

## COUNCIL DIRECTIVE

of 16 May 1983

**amending Directive 77/728/EEC 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**

(83/265/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 <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas it has been considered desirable that the rules embodied in the separate Directives on preparations and in particular in Directives 73/173/EEC <sup>(4)</sup>, as last amended by Directive 80/781/EEC <sup>(5)</sup>, and 77/728/EEC <sup>(6)</sup> should be replaced by a single Directive concerning all preparations; whereas it is not yet possible to adopt such a Directive; whereas it is necessary in the meantime to amend Directive 77/728/EEC;

Whereas paints, varnishes, printing inks and adhesives subject to the provisions of Directive 77/728/EEC frequently contain solvents covered by the provisions of Directive 73/173/EEC; whereas, during the transposition of these two Directives into national law, difficulties have appeared in several Member States because different terms describing the same thing have been used in both texts; whereas it is, therefore, necessary to harmonize the text and scope of both Directives as far as possible;

Whereas, in different Articles of Directives 77/728/EEC, account should be taken of the amendments made to Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous sub-

stances <sup>(7)</sup> by Directive 79/831/EEC <sup>(8)</sup>, particularly the newly introduced danger categories 'very toxic' and 'extremely flammable';

Whereas Article 3 of Directive 77/728/EEC contains provisions for classification of the preparations according to the degree of risk; whereas, for the classification of the preparations as toxic or harmful, reference is made *inter alia* to Directive 73/173/EEC; whereas, since the original version of Directive 73/173/EEC made no reference to corrosive and irritant solvents, it was unable to provide any details concerning these categories;

Whereas, now that the scope of Directive 73/173/EEC has been extended to cover corrosive and irritant solvents, Article 3 (3) (c) and (d) of Directive 77/728/EEC should be amended accordingly;

Whereas the wording of the third indent of Article 3 (3) (a) of Directive 77/728/EEC has proved difficult to interpret and should, therefore, be drafted more precisely and supplemented; whereas, for the same reason, additions should be made to the last indent of Article 3 (3) (b), (c) and (d), respectively, of that Directive,

HAS ADOPTED THIS DIRECTIVE:

### *Article 1*

Articles 1 to 11 of Directive 77/728/EEC shall be replaced by the following text:

#### *'Article 1*

1. This Directive shall concern:
  - the classification,
  - the packaging,
  - the labelling,

<sup>(1)</sup> OJ No C 156, 25. 6. 1981, p. 8.

<sup>(2)</sup> OJ No C 125, 17. 5. 1982, p. 148.

<sup>(3)</sup> OJ No C 310, 30. 11. 1981, p. 31.

<sup>(4)</sup> OJ No L 189, 11. 7. 1973, p. 7.

<sup>(5)</sup> OJ No L 229, 30. 8. 1980, p. 57.

<sup>(6)</sup> OJ No L 303, 28. 11. 1977, p. 23.

<sup>(7)</sup> OJ No 196, 16. 8. 1967, p. 1.

<sup>(8)</sup> OJ No L 259, 15. 10. 1979, p. 10.

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 specified in Article 2 of Directive 67/548/EEC shall apply to this Directive, with the exception of those in (1) (c) and (d) and in (2) (k).

#### Article 2

1. 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 supervision, provided that they are not altered or treated in any way;
  - (d) cosmetic preparations coming under Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products <sup>(1)</sup>;
  - (e) additives for foodstuffs and animal feed, fertilizers and pesticides where Community Directives on the classification, packaging and labelling of such preparations are in force, except where the Directives in question refer specifically to this Directive;
  - (f) substances which are in the form of waste and which are covered by Council Direc-

tive 75/442/EEC of 15 July 1975 on waste <sup>(2)</sup> and Council Directive 78/319/EEC of 20 March 1978 on toxic and dangerous waste <sup>(3)</sup>.

2. Articles 5 to 7 of this Directive shall not apply to containers for gaseous preparations which are compressed, liquefied or dissolved under pressure, with the exception of aerosols as defined in Article 2 of Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers <sup>(4)</sup>.

<sup>(1)</sup> OJ No L 262, 27. 9. 1976, p. 169.

<sup>(2)</sup> OJ No L 194, 25. 7. 1975, p. 39.

<sup>(3)</sup> OJ No L 84, 31. 3. 1978, p. 43.

<sup>(4)</sup> OJ No L 147, 9. 6. 1975, p. 40.

#### 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 very toxic or toxic in Annex I to Directive 67/548/EEC and the total concentration of which is in excess of 1 %. Each substance shall be taken into consideration to calculate the total concentration only when its concentration is in excess of 0,2 %.
- (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 %. Each substance shall be taken into consideration to calculate the total concentration only when its concentration is in excess of 1 %.
- (c) Preparations shall be considered corrosive if they contain:
- a solvent or mixture of solvents classified as corrosive 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, or
  - 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 %. Each substance shall be taken into consideration to calculate the total concentration only when its concentration is in excess of 1 %.
- (d) Preparations shall be considered irritant if they contain:
- a solvent or mixture of solvents classified as irritant 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, or
  - 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 %. Each substance shall be taken into consideration to calculate the total concentration only when its concentration is in excess of 2 %.
- (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 extremely flammable:

preparations in liquid form having a flash point, determined in accordance with one of the test methods laid down in Part A of Annex V to Directive 67/548/EEC, lower than 0 °C and the boiling point of which is lower than or equal to 35 °C.

- (g) The following shall be considered highly flammable:

preparations in liquid form having a flash point, determined in accordance with one of the test methods laid down in Part A of Annex V to Directive 67/548/EEC, below 21 °C.

- (h) The following shall be considered flammable:

preparations in liquid form having a flash point, determined in accordance with one of the test methods laid down in Part A of Annex V to Directive 67/548/EEC, equal to or greater than 21 °C and less than or equal to 55 °C.

4. Preparations in the form of aerosols shall be subject to the flammability criteria set out in paragraphs 1.8 and 2.2 (c) of the Annex to Directive 75/324/EEC.

#### 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 hereto.

#### Article 5

Member States shall take all necessary measures to ensure that dangerous preparations (paints, varnishes, printing inks, adhesives and similar products) are not placed on the market unless their packages and fastenings comply with the requirements of Article 15 of Directive 67/548/EEC.

#### 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.

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

- (a) the trade name or designation of the preparation;
- (b) the chemical name(s) of the very toxic, toxic, harmful and/or corrosive constituent(s) of the preparation, if its/their concentration exceeds the lowest limits specified in Article 3;

the chemical name of any irritant constituents, if their concentration exceeds the lowest limits specified in Article 3, where the preparation does not otherwise contain very toxic, toxic, harmful or corrosive constituents;

the chemical name(s) of the very toxic or toxic solvent(s) of which more than 0,2 % is present in the preparation and the chemical name(s) of the harmful, corrosive and irritant solvents in accordance with the Article 5 (2) (b) of Directive 73/173/EEC, the percentage of each solvent being calculated in relation to the total weight of the preparation;

the chemical name shall be one of the terms listed in Annex I to Directive 67/548/EEC;

the chemical name(s) of the substance(s) referred to in the preceding subparagraphs need not be stated if the preparation is classified only as extremely flammable, highly flammable or flammable;

- (c) the name and address of the manufacturer or of any other person placing the preparation on the market;
- (d) symbols where specified in this Directive and indications of the dangers involved in the use of the preparation in accordance with Article 16 (2) (c) of Directive 67/548/EEC, read in conjunction with Annex V thereto, and in the case of aerosol preparations, in accordance with paragraphs 1.8 and 2.2 (c) of the Annex to Directive 75/324/EEC where flammability hazards are concerned;

- (e) one or more standard phrases indicating the special risks involved in the use of the preparation;
- (f) one or more standard phrases indicating the safety advice relating to the use of the preparation.

3. The indications concerning special risks shall conform to the wording in Annex III to Directive 67/548/EEC and shall be selected by the manufacturer or any other person placing the preparation on the market, or, in the case of a preparation subject to approval, by the competent authority. If the preparation falls within several danger categories, these indications shall cover all the principal hazards associated with the preparation. No more than four standard indications need be shown.

4. The indications concerning safety advice shall conform to the wording in Annex IV to Directive 67/548/EEC and shall be selected by the manufacturer or any other person placing the preparation on the market, or, in the case of a preparation subject to approval, by the competent authority. No more than four standard indications need be shown.

5. The package shall be accompanied by safety advice on the use of the preparation where it is physically impossible for this to be given on the label or package itself.

6. For irritant, highly flammable, flammable and oxidizing preparations, it is not necessary to indicate the special risks and safety advice if the package contains no more than 125 ml. This shall also apply in the case of harmful preparations of the same volume not retailed to the general public. 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.

7. Where a preparation is assigned more than one danger 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.

8. If a preparation is classified as both harmful and irritant, it shall be labelled harmful and attention shall be drawn to its harmful and irritant characteristics by appropriate warnings in accordance with Annex III to Directive 67/548/EEC.

9. Indications such as “non-toxic” and “non-harmful” or any other similar indications must not appear on the label or packaging of preparations subject to this Directive.

#### Article 7

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

Capacity of the package:  
Dimensions (in millimetres) if possible

- not exceeding three litres:  
at least 52 × 74,
- greater than three litres but not exceeding 50 litres:  
at least 74 × 105,
- greater than 50 litres but not exceeding 500 litres:  
at least 105 × 148,
- greater than 500 litres:  
at least 148 × 210.

Each symbol shall cover at least one tenth of the surface area of the label but not be less than 1 cm<sup>2</sup>. The entire surface of the label shall

adhere to the package immediately containing the preparation.

These dimensions are intended solely for provision of the information required by this Directive and if necessary of any supplementary health or safety indications.

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

3. The colour and presentation of the label — or, in the case of paragraph 2, of the package — shall be such that the danger symbol and its background stand out clearly from it.

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

5. For the purpose of this Directive, labelling requirements shall be deemed to be satisfied:

- (a) in the case of an outer package containing one or more inner packages, if the outer package is labelled in accordance with international rules on the transport of dangerous substances and the inner package or packages are labelled in accordance with this Directive:
- (b) in the case of a single package, if such a package is labelled in accordance with international rules on the transport of dangerous substances and with Article 6 (2) (a), (b), (c), (e) and (f).

Where dangerous preparations do not leave the territory of a Member State, labelling may be permitted which complies with national rules instead of with international rules 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 very toxic or 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 hereto.

#### *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 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 21 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 proce-

dure laid down in Article 21 of Directive 67/548/EEC.

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

*Article 2*

1. Member States shall introduce the laws, regulations and administrative provisions necessary to comply with this Directive within 12 months of its notification and shall inform the Commission immediately thereof <sup>(1)</sup>.

2. Member States shall communicate to the Commission the text of the provisions of national law

which they adopt in the field governed by this Directive.

*Article 3*

This Directive is addressed to the Member States.

Done at Brussels, 16 May 1983.

*For the Council*  
*The President*  
I. KIECHLE

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<sup>(1)</sup> This Directive was notified to the Member States on 19 May 1983.