

Amended proposal for a Council Directive on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work ⁽¹⁾

COM(84) 426 final

(Submitted by the Commission to the Council pursuant to the second paragraph of Article 149 of the EEC Treaty on 26 July 1984)

(84/C 214/10)

ORIGINAL PROPOSAL

AMENDED PROPOSAL

Preamble unchanged

First four recitals unchanged

— Whereas the simplest and most effective way of reducing noise levels at work is to incorporate noise prevention measures into the design of installations and to choose materials, procedures and working methods which produce less noise, and whereas the priority aim must be to achieve the said reduction at source,

— Whereas the *(two words deleted)* most effective way of reducing noise levels at work is to incorporate noise prevention measures into the design of installations and to choose materials, procedures and working methods which produce less noise, and whereas the priority aim must be to achieve the said reduction at source;

Whereas the provision and use of hearing protectors is a necessary complementary measure to the reduction of noise at source, where exposure cannot reasonably be avoided by other means;

Last two recitals unchanged

Articles 1 and 2 unchanged

Article 3

This Directive shall apply to all employed persons whose exposure to noise at work is likely to exceed the limit values laid down in Article 4, no account being taken of any hearing protector used.

Article 3

This Directive shall apply to all employed persons whose exposure to noise at work is likely to exceed the limit values laid down in **Articles 4 (1), 6 (2) and 9 (1)**, no account being taken of any hearing protector used.

Article 3a

(Old Article 13)

Measures taken in pursuance of this Directive shall be consonant with the gravity of the risk; they shall be decided upon and implemented by the employer after consulting the workers and/or their representatives in the undertakings or establishments, where they exist, who can check that such measures are applied or can be involved in their application.

Persons given the task of implementing these measures must have appropriate qualifications and workers are required to cooperate with employers in their implementation.

⁽¹⁾ OJ No C 289, 5. 11. 1982, p. 1.

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*Article 4**Article 4*

Paragraph 1 unchanged

2. The daily sound exposure level to which the ear of a worker is subjected at work must not exceed the limit value of $L_{EX,d} = 85$ dB (A).

However, where it is not reasonably feasible to comply with this limit from the date on which the measures provided for in this Directive are to take effect, the limit value may be increased to $L_{EX,d} = 90$ dB (A) for a transitional period of a maximum of five years from the aforesaid date.

Before granting such derogation, the responsible authority of the Member State shall take into account the preventive measures incorporated into the design and construction of the installation in question.

2. The daily sound exposure level to which the ear of a worker is subjected at work must not exceed the limit value of $L_{EX,d} = 90$ dB (A) .

Paragraph 3 unchanged

Article 5 unchanged

*Article 6**Article 6*

Paragraph 1 unchanged

2. Without prejudice to the provisions of paragraph 1, where application thereof does not bring about compliance with the limit values laid down in Article 4, hearing protectors must be used.

3. Where noise at work and/or the implementation of the provisions of paragraphs 1 and 2 involve a risk of accident, such risk must be reduced as far as reasonably practicable by means of appropriate measures, without prejudice to the provisions of Article 4.

2. **Wherever the daily sound exposure level to which the ear of a worker is subjected after measures have been taken pursuant to paragraph 1 and in the absence of hearing protectors, is likely to exceed the limit value of 85 dB (A), appropriate hearing protectors shall be provided in sufficient numbers by the employer, who should allow, as far as possible, the workers concerned some choice of model. They must be suited to the individual in his working conditions; in particular, they must not increase the risk to health and must attenuate noise sufficiently to comply with the limit values laid down in Article 4.**

3. Without prejudice to the provisions of paragraph 1, where application thereof does not bring compliance with the limit values laid down in **Article 4 and exposure cannot reasonably be reduced by other means, the hearing protectors referred to in paragraph 2 must be used.**

4. Where noise at work or the implementation of the provisions of paragraphs 1 to 3 involve a risk of accident, such risk must always be reduced as far as reasonably practicable by means of appropriate measures without prejudice to the provisions of Article 4.

Article 7 unchanged

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Article 8

1. Where hearing protectors are used they must be suited to prevailing working conditions and, in particular, attenuate noise sufficiently to comply with the limit values laid down in Article 4. They shall be provided in sufficient numbers by the employer, who should allow, as far as possible, the workers concerned some choice of model.
2. The wearing of the protector referred to in paragraph 1 must not involve increase in the risk to the health or safety of the worker concerned.

Article 9

1. Health surveillance shall be carried out on those workers for whom, in accordance with the provisions of Article 6 (2) recourse is had to hearing protectors. This surveillance shall include an audiometric examination and shall form part of general health surveillance if such exists; it shall be based on the principles governing occupational medicine generally with a view to the early detection of any damage to hearing from noise and to the conservation of hearing.
2. The audiometric examination shall include:

First two indents unchanged

- periodic audiometric examinations at intervals of no more than three years;

Paragraphs 3 to 5 unchanged

6. If the physician imposes certain noise exposure conditions on a particular worker on account of his state of health, the employer shall be required to comply with these restrictions.

Any worker removed from a job in pursuance of these provisions and in accordance with national legislation or practice, shall, where possible, be transferred to another job.

7. The workers concerned and their employer may ask for the health assessment referred to in the paragraph 6 to be reviewed by a competent body.

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*Article 8***Deleted***Article 9*

1. Health surveillance shall be carried out on those workers **exposed to a daily sound exposure level in excess of 85 dB (A), no account being taken of hearing protectors.** This surveillance shall include an audiometric examination and shall form part of general health surveillance if such exists; it shall be based on the principles governing occupational medicine generally, with a view to the early detection of any damage to hearing from noise and to the conservation of hearing.
2. The audiometric examination shall include:

- periodic audiometric examinations at intervals of no more than **five** years;

6. If the physician **recommends** certain noise exposure **restrictions** on a particular worker on account of his state of health, the employer shall be required to comply with **them**.

Any worker removed from a job in pursuance of these provisions and in accordance with national legislation or practice, shall, where possible, be transferred to another job.

7. The workers concerned or their employer may ask for the health assessment referred to in the paragraph 6 to be reviewed by a competent body of **the Member State concerned.**

Article 9 a

(New)

The Council, acting on a proposal from the Commission, and taking into account in particular

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progress made in scientific knowledge and technology as well as experience gained in the application of this Directive, shall re-examine the values referred to in Articles 4, 8 and 9 within five years of implementation of this Directive, with a view to making a further reduction in exposure to noise at work and setting a maximum daily sound exposure level of 85 dB (A).

*Article 10**Article 10*

Paragraph 1 unchanged

2. The workers and/or their representatives in the undertakings or establishments, where they exist, shall have access to this information.

2. The workers and/or, **in the case of collective data, their representatives in the undertaking or establishments, where they exist, shall have access to the information referred to in paragraph 1.**

Paragraph 3 unchanged

*Article 11**Article 11*

The workers referred to in Article 3 must be informed of:

The workers referred to in Article 3 must be informed of:

First indent unchanged

— the measures taken in pursuance of the provisions of Article 6;

— the measures taken in pursuance of the provisions of Article 6, **particulary as regards the compulsory use of hearing protectors for workers exposed to noise levels in excess of the limit values,**

— the importance of complying with technical and statutory provisions;

— **their duty to comply** with technical and statutory provisions;

and receive appropriate instruction and training on these points.

and receive appropriate instruction and training on these points.

*Article 12**Article 12*

Paragraph 1 unchanged

2. Where any article (tool, machine, apparatus, etc.) intended for use at work causes, when properly used, exposure which is likely to exceed the limit values laid down in Article 4, the designer, manufacturer, importer or supplier of the article must take the necessary steps to obtain and make available adequate information on the exposure and the measures which should be taken to reduce it to a minimum.

2. Where any article (tool, machine, apparatus, etc.) intended for use at work causes, when properly used, exposure which is likely to exceed the limit values laid down in Article 4, the designer, manufacturer, importer or supplier of the article must take the necessary steps **to make available adequate information on the maximum noise likely to be produced in standard conditions when so used.**

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In determining what is proper use within the meaning of this paragraph, no account is to be taken of the use of hearing protectors.

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In determining what is proper use within the meaning of this paragraph, no account is to be taken of the use of hearing protectors.

3. Deleted.

Article 13 (unchanged) becomes Article 3a

Articles 14 and 15 unchanged

Article 16

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1984 and shall forthwith inform the Commission thereof.

Article 16

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by **(to be completed)** and shall forthwith inform the Commission thereof.

Paragraph 2 unchanged

Article 17 unchanged

*ANNEX I***Reference method for noise measurement**

Where this reference method is employed, noise measurement shall be carried out as follow:

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Where this reference method is employed, noise measurement shall be carried out as follows;

Point 1 unchanged

2. Microphone siting

Wherever possible, the microphone shall be positioned where the worker's head is normally situated.

2. Microphone siting

The measurement of sound pressure should be made with the microphone located at the position(s) normally occupied by the head of the person concerned, the person being absent.

Rest of point 2 unchanged

Points 3 and 4 unchanged

*ANNEX II***Reference method for audiometric surveillance**

Where this reference method is employed audiometric surveillance shall comply with the specifications of draft standard ISO DIS 6189.2 — 1981 supplemented as follows:

*ANNEX II***Reference method for audiometric surveillance**

Where this reference method is employed audiometric surveillance shall comply with the specifications of **standard** ISO 6189 — 1983 supplemented as follows:

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First two subparagraphs unchanged

The subject must not have been exposed to a sound pressure level exceeding 80 dB (A) (account being taken of any hearing protectors worn) during the 14 hours preceding the audiometric examination.

The audiometric examination shall be carried out at such a time as to ensure that the subject has not been exposed to a sound pressure level (account being taken of any hearing protectors worn), likely to result in a temporary threshold shift of hearing.

Last paragraph unchanged
