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*(Acts whose publication is not obligatory)*

# COUNCIL

## COUNCIL DIRECTIVE

**of 7 November 1977**

**on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of paints, varnishes, printing inks, adhesives and similar products**

(77/728/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,

Having regard to the opinion of the European Parliament [1],

Having regard to the opinion of the Economic and Social Committee [2],

Whereas dangerous substances and preparations are subject to rules in the Member States; whereas there are considerable differences between these national rules particularly as regards labelling but equally as regards classification according to the degree of risk; whereas these differences constitute a considerable barrier to trade and directly affect the establishment and functioning of the common market;

Whereas it is therefore necessary to eliminate this obstacle and, in order to attain this objective, to approximate the relevant legislation existing in the Member States;

Whereas rules relating to dangerous substances have already been laid down in 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 [3], as last amended by Directive 76/907/EEC [4]; whereas rules concerning dangerous preparations (solvents) have also been laid down in Council Directive 73/173/EEC of 4 June 1973 on the approximation of Member States' laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous preparations (solvents) [5];

Whereas it is now necessary to lay down similar rules for preparations intended to be used as paints, varnishes, printing inks, adhesives and similar products, and containing dangerous substances;

Whereas preparations containing one or more of these dangerous substances are frequently used for industrial, farming, craft and domestic purposes, it

(1) OJ No C 28, 9. 2. 1976, p. 34.
(2) OJ No C 35, 16. 2. 1976, p. 26.
(3) OJ No 196, 16. 8. 1967, p. 1.
(4) OJ No L 360, 30. 12. 1976, p. 1.
(5) OJ No L 189, 11. 7. 1973, p. 7.

is necessary to protect those using these preparations, in particular by specifying the hazards involved;

Whereas it may happen that these dangerous preparations, although conforming to the provisions of this Directive, endanger health or safety; whereas it is therefore advisable to provide a procedure intended to remove this danger,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. This Directive shall concern:

— the classification,

— the packaging,

— the labelling,

of preparations intended to be used as:

— paints, varnishes, printing inks, coatings, adhesives, jointing compounds, putties, sealants, undercoats, paint strippers, degreasing agents, artists colours or release agents,

— preservatives and primers not covered by other Community regulations,

and of dangerous preparations used in the manufacture of the aforesaid products.

2. This Directive shall apply to the preparations listed in paragraph 1 which are placed on the market in the Member States and are classified as dangerous under both Article 2 (2) of Directive 67/548/EEC and Article 3 of this Directive.

3. This Directive shall also apply to the preparations listed in Annex II hereto.

4. The definitions in Article 2 of Directive 67/548/EEC are applicable to this Directive.

*Article 2*

This Directive shall not apply to:

(a) the carriage of dangerous preparations by rail, road, inland waterway, sea or air;

(b) preparations for export to third countries;

(c) preparations in transit subject to customs control, provided that they are not altered or treated in any way.

*Article 3*

1. In preparations covered by this Directive, concentrations of the dangerous substances listed in Annex I to Directive 67/548/EEC, whether present as impurities or additives, must be taken into account if they exceed the limits laid down in the following paragraphs.

2. The concentrations expressed below in percentages by weight refer to the total weight of the preparation.

3. (a) Preparations shall be considered toxic if they contain:

— a solvent or mixture of solvents classified as toxic by Directive 73/173/EEC, the percentage of each solvent being calculated in relation to the total weight of the preparation as referred to in paragraph 2 above, or

— one or more of the substances classified as toxic in Annex I to this Directive, in a concentration exceeding the limit value corresponding to the classification 'toxic' for that substance, or

— one or more of the substances listed in neither Annex I to this Directive nor Directive 73/173/EEC, but classified as toxic in Annex I to Directive 67/548/EEC, each substance having a total concentration in excess of 0·2% or the total concentration in the preparation exceeding 1%.

(b) Preparations shall be considered harmful if they contain:

— a solvent or mixture of solvents classified as harmful by Directive 73/173/EEC, the percentage of each solvent being calculated in relation to the total weight of the preparation as referred to in paragraph 2 above, or

— one or more of the substances classified as harmful in Annex I to this Directive, in a concentration falling within the limit values corresponding to the classification 'harmful' for that substance, or

— one or more of the substances listed in neither Annex I to this Directive nor

Directive 73/173/EEC but classified as harmful in Annex I to Directive 67/548/EEC and the total concentration of which is in excess of 10%.

(c) Preparations shall be considered corrosive if they contain:

— one or more of the substances classified as corrosive in Annex I to this Directive in a concentration exceeding the limit values corresponding to the classification 'corrosive' for that substance, or

— one or more of the substances listed in neither Annex I to this Directive nor Directive 73/173/EEC but classified as corrosive in Annex I to Directive 67/548/EEC and the total concentration of which is in excess of 5%.

(d) Preparations shall be considered irritant if they contain:

— one or more of the substances classified as irritant in Annex I to this Directive in a concentration falling within the limit values corresponding to the classification 'irritant' for that substance, or

— one or more of the substances listed in neither Annex I to this Directive nor Directive 73/173/EEC but classified as irritant in Annex I to Directive 67/548/EEC and the total concentration of which is in excess of 5%.

(e) Preparations shall be considered oxidizing if they contain:

— one or more of the substances classified as oxidizing in Annex I to this Directive, in a concentration exceeding the limit values corresponding to the classification 'oxidizing' for that substance, or

— one or more of the substances not listed in Annex I to this Directive but classified as oxidizing in Annex I to Directive 67/548/EEC and the total concentration of which is in excess of 25%.

(f) The following shall be considered highly flammable:

preparations in liquid form having a flash-point, determined in accordance with the test method laid down in Annex V to Directive 67/548/EEC, of less than 21 °C.

(g) The following shall be considered flammable: preparations in liquid form having a flash-point, determined in accordance with the test method laid down in Annex V to Directive 67/548/EEC, between 21 and 55 °C.

4. The provisions concerning flammability criteria contained in 1.8 of the Annex to Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers [1] shall apply to aerosol preparations.

*Article 4*

Member States shall take all necessary measures to ensure that the preparations referred to in Article 1 shall not be placed on the market unless they comply with the provisions of this Directive and the Annexes thereto.

*Article 5*

Member States shall take all necessary measures to ensure that the preparations referred to in Article 1 shall not be placed on the market unless their packaging satisfies the following requirements:

(a) the packagings and closures shall be designed and constructed in such a way as to preclude any unintentional loss of the contents; this requirement shall not apply where special safety devices are prescribed;

(b) the materials constituting the packaging and closures shall not be liable to attack by the contents or liable to form harmful or dangerous compounds with the contents;

(c) the packagings and closures shall be strong and solid throughout so as to ensure that they will not come apart and that they will safely withstand the stresses and strains of normal handling.

*Article 6*

1. Member States shall take all necessary measures to ensure that the preparations referred to in Article 1 shall not be placed on the market unless their package complies with the following labelling requirements.

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[1] OJ No L 147, 9. 6. 1975, p. 40.

2. Any package of a preparation considered dangerous within the meaning of Article 3 shall show clearly and indelibly the following:

(a) the name(s) of the toxic, harmful, and/or corrosive constituent(s) of the preparation, if their concentration exceeds the lowest limits specified in Article 3;

the name of any irritant constituents, if their concentration exceeds the lowest limits specified in Article 3, where the preparation does not otherwise contain toxic, harmful or corrosive constituents. Instead of giving the names of the various irritant constituents, the term 'irritant solvents' may be used on its own to indicate constituents of that kind.

The provisions of Article 5 (2) (a) of Directive 73/173/EEC shall apply to solvents, the percentage of each solvent being calculated in relation to the total weight of the preparation. The name shall be one of the terms listed in Annex I to Directive 67/548/EEC;

(b) the name and address of the manufacturer or any other person placing the preparation on the market;

(c) the symbols prescribed in this Directive and the indication of the dangers attendant upon the preparation, in accordance with Article 6 (2) (c) of and Annex II to Directive 67/548/EEC and, for highly flammable and flammable substances, with Annex V thereto;

(d) a notice of the special risks involved with the preparation. In the case of preparations containing harmful, irritant, highly flammable, flammable or oxidizing substances, it shall not be necessary to indicate the special risks if the contents of the package do not exceed 125 millilitres.

3. On the basis of the main risks involved, the nature of the special risks shall be specified by the competent authorities where the preparation is subject to approval and in other cases by the manufacturer or any other person putting the preparation on the market.

This specification shall conform to the indications given in Annex III to Directive 67/548/EEC.

No more than four risk phrases need be indicated. Health risk phrases shall be given priority over warnings of a fire or explosion risk.

4. The package shall be accompanied by safety advice on the use of the preparation when it is physically impossible to affix it to the label or to the package itself. Such advice shall be selected by the manufacturer or any other person putting the preparation on the market, or, in the case of a preparation subject to approval, by the competent authority, and shall comply with the indications laid down in the list contained in Annex IV to Directive 67/548/EEC.

Safety advice need not be shown on packages containing harmful, irritant, highly flammable, flammable or oxidizing preparations if the contents of the package do not exceed 125 millilitres. Unless otherwise indicated, this limit shall not apply to the preparations listed in Annex II hereto.

In the case of preparations containing substances listed in Annex II, the indications specified therein shall also be shown.

The safety advice required for preparations intended for spraying shall be indicated.

The requirements of 2.2 of the Annex to Directive 75/324/EEC shall also apply to aerosol preparations placed on the market.

5. Where a preparation is assigned more than one warning symbol:

— 'X' and 'C' symbols are not necessarily required if a 'T' symbol is indicated, unless Annex I provides otherwise,

— an 'X' symbol is not necessarily required if a 'C' symbol is indicated,

— 'F' and 'O' symbols are not necessarily required if an 'E' symbol is indicated.

*Article 7*

1. Where the particulars required by Article 6 appear on a label, that label shall be placed on one or more surfaces of the package so that it can be read horizontally when the package is set down normally. The dimensions of the label shall be as follows:

| *Package contents* | *Dimensions* |
|---|---|
| — less than or equal to 3 l (litres): | if possible, at least 52 × 74 mm |
| — greater than 3 l and not exceeding 50 l: | at least 74 × 105 mm |

| | |
|---|---|
| — greater than 50 l and not exceeding 500 l: | at least 105 × 148 mm |
| — greater than 500 l: | at least 148 × 210 mm |

Each symbol shall cover at least one-tenth of the surface area of the label and shall not be smaller than 1 cm². The entire surface of the label shall adhere to the package immediately containing the preparation. The colour and the layout of the label — and, in the case referred to in paragraph 2 below, of the package — shall be such that the danger symbol and its orange-yellow background stand out clearly.

2. A label shall not be required where the particulars are clearly shown on the package itself as specified in paragraph 1.

3. Member States may make the placing on the market of dangerous preparations in their territories subject to the use of their national language or languages in respect of the labelling thereof.

4. For the purposes of this Directive, labelling requirements shall be deemed to be satisfied:

(a) if an outer package containing one or more inner packages is labelled in accordance with the international regulations on the transport of dangerous substances, and if the inner package or packages are labelled in accordance with this Directive;

(b) if a single package is labelled in accordance with the international regulations on the transport of dangerous substances and with Article 6 (2), (a), (b) and (d), and Article 6 (4).

For dangerous substances remaining within the territory of a Member State, authorization may be given to label the package in accordance with national provisions instead of with international provisions on the transport of dangerous substances.

*Article 8*

1. Member States may:

(a) permit the labelling required under Article 6 to be applied in some other appropriate manner on packages too small, or otherwise unsuitable, to allow labelling in accordance with Article 7 (1) and (2);

(b) by way of derogation from Articles 6 and 7, permit the packages of preparations other than toxic preparations to be labelled in some other way if they contain small quantities presenting no danger to persons handling the preparation or otherwise concerned.

2. Member States acting under the foregoing paragraph 1 shall immediately inform the Commission thereof.

*Article 9*

Member States shall not prohibit, restrict or impede, on the grounds of classification, packaging or labelling as defined in this Directive, the placing on the market of dangerous preparations which satisfy the requirements of this Directive and the Annexes thereto.

*Article 10*

1. Where a Member State has detailed grounds for establishing that a dangerous preparation, although satisfying the requirements of this Directive, presents a health or safety risk, it may, provisionally, prohibit the sale of that preparation or subject it to special conditions within its territory. It shall immediately inform the Commission and the other Member States thereof and give reasons for its decision.

2. The Commission shall, within six weeks, consult with the Member States concerned, express its opinion without delay and take the appropriate steps.

3. If the Commission is of the opinion that technical amendments to the Directive are required, these amendments shall be adopted, by either the Commission or the Council, in accordance with the procedure laid down in Article 8c of Directive 67/548/EEC. In this event, the Member State which has introduced safeguard measures may maintain them until such amendments enter into force.

*Article 11*

The amendments required for adapting the Annexes to this Directive to technical progress shall be adopted in accordance with the procedure laid down in Article 8c of Directive 67/548/EEC.

Methods of analysis shall also be adopted by the same procedure.