

DIRECTIVE 2003/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 27 March 2003
amending Council Directive 83/477/EEC on the protection of workers from the risks related to
exposure to asbestos at work
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 137(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾, drawn up following consultation with social partners and with the Advisory Committee on Safety, Hygiene and Health Protection at Work,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) In its Conclusions of 7 April 1998 on the protection of workers against the risks from exposure to asbestos ⁽⁴⁾ the Council invited the Commission to bring forward proposals for amending Directive 83/477/EEC ⁽⁵⁾, considering in particular the merits of refocusing and adapting protective measures for those who are now most at risk, in particular workers who remove asbestos and workers who accidentally come across asbestos at work in the course of servicing and maintenance activities.
- (2) In those Conclusions, the Commission was also invited to submit proposals to amend Directive 83/477/EEC in the light of the more detailed research on limits for exposure to chrysotile and the methods for measuring airborne asbestos undertaken on the basis of the method adopted by the World Health Organisation (WHO). Similar steps should be taken regarding substitute fibres.
- (3) The Economic and Social Committee, in its opinion on asbestos ⁽⁶⁾, called on the Commission to take new measures to reduce the risks to workers.

- (4) The ban on the marketing and use of chrysotile asbestos introduced by Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations ⁽⁷⁾ with effect from 1 January 2005, will contribute to a substantial reduction in asbestos exposure of workers.
- (5) All workers should be protected against the risks associated with exposure to asbestos and the derogations applicable to the sea and air sectors should therefore be removed.
- (6) In order to ensure clarity in the definition of the fibres, they should be redefined either in mineralogical terms or with regard to their Chemical Abstract Service (CAS) number.
- (7) Without prejudice to other Community provisions concerning the marketing and use of asbestos, limiting the activities involving exposure to asbestos should play a very important role in preventing the diseases associated with such exposure.
- (8) The notification system for activities involving exposure to asbestos should be adapted to new work situations.
- (9) It is important to eliminate activities which expose workers to asbestos fibres during the extraction of asbestos or the manufacture and processing of asbestos products or the manufacture and processing of products containing intentionally added asbestos fibres, in view of their high and unpredictable level of exposure.
- (10) Taking account of the latest technical expertise, it is necessary to specify more precisely the sampling methodology used to measure the asbestos level in air and the method of counting fibres.
- (11) Even though it has not yet been possible to identify the exposure threshold below which asbestos does not involve a cancer risk, the limit value for occupational exposure to asbestos should be reduced.

⁽¹⁾ OJ C 304 E, 30.10.2001, p. 179 and OJ C 203 E, 27.8.2002, p. 273.

⁽²⁾ OJ C 94, 18.4.2002, p. 40.

⁽³⁾ Opinion of the European Parliament of 11 April 2002 (not yet published in the Official Journal), Council Common Position of 23 September 2002 (OJ C 269 E, 5.11.2002, p. 1) and Decision of the European Parliament of 17 December 2002 (not yet published in the Official Journal). Council Decision of 18 February 2003 (not yet published in the Official Journal).

⁽⁴⁾ OJ C 142, 7.5.1998, p. 1.

⁽⁵⁾ OJ L 263, 24.9.1983, p. 25. Directive as last amended by Directive 98/24/EC (OJ L 131, 5.5.1998, p. 11).

⁽⁶⁾ OJ C 138, 18.5.1999, p. 24.

⁽⁷⁾ OJ L 262, 27.9.1976, p. 201. Directive as last amended by Commission Directive 2001/91/EC (OJ L 286, 30.10.2001, p. 27).

- (12) Employers should be required to record, before the start of any asbestos removal project, the presence or presumed presence of asbestos in buildings or installations and communicate this information to others who may be exposed to asbestos as a result of its use, of maintenance or of other activities in or on the building.
- (13) It should be ensured that demolition or asbestos removal work is carried out by undertakings which are familiar with all the precautions to be taken in order to protect workers.
- (14) Special training for workers exposed or likely to be exposed to asbestos should be provided in order significantly to contribute to reducing the risks related to such exposure.
- (15) The content of the exposure register and medical records provided for in Directive 83/477/EEC should be brought into line with the records referred to in Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (Sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) ⁽¹⁾.
- (16) The practical recommendations on the clinical surveillance of exposed workers should be updated in the light of the latest medical expertise, with a view to the early detection of pathologies linked to asbestos.
- (17) Since the objective of the proposed action, namely improvement in the protection of workers from the risks related to exposure to asbestos at work, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (18) The amendments contained in this Directive constitute a concrete contribution towards creating the social dimension of the internal market.
- (19) These amendments are limited to the minimum in order not to impose an unnecessary burden on the creation and development of small and medium-sized enterprises.
- (20) Directive 83/477/EEC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 83/477/EEC is hereby amended as follows:

1. in Article 1, paragraph 2 shall be deleted;

⁽¹⁾ OJ L 196, 26.7.1990, p. 1. Directive as last amended by Directive 1999/38/EC (OJ L 138, 1.6.1999, p. 66).

2. Article 2 shall be replaced by the following:

'Article 2

For the purposes of this Directive, "asbestos" means the following fibrous silicates:

- Asbestos actinolite, CAS No 77536-66-4 (*),
- Asbestos grunerite (amosite) CAS No 12172-73-5 (*),
- Asbestos anthophyllite, CAS No 77536-67-5 (*),
- Chrysotile, CAS No 12001-29-5 (*),
- Crocidolite, CAS No 12001-28-4 (*),
- Asbestos tremolite, CAS No 77536-68-6 (*).

(*): Number in the register of the Chemical Abstract Service (CAS).;

3. in Article 3:

- (a) paragraph 3 shall be replaced by the following:

'3. Provided that worker exposure is sporadic and of low intensity, and when it is clear from the results of the risk assessment referred to in paragraph 2 that the exposure limit for asbestos will not be exceeded in the air of the working area, Articles 4, 15 and 16 may be waived where work involves:

- (a) short, non-continuous maintenance activities in which only non-friable materials are handled,
- (b) removal without deterioration of non-degraded materials in which the asbestos fibres are firmly linked in a matrix,
- (c) encapsulation or sealing of asbestos-containing materials which are in good condition,
- (d) air monitoring and control, and the collection of samples to ascertain whether a specific material contains asbestos.'

- (b) the following paragraph shall be inserted:

'3 bis Member States shall, following consultation with social partners in accordance with national law and practice, lay down practical guidelines for the determination of sporadic and low-intensity exposure, as provided for in paragraph 3.'

4. Article 4 shall be amended as follows:

- (a) point 2 shall be replaced by the following:

'2. The notification shall be submitted by the employer to the responsible authority of the Member States, before the work commences, in accordance with national laws, regulations and administrative provisions.

The notification must include at least a brief description of:

- (a) the location of the work site,
- (b) the type and quantities of asbestos used or handled,
- (c) the activities and processes involved,

- (d) the number of workers involved,
- (e) the starting date and duration of the work,
- (f) measures taken to limit the exposure of workers to asbestos.;

(b) point 4 shall be replaced by the following:

- '4. Each time a change in working conditions is likely to result in a significant increase in exposure to dust from asbestos or materials containing asbestos, a new notification must be submitted.;

5. in Article 5 the following paragraph shall be added:

'Without prejudice to the application of other Community provisions on marketing and use of asbestos, activities which expose workers to asbestos fibres during the extraction of asbestos or the manufacture and processing of asbestos products or the manufacture and processing of products containing intentionally added asbestos shall be prohibited, with the exception of the treatment and disposal of products resulting from demolition and asbestos removal.;

6. Article 6 shall be replaced by the following:

'Article 6

For all activities referred to in Article 3(1), the exposure of workers to dust arising from asbestos or materials containing asbestos at the place of work must be reduced to a minimum and in any case below the limit value laid down in Article 8, in particular through the following measures:

1. the number of workers exposed or likely to be exposed to dust arising from asbestos or materials containing asbestos must be limited to the lowest possible figure;
2. work processes must be designed so as not to produce asbestos dust or, if that proves impossible, to avoid the release of asbestos dust into the air;
3. all premises and equipment involved in the treatment of asbestos must be capable of being regularly and effectively cleaned and maintained;
4. asbestos or dust-generating asbestos-containing material must be stored and transported in suitable sealed packing;
5. waste must be collected and removed from the place of work as soon as possible in suitable sealed packing with labels indicating that it contains asbestos. This measure shall not apply to mining activities. Such waste shall then be dealt with in accordance with Council Directive 91/689/EEC of 12 December 1991 on hazardous waste (*).

(*) OJ L 377, 31.12.1991, p. 20. Directive as last amended by Directive 94/31/EC (OJ L 168, 2.7.1994, p. 28).;

7. Article 7 shall be replaced by the following:

'Article 7

1. Depending on the results of the initial risk assessment, and in order to ensure compliance with the limit value laid down in Article 8, measurement of asbestos fibres in the air at the workplace shall be carried out regularly.
2. Sampling must be representative of the personal exposure of the worker to dust arising from asbestos or materials containing asbestos.
3. Sampling shall be carried out after consultation of the workers and/or their representatives in undertakings.
4. Sampling shall be carried out by suitably qualified personnel. The samples taken shall be subsequently analysed, in accordance with paragraph 6, in laboratories equipped for fibre counting.
5. The duration of sampling must be such that representative exposure can be established for an eight-hour reference period (one shift) by means of measurements or time-weighted calculations.
6. Fibre counting shall be carried out wherever possible by PCM (phase-contrast microscope) in accordance with the 1997 WHO (World Health Organisation) recommended method (*) or any other method giving equivalent results.

For the purpose of measuring asbestos in the air, as referred to in the first subparagraph, only fibres with a length of more than five micrometres, a breadth of less than three micrometres and a length/breadth ratio greater than 3:1 shall be taken into consideration.

(*) Determination of airborne fibre concentrations. A recommended method, by phase-contrast optical microscopy (membrane filter method), WHO, Geneva 1997 (ISBN 92 4 154496 1).;

8. Article 8 shall be replaced by the following:

'Article 8

Employers shall ensure that no worker is exposed to an airborne concentration of asbestos in excess of 0,1 fibres per cm³ as an eight-hour time-weighted average (TWA).;

9. in Article 9, paragraph 1 shall be deleted;

10. Article 10 shall be amended as follows:

- (a) in paragraph 1, the first subparagraph shall be replaced by the following:

'Where the limit value laid down in Article 8 is exceeded, the reasons for the limit being exceeded must be identified and appropriate measures to remedy the situation must be taken as soon as possible.'

(b) paragraph 3 shall be replaced by the following:

'3. Where exposure cannot be reduced by other means and where compliance with the limit value makes necessary the wearing of individual protective breathing equipment, this may not be permanent and shall be kept to the strict minimum necessary for each worker. During periods of work which require the use of such equipment, provision shall be made for breaks appropriate to the physical and climatological conditions and, where relevant, in consultation with the workers and/or their representatives, in accordance with national laws and practice.'

11. the following Article shall be inserted:

'Article 10a

Before beginning demolition or maintenance work, employers shall take, if appropriate by obtaining information from the owners of the premises, all necessary steps to identify presumed asbestos-containing materials.

If there is any doubt about the presence of asbestos in a material or construction, the applicable provisions of this Directive shall be observed.'

12. in Article 11, paragraph 1 shall be replaced by the following:

'1. In the case of certain activities such as demolition, removal, repairing and maintenance in respect of which it is foreseeable that the limit value set out in Article 8 will be exceeded despite the use of technical preventive measures for limiting asbestos in air concentrations, the employer shall determine the measures intended to ensure protection of the workers while they are engaged in such activities, in particular the following:

- (a) workers shall be issued with suitable respiratory and other personal protective equipment, which must be worn; and
- (b) warning signs shall be put up indicating that it is foreseeable that the limit value laid down in Article 8 will be exceeded; and
- (c) the spread of dust arising from asbestos or materials containing asbestos outside the premises or site of action shall be prevented.'

13. in Article 12(2), the first two subparagraphs shall be replaced by the following:

'2. The plan referred to in paragraph 1 must prescribe the measures necessary to ensure the safety and health of workers at the place of work.

The plan must in particular specify that:

- asbestos and/or asbestos-containing products are to be removed before demolition techniques are applied, except where this would cause a greater risk to workers than if the asbestos and/or asbestos-containing products had been left in place;

— the personal protective equipment referred to in Article 11(1)(a) shall be provided, where necessary;

— when the asbestos demolition or removal work has been completed, the absence of asbestos exposure risks in the workplace shall be verified in compliance with national legislation and practices.'

14. the following Articles shall be inserted:

'Article 12a

1. Employers shall provide appropriate training for all workers who are, or are likely to be, exposed to asbestos-containing dust. Such training must be provided at regular intervals and at no cost to the workers.

2. The content of the training must be easily understandable for workers. It must enable them to acquire the necessary knowledge and skills in terms of prevention and safety, particularly as regards:

- (a) the properties of asbestos and its effects on health, including the synergistic effect of smoking;
- (b) the types of products or materials likely to contain asbestos;
- (c) the operations that could result in asbestos exposure and the importance of preventive controls to minimise exposure;
- (d) safe work practices, controls and protective equipment;
- (e) the appropriate role, choice, selection, limitations and proper use of respiratory equipment;
- (f) emergency procedures;
- (g) decontamination procedures;
- (h) waste disposal;
- (i) medical examination requirements.

3. Practical guidelines for the training of asbestos removal workers shall be developed at Community level.

Article 12b

Before carrying out asbestos demolition or removal work, firms must provide evidence of their ability in this field. The evidence shall be established in accordance with national laws and/or practice.'

15. in Article 14(2), point (b) shall be replaced by the following:

'(b) if the results exceed the limit value laid down in Article 8 the workers concerned and their representatives in the undertaking or establishment are informed as quickly as possible of the fact and the reasons for it and the workers and/or their representatives in the undertaking or establishment are consulted on the measures to be taken or, in an emergency, are informed of the measures which have been taken.'

16. in Article 15, point (3) shall be replaced by the following:

'3. Information and advice must be given to workers regarding any assessment of their health which they may undergo following the end of exposure.

The doctor or authority responsible for the medical surveillance of workers may indicate that medical surveillance must continue after the end of exposure for as long as they consider it necessary to safeguard the health of the person concerned.

Such continuing surveillance shall be carried out in accordance with the laws and practices of the individual Member States.;

17. in Article 16, point 2 shall be replaced by the following:

'2. The register referred to in point 1 and the medical records referred to in Article 15(1) shall be kept for at least 40 years following the end of exposure, in accordance with national laws and/or practice.;

18. in Article 16 the following point shall be added:

'3. The documents referred to in point 2 shall be made available to the responsible authority in cases where the undertaking ceases trading, in accordance with national laws and/or practice.;

19. The following Article shall be inserted:

'Article 16a

Member States shall provide for adequate sanctions to be applicable in the event of infringement of national legislation adopted pursuant to this Directive. These sanctions must be effective, proportionate and dissuasive.;

20. Annex I shall be deleted;

21. in Annex II, point 3 shall be replaced by the following:

'3. Health examination of workers should be carried out in accordance with the principles and practices of occupational medicine. It should include at least the following measures:

- keeping records of a worker's medical and occupational history,
- a personal interview,

- a general clinical examination, with particular reference to the chest,
- lung function tests (respiratory flow volumes and rates).

The doctor and/or authority responsible for the health surveillance should decide on further examinations, such as sputum cytology tests or a chest X-ray or a tomodensitometry, in the light of the latest occupational health knowledge available.'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 April 2006. 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 a reference shall be laid down by the Member States.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 27 March 2003.

For the European Parliament

P. COX

The President

For the Council

M. STRATAKIS

The President