

Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

SECTION I

GENERAL PROVISIONS

Article 1

Object and scope

- 1 This Directive, which is the 15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC, lays down minimum requirements for the safety and health protection of workers potentially at risk from explosive atmospheres as defined in Article 2.
- 2 This Directive shall not apply to:
 - a areas used directly for and during the medical treatment of patients;
 - b the use of appliances burning gaseous fuels in accordance with Directive 90/396/EEC⁽¹⁾;
 - c the manufacture, handling, use, storage and transport of explosives or chemically unstable substances;
 - d mineral-extracting industries covered by Directive 92/91/EEC⁽²⁾ or Directive 92/104/EEC⁽³⁾;
 - e the use of means of transport by land, water and air, to which the pertinent provisions of the international agreements (e.g. ADNR, ADR, ICAO, IMO, RID), and the Community Directives giving effect to those agreements, apply. Means of transport intended for use in a potentially explosive atmosphere shall not be excluded.
- 3 The provisions of Directive 89/391/EEC and the relevant individual Directives are fully applicable to the domain referred to in paragraph 1, without prejudice to more restrictive and/or specific provisions contained in this Directive.

Article 2

Definition

For the purposes of this Directive, 'explosive atmosphere' means a mixture with air, under atmospheric conditions, of flammable substances in the form of gases, vapours, mists or dusts in which, after ignition has occurred, combustion spreads to the entire unburned mixture.

SECTION II

OBLIGATIONS OF THE EMPLOYER

Article 3

Prevention of and protection against explosions

With a view to preventing, within the meaning of Article 6(2) of Directive 89/391/EEC, and providing protection against explosions, the employer shall take technical and/or organisational measures appropriate to the nature of the operation, in order of priority and in accordance with the following basic principles:

- the prevention of the formation of explosive atmospheres, or where the nature of the activity does not allow that,
- the avoidance of the ignition of explosive atmospheres, and
- the mitigation of the detrimental effects of an explosion so as to ensure the health and safety of workers.

These measures shall where necessary be combined and/or supplemented with measures against the propagation of explosions and shall be reviewed regularly and, in any event, whenever significant changes occur.

Article 4

Assessment of explosion risks

1 In carrying out the obligations laid down in Articles 6(3) and 9(1) of Directive 89/391/EEC the employer shall assess the specific risks arising from explosive atmospheres, taking account at least of:

- the likelihood that explosive atmospheres will occur and their persistence,
- the likelihood that ignition sources, including electrostatic discharges, will be present and become active and effective,
- the installations, substances used, processes, and their possible interactions,
- the scale of the anticipated effects.

Explosion risks shall be assessed overall.

2 Places which are or can be connected via openings to places in which explosive atmospheres may occur shall be taken into account in assessing explosion risks.

Article 5

General obligations

To ensure the safety and health of workers, and in accordance with the basic principles of risk assessment and those laid down in Article 3, the employer shall take the necessary measures so that:

- where explosive atmospheres may arise in such quantities as to endanger the health and safety of workers or others, the working environment is such that work can be performed safely,

- in working environments where explosive atmospheres may arise in such quantities as to endanger the safety and health of workers, appropriate supervision during the presence of workers is ensured in accordance with the risk assessment by the use of appropriate technical means.

Article 6

Duty of coordination

Where workers from several undertakings are present at the same workplace, each employer shall be responsible for all matters coming under his control.

Without prejudice to the individual responsibility of each employer as provided for in Directive 89/391/EEC, the employer responsible for the workplace in accordance with national law and/or practice shall coordinate the implementation of all the measures concerning workers' health and safety and shall state, in the explosion protection document referred to in Article 8, the aim of that coordination and the measures and procedures for implementing it.

Article 7

Places where explosive atmospheres may occur

- 1 The employer shall classify places where explosive atmospheres may occur into zones in accordance with Annex I.
- 2 The employer shall ensure that the minimum requirements laid down in Annex II are applied to places covered by paragraph 1.
- 3 Where necessary, places where explosive atmospheres may occur in such quantities as to endanger the health and safety of workers shall be marked with signs at their points of entry in accordance with Annex III.

Article 8

Explosion protection document

In carrying out the obligations laid down in Article 4, the employer shall ensure that a document, hereinafter referred to as the 'explosion protection document', is drawn up and kept up to date.

The explosion protection document shall demonstrate in particular:

- that the explosion risks have been determined and assessed,
- that adequate measures will be taken to attain the aims of this Directive,
- those places which have been classified into zones in accordance with Annex I,
- those places where the minimum requirements set out in Annex II will apply,
- that the workplace and work equipment, including warning devices, are designed, operated and maintained with due regard for safety,
- that in accordance with Council Directive 89/655/EEC⁽⁴⁾, arrangements have been made for the safe use of work equipment.

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The explosion protection document shall be drawn up prior to the commencement of work and be revised when the workplace, work equipment or organisation of the work undergoes significant changes, extensions or conversions.

The employer may combine existing explosion risk assessments, documents or other equivalent reports produced under other Community acts.

Article 9

Special requirements for work equipment and workplaces

1 Work equipment for use in places where explosive atmospheres may occur which is already in use or is made available in the undertaking or establishment for the first time before 30 June 2003 shall comply from that date with the minimum requirements laid down in Annex II, Part A, if no other Community Directive is applicable or is so only partially.

2 Work equipment for use in places where explosive atmospheres may occur which is made available in the undertaking or establishment for the first time after 30 June 2003 shall comply with the minimum requirements laid down in Annex II, Parts A and B.

3 Workplaces which contain places where explosive atmospheres may occur and which are used for the first time after 30 June 2003 shall comply with minimum requirements set out in this Directive.

4 Where workplaces which contain places where explosive atmospheres may occur are already in use before 30 June 2003, they shall comply with the minimum requirements set out in this Directive no later than three years after that date.

5 If, after 30 June 2003, any modification, extension or restructuring is undertaken in workplaces containing places where explosive atmospheres may occur, the employer shall take the necessary steps to ensure that these comply with the minimum requirements set out in this Directive.

SECTION III

MISCELLANEOUS PROVISIONS

Article 10

Adjustments to the annexes

Purely technical adjustments to the annexes made necessary by:

- the adoption of Directives on technical harmonisation and standardisation in the field of explosion protection, and/or
- technical progress, changes in international regulations or specifications, and new findings on the prevention of and protection against explosions,

shall be adopted in accordance with the procedure laid down in Article 17 of Directive 89/391/EEC.

Article 11

Guide of good practice

The Commission shall draw up practical guidelines in a guide of good practice of a non-binding nature. This guide shall address the topics referred to in Articles 3, 4, 5, 6, 7 and 8, Annex I and Annex II, Part A.

The Commission shall first consult the Advisory Committee on Safety, Hygiene and Health Protection at Work in accordance with Council Decision 74/325/EEC⁽⁵⁾.

In the context of the application of this Directive, Member States shall take the greatest possible account of the abovementioned guide in drawing up their national policies for the protection of the health and safety of workers

Article 12

Information to undertakings

Member States shall, on request, endeavour to make relevant information available to employers in accordance with Article 11, with particular reference to the guide of good practice

Article 13

Final provisions

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 30 June 2003. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2 Member States shall communicate to the Commission the text of the provisions of domestic law which they have already adopted or adopt in the field governed by this Directive.

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Textual Amendments

F1 Deleted by Directive 2007/30/EC of the European Parliament and of the Council of 20 June 2007 amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation (Text with EEA relevance).

Article 14

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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Article 15

This Directive is addressed to the Member States.

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- (1) OJ L 196, 26.7.1990, p. 15. Directive as amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1).
- (2) OJ L 348, 28.11.1992, p. 9.
- (3) OJ L 404, 31.12.1992, p. 10.
- (4) OJ L 393, 30.12.1989, p. 13. Directive as amended by Directive 95/63/EC (OJ L 335, 30.12.1995, p. 28).
- (5) OJ L 185, 9.7.1974, p. 15. Decision as last amended by the 1994 Act of Accession.