

**DIRECTIVE 2005/59/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 26 October 2005**

**amending for the 28th time 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 (toluene and trichlorobenzene)**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

(1) The risks presented to man and the environment by toluene and trichlorobenzene (TCB) have been assessed under Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances <sup>(3)</sup>. The risk evaluation identified a need to limit those risks, and the Scientific Committee on Toxicity, Ecotoxicity and the Environment (CSTEE) confirmed that conclusion.

(2) Commission Recommendation 2004/394/EC of 29 April 2004 on the results of the risk evaluation and the risk reduction strategies for the substances: acetonitrile; acrylamide; acrylonitrile; acrylic acid; butadiene; hydrogen fluoride; hydrogen peroxide; methacrylic acid; methyl methacrylate; toluene; trichlorobenzene <sup>(4)</sup>, adopted within the framework of Regulation (EEC) No 793/93, contains a strategy for limiting risks of toluene and TCB, recommending restrictions to limit the risks from certain uses of these substances.

(3) In order to protect human health and the environment, it therefore appears necessary that the placing on the market and the use of toluene and TCB should be restricted.

(4) The aim of this Directive is to introduce harmonising measures with regard to toluene and TCB, which have as their object the proper functioning of the internal market whilst ensuring a high level of protection of human health and of the environment, as required by Article 95 of the Treaty.

(5) This Directive is to apply without prejudice to Community legislation laying down minimum requirements for the protection of workers, contained in Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work <sup>(5)</sup>, and individual directives based thereon, in particular Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (14th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(6)</sup> and Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) <sup>(7)</sup>.

(6) Directive 76/769/EEC <sup>(8)</sup> should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

Annex I to Directive 76/769/EEC shall be amended as set out in the Annex to this Directive.

<sup>(1)</sup> OJ C 120, 20.5.2005, p. 6.

<sup>(2)</sup> Opinion of the European Parliament of 13 April 2005 (not yet published in the Official Journal) and Council Decision of 19 September 2005.

<sup>(3)</sup> OJ L 84, 5.4.1993, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

<sup>(4)</sup> OJ L 144, 30.4.2004, p. 72. Corrected version in OJ L 199, 7.6.2004, p. 41.

<sup>(5)</sup> OJ L 183, 29.6.1989, p. 1. Directive as amended by Regulation (EC) No 1882/2003.

<sup>(6)</sup> OJ L 131, 5.5.1998, p. 11.

<sup>(7)</sup> OJ L 158, 30.4.2004, p. 50. Corrected version in OJ L 229, 29.6.2004, p. 23.

<sup>(8)</sup> OJ L 262, 27.9.1976, p. 201. Directive as last amended by Commission Directive 2004/98/EC (OJ L 305, 1.10.2004, p. 63).

*Article 2*

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive before 15 December 2006. They shall forthwith inform the Commission thereof.

They shall apply these measures from 15 June 2007.

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 reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive, together with a table showing how the provisions of this Directive correspond to the national provisions adopted.

*Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Strasbourg, 26 October 2005.

*For the European Parliament*

*The President*

J. BORRELL FONTELLES

*For the Council*

*The President*

D. ALEXANDER

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 ANNEX

The following points are added to Annex I of Directive 76/769/EEC:

'48. Toluene CAS No 108-88-3	May not be placed on the market or used as a substance or constituent of preparations in a concentration equal to or higher than 0,1 % by mass in adhesives and spray paints intended for sale to the general public.
49. Trichlorobenzene CAS No 120-82-1	May not be placed on the market or used as a substance or constituent of preparations in a concentration equal to or higher than 0,1 % by mass for all uses except <ul style="list-style-type: none"> <li>— as an intermediate of synthesis, or</li> <li>— as a process solvent in closed chemical applications for chlorination reactions, or</li> <li>— in the manufacture of 1,3,5 — trinitro — 2,4,6 — triaminobenzene (TATB)</li> </ul>