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Delegations will find attached document D062524/01.

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Brussels, **XXX**
D062524/01
[...] (2019) **XXX** draft

COMMISSION DIRECTIVE (EU) .../...

of **XXX**

amending Annexes II and IV to Council Directive 92/29/EEC as regards purely technical adaptations

COMMISSION DIRECTIVE (EU) .../...

of **XXX**

amending Annexes II and IV to Council Directive 92/29/EEC as regards purely technical adaptations

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels¹, and in particular Article 8 thereof,

Whereas:

- (1) Principle 10 of the European Pillar of Social Rights², proclaimed at Gothenburg on 17 November 2017, states that every worker has the right to a healthy, safe and well-adapted working environment. The workers' right to a high level of protection of their health and safety at work and to a working environment that is adapted to their professional needs and that enables them to prolong their participation in the labour market includes improved medical treatment on board vessels.
- (2) The implementation of the directives related to the health and safety of workers at work, including Directive 92/29/EEC, was the subject of an ex-post evaluation, referred to as REFIT evaluation. The evaluation looked at the directives' relevance, at research and at new scientific knowledge in the various fields concerned. The REFIT evaluation, referred to in the Commission Staff Working Document³, concludes, among other things, that the list of mandatory medical supplies in Annex II of Directive 92/29/EEC needs to be updated and that coherence with international instruments should be enhanced.
- (3) In its Communication 'Safer and Healthier Work for All – Modernisation of the EU Occupational Safety and Health Legislation and Policy'⁴, the Commission reiterated that while the REFIT evaluation of the Union's acquis on occupational safety and health confirmed that the legislation in this field is generally effective and fit-for-purpose, there is scope for updating outdated rules and ensuring better and broader protection, compliance and enforcement on the ground. The Commission emphasises the particular need to update the list of mandatory medical supplies in Annex II to Directive 92/29/EEC.

¹ OJ L 113, 30.4.1992, p. 19

² European Pillar of Social Rights, November 2017, https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en

³ SWD(2017) 10 final

⁴ COM(2017) 12 final

- (4) Directive 92/29/EEC lays down minimum safety and health requirements for improved medical treatment for persons carrying out an occupation on board a vessel. It lists the medical supplies required on board and addresses how responsibilities are assigned, information and training, and inspection.
- (5) Annex II to Directive 92/29/EEC contains a non-exhaustive list of medical supplies required on board, including medicines, medical equipment and antidotes. The requirements as regards the medical supplies vary according to the category of vessel as defined in Annex I of that Directive.
- (6) It is appropriate to amend Annex II to Directive 92/29/EEC in the light of the scientific and medical developments that have taken place since its adoption, particularly as regards the new medicines and medical equipment that have become available, and medicines or medical equipment which are not required to be carried on board any more. Moreover, in several instances, medical practice has shown that the wording of existing entries in Annex II to Directive 92/29/EEC needs to be updated or adapted to reflect current practices more closely.
- (7) Vessels staying very close to shore or with no cabin accommodation belonging to category C should be given particular consideration as these vessels tend to be smaller and may lack the space for full medical supplies. Annex II to Directive 92/29/EEC should therefore allow Member States to consider, under exceptional circumstances, the use of alternatives (medicines or medical equipment) for objectively justified reasons. Given the specificities of category C vessels, there is no need to carry certain items on board and therefore the list of medicines and medical equipment of that category should be slightly shortened.
- (8) Annex IV to Directive 92/29/EEC should be amended to take into account the amendment of Annex II, because Annex IV lays down a general framework for the inspection of the vessels' medical supplies and as such is closely related to Annex II and reproduces its contents for inspection purposes.
- (9) Annexes II and IV to Directive 92/29/EEC should be amended to take into account international instruments, such as the International Medical Guide for Ships⁵, as well as to maintain the existing levels of protection for persons carrying out an occupation on board a vessel, and to reflect scientific and medical developments in the area, requiring merely technical adjustments at the workplace.
- (10) The Advisory Committee for Safety and Health at Work was consulted on the measures resulting from the adoption of the Commission's Communication 'Safer and Healthier Work for All – Modernisation of the EU Occupational Safety and Health Legislation and Policy' that are required to keep the Union's occupational safety and health legislation effective and fit-for-purpose.
- (11) In its 'Opinion on the Modernisation of Six OSH Directives to Ensure Healthier and Safer Work for All'⁶, adopted on 6 December 2017, the Advisory Committee for

⁵ International medical guide for ships: including the ship's medicine chest. 3rd ed., World Health Organization, 2007 (ISBN 978 92 4 154720 8)

⁶ Advisory Committee for Safety and Health at Work Doc. 1718/2017

Safety and Health at Work recommends that Annexes II and IV to Directive 92/29/EEC should be updated.

- (12) In a subsequent ‘Opinion on the Technical updates of annexes of the Directive Medical Treatment on board (92/29)’⁷, adopted on 31 May 2018, the Advisory Committee for Safety and Health at Work recommends that Annexes II and IV to Directive 92/29/EEC should be updated to take into account the latest technological and medical developments in the field.
- (13) The Commission was assisted by experts representing the Member States, who provided technical and scientific support.
- (14) In accordance with the Joint Political Declaration on explanatory documents⁸, adopted by the Member States and the Commission on 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments.
- (15) The measures provided for in this Directive are in accordance with the opinion of the Committee established by Article 8 of Council Directive 92/29/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes II and IV to Directive 92/29/EEC are replaced by the text in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [date – two years after the date of entry into force of this Directive] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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.

⁷ Advisory Committee for Safety and Health at Work Doc. 444/18

⁸ OJ C 369, 17.12.2011, p. 14

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the Commission
The President
[...]