

COMMISSION DIRECTIVE 1999/77/EC

of 26 July 1999

adapting to technical progress for the sixth time Annex I to Council Directive 76/769/EEC 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 (asbestos)

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 ⁽¹⁾, as last amended by Directive 1999/43/EC of the European Parliament and of the Council ⁽²⁾, and in particular Article 2a thereof, introduced by Council Directive 89/678/EEC ⁽³⁾;

(1) Whereas the use of asbestos and products containing it can, by the release of fibres, cause asbestosis, mesothelioma and lung cancer; whereas placing on the market and use should therefore be subject to the severest possible restrictions;

(2) Whereas Council Directive 83/478/EEC ⁽⁴⁾ amending for the fifth time Directive 79/769/EEC specified that the crocidolite type of asbestos fibre and products containing it may, with three possible exceptions, no longer be placed on the market and used; whereas this same Directive established obligatory labelling provisions for all products containing asbestos fibres;

(3) Whereas Council Directive 85/610/EEC ⁽⁵⁾ amending for the seventh time Directive 76/769/EEC specified that asbestos fibres can no longer be placed on the market and used in toys, materials and preparations applied by spraying, retail products in powder form, smoking accessories, catalytic heaters, paints and varnishes;

(4) Whereas Commission Directive 91/659/EEC ⁽⁶⁾ adapting to technical progress Annex I of Directive 76/769/EEC specified that all of the amphibole type of asbestos fibres and products containing them may no longer be placed on the market and used; whereas this same directive specified that the chrysotile type of asbestos fibre and products containing it may no longer be placed on the market and used for fourteen categories of products;

(5) Whereas the Scientific Committee on Toxicity, Ecotoxicity and the Environment was consulted on the health effects of chrysotile asbestos and its substitutes;

(6) Whereas there are now available for most remaining uses of chrysotile asbestos substitutes or alternatives which are not classified as carcinogens and are regarded as less dangerous;

(7) Whereas no threshold level of exposure has yet been identified below which chrysotile asbestos does not pose carcinogenic risks;

(8) Whereas exposure of workers and other users of asbestos-containing products is extremely difficult to control and may greatly exceed current limit values on an intermittent basis and this category of exposure now poses the greatest risks for development of asbestos-related diseases;

(9) Whereas an effective way of protecting human health is to prohibit the use of chrysotile asbestos fibres and products containing them;

(10) Whereas the scientific knowledge about asbestos and its substitutes is continually developing; whereas the Commission will therefore ask the Scientific Committee on Toxicity, Ecotoxicity and the Environment to undertake a further review of any relevant new scientific data on the health risks of chrysotile asbestos and its substitutes before 1 January 2003; whereas this review will also consider other aspects of this directive, in particular the derogations, in the light of technical progress; whereas, if necessary, the Commission will propose appropriate changes to legislation;

(11) Whereas a period of adjustment is required to phase out the marketing and use of chrysotile asbestos and products containing it; whereas this period should be longer for diaphragms used for electrolysis in existing installations because the risk of exposure is extremely low and more time is necessary to develop suitable alternatives in this safety-critical application; whereas the Commission will review this derogation before 1 January 2008 after having consulted the Scientific Committee on Toxicity, Ecotoxicity and the Environment;

⁽¹⁾ OJ L 262, 27.9.1976, p. 24.

⁽²⁾ OJ L 166, 1.7.1999, p. 87.

⁽³⁾ OJ L 398, 30.12.1989, p. 24.

⁽⁴⁾ OJ L 263, 24.9.1983, p. 33.

⁽⁵⁾ OJ L 375, 31.12.1985, p. 1.

⁽⁶⁾ OJ L 363, 31.12.1991, p. 36.

- (12) Whereas this Directive is without prejudice to Council Directive 89/391/EEC laying down minimum requirements for the protection of workers ⁽¹⁾, and its individual Directives within the meaning of Article 16(1) of that Directive, in particular Council Directive 90/394/EEC of 28 June 1990 on protection of workers from the risks related to exposure to carcinogens at work ⁽²⁾ as amended by Directive 97/42/EC ⁽³⁾;
- (13) Whereas Council Directive 91/382/EEC ⁽⁴⁾ amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work provides a framework of control where activities may expose workers to asbestos dust;
- (14) Whereas this Directive is without prejudice to Commission Directive 98/12/EC ⁽⁵⁾ adapting to technical progress Council Directive 71/320/EEC on the approximation of the laws of the Member States relating to the braking devices of certain categories of motor vehicles and their trailers;
- (15) Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee for the adaptation to technical progress of the Directives on the removal of technical barriers to trade in dangerous substances and preparations,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 76/769/EEC is hereby adapted to technical progress as set out in the Annex hereto.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1st January 2005 at the latest and shall immediately inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to the Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

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

3. From entry into force of this Directive to 1st January 2005, Member States may not allow the introduction of new applications for chrysotile asbestos on their territories.

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 26 July 1999.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ L 183, 29.6.1989, p. 1.

⁽²⁾ OJ L 196, 26.7.1990, p. 1.

⁽³⁾ OJ L 179, 8.7.1997, p. 4.

⁽⁴⁾ OJ L 206, 29.7.1991, p. 16.

⁽⁵⁾ OJ L 81, 18.3.1998, p. 1.

ANNEX

In Annex I to Directive 76/769/EEC point 6 shall be replaced by the following point:

<p>‘6.1. Crocidolite, CAS No 12001-28-4 Amosite, CAS No 12172-73-5 Anthophyllite asbestos, CAS No 77536-67-5 Actinolite asbestos, CAS No 77536-66-4 Tremolite asbestos, CAS No 77536-68-6</p> <p>6.2. Chrysotile, CAS No 12001-29-5</p>	<p>6.1. The placing on the market and use of these fibres and of products containing these fibres added intentionally shall be prohibited</p> <p>6.2. The placing on the market and use of this fibre and of products containing this fibre added intentionally shall be prohibited.</p> <p>However, Member States may except diaphragms for existing electrolysis installations until they reach the end of their service life, or until suitable asbestos-free substitutes become available, whichever is the sooner. The Commission will review this derogation before 1 January 2008.</p> <p>The use of products containing asbestos fibres referred to in points 6.1 and 6.2 which were already installed and/or in service before the implementation date of Directive 1999/77/EC by the Member State concerned shall continue to be authorised until they are disposed of or reach the end of their service life. However, Member States may, for reasons of protection of health, prohibit within their territory the use of such products before they are disposed of or reach the end of their service life.</p> <p>Without prejudice to the application of other Community provisions on the classification, packaging and labelling of dangerous substances and preparations, the placing on the market and use of these fibres and of products containing these fibres, as authorised according to the preceding derogations, may be permitted only if the products bear a label in accordance with the provisions of Annex II to Directive 76/769/EEC.’</p>
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