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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work - Outcome of the European Parliament's first reading (Strasbourg, 2 to 5 October 2023)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, the Chair of the Committee on Employment and Social Affairs (EMPL), Dragoş PÎSLARU (RE, RO), presented on behalf of EMPL a compromise amendment (amendment number 69) to the abovementioned proposal for a Directive, for which Véronique TRILLET-LENOIR (RE, FR) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

¹ OJ C 145, 30.6.2007, p. 5.

II. VOTE

When it voted on 3 October 2023, the plenary adopted the compromise amendment (amendment number 69) to the abovementioned proposal for a Directive. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

P9_TA(2023)0332

Protection of workers from asbestos

European Parliament legislative resolution of 3 October 2023 on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work (COM(2022)0489 – C9-0321/2022 – 2022/0298(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0489),
- having regard to Article 294(2) and Article 153(2), point (b), in conjunction with Article 153(1), point (a), of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0321/2022),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 15 December 2022¹,
- having regard to the opinion of the Committee of the Regions of 16 March 2023²,
- having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 19 July 2023 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the opinion of the Committee on Environment, Public Health and Food Safety,
- having regard to the report of the Committee on Employment and Social Affairs (A9-0160/2023),

¹ OJ C 100, 16.3.2023, p. 118.

² OJ C 188, 30.5.2023, p. 70.

1. Adopts its position at first reading hereinafter set out;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 3 October 2023 with a view to the adoption of Directive (EU) 2023/... of the European Parliament and of the Council amending Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153(2), point (b), in conjunction with Article 153(1), point (a), thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 100, 16.3.2023, p. 118.

² OJ C 188, 30.5.2023, p. 70.

³ Position of the European Parliament of 3 October 2023.

Whereas:

- (1) Directive 2009/148/EC of the European Parliament and of the Council⁴ aims to protect workers against risks to their safety and health from exposure to asbestos at work. A consistent level of protection from the risks related to the occupational exposure to asbestos is provided for in that Directive by a framework of general principles to enable Member States to ensure the consistent application of minimum requirements. The aim of those minimum requirements is to protect workers at Union level, while more stringent provisions can be set by Member States.
- (2) The provisions of this Directive should apply without prejudice to the provisions *of* Directive 2004/37/EC of the European Parliament and of the Council⁵ *that are more favourable to workers with regard to health and safety at work*.

⁴ Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work (OJ L 330, 16.12.2009, p. 28).

⁵ 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, mutagens or reprotoxic substances at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (OJ L 158, 30.4.2004, p. 50).

- (3) Asbestos is a highly dangerous carcinogenic agent, which still affects various economic sectors, such as building renovation, mining and quarrying, waste management and firefighting, in which workers are at high risk of exposure. Asbestos is classified as carcinogen *category* 1A pursuant to Annex VI, Part 3, to Regulation (EC) No 1272/2008 of the European Parliament and of the Council⁶. *According to the European occupational diseases statistics, it is by far the major cause of occupational cancer, with as much as 78 % of occupational cancers recognised in the Member States as being related to exposure to asbestos.* When inhaled, airborne asbestos fibres can lead to serious diseases such as mesothelioma and lung cancer, and the first signs of disease may take an average of 30 years from the moment of exposure to manifest, ultimately leading to work-related deaths. *This Directive therefore applies to all activities, including construction, renovation and demolition work, waste management, mining and firefighting, during which workers are or may be exposed in the course of their work to dust arising from asbestos or materials containing asbestos.*

⁶ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

- (4) *In line with the Health in all Policies approach, the protection of workers' health from exposure to asbestos has a cross-cutting dimension and is relevant to numerous Union policies and activities, in particular in the field of the environment, where Union action is to contribute, inter alia, to the protection of human health. The Union also has an important role to play at the international level to lead by example as regards the prevention of asbestos-related diseases and to work with other international organisations and third countries to achieve a global ban of asbestos. In addition, this Directive applies in synergy with other Union initiatives.*

- (5) *There are types of exposure to asbestos that do not result from the active handling of asbestos. Such types of exposure include passive exposure, where workers who work either in the vicinity of someone working with materials containing asbestos, or in premises where materials containing asbestos are degrading in building structures, are exposed to asbestos, and secondary exposure, where people are exposed to asbestos fibres brought home by occupationally exposed individuals mostly from their clothing or hair. Both passive and secondary exposure can have significant impacts on health. Although all forms of asbestos have been banned in the Union, asbestos is still present in some structures, particularly in buildings that were constructed before the ban, which may lead to both occupational and non-occupational exposure if materials containing asbestos in the building are disturbed or damaged. Avoiding exposure to asbestos, in whatever form, therefore remains an imperative. With regard to the passive exposure of workers to asbestos, Council Directive 89/391/EEC⁷ and Directive 2009/148/EC require employers to be in possession of an assessment of all the risks to the safety and health of workers at work by identifying potential hazards, including those stemming from passive exposure to asbestos, and to put in place the necessary preventive and protective measures to protect the safety and health of workers, with the risk avoidance principle always being the primary basis for any measures to be implemented. With regard to secondary exposure to asbestos or materials containing asbestos, the occupational safety and health requirements provided for in this Directive are important means by which to avoid such exposure.*

⁷ *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 (OJ L 183, 29.6.1989, p. 1).*

- (6) *Women are at particular risk of certain types of exposure to asbestos, including secondary exposure. The gender distribution of activities at the place of work constitutes a risk factor for the monitoring, diagnosis, treatment and recognition of asbestos-related diseases. It is therefore essential to take into account gender differences in exposure to asbestos and health complications following such exposure, in order to better prevent and detect diseases caused by such exposure.*
- (7) Following new scientific and technological developments in the area, there is scope to improve the protection of workers exposed to asbestos and thus to reduce the probability that exposed workers contract asbestos-related diseases. Because asbestos is a non-threshold carcinogen, it is not scientifically possible to identify a level below which exposure would not lead to adverse health effects. Instead, an exposure-risk relationship can be established, which facilitates the setting of an occupational exposure limit value (limit value) by taking into account an acceptable level of excess risk. As a consequence, the limit value *and measurement methodology* for asbestos should be revised in order to reduce the risk by lowering exposure levels *to improve workers protection from work-related asbestos diseases.*

- (8) *The derogation from certain provisions of Directive 2009/148/EC for sporadic and low-intensity exposure provided for in that Directive should not apply to a non-threshold carcinogen such as asbestos with regard to requirements relating to registering exposure and the medical surveillance of workers laid down in that Directive.*
- (9) Europe's Beating Cancer Plan, presented in the Commission communication of 3 February 2021, supports the need for action in the field of protection of workers against carcinogenic substances. Improved protection of workers exposed to asbestos is also important in the context of the green transition and the implementation of the European Green Deal, including, in particular, the Renovation Wave for Europe, launched in the Commission communication of 14 October 2020. Citizens' recommendations in the framework of the Conference on the Future of Europe, which ran from April 2021 to May 2022, also highlighted the importance of fair working conditions, in particular the revision of Directive 2009/148/EC.

- (10) *Within the framework of the Renovation Wave for Europe, the goal of which is to decarbonise buildings, tackle energy poverty and boost the Union's sovereignty by means of energy efficiency, it is essential that the safe removal and disposal of materials containing asbestos be prioritised, because repair, maintenance, encapsulation or sealing can lead to the postponement of removal, which can, in turn, perpetuate the risks of workers' exposure. Therefore, employers should, when assessing whether any activity involves or is likely to involve a risk of exposure to asbestos or materials containing asbestos, consider the total removal of asbestos as a preferred option over any other handling activity, whenever this is feasible and beneficial to the protection of workers. In addition, workers who are, or who are likely to be, exposed to asbestos urgently need to be trained. In order to ensure minimum requirements for high-quality training, an annex to Directive 2009/148/EC should provide for minimum training requirements, including specific requirements, for workers in specialised asbestos removal undertakings.*
- (11) A binding limit value for asbestos, which is not to be exceeded, is an important component of the general arrangements for the protection of workers established by Directive 2009/148/EC, in addition to the appropriate risk management measures and to the provision of adequate respiratory and other personal protective equipment.

- (12) The limit value for asbestos laid down in Directive 2009/148/EC should be revised in light of the Commission's evaluations and recent scientific evidence and technical data.
- Strengthened preventive and protective measures are needed to implement that revised limit value*** in the Member States.
- (13) A revised limit value should be laid down in this Directive in light of available information, including up-to-date scientific evidence ***on health effects*** and technical data, based on a thorough assessment of the socioeconomic impact and availability of exposure measurement protocols and techniques at the place of work. That information should be based on opinions of the Committee for Risk Assessment of the European Chemicals Agency, established by Regulation (EC) No 1907/2006 ***of the European Parliament and of the Council***⁸, and on opinions of the Advisory Committee on Safety and Health at Work (ACSH), established by Council Decision of 22 July 2003⁹.

⁸ ***Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).***

⁹ ***Council Decision of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work (OJ C 218, 13.9.2003, p. 1).***

- (14) *Current available technologies for measuring asbestos fibres do not allow for the measurement at very low concentrations when thin fibres are counted. In order to ensure a high level of protection of workers' health while duly considering the feasibility of measuring, when using such technologies, it is therefore necessary to choose whether to count thin fibres or to apply low concentration limits. Some Member States have opted for a lower limit value without counting thinner fibres, while others have opted for a higher limit value and count thin fibres. With a view to guaranteeing a balanced approach, different limit values should be established, depending on the fibre size taken into consideration for the purpose of measuring asbestos fibres in the air, namely fibres with a breadth of between 0,2 and 3 micrometres as well as, from the moment of technological transition to electron microscopy, fibres with a breadth of less than 0,2 micrometres.*
- (15) *Taking into account the relevant scientific expertise and a balanced approach that ensures, at the same time, the adequate protection of workers at Union level, revised limit values should be established, which, depending on the fibre counting method used in a particular Member State, should be equal to 0,002 fibres per cm³ when counting fibres with a breadth of between 0,2 and 3 micrometres, or 0,01 fibres per cm³, when also counting fibres with a breadth of less than 0,2 micrometres, as an 8-hour time-weighted average (TWA).*

- (16) The Commission has carried out a two-stage consultation of management and labour at Union level in accordance with Article 154 of the Treaty on the Functioning of the European Union. It has also consulted the ACSH, which has adopted an opinion providing information for the successful implementation of the revised limit value options. The European Parliament adopted a resolution on 20 October 2021¹⁰ calling for a proposal to update Directive 2009/148/EC in order to strengthen Union measures for protecting workers from the threat of asbestos.
- (17) Although optical microscopy does not allow the *thinnest* fibres detrimental to health to be counted, it is currently the most used method for the regular measuring of asbestos. As it is possible to measure a limit value equal to *0,01 fibres per cm³* with phase-contrast microscopy (PCM), no *transitional* period is needed for the implementation of *that* limit value. In line with the opinion of the ACSH, a more modern and more sensitive method based on electron microscopy *or any other method giving equivalent or more accurate results*, should be used, while taking into account the need for an adequate period of *technical* adaptation and for *higher consistency between different methodologies currently applied within the Union*. *In order to allow sufficient time to comply with the new requirements relating to the measurement of asbestos fibres, there should be a transposition period of six years. The Commission is well placed to support and facilitate Member States with regard to the replacement of the methodology, in particular through the development of guidelines.*

¹⁰ European Parliament resolution of 20 October 2021 with recommendations to the Commission on protecting workers from asbestos (OJ C 184, 5.5.2022, p. 45).

- (18) *The measuring of asbestos fibres in the air using analytical methods based on electron microscopy would constitute a significant improvement with regard to the monitoring of asbestos as it will allow for the counting of thinner fibres. The transition to electron microscopy, or to any other method giving equivalent or more accurate results, could result in identifying considerably more fibres than those detectable with PCM. Member States and employers need time to gain experience with the fibre counting carried out by electron microscopy, implement improved preventive measures and collect new exposure data resulting from the combined application of the limit value and the method based on electron microscopy. That experience will be of importance in order to pave the way for assessing the feasibility of a further reduction of the limit values.*
- (19) *Asbestos sampling should reflect the worker's personal exposure to asbestos. Samples should therefore be taken at regular intervals during specific operational phases in representative and realistic situations in which workers are exposed to asbestos dust.*
- (20) Taking into account the exposure minimisation requirements set out in Directives 2009/148/EC ■ and 2004/37/EC ■ , employers should ensure that the risk related to the exposure of workers to asbestos at work is reduced to a minimum and in any case to as low a level as is technically possible.

- (21) Special control measures and precautions, *including by means of state-of-the art technology*, are needed for workers exposed or likely to be exposed to asbestos to *lower the concentration of asbestos fibres in the air to as low a level as is technically possible below the limit value, through measures* such as *dust suction at source and the cleaning and maintenance of the premises. For work under confinement, specific measures for the protection of workers are needed, such as dust suppression, fresh air supply and the use of HEPA filters*. Subjecting workers to a decontamination procedure and *strengthening the related training requirements are important elements* for a significant contribution to reducing the risks related to such exposure.
- (22) Preventive measures for the protection of the health of workers exposed to asbestos and the commitment envisaged for Member States with regard to the surveillance of their health are important, in particular the continuation of health surveillance after the end of exposure. *Annex I to Directive 2009/148/EC, which relates to the medical surveillance of workers, should be updated in light of current knowledge on diseases that can be caused by exposure to asbestos. It is important that Annex I is revised regularly to reflect the evolution of scientific knowledge.*
- (23) *A notification system is important in order to enable the competent authorities of Member States to supervise works during which asbestos may be disturbed and to allow, where appropriate, the intervention of the competent authorities to ensure the protection of workers involved.*

- (24) Employers should take all necessary steps to identify presumed materials containing asbestos, if appropriate by obtaining information from the owners of the premises as well as other sources of information, including relevant registers. *If such information is not available, the employer should ensure that an examination, by a qualified operator, in accordance with national law and practice, of the occurrence of materials containing asbestos is carried out and should obtain the result of such examination before the start of the work. On the basis of the information received, the employer should record, before the start of any asbestos removal project, or of any demolition, maintenance or renovation work, information relating to the presence or presumed presence of asbestos in buildings, ships, aircrafts or other installations that were built before the entry into force of the Member State's asbestos ban. It is important that employers communicate that information to workers who may be exposed to asbestos as a result of working with it, of maintenance work or of other activities. The identification of materials containing asbestos should not absolve the employer from undertaking a risk assessment as provided for in this Directive.*

- (25) *Directive 2009/148/EC should be regularly updated to take into account the latest scientific knowledge and technical developments. Any such updates should take into account an assessment of different types of asbestos fibres and their adverse health effects. In the context of the next evaluation pursuant to Article 22 of that Directive, the Commission should assess whether there is a need to extend the scope of that Directive, in particular to erionite, riebeckite, winchite, richterite and fluoro-edenite, and whether there is a need for additional measures to ensure protection against secondary exposure to asbestos at the place of work. The Commission should submit a report to the European Parliament and to the Council, setting out the results of its assessment, after consulting the social partners. The report should be accompanied, if appropriate, by a legislative proposal to amend Directive 2009/148/EC accordingly.*
- (26) *There is a need to provide sufficient and focused technical support to help employers, in particular small and medium-sized enterprises, to implement this Directive.*
- (27) *Before carrying out demolition or asbestos removal work, undertakings should obtain from competent authorities permits that are renewable in accordance with national law and practice.*

- (28) *Firefighters and emergency services personnel are at risk of exposure to asbestos in the course of their work. It is therefore important that the employers of those workers assess, in accordance with this Directive, the risk to workers of exposure to asbestos and that they take the necessary measures to protect the safety and health of those workers. In order to support employers in taking such measures, it is important that the Commission develop guidelines that take into account the specificities of those workers' activities and the information relating to the risks of their exposure. Such guidelines should build on best practices available in the Member States and on the consultation of relevant stakeholders. A more systematic exchange of best practices across Member States should be established for that purpose.*
- (29) *It is important that the Commission, in cooperation with the ACSH, develop and issue guidelines no later than two years after the date of entry into force of this Directive, in order to facilitate the implementation of this Directive. Those guidelines should, where appropriate, include sector-specific solutions. Those guidelines should also include indications for employers on how to prioritise the removal of asbestos or materials containing asbestos over other forms of asbestos handling when assessing the risk of exposure to asbestos or materials containing asbestos. Those guidelines should, if appropriate, be reviewed every five years in light, in particular, of technological and scientific developments on asbestos identification, measurement and warning technology.*

- (30) *Russia's war of aggression against Ukraine is not only causing suffering for the Ukrainian people but also considerable damage to infrastructure, housing and the built environment more generally. As Ukraine did not ban the use of asbestos until 2017, the forthcoming reconstruction of the country poses a significant risk to workers, in particular those that handle rubble. It is therefore important that Union employers consider in an appropriate manner the risks to workers of exposure to asbestos when carrying out rebuilding activities in third countries.*
- (31) *In view of the upcoming increase in the thermal renovations of buildings, there is a crucial need to support research and development in order to ensure the highest possible level of protection for workers who are or who may be exposed to asbestos.*
- (32) Since the objective of this Directive, namely to protect workers against risks to their health and safety arising from or likely to arise from exposure to asbestos at work, including the prevention of such risks, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(33) Directive 2009/148/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2009/148/EC

Directive 2009/148/EC is amended as follows:

- (1) in Article 1(1), the following subparagraph is added:

‘The provisions of Directive 2004/37/EC of the European Parliament and of the Council* shall apply wherever they are more favourable to health and safety of workers at work.

* 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, mutagens or reprotoxic substances at work (Sixth individual directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (OJ L 158, 30.04.2004, p. 50).’;

(2) Article 2 is replaced by the following:

‘Article 2

For the purposes of this Directive, ‘asbestos’ means the following fibrous silicates, which are classified as carcinogens 1A pursuant to Annex VI, Part 3, to Regulation (EC) No 1272/2008 of the European Parliament and of the Council*:

- (a) asbestos, actinolite, CAS No** 77536-66-4;
- (b) asbestos, amosite (grunerite), CAS No 12172-73-5;
- (c) asbestos, anthophyllite, CAS No 77536-67-5;
- (d) asbestos, chrysotile, CAS No 12001-29-5;
- (e) asbestos, crocidolite, CAS No 12001-28-4;
- (f) asbestos, tremolite, CAS No 77536-68-6.

* Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

** Number in the Chemical Abstract Service (CAS).’;

(3) *Article 3 is amended as follows:*

(a) *paragraph 2 is replaced by the following:*

‘2. In the case of any activity likely to involve a risk of exposure to dust arising from asbestos or materials containing asbestos, that risk shall be assessed in such a way as to determine the nature and degree of the workers’ exposure to dust arising from asbestos or materials containing asbestos and to prioritise removal of asbestos or materials containing asbestos over other forms of asbestos handling.’;

(b) *in paragraph 3, the introductory part is replaced by the following:*

‘3. Provided that worker exposure is sporadic and of low intensity, and if it is clear from the results of the risk assessment referred to in paragraph 2 that the relevant limit value as laid down in Article 8 will not be exceeded in the air of the working area, Member States may derogate from Article 4 where the work involves:’;

(4) *in Article 4(3), the second subparagraph is replaced by the following:*

‘The notification shall include at least a brief description of:

- (a) the location of the worksite and, where relevant, the specific areas where the work is to be carried out;*
- (b) the type and quantity of asbestos used or handled;*
- (c) the activities and processes involved, including with regard to the protection and decontamination of workers, waste disposal and, where relevant, air exchange when working under confinement;*
- (d) the number of workers involved, a list of the workers likely to be assigned to the site concerned, the workers’ individual training certificates and the date of the latest assessment of the workers’ health pursuant to Article 18;*
- (e) the starting date and duration of the work;*

- (f) *measures taken, including an overview of the equipment used, to limit the exposure of workers to asbestos.*

Member States shall ensure that the competent authorities keep the information referred to in point (d) of the second subparagraph, in accordance with national law, for no longer than necessary for the purpose of ensuring that workers who perform asbestos-related work are properly trained, having due regard to the long-term effects of asbestos on workers' health.';

- (5) Article 6 is replaced by the following:

‘Article 6

For all activities referred to in Article 3(1), the exposure of workers to dust arising from asbestos or materials containing asbestos at the place of work shall be reduced to a minimum and in any case to as low a level as is technically possible below the relevant limit value as laid down in Article 8, in particular through the following measures:

- (a) the number of workers exposed or likely to be exposed to dust arising from asbestos or materials containing asbestos shall be limited to the lowest possible figure;

- (b) work processes shall be designed so as not to produce asbestos dust or, if that proves to be impossible, to avoid the release of asbestos dust into the air *by taking measures such as:*
 - (i) *asbestos dust suppression;*
 - (ii) *the suction of asbestos dust at source;*
 - (iii) *the continuous sedimentation of asbestos fibres suspended in the air;*
- (ba) *workers shall be subject to an appropriate decontamination procedure;*
- (bb) *for work carried out under confinement, adequate protection shall be ensured;*
- (c) all premises and equipment involved in the treatment of asbestos shall be capable of being regularly and effectively cleaned and maintained *and subject to regular cleaning and maintenance;*

- (d) asbestos or dust-generating materials containing asbestos shall be stored and transported in suitable sealed packing;
- (e) waste, other than waste arising from mining activities, shall be collected and removed from the place of work as soon as possible in suitable sealed packing with labels indicating that it contains asbestos and shall then be dealt with in accordance with Directive 2008/98/EC of the European Parliament and of the Council*.

* Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).?;

(6) *Article 7 is amended as follows:*

(a) *paragraphs 1 and 2 are replaced by the following:*

- ‘1. Depending on the results of the initial risk assessment, and in order to ensure compliance with the relevant limit value as laid down in Article 8, the measurement of asbestos fibres in the air at the place of work shall be carried out at regular intervals during specific operational phases.*
- 2. Sampling shall reflect the personal exposure of the worker to dust arising from asbestos or materials containing asbestos.’;*

(b) *paragraph 5 is replaced by the following:*

- ‘5. The duration of sampling shall be such that representative exposure can be established for an 8-hour reference period (one shift) by means of measurements or time-weighted calculations.’;*

(c) █ paragraph 6 is replaced by the following:

‘6. Fibre counting shall be carried out by *electron microscopy or by any alternative method* that provides equivalent or *more accurate results*.’;

(d) *the following paragraph is added:*

‘7. *For the purpose of measuring asbestos fibres in the air, as referred to in paragraph 1, only fibres with a length of more than 5 micrometres, a breadth of less than 3 micrometres and a length/breadth ratio greater than 3:1 shall be taken into consideration.*

Notwithstanding the first subparagraph, fibres with a breadth of less than 0,2 micrometres shall also be taken into consideration for the purposes of Article 8(2), point (a), from ... [six years after the date of entry into force of this amending Directive].’;

█

(7) Article 8 is replaced by the following:

‘Article 8

1. *Until ... [one day before 6 years after the date of entry into force of this amending Directive], employers shall ensure that no worker is exposed to an airborne concentration of asbestos in excess of 0,01 fibres per cm³ as an 8-hour time-weighted average (TWA).*
2. *From ... [6 years after the date of entry into force of this amending Directive], employers shall ensure that no worker is exposed to an airborne concentration of asbestos in excess of:*
 - (a) *0,01 fibres per cm³ as an 8-hour TWA in accordance with Article 7(7), second subparagraph; or*
 - (b) *0,002 fibres per cm³ as an 8-hour TWA.*
3. *Member States shall ensure that employers are subject to at least one of the limit values set out in paragraph 2.’;*

(8) *Article 10 is amended as follows:*

(a) *paragraph 1 is replaced by the following:*

‘1. Where the relevant limit value as laid down in Article 8 is exceeded, or if there is reason to believe that materials containing asbestos which are not identified prior to the work have been disturbed so as to generate dust, work shall stop immediately.

Work shall not be continued in the affected area until adequate measures have been taken for the protection of the workers concerned.

Where the relevant limit value as laid down in Article 8 is exceeded, the reasons for the limit value being exceeded shall be identified and appropriate measures to remedy the situation shall be taken as soon as possible.’;

(b) *paragraph 3 is replaced by the following:*

‘3. Where exposure cannot be reduced by other means and where compliance with the limit value makes necessary the wearing of individual respiratory protective equipment, this shall not be permanent and shall be kept to the strict minimum necessary for each worker. During periods of work which require the use of such equipment, provision shall be made for regular breaks appropriate to the physical and climatological conditions and, where relevant, in consultation with the workers and/or their representatives within the undertaking or establishment, in accordance with national law and practice.’;

- (9) in Article 11, the first paragraph is replaced by the following:

*‘Before beginning demolition, maintenance **or renovation work on premises built before the entry into force of the Member State’s asbestos ban**, employers shall take all necessary steps to identify presumed materials containing asbestos, **in particular** by obtaining information from the owners of premises, **from other employers** and from other sources, including relevant registers. **If such information is not available, the employer shall ensure an examination, by a qualified operator in accordance with national law and practice, of the occurrence of materials containing asbestos and shall obtain the result of such examination before the start of the work. The employer shall make available to another employer, upon request and solely for the purpose of complying with the obligation laid down in this paragraph, any information obtained within the framework of such an examination.**’;*

(10) *in Article 12, the first paragraph is amended as follows:*

(a) *the introductory part is replaced by the following:*

‘In the case of certain activities such as demolition, asbestos removal work, repairing and maintenance, in respect of which it is foreseeable that the relevant limit value as laid down in Article 8 will be exceeded despite the use of all possible technical preventive measures for limiting asbestos in air concentrations, the employer shall determine the measures intended to ensure protection of the workers while they are engaged in such activities, in particular the following:’;

(b) *point (a) is replaced by the following:*

‘(a) workers shall be issued with suitable personal protective equipment to be worn, which shall be appropriately handled and, in particular with regard to respiratory equipment, which shall be individually adjusted, including through fitting checks, in accordance with Council Directive 89/656/EEC;*

** Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 393, 30.12.1989, p. 18).’;*

(c) point (c) is replaced by the following:

‘(c) the spread of dust arising from asbestos or materials containing asbestos outside the premises or site of action shall be prevented, and for work performed under confinement, the enclosure shall be airtight and under mechanical extraction ventilation.’;

(11) in Article 13(2), second subparagraph, point (c) is replaced by the following:

‘(c) when the asbestos demolition or removal work has been completed, the absence of risks of exposure to asbestos at the place of work shall be verified in accordance with national law and practice before other activities resume.’;

(12) Article 14 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The content of the training shall be easily understandable for workers. It shall enable them to acquire the necessary knowledge and skills in terms of prevention and safety in accordance with the national law and practice applicable where the work takes place.’;

(b) paragraph 3 is replaced by the following:

‘3. The minimum requirements with regard to the content, duration and frequency of the training provided pursuant to this Article and the documentation relating thereto are set out in Annex Ia.’;

(13) *Article 15 is replaced by the following:*

‘Article 15

- 1. Undertakings that intend to carry out demolition or asbestos removal work shall obtain a permit from the competent authority before the start of the work. For that purpose, they shall provide that competent authority with at least proof of compliance with Article 6 and certificates indicating the completion of training in accordance with Article 14 and Annex Ia.*
- 2. Member States shall make the list of undertakings that have obtained a permit pursuant to paragraph 1 publicly available, in accordance with national law and practice.’;*

(14) *in Article 18, paragraph 1 is deleted;*

(15) *the following article is inserted:*

‘Article 18c

- 1. The Commission shall assess, in the context of the next evaluation in accordance with Article 22, whether there is a need to update the list of fibrous silicates set out in Article 2 in light of scientific knowledge as well as for additional measures to ensure protection against secondary exposure to asbestos at work.*
- 2. Following the evaluation referred to in paragraph 1 of this Article and after consulting the ACSH, the Commission shall evaluate whether it is appropriate or necessary to update the list of fibrous silicates set out in Article 2. The Commission shall evaluate in particular whether it is appropriate to include additional fibrous silicates, such as erionite, riebeckite, winchite, richterite and fluoro-edenite, within the scope of this Directive, as well as whether it is appropriate to adopt additional measures to ensure protection against secondary exposure to asbestos at work. The Commission shall, where appropriate, submit to the European Parliament and to the Council legislative proposals in that regard.’;*

(16) Article 19 is amended as follows:

(a) *paragraph 1 is deleted;*

(b) paragraph 2 is replaced by the following:

‘2. The employer shall enter the information on the workers engaged in the activities referred to in Article 3(1) in a register. That information shall indicate the nature and duration of the activity and the exposure to which they have been subjected. The doctor and/or the authority responsible for medical surveillance shall have access to this register. Workers shall have access to the results in the register which relate to them personally. The workers and/or their representatives shall have access to anonymous, collective information in the register.’;

(17) *Article 21 is replaced by the following:*

‘Article 21

Member States shall keep a register of all cases of medically diagnosed asbestos-related occupational diseases. An indicative list of diseases that can be caused by exposure to asbestos is set out in Annex I.’;

(18) *the following article is inserted:*

‘Article 22a

- 1. By 31 December 2028, the Commission shall assess the feasibility of a further lowering of the limit values on the basis of the Member States’ reports submitted pursuant to Article 22, the availability of scientific evidence, technical developments and the relationship between new analytical methods and the numerical limit value.*
- 2. The Commission shall provide appropriate technical support to employers fulfilling the requirements of this Directive, and information about relevant Union funds, with a view to assisting Member States in making the best use of, and facilitating access to, those funds, in particular for small and medium-sized enterprises, including microenterprises.’;*

(19) *in Annex I, point 1 is replaced by the following:*

‘1. Current knowledge indicates that exposure to free asbestos fibres can give rise to at least the following diseases:

- asbestosis,*
- mesothelioma,*
- lung carcinoma,*
- gastro-intestinal carcinoma,*
- carcinoma of the larynx,*
- carcinoma of the ovary,*
- non-malignant pleural diseases.’;*

(20) *the text set out in the Annex to this Directive is inserted as Annex Ia.*

Article 2

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

2. *By way of derogation from paragraph 1 of this Article, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1, point (6)(c) and (d) (as regards Article 7(7), second subparagraph, of Directive 2009/148/EC) and point (7) (as regards Article 8(2) and (3) of Directive 2009/148/EC) by ... [six years after the date of entry into force of this amending Directive]. They shall immediately communicate the text of those measures to the Commission.*

Member States shall, until they bring into force the laws, regulations and administrative provisions pursuant to the first subparagraph, carry out fibre counting wherever possible by PCM, in accordance with the method recommended in 1997 by the World Health Organisation, or by any other method that provides equivalent or more accurate results.

3. When Member States adopt *the* measures *referred to in paragraphs 1 and 2*, 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.
4. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

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 ...,

For the European Parliament

For the Council

The President

The President

ANNEX

‘ANNEX Ia

Minimum requirements for training

Workers who are, or who are likely to be, exposed to dust from asbestos or materials containing asbestos shall receive mandatory training, encompassing at least the following minimum requirements:

- (1) The training shall be provided at the start of an employment relationship and whenever additional training needs are identified.*
- (2) The length of the training shall be adequate in relation to the tasks of the workers concerned.*
- (3) The training shall be provided by an instructor whose qualification is recognised in accordance with national law and practice.*

- (4) *Every worker who has attended training in a satisfactory manner shall receive a training certificate indicating all of the following:*
- (a) *the date of the training;*
 - (b) *the duration of the training;*
 - (c) *the content of the training;*
 - (d) *the language of the training;*
 - (e) *the name, qualification, and contact details of the instructor, or the institution providing the training, or both.*
- (5) *Workers who are, or are likely to be, exposed to dust from asbestos or materials containing asbestos shall receive theoretical and practical training concerning at least the following:*
- (a) *the applicable law of the Member State in which the work is carried out;*
 - (b) *the properties of asbestos and its effects on health, including the synergistic effect of smoking;*
 - (c) *the types of product or material likely to contain asbestos;*
 - (d) *the operations that could result in exposure to asbestos and the importance of preventive controls to minimise such exposure;*

- (e) *safe working practices, controls and protective equipment;*
- (f) *the appropriate role, choice, selection, limitations and proper use of protective equipment, with particular regard to respiratory equipment;*
- (g) *emergency procedures;*
- (h) *decontamination procedures;*
- (i) *waste disposal;*
- (j) *medical surveillance requirements.*

The training shall be adapted as closely as possible to the characteristics of the profession of the workers and the specific tasks and working methods of that profession.

- (6) *Workers who engage in demolition or asbestos removal work shall be required to receive training in addition to the training provided for pursuant to point (5) regarding the use of technological equipment and machines to contain the release and spread of asbestos fibres during work processes, in accordance with this Directive.’.*
