C 164, 2. 7. 1986, p. 4.
(2) OJ No C 167, 27. 6. 1988, p. 84 and OJ No C 290, 14. 11. 1988.
(3) OJ No C 319, 30. 11. 1987, p. 41.
(4) OJ No L 327, 3. 12. 1980, p. 8.
(5) OJ No C 67, 8. 3. 1984, p. 2.
(6) OJ No C 28, 3. 2. 1988, p. 1.
(7) OJ No L 185, 9. 7. 1974, p. 15.

(b) point 9 is replaced by the following:

'9. appropriate measures shall be taken by the employer to ensure that workers and/or their representatives in undertakings or establishments receive full information on, and instruction in:

(a) the potential risks connected with their exposure, the technical preventive measures to be observed by workers and the precautions taken by the employer and to be taken by workers;

(b) the risk assessment methods used, the existence of a limit value as referred to in point 4 (b) and the need to carry out measurements, and the action to be taken, as laid down in point 4 (c), in the event of a limit value being exceeded.'

3. Article 8 (1) is replaced by the following:

'1. The Council shall, in accordance with the procedure laid down in Article 118a of the Treaty, fix in the individual directives that it adopts with regard to the agents listed in Annex I a binding limit value or binding limit values and/or other specific requirements.'

4. The following paragraph is added to Article 8:

'4. Without prejudice to paragraph 1, for agents other than those listed in Annex I, indicative limit values shall be drawn up in accordance with the procedure laid down in Article 10.

The Member States shall take account, *inter alia,* of those indicative limit values when establishing the limit values referred to in Article 4 (4) (b).

Indicative limit values shall reflect expert evaluations based on scientific data.'

5. Article 9 (1) is replaced by the following:

'1. With a view to the adaptation to technical progress referred to in Article 8 (3) and to the establishment of indicative limit values as referred to in Article 8 (4), a committee is hereby established consisting of representatives of the Member States and chaired by a representative of the Commission.'

6. Annex II a, which appears in the Annex to this Directive, is inserted.

Article 2

1. This Directive shall be without prejudice to the right of Member States to apply or adopt other laws, regulations and administrative provisions laying down more stringent standards.

2. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive not later than two years after its notifiction (1). They shall forthwith inform the Commission thereof.

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

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 16 December 1988.

For the Council

The President

G. GENNIMATAS

(1) This Directive was notified to the Member States on 21 December 1988.