COMMISSION DIRECTIVE 97/64/EC

of 10 November 1997

adapting to technical progress for the fourth 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 (lamp oils)

(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 Commission Directive 97/16/EC [2], and in particular Article 2a thereof, introduced by Council Directive 89/678/EEC [3],

Whereas Council Directive 89/677/EEC [4] amending for the eighth time Directive 76/769/EEC prohibited the use of certain dangerous substances and preparations in ornamental objects, tricks and jokes, and games;

Whereas it has since become known that certain of these dangerous substances and preparations in the form of oils classified as presenting an aspiration hazard, notably when coloured, pose a risk to human health and specifically to the health of young children, especially when used in decorative lamps;

Whereas the marketing of such coloured oils for use in decorative lamps should be restricted;

Whereas the restrictions on the marketing of such coloured oils 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 [5] and in individual directives based thereon, in particular Council Directive 90/394/EEC [6];

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

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

Done at Brussels, 10 November 1997.

For the Commission

Martin BANGEMANN

Member of the Commission

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[1] OJ L 262, 27. 9. 1976, p. 24.
[2] OJ L 116, 6. 5. 1997, p. 31.
[3] OJ L 398, 30. 12. 1989, p. 24.
[4] OJ L 398, 30. 12. 1989, p. 19.
[5] OJ L 183, 29. 6. 1989, p. 1.
[6] OJ L 196, 26. 7. 1990, p. 1.

ANNEX

In Annex I to Directive 76/769/EEC, point 3 shall be replaced by the following point:

'Liquid substances or preparations, which are regarded as dangerous according to the definitions in Article 2 (2) and the criteria in Annex VI, Part 2, 3 and 4, to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (1), as adapted to technical progress by Commission Directives 93/21/EEC (2) and 96/54/EC (3).	1. May not be used in — ornamental objects, intended to produce light or colour effects my means of different phases, for example in ornamental lamps and ashtrays, — tricks and jokes, — games for one or more participants, or any object intended to be used as such, even with ornamental aspects. 2. Without prejudice to the above, substances and preparations which: — present an aspiration hazard and are labelled with R65, and — can be used as fuel in decorative lamps, and — are placed on the market in packaging of a capacity of 15 litres or less, may not contain a colouring agent, unless required for fiscal reasons, or perfume or both. Without prejudice to the implementation of other Community provisions relating to the classification, packaging and labelling of dangerous substances and preparations, the packaging of substances and preparations covered by paragraph 2, where intended for use in lamps, must be marked legibly and indelibly as follows: "Keep lamps filled with this liquid out of the reach of children."

(1) OJ L 196, 16. 8. 1967, p. 1.
(2) OJ L 110, 4. 5. 1993, p. 20.
(3) OJ L 248, 30. 9. 1996, p. 1.'