

Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

SECTION II

EMPLOYERS' OBLIGATIONS

Article 4

Determination and assessment of risk of hazardous chemical agents

1 In carrying out the obligations laid down in Articles 6(3) and 9(1) of Directive 89/391/EEC, the employer shall first determine whether any hazardous chemical agents are present at the workplace. If so, he shall then assess any risk to the safety and health of workers arising from the presence of those chemical agents, taking into consideration the following:

- their hazardous properties,
- [F¹information on safety and health that shall be provided by the supplier (e.g. the relevant safety data sheet in accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council⁽¹⁾),]
- the level, type and duration of exposure,
- the circumstances of work involving such agents, including their amount,
- any occupational exposure limit values or biological limit values established on the territory of the Member State in question,
- the effect of preventive measures taken or to be taken,
- where available, the conclusions to be drawn from any health surveillance already undertaken.

The employer shall obtain additional information which is needed for the risk assessment from the supplier or from other readily available sources. Where appropriate, this information shall comprise the specific assessment concerning the risk to users established on the basis of Community legislation on chemical agents.

2 The employer must be in possession of an assessment of the risk in accordance with Article 9 of Directive 89/391/EEC, and shall identify which measures have been taken in accordance with Articles 5 and 6 of this Directive. The risk assessment shall be documented in a suitable form according to national law and practice, and may include a justification by the employer that the nature and extent of the risks related to chemical agents make a further detailed risk assessment unnecessary. The risk assessment shall be kept up-to-date, particularly if there have been significant changes which could render it out-of-date, or when the results of health surveillance show it to be necessary.

3 Certain activities within the undertaking or establishment, such as maintenance, in respect of which it is foreseeable that there is a potential for significant exposure, or which may result in deleterious effects to safety and health for other reasons, even after all technical measures have been taken, shall be included in the risk assessment.

4 In the case of activities involving exposure to several hazardous chemical agents, the risk shall be assessed on the basis of the risk presented by all such chemical agents in combination.

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5 In the case of a new activity involving hazardous chemical agents, work shall only commence after an assessment of the risk of that activity has been made and any preventive measures identified have been implemented.

6 Practical guidelines for the determination and assessment of risk, and for their review and, if necessary, adjustment, shall be developed in accordance with Article 12(2).

Textual Amendments

- F1** Substituted by Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

Article 5

General principles for prevention of risks associated with hazardous chemical agents and application of this Directive in relation to assessment of risks

1 In carrying out his obligation to ensure the health and safety of workers in any activity involving hazardous chemical agents the employer shall take the necessary preventive measures set out in Article 6(1) and (2) of Directive 89/391/EEC and include the measures set out in this Directive.

2 Risks to the health and safety of workers at work involving hazardous chemical agents shall be eliminated or reduced to a minimum by:

- the design and organisation of systems of work at the workplace,
- the provision of suitable equipment for work with chemical agents and maintenance procedures which ensure the health and safety of workers at work,
- reducing to a minimum the number of workers exposed or likely to be exposed,
- reducing to a minimum the duration and intensity of exposure,
- appropriate hygiene measures,
- reducing the quantity of chemical agents present at the workplace to the minimum required for the type of work concerned,
- suitable working procedures including arrangements for the safe handling, storage and transport within the workplace of hazardous chemical agents and waste containing such chemical agents.

Practical guidelines for preventive measures to control risk shall be developed in accordance with Article 12(2).

3 Where the results of the assessment referred to in Article 4(1) reveal a risk to the safety and health of workers, the specific protection, prevention and monitoring measures laid down in Articles 6, 7 and 10 shall be applied.

4 Where the results of the risk assessment referred to in Article 4(1) show that, because of the quantities of a hazardous chemical agent present in the workplace, there is only a slight risk to the safety and health of workers, and the measures taken in accordance with paragraphs 1 and 2 of this Article are sufficient to reduce that risk, the provisions of Articles 6, 7 and 10 shall not apply.

Article 6

Specific protection and prevention measures

1 The employer shall ensure that the risk from a hazardous chemical agent to the safety and health of workers at work is eliminated or reduced to a minimum.

2 In applying paragraph 1, substitution shall by preference be undertaken, whereby the employer shall avoid the use of a hazardous chemical agent by replacing it with a chemical agent or process which, under its condition of use, is not hazardous or less hazardous to workers' safety and health, as the case may be.

Where the nature of the activity does not permit risk to be eliminated by substitution, having regard to the activity and risk assessment referred to in Article 4, the employer shall ensure that the risk is reduced to a minimum by application of protection and prevention measures, consistent with the assessment of the risk made pursuant to Article 4. These will include, in order of priority:

- a design of appropriate work processes and engineering controls and use of adequate equipment and materials, so as to avoid or minimise the release of hazardous chemical agents which may present a risk to workers' safety and health at the place of work;
- b application of collective protection measures at the source of the risk, such as adequate ventilation and appropriate organizational measures;
- c where exposure cannot be prevented by other means, application of individual protection measures including personal protective equipment.

Practical guidelines for protection and prevention measures to control risk shall be developed in accordance with Article 12(2).

3 The measures referred to in paragraph 2 of this Article shall be accompanied by health surveillance in accordance with Article 10 if it is appropriate to the nature of the risk.

4 Unless the employer clearly demonstrates by other means of evaluation that, in accordance with paragraph 2, adequate prevention and protection have been achieved, the employer shall carry out on a regular basis, and when any change occurs in the conditions which may affect workers' exposure to chemical agents, such measurements of chemical agents which may present a risk to worker's health at the workplace as are necessary, in particular in relation to the occupational exposure limit values.

5 The employer shall take into account the results of the procedures referred to in paragraph 4 of this Article in carrying out the obligations laid down in or resulting as a consequence of Article 4.

In any event, where an occupational exposure limit value effectively established on the territory of a Member State has been exceeded, the employer shall immediately take steps, taking into account the nature of that limit, to remedy the situation by carrying out preventive and protective measures.

6 On the basis of the overall assessment of and general principles for the prevention of risks in Articles 4 and 5, the employer shall take technical and/or organisational measures appropriate to the nature of the operation, including storage, handling and segregation of incompatible chemical agents, providing protection of workers against hazards arising from the physico-chemical properties of chemical agents. In particular he shall take measures, in order of priority, to:

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- a prevent the presence at the workplace of hazardous concentrations of inflammable substances or hazardous quantities of chemically unstable substances or, where the nature of the work does not allow that,
- b avoid the presence of ignition sources which could give rise to fires and explosions, or adverse conditions which could cause chemically unstable substances or mixtures of substances to give rise to harmful physical effects, and
- c mitigate the detrimental effects to the health and safety of workers in the event of fire or explosion due to the ignition of inflammable substances, or harmful physical effects arising from chemically unstable substances or mixtures of substances.

Work equipment and protective systems provided by the employer for the protection of workers shall comply with the relevant Community provisions on design, manufacture and supply with respect to health and safety. Technical and/or organisational measures taken by the employer shall take account of and be consistent with the equipment group categorisation in Annex I to Directive 94/9/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres⁽²⁾.

The employer shall take measures to provide sufficient control of plant, equipment and machinery or provision of explosion suppression equipment or explosion pressure relief arrangements.

Article 7

Arrangements to deal with accidents, incidents and emergencies

1 Without prejudice to the obligations laid down in Article 8 of Directive 89/391/EEC, the employer shall, in order to protect the safety and health of workers from an accident, incident or emergency related to the presence of hazardous chemical agents at the workplace, establish procedures (action plans) which can be put into effect when any such event occurs, so that appropriate action is taken. These arrangements shall include any relevant safety drills which are to be performed at regular intervals, and the provision of appropriate first aid facilities.

2 In the case of the occurrence of an event such as is mentioned in paragraph 1, the employer shall immediately take steps to mitigate the effects of the event and to inform the workers concerned thereof.

In order to restore the situation to normal:

- the employer shall implement appropriate measures to remedy the situation as soon as possible,
- only those workers who are essential to the carrying out of repairs and other necessary work shall be permitted to work in the affected area.

3 The workers who are permitted to work in the affected area shall be provided with appropriate protective clothing, personal protective equipment, specialised safety equipment and plant which they must use as long as the situation persists; that situation shall not be permanent.

Unprotected persons shall not be permitted to remain in the affected area.

4 Without prejudice to Article 8 of Directive 89/391/EEC the employer shall take the measures necessary to provide the warning and other communication systems required to signal

an increased risk to safety and health, to enable an appropriate response and to launch remedial actions, assistance, escape and rescue operations immediately if the need arises.

5 The employer shall ensure that information on emergency arrangements involving hazardous chemical agents is available. The relevant internal and external accident and emergency services shall have access to this information. It shall include the following:

- advance notice of relevant work hazards, hazard identification arrangements, precautions and procedures, so that the emergency services can prepare their own response procedures and precautionary measures; and
- any available information concerning specific hazards arising, or likely to rise, at the time of an accident or emergency, including information on procedures prepared pursuant to this Article.

Article 8

Information and training for workers

1 Without prejudice to Articles 10 and 12 of Directive 89/391/EEC the employer shall ensure that workers and/or their representatives are provided with:

- the data obtained pursuant to Article 4 of this Directive, and further informed whenever a major alteration at the workplace leads to a change in these data,
- information on the hazardous chemical agents occurring in the workplace, such as the identity of those agents, the risks to safety and health, relevant occupational exposure limit values and other legislative provisions,
- training and information on appropriate precautions and actions to be taken in order to safeguard themselves and other workers at the workplace,
- ^{[F1}access to any safety data sheet provided by the supplier in accordance with Article 31 of Regulation (EC) No 1907/2006;]

and that the information is:

- provided in a manner appropriate to the outcome of the risk assessment pursuant to Article 4 of this Directive. This may vary from oral communication to individual instruction and training supported by information in writing, depending on the nature and degree of the risk revealed by the assessment required by the said Article,
- updated to take account of changing circumstances.

2 Where containers and pipes for hazardous chemical agents used at work are not marked in accordance with the relevant Community legislation on the labelling of chemical agents and on safety signs at the workplace, the employer shall, without prejudice to the derogations provided for in the abovementioned legislation, ensure that the contents of the containers and pipes, together with the nature of those contents and any associated hazards, are clearly identifiable.

^{[F13} Member States may take measures necessary to ensure that employers are able to obtain on request, preferably from the producer or supplier, all information on hazardous chemical agents that is necessary to apply Article 4(1) of this Directive, insofar as neither Regulation (EC) No 1907/2006, nor Regulation (EC) No 1272/2008 include any obligation to provide information.]

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Textual Amendments

- F1** Substituted by [Directive 2014/27/EU](#) of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

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- (1) [^{F1}Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).]
- (2) OJ L 100, 19.4.1994, p. 1.

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