

Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (codified version) (Text with EEA relevance)

## [<sup>X1</sup>CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

#### **Objective**

1 This Directive has as its aim the protection of workers against risks to their health and safety, including the prevention of such risks, arising or likely to arise from exposure to carcinogens or mutagens at work.

It lays down particular minimum requirements in this area, including limit values.

2 This Directive shall not apply to workers exposed only to radiation covered by the Treaty establishing the European Atomic Energy Community.

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

[<sup>F14</sup> As regards asbestos, which is dealt with by Directive 2009/148/EC of the European Parliament and of the Council<sup>(1)</sup>, the provisions of this Directive shall apply whenever they are more favourable to health and safety at work.]

#### **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 2*

#### **Definitions**

For the purposes of this Directive,

- (a) [<sup>F1</sup>‘carcinogen’ means:
- (i) a substance or mixture which meets the criteria for classification as a category 1A or 1B carcinogen set out in Annex I to Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>(2)</sup>;
  - (ii) a substance, mixture or process referred to in Annex I to this Directive as well as a substance or mixture released by a process referred to in that Annex;]

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- (b) [<sup>F1</sup>‘mutagen’ means:  
a substance or mixture which meets the criteria for classification as a category 1A or 1B germ cell mutagen set out in Annex I to Regulation (EC) No 1272/2008;]
- (c) ‘limit value’ means, unless otherwise specified, the limit of the time-weighted average of the concentration for a ‘carcinogen or mutagen’ in the air within the breathing zone of a worker in relation to a specified reference period as set out in Annex III to this Directive.

#### 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 3

#### Scope — determination and assessment of risks

1 This Directive shall apply to activities in which workers are or are likely to be exposed to carcinogens or mutagens as a result of their work.

2 In the case of any activity likely to involve a risk of exposure to carcinogens or mutagens, the nature, degree and duration of workers' exposure shall be determined in order to make it possible to assess any risk to the workers' health or safety and to lay down the measures to be taken.

The assessment shall be renewed regularly and in any event when any change occurs in the conditions which may affect workers' exposure to carcinogens or mutagens.

The employer shall supply the authorities responsible at their request with the information used for making the assessment.

3 When assessing the risk, account shall be taken of all other routes of exposure, such as absorption into and/or through the skin.

4 When the risk assessment is carried out, employers shall give particular attention to any effects concerning the health or safety of workers at particular risk and shall, inter alia, take account of the desirability of not employing such workers in areas where they may come into contact with carcinogens or mutagens.]

#### Editorial Information

- X1** Substituted by [Corrigendum to Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work \(Sixth individual Directive within the meaning of Article 16\(1\) of Council Directive 89/391/EEC\) \(codified version\) \(Official Journal of the European Union L 158 of 30 April 2004\).](#)

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- (1) [<sup>X1</sup>][<sup>F1</sup>Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work (OJ L 330, 16.12.2009, p. 28).]]
- (2) [<sup>X1</sup>][<sup>F1</sup>Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).]]

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