Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (sixteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

SECTION I

GENERAL PROVISIONS

Article 1

Aim and scope

1 This Directive, which is the 16th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC, lays down minimum requirements for the protection of workers from risks to their health and safety arising or likely to arise from exposure to mechanical vibration.

2 The requirements of this Directive shall apply to activities in which workers are or are likely to be exposed to risks from mechanical vibration during their work.

3 Directive 89/391/EEC shall apply fully to the whole area referred to in paragraph 1, without prejudice to more stringent and/or more specific provisions contained in this Directive.

Article 2

Definitions

For the purposes of this Directive, the following terms shall mean:

(a) ‘hand-arm vibration’: the mechanical vibration that, when transmitted to the human hand-arm system, entails risks to the health and safety of workers, in particular vascular, bone or joint, neurological or muscular disorders;

(b) ‘whole-body vibration’: the mechanical vibration that, when transmitted to the whole body, entails risks to the health and safety of workers, in particular lower-back morbidity and trauma of the spine.

Article 3

Exposure limit values and action values

1 For hand-arm vibration:

a the daily exposure limit value standardised to an eight-hour reference period shall be 5 m/s^2;

b the daily exposure action value standardised to an eight-hour reference period shall be 2,5 m/s^2.

Workers' exposure to hand-arm vibration shall be assessed or measured on the basis of the provisions of Point 1 of Part A of the Annex.

2 For whole-body vibration:

a the daily exposure limit value standardised to an eight-hour reference period shall be 1,15 m/s^2 or, at the choice of the Member State concerned, a vibration dose value of 21 $m/s^{1,75}$;

b the daily exposure action value standardised to an eight-hour reference period shall be 0,5 m/s^2 or, at the choice of the Member State concerned, a vibration dose value of 9,1 $m/s^{1,75}$.

Workers' exposure to whole-body vibration shall be assessed or measured on the basis of the provisions of Point 1 of Part B of the Annex.

SECTION II

OBLIGATION OF EMPLOYERS

Article 4

Determination and assessment of risks

1 In carrying out the obligations laid down in Article 6(3) and Article 9(1) of Directive 89/391/EEC, the employer shall assess and, if necessary, measure the levels of mechanical vibration to which workers are exposed. Measurement shall be carried out in accordance with Point 2 of Part A or Point 2 of Part B of the Annex to this Directive, as appropriate.

2 The level of exposure to mechanical vibration may be assessed by means of observation of specific working practices and reference to relevant information on the probable magnitude of the vibration corresponding to the equipment or the types of equipment used in the particular conditions of use, including such information provided by the manufacturer of the equipment. That operation shall be distinguished from measurement, which requires the use of specific apparatus and appropriate methodology.

3 The assessment and measurement referred to in paragraph 1 shall be planned and carried out by competent services at suitable intervals, taking particular account of the provisions of Article 7 of Directive 89/391/EEC concerning the necessary competent services or persons. The data obtained from the assessment and/or measurement of the level of exposure to mechanical vibration shall be preserved in a suitable form so as to permit consultation at a later stage.

4 Pursuant to Article 6(3) of Directive 89/391/EEC, the employer shall give particular attention, when carrying out the risk assessment, to the following:

a the level, type and duration of exposure, including any exposure to intermittent vibration or repeated shocks;

b the exposure limit values and the exposure action values laid down in Article 3 of this Directive;

c any effects concerning the health and safety of workers at particularly sensitive risk;

d any indirect effects on worker safety resulting from interactions between mechanical vibration and the workplace or other work equipment;

e information provided by the manufacturers of work equipment in accordance with the relevant Community Directives;

f the existence of replacement equipment designed to reduce the levels of exposure to mechanical vibration;

g the extension of exposure to whole-body vibration beyond normal working hours under the employer's responsibility;

h specific working conditions such as low temperatures;

i appropriate information obtained from health surveillance, including published information, as far as possible.

5 The employer shall be in possession of an assessment of the risk in accordance with Article 9(1)(a) of Directive 89/391/EEC and shall identify which measures must be taken in accordance with Articles 5 and 6 of this Directive. The risk assessment shall be recorded on a suitable medium, according to national law and practice; it may include a justification by the employer that the nature and extent of the risks related to mechanical vibration make a further detailed risk assessment unnecessary. The risk assessment shall be kept up-to-date on a regular basis, 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.

Article 5

Provisions aimed at avoiding or reducing exposure

1 Taking account of technical progress and of the availability of measures to control the risk at source, the risks arising from exposure to mechanical vibration shall be eliminated at their source or reduced to a minimum.

The reduction of such risks shall be based on the general principles of prevention set out in Article 6(2) of Directive 89/391/EEC.

2 On the basis of the risk assessment referred to in Article 4, once the exposure action values laid down in Article 3(1)(b) and (2)(b) are exceeded, the employer shall establish and implement a programme of technical and/or organisational measures intended to reduce to a minimum exposure to mechanical vibration and the attendant risks, taking into account in particular:

a other working methods that require less exposure to mechanical vibration;

b the choice of appropriate work equipment of appropriate ergonomic design and, taking account of the work to be done, producing the least possible vibration;

c the provision of auxiliary equipment that reduces the risk of injuries caused by vibration, such as seats that effectively reduce whole-body vibration and handles which reduce the vibration transmitted to the hand-arm system;

d appropriate maintenance programmes for work equipment, the workplace and workplace systems;

e the design and layout of workplaces and work stations;

f adequate information and training to instruct workers to use work equipment correctly and safely in order to reduce their exposure to mechanical vibration to a minimum;

g limitation of the duration and intensity of the exposure;

h appropriate work schedules with adequate rest periods;

i the provision of clothing to protect exposed workers from cold and damp.

3 In any event, workers shall not be exposed above the exposure limit value.

If, despite the measures taken by the employer to comply with this Directive, the exposure limit value is exceeded, the employer shall take immediate action to reduce exposure below the exposure limit value. He shall identify the reasons why the exposure

limit value has been exceeded, and shall amend the protection and prevention measures accordingly in order to prevent it being exceeded again.

4 Pursuant to Article 15 of Directive 89/391/EEC, the employer shall adapt the measures referred to in this Article to the requirements of workers at particular risk.

Article 6

Worker information and training

Without prejudice to Articles 10 and 12 of Directive 89/391/EEC, the employer shall ensure that workers who are exposed to the risks from mechanical vibration at work and/or their representatives receive information and training relating to the outcome of the risk assessment provided for in Article 4(1) of this Directive, concerning in particular:

(a) the measures taken to implement this Directive in order to eliminate or reduce to a minimum the risks from mechanical vibration;

(b) the exposure limit values and the exposure action values;

(c) the results of the assessment and measurement of the mechanical vibration carried out in accordance with Article 4 of this Directive and the potential injury arising from the work equipment in use;

(d) why and how to detect and report signs of injury;

(e) the circumstances in which workers are entitled to health surveillance;

(f) safe working practices to minimise exposure to mechanical vibration.

Article 7

Consultation and participation of workers

Consultation and participation of workers and/or of their representatives shall take place in accordance with Article 11 of Directive 89/391/EEC on the matters covered by this Directive.

SECTION III

MISCELLANEOUS PROVISIONS

Article 8

Health surveillance

1 Without prejudice to Article 14 of Directive 89/391/EEC, Member States shall adopt provisions to ensure the appropriate health surveillance of workers with reference to the outcome of the risk assessment provided for in Article 4(1) of this Directive where it indicates a risk to their health. Those provisions, including the requirements specified for health records and their availability, shall be introduced in accordance with national laws and/or practice.

Health surveillance, the results of which are taken into account in the application of preventive measures at a specific workplace, shall be intended to prevent and diagnose rapidly any disorder linked with exposure to mechanical vibration. Such surveillance shall be appropriate where:

— the exposure of workers to vibration is such that a link can be established between that exposure and an identifiable illness or harmful effects on health,

— it is probable that the illness or the effects occur in a worker's particular working conditions, and

— there are tested techniques for the detection of the illness or the harmful effects on health.

In any event, workers exposed to mechanical vibration in excess of the values stated in Article 3(1)(b) and (2)(b) shall be entitled to appropriate health surveillance.

2 Member States shall establish arrangements to ensure that, for each worker who undergoes health surveillance in accordance with paragraph 1, individual health records are made and kept up-to-date. Health records shall contain a summary of the results of the health surveillance carried out. They shall be kept in a suitable form so as to permit any consultation at a later date, taking into account any confidentiality.

Copies of the appropriate records shall be supplied to the competent authority on request. The individual worker shall, at his request, have access to the health records relating to him personally.

3 Where, as a result of health surveillance, a worker is found to have an identifiable disease or adverse health effect which is considered by a doctor or occupational health-care professional to be the result of exposure to mechanical vibration at work:

a the worker shall be informed by the doctor or other suitably qualified person of the result which relates to him personally. He shall, in particular, receive information and advice regarding any health surveillance which he should undergo following the end of exposure;

b the employer shall be informed of any significant findings from the health surveillance, taking into account any medical confidentiality;

c the employer shall:

— review the risk assessment carried out pursuant to Article 4,

— review the measures provided for to eliminate or reduce risks pursuant to Article 5,

— take into account the advice of the occupational health-care professional or other suitably qualified person or the competent authority in implementing any measures required to eliminate or reduce risk in accordance with Article 5, including the possibility of assigning the worker to alternative work where there is no risk of further exposure, and

— arrange continued health surveillance and provide for a review of the health status of any other worker who has been similarly exposed. In such cases, the competent doctor or occupational health care professional or the competent authority may propose that exposed persons undergo a medical examination.

Article 9

Transitional periods

With regard to implementation of the obligations laid down in Article 5(3), Member States, after consultation of the two sides of industry in accordance with national legislation or practice, shall be entitled to make use of a maximum transitional period of five years from 6 July 2005 where work equipment is used which was given to workers before 6 July 2007 and which does not permit the exposure limit values to be respected, taking into account the latest technical advances and/or the organisational measures taken. With regard to equipment used in the agriculture and forestry sectors, Member States shall be entitled to extend the maximum transitional period by up to four years.

Article 10

Derogations

1 In compliance with the general principles of health and safety protection for workers, Member States may, in the case of sea and air transport, derogate from Article 5(3) in duly justified circumstances with respect to whole-body vibration where, given the state of the art and the specific characteristics of workplaces, it is not possible to comply with the exposure limit value despite the technical and/or organisation measures taken.

2 In a case where the exposure of a worker to mechanical vibration is usually below the exposure action values given in Article 3(1)(b) and (2)(b) but varies markedly from time to time and may occasionally exceed the exposure limit value, Member States may also grant derogations from Article 5(3). However, the exposure value averaged over 40 hours must be less than the exposure limit value and there must be evidence to show that the risks from the pattern of exposure to the work are lower than those from exposure at the exposure limit value.

3 The derogations referred to in paragraphs 1 and 2 shall be granted by Member States after consultation of the two sides of industry in accordance with national laws and practice. Such derogations must be accompanied by conditions which guarantee, taking into account the special circumstances, that the resulting risks are reduced to a minimum and that the workers concerned are subject to increased health surveillance. Such derogations shall be reviewed every four years and withdrawn as soon as the justifying circumstances no longer obtain.

4 Every four years Member States shall forward to the Commission a list of derogations as referred to in paragraphs 1 and 2, indicating the exact reasons and circumstances which made them decide to grant the derogations.

[F1 Article 11

Amendments to the Annex

The Commission is empowered to adopt delegated acts in accordance with Article 11a to make strictly technical amendments to the Annex, in order to take account of technical harmonisation and standardisation with regard to the design, building, manufacture or construction of work equipment and workplaces, technical progress, changes in harmonised European standards or specifications and new findings concerning mechanical vibration.

Where, in duly justified and exceptional cases involving imminent, direct and serious risks to workers' and other persons' physical health and safety, imperative grounds of urgency require action in a very short timeframe, the procedure provided for in Article 11b shall apply to delegated acts adopted pursuant to this Article.**]**

Textual Amendments

F1 Substituted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

[F2 Article 11a

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 11 shall be conferred on the Commission for a period of five years from 26 July 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of power referred to in Article 11 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[(1)].

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 11 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Textual Amendments

F2 Inserted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

Article 11b

Urgency procedure

1 Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and the Council shall state the reasons for the use of the urgency procedure.

2 Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 11a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.**]**

Textual Amendments

F2 Inserted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

F3 Article 12

[F3 Committee procedure]

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Textual Amendments

F3 Deleted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

SECTION IV

FINAL PROVISIONS

F4 Article 13

[F4 Reports]

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Textual Amendments

F4 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

Transposition

1 The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 6 July 2005. They shall forthwith inform the Commission thereof. They shall also include a list, giving detailed reasons, of the transitional arrangements which the Member States have adopted in accordance with Article 9.

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 Member States.

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

Article 15

Entry into force

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

Article 16

Addressees

This Directive is addressed to the Member States.

(1) **[**[F2]OJ L 123, 12.5.2016, p. 1.**]**

Textual Amendments

F2 Inserted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).