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COMMISSION DIRECTIVE 97/10/EC

of 26 February 1997

adapting to technical progress for the 3rd 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 (CMRs)

(Text with EEA relevance)

(OJ L 68, 8.3.1997, p. 24)

Corrected by:

►**C1** Corrigendum, OJ L 216, 14.8.1999, p. 25 (97/10)

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(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 Commission Directive 96/55/EC ([2]), and in particular Article 2a thereof, introduced by Council Directive 89/678/EEC ([3]),

Whereas the Council and the Representatives of the Governments of the Member States, meeting within the Council, adopted Decision 90/238/Euratom, ECSC, EEC ([4]) concerning a 1990 to 1994 action plan in the context of the 'Europe against Cancer' programme;

Whereas Directive 94/60/EC ([5]) of the European Parliament and Council, amending for the 14th time Directive 76/769/EEC prohibited with certain exemptions the placing on the market for use by the general public of substances classified as carcinogenic, mutagenic and toxic to reproduction in categories 1 or 2 (CMRs) by adding such substances to Annex I of Directive 76/769/EEC;

Whereas Annex I to Directive 76/769/EEC already contained substances classified CMR to which Directive 94/60/EC did not apply;

Whereas placing on the market for use by the general public of these CMRs and preparations containing these CMRs should also be prohibited with certain exceptions;

Whereas the restrictions laid down by this Directive take into account the current state of knowledge and techniques regarding safer alternatives;

Whereas this Directive does not affect Community legislation laying down minimum requirements for the protection of workers contained in Council Directive 89/391/EEC ([6]) and in individual Directives based thereon, in particular Council Directive 90/394/EEC ([7]);

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.

([1]) OJ No L 262, 27. 9. 1976, p. 201.
([2]) OJ No L 231, 12. 9. 1996, p. 20.
([3]) OJ No L 398, 30. 12. 1989, p. 24.
([4]) OJ No L 137, 30. 5. 1990, p. 31.
([5]) OJ No L 365, 31. 12. 1994, p. 1.
([6]) OJ No L 183, 29. 6. 1989, p. 1.
([7]) OJ No L 196, 26. 7. 1990, p. 1.

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Article 2

Member States shall adopt and publish the provisions necessary to comply with this Directive by 31 December 1997 and shall forthwith inform the Commission thereof. They shall apply these provisions as from 30 June 1998.

When Member States adopt these provisions, these shall contain a reference to this 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.

Article 3

This Directive is addressed to the Member States.

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ANNEX

Points 29, 30 and 31 of Annex Iare replaced by the following:

‘29. Substances which appear in Annex I to Directive 67/548/EEC classified as carcinogen category 1 or carcinogen category 2 and labelled at least as “Toxic (T)” with risk phrase R 45: “May cause cancer” or risk phrase R49: “May cause cancer by inhalation”, and listed as follows: Carcinogen category 1: See List 1 in the Appendix. Carcinogen category 2: See List 2 in the Appendix.	Without prejudice to the other points of Annex I to Directive 76/769/EEC: May not be used in substances and preparations placed on the market for sale to the general public in individual concentration equal to or greater than: — either the concentration specified in Annex I to Council Directive 67/548/EEC ([1]), or — the concentration specified in point 6, Table VI, of Annex I to Council Directive 88/379/EEC ([2]), where no concentration limit appears in Annex I to Directive 67/548/EEC. Without prejudice to the implementation of other Community provisions relating to the classification, packaging and labelling of dangerous substances and preparations, the packaging of such substances and preparations must be marked legibly and indelibly as follows: “Restricted to professional users. Attention — Avoid exposure — obtain special instructions before use”. By way of derogation, this provision shall not apply to: (a) medicinal or veterinary products as defined by Council Directive 65/65/EEC ([3]); (b) cosmetic products as defined by Council Directive 76/768/EEC ([4]); (c) ►C1 — motor fuels which are covered by Council Directive 85/210/EEC ([5]), — mineral oil products intended for use as fuel in mobile or fixed combustion plants, — fuels sold in closed systems (e.g. liquid gas bottles); ◄ (d) artists’ paints covered by Council Directive 88/379/EEC ([6]).
30. Substances which appear in Annex I to Directive 67/548/EEC classified as mutagen category 1 or mutagen category 2 and labelled with risk phrase R46: “May cause heritable genetic damage”, and listed as follows: Mutagen category 1: See List 3 in the Appendix. Mutagen category: See List 4 in the Appendix.	Without prejudice to the other points of Annex I to Directive 76/769/EEC May not be used in substances and preparations placed on the market for sale to the general public in individual concentration equal to or greater than: — either the concentration specified in Annex I to Directive 67/548/EEC, or — the concentration specified in point 6, Table VI, of Annex I to Directive 88/379/EEC where no concentration limit appears in Annex I to Directive 67/548/EEC. Without prejudice to the implementation of other Community provisions relating to the classification, packaging and labelling of dangerous substances and preparations, the packaging of such substances and preparations must be marked legibly and indelibly as follows: “Restricted to professional users. Attention — Avoid exposure — obtain special instructions before use”. By way of derogation, this provision shall not apply to: (a) medicinal or veterinary products as defined by Directive 65/65/EEC; (b) cosmetic products as defined by Directive 76/768/EEC; (c) ►C1 — motor fuels which are covered by

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	Council Directive 85/210/EEC (5), — mineral oil products intended for use as fuel in mobile or fixed combustion plants, — fuels sold in closed systems (e.g. liquid gas bottles); ◄ (d) artists' paints covered by Directive 88/379/EEC.
31. Substances which appear in Annex I to Directive 67/548/EEC classified as toxic to reproduction category 1 or toxic to reproduction category 2 and labelled with risk phrase R60: "May impair fertility" and/or R61: "May cause harm to the unborn child", and listed as follows: Toxic to reproduction category 1: See List 5 in the Appendix. Toxic to reproduction category 2: See List 6 in the Appendix.	Without prejudice to the other points of Annex I to Directive 76/769/EEC May not be used in substances and preparations placed on the market for sale to the general public in individual concentration equal to or greater than: — either the concentration specified in Annex I to Directive 67/548/EEC, or — the concentration specified in point 6, Table VI, of Annex I to Directive 88/379/EEC where no concentration limit appears in Annex I to Directive 67/548/EEC. Without prejudice to the implementation of other Community provisions relating to the classification, packaging and labelling of dangerous substances and preparations, the packaging of such substances and preparations must be marked legibly and indelibly as follows: "Restricted to professional users. Attention — Avoid exposure — obtain special instructions before use". By way of derogation, this provision shall not apply to: (a) medicinal or veterinary products as defined by Directive 65/65/EEC; (b) cosmetic products as defined by Directive 76/768/EEC; (c) ►C1 — motor fuels which are covered by Council Directive 85/210/EEC (5), — mineral oil products intended for use as fuel in mobile or fixed combustion plants, — fuels sold in closed systems (e.g. liquid gas bottles); ◄ (d) artists' paints covered by Directive 88/379/EEC.

(1) OJ No 196, 16. 8. 1967, p. 1/67.
(2) OJ No L 187, 16. 7. 1988, p. 14.
(3) OJ No L 22, 9. 2. 1965, p. 369/65.
(4) OJ No L 262, 27. 9. 1976, p. 169.
(5) OJ No L 96, 3. 4. 1985, p. 25.
(6) OJ No 187, 16. 7. 1988, p. 14.'