II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Directive on the protection of young people at work [1]

(93/C 77/01)

COM(93) 35 final — SYN 383

(Submitted by the Commission pursuant to Article 149 (3) of the EEC Treaty on 5 February 1993)

[1] OJ No C 84, 4. 4. 1992, p. 7.

ORIGINAL COMMISSION PROPOSAL	AMENDED PROPOSAL
THE COUNCIL OF THE EUROPEAN CUMUNITIES,	Unchanged
Having regard to the Treaty establishing the European Economic Community, and in particular Article 118A thereof,	
Having regard to the proposal from the Commission,	
In cooperation with the European Parliament,	
Having regard to the opinion of the Economic and Social Committee,	
Whereas Article 118A of the Treaty provides that the Council shall adopt, by means of directives, minimum requirements for encouraging improvements, especially in the working environment, to ensure a better level of protection of the safety and health of workers;	
Whereas, under the terms of that Article, those directives are to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;	
Whereas the directives on health and safety at work and particularly Council Directive 89/391/EEC [1], contain provisions designed to improve the health and safety of workers in general; whereas, in particular, Council Directive 80/1107/EEC of 27 November 1980 on the protection of workers from the risks related to exposure to chemical, physical and biological agents	

[1] OJ No L 183, 29. 6. 1989, p. 1.

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at work (1), as last amended by Directive 88/642/EEC (2), and Commission Directive 91/322/EEC (3) envisage the establishment of limit values on exposure at work;	
Whereas the special situation of young people at work and the special nature of the risks to which they are subject, in particular in view of their lack of experience, make it necessary to have specific additional provisions geared to the needs of young people at work;	
Whereas a fair balance has to be struck between the definition of a basis of minimum provisions for ensuring the protection of young people at work, in order to avoid abuse, and the necessary flexibility of working and employment conditions.	
Whereas point 20 in particular of the Community Charter of the Fundamental Social Rights of Workers, adopted by the Heads of State or Government of 11 of the Member States of the European Community at the European Council in Strasbourg on 9 December 1989, states that, subject to derogations limited to certain light work, the minimum employment age must not be lower than the minimum school-leaving age and, in any case, not lower than 15 years;	
Whereas under point 22 of the said Charter, appropriate measures must be taken to adjust labour regulations applicable to young workers so as to meet their specific development and vocational training and access to employment needs; whereas the duration of work of workers under the age of 18 must be limited — without it being possible to circumvent this limitation through recourse to overtime — and night work prohibited, save in the case of certain jobs laid down in national legislation or regulations;	
Whereas point 23 of the said Charter stresses that vocational training for young workers should take place during working hours;	
Whereas, in its resolution on child labour (4), the European Parliament summarized the various aspects of work by young people and stressed its effects on their health, safety and physical and intellectual development, and pointed to the need to adopt a Community directive harmonizing national legislation in the field;	
Whereas, to ensure that young people are not allowed to work before reaching an appropriate age, it is necessary	Whereas, to ensure that young people are not allowed to work before reaching an appropriate age, it is necessary

(1) OJ No L 327, 3. 12. 1980, p. 8.
(2) OJ No L 356, 24. 12. 1988, p. 74.
(3) OJ No L 177, 5. 7. 1991, p. 22.
(4) OJ No C 190, 20. 7. 1987, p. 44.

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for Member States to ban work below a minimum age; whereas any derogation from this ban must be restricted to certain specific light work where there is no risk of harming the health and safety of children;	for Member States to ban work below a minimum age; whereas any derogation from this ban must be restricted to certain specific light work where there is no risk of harming the health and safety of children or of prejudicing their attendance at school or their capacity to benefit from the instruction given at school;
	Whereas a link should be established between education and the labour market so that the minimum age for taking up work corresponds to the age of completion of compulsory schooling;
Whereas, in order to protect the health and safety of young people, Member States should take the necessary measures to ensure that a prior evaluation of risks affecting young people in particular is carried out and the results of this evaluation are communicated to those concerned;	Unchanged
Whereas exposure on the part of young people to certain physical, chemical or biological agents and to certain processes, and assignment to such work, affects the health and safety of young people; whereas it is therefore appropriate to place a ban on such work;	Whereas the exposure of young people to certain physical, chemical or biological agents and to certain processes, and assignments to such work, affects the health and safety of young people; whereas it is therefore essential to place a ban on such work;
Whereas certain types of activity and certain working conditions may affect the health of young people; whereas steps should therefore be taken to arrange their working conditions and working time accordingly;	Unchanged
Whereas working time must be adapted to the specific requirements of the physical development of the young people addressed by this Directive; whereas, again with a view to protecting the health and safety of young people, there should be a minimum set of provisions on night work for young people;	Whereas working time must be adapted to the specific requirements of the physical development of the young people addressed by the Directive; whereas, again with a view to protecting the health and safety of young people, there should be a general ban on night work for young people;
Whereas, although derogations from the bans and limitations imposed by this Directive would appear indispensible for certain activities or particular situations, applications thereof must not prejudice the principles underlying the established protection system;	Unchanged
Whereas it is important to ensure that young workers are properly protected against accidents at work and occupational diseases; whereas such protection must include, in accordance with the provisions in force in the Member States, cover in respect of these risks;	
Whereas the system of protection envisaged by this Directive requires, for its effective application, the imposition of sanctions by the Member States,	

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HAS ADOPTED THIS DIRECTIVE:	
Article 1	
Scope	
This Directive shall apply to all persons under 18 years of age working for one or more employers, except those working on a limited or occasional basis for their family.	This Directive shall apply to all persons under 18 years of age working for one or more employers.
Article 2	Unchanged
Definitions	
For the purposes of this Directive:	
(a) 'employer' means any natural or legal person who has an employment relationship with the young worker;	
(b) 'young person' means any person under 18 years of age:	
— 'adolescent' means any young person of at least 15 years of age but less than 18 years of age,	— 'adolescent' means any young person of at least 15 years of age but less than 18 years of age who is no longer undergoing full-time compulsory education,
— 'child' means any young person of less than 15 years of age;	— 'child' means any young person who is less than 15 years of age or who is still undergoing full-time compulsory education;
(c) 'working time' means any period during which the young person is at work and carrying out his activities or duties in accordance with national legislation and/or practice. Where a young person is employed by more than one employer, working hours and working days shall be accumulated;	(c) 'working time' means any period during which the young person is at work and carrying out his activities or duties in accordance with national legislation and/or practice;
(d) 'light work' means all work which does not cause any abnormal fatigue whether as a consequence of the inherent nature of the tasks to be performed or as a consequence of the particular conditions under which they must be performed.	(d) 'light work' means all work which, as a consequence of the inherent nature of the tasks to be performed or of the particular conditions under which they must be performed, neither harms the health and development of young people nor affects their attendance at school or their capacity to benefit from the instruction given at school.
Article 3	Unchanged
Restrictions due to age	
1. Member States shall ensure that the employer shall provide young persons with working conditions which are appropriate to their age and which will, in particular, avoid damage to their physical and psychological development.	
2. Member States shall adopt the necessary measures to prohibit child work. Such provisions shall not be an obstacle to:	

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(a) children pursuing the activities set out in Article 4;	
(b) children working in an undertaking under a combined work/training scheme such as an apprenticeship or work experience placements;	
(c) children of not less than 13 years of age performing light work.	
3. Derogations from point (c) of paragraph 2 may be granted for limited periods, taking account of established national practice and traditions, provided such derogations do not compromise the objectives of this Directive.	Deleted
Article 4	Unchanged
Cultural and similar activities	
The employment of children in cultural, artistic, sports and advertising activities shall be subject to prior authorization, the conditions of which shall be determined by the competent authorities of the Member States.	The employment of children in cultural, artistic, sports and advertising activities shall be subject to prior authorization. The procedure leading to such authorization and the conditions of work, in particular working hours, shall be determined by the Member States.
Article 5	Unchanged
Evaluation — information	
1. The provisions of Directive 89/391/EEC shall apply to all young persons addressed by this Directive.	
In applying these provisions the employer shall take account of any specific risk to the physical and mental health and safety of the young persons as well as the possible repercussions for their development.	
2. Without prejudice to the provisions of Directive 89/391/EEC, and in particular Articles 6, 7, 10 and 12 thereof, young persons shall be evaluated in relation to the nature, degree and duration of exposure within an undertaking of all activity liable to present a specific risk of exposure to agents and procedures of which a non-exhaustive list is set out in Annex I.	2. Without prejudice to the provisions of Directive 89/391/EEC, and in particular Articles 6, 7, 10 and 12 thereof, and before a young person is assigned to a particular job, the employer shall evaluate the nature, degree and duration of exposure within the undertaking concerned, in respect of any activity liable to present a specific risk of exposure to agents, processes or working conditions of which a non-exhaustive list is set out in Annex I.
The young persons shall be informed of the results of this evaluation and of all measures taken concerning their health and safety at work.	The employer shall inform the young persons and their parents or legal guardians, in writing, of the possible risks involved and of all measures taken concerning the young persons' health and safety at work.

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	The employer shall involve the preventive service referred to in Article 7 of Directive 89/391/EEC in the planning, implementation and monitoring of the safety and health conditions of young peoples' work.
Article 6	Unchanged
Consequences of the results of evaluation and health surveillance	
1. Where the results of the evaluation referred to in Article 5 indicate a risk to the safety or to the physical or mental health of the young person, notably an effect on his development, the employer shall take the necessary measures in terms of working conditions and/or working time to prevent such exposure on the part of young people.	
2. Where it is technically or objectively impossible to modify working conditions and/or working time, the employer shall take the necessary measures to provide the young persons with a change of job.	
Exceptions may be allowed for certain specified categories of work which are essential to the vocational training of adolescents.	
3. Prior to exposure and at regular intervals thereafter, appropriate medical surveillance shall be provided for young workers in respect of whom the results of the evaluation referred to in Article 5 indicate the existence of a specific risk to their safety or physical or mental health, notably a possible effect on their development.	
Article 7	
Exposure ban	
Without prejudice to the provisions of Directives 80/1107/EEC and 91/322/EEC, young persons may in no case be required to perform activities where the evaluation has revealed a risk of exposure to agents and procedures envisaged by Annex II which would put the young person's safety or physical or mental health in jeopardy.	Without prejudice to the provisions of Directives 80/1107/EEC and 91/322/EEC, young persons shall not perform activities where the evaluation has revealed a risk of exposure to agents and processes referred to in Annex II which would put the young person's safety or physical or mental health in jeopardy.
	Exceptions may be allowed only for certain specified categories of work which are essential to the vocational training of adolescents, provided that the work is carried out under the supervision of a competent person within the meaning of Article 7 of Directive 89/391/EEC.

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Article 8	Unchanged
Duration of work	
1. The duration of work performed by children and adolescents who are in full-time education shall be restricted to 15 hours per week and to three hours on a school day for light work.	1. The duration of work performed by young persons who are in full-time education shall be restricted to 15 hours per week and to two and three hours on a school day for children and adolescents, respectively, for light work.
Such work may be performed only outside the hours fixed for school attendance and only provided that it is not such as to prejudice their attendance at school or their capacity to benefit from the instruction given at school.	Unchanged
2. Working time for young persons who are not undergoing full-time compulsory education or young persons working during their school holidays may not exceed eight hours per day or 40 hours per week.	2. Working time for adolescents, young persons participating in a combined work/training scheme or young persons working during their school holidays may not exceed eight hours per day or 40 hours per week.
3. The time spent attending school for training as part of a combined work/training scheme shall be counted as working time.	Unchanged
	3a. Where a young person is employed by more than one employer, working hours and working days shall be accumulated.
4. Where there are objective reasons for so doing, derogations from the provisions of paragraph 2 may be allowed subject to the agreement of the authority competent to determine the terms of the derogations and provided such derogations do not call into question the objectives of this Directive.	Unchanged
Article 9	
Night work	
1. Without prejudice to the provisions of Article 4, young persons may not be employed between 20.00 hours and 06.00 hours.	
2. Exceptions to the ban on night work set out in paragraph 1 may be authorized by legislative or regulatory process in specified sectors provided that no work is performed between midnight and 04.00 hours.	2. Exceptions to the ban on night work set out in paragraph 1 may be authorized by legislative or regulatory process in specified sectors, for adolescents or young persons participating in combined work/training schemes, where this is essential to achieving the training objectives. In such cases, work must be performed under the supervision of an adult worker. Work shall be prohibited between midnight and 04.00 hours.
3. Prior to any assignment to night work, and at regular intervals thereafter, young persons must be given an assessment, free of charge, of their health and capabilities.	Unchanged

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Article 10	
Rest time	
Young persons duly released from full-time compulsory education or young persons working during their school holidays shall have two consecutive rest days per week and a rest period of 12 consecutive hours during each 24-hour period.	Adolescents or young persons working during their school holidays or young persons participating in combined work/training schemes shall have two consecutive rest days per week and a rest period of 12 consecutive hours, or 14 consecutive hours in the case of children, during each 24-hour period.
If justified on technical or organizational grounds, the weekly rest period may be reduced but may on no condition be reduced below 36 hours.	Unchanged
Article 11	
Paid leave	
Young persons duly released from full-time compulsory education shall receive annual leave of at least four weeks, paid in accordance with the conditions governing the receipt and granting of leave laid down in national legislation and/or practice.	Adolescents or young persons participating in combined work/training schemes shall receive annual leave of at least five weeks.
	Pay relating to annual leave shall be determined in accordance with the conditions laid down by national legislation and/or practice.
	Under no circumstances may the duration of annual leave be less than that granted to adults.
Article 12	
Rest period	
Any working period of four and a half consecutive hours shall be followed by a rest period of not less than 30 minutes.	Member States shall take the necessary steps to ensure that young people working more than four and a half hours per day enjoy a rest period of at least 30 minutes.
Article 13	Unchanged
Protection from occupational accidents and diseases	
Member States shall adopt the necessary measures to ensure that young persons are adequately protected in respect of occupational accident and disease. Young persons must be insured against such risks in accordance with the laws, regulations and administrative provisions in force in the Member States.	
Article 14	
Sanctions	
Each Member State shall determine the penalties to be imposed in the event of failure to comply with the	

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measures adopted to give effect to this Directive; such penalties must be effective, proportionate and dissuasive.	
Article 15	
Amendments to the Annexes	
Adjustments to Annexes I and II as a result of technical progress, changes in international regulations or specifications, and new findings in the area covered by this Directive, shall be adopted in accordance with the procedure laid down in Article 17 of Directive 89/391/EEC.	
Article 16	
This Directive may not have the effect of reducing the level of protection afforded to young persons at work as compared with the situation which exists in each Member State on the date on which this Directive is adopted.	This Directive may not provide grounds for diminishing the level of protection afforded to young persons at work as compared with the situation which exists in each Member State on the date on which the Directive is adopted.
Article 17	Unchanged
Final provisions	
Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1993 at the latest. They shall immediately inform the Commission thereof.	
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 18	
This Directive is addressed to the Member States.	

ANNEX I

NON-EXHAUSTIVE LIST OF AGENTS, PROCESSES AND WORKING CONDITIONS (ARTICLE 5)

1. **Agents**

Physical agents

Direct or indirect manual handling of loads involving a risk, particularly of back injury

Work in a high-pressure atmosphere (for example: pressurized containers, diving)

Extremes of heat and cold.

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Biological agents	
Biological agents belonging to groups III and IV within the meaning of Article 2 (d) of Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work.	Biological agents belonging to group II within the meaning of Article 2 (d) of Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work.
Chemical agents	Unchanged
Hydrofluoric acid	
Fuming nitric acid	
Arsenic and compounds thereof	
Thiophosphoric esters	
Mercury and compounds thereof	
Methyl bromide	
Free silica	
Carbon monoxide	
Chlorine	
Asbestos.	
2. **Work**	
Work involving the use of work equipment with a specific risk within the meaning of Article 5 of Directive 89/655/EEC	
Manufacture and handling of machinery, fireworks or other objects containing explosives	
Work with fierce or poisonous animals	
Work involving dangerous feats of strength or contortionist exercises	
Glass-blowing	
Animal slaughtering	
Work involving the handling of equipment for the production, storage or application of compressed, liquified or dissolved gases	
Work with vats, tanks, reservoirs or carboys containing toxic, harmful or corrosive flammable liquids, gases or vapours covered by Directive 67/548/EEC	
Undergroud work	
Work at a height	
Demolition work	
Work involving a risk of electrocution	
Work involving:	
— the driving of agricultural or forestry tractors not equipped with roll-over protection structures,	

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— the driving of combine-harvesters and other multiple-function or multiple-movement	
— the driving of earthmoving equipment and vehicles,	
— constraints due to the pace of work, particularly in respect of work involving payment by results.	

ANNEX II

NON-EXHAUSTIVE LIST OF AGENTS, PROCESSES AND WORKING CONDITIONS (ARTICLE 7)

1. **Agents**

Physical agents	
Ionizing radiation.	
	Biological agents
	Biological agents belonging to groups III and IV within the meaning of Article 2 (d) of Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work.
Chemical agents	*Unchanged*
Hydrocyanic acid	
Lead and compounds thereof	
Neurotoxic chemical agents	
Substances classified as carcinogenic, mutagenic and/or toxic for reproduction	
Substances classified as liable to cause serious damage to health by prolonged exposure (R48)	
Chemical agents in Annex I to Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work.	

2. **Processes**

— Industrial processes in Annex I to Directive 90/394/EEC.	