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► **B****COUNCIL DIRECTIVE**

of 15 February 1982

**on the approximation of the laws of the Member States concerning electrical equipment for use in
potentially explosive atmospheres in mines susceptible to firedamp**

(82/130/EEC)

(OJ L 59, 2.3.1982, p. 10)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Directive 88/35/EEC of 2 December 1987	L 20	28	26.1.1988
► <u>M2</u>	Commission Directive 91/269/EEC of 30 April 1991	L 134	51	29.5.1991
► <u>M3</u>	Commission Directive 94/44/EC of 19 September 1994	L 248	22	23.9.1994
► <u>M4</u>	Commission Directive 98/65/EC of 3 September 1998	L 257	29	19.9.1998

Amended by:

► <u>A1</u>	Act of Accession of Spain and Portugal	L 302	23	15.11.1985
► <u>A2</u>	Act of Accession of Austria, Sweden and Finland	C 241	21	29.8.1994
	(adapted by Council Decision 95/1/EC, Euratom, ECSC)	L 1	1	1.1.1995



COUNCIL DIRECTIVE

of 15 February 1982

on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp

(82/130/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

Having regard to the opinion of the European Parliament ⁽²⁾,

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

Whereas legislation in force in the Member States to ensure the safety of electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp differs from one Member State to another; whereas these differences are such as to constitute a barrier to trade;

Whereas such differences may be eliminated by approximating the laws of the Member States in order to allow electrical equipment complying with harmonized standards for use in potentially explosive atmospheres in mines susceptible to firedamp to be put on the market throughout the Community;

Whereas provision should also be made to allow electrical equipment using technical processes different from those of these harmonized standards to be put on the market, provided such equipment ensures a level of safety equivalent to that of equipment which conforms to the harmonized standards;

Whereas, however, compliance with harmonized standards or equivalence of safety levels to that of equipment which conforms to the harmonized standards should be verified and tested by a body approved by the Member State concerned;

Whereas a positive result of such verifications and tests should be confirmed both by a certificate and the mark recognized in all Member States;

Whereas, in order to take account of technical progress, the technical requirements prescribed in the harmonized standards on electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp need to be adapted promptly; whereas, to facilitate the implementation of the measures necessary in this connection, a procedure should be laid down to ensure close cooperation between the Member States and the Commission through the Committee on the adaptation to technical progress of the Directives on the removal of technical barriers to intra-Community trade in electrical equipment in potentially explosive atmospheres in mines susceptible to firedamp;

Whereas it is possible that electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp, although certified and marked for free movement, may represent a safety risk; whereas a procedure should therefore be laid down to obviate this risk;

Whereas the mining legislation in different Member States applies also to surface installations of mines susceptible to firedamp; whereas it is necessary to include in this Directive electrical equipment for use in such installations; whereas it is therefore necessary to derogate from Council Directive 76/117/EEC of 18 December 1975 on the approx-

⁽¹⁾ OJ No C 104, 28. 4. 1980, p. 92.

⁽²⁾ OJ No C 197, 4. 8. 1980, p. 66.

⁽³⁾ OJ No C 205, 11. 8. 1980, p. 28.

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imation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres ⁽¹⁾ and from Council Directive 79/196/EEC of 6 February 1979 on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres employing certain types of protection ⁽²⁾,

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to electrical equipment for use in underground parts of mines susceptible to firedamp which may be endangered by firedamp.

This Directive shall also apply, by way of derogation from Directives 76/117/EEC and 79/196/EEC, to electrical equipment for use in those parts of surface installations of such mines which may be endangered by firedamp from underground ventilation.

Article 2

Electrical equipment within the meaning of this Directive covers any constituent part of an electrical installation or any other electrical device.

Article 3

The designation of underground parts of mines susceptible to firedamp which may be endangered by firedamp and the surface installations of such mines which may be endangered by firedamp from underground ventilation is left to the initiative of the Member States.

Article 4

1. Member States may not, on safety grounds in respect of the ignition of firedamp, prohibit the sale, free movement or use for its proper purpose of the electrical equipment referred to in Articles 1 and 2:

- if its conformity with the harmonized standards is attested by a certificate of conformity issued under the conditions laid down in Article 8 and by the affixing of the distinctive Community mark provided for in Article 11,
- if it differs from harmonized standards because no provision was made in such standards for its design and manufacture, but the verifications and tests have established that it offers a degree of safety at least equivalent to that of equipment which conforms to the harmonized standards and this is attested by an inspection certificate issued under the conditions laid down in Article 9 and by the affixing of the distinctive Community mark provided for in Article 11.

2. Within the meaning of this Directive, use for its proper purpose means use of the electrical equipment, as provided for in the harmonized standards and recorded on the certificate of conformity or inspection certificate, in places where firedamp is liable to form an explosive mixture with air.

3. Where they are not subject to other Community provisions, installation conditions and conditions of use shall remain subject to the laws, regulations and administrative provisions of the Member State concerned.

⁽¹⁾ OJ No L 24, 30. 1.1976, p. 45.

⁽²⁾ OJ No L 43, 20. 2. 1979, p. 20.

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4. Within the meaning of this Directive, the European Standards (ENs) listed in Annex A and amended in accordance with Annex B are the harmonized standards.

Article 5

1. Any amendments to the content of the Annexes which are necessary to take account of technical progress shall be adopted in accordance with the procedure set out in Article 7.
2. Likewise, any question relating to the inspection certificates referred to in the second indent of Article 4 (1) may be examined in accordance with this procedure.

Article 6

1. The Restricted Committee of the Safety and Health Commission for the Mining and other Extractive Industries set up by Council Decisions of 9 July 1957, 11 March 1965 and 27 June 1974 is hereby charged with the tasks defined in Article 5. Such Committee shall be composed of representatives of the Member States and chaired by a representative of the Commission.
2. The Committee shall establish its own rules of procedure.

Article 7

1. If recourse is had to the procedure defined in this Article, the matter shall be placed before the Committee by its chairman, either on his own initiative or at the request of the representative of a Member State.
2. The chairman shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion within a period which may be fixed by the chairman according to the urgency of the matter. At least ►A2 62 ◀ votes shall be required before it can deliver its opinion, the votes of Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.
3. (a) The Commission shall adopt the proposed measures if they are in accordance with the opinion of the Committee.
- (b) If the proposed measures are not in accordance with the opinion of the Committee, or if no opinion is expressed, the Commission shall without delay submit a proposal to the Council on the measures to be taken. The Council shall act by a qualified majority.
- (c) If the Council has not acted within three months of the date on which the matter was brought before it, the Commission shall adopt the proposed measures.

Article 8

1. The certificate of conformity referred to in the first indent of Article 4 (1) shall be issued by one of the approved bodies referred to in Article 14. It shall attest that the type of electrical equipment concerned complies with the harmonized standards.

A copy of the certificate of conformity shall be forwarded to the Member States and to the Commission within one month of the issue of the certificate.

The approved body which has verified and tested the electrical equipment shall draw up a report which shall be placed at the disposal of the Member States.

2. The approved body which issues the certificate of conformity may withdraw such certificate where it finds that it should not have been issued or where the stipulated conditions have not been met. It may also withdraw such certificate where the manufacturer places on the market

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electrical equipment which is not in conformity with the type of equipment for which the certificate was issued.

The approved body shall submit a copy of the withdrawal document to the Commission and to the Member States, which shall provide for its transmission to the approved bodies.

The grounds for such withdrawal shall be given in detail. Notice of the withdrawal shall be published in accordance with paragraph 4.

Such withdrawals, and refusals to issue a certificate of conformity, shall be notified forthwith to the party concerned, with an indication of the remedies available under the laws in force in the Member States and of the time limits for the exercise of such remedies.

3. All documents used for certification of the electrical equipment must be held by the originating body and shall if necessary be placed at the disposal of the Commission and the other Member States for the purpose of any special investigation pertaining to safety; the confidentiality of these documents shall be respected.

4. The Commission shall ensure that relevant extracts from these certificates of conformity are published in the *Official Journal of the European Communities*.

Article 9

1. The inspection certificate referred to in the second indent of Article 4 (1) shall be issued by one of the bodies referred to in Article 14. It shall attest that the type of electrical equipment offers a degree of safety at least equivalent to that of equipment conforming to the harmonized standards.

2. Before the relevant approved body issues an inspection certificate, the Member State, on the initiative of that approved body, shall send the documents used for certification of the electrical equipment, that is the specifications of the equipment, the report on the verifications and tests carried out by that body and the draft inspection certificate to the Commission and to the other Member States who shall provide for its transmission to the bodies which they have approved. Within four months of receiving this information, such Member States may express their disagreement to the Member State concerned or may request that the matter be referred to the Committee provided for in Article 6. A copy of each communication shall be submitted to the Commission. All correspondence shall be confidential.

3. If, within the time limit specified in paragraph 2, no Member State has expressed disagreement nor requested that the matter be referred to the Committee, the Member State shall authorize the issue of the inspection certificate.

4. If this is not the case, the Commission shall act on the request for the inspection certificate after having obtained the opinion of the Committee.

5. A copy of the inspection certificate shall be sent to the Commission and to the Member States within one month of the issue of the certificate; the Member States shall provide for its transmission to the bodies which they have approved. The approved body which has verified and tested the electrical equipment shall draw up a final report. This shall be placed at the disposal of the Member States.

6. The approved body which issues an inspection certificate may withdraw such certificate where it finds that it should not have been issued or that the stipulated conditions have not been met. It may also withdraw such certificate if the manufacturer places on the market electrical equipment which is not in conformity with the type of equipment for which the inspection certificate was issued.

The approved body shall send a copy of the withdrawal documents to the Commission and to all Member States, which shall provide for its transmission to the bodies which they have approved.