

COUNCIL DIRECTIVE 93/44/EEC

of 14 June 1993

amending Directive 89/392/EEC on the approximation of the laws of the Member States relating to machinery

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Article 1

Directive 89/392/EEC is hereby amended as follows:

Having regard to the proposal from the Commission ⁽¹⁾,

1. Article 1 shall be amended as follows:

In cooperation with the European Parliament ⁽²⁾,

(a) the following subparagraph shall be added to paragraph 1:

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

‘It shall also apply to safety components placed on the market separately.’;

Whereas lifting persons entails specific hazards for the persons lifted; whereas those hazards are not covered by the essential health and safety requirements laid down by Council Directive 89/392/EEC of 14 June 1989 on the approximation of the laws of the Member States relating to machinery ⁽⁴⁾;

(b) the following subparagraph shall be added to paragraph 2:

‘For the purposes of this Directive, *safety components* means a component, provided that it is not interchangeable equipment, which the manufacturer or his authorized representative established in the Community places on the market to fulfil a safety function when in use and the failure or malfunctioning of which endangers the safety or health of exposed persons.’;

Whereas, for the type of machinery in question, there is no reason to provide for different conformity assessment modules from those initially provided for in Directive 89/392/EEC for machinery in general;

(c) paragraph 3 shall be amended as follows:

Whereas additional essential health and safety requirements to cover the risks run by lifted persons can be laid down by means of an amendment to Directive 89/392/EEC; whereas this amendment can be used to advantage to correct certain imperfections in the said Directive;

(i) the following indent shall be deleted:

‘— lifting equipment designed and constructed for raising and/or moving persons with or without loads, except for industrial trucks with elevating operation position.’;

Whereas it is also necessary to deal with safety components which are placed on the market separately and the safety function of which is declared by the manufacturer or his authorized representative established in the Community;

(ii) the following indent:

‘— cableways for the public or private transposition of persons,’

shall be replaced by:

‘— cableways, including funicular railways, for the public or private transportation of persons.’;

Whereas the dates of implementation laid down in this Directive shall not alter the dates of implementation of Directive 89/392/EEC and Directive 91/368/EEC, which amended it,

(iii) the following indents shall be added:

‘— lifts which permanently serve specific levels of buildings and constructions, having a car moving between guides which are rigid and inclined at an angle of more than 15 degrees to the horizontal and designed for the transport of:

— persons,

⁽¹⁾ OJ No C 25, 1. 2. 1992, p. 8; and OJ No C 252, 29. 9. 1992, p. 3.

⁽²⁾ OJ No C 241, 21. 9. 1992, p. 107; and OJ No C 72, 15. 3. 1993, p. 70.

⁽³⁾ OJ No C 223, 31. 8. 1992, p. 60.

⁽⁴⁾ OJ No L 183, 29. 6. 1989, p. 9. Directive as amended by Directive 91/368/EEC (OJ No L 198, 22. 7. 1991, p. 16).

- persons and goods,
- goods alone if the car is accessible, that is to say, a person may enter it without difficulty, and fitted with controls situated inside the car or within reach of a person inside,
- means of transport of persons using rack and pinion rail mounted vehicles,
- mine winding gear,
- theatre elevators,
- construction site hoists intended for lifting persons or persons and goods.;

(d) paragraph 4 shall be replaced by the following:

'4. Where, for machinery or safety components, the risks referred to in this Directive are wholly or partly covered by specific Community directives, this Directive shall not apply, or shall cease to apply, in the case of such machinery or safety components and of such risks on the implementation of these specific Directives.'

2. Article 2 shall be replaced by the following:

'Article 2

1. Member States shall take all appropriate measures to ensure that machinery or safety components covered by this Directive may be replaced on the market and put into service only if they do not endanger the health or safety of persons and, where appropriate, domestic animals or property, when properly installed and maintained and used for their intended purpose.

2. This Directive shall not affect Member States' entitlement to lay down, in due observance of the Treaty, such requirements as they may deem necessary to ensure that persons and in particular workers are protected when using the machinery or safety components in question, provided that this does not mean that the machinery or safety components are modified in a way not specified in the Directive.

3. At trade fairs, exhibitions, demonstrations, etc., Member States shall not prevent the showing of machinery or safety components which do not conform to the provisions of this Directive, provided that a visible sign clearly indicates that such machinery or safety components do not conform and that they are not for sale until they have been

brought into conformity by the manufacturer or his authorized representative established in the Community. During demonstrations, adequate safety measures shall be taken to ensure the protection of persons.;

3. Article 3 shall be replaced by the following:

'Article 3

Machinery and safety components covered by this Directive shall satisfy the essential health and safety requirements set out in Annex I.;

4. Article 4 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. Member States shall not prohibit, restrict or impede the placing on the market and putting into service in their territory of machinery and safety components which comply with this Directive.;

(b) the following paragraph shall be added:

'3. Member States may not prohibit, restrict or impede the placing on the market of safety components as defined in Article 1 (2) where they are accompanied by an EC declaration of conformity by the manufacturer or his authorized representative established in the Community as referred to in Annex II, point C.;

5. Article 5 (1) and (2) shall be replaced by the following:

'1. Member States shall regard the following as conforming to all the provisions of this Directive, including the procedures for checking the conformity provided for in Chapter II:

- machinery bearing the CE marking and accompanied by the EC declaration of conformity referred to in Annex II.A.,
- safety components accompanied by the EC declaration of conformity referred to in Annex II.C.

In the absence of harmonized standards, Member States shall take any steps they deem necessary to bring to the attention of the parties concerned the existing national technical standards and specifications which are regarded as important or relevant to the proper implementation of the essential safety and health requirements in Annex I.

2. Where a national standard transposing a harmonized standard, the reference for which has been published in the *Official Journal of the European Communities*, covers one or more of the essential safety requirements, machinery or safety components constructed in accordance with this standard shall be presumed to comply with the relevant essential requirements.

Member States shall publish the references of national standards transposing harmonized standards.;

6. Article 7 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. Where a Member State ascertains that

— machinery bearing the CE marking,

or

— safety components accompanied by the EC declaration of conformity,

used in accordance with their intended purpose are liable to endanger the safety of persons, and, where appropriate, domestic animals or property, it shall take all appropriate measures to withdraw such machinery or safety components from the market, to prohibit the placing on the market, putting into service or use thereof, or to restrict free movement thereof.

The Member States shall immediately inform the Commission of any such measure, indicating the reason for its decision and, in particular, whether non-conformity is due to:

- (a) failure to satisfy the essential requirements referred to in Article 3;
- (b) incorrect application of the standards referred to in Article 5 (2);
- (c) shortcomings in the standards referred to in Article 5 (2) themselves.;

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

'3. Where:

— machinery which does not comply bears the CE marking,

— a safety component which does not comply is accompanied by an EC declaration of conformity,

the competent Member State shall take appropriate action against whomsoever has

affixed the marking or drawn up the declaration and shall so inform the Commission and other Member States.;

7. Article 8 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. The manufacturer or his authorized representative established in the Community must, in order to certify that machinery and safety components are in conformity with this Directive, draw up for all machinery or safety component manufactured an EC declaration of conformity based on the model given in Annex II, A or C as appropriate.

In addition, for machinery alone, the manufacturer or his authorized representatives established in the Community must affix to the machine the CE marking referred to in Article 10.;

(b) the following paragraph shall be inserted:

'4a. Safety components shall be subject to the certification procedures applicable to machinery pursuant to paragraphs 2, 3 and 4. Furthermore, during EC type-examination, the notified body shall verify the suitability of the safety component for fulfilling the safety functions declared by the manufacturer.;

(c) paragraph 6 shall be replaced by the following:

'6. Where neither the manufacturer nor his authorized representative established in the Community fulfils the obligations of the preceding paragraphs, these obligations shall fall to any person placing the machinery or safety component on the market in the Community. The same obligations shall apply to any person assembling machinery or parts thereof or safety components of various origins or constructing machinery or safety components for his own use.;

8. Article 9 (1) shall be replaced by the following:

'1. Each Member State shall notify the Commission and the other Member States of the bodies responsible for carrying out the certification procedures referred to in Article 8. The Commission shall publish a list of those bodies in the *Official Journal of the European Communities* for information and shall ensure that the list is kept up to date.;

9. Article 11 shall be replaced by the following:

'Article 11

Any decision taken pursuant to this Directive which restricts the placing on the market and putting into

service of machinery or a safety component shall state the exact grounds on which it is based. Such a decision shall be notified as soon as possible to the party concerned, who shall at the same time be informed of the legal remedies available to him under the laws in force in the Member State concerned and of the time limits to which such remedies are subject.;

10. Annex I shall be amended as follows:

(a) the title shall be replaced by the following:

**'ESSENTIAL HEALTH AND SAFETY
REQUIREMENTS RELATING TO THE DESIGN
AND CONSTRUCTION OF MACHINERY AND
SAFETY COMPONENTS';**

(b) the following shall be added after this title:

'For the purposes of this Annex, 'machinery' means either 'machinery' or 'safety component' as defined in Article 1 (2).';

(c) the preliminary observations shall be supplemented by the following:

'3. The essential health and safety requirements have been grouped according to the hazards which they cover.

Machinery presents a series of hazards which may be indicated under more than one heading in this Annex.

The manufacturer is under an obligation to assess the hazards in order to identify all those which apply to his machine; he must then design and construct it taking account of his assessment.');

(d) in Section 1.2.4, the last paragraph concerning the emergency stop shall be replaced by the following:

'Once active operation of the emergency stop control has ceased following a stop command, that command must be sustained by engagement of the emergency stop device until that engagement is specifically overridden; it must not be possible to engage the device without triggering a stop command; it must be possible to disengage the device only by an appropriate operation, and disengaging the device must not restart the machinery but only permit restarting.');

(e) the following sections shall be added:

1.5.14. Risk of being trapped in a machine

Machinery must be designed, constructed or fitted with a means of preventing an exposed

person from being enclosed within it or, if that is impossible, with a means of summoning help.'

1.5.15. Risk of slipping, tripping or falling

Parts of the machinery where persons are liable to move about or stand must be designed and constructed to prevent persons slipping, tripping or falling on or off these parts.;

(f) the second paragraph of Section 1.6.2 shall be deleted;

(g) the first indent of Section 1.7.4 (a) shall be replaced by the following:

'— a repeat of the information with which the machinery is marked, except the serial number (see 1.7.3) together with any appropriate additional information to facilitate maintenance (e.g. addresses of the importer, repairers etc.);'

(h) Section 1.7.4 (b) shall be replaced by the following:

'The constructions must be drawn up in one of the Community languages by the manufacturer or his authorized representative established in the Community. On being put into service, all machinery must be accompanied by a translation of the instructions in the language or languages of the country in which the machinery is to be used and by the instructions in the original language. This translation must be done either by the manufacturer or his authorized representative established in the Community or by the person introducing the machinery into the language area in question. By way of derogation from this requirement, the maintenance instructions for use by specialized personnel employed by the manufacturer or his authorized representative established in the Community may be drawn up in only one of the Community languages understood by that personnel.');

(i) Section 1.7.4 (d) shall be replaced by the following:

'Any literature describing the machinery must not contradict the instructions as regards safety aspects. The technical documentation describing the machinery must give information regarding the airborne noise emissions referred to in (f) and, in the case of hand-held and/or hand-guided machinery, information regarding vibration as referred to in 2.2.');

- (j) the title of Section 2 shall be replaced by the following:

'ESSENTIAL HEALTH AND SAFETY
REQUIREMENTS FOR CERTAIN CATEGORIES
OF MACHINERY';

- (k) in Sections 2.1, 2.2 and 2.3, the following words shall be deleted:

'In addition to the essential health and safety requirements set out in 1 above;'

- (l) in Section 3, the first paragraph shall be replaced by the following:

'Machinery presenting hazards due to mobility must be designed and constructed to meet the requirements set out below.';

- (m) in Section 4, the first paragraph shall be replaced by the following:

'Machinery presenting hazards due to lifting operations — mainly hazards of load falls and collisions or hazards of tipping caused by a lifting operation — must be designed and constructed to meet the requirements set out below.';

- (n) the following paragraph shall be added to Section 4.2.3:

'Machinery serving specific levels at which operators can gain access to the load platform in order to stack or secure the load must be designed and constructed to prevent uncontrolled movement of the load platform, in particular while being loaded or unloaded.';

- (o) the title of Section 5 shall be replaced by the following:

'ESSENTIAL HEALTH AND SAFETY
REQUIREMENTS FOR MACHINERY INTENDED
FOR UNDERGROUND WORK';

- (p) the first paragraph of Section 5 shall be replaced by the following:

'Machinery intended for underground work must be designed and constructed to meet the requirements set out below.';

- (q) Section 6 in the Annex to this Directive shall be added;

11. Annex II shall be amended as follows:

- (a) the title of point A shall be replaced by the following:

'Contents of the EC declaration of conformity for machinery ⁽¹⁾'.

- (b) the first footnote shall be replaced by the following:

'⁽¹⁾ This declaration must be drawn up in the same language as the original instructions (see Annex I, Section 1.7.4 (b)) and must be either typewritten or handwritten in block capitals. It must be accompanied by a translation in one of the official languages of the country in which the machinery is to be used. This translation must be done in accordance with the same conditions as for the translation of the instructions.';

- (c) the following point shall be added:

'C. Contents of the EC declaration of conformity for safety components placed on the market separately ⁽¹⁾.

The EC declaration of conformity must contain the following particulars:

- name and address of the manufacturer or his authorized representative established in the Community ⁽²⁾,
- description of the safety component ⁽⁴⁾,
- safety function fulfilled by the safety component, if not obvious from the description,
- where appropriate, the name and address of the notified body and the number of the EC type-examination certificate,
- where appropriate, the name and address of the notified body to which the file was forwarded in accordance with the first indent of Article 8 (2) (c),
- where appropriate, the name and address of the notified body which carried out the verification referred to in the second indent of Article 8 (2) (c),
- where appropriate, a reference to the harmonized standards,
- where appropriate, the national technical standards and specifications used,
- identification of the person empowered to sign on behalf of the manufacturer, or his authorized representative established in the Community.';

(d) the following footnote 4 shall be added:

'(4) Description of the safety component (make, type, serial number, if any, etc.);'

12. Annex IV shall be amended as follows:

(a) the title shall be replaced by the following:

TYPES OF MACHINERY AND SAFETY COMPONENTS FOR WHICH THE PROCEDURE REFERRED TO IN ARTICLE 8 (2) (b) AND (c) MUST BE APPLIED;

(b) the following subtitle shall be inserted after the title:

'A. Machinery';

(c) Section 1 shall be replaced by the following:

'1. Circular saws (single or multi-blade) for working with wood and analogous materials or for working with meat and analogous materials.

1.1. Sawing machines with fixed tool during operation, having a fixed bed with manual feed of the workpiece or with a demountable power feed.

1.2. Sawing machines with fixed tool during operation, having a manually operated reciprocating saw-bench or carriage.

1.3. Sawing machines with fixed tool during operation, having a built-in mechanical feed device for the workpieces, with manual loading and/or unloading.

1.4. Sawing machines with movable tool during operation, with a mechanical feed device and manual loading and/or unloading.'

(d) Section 4 shall be replaced by the following:

'4. Band-saws with a fixed or mobile bed and band-saws with a mobile carriage, with manual loading and/or unloading, for working with wood and analogous materials or for working with meat and analogous materials.'

(e) Section 5 shall be replaced by the following:

'5. Combined machines of the types referred to in 1 to 4 and 7 for working with wood and analogous materials.'

(f) Section 7 shall be replaced by the following:

'7. Hand-fed vertical spindle moulding machines for working with wood and analogous materials.'

(g) the following shall be added to Section A:

'16. Devices for the lifting of persons involving a risk of falling from a vertical height of more than three metres.

17. Machines for the manufacture of pyrotechnics.'

(h) the following section shall be added:

'B. Safety components

1. Electro-sensitive devices designed specifically to detect persons in order to ensure their safety (non-material barriers, sensor mats, electromagnetic detectors, etc.).

2. Logic units which ensure the safety functions of bi-manual controls.

3. Automatic movable screens to protect the presses referred to in 9, 10 and 11.

4. Roll-over protection structures (ROPS).

5. Fallings-object protective structures (FOPS).'

13. the following shall be added after the title in Annex V:

'For the purposes of this Annex, 'machinery' means either 'machinery' or 'safety component' as defined in Article 1 (2).'

14. the following shall be added after the title in Annex VI:

'For the purposes of this Annex, 'machinery' means either 'machinery' or 'safety component' as defined in Article 1 (2).'

15. the following shall be added after the title in Annex VII:

'For the purposes of this Annex, 'machinery' means either 'machinery' or 'safety component' as defined in Article 1 (2).'

Article 2

1. Before 1 July 1994 Member States shall adopt and publish the laws, regulations and administrative provisions necessary in order to comply with this

Directive. 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.

Member States shall apply these provisions with effect from 1 January 1995.

2. By way of derogation from the third subparagraph of paragraph 1, Member States shall apply the laws, regulations and administrative provisions necessary to comply with the provisions listed below as from 1 July 1994:

- Article 1 (10) excluding (a), (b) and (q),
- Article 1 (11) (a) and (b),
- Article 1 (12) (c), (d), (e) and (f).

3. However, until 31 December 1996 Member States may allow the placing on the market and putting into

service of safety components and of machinery for the lifting or moving of persons which conform with the national provisions in force in their territories as at the date of adoption of this Directive.

4. 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 is addressed to the Member States.

Done at Luxembourg, 14 June 1993.

For the Council
The President
J. TRØJBORG

ANNEX

6. ESSENTIAL HEALTH AND SAFETY REQUIREMENTS TO OFFSET THE PARTICULAR HAZARDS DUE TO THE LIFTING OR MOVING OF PERSONS.

Machinery presenting hazards due to the lifting or moving of persons must be designed and constructed to meet the requirements set out below.

6.1. General**6.1.1. Definition**

For the purposes of this Chapter, "carrier" means the device by which persons are supported in order to be lifted, lowered or moved.

6.1.2. Mechanical strength

The working coefficients defined in heading 4 are inadequate for machinery intended for the lifting or moving of persons and must, as a general rule, be doubled. The floor of the carrier must be designed and constructed to offer the space and strength corresponding to the maximum number of persons and the maximum working load set by the manufacturer.

6.1.3. Loading control for types of device moved by power other than human strength

The requirements of 4.2.1.4 apply regardless of the maximum working load figure. This requirement does not apply to machinery in respect of which the manufacturer can demonstrate that there is no risk of overloading and/or overturning.

6.2. Controls**6.2.1. Where safety requirements do not impose other solutions:**

The carrier must, as a general rule, be designed and constructed so that persons inside have means of controlling movements upwards and downwards and, if appropriate, of moving the carrier horizontally in relation to the machinery.

In operation, those controls must override the other devices controlling the same movement, with the exception of the emergency stop devices.

The controls for these movement must be of the maintained command type, except in the case of machinery serving specific levels.

6.2.2. If machinery for the lifting or moving of persons can be moved with the carrier in a position other than the rest position, it must be designed and constructed so that the person or persons in the carrier have the means of preventing hazards produced by the movement of the machinery.**6.2.3. Machinery for the lifting or moving of persons must be designed, constructed or equipped so that excess speeds of the carrier do not cause hazards.****6.3. Risks of persons falling from the carrier****6.3.1. If the measures referred to in 1.1.15 are not adequate, carriers must be fitted with a sufficient number of anchorage points for the number of persons possibly using the carrier, strong enough for the attachment of personal protective equipment against the danger of falling.****6.3.2. Any trapdoors in floors or ceilings or side doors must open in a direction which obviates any risk of falling should they open unexpectedly.****6.3.3. Machinery for lifting or moving must be designed and constructed to ensure that the floor of the carrier does not tilt to an extent which creates a risk of the occupants falling, including when moving.**

The floor of the carrier must be slip-resistant.

6.4. Risks of the carrier falling or overturning

- 6.4.1. Machinery for the lifting or moving of persons must be designed and constructed to prevent the carrier falling or overturning.
- 6.4.2. Acceleration and braking of the carrier or carrying vehicle, under the control of the operator or triggered by a safety device and under the maximum load and speed conditions laid down by the manufacturer, must not cause any danger to exposed persons.

6.5. Markings

Where necessary to ensure safety, the carrier must bear the relevant essential information.'
