**Working Conditions Decree  
Text amended up to 1-09-2016**

Decree of 15 January 1997, including provisions in the interest of health, safety and welfare in connection with work (Working Conditions Decree)

We Beatrix, by the Grace of God, Queen of the Netherlands, Princess of Oranje-Nassau, etc. etc. etc.

On the recommendations of the State Secretary of Social Affairs and Employment and Our Ministers of Education, Culture and Science, of the Interior and Kingdom Relations, of Transport, Public Works and Water Management, of Justice and the State Secretary of Defence of 12 July 1996, the Central Legislation and Legal and Administrative Affairs Department, no. WBJA/W2/96/0407, submitted also on behalf of the Prime Minister, the Minister of General Affairs and in accordance with the Minister of Economic Affairs;

Considering Articles 1, 2, 4, 5, 6, 10, 20, 23a, 24, 24a, 25, 26, 27, 28, 30, 31a, 35, 36, and 41 of the Working Conditions Act and Articles 5 and 8 of the Trading Hours Act;

Considering the advice of the Social and Economic Council of 9 February 1995, no. 95/31 I and II;

Having consulted the Council of State (advice of 24 September 1996, no. W12.960298);

In view of the further report of the State Secretary of Social Affairs and Employment and Our Ministers of Education, Culture and Science, of the Interior and Kingdom Relations, of Transport, Public Works and Water Management, of Justice and the State Secretary of Defence of 18 December 1996, the Central Legislation and Legal and Administrative Affairs Department, no. WBJA/W2/96/1537, issued also on behalf of the Prime Minister, the Minister of General Affairs and in accordance with the Minister of Economic Affairs;

Have approved and understood:

**Chapter 1. Definitions and Scope**

**Section 1. Definitions**

**Article 1.1. General definitions**

**1.** In this Decree and the provisions based on it, the Act means: the Working Conditions Act.

**2.** In this Decree and the provisions based on it, the following concepts have the following meaning:

a. construction site: any temporary or mobile work site where civil engineering or construction activities are carried out, a non-exhaustive list of which is included in Annex I of the Directive meant in Article 2.23, under a;

b. structure: a civil engineering work or structure as meant under a;

c. client:

1°. for the application of Chapter 2, Section 5, and Article 9.6: the party on whose account a structure is created;

2°. for the application of Article 9.5: the party on whose account a self-employed person or employer, as referred to in Article 16, seventh paragraph, under b, of the Act, performs work;

d. client-consumer: the natural person not acting within the course of his profession or trade on whose account a structure is being created;

e. designing party: the party who undertook to the client, as referred to in Section c, under 1°, or client-consumer to carry out the designing function in the construction stage;

f. implementing party: the party who undertook to the client, as referred to in Section c, under 1° or client-consumer to carry out the implementing function in the construction stage.

**3.** In this Decree and the provisions based on it, the following concepts have the following meaning:

a. workplace in the extracting industry: any workplace directly or indirectly associated with the opencast mining industry, the underground mining industry or mineral-extracting industry through drilling, including the detection and extraction of hydrocarbons;

b. minerals: a natural concentration or deposit of ores, minerals or substances of organic origin in or on the soil in solid, fluid or gaseous condition, including shells, aggregate, sand and clay present on the ground or immediately under its surface;

c. opencast mining industry: any industry:

1°. extracting minerals in the open air;

2°. carrying out prospecting activities with a view to extraction of minerals in the open air, or

3°. preparing minerals for their sale with the exception of activities in connection with processing these minerals;

d. underground mining industry: any industry:

1°. extracting underground minerals other than by drilling;

2°. carrying out prospecting activities with a view to this extraction;

3°. preparing minerals for their sale with the exception of activities in connection with processing these minerals, or

4°. storing substances as meant in Article 1, under i, of the Mining Act.

e. mineral-extracting industry through drilling: any industry:

1°. extracting minerals by drilling;

2°. carrying out prospecting activities with a view to this extraction;

3°. preparing minerals for their sale with the exception of activities in connection with processing these minerals;

4°. storing substances as meant in Article 1, under i, of the Mining Act, or

5°. detecting or extracting terrestrial heat as meant in Article 1, under g and h, of the Mining Act.

f. extracting industry for the detection and extraction of hydrocarbons: extracting industry as meant under e which detects and extracts hydrocarbons;

g. mine installation: an installation as meant in Article 1, under o, of the Mining Act.

**4.** In this Decree and the provisions based on it, the following concepts have the following meaning:

a. physical load: the working position to be adopted by the employee in connection with his work, movements to be carried out or powers to be applied for instance consisting of lifting, putting down, pushing, pulling, carrying or moving or supporting one or more loads in another manner;

b. personal protection device: any equipment intended to be worn or carried by the employee in order to protect him against one or more hazards which could constitute a danger to his health or safety at work as well as all additions or accessories which could contribute to this with the exception of:

1°. ordinary and uniform working clothes not specifically intended to protect the health and safety of the employee;

2°. sports equipment;

3°. material for self-defence or a deterrent, and

4°. portable devices to detect and identify hazards and load factors;

c. health or safety signs: a sign applied to a certain object, a certain activity or a certain situation by means of a sign, a colour, a light signal, an acoustic signal, a verbal communication or a hand or arm signal, an indication or given instruction concerning health or safety at work.

**5.** In this Decree and the provisions based on it, the following concepts have the following meaning:

a. *EC regulation on classification, labelling and packaging of substances and mixtures:* Regulation (EC) No. 1272/2008 of the European Parliament and of the Council of the European Union 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 EC 2008, L 353);

b. *dangerous substances:* substances or mixtures to which employees are or may be exposed during work and which could constitute a danger to health or safety based on the characteristics of these substances or mixtures or the circumstances under which they occur;

c. *mixture:* a mixture or solution comprising two or more substances.

**6.** In this Decree and the provisions based on it, the following concepts have the following meaning:

a. young employee: an employee younger than 18 years of age;

b. pregnant employee: an employee who is pregnant and has informed the employer of her pregnancy;

c. breast-feeding employee: an employee who breast-feeds her child and has informed her employer of this.

**7.** In this Decree and the provisions based on it, the term 'certifying institution' means: an institution designated by our Minister by virtue of Article 20, second paragraph, of the Act which decides on the issue of a certificate as meant in Article 20, first paragraph of this Act.

**Article 1.2 Definitions in the shipping industry** [Repealed on 01-11-1999]

In this Decree and the provisions based on it, the following concepts have the following meaning:

a. *managing owner:* managing owner as referred to in Article 1, under l, of the Seafarers Act;

b. *seafarer:* seafarer as referred to in Article 1, under z, of the Seafarers Act.

**Article 1.3. Definitions of education**

**1.** In this Decree and the provisions based on it, the term educational institution means: an educational institution designated or paid for.

**2.** In this Decree and the provisions based on it, the term educational institution paid for means:

a. a public or private school fully or partly paid for from public funds as meant in the Primary Education Act;

b. a public or private school fully or partly paid for from public funds as meant in the Expertise Centres Act;

c. a public or private school, course or establishment fully or partly paid for from public funds as meant by and pursuant to the Secondary Education Act;

d. a public or special institution fully or partly paid for from public funds as mentioned in the Annex belonging to the Higher Education and Research Act, under a and b;

e. a public or special institution fully or partly paid for from public funds as mentioned in the Annex belonging to the Higher Education and Research Act, under c to g;

f. Heerlen Open University, mentioned in the Annex belonging to the Higher Education and Research Act, under h;

g. a school as meant in the Educational Experiments Act;

h. a public or special institution for education and vocational secondary education wholly or partly paid for from public funds as meant in the Adult and Vocational Education Act.

**3.** In this Decree and the provisions based on it, the term designated educational institution means:

a. a school as meant in Article 56 of the Secondary Education Act;

b. an institution as meant in Article 6.9 of the Higher Education and Research Act;

c. an institution as meant in Article 1.4.1 of the Adult and Vocational Education Act.

**4.** In this Decree and the provisions based on it, the term participation council means:

a. a participation council as meant in the Participation (Education) Act 1992 or in Article 10.17 of the Higher Education and Research Act;

b. the student council of the Open University meant in Article 11.13 of the Higher Education and Research Act.

**Article 1.4. Definitions custodial institutions**

**1.** In this Decree and the provisions based on it, the following concepts have the following meaning:

a. judicial personnel:

1°. persons who by virtue of a public designation in civilian public service are obliged to the Kingdom to carry out work in custodial institutions;

2°. persons who under the authority of the Kingdom are carrying out work in a custodial institution with the exception of prisoners, patients and young persons;

b. prisoners, patients and young persons: the persons who by virtue of a decision or ruling of the court or by the public authorities have rightfully been deprived of their freedom and are detained in a custodial institution with the exception of the soldiers imprisoned in the Stroe Military Penitentiary Centre;

c. custodial institution: a prison or detention centre as meant in the Custodial Institutions (Framework) Act, a custodial institution for nursing persons placed under a hospital order as meant in the Hospital Orders (Framework) Act or an institution as meant in the Youth Custodial Institutions (Framework) Act.

**2.** The term custodial institution also means: the transport of prisoners, patients and young persons to and from the custodial institution as well as all other work carried out by judicial personnel with prisoners, patients and young persons outside the custodial institution.

**Article 1.5. Definitions Defence**

In this Decree and the provisions based on it, the following concepts have the following meaning:

a. military personnel:

1°. the military officials in actual service within the sense of Article 1, paragraph one and two, of the Military Personnel Act 1931;

2°. the conscripts in actual service within the sense of Articles 18, 19 and 21 of the National Service Framework Act;

b. civilian personnel at the Ministry of Defence:

1°. persons who by virtue of a public designation in civilian public service are obliged to the Kingdom, represented by the Minister of Defence, to carry out work except if the person involved is being made available to a third party to carry out work, which this third party usually has carried out;

2°. persons who are carrying out work under the authority of the Kingdom, represented by the Minister of Defence;

c. defence personnel: military personnel and civilian personnel at the Ministry of Defence;

d. exercise: any putting into practice of skills theoretically taught by defence personnel in war simulations in order to acquire, increase or maintain proficiency in carrying out war duties;

e. military vessel: a Dutch warship, marine auxiliary vessel or other ship used for carrying out military duties;

f. military aircraft: an aircraft managed by the Ministry of Defence;

g. manned weapon system: any weapon system propelled or not, which is manned or operated during use with the exception of a light personal weapon;

h. a standby-unit: a unit designated to this end and deployed or ready or which has to be kept ready to be deployed in connection with the armed forces.

**Section 1A. Certification**

**§ 1. Designation of certifying institution on request**

**Article 1.5a. Designation criteria**

**1.** An institution complying with the following requirements may be designated as a certifying institution if:

a. it is a legal person;

b. it is independent;

c. it has sufficient expertise and equipment at its disposal to be properly able to fulfil the duties for which it wishes to be designated;

d. it has a registration system at its disposal which properly records the data in connection with and relating to the performance of the duties for which it wishes to be designated;

e. it is insured against statutory liability for the risks arising from the performance of the tasks for which it wishes to be designated;

f. it has contracted an agreement with the management foundation, in cases arising, that manages the certification schemes pursuant to this Decree for the field of work in which the institution wishes to work as a certifying institution; and

g. it functions properly.

**2.** With respect to the first paragraph detailed provisions will be laid down in a Ministerial Order.

**Article 1.5b. Application for designation**

**1.** The institution referred to in Article 1.5a must submit the application for designation to Our Minister.

**2.** The institution shall accompany the application with an assessment by the Accreditation Council Foundation in Utrecht, showing that it meets the criteria referred to in Article 1.5a.

**3.** Further rules can be imposed for the submission of the application, the assessment and the settlement of the application by Ministerial Order, divided by field of work if necessary.

**4.** The costs of the assessment shall be borne by the institution applying for designation.

**5.** By way of departure from paragraphs 2 and 3, the institution need not accompany the application with an assessment by the Accreditation Council Foundation referred to in paragraph 2 for fields of work to be designated by Ministerial Order.

**6.** By way of departure from paragraph 4, the costs of the assessment are not borne by the institution applying for designation for fields of work to be designated by Ministerial Order.

**Article 1.5c. Rejection, suspension, alteration or withdrawal of a designation**

**1.** Designation as a certifying institution will be refused if:

a. The applicant has not complied with the provisions by or pursuant to Articles 1.5a or 1.5b; or

b. In the twelve months prior to the date on which the application was submitted, an application by the applicant for designation as a certifying institution was rejected, or its designation as a certifying institution was withdrawn and that rejection or withdrawal took place on the grounds of facts or circumstances attributable to the applicant.

**2.** In the case referred to in paragraph 1b, the application will not be processed until twelve months have passed from the day following the date of the refusal or the withdrawal.

**3.** A designation may be suspended, or may be altered to the detriment of the certifying institution or withdrawn:

a. on the grounds of facts or circumstances of which Our Minister could not reasonably have been aware when the designation was granted and on the grounds of which the designation would not have been granted, or would only have been granted subject to restrictions or conditions, as referred to in Article 20, fourth paragraph, of the Act;

b. on the grounds of incorrect information provided by the certifying institution concerning facts or circumstances, provided that the institution was or should have been aware that it was incorrect;

c. if the certifying institution no longer complies with the provisions by or pursuant to Article 1.5a;

d. if the certifying institution has not performed any work for which it is designated for a consecutive period of two years; or

e. if the certifying institution no longer complies correctly with its statutory obligations or no longer correctly performs the tasks for which it is designated.

**Article 1.5d. Regular control of a certifying institution**

**1.** During the term of the designation as a certifying institution, Our Minister shall determine on a regular basis whether the institution:

a. still complies with the provisions by or pursuant to Article 1.5a; and

b. complies correctly with its statutory obligations and correctly performs the tasks for which it is designated.

**2.** For the regular determination, Our Minister shall provide for the Accreditation Council Foundation in Utrecht to conduct an assessment in that regard.

**3.** Further rules may be imposed with regard to the regular determination and the assessment by Ministerial Order, divided by field of work if necessary.

**4.** The costs of the assessment shall be borne by the institution.

**5.** By way of departure from paragraphs 2 and 3, the institution need not itself request an assessment by the Accreditation Council Foundation referred to in paragraph 2 for fields of work to be designated by Ministerial Order.

**6.** By way of departure from paragraph 4, the costs of the assessment are not borne by the institution for fields of work to be designated by Ministerial Order.

**Article 1.5e. Providing information**

**1.** The certifying institution must draw up a report each year before 1 March on the activities it has carried out within the scope of its duties and the lawfulness and effectiveness of its activities and operations in the previous calendar year. The report should be sent to Our Minister. Detailed provisions can be laid down by Ministerial Order concerning the subjects which are dealt with in the report.

**2.** The certifying institution must supply the Accreditation Council Foundation in Utrecht with all information that it requires for the implementation of the provisions of or pursuant to this Article 1.5d on request and free of charge.

**3.** Further rules shall be imposed by Ministerial Order concerning the provision of information by a certifying institution to Our Minister or the supervisory authority free of charge, or by Our Minister or the supervisory authority to a certifying institution or the Accreditation Council Foundation referred to in the second paragraph, obtained through the performance of or the supervision of compliance with the provisions by or pursuant to the Act, which information is necessary for the performance of their statutory duties.

**§ 2. General provisions concerning certification**

**Article 1.5f. Application for the issue of a certificate**

**1.** A certificate as meant in Article 20, first paragraph, of the Act, will be issued by Our Minister or - if Our Minister has designated a certifying institution - the certifying institution on application, if the requirements with respect to the certificate laid down by or pursuant to this Decree have been complied with.

**2.** By Ministerial Order, divided by field of work if necessary, further rules may be imposed concerning an application as referred to in the first paragraph, and its processing.

**3.** The costs of issuing a certificate shall be borne by the applicant for the issue of the certificate.

**Article 1.5g. Rejection, suspension, alteration or withdrawal of a certificate**

**1.** The issue of a certificate will be refused if:

a. the applicant has not complied with the requirements imposed for the certificate by or pursuant to this Decree; or

b. in the twelve months prior to the date on which the application for a certificate was submitted, an application for the issue of the same certificate was rejected or withdrawn and that rejection or withdrawal took place on the grounds of facts or circumstances attributable to the applicant.

**2.** In the case referred to in paragraph 1b, the application will not be processed until twelve months have passed from the day following the date of the refusal or the withdrawal.

**3.** A certificate may be suspended, or may be altered to the detriment of the certificate-holder or withdrawn:

a. on the grounds of facts or circumstances of which Our Minister or, if Our Minister has designated a certifying institution, the certifying institution could not reasonably have been aware when the certificate was issued and on the grounds of which the certificate would not have been issued, or would only have been issued subject to restrictions or conditions, as referred to in Article 20, fourth paragraph, of the Act;

b. on the grounds of incorrect information provided by the certificate-holder concerning facts and circumstances, provided that the certificate-holder was or should have been aware that it was incorrect;

c. if the certificate-holder no longer meets the requirements set by or pursuant to this Decree with respect to the certificate or no longer properly meets its statutory obligations; or

d. if the certificate-holder causes or could cause a serious danger to persons by performing its activities, insofar as these activities are regulated by the certificate, or by the manner in which it performs the activities.

**Article 1.5h. Foreign certificates and qualifications of competence**

Our Minister or, if Our Minister has designated a certifying institution, the certifying institution shall, upon request, issue a certificate of competence to a person who is a national of a State concerned as referred to in Article 1 of the Recognition of EC Vocational Qualifications Act, if it is demonstrated on the basis of Article 6 of that act that this person has qualifications that are equivalent to those of the holder of a certificate of competence issued pursuant to this Decree. Articles 1.5f and 1.5g shall equally apply.

**Article 1.5ha. Language requirement for regulated professions**

**1.** A person who performs work as part of a profession regulated by or pursuant to this Decree shall have a command of the Dutch language at the level that, given the specific circumstances under which work is performed, is required in order to carry out the activities in a responsible manner and he:

a. can understand and follow regulations and instructions on labels of substances, work equipment or personal protective equipment as required by or pursuant to this Decree;

b. can understand and follow the rules set by or pursuant to this Decree and working instructions and directions given on how to use and handle substances, work equipment or personal protective equipment; and

c. in connection with the health and safety of employees and other persons, can understand these employees and persons and can be understood by them.

**2.** The requirement regarding command of language as referred to in the first paragraph shall also be met if it is clear that the person performing work as part of a profession regulated by or pursuant to this Decree and the other employees and persons involved in his work can communicate with each other in another common language they can understand such that the activities can be carried out in a responsible manner, thereby meeting the requirements referred to in the first paragraph.

**Article 1.5i. Regular control of the certificate-holder**

**1.** During the term of the certificate, Our Minister or - if Our Minister has designated a certifying institution - the certifying institution shall regularly determine whether the certificate-holder still complies with the requirements set by or pursuant to the Act concerning the certificate.

**2.** Further rules may be imposed with regard to the regular determination by Ministerial Order, divided by field of work if necessary.

**3.** The costs of the regular determination shall be borne by the certificate-holder.

**4.** The certificate-holder shall provide Our Minister or - if Our Minister has designated a certifying institution - the certifying institution with all information necessary for the performance of the provisions of or pursuant to this Article, free of charge, on request.

**Section 2. Co-operation, consultation and protection from dismissal and disadvantage**

**Article 1.6. Definitions co-operation and consultation**

**1.** Contrary to the Act, this Decree and the provisions based on it, for its purposes with regard to work carried out in educational institutions paid for as meant in Article 1.3, paragraph two, under d and f, insofar as the Works Councils Act is not applicable, the term «the Works Council» and the «Staff Representation Body» should be read as «the University Council», «the Service Council» or the «Participation Council», and with regard to work carried out by defence personnel, insofar as the Works Councils Act is not applicable, the term «the Works Council» and the «Staff Representation Body» should be read as «the Participation Committee» or «the Consultative Body».

**2.** In this Decree and the provisions based on it, the following concepts have the following meaning:

a. University Council: a university council as meant in Article 9.31 of the Higher Education and Research Act;

b. Service Council: a service council as meant in Article 9.50 of the Higher Education and Research Act;

c. Participation Committee: a participation committee as meant in Article 3 of the Defence Participation Decree;

d. Consultative Body: a consultative body established pursuant to Article 23 of the Military Service Framework Act.

**Article 1.7. Nature and content of the consultations**

**1.** With regard to the nature and content of the consultations and the manner in which the consultations are conducted with a university council, a service council or a participation council or participation committee or a consultative body respectively and with regard to the powers of a university council, a service council or a participation council or a participation committee or a consultative body respectively, the following is applicable:

a. the Higher Education and Research Act, or

b. the Defence Participation Decree or the provisions to be laid down by Our Minister of Defence pursuant to Article 23 of the Military Service Framework Act.

**2.** Insofar as the Act contains provisions concerning the rights of the works council or staff representation body or its members with respect to which the provisions meant in the first paragraph do not contain any provisions, the Act will apply.

**Article 1.8. Protection against dismissal**

**1.** With regard to a person to which the General Civil Servants Regulations or the Defence Civil Servants Regulations apply and who is working as an expert employee as meant in Article 13, paragraph one and two, or as an expert as meant in Article 14, paragraph one, of the Act, Article 95, paragraph seven, of the General Civil Servants Regulations or Article 115, paragraph six, of the Defence Civil Servants Regulations will apply accordingly.

**2.** With respect to persons as meant in the first paragraph who are governed by corresponding regulations such as the General Civil Servants Regulations, the first paragraph applies accordingly insofar as this is necessary.

**Article 1.9. Protection against disadvantage**

Contrary to Article 13, paragraph five, second and third sentence of the Act, with regard to a person to whom the Higher Education and Research Act is applicable and who is working as an expert employee as meant in Article 13, first and second paragraph, or as an expert as meant in Article 14, first paragraph, of the Act, Article 9.32, paragraph eight, of the Higher Education and Research Act will apply accordingly. With regard to a person to whom the General Military Civil Servants Regulations or the Defence Civil Servants Regulations are applicable and who is working as an expert employee or person as meant in the previous sentence, Article 20 of the Defence Participation Decree will apply accordingly.

**Section 3. Education**

**Article 1.10. Applicability**

Unless otherwise provided for herein below, the Act and this Decree apply to employees in educational institutions and they apply accordingly to pupils and students in educational institutions carrying out acts which are comparable to work in the practising profession.

**Article 1.11. Co-operation and consultation; educational institutions with a participation council**

**1.** With respect to educational institutions paid for as meant in Article 1.3, second paragraph, under a to c, and under g and h, insofar as this is applicable, the rights as meant in Article 12, paragraph four of the Act accrue to the members of the participation council.

**2.** With respect to the educational institutions paid for as mentioned in the first paragraph, for the purposes of Article 12, paragraphs five and six, of the Act, the participation council replaces the works council or staff representation body.

**3.** With respect to educational institutions paid for as mentioned in the first paragraph, the rights and powers vested under the Act and this Decree will, with due observance of Article 1.13, be carried out by the members of the participation council or - if this involves matters of general interest for the special legal position of the personnel - by the consultative body of the decentralised consultation body or of the institution.

**Article 1.12. Co-operation and consultation; universities and universities of applied sciences**

With respect to the educational institutions paid for as mentioned in Article 1.3, second paragraph, under d to f, the rights and powers vested under the Act and this Decree will be executed with due observance of Article 1.13, by the University Council, the Service Council, the Participation Council or the Student Council as meant in the Higher Education and Research Act or - if matters of general importance for the special legal position of the personnel are involved - by the consultative body of the decentralised consultation body or of the institution.

**Article 1.13. Exceptions to working conditions policy and hearing both sides**

**1.** Article 3, paragraph one, under c, of the Act, with the exception of the ergonomic work aspects, and d, insofar as they do not relate to health and safety, does not apply to pupils or students in educational institutions.

**2.** Section 4.1.2 of the General Administrative Law Act does not apply to pupils or students in educational institutions.

**Article 1.14. Exceptions to employee obligations**

Where in the Act certain obligations are imposed on employees, these obligations do not apply to pupils or students in educational institutions.

**Article 1.15. Exception to occupational health medical examination**

Article 18 of the Act does not apply to pupils or students in educational institutions.

**Section 4. Civilian Public Service**

**Article 1.16. Applicability**

This Section applies to work carried out in civilian public service with the exception of work:

a. carried out in educational institutions;

b. carried out in custodial institutions;

c. carried out by civil employees employed by the Ministry of Defence, including subordinate departments and institutions.

**Article 1.17. Police and Fire Brigade**

Articles 10, 27, 28, 28a, 28b and 29 of the Act apply to work carried out in civilian public service aimed at actually carrying out the duties meant in Article 3 of the Police Act 2012, Article 141 or 142 of the Code of Criminal Procedure or Article 3, paragraph one, of the Safety Regions Act insofar as these duties relate to acting repressively with respect to fires, accidents and disasters, insofar as proper performance of their duties will not be impeded by the application of these Articles.

**Article 1.18. State security**

**1.** Articles 27, 28, 28a, 28b and 29 of the Act apply with respect to work carried out in civilian public service aimed at actually performing the duties mentioned in Article 6, paragraph two, under a, of the Intelligence and Security Services Act 2002, insofar as proper performance of these duties will not be impeded by the application of these Articles.

**2.** The Act will be applicable to work carried out in civil service with due observance of the national and international data protection rules applicable to the civil service, the secrecy of which is required in the interest of the State or its allies.

**3.** With respect to work carried out in civilian public service by or for the benefit of the intelligence and security services, the Act will also be applied with due observance of the care entrusted to the heads of these services for the secrecy of the information they obtain and of the sources from which it originates and for properly safeguarding the security of the persons whose services are being used in collecting the information.

**Section 5. Transport**

**Article 1.19. Applicability**

**1.** The Act does not apply to work carried out in or on a seagoing vessel which under Dutch legislation is not entitled to carry the Dutch flag and which is situated in the exclusive economic area in the territorial waters, on one of the shipping waterways meant in Article 10, paragraph one, of the Shipping Traffic Act, on the Western Scheldt, its mouths or on the section of the Ghent-Terneuzen Canal situated in the Netherlands, or in Scheveningen Harbour.

**2.** The first paragraph does not apply with respect to extending, converting, repairing, dismantling, maintenance, cleaning and other associated activities connected with the vessels meant in the first paragraph and situated in the Netherlands as well as with respect to loading and unloading unless this work is carried out by an employee forming part of the crew of a seagoing vessel as meant in the first paragraph.

**3.** The Act does not apply to work carried out in or on an aircraft as meant in Article 1.1, paragraph one, of the Aviation Act made available to an employer not established in the Netherlands, unless:

a. this employer has a majority of his employees originating from the Netherlands carrying out work in or on it;

b. this involves loading and unloading, extending, converting, repairing, dismantling, maintenance, cleaning and other associated activities connected with any of the said aircraft situated in the Netherlands.

**4.** The Act does not apply to work carried out in or on an aircraft as meant in Article 1, opening sentence and under f of the Aviation Act.

**5.** The fourth paragraph does not apply to the loading, unloading, extending, converting, repairing, dismantling, maintenance, cleaning and other activities connected with the aircraft meant in the fourth paragraph and situated in the Netherlands.

**Article 1.20. Restriction of the right to stop work**

**1.** Article 29 of the Act does not apply to work carried out in or on a seagoing vessel or an aircraft respectively insofar as the application of this Article contradicts the obligations resulting from carrying out the powers of captain or commander respectively as meant in Article 341 of the Commercial Code or the Aircraft Operations Decree respectively, or an EU aviation regulation designated by order of Our Minister of Infrastructure and the Environment.

**2.** Article 29 of the Act does not apply to work carried out by the captain or commander respectively as meant in the first paragraph, in or on a seagoing vessel or an aircraft respectively, insofar as the application of this Article would contravene obligations resulting from the Commercial Code or the Aircraft Operations Decree respectively, or an EU aviation regulation designated by order of Our Minister of Infrastructure and the Environment.

**Article 1.21. Railway police**

[Repealed on 01-01-2005]

**Section 6. Custodial institutions**

**Article 1.22. Safety in custodial institutions**

**1.** Articles 10, 27 to 29 of the Act apply to the work carried out by judicial personnel in the custodial institution insofar as this does not infringe upon the order, security or the proper state of affairs in the institution or the undisturbed course of the implementation of the deprivation of liberty and other restrictions imposed by the competent authorities pursuant to any statutory provision.

**2.** The first paragraph equally applies to prisoners, patients and young persons.

**Article 1.23. State security**

With regard to work carried out by judicial personnel in the custodial institutions, the Act will be applied with due observance of the national and international rules for data protection applicable to the civil service, the secrecy of which is required in the interest of the State or its allies.

**Article 1.24. Viewing of risk assessment and evaluation**

By way of departure from Article 5, paragraph six, of the Act, a prisoner, patient or young person may view the risk assessment and evaluation, to the extent that this does not jeopardise the order or safety in the custodial institution.

**Article 1.25. Co-operation**

Contrary to Article 12, first paragraph, of the Act, the managing director of the institution and the prisoners, patients or young persons should co-operate as much as possible in carrying out the prisoners, patients and young persons working conditions policy in a custodial institution.

**Section 7. Defence**

**Article 1.26. Applicability**

Unless otherwise provided for in this Section, the Act applies to work carried out by defence personnel.

**Article 1.27. State security**

**1.** Implementation of the Act concerning work carried out by defence personnel should take place with due observance of the national and international provisions for data protection applicable to the Ministry of Defence, the secrecy of which is required in the interest of the State or its allies.

**2.** Implementation of the Act with regard to work carried out in public service by or for the military intelligence and security services should additionally take place with due observance of the care entrusted to the heads of these services for the secrecy of the information they obtain and of the sources from which it originates and for properly safeguarding the security of the persons whose services are being used in collecting the information.

**Article 1.28. International obligations**

Implementation of the Act with regard to work carried out by defence personnel will take place with due observance of international obligations.

**Article 1.29. Total exclusion**

The Act does not apply to work carried out by defence personnel:

a. during war, threat of war or other extraordinary circumstances relating to or associated with it including the cases listed in Article 71 of the Military Penal Code;

b. in other cases to be determined by Our Minister of Defence where armed forces are deployed, including rendering assistance under Articles 57, 58 or 59 of the Police Act 2012 or under Article 146, second paragraph, of the Code of Criminal Procedure and rendering assistance in the public interest.

**Article 1.30. Partial exceptions to Articles 3 and 16 of the Act**

**1.** Article 3, paragraph one, of the Act and Articles 1.37 and 1.41 based on Article 16 of the Act, Sections 5, 6, 6A and 8 of Chapter 2, and Chapters 3 to 8 of this Decree are not applicable:

a. during, immediately before and immediately after exercises;

b. with respect to military vessels, military aircraft, manned weapon systems and stand-by units:

1°. insofar as, at the discretion of Our Minister of Defence, deviation from these Articles, Chapters or Sections is required in connection with the building, construction, fitting out or equipment of these vessels, aircraft and weapon systems;

2°. if warships are at sea and if military aircraft and manned weapon systems are in use as such;

3°. insofar as, at the discretion of Our Minister of Defence, the operational activities of these vessels, aircraft and weapon systems or of the stand-by units are impeded by the application of these Articles, Chapters or Sections.

**2.** Our Minister of Defence may permit a deviation from Article 6.12j, which is based on Article 16 of the Act, if an equivalent or more specific protection system is used for personnel working in operational military installations or involved in military activities, including joint international military exercises, provided it is ensured that adverse health effects and safety risks are prevented.

**Article 1.31. Partial exception to Article 10 of the Act**

Insofar as the Act applies to work carried out by defence personnel, Article 10 of the Act applies to work carried out by defence personnel:

a. entrusted with any police duty or with guard or security duties, or

b. carrying out watch duties, or

c. deployed to provide assistance as meant in Article 1.29, under b, to the police insofar as application of the said Article does not form an impediment to the proper performance of duties.

**Article 1.32. Partial exception to Article 12 of the Act**

Article 12 of the Act will be applicable except:

a. during exercises;

b. with regard to matters directly relating to the holding of exercises;

c. with regard to matters directly relating to work as meant in Article 1.29.

**Article 1.33. Partial exceptions to Articles 27 to 28b of the Act**

**1.** Articles 27 to 28b of the Act will not be applicable:

a. during, immediately before and immediately after exercises;

b. to stand-by units.

**2.** Articles 27 to 28b of the Act will not be applicable to military vessels, military aircraft and manned weapon systems:

a. if warships are at sea and if military aircraft and manned weapon systems are in use as such;

b. in the cases meant in Article 1.30, first paragraph, under b, sub 3°.

**3.** Articles 27 to 28b of the Act will apply to the staff of the Royal Netherlands Marechaussee, unless this staff is actually carrying out the specific tasks that have been assigned to the Royal Netherlands Marechaussee pursuant to Article 4, first paragraph, of the Police Act 2012.

**4.** In addition to the third paragraph, Articles 27 to 28b of the Act will apply to the work performed by staff of the Royal Netherlands Marechaussee if assistance is rendered as referred to in Article 1.29, under b, insofar as such rendering of assistance is not hindered by the application of these articles.

**Article 1.34. Exception to Article 29 of the Act**

Article 29 of the Act does not apply to military personnel.

**Section 8. Young persons**

**Article 1.35. Definition**

In this Section, the Directive means: Directive No. 94/33/EEC of the Council of the European Union of 22 June 1994 concerning the protection of young persons at work (OJ EC L 216).

**Article 1.36. Detailed provisions for risk assessment and evaluation**

**1.** If one or more young employees are employed or are usually employed in a business or establishment, the risk assessment and evaluation as meant in Article 5 of the Act, should give special attention to:

a. the specific hazards of working conditions as a result of a lack of work experience, not being able to assess the hazards properly and the young employee not having sufficiently developed mentally or physically;

b. the equipment and organisation of the workplace;

c. the nature, extent and duration of the exposure to substances, agents and physical factors;

d. the choice and use of work equipment and personal protection devices;

e. the overall activities in the business or the establishment and their organisation, and

f. the training level of the young employees and the information to be provided to them.

**2.** In addition, the risk assessment and evaluation should give special attention to the non-exhaustive list of agents, processes and activities, included in the Annex of the Directive.

**Article 1.37. Expert supervision**

**1.** If young employees are carrying out activities in a business or establishment, this work should be adequately and expertly supervised. The content and extent of the supervision depends on the hazards shown in the risk assessment and evaluation as meant in Article 5 of the Act which might arise if expert supervision was lacking.

**2.** If it appears from the risk assessment and evaluation meant in Article 1.36 that young employees have to carry out work associated with specific hazards, particularly with respect to accidents at work which may occur as a result of a lack of work experience, from not being able to assess hazards and from the young employee having insufficiently developed mentally and physically, this work may only be carried out if the expert supervision has been organised in such a manner that those hazards are prevented. If this is not possible, this work should not be carried out by young employees.

**Article 1.38. Occupational health medical examination**

In addition to Article 18 of the Act, young employees are given the opportunity to submit to an occupational health medical examination as soon as it appears from the risk assessment and evaluation meant in Article 1.36 that young employees have to carry out work associated with specific hazards, particularly with respect to accidents at work which may occur as a result of a lack of work experience, from not being able to assess hazards properly and the young employee having insufficiently developed mentally or physically.

**Article 1.39. Exceptions of pupils and students in educational institutions**

This Section and division 4 of Section 5 of Chapter 3, division 2 of Section 10 of Chapter 4, division 3 of Section 6 of Chapter 6 and division 2 of Section 6 of Chapter 7, do not apply to pupils and students in educational institutions.

**Section 9. Pregnant and breast-feeding employees**

**Article 1.40. Definition**

In this Section, the Directive means: Directive No. 92/85/EEC of the Council of the European Communities of 19 October 1992 concerning measures to promote improvement of the health and safety of employees during pregnancy, after the delivery and during breast-feeding (OJ EC L 348).

**Article 1.41. Risk assessment and evaluation**

If a pregnant or breast-feeding employee is employed or usually employed in a business or establishment, special attention should be given in the risk assessment and evaluation, as meant in Article 5 of the Act, to the non-exhaustive list of agents, processes and working conditions included in Annex I of the Directive.

**Article 1.42. Organisation of the work**

**1.** Without prejudice to Article 4:5 of the Working Hours Act, the employer should organise the work of a pregnant or breast-feeding employee in such a manner, organise the workplace to such an extent, apply such a production and working method and should have such work equipment used that the work will not constitute any hazard to the health and safety of this employee and cannot cause any negative effect on the pregnancy or breast-feeding.

**2.** If compliance with the provisions set out in the first paragraph is not reasonably possible, a temporary adjustment of the work or temporary adjustment of the working and resting hours should prevent any danger to health and safety of the pregnant or breast-feeding employee from occurring and should avoid any negative affect on the pregnancy or breast-feeding.

**3.** If compliance with the provisions set out in the second paragraph is not reasonably possible, other work should be given temporarily to the pregnant or breast-feeding employee.

**4.** If compliance with the provisions set out in the third paragraph is not reasonably possible, the pregnant or breast-feeding employee should be temporarily released from carrying out work.

**Article 1.42a. Information**

The employer shall provide for effective information on the risks of the work during pregnancy and breast-feeding and the measures taken to avoid the risks. The information shall be provided within two weeks of a pregnant or breast-feeding employee notifying the employer that she is pregnant or working during the period in which she is breast-feeding.

**Section 10. Location-independent work**

**Article 1.43. Definitions**

**1.** In this Decree and the corresponding regulations, location-independent work is understood to mean:

a. work assigned by an employer as referred to in Article 1, first paragraph, under a, or second paragraph, under a, sub 1°, of the Act, to an employee as referred to in Article 1, first paragraph, under b, of the Act, or an employee as referred to in Article 1, second paragraph, under b, of the Act insofar as this employee carries out work for an employer as referred to in Article 1, second paragraph, under a, sub 1°, of the Act, in a home or at another location outside the business or establishment chosen by this employee that is not the employer’s place of business; or

b. work assigned by an employer as referred to in Article 1, second paragraph, under a, sub 2°, of the Act, in the context of the exercise of a profession or operation of a business pursuant to a contractor agreement or a contract for services, to an employee as referred to in Article 1, second paragraph, under b, of the Act, in a home, unless the other party independently exercises a profession or operates a business in which he frequently undertakes to carry out such work for third parties.

**2.** Location-independent work, as referred to in the first paragraph, does not include:

a. work carried out to the home or for the benefit of constructing, altering, repairing, ornamenting, finishing or making suitable for use or maintaining or making the home more suitable in another manner; or

b. work of a nursing, caring or domestic nature, offered to persons in connection with illness, recuperation, age, being handicapped, death, psycho-social or relational problems.

**Article 1.44. General applicability**

**1.** Location-independent work is only governed by this Decree and its corresponding provisions if this has been stipulated in this Chapter, such in accordance with the rules set out in this Chapter and in Chapter 9.

**2.** If the location-independent work involves an employee who is also a young employee, the provisions set out for the young employee do not apply.

**Article 1.45. Applicability of Chapter 2**

Sections 3 and 4 of Chapter 2 apply accordingly to location-independent work.

**Article 1.46. Applicability of Chapter 4**

**1.** The performance of location-independent work with dangerous substances is only allowed using:

a. substances that do not meet any criteria for one or more hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures;

b. substances that contain a special statement as included in Annex II, parts 1 and 2, to the regulation referred to under a, with the exception of the following special statements: EUH001, EUH006, EUH014, EUH018, EUH019, EUH029, EUH031, EUH032, EUH044, EUH070, EUH071, EUH202 or EUH207; and

c. substances that only meet the criteria for one or more of the following hazard statements as meant in the regulation referred to under a: H-phrases 223, 226, 227, 228, 302, 312, 315, 318, 319, 332, 335, 336, 400, 410, 411, 412, 413 or 420.

**2.** With respect to the substances referred to in the first paragraph, under c, with the exception of substances only meeting the criteria for one or more of the following H-phrases: 400, 410, 411, 412, 413 or 420, it should, within the context of the risk assessment and evaluation referred to in Article 5 of the Act, in any event be determined to which substances the employees are or could be exposed and what hazards are associated with these substances.

**3.** The packaging and fastenings of dangerous substances shall satisfy the following provisions:

a. the packaging shall be designed and constructed so that its contents cannot escape, except in cases where other more specific safety devices are prescribed;

b. the materials constituting the packaging and fastenings shall not be susceptible to damage by the contents, or liable to form hazardous compounds with the contents;

c. the packaging and fastenings shall be strong and solid throughout to ensure that they will not loosen and will safely meet the normal stresses and strains of handling; and

d. packaging fitted with replaceable fastening devices shall be designed so that it can be refastened repeatedly without the contents escaping.

The packaging and fastenings of dangerous substances are presumed to satisfy the aforementioned provisions if they meet the relevant requirements - set by or pursuant to the Carriage of Dangerous Goods Act or the Aviation Act - for transport of dangerous goods by air, sea, road, rail or inland waterways.

**4.** The packaging, referred to in the third paragraph, of a dangerous substance shall, in a striking and clearly legible manner, state:

a. the official name of the dangerous substance and the relevant dangerous components; and

b. hazard pictograms, signal words and hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures.

**5.** Suitable measures must be taken to prevent the employees from being exposed in the course of their work to substances to such an extent that their health might be impaired.

**6.** Skin contact is prevented or minimised by wearing effective personal protective equipment during potential exposure to a dangerous substance:

a. that meets criteria for one or more of the following hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures: H-phrases 312 or 315;

b. as referred to in Article 4.3, first or second paragraph, and stating that this dangerous substance can be absorbed through the skin; or

c. if this follows from the risk assessment and evaluation referred to in Article 5 of the Act.

**7.** Eye contact is prevented or minimised by wearing effective personal protective equipment during potential exposure to a dangerous substance:

a. that meets criteria for one or more of the following hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures: H-phrases: 318, 319, or the special statement: EUH070; or

b. if this follows from the risk assessment and evaluation referred to in Article 5 of the Act.

**8.** If work is performed involving substances that meet criteria for one or more of the following hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures: H-phrases 223, 226 or 228, the employee will have been provided with proper and efficient fire-extinguishing means.

**9.** If any substances are present which could cause a danger to the health or safety of the employee, such measures will have been taken that the danger of an unintended event arising with respect to these substances is prevented as much as possible.

**10.** If work is performed using substances as referred to in the ninth paragraph, such measures will have been taken that the danger of an unintended event arising during the performance of this work is prevented as much as possible.

**11.** Furthermore, such measures have been taken that if an unintended event arises as referred to in the ninth or tenth paragraph, the consequences of this event will be limited as much as possible.

**12.** In all events in which employees are or may be exposed to dangerous substances during their work, information and training must be provided in accordance with Article 8 of the Act. This must include in any event:

a. the outcome of the risk assessment and evaluation, as referred to in the second paragraph;

b. the measures that have been taken pursuant to the fifth paragraph; and

c. the measures that have been taken to prevent or limit unintended events in accordance with the eighth, ninth, tenth or eleventh paragraph.

**13.** With respect to the fourth paragraph, provisions may be laid down in a Ministerial Order.

**Article 1.47. Applicability of Chapter 5**

**1.** Sections 1 and 2 of Chapter 5 apply accordingly to location-independent work.

**2.** If the employee carries out location-independent work in his own home, the employer will provide him with a workplace as referred to in Articles 5.4 and 5.12, unless the employee already has such a workplace at his disposal.

**Article 1.48. Applicability of Chapter 6**

If the employee carries out location-independent work in his own home, the employer will provide him with facilities for artificial lighting as referred to in Article 6.3, second paragraph, unless the employee already has such facilities at his disposal.

**Article 1.49. Applicability of Chapter 7**

**1.** Sections 1, 2 and 3 of Chapter 7 apply accordingly to location-independent work.

**2.** The work equipment required for the work must be provided with effective protection if it constitutes any danger to persons.

**3.** The work equipment required for the work which has a control system must be placed as closely as possible to the person who operates the equipment, and must be designed in such a way that the work equipment can be turned off separately, safely and with certainty and it is not possible to turn the equipment back on unintentionally.

**4.** The required work equipment must be properly serviced and repaired, if necessary.

**5.** If the work requires work equipment with a control system that involves dangers of an electrical nature, effective safety measures must be taken whose operation must be as independent as possible from the person who operates the work equipment.

**6.** If it is necessary to connect electrical equipment or lay pipes or cables in the employee’s home for the carrying out of the location-independent work, this must be done in a way that guarantees the safe use of this equipment by the employee.

**Article 1.50. Applicability of Chapter 8**

Section 1 of Chapter 8 applies accordingly to location-independent work.

**Article 1.51. Availability of data**

In the event of location-independent work carried out by the employee, the employer must have data available on the employee in question, including his name, address and domicile as well as the activities being carried out by him and of the substances, aids and tools being used in this respect.

**Article 1.52. Stock**

In the event of location-independent work, it is not allowed to give the employee as stock or have him keep in storage, a larger quantity of raw materials, semi-finished products and ready-made products other than what is required for the work.

**Article 1.53. Notification of accidents at work**

If, when carrying out location-independent work, an employee has an occupational accident as meant in Article 9, paragraph one, of the Act, he should notify the employer of this immediately.

**Chapter 2. Health and safety management and organisation of the work**

**Section 1. Electronic notification**

**Article 2.1. Reporting data**

**1.** If an employer or client must make a notification to the supervisor pursuant to the provisions set by or pursuant to the Act, he must do so electronically. If the network is disrupted to the extent that the employer or client cannot provide the data to the supervisor within the set term, the notification must be made in another suitable manner.

**2.** Contrary to the first paragraph, an employer must notify the supervisor by telephone in the event of occupational accidents that have resulted in the death of the employee.

**Section 1a. Notification of occupational diseases**

**Article 2.1a. Data on occupational diseases**

Provisions will be laid down in a Ministerial Order with regard to data provided when an occupational disease is notified as meant in Article 9, paragraph three, of the Act.

**Section 2. Supplementary provisions for risk assessment and evaluation to prevent and restrict major accidents with dangerous substances**

**Article 2.2. Definitions**

In this Section, the following terms mean the following:

a. dangerous substance: a flammable, highly toxic, toxic or explosive substance;

b. flammable substance: a substance having a process temperature which is equal or higher than the flashpoint, determined by means of the Abel - Pensky device for flashpoints up to and including 65° C or determined by means of the Pensky - Martens device for flashpoints above 65° C;

c. highly toxic substance:

1°. a substance possessing acutely poisonous characteristics and thereby being able to create a health hazard on a single exposure for a relatively short period, whether or not with a delayed effect and which is characterised by the fact

– that the lethal concentration of 50 when a rat is exposed for four hours, is less than or equal to 20 milligrams per cubic metre, or

– that the lethal dose of 50 when administered orally to a rat, is less than or equal to 1 milligram per kilogram, or

– that the lethal dose of 50 when administered percutaneously to a rat, is less than or equal to 2 milligram per kilogram;

2°. the following substances carcinogenic for humans with a high potency: 2-acetyl aminoflurene, 4-aminodiphenyl, benzidine, bi-chloride methyl ether, dialkyl nitrosamine, 4-dimethyl amino azobenzene, methyl nitroso urea, 2-naphthylamine, 4-nitrodiphenyl and 3-nitro naphthylamine;

d. toxic substance: a substance not being a highly toxic substance containing acute poisonous characteristics and therefore being able to create a health hazard after a single exposure for a relatively short time whether or not with a delayed effect and which has the characteristic that the lethal concentration of 50 when a rat is exposed for one hour, is less than or equal to 20,000 milligrams per cubic metre;

e. explosive substance: a substance which pursuant to the Environmental Management Act complies with the criteria for classification into the «explosive» category, as referred to in Article 9.2.3.1, second paragraph, under a, of that Act;

f. installation: a processing installation or a storage installation;

g. processing installation: the system of barrels, devices and piping which can form or forms a whole with respect to the substance contained therein and serves for the manufacture, processing, loading or destruction of this substance;

h. storage installation: the tanks, silos, bunkers and packaging units serving as storage on the understanding that these units are situated outside the spatial borders of a processing installation and whereby as to tanks, silos and bunkers, each unit should be regarded as an autonomous storage installation. The term storage installation also includes tanks intended for transport and packaging intended for the transport of dangerous substances;

i. process temperature: the maximum temperature which can be reached in storage or processing under normal operating conditions;

j. encasement: a construction encasing a processing or storage installation impeding or preventing the natural ventilation of the encased installation and in which employees regularly carry out work;

k. limit value: the quantity of a substance expressed in kilograms which, when suddenly released, may still threaten the life or health of an employee situated at about 100 metres distance from the point of emission;

l. major accident: an event resulting from uncontrolled developments in the course of the operation in a business or establishment causing either immediately or over the course of time serious danger to the health of employees and involving one or more dangerous substances;

m. scenario: the series of events and circumstances which are required for or lead to a release of dangerous substances as well as a series of events representing the effect of the release in this manner of dangerous substances.

**Article 2.2a. Applicability**

[Repealed on 25-02-2004]

**Article 2.2b. Work safety reports**

[Repealed on 25-02-2004]

**Article 2.2c. Provision and exchange of information**

[Repealed on 25-02-2004]

**Article 2.2d. Operating prohibition**

[Repealed on 25-02-2004]

**Article 2.2e. Compliance and consultation requirement**

[Repealed on 25-02-2004]

**Article 2.2f. Further rules**

[Repealed on 25-02-2004]

**Article 2.3. Applicability**

**1.** This Section is, with due observance of the third and fourth paragraph and Articles 2.3a and 2.3b, applicable to businesses and establishments where one or more installations are present in which a quantity of dangerous substances expressed in kilograms is present, regardless of the intended handling of these substances, or a quantity of such substances expressed in kilograms can be generated as a result of loss of control of an industrial chemical process, which, multiplied by the applicable circumstantial factor or factors as meant in Article 2.5, is equal to or exceeds the limit value as meant in Article 2.4.

**2.** If the first paragraph applies, this Section will apply accordingly to workplaces situated close to the business or establishment for which the employer is responsible.

**3.** With regard to an installation as meant in the first paragraph in which a substance or a group of substances with an identical limit value under various circumstances is located, any partial quantity of the substance or group of substances under the same circumstances will be multiplied by the applicable circumstantial factors. This Section is applicable if the sum total of the partial quantities whether or not corrected is equal to or exceeds the limit value of the respective substance or group of substances.

**4.** With respect to an installation, as meant in the first paragraph, containing substances with various limit values, each quantity of a substance or group of substances with an identical limit value will be multiplied by the applicable circumstantial factors. This Section is applicable if with regard to one of the categories of substances mentioned in Article 2.4, first paragraph, under a or b, or Article 2.4, second paragraph, the sum total of the quotients of the respective quantities, whether or not corrected, and the limit values of the substances belonging to that category and present in the installation, is equal to or greater than 1.

**5.** The multiplication by a circumstantial factor or factors as meant in this Article will not be applied to explosive substances.

**Article 2.3a. Applicability to transport-specific establishments**

**1.** In this Article the term storage in connection with the transport of dangerous substances means: storage of packaged dangerous substances as meant in Article 2.2, under a, for short periods while awaiting onward transport to a predetermined recipient, including loading and unloading of the said substances and their transport to or from another means of transport, in so far as connecting transport has actually been arranged and the respective dangerous substances remain in their original packaging.

**2.** With regard to an establishment which belongs to a category designated pursuant to Article 1.1, paragraph three, of the Environmental Management Act and is intended for storage in connection with the transport of dangerous substances, whether or not in combination with other substances and products in which dangerous substances are permitted to be present pursuant to a license under Article 2.1, first paragraph, first sentence and under e, of the General Provisions of Environmental Law Act, for the purposes of this Section, the calculation of the quantity of dangerous substances as meant in Article 2.3 can be omitted.

**Article 2.3b. Exceptions scope of application**

**1.** This Section is:

a. with the exception of Article 2.5f, not applicable to lower-tier establishments as referred to in Article 1, first paragraph, of the Major Accidents (Risks) Decree 2015;

b. not applicable to businesses and establishments to which the Environmental Storage and Transport Companies Decree is applicable;

c. not applicable to work carried out in the underground mining industry and the mineral extracting industry through drilling.

**2.** Articles 2.5a, first and second paragraph, and 2.5d, first paragraph, under a, are not applicable to upper-tier establishments as referred to in Article 1, first paragraph, of the Major Accidents (Risks) Decree 2015.

**Article 2.4. Limit values**

**1.** The limit value meant in Article 2.3, first paragraph, amounts to:

a. for flammable substances: 10,000 kilograms;

b. for highly toxic substances: 1 kilogram;

c. for explosive substances: the quantity the explosive energy of which is equivalent to the explosive energy of 1,000 kilograms of trinitrotoluene, the explosive energy of which is set at 4,600 kilojoules per kilogram.

**2.** With respect to toxic substances, the limit values as meant in Article 2.3, first paragraph, are derived on the basis of the toxicological information and physical circumstances at 25° C of the limit value of chlorine, setting the limit value of chlorine at 300 kilograms. This derivation is based on a lethal concentration of 50 when exposing a rat to the substance for one hour.

**Article 2.5. Circumstantial factors**

The circumstantial factors meant in Article 2.3, first paragraph, are:

a. for a substance situated in a processing installation: 1;

b. for a substance situated in a storage installation: 0.01;

c. for an installation placed in the open air: 1;

d. for an installation placed in an encasement: 10;

e. for a substance in a liquid phase the process temperature of which is equal to the atmospheric boiling point of this substance: 1; for each 10° C that this process temperature is above the atmospheric boiling point this factor will be increased by 1 up to a maximum of 10, rounded off to a whole number and for each 10° C that the process temperature is under the atmospheric boiling point this factor will be reduced by 0.1 up to a minimum of 0.1, rounded off to one decimal point;

f. for a substance in a liquid phase the process temperature of which is lower than the ambient temperature, being 25° C: 1; for each 50 °C that the atmospheric boiling point of the respective substance is below 25 °C this factor will be increased by 1 up to a maximum of 4, rounded off to whole numbers;

g. for process circumstances where factors mentioned under e and also under f apply, a multiplication factor applies which is equal to the sum total of the multiplication factors e and f, less 1 and with a maximum of 10;

h. for a substance in a gaseous phase: 10;

i. for a substance in a solid phase: 0.1.

**Article 2.5a. Detailed provisions for policy design with regard to major accidents**

**1.** The general objectives and principles of the policy with regard to the control of major accident risks as meant in Article 6, first paragraph, of the Act must be laid down in writing.

**2.** In order to determine and execute the policy, meant in the first paragraph, a safety management system will be implemented which is also based on the risk assessment and evaluation meant in Article 2.5b.

**3.** Further provisions with respect to the safety management system meant in the second paragraph will be laid down in a Ministerial Order.

**Article 2.5b. Additional provisions for risk assessment and evaluation**

**1.** In the risk assessment and evaluation meant in Article 5, first paragraph, of the Act:

a. the risks of accidents with dangerous substances will be systematically identified and evaluated on the basis of procedures determined to this end by the employer, both during the normal operations as well as the abnormal operations of the installation or the industrial, chemical process. In this respect the presence of other substances are taken into account that in a specific situation can contribute to the risk of a major accident;

b. the scenarios for possible major accidents will be described. In choosing the scenarios, external hazards for the installation are taken into account. The chance of a major accident occurring and the effect of a major accident having taken place will be quantified as much as possible in the scenarios.

**2.** On the basis of the risk assessment and evaluation meant in paragraph one, under a:

a. in order to avoid a major accident, all technical and organisational measures will be taken which are required to guarantee the safe operation of the installations both under normal operations as well as during temporary interruptions or maintenance, or in connection with a change to the existing installations or the construction of new installations. The first sentence applies accordingly with regard to all storage facilities, equipment and infrastructure in connection with the risks of a major accident in the business or the establishment.

b. all technical and organisational measures will be taken to restrict the consequences of a major accident as much as possible.

**3.** A description of the measures meant in the second paragraph will be included in the descriptions of the scenarios meant in the first paragraph under b.

**4.** The description of the scenarios, meant in the first paragraph under b, and the description of the measures taken, meant in the third paragraph, demonstrate that the risks with regard to major accidents are under control in an adequate manner.

**5.** In a Ministerial Order detailed provisions will be laid down with regard to the procedures, meant in the first paragraph, under a, and the description of scenarios, meant in the first paragraph under b.

**Article 2.5c. Internal emergency plan**

**1.** In order to plan for emergencies an internal emergency plan will be formulated which is based on the risk assessment and evaluation meant in Article 2.5b, first paragraph, and the measures taken on the basis of this, meant in Article 2.5b, second paragraph.

**2.** When the internal emergency plan is formulated or changed, consultations will be held with the interested employees should there be no works council or staff representation body. Consultations about the internal emergency plan and changes to it will also be held with the employees of other employers who on the basis of a long-term building contract are also working in the business or establishment.

**3.** The internal emergency plan will be tested, evaluated and if necessary amended at least once every three years.

**4.** The employer will ensure that the employees, the company emergency response staff meant in Article 15, first paragraph, of the Act and the external emergency services, meant in Article 3, first paragraph, under e, of the Act, the experts, mentioned in Article 13 of the Act, the experts or health and safety services, mentioned in Articles 14 and 14a of the Act, and the employees of other employers who are also working in the business or establishment, can inspect the internal emergency plan when requested.

**5.** Detailed provisions will be laid down in a Ministerial Order with regard to the data included in the emergency plan.

**Article 2.5d. Changes and periodic evaluation**

**1.** If a change of a technical or organisational nature is made in the business or the establishment or a part thereof or in the work methods and production methods applied, which might have significant consequences for the risks of a major accident or when a change in safety ideas gives rise to this, the following will be ensured:

a. the policy meant in Article 2.5a, first paragraph, and the safety management system, meant in Article 2.5a, second paragraph, will be re-assessed and if necessary revised;

b. the risk assessment and evaluation, meant in Article 2.5b, first paragraph, under a, and the description of scenarios, meant in Article 2.5b, first paragraph, under b, will be re-assessed and if necessary revised;

c. the measures taken, meant in Article 2.5b, second paragraph, and the internal emergency plan, meant in Article 2.5c, are adjusted accordingly to the changed situation.

**2.** Notwithstanding the first paragraph, the risk assessment and evaluation, meant in Article 2.5b, first paragraph, under a, will be made once every five years.

**Article 2.5e. Expert assistance**

**1.** In addition to Article 14, paragraph one, of the Act, the employer must be assisted with regard to the following duties by the person, meant in Article 14, paragraph one, of the Act who is entrusted with the duties as meant in Article 14, paragraph one, under a, of the Act and who has been engaged by the employer or the employer’s health and safety service in:

a. determining the policy as meant in Article 2.5a, paragraph one;

b. formulating a safety management system as meant in Article 2.5a, second paragraph;

c. carrying out and formulating an additional risk assessment and evaluation as meant in Article 2.5b, first paragraph, under a, including also testing them;

d. formulating the descriptions, meant in Article 2.5b, first paragraph, under b, and third paragraph;

e. formulating an internal emergency plan as meant in Article 2.5c, including also testing this;

f. implementing the amendments, meant in Article 2.5d, including also, insofar as this is applicable, testing them.

**2.** The term assistance with these duties, meant in the first paragraph, also includes advising on the execution of these duties.

**Article 2.5f. Neighbouring businesses or establishments**

If a major accident can have consequences for the safety of employees in neighbouring businesses or establishments, the employer will of his own accord provide the respective businesses or establishments with general information which is necessary to assess the risk for the safety of the employees in the neighbouring business or establishment.

**Article 2.5g. Notification and passing information on**

**1.** The following should be notified by the employer to the designated supervisor:

a. the name and the address of the employer and, if different, the name and address of the business or establishment to which Article 2.3 applies;

b. which installations are covered by the obligation as meant in Article 2.3, first paragraph;

c. the name and address of the expert meant in Article 14, paragraph one, of the Act or the health and safety service assisting with the duties meant in Article 2.5e, first paragraph.

**2.** If a change of a technical or organisational nature is made in a business or establishment or a part thereof or to the operation of the business or establishment or a part thereof which could have significant consequences for the risks of a major accident with dangerous substances, a new notification will take place as meant in the first paragraph.

**3.** The supervisor, meant in the first paragraph will immediately send a copy of the notice to:

a. the administrative authority which has the power to grant a license pursuant to Article 2.1, first paragraph, first sentence and under e, of the General Provisions of Environmental Law Act;

b. the municipal executive of the municipality in which the business or establishment is fully or partly situated, unless the municipal executive is the administrative authority as meant under a;

c. the executive board of the safety region in which the business or establishment is situated.

**Article 2.5h. Operating prohibition**

The business, establishment or a part thereof to which this Section applies or is designated pursuant to Article 6, paragraph two, of the Act will not be commissioned or will not continue to operate and the change, meant in Article 2.5d, first paragraph, opening sentence, will not be implemented before the obligations meant in Articles 2.5a, 2.5b, 2.5c, 2.5d and 2.5g have been complied with.

**Article 2.6. Obligations of self-employed persons**

[Repealed on 01-01-2007]

**Section 3. Health and safety services and experts**

**§ 1. Definitions**

**Article 2.6a. Definitions**

**1.** In this Section and the provisions based on it, the following words have the following meaning:

a. internal expert: an expert as meant in Article 14, first paragraph, opening sentence, of the Act and who is working in the business or establishment under an employment contract or appointment under public law;

b. external expert: an expert as meant in Article 14, first paragraph, opening sentence, of the Act and who does not work in the business or establishment in a manner as meant under a;

c. internal health and safety service: a service as meant in Article 14a, paragraph two, of the Act;

d. external health and safety service: a service as meant in Article 14a, paragraph three, of the Act.

**2.** The term internal health and safety service also means a collaboration between at least an internal expert and external experts performing jointly the duties meant in Article 14, first paragraph, of the Act.

**§ 2. Health and safety services and experts**

**Article 2.7. Expertise requirements**

**1.** Experts in a health and safety service should be working in occupational and industrial medicine, labour hygiene, safety studies and labour and organisational science.

**2.** An expert should have sufficient expertise and experience in the field indicated in the first paragraph, with the exception of occupational and industrial medicine, if he is in the possession of a certificate of competence in labour hygiene, safety studies or labour and organisational science issued by Our Minister or by a certifying institution.

**Article 2.8. EC certificate of expertise**

[Repealed on 01-01-2009]

**Article 2.9. Requirements as to functioning**

**1.** A health and safety service shall:

a. perform its duties with due observance of the latest technological and scientific insights and professional service;

b. give advice on the implementation of structured, systematic and adequate working conditions and absenteeism policy in such a manner as to contribute as much as possible to this being effected, in particular taking into account special groups of employees and also events which have occurred in the business or the establishment;

c. be aware of and assess the hazards of the technology in use and of the organisation and human behaviour, as well as taking account of events which have occurred in the business or in the establishment;

d. evaluate the service;

e. take care of the continuity of the service, and

f. deal with complaints about the service.

**2.** Detailed provisions concerning the functioning of the health and safety service can be laid down by a Ministerial Order.

**Article 2.10. Organisational requirements of the health and safety service**

**1.** An external health and safety service should be incorporated.

**2.** Except for the collaboration as meant in Article 2.6a, second paragraph, at least one expert should be working in the fields mentioned in Article 2.7, first paragraph, under an employment contract or an appointment under public law for an indefinite period of time.

**Article 2.11. Equipment requirements**

A health and safety service should have accommodation and equipment at their disposal such that protection of the privacy of the employees of the affiliated businesses is guaranteed.

**Article 2.12. Data provision**

**1.** When requested to do so, the external health and safety service or the employer of the internal health and safety service should supply Our Minister with statistical data concerning the performance of its duties.

**2.** Provisions may be laid down by Ministerial Order concerning the nature of the data meant in the first paragraph and the form in which and the frequency with which these data are submitted.

**Article 2.13. Collaboration**

**1.** The collaboration, meant in Article 2.6a, second paragraph, must be laid down in a written agreement between the employer and the external experts or the employer of these experts. This agreement should in any event include the division of tasks between the internal expert and the external experts.

**2.** The collaboration will be entered into for a period which is in any event as long as the period of validity of the health and safety service certificate meant in Article 2.14, second paragraph, which is granted for this collaboration.

**Article 2.14. Health and safety service certificate**

**1.** An external health and safety service should be in the possession of a health and safety service certificate issued either by Our Minister or a certifying institution.

**2.** The employer of an internal health and safety service should be in the possession of a health and safety service certificate for its internal health and safety service issued by Our Minister or a certifying institution.

**3.** In the event of a health and safety service certificate issued to an external health and safety service being withdrawn, not being extended or conditions being attached to its extension, the service should immediately notify the employer for whose benefit the duties are being performed, and the works council or the staff representation body. Should there be no works council or staff representation body, the employer should make sure that interested employees are informed of this notice as soon as possible.

**4.** In the event of a health and safety service certificate issued to an internal health and safety service being withdrawn, not being extended or conditions being attached to its extension, the employer should immediately notify the works council or staff representation body or, should these be lacking, the interested employees and also if there is collaboration, the respective external experts.

**Article 2.14a. Experts’ tasks**

**1.** With regard to the task meant in Article 14, paragraph one, under a, of the Act, assistance will be given by an expert who is at least in the possession of one of the certificates meant in Article 2.7, second paragraph, or a company doctor as meant in Article 14, paragraph one, opening sentence, of the Act.

**2.** With regard to the tasks meant in Article 14, paragraph one, under b and c, of the Act, assistance will be given by a company doctor as meant in Article 14, paragraph one, opening sentence, of the Act.

**3.** With regard to the experts and company doctors, Articles 2.9, 2.11 and 2.12 apply accordingly.

**§ 3. Exceptions**

**Article 2.14b. Exception to assistance for risk assessment and evaluation**

**1.** In applying Article 14, paragraph twelve, of the Act, the duration of the work carried out by a director and major shareholder or the person of a director and major shareholder as meant in the Director and Major Shareholders (Designation) Regulations is not taken into account.

**2.** The model meant in Article 14, twelfth paragraph, under b, sub 1°, of the Act must be reviewed by at least one expert who is in the possession of a certificate as meant in Article 2.7, second paragraph, or by a company doctor as meant in Article 14, first paragraph, opening sentence, of the Act.

**3.** The instrument referred to in Article 14, twelfth paragraph, under b, sub 2°, of the Act:

a. is drawn up with the involvement of employers’ and employees’ associations, at least at the sectoral level;

b. is reviewed by at least one expert who is in the possession of a certificate as meant in Article 2.7, second paragraph, or by a company doctor as meant in Article 14, first paragraph, opening sentence, of the Act;

c. is reported jointly by the employers’ and employees’ associations concerned; and

d. is valid for at least three years following reporting.

**4.** When using the model or instrument the employer has to take into account the specific circumstances in the business or the establishment.

**Article 2.14c. Exception to assistance for absenteeism due to illness**

The obligation to engage an expert or a health and safety service in connection with the task meant in Article 14, paragraph one, under b, of the Act is not applicable to an employer who exclusively:

a. allows persons to carry out work under his authority without an employment contract or appointment under public law;

b. allows persons to carry out work on call towards whom he has - after the call for work has been completed - no obligation to continue to pay wages during sickness pursuant to Article 629 of Book 7 of the Civil Code.

**Section 4. Psycho-social workload**

**Article 2.15. Measures to prevent or restrict the psycho-social workload**

**1.** If employees are or can be exposed to a psycho-social workload, the risks with regard to the psycho-social workload must be assessed in connection with the risk assessment and evaluation meant in Article 5 of the Act, and, with due observance of the latest technological and scientific insights, measures be determined and implemented in the plan of action meant in Article 5 of the Act in order to prevent the psycho-social workload or – if this is not possible – to restrict this.

**2.** Where there is a danger of being exposed to psycho-social workload, information and instructions should be given to employees who carry out such work about the risks of psycho-social workload as well as about the measures aimed at preventing or restricting this load.

**Article 2.16. Definitions**

[Repealed on 01-01-2007]

**Article 2.17. Decisive factors for company emergency response**

[Repealed on 01-01-2007]

**Article 2.18. Operationality, accessibility, availability and presence**

[Repealed on 01-01-2007]

**Article 2.19. Number of company emergency response staff**

[Repealed on 01-01-2007]

**Article 2.20. Safety instructions**

[Repealed on 01-01-2007]

**Article 2.21. Expertise requirements**

[Repealed on 01-01-2007]

**Article 2.22. Exercise**

[Repealed on 01-01-2007]

**Section 5. Construction process**

**Article 2.23. Definitions**

In this Section, the following terms mean the following:

a. Directive: Directive No. 92/57/EEC of the Council of the European Communities of 24 June 1992 concerning the minimum health and safety requirements for temporary and mobile construction sites (OJ EC L 245);

b. design stage: the study, design and implementation stage of the construction design;

c. implementation stage: the phase in which the structure is actually brought about.

**Article 2.24. Designation**

For the purposes of Article 16, paragraph eight, of the Act, the client, the designing party and the implementing party should be designated.

**Article 2.25. Applicability**

This Section does not apply to work carried out in opencast mining, underground mining or mining by drilling as meant in Sections 6 and 6a of Chapter 2 of this Decree.

**Article 2.26. General health and safety principles in the design of a structure**

The client will ensure that in the design stage the obligations for the working conditions which are applicable in the implementation stage are taken into account, in particular the obligations meant in Articles 3, 5, first and third paragraph, and 8 of the Act.

**Article 2.27. Notification**

**1.** The client, as referred to in Article 1.1, second paragraph, under c, sub 1°, must notify the supervisor of the intention to create a structure before the commencement of the activities on the construction site, if:

a. the estimated duration of the creation of the structure covers more than 30 working days and more than 20 employees will carry out activities simultaneously on this construction site; or

b. more than 500 man working days will be involved in the creation of the structure.

**2.** A copy of the notification should be posted visibly on the construction site. If there is any change with respect to the information stated in the notification, the notification should be amended accordingly.

**Article 2.28. Health and safety plan**

**1.** The client must ensure that a health and safety plan is drawn up with regard to structures involving special dangers to the health and safety of employees as meant in Annex II to the Directive or a structure with regard to which a notification is required.

**2.** Depending on the progress of the construction process, the health and safety plan should at least include:

a. a description of the structure to be created, a summary of the businesses involved on the construction site, the name of the coordinator for the design and implementation stage;

b. an assessment and evaluation of the specific dangers resulting from simultaneous and subsequent implementation of the construction work and, should the occasion arise, from the interaction with continuing operating activities;

c. the measures resulting from the risk assessment and evaluation meant under b;

d. the arrangements with regard to the implementation of the measures meant under c;

e. the manner in which the measures are supervised;

f. the constructional, technical and organisational choices made in the design stage in connection with the health and safety of the employees;

g. the manner in which information and instructions are given to the employees on the construction site.

**Article 2.29. Appointment of coordinators**

If activities are carried out in the implementation stage by:

a. two or more employers;

b. one employer and one or more self-employed persons or

c. two or more self-employed persons,

the client will appoint one or more coordinators for the design stage and the implementing party will appoint one or more coordinators for the implementation stage.

**Article 2.30. Tasks of the coordinator for the design stage**

The coordinator of the design stage has a duty to:

a. co-ordinate the implementation of Article 2.26;

b. draw up or have drawn up a health and safety plan as meant in Article 2.28;

c. compose a file intended for the person who takes the decisions about the implementation of subsequent activities with regard to the structure. This file will include the constructional and technical characteristics which are relevant to the health and safety of employees carrying out subsequent activities.

**Article 2.31. Tasks of the coordinator for the implementation stage**

The coordinator of the implementation stage has a duty to:

a. act in an organised manner so that the measures taken by employers and self-employed persons to protect the health and safety of employees are applied in an effective manner;

b. organise the collaboration between employers and self-employed persons who are simultaneously or successively present on the construction site with a view to the protection of the employees;

c. coordinate the information for the employees on the construction site;

d. take the necessary measures to prevent unauthorised persons from entering the construction site;

e. make sure that the health and safety plan meant in Article 2.28 and the file meant in Article 2.30 under c, are adjusted should the progress of the structure or parts thereof give rise to it;

f. give instructions if in his opinion employers or self-employed persons do not or do not to a sufficient extent or inaccurately implement a coherent application of their obligations as meant under a and b.

**Article 2.32. Additional obligations of the client**

**1.** The client should take measures such that:

a. the coordinator can properly carry out the tasks meant in Article 2.30;

b. the coordinator properly carries out the tasks meant in Article 2.30;

c. the health and safety plan meant in Article 2.28 forms part of the specifications with regard to the structure and is available on the construction site before the commencement of the activities.

**2.** The client should ensure that the obligations for the implementing party meant in Articles 2.29 and 2.33 are laid down in a written agreement with the implementing party.

**Article 2.33. Additional obligations for the implementing party**

The implementing party should take measures such that:

a. the coordinator can properly fulfil the tasks meant in Article 2.31;

b. the coordinator properly carries out the tasks meant in Article 2.31.

**Article 2.34. Obligations of the designing party**

If there is a client-consumer, the designing party or, if there are several designing parties, the designing parties will ensure that all obligations of the client are met.

**Article 2.35. Obligations of the employer**

**1.** In the performance of his obligations pursuant to Articles 3, 5, 8 and 19, first paragraph, of the Act, the employer who has work carried out in the construction of a structure will take effective measures to protect the health and safety of his employees. These measures will especially relate to:

a. maintaining the construction site in good order and with adequate protection of the health and safety of the employees;

b. the safe placement of the various workplaces on the construction site, taking account of the possibilities of access to this construction site and the connecting roads thereon;

c. the internal transport of the various materials on the construction site;

d. the maintenance, the inspection before commissioning and the regular inspection of installations and equipment, in order to prevent any defects that could jeopardise the health and safety of employees;

e. the demarcation and design of zones for final and temporary storage of various materials, especially in case of dangerous materials or substances;

f. the facilities for the removal of used dangerous materials;

g. the storage and removal or disposal of waste and rubble;

h. the adjustment of the actual duration of the work to be performed or the phases in which this work is performed, depending on the progress of the structure;

i. the cooperation with other employers and self-employed persons on the construction site;

j. the interaction with operating activities on or near the construction site.

**2.** The measures to be taken pursuant to the first paragraph shall in any case comply with Sections 1 and 2 of Chapter 3 of this Decree.

**3.** The employer is obliged to comply with and cooperate in the health and safety plan referred to in Article 2.28, to the extent and in the manner provided for in this plan with respect to the work to be performed by him and taking into account the instructions of the coordinator for the implementation stage.

**Article 2.36. Obligations of the designing party**

[Repealed on 01-01-2007]

**Article 2.37. Obligations of the implementing party**

[Repealed on 01-01-2007]

**Article 2.38. Obligations of the employer**

[Repealed on 01-01-2007]

**Article 2.39. Obligations of self-employed persons**

[Repealed on 01-01-2007]

**Section 6. Opencast mining industry, underground mining industry or extracting industry by drilling**

**Article 2.40. Applicability**

**1.** This Section applies to work carried out in the opencast mining industry, underground mining industry or extracting industry by drilling.

**2.** In derogation of the first paragraph, this Section does not apply to work carried out in the opencast mining industry by dredging.

**Article 2.41. Obligations of the employer**

**1.** If manned workplaces are being used in the extracting industry, a responsible person should carry out supervision.

**2.** Activities to which special hazards are attached are exclusively entrusted to expert personnel with sufficient experience and are to be carried out in accordance with the instructions provided.

**3.** In connection with the safe use of a helicopter landing platform on a mining installation, employees are to be designated who are entrusted with the supervision of this use of the helicopter landing platform and who have the necessary skill and expertise to do so.

**4.** With respect to workplaces in the extracting industry the necessary safety exercises should be held at regular intervals.

**5.** Supplementary to Article 15 of the Act, the necessary alarm or other communication systems should be made available so that in emergencies immediate assistance, escape, evacuation and rescue can take place.

**6.** If in a workplace in the extracting industry only one employee is present, he should have telecommunication means at his disposal in order to contact others.

**Article 2.42. Cooperation, health and safety document**

**1.** For the purposes of Article 19, paragraph two, of the Act the activities are designated which are carried out in the opencast industry, the underground mining industry and the mineral-extracting industry by drilling.

**2.** Before the commencement of the work a health and safety document should be drawn up at least stating:

a. the risk assessment and evaluation of the hazards meant in Article 5 of the Act;

b. the measures meant in Article 5 of the Act with special attention to the measures taken or to be taken in order to comply with the provisions of this Section and Sections 1, with the exception of division 2a of that Section, 3, 3A, 3B and 3C of Chapter 3 of this Decree;

c. the measures taken to prevent a repeat of accidents with serious injuries, fatal accidents or situations as meant in Article 2.42c, first paragraph, under b;

d. the manner in which Article 19, paragraph two, of the Act has been complied with if, in the workplace in the extracting industry, more than one employer has work carried out;

e. the information which shows that the design, use and maintenance of the workplace in the extracting industry and also the work equipment are safe;

f. the measures to restrict and fight fires.

**3.** In addition to the second paragraph under d, the employer responsible for the workplace in the extracting industry should coordinate the implementation of all health and safety measures and he should indicate in the health and safety document the aims, the measures and the manner in which this implementation is coordinated.

**4.** The health and safety document should be reviewed when there is any relevant change, expansion or conversion of the workplace in the extracting industry.

**5.** When the health and safety document is drawn up or changed, consultations should be held with the interested employees should there be no works council or staff representation body.

**6.** The employer should ensure that the following can inspect the health and safety document on request:

a. the employees and self-employed persons working in the business;

b. the company emergency response staff, as referred to in Article 15, first paragraph, of the Act;

c. the external emergency response organisations, as referred to in Article 3, first paragraph, under e, of the Act;

d. the experts, as referred to in Article 13, second paragraph, of the Act; and

e. the experts and health and safety services, as referred to in Articles 14, first paragraph, and 14a, second paragraph, of the Act.

**7.** A copy of the health and safety document should be sent to the supervisor and the works council or staff representation body or, in the absence thereof, to the interested employees.

**8.** The activities should be carried out in accordance with the health and safety document.

**Article 2.42a. Work permit**

**1.** When required for the health and safety of the employees, a system of work permits will be applied for the implementation of hazardous activities and for the implementation of normally non-hazardous activities which in combination with other activities may involve serious risks.

**2.** The work permit will be issued by a responsible person before the commencement of the activities and it will indicate which instructions have to be complied with and what precautions must be taken before, during and after the activities.

**Article 2.42b. Register of persons**

A register will be present at suitable locations mentioning the persons carrying out activities in the opencast mining industry, underground mining industry and the mineral-extracting industry through drilling:

a. name, first names and gender;

b. nature, number and a copy of a document as referred to in Article 1 of the Compulsory Identification Act;

c. information and data with regard to becoming employed and employment;

d. the various functions in which they are employed and the dates on which they were employed as such;

e. dates and nature of medical examinations and medical certificates insofar as they are required under this Decree;

f. information of the certificates insofar as they are required for the performance of the activities under this Decree and the Mining Decree.

**Article 2.42c. Notification of accidents and near-accidents**

**1.** In addition to Article 9, paragraph one, of the Act, the employer must also immediately notify the supervisor designated to this end:

a. about all major and unusual events occurring in traffic or transport which have or might have jeopardised safety;

b. when safety is threatened in any way or persons are or were in danger of their lives;

c. about all incidents which occurred during the use, transport or storage of explosive substances which jeopardised or could have jeopardised safety.

**2.** Once every month, all accidents and other events which jeopardised or could have jeopardised safety should be reported to the supervisor designated to this end insofar as no reporting took place as meant in the first paragraph.

**Section 6A. Extracting industries through drilling**

**Article 2.42d. Linking provision**

Apart from the provisions of Section 6 of this Chapter, the provisions of this Section also apply to a workplace in the mineral-extracting industry through drilling.

**Article 2.42e. Health and safety protection system**

**1.** For the implementation of the best possible working conditions policy meant in Article 3 of the Act, a health and safety protection system should be present. This system comprises the whole of policy, organisation, planning, implementation, monitoring, evaluation, review and improvement which is used to control health and safety. The working conditions policy meant in the first sentence should be laid down in the health and safety document meant in Article 2.42, second paragraph.

**2.** With respect to the first paragraph detailed provisions can be laid down in a Ministerial Order.

**Article 2.42f. Health and safety document**

**1.** Notwithstanding Article 2.42 the health and safety document should demonstrate that all the necessary measures have been taken to protect the health and safety of employees both in their normal situations as well as in emergencies. To this end the document includes the following:

a. a list of the specific risk sources related to the workplace, including all activities performed at that place which could cause accidents with serious consequences for the health and safety of the employees involved;

b. an evaluation of the risks of the specific sources meant under a;

c. the proof that sufficient precautionary measures have been taken in order to prevent the accidents referred to under a, to limit an increase in accidents and to evacuate the workplace in an efficient and controlled manner in emergency situations;

d. the proof that a health and safety protection system as referred to in Article 2.42e is used which is adequate to ensure compliance with the regulations laid down by or pursuant to this Decree and relating to the safety and protection of the health of the employees, both in ordinary and in emergency situations.

**2.** In the planning and implementation of all phases referred to in Article 3.2, first paragraph, second sentence, the procedures and implementing provisions referred to in the relevant health and safety document should be observed.

**3.** The various employers who are responsible for the various workplaces should, where appropriate, cooperate in drawing up the health and safety documents referred to in Article 2.42 and in preparing for the measures required in order to guarantee the health and safety of the employees.

**4.** With respect to the first, second and third paragraph detailed provisions can be laid down in a Ministerial Order.

**Article 2.42g. Safety exercises**

At all normally staffed workplaces, safety exercises shall be held at regular intervals which are aimed at:

a. training employees who are entrusted with concrete tasks in emergencies whereby emergency equipment has to be used, applied or operated and checking whether they are competent to perform these tasks;

b. checking all the emergency equipment used during exercises, cleaning it and if necessary re-loading or replacing it and returning all portable equipment which has been used to the location where it is normally stored;

c. assessing whether the rescue vessels are ready for use.

**Article 2.42h. Actions in emergencies**

**1.** The employees must be trained to perform the actions which have to be carried out in emergencies.

**2.** On mining installations where employees are staying for an extended time there should be sufficient employees present on the helicopter landing platform during helicopter movements whose task it is to take action in emergencies. These employees should be sufficiently trained to this end.

**3.** In addition to the first and second paragraph, employees who are working on mining installations must also be trained to perform actions which have to be carried out at a specific workplace. These actions for the respective workplace must be further described in the health and safety document meant in Article 2.42.

**4.** Employees who are working on mining installations must be trained in the application of survival techniques with due observance of the criteria laid down in the health and safety document meant in Article 2.42.

**Section 6b.Extracting industries for the detection and extraction of hydrocarbons**

**Article 2.42i. Linking provision**

Apart from the provisions of Sections 6 and 6a of this Chapter, the provisions of this Section also apply to a workplace in the extracting industry for the detection and extraction of hydrocarbons.

**Article 2.42j. Definitions**

In this Section, the following terms mean the following:

a. major accident: major accident as referred to in Article 1 of Directive No. 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC (OJ EU 2013, L 178);

b. dangerous substance: hydrocarbon.

**Article 2.42k. Detailed provisions for policy design with regard to major accidents**

**1.** As a supplement to the working conditions policy referred to in Article 2.42e, first paragraph, the general objectives and principles of the policy to prevent and limit major accidents and the consequences thereof for the health and safety of the employees working in the business shall, before the work is started, be set and laid down in the health and safety document referred to in Article 2.42, second paragraph.

**2.** As a supplement to Article 2.42e, first paragraph, the health and safety protection system meant in that paragraph shall also include the policy to prevent and limit major accidents as referred to in the first paragraph and this system shall, in this respect, be based on the risk assessment and evaluation referred to in Article 2.42l. The proof referred to in Article 2.42f, first paragraph, under d, shall also pertain to the supplement to the health and safety protection system referred to in the first paragraph.

**3.** Further provisions with respect to the supplement to the health and safety protection system meant in the second paragraph will be laid down in a Ministerial Order.

**Article 2.42l. Additional provisions for risk assessment and evaluation**

**1.** In the risk assessment and evaluation meant in Article 2.42, second paragraph:

a. the risks of major accidents, whether or not with dangerous substances, will be systematically identified and evaluated on the basis of procedures determined to this end by the employer, both during normal and abnormal operations of the installation. In this respect the presence of other substances are taken into account that in a specific situation can contribute to the risk of a major accident; and

b. the scenarios for possible major accidents will be described. In choosing the scenarios, external hazards for the installation are taken into account. The chance of a major accident occurring and the effect of a major accident having taken place will be quantified as much as possible in the scenarios.

**2.** On the basis of the risk assessment and evaluation meant in paragraph one, under a:

a. in order to avoid a major accident, all technical and organisational measures will be taken which are required to guarantee the safe operation of the installation both under normal operations as well as during temporary interruptions and maintenance, or in connection with a change to the existing installation or the construction of a new installation. The first sentence applies accordingly with regard to all storage facilities, equipment and infrastructure in connection with the risks of a major accident in the business or the establishment; and

b. all technical and organisational measures will be taken to restrict the consequences of a major accident as much as possible.

**3.** A description of the measures meant in the second paragraph will be included in the descriptions of the scenarios meant in the first paragraph under b.

**4.** The description of the scenarios, meant in the first paragraph under b, and the description of the measures taken, meant in the third paragraph, demonstrate that the risks with regard to major accidents are under control in an adequate manner.

**5.** In a Ministerial Order detailed provisions will be laid down with regard to the procedures, meant in the first paragraph, under a, and the description of scenarios, meant in the first paragraph under b.

**Article 2.42m. Changes and periodic evaluation**

**1.** If a change of a technical or organisational nature is made in the business or the establishment or in a part thereof or in the work methods and production methods applied, which might have significant consequences for the risk of a major accident or when a change in safety ideas gives rise to this, the following will be ensured:

a. the policy, meant in Article 2.42k, first paragraph, and the health and safety protection system, meant in Article 2.42k, second paragraph, will be re-assessed and if necessary revised;

b. the risk assessment and evaluation, meant in Article 2.42l, first paragraph, under a, and the description of scenarios, meant in Article 2.42l, first paragraph, under b, will be re-assessed and if necessary revised; and

c. the measures taken, meant in Article 2.42l, second paragraph, and the emergency plan, meant in Article 3.37za, are adjusted accordingly to the changed situation.

**2.** Notwithstanding the first paragraph, the risk assessment and evaluation, meant in Article 2.42l, first paragraph, under a, will be made at least once every five years.

**Article 2.42n. Expert assistance**

**1.** In addition to Article 14, first paragraph, of the Act, the employer must be assisted with regard to the following duties by the person, meant in Article 14, first paragraph, of the Act who is entrusted with the duties as meant in Article 14, first paragraph, under a, of the Act, of by the health and safety service, meant in Article 14a, second paragraph, of the Act in:

a. determining the policy, meant in Article 2.42k, first paragraph;

b. formulating a health and safety protection system, meant in Article 2.42k, second paragraph;

c. carrying out and formulating an additional risk assessment and evaluation, meant in Article 2.42l, first paragraph, under a, including the testing thereof;

d. formulating the descriptions, meant in Article 2.42l, first paragraph, under b, and third paragraph;

e. formulating an emergency plan, meant in Article 3.37za, including the testing thereof; and

f. implementing the changes, meant in Article 2.42m, including the testing thereof, insofar as this is applicable.

**2.** The term assistance with these duties, meant in the first paragraph, also includes advising on the execution of these duties.

**Article 2.42o. Neighbouring businesses or establishments**

If a major accident can have consequences for the safety of employees in neighbouring businesses or establishments, the employer will of his own accord provide the respective businesses or establishments with general information which is necessary to assess the risk for the safety of the employees in the neighbouring businesses or establishments.

**Article 2.42p. Operating prohibition**

The business or establishment to which this Section applies will not be commissioned or will not continue to operate and the change, meant in Article 2.42m, first paragraph, opening sentence, will not be implemented before the obligations meant in Articles 2.42k, 2.24l, 2.42m and 3.37za have been complied with.

**Section 7. Night work**

**Article 2.43. Occupational health medical examination**

**1.** For the purposes of this Article night work has the meaning given to it in the Working Hours Act.

**2.** Any employee who is going to carry out night work for the first time should be given the opportunity as an addition to Article 18 of the Act to submit to an occupational health medical examination before commencing this work.

**Section 8. Special sectors and special categories of employees**

**§ 1. Transport**

**Article 2.44. Exceptions to means of transport**

Sections 2 and 7 of this Chapter do not apply to work carried out in or on an aircraft, a seagoing vessel, an inland vessel or a vehicle on a public road or a railway.

**§ 2. Homeworkers**

[Repealed on 01-07-2012]

**Article 2.45. Applicability**

[Repealed on 01-07-2012]

**Chapter 3. Organisation of workplaces**

**Section 1. General provisions**

**§ 1. Definitions and applicability**

**Article 3.1. Concepts**

The concepts used in this Chapter have the following meaning:

a. electrical installation: an assembly of electric equipment, wiring and wiring accessories;

b. electric equipment: parts or elements of an electrical installation serving to generate, transport and apply electrical energy;

c. explosive atmosphere: a mixture of air and flammable substances in the form of gases, vapours, mists or dust under atmospheric circumstances in which the combustion after ignition extends to the whole of the non-burnt mixture;

d. use of electricity: any activity relating to an electrical installation including in any event the construction, putting into or out of operation, operation, repair, conversion, maintenance, inspection and also working close to an electrical installation;

e. high-voltage: a voltage the value of which with respect to AC voltage is higher than 1000 Volt effective between the phases or 600 Volt effective between a phase and earth and with respect to DC voltage is higher than 1500 Volt between the poles or 900 Volt between one of the poles and earth;

f. low-voltage: a voltage with a value lower than high voltage.

**Article 3.1a. Applicability**

The Articles 3.3, first paragraph, 3.4, first paragraph, with regard to the design and the organisation of electrical installations belonging to a building as meant in Article 1, first paragraph, of the Housing Act, 3.6, second paragraph, 3.7, fifth paragraph, 3.11, first paragraph, with regard to the rule that floors of workplaces must be free as much as possible of hazardous slopes and, moreover, fixed and stable as much as possible, and third paragraph, 3.18, second paragraph, second sentence, and third paragraph, and 3.24, first paragraph, and second paragraph, first sentence, are not applicable to workplaces in a building as meant in Article 1, first paragraph, of the Housing Act.

**§ 2. General obligations on the part of the employer**

**Article 3.1b. Instruction for use**

A workplace in a building as meant in Article 1, first paragraph, of the Housing Act may only be used if the building complies with the provisions laid down in or pursuant to the Buildings Decree 2012 with regard to the applicable designated use within the sense of that Decree.

**Article 3.2. General requirements**

**1.** Workplaces should be safely accessible and able to be safely exited. They should be designed, constructed, equipped, put into operation, used and maintained in such a manner that danger to the health and safety of the employee is avoided as much as possible. In addition, they should be kept clean, free of dust as much as is possible and be kept tidy as is necessary for the safety of the workplace.

**2.** Regular checks should take place on whether the provisions and measures taken for the protection of employees present in the workplace are still functioning properly.

**3.** Defects found with respect to the provisions and measures meant in the second paragraph which might affect health or safety, should be remedied as soon as possible.

**Article 3.3. Stability and strength**

**1.** Buildings and other structures should consist of proper materials, be of proper construction and should be in such a condition that there is no danger of their wholly or partly collapsing or falling over.

**2.** The workplace should be organised in such a manner that the objects or substances present do not create a hazard to health or safety by collapsing, shifting, falling or toppling over.

**Article 3.4. Electrical installations**

**1.** Electrical installations should be designed, arranged, wired, maintained and marked so as to guarantee as far as possible the safe use of electricity. To this end the necessary provisions and protective measures should be fitted. In doing so the special requirements which may result from the manner of use, the user circumstances, the external influences to be expected and maintenance activities should be taken into account.

**2.** In an electrical installation effective measures should be taken against the danger of fire, explosion, direct and indirect contact and too close proximity.

**3.** Clear diagrams kept up-to-date at all times should be available with respect to each electrical installation as well as all other information required for the safe use of the electrical installation.

**4.** The third paragraph does not apply to electrical installations of low voltage of a limited scope.

**Article 3.5. Electrotechnical, operating and other activities to or close to an electrical installation**

**1.** Electrotechnical activities and operating activities which may create hazards should be carried out by expert, sufficiently trained and competent employees.

**2.** A space containing a high voltage electrical installation the parts of which are not or insufficiently protected against direct or indirect contact or too close proximity, should only be entered in the presence of a second person having the authority to do so.

**3.** Activities to or close to an electrical installation should only be carried out if the installation or the part on which or close to which the activities are taking place, has been rendered dead.

**4.** The employee with the authority to do so should take effective measures to guarantee the safe progress of the activities.

**5.** The third paragraph does not apply to activities carried out to or close to a low voltage electrical installation, if:

a. urgent reasons for carrying out the activities live have been demonstrated;

b. explicit instructions have been given for carrying out these activities by the employee having the authority to do so; and

c. the installation is also suitable for carrying out these activities live and the employee having the authority to do so has taken effective measures to avoid the hazards associated with these activities.

**6.** The third paragraph does not apply to activities carried out to or close to a high voltage electrical installation, consisting of:

a. taking and discontinuing safety measures including cutting or coiling wires with suitable equipment;

b. carrying out measurements and tests; or

c. cleaning electrical equipment.

**7.** Activities consisting of cleaning electrical equipment in a high voltage electrical installation as meant in the sixth paragraph, under c, will only be carried out, if:

a. explicit instructions have been given for carrying out these activities by the employee having the authority to do so;

b. work equipment, cleaning agents and personal protective equipment are being used that are suitable for these activities, and

c. the employees do not have to move into the danger area of the live installation or parts of it with work equipment with which they are in physical contact.

**§ 2a. Explosive atmospheres**

**Article 3.5a. Applicability**

This division does not apply to:

a. areas which are directly used for and during the medical treatment of patients;

b. the use of gas appliances covered by the Gas Appliances Decree;

c. the manufacture, processing, use, storage and transport of explosives or chemically unstable substances;

d. opencast mining industry, underground mining industry and the mineral extracting industry through drilling;

e. the use of means of transport by land, by water or by air with the exception of vehicles intended for use on locations where an explosive atmosphere might occur.

**Article 3.5b. Collaboration and coordination**

**1.** For the purposes of Article 19, second paragraph, of the Act the activities are designated which are carried out in workplaces where explosive atmospheres occur or can occur.

**2.** In addition to Article 19, second paragraph, of the Act, the employer who is responsible for the workplace, meant in the first paragraph, must coordinate the implementation of all health and safety measures.

**Article 3.5c. Detailed provisions for risk assessment and evaluation; explosion safety document**

**1.** The hazards in connection with explosive atmospheres and the special risks which might result from this must be assessed in their totality in connection with the risk assessment and evaluation meant in Article 5 of the Act, before the commencement of the work and at any major change, expansion or conversion of the workplace, the working equipment or the work process, and be laid down in writing in an explosion safety document.

**2.** At the assessment meant in the first paragraph, the following are in any event to be taken into account:

a. the probability of preventing explosive atmospheres and their continuation;

b. the probability that ignition sources, including electrostatic discharges, are present, become active and actually ignite;

c. the installations present, the substances used, the processes and their possible interactions;

d. the extent of the consequences to be expected.

**3.** When making the assessment meant in the first paragraph, areas are also taken into account that are connected with each other via openings or which can be connected to areas where explosive atmospheres might occur.

**4.** At least the following must be stated in the explosion safety document:

a. an identification and assessment of the explosion risks;

b. the manner in which the workplaces and working equipment, including the alarm systems, are designed, used or operated and maintained with the required focus on safety;

c. which areas are divided into zones as meant in Article 3.5d, fifth paragraph;

d. the manner in which the measures, meant in Articles 3.5d, 3.5e and 3.5f, are implemented;

e. if in workplaces as meant in Article 3.5b, first paragraph, more than one employer has work carried out, the manner in which Article 19, paragraph two, of the Act has been complied with and the aim, the measures and the manner in which the coordination is taking place as meant in Article 3.5b, paragraph two.

**Article 3.5d. General preventative measures**

**1.** Effective measures must be taken to prevent the creation of an explosive atmosphere in the workplace.

**2.** If with a view to the nature of the work, it is not possible to prevent the creation of an explosive atmosphere, the following measures must be taken in the order set out below:

a. the ignition of explosive atmospheres must be prevented taking into account electrostatic discharges which might emanate from the employees or the workplace as a load carrier or load producer;

b. the harmful consequences of an explosion must be restricted.

**3.** In addition to the measures meant in the first and the second paragraph, the possibility of the explosion spreading must be restricted.

**4.** If employees or others could be in danger because of explosive atmospheres, in addition to the first to the third paragraph, the workplace will be organised such that it is possible to work safely and there is appropriate supervision of the work including the use of suitable technical means. The contents and the extent of the supervision depend on the hazards which have emerged from the assessment meant in Article 3.5c, first paragraph.

**5.** If it has emerged from the assessment meant in Article 3.5c, first paragraph, that explosive atmospheres might arise, the areas where these atmospheres might arise must be divided into danger zones as meant in Annex I to Directive no. 1999/92/EC of the European Parliament and the Council of the European Union of 16 December 1999 (OJ EC 2000, L 23) on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (fifteenth individual Directive within the meaning of Article 16, paragraph one, of Directive no. 89/391/EEC).

**6.** Danger zones are marked by means of warning signs which comply with the provisions determined in or pursuant to Section 2 of Chapter 8.

**Article 3.5e. Measures in danger zones**

In the danger zones meant in Article 3.5d, paragraph five, and with regard to installations in areas without any explosion danger which are required for or contribute to the explosion-safe use of installations situated where explosion danger occurs, the following measures must in any event be taken:

a. released gases, vapours, mists or flammable substance which might create explosion danger, must be removed in an appropriate manner and rendered harmless;

b. if an explosive atmosphere contains multiple types of inflammable or flammable gases, vapours, mists or substances, in connection with the safety measures the greatest possible risk must be assumed on the basis of the assessment meant in Article 3.5c, first paragraph;

c. installations, equipment, safety systems and installation material should only be used with due observance of the provisions under e, if it has emerged from the explosion safety document on the basis of the assessment meant in Article 3.5c, first paragraph, that no danger of explosion is associated with their use;

d. the provisions under c apply accordingly to working equipment and their connecting pieces which do not constitute equipment and safety systems as meant in the Explosion-safe Materials Commodities Act Decree if their incorporation in the installations might give rise to ignition danger;

e. insofar as the explosion safety document on the basis of the assessment meant in Article 3.5c, first paragraph, has not made other requirements, equipment and safety systems in the danger zones must be used in accordance with the categories as meant in the Explosion-safe Materials Commodities Act Decree and applied according to the following principles:

1°. danger zone 0 or 20: category 1 equipment;

2°. danger zone 1 or 21: category 1 or category 2 equipment;

3°. danger zone 2 or 22: category 1, category 2 or category 3 equipment;

f. the necessary measures must be taken to prevent the exchange of installation material;

g. in areas where an explosive atmosphere might arise, working clothes in compliance with Section 1 of Chapter 8 should be made available to employees which will always be worn by the employees during their work;

h. if a situation arises where an explosion might occur, where necessary the employees must be warned optically or acoustically and be withdrawn;

i. for the first commissioning of a workplace and at any major change, extension or conversion of the workplace, working equipment or work process where explosive atmospheres might arise, the explosion safety of the overall installation must be checked by an expert in this field.

**Article 3.5f. Special measures**

Insofar as the necessity to this end has emerged from the assessment meant in Article 3.5c, first paragraph, in addition to Article 3.5e the following measures must be taken:

a. written instructions must be given with regard to the implementation of the work;

b. before work starts that might create a hazard, consent in order to perform that work should be given by a person authorised to do so;

c. when a power failure might cause extra hazards, equipment and safety systems must be maintained during a power failure in a safe operational condition independently of the rest of the installation;

d. equipment operated automatically and safety systems deviating from the foreseen operating conditions, must be able to be switched off manually without any danger. These interventions must be carried out by authorised employees;

e. if the emergency stop systems are activated, the energy stored should be removed or isolated as soon as possible and as safely as possible so that it no longer causes a source of danger;

f. means of escape must be kept available and ready for use so that employees can leave the danger areas quickly and safely.

**§ 2b. Atmospheres harmful to health**

**Article 3.5g. Danger of suffocation, intoxication, poisoning, fire or explosion**

**1.** If it can be assumed that the atmosphere at a location or in an area contains substances to such an extent that this causes a danger of suffocation, intoxication, poisoning, fire or explosion, the employee may only be present at this location or in that area if an investigation shows that the danger is not present.

**2.** If it appears from the investigation meant in the first paragraph that the hazard of suffocation, intoxication, poisoning, fire or explosion is present, suitable measures should be taken so that the employee can be present at this location or in that area, as meant in the first paragraph, without the dangers.

**3.** In any event this involves the following:

a. a danger of suffocation if the atmosphere contains less than 18 volume percent of oxygen;

b. a danger of intoxication or poisoning if the concentration of the respective substances in the atmosphere is more than the limit values referred to in Article 4.3;

c. a danger of fire or explosion if the concentration of oxygen in the atmosphere is more than 21 volume percent or the concentration of flammable gases or vapours is more than 10 volume percent of the lower explosion limit.

**4.** If it is not possible to take the measures meant in the second paragraph and it is necessary to enter the hazardous atmosphere meant in the first paragraph, the employee must be permanently observed and suitable measures must be taken in order to:

a. protect this employee against the hazard meant in the second paragraph;

b. offer immediate assistance to the employee in a suitable manner, when danger is imminent.

**Article 3.5h. Safety on or in tankers**

**1.** Article 3.5g does not apply to the following activities to, on or in tankers of a category designated by Ministerial Order:

a. cleaning;

b. maintaining, repairing or converting;

c. dismantling in part or in whole where there is a danger of fire, explosion, poisoning, suffocation or intoxication.

**2.** The activities mentioned in the first paragraph should be carried out in a safe manner by or under supervision of a person with sufficient expertise.

**3.** A Ministerial Order will indicate activities which should only be carried out if a gas expert has assessed in advance the health and safety hazards for the employees and has issued a certificate in compliance with a model to be determined by a Ministerial Order.

**4.** A gas expert as meant in the third paragraph should be in possession of a certificate of competence for a professional gas expert issued by Our Minister or a certifying institution.

**5.** The certificate of competence for a professional gas expert or a copy of this should be present at the workplace and should be shown to the supervisor on request.

**6.** Detailed provisions will be laid down in a Ministerial Order with regard to the activities meant in the first paragraph.

**§ 3. Provisions for emergency situations**

**Article 3.6. Escape routes and emergency exits**

**1.** If a situation occurs constituting a direct hazard to health or safety, effective measures should have been taken in order to enable the employee to bring himself quickly to safety via the shortest route.

**2.** The number, place and dimensions of the escape routes and emergency exits intended for this purpose depend on the use, equipment and dimensions of the workplaces and also on the maximum number of employees and other persons who might be present in these places.

**Article 3.7. Safe use of escape routes and emergency exits**

**1.** Escape routes and emergency exits should be free of obstacles.

**2.** Emergency exits should be able to be opened at all times.

**3.** The doors of emergency exits and doors on escape routes should be easily openable and open outwards.

**4.** Sliding or revolving doors should not be used as emergency exits.

**5.** Escape routes and emergency exits which would be hard to see if the lighting failed, should be supplied with adequate emergency lighting.

**6.** Escape routes, doors and gates on the escape routes as well as the emergency exits should be marked by signs that comply with the provisions set out in or pursuant to Section 2 of Chapter 8.

**Article 3.8. Fire alarm and fire fighting**

**1.** In addition to Article 15 of the Act, sufficient and suitable equipment for fighting fires should be present in workplaces depending on the nature of the work carried out there, the hazards associated with it and the maximum number of employees and other persons located there.

**2.** In addition to the first paragraph, fire detectors and alarm systems should be present if necessary.

**3.** Non-automatic equipment for fire fighting should be easily accessible and easy to operate.

**4.** Non-automatic fire fighting equipment should be provided with a sign that complies with the provisions set out in or pursuant to Section 2 of Chapter 8. The sign should be durable and fitted in the proper location.

**Article 3.9. Emergency lighting**

Workplaces where employees would be exposed to special hazards if the artificial lighting failed, should be provided with adequate emergency lighting. If emergency lighting is not possible, the employees should have individual lighting at their disposal.

**Article 3.10. Rescue of drowning persons**

In workplaces where there is a danger of drowning, this danger should be avoided as much as possible and effective equipment for rescuing drowning persons should be available in a properly visible location.

**§ 4. Fitting-out requirements**

**Article 3.11. Floors, walls and ceilings of workplaces**

**1.** Floors of workplaces should be as free as possible from unevenness and dangerous slopes and should also be as fixed, stable and non-slippery as possible.

**2.** The surfaces of floors, walls and ceilings of workplaces should be such that for purposes of hygiene they can be cleaned and maintained in the workplace.

**3.** Enclosed spaces where work is carried out, should have sufficient thermal insulation, taking into account the nature of the activities and the physical load.

**4.** So far as is possible in connection with the nature of the workplace, transparent or translucent walls in workplaces should be:

a. clearly marked and made of safety material, or

b. fitted or screened off in such a manner that the employees cannot injure themselves.

**Article 3.12. Windows and overhead lights in spaces**

**1.** If windows, overhead lights and provisions for ventilation can be opened or closed,

a. this should take place in a safe manner,

b. it should be possible to adjust and secure them in a safe manner; and

c. they should not cause a hazard when open.

**2.** It should be possible to clean windows and overhead lights without any hazard.

**Article 3.13. Doors, movable gates and other passageways**

**1.** The positioning, number and dimensions of doors, movable gates and other passageways as well as the materials they are made of, should be in line with the nature and use of the workplace.

**2.** Transparent doors should be fitted with a marker at eye-level.

**3.** Depending on the nature of the workplace and the work being carried out there, swinging doors should be transparent or fitted with transparent panels.

**4.** If doors or other passageways have transparent or translucent surfaces, suitable measures should be taken to prevent employees being injured by unintentional contact with these surfaces.

**5.** Doors and movable gates which can derail out of or away from their guide rails should be safeguarded against being lifted out, derailing or falling down.

**6.** Automatic doors and gates should function in such a manner that they do not create any hazard. They should be equipped with easily recognisable protection preventing employees from being injured.

**7.** Automatic doors and gates should be able to be opened manually during a power failure unless they open automatically at such times.

**8.** There should be separate passageways for pedestrians in the immediate proximity of doors, movable gates or other passageways which are mainly intended for the traffic of vehicles or other means of transport, unless the way through is safe for pedestrians.

**9.** The passageways meant in the eighth paragraph for pedestrians should be clearly and visibly marked and free from obstacles.

**10.** Chains or similar provisions used to prevent entry to a certain space must be clearly visible and suitably provided with no-entry or warning signs.

**Article 3.14. Connecting roads**

**1.** The connecting roads in the workplace should be situated and fitted out in such a manner that they can be used easily, safely and in accordance with their intended use by pedestrians, vehicles or other means of transport.

**2.** Employees carrying out activities close to connecting roads should be safeguarded from being exposed to hazards.

**3.** The dimensions of the connecting roads should be to the number of users and the nature of the work carried out in the business or the establishment.

**4.** If vehicles or other means of transport are being used on the connecting roads - insofar as this does not involve public roads - the necessary traffic rules should be determined.

**5.** In the cases mentioned in the fourth paragraph, a safe space for pedestrians should also be guaranteed or other effective measures taken to protect pedestrians.

**6.** The connecting roads intended for vehicles or other means of transport should be situated at a sufficient distance from other connecting roads in the workplace.

**7.** Insofar as required by the use or the fitting-out of the workplace, the connecting roads should be clearly defined.

**Article 3.15. Marking of hazardous areas**

**1.** Areas where there is a danger because of the nature of the work, including a danger of falling or of objects falling or where obstacles which cannot be removed create a hazard for the safety when moving vehicles or persons, should be clearly marked by signs which comply with the provisions set out in or pursuant to Section 2 of Chapter 8.

**2.** Only employees who in their professional capacity or on account of their job have to enter the areas meant in paragraph one should be admitted.

**Article 3.16. Preventing danger of falling**

**1.** Wherever possible when carrying out work where there is a danger of falling, safe scaffolding, frameworks, platforms or work floors should be erected or the hazard should be averted by mounting effective screens, railings or other such provisions.

**2.** There is a danger of falling in any event if there are high-risk situations, openings in floors or if there is a danger of falling down at least 2.5 metres.

**3.** Fencing and railings are regarded as effective if they provide protection from falling up to at least 1 meter above the work surface, of comply with the provisions for floor separation of or pursuant to the 2012 Building Decree.

**4.** The first paragraph does not apply to work carried out under circumstances in which the use of ladders or staircases is permitted as meant in Article 7.23, paragraph two.

**5.** If the provisions meant in paragraph one cannot be or can only be partly erected or if erecting or removing them would involve greater hazards than the work for which they serve as protection, then in order to eliminate the danger, sufficiently strong and sufficiently large safety nets should be attached to suitable places in a suitable manner or suitable safety belts with safety lines of sufficient strength should be used or other technical means should be applied which at least give the same extent of protection for the work as is meant in the first paragraph. In this respect, measures aimed at collective protection are preferable to measures aimed at individual protection.

**Article 3.17. Preventing danger caused by objects, products, liquids or gases**

The danger of being struck or hit by objects, products or parts thereof or by liquids or gases, or the danger of becoming trapped between objects, products or parts thereof, must be prevented and, if this is not possible, be limited as much as possible. Article 3.16, fifth paragraph, closing sentence, applies.

**Article 3.18. Specific measures for escalators, moving walkways and loading platforms**

**1.** Escalators and moving walkways should function safely and should be equipped with the necessary safety provisions, including easily recognisable and accessible emergency stop provisions.

**2.** Loading platforms and loading slopes should be geared to the dimensions of the loads being transported. They should have at least one exit.

**Article 3.19. Dimensions and air volumes of spaces; room to move on the workplace**

**1.** The dimensions and the air volume of the workplace should be such that the employee is able to carry out his work without any danger to his health or safety.

**2.** The dimensions of the workplace should be such that the employee has sufficient room to move when carrying out his work.

**3.** If the second paragraph cannot be complied with because of the nature of the work, another open or closed area close by with sufficient room to move should be available for the respective employees.

**§ 5. Recreation rooms and other provisions**

**Article 3.20. Recreation rooms**

An easily accessible area should be available in the business or the establishment or in its direct vicinity where the employees can spend their breaks. This area should be suitable for this purpose and also - depending on the number of employees - sufficiently spacious in size and equipped with sufficient tables and chairs.

**Article 3.21. Night rooms**

For employees who usually stay over in the business or the establishment in which they are working during the time between the end and the beginning of their daily working hours, a night room should be available. A night room should be fitted out adequately and should only be intended for persons of the same sex.

**Article 3.22. Changing rooms**

**1.** Each employee should have a place available for hanging his clothes.

**2.** For employees who have to wear special working clothes, effective and sufficiently spacious changing rooms provided with chairs or benches and separated according to the sexes should be available; these spaces should be situated as close as possible to the open or closed spaces where work is usually carried out. If necessary, it should be possible to dry wet working clothes.

**3.** It should be possible to keep clothing not worn by the employees in the course of their work in the changing room in a suitable manner and locked away.

**4.** According to the circumstances, it should be possible to retain special working clothes and employees' personal clothing separately, in a suitable manner and locked away.

**Article 3.23. Washing facilities and shower rooms**

**1.** If employees are exposed to dirt or dust, a wash room with a sufficient number of washbasins should be present. The washbasins should be placed functionally and separated according to the sexes; they should have cold and if necessary hot running water.

**2.** If the employees are exposed to dirt, dust or high temperatures to such an extent that the necessary cleaning of their bodies involves more than washing their hands and face or because of the nature of their work or the care of their health, there should also be a shower room with a sufficient number of showers. The shower room must have sufficient room, be effectively fitted out and separated according to the sexes; the showers must have cold and hot running water.

**3.** If the shower rooms or washing facilities and the changing rooms are not situated in the same room, it should be easy to move between them without going outside.

**Article 3.24. Toilets and washbasins**

**1.** In a business or establishment there should be a sufficient number of toilets present close to the spaces where employees carry out their activities.

**2.** Sufficient washbasins should be present in or in the immediate vicinity of the areas in which the toilets are situated.

**3.** The toilets or the use of the toilets must be separated according to the sexes.

**Article 3.25. First-aid stations**

**1.** If the nature of the work or the associated hazards make it necessary, in addition to Article 15 of the Act, there should be sufficient first aid stations available in the business or establishment.

**2.** Clearly visible instructions for first aid for accidents should be present in the first aid stations.

**3.** An alarm number should be clearly visible in the first aid station.

**4.** The first aid stations should be provided with the necessary first aid equipment.

**5.** First aid stations should be easily accessible with stretchers.

**6.** First aid stations and first aid equipment should be supplied with a sign that complies with the provisions set out in or pursuant to Section 2 of Chapter 8.

**Section 2. Additional provisions for construction sites**

**Article 3.26. Linking provision**

Apart from the provisions of Section 1 the provisions of this Section also apply to construction sites.

**Article 3.27. General requirements**

**1.** A construction site should be marked and defined.

**2.** Sufficient drinking water or other soft drinks should be available on the construction site.

**3.** If necessary, facilities for preparing meals should be available on construction sites.

**Article 3.28. Stability and strength**

**1.** Workplaces on a construction site not situated at ground level, should be stable and strong, taking into account the number of employees present on them, the maximum load and the load spread as well as external influences. If necessary, suitable fasteners should be applied to obtain stability.

**2.** The stability and strength should be properly checked on a regular basis and in any event after any relevant change of the height or depth of the workplaces meant in paragraph one.

**Article 3.29. Electrical installations and wiring**

**1.** Electrical installations already present on the construction site before the activities commence, should be identified, checked and clearly marked.

**2.** Where possible overhead electricity cables should be diverted outside the construction site or rendered dead. If this is not possible, fencing or warning signs should be positioned.

**3.** If vehicles have to drive underneath electricity cables, protective devices should be attached under the cables.

**4.** Underground electricity cables, conduits for other distribution systems and cables should be identified before commencement of the earth-moving activities.

**5.** As far as is possible suitable measures should be taken to avoid hazards for employees associated with damage to the conduits and cables meant in paragraph four.

**Article 3.30. Construction pits, tunnels, excavations and other underground activities and earth-moving activities**

**1.** Suitable shoring or slope provisions should be applied in a construction pit, a tunnel, at excavations or other underground activities in order to prevent collapse or flooding.

**2.** With respect to earth-moving activities the excavated earth, the materials used and the vehicles used in this respect should be kept at a safe distance from the excavation. If necessary, suitable fencing should be placed around the excavation.

**Article 3.31. Metal and concrete constructions, shuttering and heavy prefabricated elements**

**1.** Metal and concrete constructions as well as parts of them, shuttering, prefabricated elements or temporary shoring and propping should only be erected or dismantled under the supervision of a person specially designated to this end.

**2.** Shuttering, temporary shoring and propping should be able to bear the forces to which they are exposed without any danger to employees.

**Section 3. Additional provisions for the opencast mining industry, underground mining industry or extracting industry by drilling**

**Article 3.32. Linking provision and applicability**

**1.** In addition to the provisions of Section 1, with the exception of division 2a of that Section, the provisions of this Section also apply to a workplace in the extracting industry.

**2.** This Section does not apply to work carried out in the opencast mining industry by dredging.

**Article 3.33. Written information**

For each workplace in the extracting industry written instructions should be drawn up containing the rules to be complied with in order to guarantee the health and safety of the employees as well as the safe use of work equipment. These instructions should also contain indications how to use emergency equipment and the action to be taken in emergencies. The instructions should contain a reference to Articles 24, fourth, fifth and seventh paragraph, and 26 of the Act.

**Article 3.34. Danger of explosion**

The measures aimed at preventing the danger of explosion referred to in Article 3.5g, second paragraph, are included in the health and safety document referred to in Article 2.42, second paragraph.

**Article 3.35. Resuscitation equipment**

**1.** In addition to Article 15 of the Act, suitable resuscitation equipment should be present in zones where there is a danger of suffocation, intoxication or poisoning.

**2.** There should be sufficient employees present in the workplace in the extracting industry who are able to operate the equipment mentioned in the first paragraph.

**3.** The resuscitation equipment should be suitably maintained and stored.

**Article 3.36. Restricting and fighting fires**

[Repealed on 01-01-2007]

**Section 3A. Additional provisions for opencast mining industries**

**Article 3.36a. Linking provision**

In addition to the provisions of Section 3 of this Chapter the provisions of this Section also apply to a workplace in the opencast mining industry.

**Article 3.37. Preventing instability**

**1.** Before commencement of activities involving excavation or reclamation of faces above work sites or traffic routes, a check should always be carried out as to whether there are any unstable masses or rocks. If necessary, loose blocks of stone should be removed.

**2.** Always look out for any instability which might be created when reclaiming faces or stone heaps.

**Section 3B. Additional provisions for underground mining industries**

**Article 3.37a. Linking provision**

In addition to the provisions of Section 3 of this Chapter the provisions of this Section also apply to a workplace in the underground mining industry.

**Article 3.37b. Ground plans and signposting**

**1.** Ground plans on a scale enabling a clear representation must be made and regularly updated, indicating the galleries and exploitation activities and all known factors which might affect the exploitation and its safety. The ground plans must be present at the workplace and must be shown to the supervisor on request. The ground plans should be easily accessible and kept so long as this is necessary with a view to safety.

**2.** There should be signposting in the galleries, so that the employees can orient themselves easily.

**Article 3.37c. Exits**

**1.** Each underground exploitation should be connected to the surface via at least two separate exits. These exits should be solidly constructed and easily accessible by the employees carrying out underground activities.

**2.** If a special physical effort is required for the use of these exits, they should be fitted with mechanical means of transport for the employees.

**Article 3.37d. Transport equipment**

**1.** Transport equipment must be installed, used and maintained such that the health and safety is guaranteed of the employees who operate or use it or who stay close to it.

**2.** With regard to the transport of employees with mechanical means of transport, suitable provisions and special written instructions should be provided.

**Article 3.37e. Support and stability**

**1.** As soon as possible after extracting, supports should be applied unless the site is so stable that it is not necessary for the safety of the employees. These supports must be applied according to diagrams and written instructions.

**2.** All areas accessible to employees must be reviewed regularly as to the stability of the site.

**3.** During the maintenance operations of the supports, the findings of the review meant in the second paragraph must be taken into account.

**Article 3.37f. Caving in and water breach**

**1.** In areas where caving in or water breaches might occur, an extracting programme has to be formulated and implemented which is aimed at as safe a work system as possible and the protection of the employees.

**2.** Measures must be taken to be able to recognise the areas meant in the first paragraph, to protect the employees working in or close to those areas and to control the risks.

**Article 3.37g. Preventing fire and a rise in temperature**

**1.** Measures must be taken to prevent or identify any rises in temperature at an early stage.

**2.** The use of flammable materials must be restricted to the strictly necessary minimum.

**3.** The hydraulic liquids to be used must insofar as this is possible be low-flammable and must comply with specifications and testing conditions with regard to their flammability as well as to hygiene criteria. If the hydraulic liquids to be used do not comply with the requirements set out in the first sentence, additional measures must be taken.

**Article 3.37h. Lighting**

In addition to Article 3.9 every employee must have a suitable lamp for the work at his disposal.

**Article 3.37i. Attendance check**

The work must be organised such that it can be determined at any time who is underground.

**Section 3C. Additional provisions for the extracting industry through drilling**

**Article 3.37j. Linking provision**

Apart from the provisions of Section 3 of this Chapter, the provisions of this Section also apply to a workplace in the mineral-extracting industry through drilling.

**Article 3.37k. Requirements for the organisation of mining installations**

**1.** In addition to Articles 3.2 and 3.3 mining installations must be designed, constructed, fitted out, operated, checked and maintained such that they can withstand the environmental forces to be expected. They must be of a construction and strength geared to the use to be made of it.

**2.** If necessary fire barriers are to be fitted on mining installations with a view to separate areas with a fire risk.

**Article 3.37l. Traffic and transport**

[Repealed on 01-01-2007]

**Article 3.37m. Maintenance of safety equipment**

Appropriate safety equipment must at all times be ready for use and must be kept in a proper condition. During maintenance thereof the activities carried out must be properly taken into account.

**Article 3.37n. Emergency exits**

**1.** Living quarters and accommodation areas at mining installations must have at least two separate emergency exits on each level which are situated as far away as possible from each other and should exit to a safe area, a safe muster station or a safe evacuation station.

**2.** Contrary to Article 3.7, fourth paragraph, emergency exits at mining installations must be provided with doors which can easily be opened outwards or if this is not possible with sliding doors.

**Article 3.37o. Disabled workers**

[Repealed on 28-12-2009]

**Article 3.37p. Danger zones**

**1.** Workplaces where danger zones occur because of the nature of the work, including the danger of falling or the danger of objects falling, must be fitted out as much as possible with provisions preventing employees having access to these zones without consent.

**2.** Suitable measures should be taken to protect the employees who are allowed to access the danger zones.

**Article 3.37q. Remote control in emergencies**

**1.** If this is required for the health and safety of the employees, in emergencies certain equipment should be remotely operated from suitable locations.

**2.** The equipment meant in the first paragraph includes systems for insulating and blowing off pits, installations and pipelines.

**3.** For the purposes of remote control meant in the first paragraph there should be control rooms at suitable locations which can be used in emergencies, if necessary including control rooms at safe muster stations and at evacuation stations.

**4.** The equipment meant in the first paragraph must at least include systems for ventilation, for disconnecting equipment which might cause ignition in emergencies, for preventing flammable liquids and gases escaping, for fire protection and pit monitoring.

**Article 3.37r. Communication systems**

**1.** If required for the health and safety of employees, each manned workplace must be fitted with:

a. an audiovisual system via which, if necessary, an emergency alarm can be sent to each manned part of the workplace;

b. a loudspeaker system which can clearly be heard in all parts of the installation where employees are often present;

c. a system via which the connection with the mainland and the emergency services can be maintained.

**2.** On mining installations the systems meant in the first paragraph must remain operational in emergencies. The loudspeaker system must be supplemented by communication systems which do not depend on vulnerable power supply installations.

**3.** The provisions for raising the alarm must be fitted at appropriate locations.

**4.** If employees are present at workplaces which are normally not manned by employees, a suitable communication system should be in place.

**Article 3.37s. Muster stations and muster list**

**1.** If required for the health and safety of employees, muster stations must be indicated, a muster list must be maintained and the necessary measures to this end should be taken.

**2.** Suitable measures must be taken in order to:

a. protect the evacuation stations and the safe muster stations against heat and smoke and as much as possible against the consequences of explosions;

b. maintain the escape routes to and from the evacuation stations and muster stations at all times of use;

c. keep the evacuation stations and the safe muster stations easily accessible from the accommodation areas and the work areas.

**3.** The measures meant in the second paragraph must be such that they offer protection to the employees for long enough to be able to organise and implement in all safety, if necessary, an evacuation and rescue operation.

**4.** If required for the health and safety of the employees, one of the protected areas meant in the first paragraph must be provided with remote operating systems for emergencies as meant in Article 3.37q and a communication system as meant in Article 3.37r, first paragraph under c.

**5.** A list for each safe muster station at a mining installation must be formulated, which list is maintained and posted at this station with the names of the employees for whom that muster station is intended.

**6.** A list with the names of the employees who have special tasks in emergencies, must be formulated and maintained and posted at suitable places. The names of these employees must also be entered in the written instructions meant in Article 3.33.

**Article 3.37t. Rescue equipment**

**1.** In emergencies at mining installations there should be sufficiently suitable means for rescue, evacuation and for direct escape to the sea available for immediate use.

**2.** If evacuation of employees must take place along difficult escape routes or via places where it is or might not be possible to breathe the air, personal rescue equipment must be available at the workplace for the employees for immediate use.

**3.** Rescue equipment as meant in the first paragraph must comply with the following provisions:

a. it must be functional and if necessary equipped with provisions to be able to survive long enough;

b. it should be present in sufficient numbers in order to be able to evacuate all the employees who might be at the installation;

c. the type must be geared to the workplace;

d. it must be manufactured of reliable materials taking into account the rescue function and the circumstances in which it might be used or in which it is kept ready for use; and

e. it must be of a colour which is striking when used and be fitted with provisions with which the user can attract the attention of the rescuers.

**4.** The material that is necessary when in the event of an accident transport is taking place via a helicopter, must be stored ready for use in the immediate vicinity of the helicopter landing platform.

**Article 3.37u. Protection of emergency systems**

At mining installations fire detection and fire protection systems, facilities for fire-extinguishing or fire-fighting and alarm systems must be protected from accidents such that their functions remain operational in emergencies. If necessary such systems must be fitted in duplicate.

**Article 3.37v. Emergency plan**

**1.** An emergency plan must be drawn up in the event that someone falls overboard or the workplace has to be evacuated.

**2.** The emergency plan which is based on the health and safety document meant in Article 2.42 must provide the use of auxiliary vessels and helicopters and must contain criteria for their capacity and their response time. The required response time must be stated in the health and safety document of each installation.

**3.** When the emergency plan is formulated or changed, consultations will be held with the interested employees should there be no works council or staff representation body. Consultations about the emergency plan and changes to it will also be held with the employees of other employers and self-employed persons who are working in the business or establishment on the basis of a long-term building contract.

**4.** The employer should ensure that the following can inspect the emergency plan on request:

a. the employees and self-employed persons working in the business;

b. the company emergency response staff, as referred to in Article 15, first paragraph, of the Act;

c. the external emergency response organisations, as referred to in Article 3, first paragraph, under e, of the Act;

d. the experts, as referred to in Article 13, second paragraph, of the Act;

e. the experts and health and safety services, as referred to in Articles 14, first paragraph, and 14a, second paragraph, of the Act.

**5.** A copy of the emergency plan should be sent to the works council or staff representation body or, in the absence thereof, to the interested employees and the supervisor.

**6.** The auxiliary vessels should be designed and equipped efficiently and meet the requirements in connection with evacuation and rescue.

**7.** With respect to the first to third paragraphs detailed provisions can be laid down in a Ministerial Order.

**Article 3.37w. Accommodation areas**

**1.** In addition to Article 3.21, the necessary accommodation areas must be provided when required by the nature, extent and the duration of the activities at an mining installation.

**2.** Piping which in the event of leaks can cause a direct hazard to health, must be kept outside the accommodation and the passageways connected to it. This accommodation:

a. must be adequately protected from the consequences of explosions, smoke and gas entering the accommodation and the outbreak and spreading of fire, as described in the health and safety document referred to in Article 2.42;

b. must be protected from weather conditions and from noise and odour nuisance and development of flue gases from other areas, which could be harmful to health;

c. must not be in direct connection with enclosed spaces in which machines, boilers, tanks, pressure vessels or the like are installed;

d. must be separated from any workplace and be situated outside danger zones;

e. insofar as sleeping accommodation is involved this must not be in direct connection with recreation rooms nor with areas for the preparation and storage of food.

**3.** The accommodation areas must be provided with sufficient beds or bunks taking into account the number of employees which according to expectations might sleep at the installation. Sleeping accommodation should not have more than two beds.

**4.** Each accommodation must have sufficient room to store clothing.

**Article 3.37x. Kitchen facilities**

[Repealed on 01-01-2007]

**Article 3.37y. Safety and stability**

During the installation of a mining installation, all necessary measures shall be taken in order to guarantee the health and safety of the workers.

**Section 3d.Extracting industries for the detection and extraction of hydrocarbons**

**Article 3.37z. Linking provision**

Apart from the provisions of Sections 3 and 3c of this Chapter, the provisions of this Section also apply to a workplace in the extracting industry for the detection and extraction of carbons.

**Article 3.37za. Supplement to emergency plan**

**1.** As a supplement to Article 3.37v, first and second paragraph, the emergency plan meant in that article shall also include the planning for emergency situations as a result of major accidents as referred to in Chapter 2, Section 6b, and this plan shall, in this respect, be based on the risk assessment and evaluation meant in Article 2.42l, first paragraph, and the measures taken on the basis of this, meant in Article 2.42l, second paragraph.

**2.** The supplement to the emergency plan meant in the first paragraph shall be tested, evaluated and if necessary amended at least once every five years.

**3.** With respect to the provisions of the first paragraph detailed provisions will be laid down in a Ministerial Order.

**Section 4. Additional provisions for petrol stations** [Repealed on 01-01-2007]

**Article 3.38. Linking provision**

[Repealed on 01-01-2007]

**Article 3.39. Safety requirements for petrol stations**

[Repealed on 01-01-2007]

**Article 3.40. Additional safety requirements for petrol stations**

[Repealed on 01-01-2007]

**Section 5. Special sectors and special categories of employees**

**§ 1. Education**

**Article 3.41. Recreation rooms, pupils and students**

Article 3.20 does not apply to pupils or students in educational institutions.

**§ 2. Transport**

**Article 3.42. Exceptions to means of transport**

**1.** Articles 3.4, 3.5, 3.7, fifth paragraph, do not apply to aircraft for which a Dutch or a comparable certificate of airworthiness has been issued before 1 January 1997 unless compliance with this may reasonably be required.

**2.** Articles 3.7, fifth paragraph, 3.20, 3.22, 3.23 and 3.24 do not apply to seagoing vessels and inland vessels constructed before 1 January 1994 unless compliance with this may reasonably be required.

**3.** The date of manufacture of a seagoing vessel is determined on the basis of the provisions laid down in this respect in Article 2 of the Ships Decree 2004 or, if a seagoing fishing vessel is concerned, in the Fishing Vessels Decree or the Fishing Vessels Decree 2002.

**4.** Article 3.7, fifth paragraph, does not apply to vehicles on a public road or railway constructed before 1 January 1994 unless compliance with this may reasonably be required.

**5.** Articles 3.4, 3.5 and 3.7, fifth paragraph, do not apply to the rolling stock present in businesses or establishments of railway enterprises.

**6.** Articles 3.20 up to and including 3.25 do not apply to aircraft.

**7.** Articles 3.4, 3.5, 3.7, third and fourth paragraph, 3.21, second sentence, and 3.25 do not apply to seagoing vessels and inland vessels.

**8.** Articles 3.20 to 3.25 do not apply to vehicles on a public road or a railway.

**9.** Article 3.5h does not apply to tankers located outside the Netherlands.

**§ 3. Custodial institutions**

**Article 3.43. Changing rooms and some other provisions**

Articles 3.20 to 3.25 do not apply to workplaces in custodial institutions which were in operation as such before 1 September 1990, insofar as compliance with this cannot reasonably be required.

**Article 3.44. Escape routes and emergency exits**

Articles 3.6 and 3.7 apply to work carried out in custodial institutions by judicial personnel, prisoners or young persons insofar as the order, security or the proper course of events in the custodial institution or the undisturbed implementation of the deprivation of liberty or other restrictions imposed under any law by the authorities having the power to do so shall not be violated. In this context technical and organisational measures should in any event be taken such that the judicial personnel, prisoners or young persons are able to get themselves to safety.

**§ 4. Young persons**

**Article 3.45. Linking provision**

In addition to the provisions set out in or pursuant to this Chapter the provisions and prohibitions mentioned in this division also apply to young employees.

**Article 3.46. Expert supervision**

Article 1.37, second paragraph, applies accordingly to young employees who:

a. carry out work where there is a danger of collapse;

b. carry out work to, with or in close proximity to high voltage installations as meant in Article 3.1.

**§ 5. Pregnant and breast-feeding employees**

**Article 3.47. Linking provision**

In addition to this Chapter the provisions set out in this division also apply to pregnant and breast-feeding employees.

**Article 3.48. Resting rooms**

A suitable, lockable, enclosed space should be available for pregnant and breast-feeding employees in which there is an opportunity to take a rest or one can be made immediately available. In such a space a proper, folding or non-folding bed or a suitable couch should be available.

**Chapter 4. Dangerous substances and biological agents**

**Section 1. Dangerous substances**

**§ 1. Definitions and applicability**

**Article 4.1. Definitions**

In this Chapter and the provisions based on it the following concepts have the following meaning:

a. limit value:

1°. the limit of the concentration or of the time-weighted average of the concentration for a dangerous substance in the individual inhalation area of a worker during a specified reference period;

2°. the limit of the concentration in the suitable biological medium of a dangerous substance, its metabolites or an indicator of the effect of the respective substance during a specified reference period;

b. unintended event: a sudden situation, accident, event or emergency causing a danger to the health and safety of the employee or his environment and which considering the substances, processes and measures applied was not foreseen.

**Article 4.1a. Applicability**

**1.** Articles 4.1c, first paragraph under i, 4.3, 4.4 and 4.10a, fifth paragraph are not applicable to carcinogenic or mutagenic substances and carcinogenic processes as meant in Section 2 of this Chapter and to asbestos products or those containing asbestos as meant in Section 5 of this Chapter.

**2.** Article 4.7 is not applicable to businesses, establishments or parts thereof to which the Major Accidents (Risks) Decree 2015 or Section 2 of Chapter 2 is applicable.

**3.** Article 4.4 does not apply to white lead as meant in Article 4.61b.

**4.** Article 4.10d does not apply to asbestos products or those containing asbestos as meant in Section 5 of this Chapter.

**§ 2. Duty of care, measures and detailed provisions for risk assessment and evaluation**

**Article 4.1b. The employer’s duty of care**

**1.** In all the cases in which employees are or can be exposed to dangerous substances, the employer should arrange for suitable protection of the employee’s health and safety.

**2.** The provisions set out in the first paragraph are complied with if:

a. in connection with the risk assessment and evaluation meant in Article 5 of the Act, the nature, extent and duration of the exposure has been assessed in accordance with Article 4.2;

b. effective measures have been taken to prevent or restrict the exposure in accordance with Articles 4.1c and 4.4 or in accordance with Articles 4.17, 4.18 and 4.19;

c. preventative measures have been taken to prevent unintended events in accordance with Article 4.6.

**Article 4.1c. Restriction of exposure; general preventative measures**

**1.** In all cases in which work is carried out whereby employees are or can be exposed to dangerous substances, in connection with Article 3 of the Act, the exposure of employees to dangerous substances must be prevented or kept as low as possible by:

a. the design and organisation of the work systems at the workplace;

b. making use of adequate work equipment;

c. making use of adequate provisions in carrying out repair or maintenance activities;

d. reducing as much as possible the number of employees that is or can be exposed;

e. keeping the extent and duration of the exposure as low as possible;

f. preventing or minimising skin contact by wearing effective personal protective equipment during potential exposure to a dangerous substance:

1°. that meets criteria for one or more of the following hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures: H-phrases 310, 311, 312, 314, 315 or 317;

2°. as referred to in Article 4.3, first or second paragraph, or Article 4.16, first or second paragraph, and stating that this dangerous substance can be absorbed through the skin; or

3°. if this follows from the risk assessment and evaluation referred to in Article 5 of the Act;

g. preventing or minimising eye contact by wearing effective personal protective equipment during potential exposure to a dangerous substance:

1°. that meets criteria for one or more of the following hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures: H-phrases: 314, 318, 319, or the special statement: EUH070; or

2°. if this follows from the risk assessment and evaluation referred to in Article 5 of the Act;

h. observing the highest care, tidiness and cleanliness possible;

i. limiting the quantity of dangerous substances at the workplace as much as possible;

j. introducing appropriate working methods, including regulations for the safe handling, storage and transportation at the workplace of dangerous substances and of waste containing dangerous substances;

k. having work performed only by persons who are in a physical and mental condition and have basic knowledge in the area of this work such that they are sufficiently able to be aware of and avoid the hazards associated therewith;

l. making sure that no smoking, eating, drinking, sleeping or storage of food takes place at locations where dangerous substances are present.

**2.** The measures meant in the first paragraph must be in accordance with the latest science and technology.

**Article 4.1d. Limitation of exposure; labelling in the workplace**

**1.** In all cases in which work is performed in which employees are or could be exposed to dangerous substances, the exposure of employees to dangerous substances is prevented or minimised in connection with Article 3 of the Act, by stating in a striking and clearly legible manner on the packaging of the dangerous substance:

a. the official name of the dangerous substance and the relevant dangerous components; and

b. hazard pictograms, signal words and hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures.

**2.** In derogation of the first paragraph, laboratory equipment that is used for activities of a short duration or with constantly changing chemicals need not always contain all mandatory statements if adequate alternative measures have been taken, especially in the area of information or training, which guarantee the same level of protection as referred to in the first paragraph.

**3.** The packaging and fastenings of dangerous substances shall satisfy the following provisions:

a. the packaging shall be designed and constructed so that its contents cannot escape, except in cases where other more specific safety devices are prescribed;

b. the materials constituting the packaging and fastenings shall not be susceptible to damage by the contents, or liable to form hazardous compounds with the contents;

c. the packaging and fastenings shall be strong and solid throughout to ensure that they will not loosen and will safely meet the normal stresses and strains of handling; and

d. packaging fitted with replaceable fastening devices shall be designed so that it can be refastened repeatedly without the contents escaping.

The packaging and fastenings of dangerous substances are presumed to satisfy the aforementioned provisions if they meet the relevant requirements - set by or pursuant to the Carriage of Dangerous Goods Act or the Aviation Act - for transport of dangerous goods by air, sea, road, rail or inland waterways.

**4.** If dangerous substances are stored in larger quantities in special storage spaces, the first paragraph will be complied with if the mandatory statements for several identical packagings are affixed in a striking and clearly legible manner by means of a single label print. The statements are affixed such that it is always clear for each separate packaging stored on the spot that the statements apply. If dangerous substances are only stored for trading, it will be sufficient if the statements are affixed which are required by law upon delivery in the Netherlands.

**5.** If dangerous substances are transported and loaded and unloaded, the first paragraph will be complied with if the carriers and the persons loading and unloading the dangerous substances have, at their workplace, the data available which should be stated on the label pursuant to the first paragraph.

**6.** The first and second paragraphs do not apply insofar as the Carriage of Dangerous Goods Act or the Aviation Act apply.

**7.** With respect to the first, second or fourth paragraph, provisions may be laid down in a Ministerial Order.

**Article 4.2. Detailed provisions for risk assessment and evaluation, assessment**

**1.** If employees are or could be exposed to dangerous substances, regardless as to whether actual work is or will be carried out with these substances, the nature, extent and duration of this exposure should be assessed in connection with the risk assessment and evaluation meant in Article 5 of the Act, in order to determine the hazards for the employees.

**2.** With regard to the nature of the exposure it should in any event be determined to which dangerous substances the employees are or could be exposed, what hazards are associated with these substances, in what situations exposure could occur and in what manner exposure could take place.

**3.** With regard to the extent of the exposure to dangerous substances, the level of the exposure should in any event be determined.

**4.** In order to effectively determine the exposure level, suitable, normalised measuring methods must be used or other measuring methods or quantitative evaluation measures suitable for the purpose.

**5.** At the assessment meant in the first paragraph, the following aspects must in any event be taken into account:

a. the information about the health and safety which has to be provided by the supplier of a dangerous substance in or pursuant to legal provisions as well as the additional information of the supplier necessary for the risk assessment or from other easily accessible sources;

b. the circumstances during the activities in which dangerous substances are involved including the quantity of dangerous substances to which the employees are or can be exposed;

c. the reasonably foreseeable events which may lead to a considerable increase in the extent of the exposure even when preventative measures have been taken;

d. the effectiveness of the preventative measures taken or to be taken;

e. insofar as this is applicable, the results of the occupational health medical examinations meant in Articles 4.10a and 4.10b.

**6.** If various dangerous substances are involved, the assessment meant in the first paragraph must be based on the risk created by those substances in combination.

**7.** The extent of exposure meant in the first paragraph must be reviewed with the limit value determined for the respective substance in accordance with the fourth paragraph.

**8.** The assessment meant in the first paragraph must be regularly reviewed, in any event if new activities are started up in which dangerous substance are involved and moreover when changed circumstances or the results of the occupational health medical examinations meant in Articles 4.10a and 4.10b give rise to it.

**9.** Detailed provisions with respect to this Article can be laid down in a Ministerial Order.

**Article 4.2a. Detailed provisions for risk assessment and evaluation, additional registration**

If, at the workplace and in connection with the nature of the work performed there, dangerous substances tend to be used that meet criteria for one or more of the following hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures: H-phrases 360, 360F, 360D, 360FD, 360Fd, 360Df, 361, 361f, 361d, 361fd, 362, the following details with regard to these substances must be included in the risk assessment and evaluation meant in Article 5 of the Act, in addition to Article 4.2:

a. the quantity of the substance which is usually manufactured or used or which is usually present in connection with storage each year;

b. the number of employees usually working in the workplace where the substance is usually present;

c. the form of the work usually carried out with the substance.

**§ 3. Limit values, workplace hygiene strategy and ventilation**

**Article 4.3. Limit values**

**1.** Limit values will be determined in a Ministerial Order with regard to the dangerous substances indicated in that Order.

**2.** If no statutory limit value has been determined for a certain dangerous substance, the employer will determine a limit value for that substance. This limit value must be determined at such a level that the health of the employee cannot be harmed.

**3.** When a limit value has been exceeded, suitable measures should be taken immediately to reduce the concentration below this value with due observance of Article 4.4.

**4.** So long as measures as meant in paragraph three have not yet been fully implemented or have not resulted in effective protection, the work may only be continued if suitable measures are taken to prevent damage to the employees' health.

**Article 4.4. Workplace hygiene strategy**

**1.** Insofar as it appears from the results of the assessment meant in Article 4.2 that there is a danger to the health or safety of the employees, suitable measures must be taken to prevent the employees being exposed in the course of their work to dangerous substances to such an extent that their safety can be jeopardised or that their health might be impaired.

**2.** When the first paragraph is applied, insofar as this is reasonably possible, dangerous substances must be replaced by substances in connection with which the employees, considering the characteristics of those substances, the nature of the work, the work methods and the work circumstances, are not or are less exposed to danger to their health or safety.

**3.** If replacement is not reasonably possible or if there is still a danger remaining to the health or safety of the employees, for the application of the first paragraph such technical measures, work processes, equipment and materials must be applied that the release of dangerous substances is prevented or restricted to such an extent that the danger to the health or safety of the employees is prevented or reduced as much as possible.

**4.** Insofar as the measures mentioned in the second and third paragraph are not reasonably possible or do not completely remove the danger to health and safety, for the application of the first paragraph collective protective measures must be taken at source or organisational measures taken such that the danger to health or safety is prevented.

**5.** Insofar as measures as mentioned in the second, third and fourth paragraph are not reasonably possible or do not completely remove the danger to health and safety, for the application of the first paragraph suitable personal protective equipment must be made available.

**6.** The time during which the personal protective equipment meant in the fifth paragraph has to be worn must be limited to what is strictly necessary for each of the employees.

**Article 4.5. Ventilation**

**1.** If contaminated air is removed, at the same time a sufficient supply of non-contaminated air must be guaranteed.

**2.** The recirculation of prohibited air containing a dangerous substance towards a workplace where the respective substance is not present is prohibited.

**3.** The recirculation of air, containing a substance as meant in the fourth paragraph towards the same workplace is prohibited, unless the employer demonstrates that the concentration of a substance as meant in the fourth paragraph in the air which is supplied to that workplace, amounts to not more than one-tenth part of the limit value determined for that substance.

**4.** This Article is applicable to the following substances:

a. carcinogenic and mutagenic substances as meant in Article 4.11, under b and d;

b. a substance released during a carcinogenic process as meant in Article 4.11 under c;

c. a substance that meets the following hazard statement as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures: H-phrase 334.

**§ 4. Measures in specific circumstances**

**Article 4.6. Preventing unintended events**

**1.** In all cases in which employees are or can be exposed to dangerous substances, measures must be taken such that the danger of an unintended event which may occur with regard to those substances or with regard to the work with those substances, is avoided as much as possible. In particular measures must be taken to:

a. prevent the presence of dangerous concentrations of flammable substances or dangerous quantities of chemically unstable substances at the workplace or, if this is not possible considering the nature of the activities;

b. make sure that no sources of ignition are present which may cause fire and explosions or to avoid unfavourable circumstances which may lead to chemically unstable substances or mixtures of substances causing accidents with serious physical consequences, and

c. reduce the harmful consequences for the health and safety of the employees as a result of fire and explosions as a result of the ignition of flammable substances or serious physical consequences as a result of accidents caused by chemically unstable substances or mixtures of substances.

**2.** The measures meant in the first paragraph must be geared to the nature of the activities including the storage, treatment and separation of incompatible dangerous substances and these measures must protect the employees against the dangers of physical-chemical characteristics of dangerous substances.

**3.** The measures meant in the first paragraph must be, insofar as this is applicable, in accordance with the Explosion-safe Materials Commodities Act Decree.

**Article 4.7. Measures for unintended events**

**1.** Insofar as it appears from the results of the assessment meant in Article 4.2, that there is a danger to the health or safety of the employees, in addition to Article 15 of the Act, effective procedures must be arranged which are put into operation if an unintended event occurs.

**2.** Pursuant to the procedures meant in the first paragraph, technical or organisational measures must be taken such that when an unintended event occurs the consequences of it are restricted as much as possible.

**3.** In compliance with the second paragraph the following measures should in any event be taken:

a. effective measures must be taken immediately to restrict the consequences of an unintended event and a restoration of safe conditions must be arranged as soon as possible;

b. the employees must be immediately informed of the unintended event and it must be ensured that they leave the affected area;

c. only those employees or other persons entrusted with carrying out the necessary repair activities can access the affected area using suitable means and personal protective equipment;

d. the employees and other persons meant under c should not be present in the affected area longer than is strictly necessary for the restoration of safe conditions;

e. in addition to Article 15 of the Act suitable warning and other communication systems must be available for indicating an increased risk to health and safety and which comply with the provisions set out in or pursuant to Section 2 of Chapter 8;

f. anybody other than the employees and other persons meant under c must be prevented from accessing the affected area.

**4.** The employer must ensure that the company emergency response staff meant in Article 15 of the Act and the external emergency services can inspect on request the measures meant in the third paragraph.

**5.** The information about the measures meant in the fourth paragraph must in any event include:

a. a description of the hazards based on the assessment meant in Article 4.2;

b. a description of the reasonably foreseeable specific dangers based on the assessment meant in Article 4.2 which may arise during an unintended event;

c. a description of the measures taken in order to comply with Article 4.6, first and second paragraph;

d. a description of the procedures meant in the first paragraph.

**Article 4.8. Explosive substances**

**1.** Work - in connection with demolition, consisting of blasting objects or materials, or for maintenance - where substances are used which under the Environmental Management Act meet the criteria for classification in the category of «explosives», meant in Article 9.2.3.1, paragraph two under a, of that Act, must be carried out according to a blasting plan drawn up in advance or with regard to prospecting, detecting or extracting minerals a programme drawn up in advance. The contents of the blasting plan or the programme must include a proper description of the activities to be carried out, the associated dangers and the manner in which these dangers will be prevented or restricted as much as possible.

**2.** The demolition and maintenance work meant in the first paragraph should be carried out by or under the continuous supervision of a person in the possession of a certificate of professional blasting expertise with respect to the type of work carried out, issued by Our Minister or a certifying institution.

**3.** Activities consisting of blasting materials for prospecting, detecting and extracting minerals as meant in the first paragraph must be carried out by persons who are in the possession of a blasting certificate issued by Our Minister or an institution designated to this end by Our Minister.

**4.** The blasting plan or programme meant in the first paragraph, the certificate of professional blasting expertise meant in the second paragraph or the blasting certificate meant in the third paragraph or a copy of it must be available at the workplace and must be shown to the supervisor on request.

**Article 4.9. Professional fireworks**

**1.** Work whereby consumer fireworks, professional fireworks or pyrotechnic articles for theatrical use, as meant in Article 1.1.1, first paragraph, of the Fireworks Decree are ignited, are built up, installed, mounted and assembled on site for such purposes or are removed after ignition, must be carried out in accordance with an addition to the risk assessment and evaluation, including a proper description of the activities to be carried out, the associated dangers and the manner in which these dangers are prevented or restricted as much as possible.

**2.** The work meant in the first paragraph as well as work consisting of the processing of consumer fireworks, professional fireworks or pyrotechnic articles for theatrical use in an establishment as meant in Article 3.2.1 or 3A.2.1 of the Fireworks Decree must be carried out by or under the continuous supervision of a person who is in the possession of a certificate of professional expertise in consumer fireworks, professional fireworks or pyrotechnic articles for theatrical use issued by Our Minister or a certifying institution.

**3.** The addition to the risk assessment and evaluation referred to in the first paragraph and the certificate of competence meant in the second paragraph, or a copy thereof, must be present at the workplace and must be shown to the supervisor on request.

**Article 4.10. Conventional explosives**

**1.** In this Article the following terms have the following meaning:

a. conventional explosives: any explosive which is not an improvised, nuclear, biological or chemical explosive;

b. detecting: tracing, locating, excavating in layers, identifying, temporarily making the situation safe and transferring;

c. tracing: determining the presence of an object which might be a conventional explosive based on the assessment of the measuring data;

d. locating: determining three dimensionally the location of the traced object;

e. identifying: determining whether the located object is a conventional explosive and determining the type, sub-type, reinforcement situation, calibre and the nationality of the object;

f. temporarily making the situation safe; the activities after identification which are required to control the risk effects of the conventional explosive in relation to the environment until the moment of transfer;

g. transferring: transferring the conventional explosives to one of the explosives removal departments of the Ministry of Defence.

**2.** Work consisting of detecting conventional explosives must be carried out by a business that is in possession of a process certificate for the work to be carried out for the detection of conventional explosives issued by Our Minister or a certifying institution.

**3.** The certificate meant in the second paragraph or a copy of this should be present at the workplace and should be shown on request to the supervisor.

**§ 5. Occupational health medical examination**

**Article 4.10a. Examination**

**1.** Any employee who might be exposed for the first time to dangerous substances, should in addition to Article 18 of the Act be given the opportunity to submit to an occupational health medical examination before commencing the activities which might create exposure.

**2.** If the employee is found to have a harmful effect on his health or demonstrable illness which could be the consequence of being exposed to dangerous substances, employees who are similarly exposed will in the meantime be given the opportunity to submit to an occupational health medical examination.

**3.** The occupational health medical examination can be offered or carried out again at the request of the employer or the employee involved. The results of the re-taken examination replace the previous one.

**4.** The employee should be informed about the manner in which he is given the opportunity after termination of the exposure to submit to an occupational health medical examination.

**5.** All the information required to be able to assess the exposure of employees to dangerous substances and to be able to advise about the periodicity and contents of the occupational health medical examinations and the preventative measures to be taken can be inspected by the expert meant in Article 2.14a, second paragraph, or the health and safety service.

**Article 4.10b. Examination and biological limit values**

**1.** Any employee who is or might be exposed to dangerous substances for which a biological limit value as meant in Article 4.1, second paragraph under b, has been determined, must be given the opportunity to submit to an occupational health medical examination:

a. before the commencement of the exposure;

b. when the biological limit value has been exceeded.

**2.** The examination meant in the first paragraph includes for instance an examination into the content of the respective substance in the biological medium determined at the biological limit value.

**3.** Provisions may be given in a Ministerial Order that the examination meant in the second paragraph will in the cases provided in this Order be replaced by a measuring of other biological indicators.

**4.** Methods will be determined in a Ministerial Order according to which the content of the respective substance, meant in the second paragraph, will be measured.

**5.** The frequency of the examination will be determined in a Ministerial Order.

**Article 4.10c. Files and recording**

**1.** The expert person meant in Article 2.14a, second paragraph, or the health and safety service must keep an up-to-date personal medical file of every employee who has submitted to an occupational health medical examination as meant in Articles 4.10a and 4.10b.

**2.** Every employee is entitled to inspect his medical file.

**3.** The results of the occupational health medical examination in a statistical form which cannot be traced back to the individual, provided with an explanation, can be inspected by the works council or the staff representation body or, in the absence thereof, be presented to the interested employees.

**4.** The results of the occupational health medical examination must be registered in a suitable form and be archived for each employee for up to at least 40 years after the termination of his or her exposure to dangerous substances along with the list of employees meant in Article 4.15 and the register of exposed employees meant in Article 4.53, paragraph one.

**5.** In the event of the activities in the business or establishment of the employer being discontinued during the period of 40 years meant in the fourth paragraph, the documents meant in the fourth paragraph should be transferred to the supervisor.

**§ 6. Special provisions concerning information and instructions**

**Article 4.10d. Information and instruction**

**1.** In all the cases in which work is carried out whereby employees are or might be exposed to dangerous substances, in accordance with Article 8 of the Act, information and instructions must be given concentrating at least on:

a. the possible health and safety dangers associated with working with dangerous substances based on the results of the assessment meant in Article 4.2;

b. the nature of the exposure meant in Article 4.2, first paragraph;

c. the limit values;

d. the precautions to be taken to prevent or restrict exposure to the lowest possible level;

e. the precautions to be taken to prevent as much as possible an unintended event occurring with regard to dangerous substances;

f. the hygienic measures;

g. wearing and using personal protective equipment;

h. the measures to be taken in the event of an unintended event arising with dangerous substances.

**2.** The employer has to give the employees the information with regard to health and safety given by the supplier of a dangerous substance including the mandatory information which is given under or pursuant to a legal provision.

**3.** The manner in which this information and these instructions are given should be geared to the results of the assessment meant in Article 4.2.

**4.** The information and instructions must be brought up-to-date should changed circumstances give rise to it.

**Section 2. Additional provisions concerning carcinogenic or mutagenic substances and carcinogenic processes**

**§ 1. Definitions and applicability**

**Article 4.11. Definitions**

In this Section and the provisions based on it, the following words have the following meaning:

a. Directive: Directive No. 2004/37/EC of the European Parliament and the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogenic or mutagenic agents at work (sixth individual Directive within the meaning of Article 16, paragraph 1, of Directive 89/391/EEC of the Council) (OJ EC L 158);

b. carcinogenic substance:

1°. dangerous substance that meets the criteria in order to be classified as carcinogenic into category 1A or 1B as referred to in Annex I to the EC regulation on classification, labelling and packaging of substances and mixtures; or

2°. dangerous substance or process as referred to in Annex I to the Directive, as well as a dangerous substance that is released during a process referred to in that Annex;

c. carcinogenic process:

1°. a process as referred to in Annex I to the Directive as well as a substance that is released during a process as referred to in Annex I to the Directive;

2°. a process to be designated by a Ministerial Order during which multiple substances are released which are classified into one of the categories referred to under b, sub 1°, for which no concentration limits apply to the separate substances.

d. *mutagenic substance:* dangerous substance that meets the criteria in order to be classified as germ cell mutagenic into category 1A or 1B as referred to in Annex I to the EC regulation on classification, labelling and packaging of substances and mixtures;

e. danger zone: an area in a business or establishment where employees are or might be exposed to mutagenic or carcinogenic substances or substances released during carcinogenic processes.

**Article 4.12. Linking provision**

In all the cases where work is carried out whereby employees are or might be exposed to carcinogenic or mutagenic substances or to substances released during carcinogenic processes, this Section will also be applicable in addition to Section 1 of this Chapter with due observance of Article 4.1a, first paragraph.

**§ 2. Written assessment and recording information**

**Article 4.13. Detailed provisions for risk assessment and evaluation**

In all cases where work is carried out whereby employees are or might be exposed to carcinogenic or mutagenic substances or substances released during carcinogenic processes, the following must at least be included with regard to these substances or processes in the risk assessment and evaluation meant in Article 5 of the Act and in addition to Article 4.2:

a. the reason why the use of a carcinogenic substance or the application of a carcinogenic process is strictly required for the work and why a replacement would not be technically feasible;

b. the quantity of the carcinogenic or mutagenic substance which is usually manufactured or used per year or is usually present with regard to storage or the frequency with which a process is usually applied per year;

c. the type of work which is usually carried out with the carcinogenic or mutagenic substance or in which the carcinogenic process is usually applied;

d. the number of employees who are usually or might be exposed to the carcinogenic or mutagenic substance or a carcinogenic process;

e. the preventative measures which have been taken to prevent or minimise the exposure of employees to carcinogenic or mutagenic substances or to substances released during carcinogenic processes;

f. the personal protective equipment used during the activities whereby employees are or can be exposed to carcinogenic or mutagenic substances or to substances released during carcinogenic processes;

g. the cases in which carcinogenic or mutagenic substances or carcinogenic processes are replaced by substances or processes whereby the employees are not or are less exposed to health or safety dangers.

**Article 4.14. Detailed provisions for assessment and evaluation, assessment**

[Repealed on 19-04-2002]

**Article 4.15. List of employees**

**1.** An up-to-date list must be kept of employees who are or might be exposed to carcinogenic or mutagenic substances or substances released during a carcinogenic process, stating the exposure they are submitted to.

**2.** Any employee is entitled to inspect information concerning him recorded on the list meant in the first paragraph.

**§ 3. Limit values and preventing or restricting exposure**

**Article 4.16. Limit values**

**1.** Limit values will be determined in a Ministerial Order with regard to the carcinogenic or mutagenic substances or substances released during a carcinogenic process specified in that Order.

**2.** If no statutory limit value for a certain carcinogenic or mutagenic substance or substance released during a carcinogenic process has been determined, the employer must determine the lowest possible limit value for that substance.

**3.** When a limit value has been exceeded, suitable measures should be taken immediately to reduce the concentration below this value with due observance of Articles 4.17 and 4.18.

**4.** So long as the measures as meant in paragraph three have not yet been fully implemented or have not resulted in effective protection, the work may only be continued if suitable measures are taken to prevent damage to the employees' health or to reduce the exposure level to the lowest possible level under the limit value.

**Article 4.17. Prevention of exposure; replacement**

Technical and organisational measures should be taken such that the chance of exposure of employees to carcinogenic or mutagenic substances or substances released during carcinogenic processes is prevented at source as much as possible, in particular by replacing carcinogenic or mutagenic substances and carcinogenic processes - insofar as this is technically feasible - by substances or processes whereby the employees - with a view to the properties of these substances or processes, the nature of the work, the working methods and operational circumstances - are not or are less exposed to the danger to their health and safety.

**Article 4.18. Preventing or restricting exposure**

**1.** Insofar as it appears from the results of the assessment meant in Article 4.2, first paragraph, that there is a health hazard for the employees and that effectively preventing the exposure by taking measures as meant in Article 4.17 is technically not feasible, the exposure - insofar as this is technically feasible - should be prevented at source or be reduced to the lowest possible level under the limit value, in particular by having the production and the use of carcinogenic or mutagenic substances or carcinogenic processes take place in a closed system.

**2.** If it is technically not feasible to prevent exposure or to reduce the exposure to the lowest possible level under the limit value, collective measures must be taken to remove at source the carcinogenic or mutagenic substances or the substances released during carcinogenic processes in an effective manner, for instance by the local removal of the air, if necessary replenished by general ventilation whereby, with due observance of Article 4.5, a supply of non-contaminated air is guaranteed at the same time without the public health and the environment being jeopardised.

**3.** If it is not technically feasible to prevent the exposure of the employees or restrict the exposure to the lowest possible level under the limit value by means of the measures meant in paragraph two, personal protective equipment should be made available to the employees who are or might be exposed.

**4.** If the activities are carried out with the use of personal protective equipment in accordance with the third paragraph, the time during which each of these employees wears it should be restricted to what is strictly necessary.

**Article 4.19. Restricting exposure**

In all cases where work is carried out whereby employees are or might be exposed to carcinogenic or mutagenic substances or substances released during carcinogenic processes, the following measures should be taken in addition to Articles 4.1c, 4.1d and 4.18 to prevent the exposure of employees or restrict this to the lowest possible level under the limit value:

a. employees must be sufficiently familiar with the nature of their activities and should have sufficient knowledge of the hazards attached to exposure and of the provisions made or which they should make to prevent or restrict these hazards, in accordance with information or instruction provided at least once a year;

b. anybody other than the employees or other persons who have to enter the areas in connection with their work should be prevented from entering the danger areas;

c. danger areas should be marked by means of warning and safety signs that comply with the provisions set out in or pursuant to Section 2 of Chapter 8;

d. use should be made of effective means for safely storing, handling and transporting carcinogenic or mutagenic substances by using hermetically sealed and clearly visibly marked containers as much as possible, and

e. use should be made of effective means for safely collecting, storing and removing waste materials using hermetically sealed and clearly visibly marked containers as much as possible.

**Article 4.20. Protective hygiene measures**

**1.** Areas should be fitted out where employees can eat and drink without any hazard of exposure.

**2.** Employees who are or might be exposed to carcinogenic or mutagenic substances or to substances released during carcinogenic processes must be provided with suitable working clothes which comply with Section 1 of Chapter 8 and which will always be worn by the employees during their work activities.

**3.** In addition to Article 3.22 the working clothes should be stored in separate place from other clothing.

**4.** In addition to Article 3.23 effective washing facilities and shower rooms should be available for the employees.

**5.** Personal protective equipment should, according to instructions, be stored in a specially dedicated place and should be cleaned after every use and checked before every use.

**Article 4.21. Abnormal exposure level**

If an abnormal increase in the exposure level arises as meant in Article 4.2, third paragraph, the works council or staff representation body or – if these are not present - the interested employees, should be immediately notified of the causes of the increase and of the measures which are or will be taken to remove the causes and to prevent or restrict the exposure as much as possible.

**§ 4. Occupational health medical examination**

**Article 4.22. Examination**

[Repealed on 19-04-2002]

**Article 4.23. Execution and contents of examination**

**1.** The occupational health medical examination meant in Article 4.10a should take place with due observance of the practical recommendations included in Annex II of the Directive.

**2.** The expert person meant in Article 2.14a, second paragraph, or the health and safety service is entitled to inspect the list of exposed employees meant in Article 4.15. In addition, they will have at their disposal all the information required to assess the exposure of the employees to carcinogenic or mutagenic substances and substances released during carcinogenic processes and to be able to give advice on the periodicity and content of the occupational health medical examination meant in the first paragraph, the preventative measures to be taken or personal protective equipment used.

**Article 4.24. Files and recording**

[Repealed on 19-04-2002]

**Section 3**

**Article 4.25. Definitions**

[Repealed on 19-04-2002]

**Article 4.25a. Linking provision**

[Repealed on 19-04-2002]

**Article 4.25b. Varying provisions**

[Repealed on 19-04-2002]

**Article 4.26. Detailed provisions for assessment and evaluation, measuring**

[Repealed on 19-04-2002]

**Article 4.27. Measurement point**

[Repealed on 19-04-2002]

**Article 4.28. Measuring instruments**

[Repealed on 19-04-2002]

**Article 4.29. Results of measurements**

[Repealed on 19-04-2002]

**Article 4.30. Limit value**

[Repealed on 19-04-2002]

**Article 4.31. Monitoring system**

[Repealed on 19-04-2002]

**Article 4.32**

[Repealed on 19-04-2002]

**Article 4.33**

[Repealed on 19-04-2002]

**Article 4.34**

[Repealed on 19-04-2002]

**Article 4.35. Occupational health medical examination**

[Repealed on 19-04-2002]

**Section 4. Benzene and chlorinated hydrocarbons**

**Article 4.36. Prohibition of benzene and chlorinated hydrocarbons**

[Repealed on 01-01-2007]

**Section 5. Additional provisions for asbestos**

**§ 1. Definitions and applicability**

**Article 4.37. Definition of asbestos**

In this Section and the provisions based on it, the following words have the following meaning:

a. asbestos: substances containing one or more of the following fibrous silicates:

1°. actinolite (CAS Number 77536-66-4);

2°. amosite (CAS Number 12172-73-5);

3°. anthofylite (CAS Number 77536-67-5);

4°. chrysotyl (CAS Number 12001-29-5);

5°. tremolite (CAS Number 77536-68-6);

6°. crocidolite (CAS Number 12001-28-4);

b. products containing asbestos: products containing one or more of the fibrous silicates mentioned under a;

c. fibre: particle longer than 5 micrometers, having a width of less than 3 micrometers and a length/width proportion of more than 3/1;

d. object: construction, installation, device or means of transport, not being a structure.

**Article 4.37a. Linking provision**

If work is carried out whereby employees are or might be exposed to asbestos or products containing asbestos, this Section will also be applicable in addition to Sections 1 and 2 of this Chapter, with due observance of Articles 4.37b and 4.37c.

**Article 4.37b. Varying provisions**

**1.** Contrary to Article 4.15, Article 4.53 will be applicable.

**2.** Contrary to Article 4.16, Articles 4.46 and 4.47a will be applicable.

**3.** Contrary to Article 4.19 under d and e, Article 4.45, second paragraph under c and d will be applicable.

**4.** Contrary to Article 4.20, fifth paragraph, Article 4.51, third paragraph, will be applicable.

**Article 4.37c. Applicability**

This Section is applicable to activities with regard to asbestos or products containing asbestos if the concentration of asbestos exceeds one hundred milligrams per kilogram of dry substance as meant in Article 2 under b, of the Asbestos Products Decree.

**§ 2. Prohibitory provisions**

**Article 4.38. Spray prohibition**

[Repealed on 08-03-2005]

**Article 4.39. Crocidolite prohibition**

[Repealed on 08-03-2005]

**Article 4.40. Exceptions to the crocidolite prohibition**

[Repealed on 08-03-2005]

**Article 4.41. Asbestos prohibition**

[Repealed on 08-03-2005]

**Article 4.42. Exceptions to the asbestos prohibition**

[Repealed on 08-03-2005]

**§ 3. Provisions for working with asbestos and products containing asbestos**

**Article 4.43. Detailed provisions for assessment and evaluation, assessment**

[Repealed on 27-06-2000]

**Article 4.44. Risk class 1**

This division is applicable if it appears from the assessment meant in Article 4.2, first paragraph, that the concentration of asbestos fibres in the air to which the employees could be exposed in the course of their work, is lower than or equal to the limit value meant in Article 4.46.

**Article 4.45. Preventative measures**

**1.** The concentration of asbestos fibres in the air should be kept as low as possible under the limit values meant in Article 4.46.

**2.** In compliance with the first paragraph the following measures should be taken:

a. the working methods must be organised such that no asbestos dust will be produced or if this is technically not possible, that no asbestos dust will be released into the air;

b. buildings, installations and equipment serving to apply or process asbestos or products containing asbestos must be suitably and regularly cleaned and maintained;

c. asbestos, products containing asbestos and products releasing asbestos must be stored and transported in closed packaging suitable to this end;

d. waste materials created as a result of applying or processing asbestos or products containing asbestos, should be collected as soon as possible and removed in closed packaging suitable for this purpose and provided with a label indicating clearly and in a properly readable manner that it contains asbestos.

**3.** Article 4.20, fourth paragraph, insofar this relates to the availability of showers, is not applicable if the concentration of asbestos fibres in the air is classified in risk class 1.

**Article 4.45a. Information**

Suitable information about the following subjects must be given to employees who carry out work where there is a danger of being exposed to asbestos dust:

a. the possible health hazards of exposure to asbestos dust;

b. the necessity of supervision of the asbestos content in the air and the limit values applicable to it;

c. the measures regarding hygiene meant in Article 4.51;

d. measures to keep the exposure to asbestos dust as low as possible;

e. the correct use of personal protective equipment and clothing.

**Article 4.45b. Instructions**

**1.** Suitable training should be arranged at regular intervals for all employees who carry out activities whereby they are or might be exposed to asbestos dust.

**2.** This training is focussed on the knowledge level and experience of the employees and must provide them with the necessary knowledge and skills regarding safety and prevention, in particular with regard to:

a. properties of asbestos and the effect of asbestos on health including the synergetic effect of smoking;

b. types of products and materials that may contain asbestos;

c. acts which may lead to exposure to asbestos and the importance of preventative checks in order to restrict the exposure to a minimum;

d. safe working methods, checks and protective equipment;

e. the choice and selection, the restrictions and the effective use of respirators;

f. emergency procedures;

g. decontamination processes;

h. the manner in which the removal of waste materials can be carried out safely;

i. the requirements regarding medical supervision.

**Article 4.46. Limit values**

**1.** The concentration of asbestos fibres of the chrysotyl type shall not exceed the limit value of 2,000 fibres per cubic metre, calculated over a reference period of eight hours per day.

**2.** The concentrations of the amphibole asbestos fibres of the actinolite, amosite, anthophyllite, tremolite and crocidolite types shall jointly not exceed the limit value of 10,000 fibres per cubic metre, calculated over a reference period of eight hours per day.

**Article 4.47. Measuring and sampling**

**1.** In order to be able to guarantee compliance with the limit values meant in Article 4.46, in connection with the risk assessment meant in Article 4.2, the concentrations meant in Article 4.46 in the air to which the employees are exposed in the course of their work must be measured.

**2.** The measuring must take place at regular intervals depending on the results of the first risk assessment meant in Article 4.2.

**3.** The measuring should be carried out in accordance with a standardised method suitable for that purpose or another method if this produces equivalent results. Further rules on these methods can be laid down in a Ministerial Order.

**4.** The works council or the staff representation body, or if these are not present, the interested employees, should be given the opportunity to express their opinion about the manner in which the sampling takes place.

**5.** The sampling is representative of the individual exposure of the employees to asbestos fibres.

**6.** The sampling should be carried out in such a manner that by measuring or by calculating this measuring - weighted as to time - an exposure of employees to asbestos fibres can be determined which is representative for an 8 hour reference period.

**7.** A person having the required expertise to this end should carry out the sampling.

**8.** The sample analysis to be made after the sampling should be carried out in a laboratory which is suitably equipped to this end and also has experience of the required identification techniques.

**9.** The works council or the staff representation body or, in the absence thereof, the interested employees can inspect the results of the measuring and can obtain clarification about the meaning of these results.

**Article 4.47a. Measures when a limit value has been exceeded**

**1.** Should a limit value meant in Article 4.46 be exceeded, the causes of the excess must be detected and effective measures should be taken as soon as possible to reduce the concentration below this value.

**2.** The works council or staff representation body or, in the absence thereof, the interested employees must be notified as soon as possible of the excess, its cause and the measures to be taken. In addition, they must be given the opportunity to express their opinion about the measures meant in the first paragraph unless there are urgent reasons to take these measures without giving this opportunity. In that case they must be informed about the measures taken.

**3.** For as long as the measures to reduce the concentration meant in the first paragraph have not yet been fully implemented, the work should only be continued at the respective workplace if the employees involved are suitably protected against exposure to asbestos fibres.

**4.** When in the situation meant in the third paragraph the exposure cannot be restricted with other means and a limit value requires wearing individual respirators, the time during which each employee has to wear these must be restricted to what is strictly necessary.

**5.** When individual respirators are used, breaks must be provided.

**6.** The number of breaks meant in the fifth paragraph and their duration must be determined by the physical and climatic load under which the employee has to carry out the activities.

**7.** In the event that there is no works council or staff representation body the breaks meant in the fifth paragraph, if necessary, must be determined in consultation with the interested employees.

**8.** After the measures meant in the first paragraph have been taken, the concentrations of asbestos fibres in the air must be measured in accordance with Article 4.47 and the classification in a risk class as meant in Articles 4.44, 4.48 or 4.53a must be re-determined.

**9.** If it appears from the measuring meant in the eighth paragraph that a concentration is classified in a high-risk class, division 4 or 5 of this Section will also be applicable.

**Article 4.47b. Visual inspection**

**1.** After activities with asbestos have finished and before other activities are started up a final assessment must be carried out at the respective workplace.

**2.** The final assessment meant in the first paragraph concerns a visual inspection whereby it is determined that the presence of asbestos is no longer visually observable.

**Article 4.47c. Notification**

**1.** At least two days before these activities are started up, the employer must notify the designated supervisor. This notification must at least include a concise description of:

a. the location where the activities are carried out;

b. the types and quantities of products containing asbestos;

c. the activities carried out with asbestos or products containing asbestos, the working methods as well as the classification of the concentration of asbestos fibres in the air into a risk class;

d. the number of employees involved;

e. the date and time at which the activities are starting as well as their duration;

f. the measures which will be taken to restrict the exposure of employees to asbestos.

**2.** Each time a change in working conditions may lead to a considerable increase in exposure to asbestos dust or products containing asbestos, the supervisor has to be re-notified.

**3.** The information notified pursuant to the first and second paragraph can be inspected by the works council or the staff representation body or, in the absence thereof, by the interested employees.

**4.** Article 4.54b, with the exception of the provisions under a, applies accordingly.

**§ 4. Additional provisions for working with asbestos and products containing asbestos**

**Article 4.48. Risk class 2**

If it appears from the assessment meant in Article 4.2, first paragraph, that the concentrations of asbestos fibres in the air to which workers may be exposed in the course of their work, is higher than a limit value as referred to in Article 4.46, but lower than or equal to 1,000,000 fibres per cubic metre, based on a reference period of eight hours, this division shall also apply, in addition to division 3.

**Article 4.48a. Additional measures**

**1.** If, considering the nature of the activities, a limit value meant in Article 4.46 can be expected to be exceeded despite preventative technical measures to reduce the asbestos concentration in the air, the employer must take suitable measures to protect the employees involved.

**2.** The measures meant in the first paragraph include in any event:

a. providing suitable respirators and other personal protective equipment and making it mandatory to wear them;

b. posting warning signs in compliance with the provisions laid down in or pursuant to Section 2 of Chapter 8, in order to indicate that a limit value meant in Article 4.46, can be expected to be exceeded;

c. preventing the spread of the dust originating from asbestos or asbestos-bearing materials outside the areas where the activities are taking place.

**3.** The works council or the staff representation body or, in the absence thereof, the interested employees should be given the opportunity to express their opinion on the measures meant in the first paragraph.

**4.** Before other activities are started up, the asbestos or the asbestos bearing products present must be removed except when this would entail a greater health or safety danger for the employees.

**Article 4.49. Notification**

[Repealed on 28-07-2006]

**Article 4.50. Work plan**

**1.** Before the activities are started up the employer of the business meant in Article 4.54d, first paragraph, must draw up a written work plan including effective measures tailored to the specific situation in the respective workplace for the protection of the health and safety of the employees involved.

**2.** If an inventory report as meant in Article 4.54a, third paragraph, has been drawn up, the results of that report must be included in the work plan.

**3.** It must be prescribed in the work plan that the employer of the business meant in Article 4.54d, first paragraph, ascertains that after the final assessment meant in Article 4.51a, there are no longer any risks of exposure to asbestos or products containing asbestos.

**4.** The work plan must include the following information:

a. a description of the measures, meant in Article 4.1c, first paragraph, opening sentence and under d and h, Article 4.7, paragraph three under b, c and e, Article 4.18, Article 4.19, opening sentence and under b and c, Article 4.20, first to fourth paragraph, Article 4.45, first and second paragraph under a, b, and d, Article 4.48a, second and fourth paragraph, and Article 4.51.

b. a description of the nature, duration and place of the activities and also of the working method;

c. a description of the tools, machines, appliances and other aids used in the activities;

d. the names of the employees and persons meant in Article 4.54d, fifth and seventh paragraph.

**5.** The activities should be carried out in accordance with the work plan drawn up.

**6.** The work plan or a copy of it should be present at the workplace and should be shown on request to the supervisor.

**Article 4.51. Protective hygiene measures**

**1.** Working clothes may only be taken outside the business or the establishment if it is necessary for cleaning it in suitably equipped laundries.

**2.** In the cases as meant in the first paragraph, the working clothes should be transported in closed packaging suitable for this purpose.

**3.** When protective equipment is supplied, this should be stored in a specially dedicated place and after every use it should be checked and cleaned. Faulty equipment should not be used.

**Article 4.51a. Final assessment**

**1.** After the activities and after the workplace has been cleaned, and before other activities are started up a final assessment must be made at the respective workplace in an inside area during which sampling must be carried out by a person as meant in Article 4.47, seventh paragraph, and the sample analysis by a laboratory as meant in Article 4.47, eighth paragraph.

**2.** The final assessment meant in the first paragraph involves a visual inspection followed by a final measuring in order to ascertain as to whether the concentration of asbestos fibres in the air is lower than 10,000 fibres per cubic metre based on a reference period of at least two hours.

**3.** After the activities and after the workplace has been cleaned, and before other activities are started up, a visual inspection must be carried out by a company suitable equipped to this end at the respective workplace in the outside air, whereby it is determined that the presence of asbestos is no longer visually observable.

**4.** If the activities in the outside air involve asbestos-bearing soil, after the activities have finished a company suitably equipped to this end must carry out a visual inspection as to the presence of asbestos in order to determine that the concentration of asbestos does not exceed one hundred milligrams per kilogram of dry substance as meant in Article 2, under b, of the Asbestos Products Decree.

**5.** Detailed provisions may be laid down in a Ministerial Order with regard to the sampling meant in the first paragraph, the final measuring, meant in the second paragraph, and the visual inspection meant in the second, third and fourth paragraph.

**Article 4.52. Occupational health medical examination**

**1.** For as long as the exposure to asbestos dust lasts, in addition to Article 4.10a, third paragraph, the respective employees must again be given the opportunity at least once every three years to submit to an occupational health medical examination meant in Article 4.10a.

**2.** The occupational health medical examination meant in Article 4.10a will in any event include a specific examination of the chest.

**3.** If the result of the occupational health medical examination meant in Article 4.10a gives rise to it, effective measures should be taken in order to prevent damage to the health of the respective employee from being exposed to asbestos dust.

**4.** In addition to Article 4.10a, fourth paragraph, an expert meant in Article 2.14a, second paragraph, or the health and safety service may declare that the medical supervision after termination of the exposure must be continued for as long as this is deemed necessary for the health of the respective employee.

**Article 4.53. Registration**

**1.** Each employee who is exposed to asbestos dust in the course of his work must be entered into a register, specifying the nature and duration of the work as well as the extent of the exposure.

**2.** The information entered into the register can be inspected by the expert meant in Article 2.14a, second paragraph, or the health and safety service.

**3.** Each employee can inspect his personal information in the register.

**4.** The information in the register in a statistical form which cannot be traced back to the individual, provided with an explanation, can be inspected by the Works Council or the staff representation body or, in the absence thereof, by the interested employees.

**§ 5. Extra additional provisions for working with asbestos and products containing asbestos**

**Article 4.53a. Risk class 3**

If it appears from the assessment meant in Article 4.2, first paragraph, that the concentration of asbestos fibres in the air to which workers may be exposed in the course of their work, is higher than 1,000,000 fibres per cubic metre, based on a reference period of 8 hours, this division shall also apply, in addition to divisions 3 and 4.

**Article 4.53b. Additional measures**

[This part has not yet come into force.]

**Article 4.53c. Final assessment**

[This part has not yet come into force.]

**Article 4.54. Aggravated final assessment**

In addition to Article 4.51a, first and second paragraph, a final assessment is also carried out in the spaces adjacent to the workplace. Article 4.51a, first and second paragraph, applies accordingly.

**§ 6. Certification**

**Article 4.54a. Asbestos inventory**

**1.** In connection with the assessment meant in Article 4.2, a full inventory must be drawn up of the presence of asbestos or products containing asbestos before the following activities are started up:

a. fully or partly dismantling structures, with the exception of groundwork, or objects in which asbestos or products containing asbestos have been processed;

b. removing asbestos or products containing asbestos from the structures or objects meant under a;

c. removal of asbestos or products containing asbestos released as a result of an incident.

**2.** On the basis of the inventory meant in the first paragraph, in connection with the risk assessment, meant in Article 4.2, the company meant in the fourth paragraph, must determine in which risk class as meant in Articles 4.44, 4.48 or 4.53a the activities are classified.

**3.** The results of the inventory meant in the first paragraph, and the classification in a risk class meant in the second paragraph, must be included in an inventory report.

**4.** The inventory, meant in the first paragraph, and the inventory report, meant in the third paragraph, must be carried out or drawn up by a company which is in the possession of an asbestos inventory certificate issued by Our Minister or a certifying institution.

**5.** A copy of the inventory report must be provided to the company removing asbestos.

**6.** The asbestos inventory certificate or a copy of it should be present at the workplace and should be shown to the supervisor on request.

**Article 4.54b. Exceptions to asbestos inventory**

Article 4.54a is not applicable if the activities, as referred to in Article 4.54a, first paragraph, relate to:

a. actions which are carried out in or at buildings or objects which have been produced on or after 1 January 1994;

b. the entire or partial removal of water pipes, gas pipes, sewers and cable pipes or parts of it, which contain asbestos cement, insofar as they are part of the underground public gas, water and sewer system;

c. the entire or partial removal of brake and friction material containing asbestos;

d. the entire or partial removal of clamped floor plates containing asbestos under heaters;

e. the removal as a whole of heaters containing asbestos;

f. the entire or partial removal of glazing kit containing asbestos which has been used in the construction of greenhouses;

g. the entire or partial removal of gaskets containing asbestos from combustion engines;

h. the entire or partial removal of gaskets containing asbestos or parts of it from process installations or heaters with a nominal power under 2250 kilowatt;

i. the entire or partial removal of asbestos or products containing asbestos from roads as referred to in the Asbestos Roads Environmental Management Decree.

**Article 4.54c. Exceptions to measures**

[Repealed on 28-07-2006]

**Article 4.54d. Expertise for working with asbestos**

**1.** If the concentration of asbestos fibres has been classified into risk class 2 or 3, the following activities are carried out by a business which is in the possession of an asbestos removal certificate issued by Our Minister or a certifying institution:

a. the activities referred to in Article 4.54a, first paragraph;

b. the cleaning of the workplace after an action as referred to in Article 4.54a, first paragraph, under a or b, has been carried out.

**2.** Article 4.54b, with the exception of the provisions under a, applies accordingly.

**3.** Before the removal of asbestos is started, the business referred to in Article 4.54a, fifth paragraph, is in possession of a copy of an inventory report as referred to in Article 4.54a, third paragraph, as applicable.

**4.** During the performance of the activities referred to in the first paragraph, the classification of the risk class in the inventory report is used as lower limit, within the framework of the risk assessment referred to in Article 4.2.

**5.** The activities referred to in the first paragraph are carried out by or under the continuous supervision of a person in the possession of a certificate of competence for the supervision of working with asbestos, issued by Our Minister or a certifying institution.

**6.** In a business as referred to in the first paragraph, at least one person as referred to in the fifth paragraph is working on the basis of an employment contract.

**7.** Insofar as the activities referred to in the first paragraph are also carried out by another person than the person referred to in the fifth paragraph, this other person is in possession of a certificate of competence for the removal of asbestos, issued by Our Minister or a certifying institution.

**8.** If the actions referred to in Article 5, under e and f, of the Asbestos Products Decree relate to activities with soil containing asbestos, these activities are supervised by a person who is in possession of a certificate of competence in labour hygiene or safety studies as referred to in Article 2.7, second paragraph.

**9.** The certificates referred to in the first, fifth and seventh paragraphs, or copies thereof, and a copy of the inventory report referred to in Article 4.54a, third paragraph, are available at the workplace and are shown upon request to the supervisor.

**Article 4.55. Work plan**

[Repealed on 28-07-2006]

**Article 4.55a. Final assessment**

[Repealed on 28-07-2006]

**Article 4.56. Crocidolite**

[Repealed on 28-07-2006]

**§ 7. Special provisions concerning information and instructions**

**Article 4.57. Information and instruction**

[Repealed on 28-07-2006]

**Section 6. Specific substances detrimental to health**

**Article 4.58. Propane sultone prohibition**

**1.** The manufacture or use of propane sultone (CAS number 1120–71–4) is prohibited.

**2.** Keeping propane sultone in stock other than for transit purposes is prohibited.

**Article 4.59. Specific substances prohibition**

**1.** The manufacture or use of the following substances is prohibited:

a. 2-naphtylamine and its salts (CAS Number 91-59-8);

b. 4-aminodiphenyl and its salts (CAS Number 92-67-1);

c. benzidine and its salts (CAS Number 92-87-5);

d. 4-nitrodiphenyl (CAS Number 92-93-3).

**2.** Keeping the substances referred to in the first paragraph in stock other than for transit purposes is prohibited.

**3.** The prohibitions contained in the first and second paragraphs do not apply if the substances are present in a mixture or solution in a concentration below 0.1 of weight percentage.

**Article 4.60. Sandstone prohibition**

**1.** The treatment or processing of sandstone is prohibited.

**2.** The first paragraph does not apply:

a. to treating or processing sandstone if this is necessary for preserving a monument or an archaeological site as referred to in the Heritage Act;

b. to disassembling sandstone or sandstone components from buildings, structures or installations, and

c. to conducting scientific research involving sandstone.

**3.** Keeping sandstone in stock is prohibited.

**4.** The third paragraph does not apply with respect to:

a. keeping sandstone in stock for the work referred to in the second paragraph, under a;

b. the transit of sandstone;

c. objects which contain or consist of sandstone and which are ready for their intended use and are completely finished.

**Article 4.61. Sandblasting prohibition**

**1.** In this Article the following terms have the following meaning:

a. blasting: hitting an object with granules at high speed in order to clean or work this object with the exception of operations covering the object with a layer of material;

b. desanding: blasting a casting in order to remove attached moulding sand from it.

**2.** Blasting with a substance containing more than 1% of quartz or other form of crystalline silicon dioxide is prohibited.

**3.** Desanding may only take place in equipment or rooms specially intended for this purpose.

**4.** The dust caused by desanding should be extracted, separated from the airflow and collected in an effective manner.

**5.** The air extracted from desanding should not be removed into a room in which persons have to be present.

**Article 4.61a. Prohibition of benzene and chlorinated hydrocarbons**

**1.** The use of benzene or a product the benzene content of which amounts to more than 1 volume percent as a solvent, cleaning agent or thinner, is not allowed unless this takes place in a closed system or in another manner offering at least the same level of protection against exposure to it.

**2.** If benzene or a product as referred to in the first paragraph is used other than as a solvent, cleaning agent or thinner, this will take place in a closed system as much as possible.

**3.** The first and second paragraphs equally apply to carbon tetrachloride, pentachloroethane and 1,1,2,2-tetrachloroethane as well as to a product of which the content of one of the aforementioned substances amounts to more than 1 volume percent.

**Article 4.61b. White lead prohibition**

**1.** The use of white lead, lead sulphate or products having one of these substances as a component when painting the inside of buildings or vessels is prohibited.

**2.** The lead sulphate co-precipitated in the preparation of chrome yellow is not regarded as a substance within the sense of the first paragraph.

**3.** The prohibition meant in the first paragraph does not apply to paints the pigment of which in the dry substance contains not more than 2 weight percent of lead.

**Article 4.62. Applicability**

Insofar as the activities meant in Articles 4.59, first and second paragraph, and 4.60, first and third paragraph, and the use of benzene, meant in Article 4.61a, are allowed, Section 2 of this Chapter is applicable with due observance of Article 4.12.

**Section 7. Volatile organic substances**

**Article 4.62a. Definition**

For the purposes of this Section volatile organic substances means: organic compounds and mixtures of these, having a vapour pressure at 293.15 K of at least 0.01 kPa or a corresponding volatility under the specific user circumstances.

**Article 4.62b. Prevention of exposure; replacement**

With respect to activities indicated by Ministerial Order the hazard of exposure of employees to volatile organic substances should be avoided as much as possible by replacing volatile organic substances by harmless or less harmful substances or by replacing products containing volatile organic substances by products specified with respect to those activities by Ministerial Order.

**Article 4.63. Definition of lead**

[Repealed on 19-04-2002]

**Article 4.64. Detailed provisions for assessment and evaluation, assessment**

[Repealed on 19-04-2002]

**Article 4.65. First action level for lead content in the blood**

[Repealed on 19-04-2002]

**Article 4.66. Second action level for lead content in the blood, action level for concentrations of lead in air**

[Repealed on 19-04-2002]

**Article 4.67. Detailed provisions for assessment and evaluation, measuring**

[Repealed on 19-04-2002]

**Article 4.68. Ambient air limit value**

[Repealed on 19-04-2002]

**Article 4.69. Registration**

[Repealed on 19-04-2002]

**Article 4.70. Occupational health medical examination**

[Repealed on 19-04-2002]

**Article 4.71. Third action level**

[Repealed on 19-04-2002]

**Article 4.72. Blood limit value**

[Repealed on 19-04-2002]

**Article 4.73. ALAU limit value**

[Repealed on 19-04-2002]

**Article 4.74. Performance of occupational health medical examination**

[Repealed on 19-04-2002]

**Article 4.75. Eating and drinking**

[Repealed on 19-04-2002]

**Article 4.76. Protective hygiene measures**

[Repealed on 19-04-2002]

**Article 4.77. Information**

[Repealed on 19-04-2002]

**Article 4.78. White lead prohibition**

[Repealed on 01-01-2007]

**Article 4.79. Written information**

[Repealed on 01-01-2007]

**Article 4.80. Washing facilities and shower rooms**

[Repealed on 01-01-2007]

**Article 4.81. Exception**

[Repealed on 01-01-2007]

**Section 8. Phosphorous matches**

**Article 4.82. Definition**

[Repealed on 01-01-2007]

**Article 4.83. Prohibition of phosphorous matches**

[Repealed on 01-01-2007]

**Section 9. Biological agents**

**§ 1. Definitions and applicability**

**Article 4.84. Biological agents, cell cultures and micro organisms**

**1.** Sections 1 to 8 of this Chapter do not apply to biological agents.

**2.** In this Section, the following terms mean the following:

a. biological agents: whether or not genetically modified micro-organisms, cell cultures and human endoparasites which might cause an infection, allergy or toxicity;

b. cell culture: artificial cultivation of cells of multi-cell organisms;

c. micro-organism: a cellular or non-cellular micro-biological entity with the capacity to multiply or transmit genetic material;

d. Directive: Directive No. 2000/54/EC of the European Parliament and the Council of the European Union of 18 September 2000 (OJEU L 262) on the protection of workers from the risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive No. 89/391/EEC).

**3.** For the purposes of this Section, biological agents are classified into the following categories:

a. category 1: an agent which is unlikely to cause human disease;

b. category 2: an agent which could cause a disease for humans and could result in a hazard for the health and safety of the employees but of which it is improbable that it would spread amongst the population whilst there is usually an effective prophylaxis for it or treatment for it;

c. category 3: an agent which could cause a serious disease for humans and could result in a major hazard for the health and safety of the employees and of which there is a chance that it would spread amongst the population whilst there is usually an prophylaxis for it or treatment for it;

d. category 4: an agent causing a serious disease for humans and resulting in a major hazard to the health and safety of the employees and that very probably would spread amongst the population while there is usually no effective prophylaxis for it or treatment for it.

**4.** In this Section the classification of biological agents as laid down in Annex III of the Directive is taken as a starting point.

**§ 2. Risk assessment and evaluation and the consequences of classification**

**Article 4.85. Detailed provisions for risk assessment and evaluation**

**1.** If an employee is or might be exposed to one or more biological agents specifically occurring or expected to occur at his workplace, with respect to the risk assessment and evaluation meant in Article 5 of the Act, the nature, extent and duration of the exposure must be assessed in order to determine the hazard for the employee. This assessment will take place with due observance particularly of:

a. the category or categories in which the biological agents to which the employees might be exposed are classified;

b. information on the diseases which employees might suffer or already are suffering from as a result of exposure to biological agents;

c. possible allergic or poisoning effects which the employees experience or might experience as a result of the exposure to biological agents;

d. the results of the occupational health medical examinations meant in Article 4.91 as well as the diseases from which it is known that an employee is suffering and the medicines the employee is known to be using, all in a statistical form which cannot be traced back to the individual;

e. the recommendations given to this end by an authority competent to do so to keep the biological agent under control in order to protect the health of the employees when the employees are or might be exposed to such an agent as a result of their work.

**2.** If various biological agents are involved, the assessment meant in the first paragraph must be based on the risk that those biological agents create in combination.

**3.** The assessment meant in the first paragraph, must be regularly reviewed, in any event each time there is a change in circumstances which might affect the exposure of employees to biological agents.

**Article 4.86. Consequences of classification**

**1.** If the work is aimed at working with biological agents covered by categories 2, 3 or 4, Articles 4.87 to 4.102 are applicable.

**2.** If it appears from the results of the risk assessment and evaluation meant in Article 4.85 that the employees when carrying out work other than that meant in the first paragraph, including the activities mentioned in Annex I of the Directive, have a reasonable chance of being exposed to biological agents of categories 2, 3 or 4, Articles 4.87, 4.87a, 4.87b, 4.89, 4.91, 4.93, 4.95, 4.97, 4.98, 4.99, second paragraph, and 4.102 are applicable.

**3.** In all cases not mentioned in the first and second paragraph, the highest care, tidiness and cleanliness possible should be observed when carrying out the work and the necessary hygienic provisions should be made.

**§ 3. Exposure measures**

**Article 4.87. Prevention of exposure; replacement**

If the nature of the work allows it, harmful biological agents are replaced by biological agents which, in view of the state of the art and technology and the work circumstances, are not or less dangerous to the health or safety of the employees.

**Article 4.87a. Preventing or restricting exposure**

**1.** Insofar as it appears from the results of the assessment, as referred to in Article 4.85, that there is a risk to the health or safety of the employees and that it is not feasible, in connection with the nature of the work, to replace biological agents by biological agents which are not dangerous, such other measures are taken, insofar as technically feasible, that the exposure of employees to biological agents is prevented and the risks are limited.

**2.** Insofar as the measures, as referred to in the first paragraph, are technically not feasible, exposure of employees to biological agents is reduced to such a low level as is necessary for an adequate protection of the health and safety of the employees.

**3.** In implementation of the second paragraph the following measures should at least be taken:

a. the chance of exposure should be restricted as much as possible;

b. the number of employees running the risk of being exposed to one or more biological agents should not be greater than is strictly necessary for the carrying out of the work;

c. collective protection measures should be taken and when this does not give protection, or gives insufficient protection, personal protective equipment should be made available;

d. in the course of the work the highest degree of tidiness and cleanliness should be observed in order to prevent or restrict the chance that one or more biological agents might end up outside the workplace;

e. biological agents should be stored and transported and waste materials should be collected, stored and removed in such a manner - if necessary after suitable treatment and being provided with proper markings - that the chance of being exposed is avoided as much as possible and they are also prevented from ending up in the hands of unauthorised persons;

f. if necessary and if technically feasible, there should be research into the presence of biological agents in the workplace outside the first physical encasement;

g. an effective written work instruction is available at the workplace for the employees, which at least includes the procedures to be observed at the work, including a regulation for the safe handling and carriage of biological agents inside the business or the institution as well as an effective emergency plan in the event that accidents or incidents occur with biological agents.

**Article 4.87b. Measures for the prevention or reduction of exposure to legionella bacteria at the putting and keeping into operation of an air humidification installation and a water installation**

**1.** During the commissioning or operation of:

a. an air humidifier other than an injection steam humidifier;

b. a water installation releasing water in aerosol form in the air not being a collective water supply or a collective network of pipes as meant in Article 1, first paragraph, of the Drinking Water Supply Act;

the measures meant in Article 4.87a, first and second paragraphs, when preventing or reducing the exposure to legionella bacteria are effective if the water in these installations contains less than 100 colony-forming units of legionella bacteria per litre.

**2.** Sampling and analysing the samples in order to check for the presence of legionella bacteria should take place in accordance with a suitable standardised method.

**3.** This Article does not apply to cooling towers.

**Article 4.88. Safety signs**

The places where work is being carried out with biological agents should be clearly demarcated and marked by a safety sign that complies with the provisions set out in or pursuant to Section 2 of Chapter 8.

**Article 4.89. Protective hygiene measures**

**1.** Smoking or the consumption of food or drink should not take place in places where there is a danger of exposure to biological agents.

**2.** Working clothes in compliance with Section 1 of Chapter 8 should be made available to the employees and should be worn during the work.

**3.** In addition to Article 3.23 suitable sanitary facilities should be made available to the employees including, insofar as this is necessary, showers, eye-baths and skin antiseptics.

**4.** If personal protective equipment is supplied to the employee, these should be stored in a specially dedicated place and should be cleaned after every use and checked before every use.

**5.** In addition to Article 3.22 the working clothes and other personal protective equipment in or on which biological agents are or might be situated should be taken off on leaving the workplace and be stored in a separate place from other clothing.

**6.** The working clothes and other personal protective equipment meant in the fifth paragraph must be decontaminated, cleaned and if necessary destroyed.

**7.** The working clothes and other personal protective equipment meant in the fifth paragraph should be taken outside the business or establishment in closed packaging suitable to this end and this should only be done with the aim of having them cleaned, decontaminated or destroyed.

**Article 4.90. Registration**

**1.** A register should be maintained indicating which employees are or might be exposed to biological agents of categories 3 and 4.

**2.** This register should also contain the activities which each employee has carried out and - insofar as this can be determined - the biological agent(s) to which they have or might have been exposed as a result of these activities or as a result of an incident or accident.

**3.** The register referred to in the first paragraph should be kept for at least ten years after the last exposure or possible exposure.

**4.** If an employee is or might be exposed to a biological agent which could result in infections which:

a. are known to be possibly stubborn or latent;

b. might only be recognised many years later according to the expectations based on the latest technology;

c. have a long incubation period;

d. despite treatment always recur, or

e. have serious complications in the long-term, the register meant in the first paragraph should be kept for a correspondingly longer time but not more than forty years after the last exposure.

**5.** Each employee is entitled to inspect the information on him in the register.

**6.** The company physician referred to in Article 14, first paragraph, opening sentence, of the Act or the health and safety service can inspect the register mentioned in the first paragraph, on request.

**§ 4. Occupational health medical examination**

**Article 4.91. Examination and vaccinations**

**1.** Any employee who has been or might be exposed to biological agents should, in addition to Article 18 of the Act, be given the opportunity to submit to an occupational health medical examination upon commencing the work which might create exposure.

**2.** Every employee who sustains an infection or disease as a result of being exposed to a biological agent should in the interim - in addition to the first paragraph - be given the opportunity to submit to an occupational health medical examination.

**3.** Every employee who is being exposed to the same biological agent which has resulted in another employee sustaining an infection or disease should in the interim - in addition to the first paragraph - be given the opportunity to submit to an occupational health medical examination.

**4.** The occupational health medical examination should take place with due observance of the practical recommendations included in Annex IV of the Directive.

**5.** If the result of the occupational health medical examination gives rise to it, effective measures should be taken in order to avoid damage to the health of the employee involved from being exposed to biological agents.

**6.** Where possible effective vaccinations should be made available to each employee who is not yet immune to the biological agents to which he is or might be exposed. In this connection Annex VII of the Directive should be observed.

**7.** At the request of the employer or the respective employee, the examination meant in this Article should be re-taken. The result of the re-examination replaces the previous one.

**8.** Every employee is entitled to inspect his medical file.

**9.** The results of the occupational health medical examination meant in this Article should be recorded in an appropriate form and be kept for at least ten years after the last exposure or possible exposure. In cases as meant in Article 4.90, fourth paragraph, the results should be kept for a correspondingly longer time but not longer than for forty years.

**10.** Every employee should be informed about the manner in which he is given the opportunity after termination of the exposure to submit to an occupational health medical examination.

**§ 5. Works Council**

**Article 4.92. Information in connection with an accident or incident**

The Works Council or the staff representation body or, in the absence thereof, the interested employees, should be informed of any accident or incident which occurred, nearly occurred or might possibly have occurred involving biological agents and which has resulted in the release, near release or possible release of an agent or agents of categories 2, 3 or 4. In doing so, the causes of the accident or incident should also be communicated and also the measures being taken or which will be taken in order to remedy the consequences and to avoid further accidents or incidents.

**Article 4.93. Other information**

**1.** If requested, the works council or the staff representation body or, in the absence thereof, the interested employees are informed about:

a. the manner in which the risk assessment and evaluation referred to in Article 4.85 has been established and about its result;

b. the activities with respect to which the employees are or might be exposed to biological agents;

c. the number of employees which is or can be exposed to biological agents;

d. the name and position of the person responsible for health and safety in the workplace;

e. the preventive and protective measures taken, as referred to in Article 4.87a, third paragraph, including the work instruction, the applied work processes and working methods.

**2.** The works council or the staff representation body or, in the absence thereof, the interested employees are entitled to inspect the information referred to in this Article, which has a statistical form and is not reducible to individuals.

**§ 6. Inspections**

**Article 4.94. Report**

**1.** At least 30 days before work is to be carried out with one or more biological agents of categories 2, 3 or 4 for the first time, this must be reported to a supervisor designated to this end.

**2.** This report should contain at least the following information:

a. the name and address of the employer;

b. the name and position of the person responsible for health and safety in the workplace;

c. the results of the risk assessment and evaluation meant in Article 4.85;

d. the category or categories and type or types to which the biological agent or biological agents belongs or belong;

e. the intended protective and preventative measures.

**3.** With due observance of the first paragraph, work with each successive new biological agent of category 4 and – when the employer himself has provisionally classified this agent – the work with each successive new biological agent of category 3 must also be reported.

**4.** Contrary to the third paragraph, the supervisor meant in the first paragraph - in cases where only diagnostic work is being carried out - should only receive a report of this if this work is being carried out for the first time.

**5.** The report as meant in this Article should be re-submitted if material changes occur in the process or procedures which can have consequences for the health and safety of the employees; this will supersede previous reports.

**Article 4.95. Accidents or incidents**

Any accident or incident which has occurred and led or might have led to the release of one or more biological agents of categories 3 or 4 and which might cause contamination of employees through these agents, must be reported to the supervisor or another institution to be designated by Our Minister as soon as possible.

**Article 4.96. Transfer of information**

In the event of the employer terminating the operations, the register meant in Article 4.90 and the results of the occupational health medical examination meant in Article 4.91 - if they are stored by the employer - should be transferred to a supervisor designated to this end.

**§ 7. Special provisions in connection with work other than microbiological diagnostic work in healthcare and in veterinary medicine**

**Article 4.97. Healthcare and veterinary medicine**

**1.** As a supplement to Article 4.85, the risk assessment and evaluation of hazards associated with work other than microbiological diagnostic work in healthcare and in veterinary medicine should focus on:

a. the uncertainty about the presence of biological agents and the hazards associated with patients or animals and with samples or material of patients or animals;

b. the hazards associated with the nature of the work.

**2.** Effective measures should be taken with respect to the work meant in the first paragraph for the protection of the health and safety of the employees involved. These measures in any event consist of:

a. formulating and announcing decontamination and disinfection procedures to the employees involved;

b. formulating and announcing procedures for the safe handling and removal of waste material contaminated with biological agents;

c. the provision of medical aids with built-in safety and protection mechanisms if there is a risk of injury or infection from a sharp medical aid;

d. the prohibition on replacing caps on hypodermic needles.

**Article 4.98. Protective measures**

Appropriate protective measures as referred to in Annex V, Column A, to the Directive shall be taken in isolation facilities with patients or animals that are or could be infected with biological agents of category 3 or 4.

**§ 8. Special measures in laboratories, spaces for test animals and industrial processes**

**Article 4.99. Control levels in laboratories and spaces for test animals**

**1.** In laboratories and in rooms where there are animals that have deliberately been infected with biological agents of categories 2, 3 or 4 or animals that are or could possibly be carriers of biological agents of one of these categories, at least control levels 2, 3 and 4 respectively of Annex V to the Directive should be observed, depending on the results of the risk assessment and evaluation as meant in Article 4.85, and with due observance of Article 16, first paragraph, of the Directive.

**2.** If in the laboratories meant in the first paragraph work is being carried out with materials and it is uncertain whether they contain biological agents of categories 2, 3 or 4 and the work is not aimed at working with biological agents, at least control level 2 of Annex V of the Directive should be observed, with due observance of Article 16, first paragraph, of the Directive.

**Article 4.100. Control levels of industrial processes**

**1.** In the event of biological agents of categories 2, 3 or 4 being used in industrial processes, and depending on the results of the risk assessment and evaluation as meant in Article 4.85, and with due observance of Article 16, second paragraph, of the Directive, at least control levels 2, 3 and 4 of Annex VI of the Directive should be observed.

**2.** An industrial process meant in the first paragraph is present if there is an intention to work with biological agents of categories 2, 3 or 4 in reactor vessels of at least ten litres.

**Article 4.101. Control levels for biological agents not mentioned in Annex III of the Directive**

If work as meant in this division is being carried out with biological agents not classified by virtue of Annex III of the Directive into one of the categories meant in Article 4.84, third paragraph, but concerning which there are indications to expect that these agents should be classified into categories 3 or 4, control level 3 of Annex V or VI of the Directive should at least be observed.

**§ 9. Special provisions concerning information and instructions**

**Article 4.102. Information and instruction**

**1.** In addition to Article 8 of the Act, information and instructions should be given to employees carrying out work as meant in Article 4.86, first and second paragraph, which at least focus on:

a. the possible health hazards associated with working with biological agents;

b. the measures to be taken to avoid exposure;

c. the action to be taken in cases of accidents with biological agents;

d. the existing hygiene provisions;

e. wearing and using working clothes and personal protective equipment.

**2.** The information and instructions must be brought up-to-date should changed circumstances give rise to it.

**Section 10. Special sectors and special categories of employees**

**§ 1. Transport**

**Article 4.103. Exceptions to means of transport**

Article 4.54b, opening words and under a, is not applicable to seagoing vessels.

**§ 2. Young persons**

**Article 4.104. Linking provision**

In addition to the provisions set out in or pursuant to this Chapter the provisions and prohibitions mentioned in this division also apply to young employees.

**Article 4.105. Working prohibitions for dangerous substances and biological agents**

**1.** Young employees shall not work with or shall not be exposed to a dangerous substance that meets criteria for one or more of the following hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures: H-phrases 300, 301, 310, 311, 317, 330, 331, 334, 340, 341, 350, 350i, 351, 360, 360F, 360D, 360FD, 360Fd, 360Df, 361, 361f, 361d, 361fd, 362, 370, 371, 372 or 373.

**2.** Young employees shall not work with or shall not be exposed to biological agents of category 3 or 4, as referred to in Section 9 of this chapter.

**3.** Furthermore, young employees shall not work at or with vats, basins, pipelines or reservoirs which contain one or more of the substances or biological agents referred to in the first or second paragraph.

**Article 4.106. Expert supervision of work with dangerous substances**

Article 1.37, second paragraph, applies accordingly to young employees who:

a. working with a dangerous substance that meets one of the following hazard statements as referred to in the EC regulation on classification, labelling and packaging of substances and mixtures: H-phrases 200, 201, 202, 203, 204, 205, 220, 221, 222, 224, 225, 240, 241, 242, 314, 315, 318, 319 or 335, or the special statements: EUH070 or EUH071;

b. carrying out work with compresses gases, gases liquefied under pressure, gases liquefied due to a strong decrease in temperature and dissolved gases;

c. carrying out work on or with barrels, basins, pipes or reservoirs containing one or more of the substances or gases meant under a or b;

d. manufacturing or handling articles containing explosives meant in Article 2.2, under e.

**§ 3. Pregnant and breast-feeding employees**

**Article 4.107. Linking provision**

In addition to the provisions set out in or pursuant to this Chapter the provisions mentioned in this division also apply to pregnant and breast-feeding employees.

**Article 4.108. Exposure to dangerous substances**

**1.** Pregnant employees and breast-feeding employees are prohibited from carrying out work during which they might be exposed to metallic lead and its compounds.

**2.** Pregnant employees and breast-feeding employees are prohibited from carrying out work during which they might be exposed to dangerous substances which could damage the health of the unborn child or the infant via a genotoxic mechanism and which might reach the unborn child or the infant through the mother.

**Article 4.109. Work prohibitions for some biological agents**

Pregnant employees are prohibited from carrying out work during which they might be exposed to the biological agents of Toxoplasmosis and Rubella virus meant in Section 9 of this Chapter unless it has become evident that they have immunity to them.

**§ 4. Homeworkers**

**Article 4.110. Dangerous substances**

[Repealed on 01-07-2012]

**Article 4.111. Detailed provisions for risk assessment and evaluation**

[Repealed on 01-07-2012]

**Article 4.112. Packaging and labelling**

[Repealed on 01-07-2012]

**Article 4.113. Measures**

[Repealed on 01-07-2012]

**Article 4.114. Fire fighting means**

[Repealed on 01-07-2012]

**Article 4.115. Preventing, limiting unintended events**

[Repealed on 01-07-2012]

**Article 4.116. Information**

[Repealed on 01-07-2012]

**Chapter 5. Physical load**

**Section 1. Physical load**

**Article 5.1. Definition of Directive**

In this Section, the Directive means: Directive no. 90/269/EEC of the Council of the European Communities of 29 May 1990 concerning the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injuries to workers (OJ EC L 156).

**Article 5.2. Prevention of hazards**

The work should be so organised, the workplace so fitted out, a production and working method so applied or such aids and personal protection equipment should be used, that the physical load cannot cause any hazards to the health and safety of the employee.

**Article 5.3. Restricting hazards and risk assessment and evaluation**

Insofar as the dangers referred to in Article 5.2 cannot reasonably be prevented:

a. with due regard for Annex I to the Directive, the work is organized such, the workplace is arranged such, such a production and working method is applied or such aids and personal protective equipment is used that those dangers are reduced as much as reasonably possible;

b. in the risk assessment and evaluation referred to in Article 5 of the Act, with due regard for Annex I to the Directive, the health and safety aspects of the physical load are assessed, where particular attention is paid to the features of the load, the required physical effort, the features of the working environment and the requirements of the task.

**Article 5.4. Ergonomic organisation of workplaces**

Unless this cannot reasonably be required, workplaces must be organised in accordance with ergonomic principles.

**Article 5.5. Information**

**1.** To employees carrying out work by manually handling loads, with due observance of the Annexes I and II of the Directive, effective information and effective instructions should be given on:

a. the manner in which loads are to be handled;

b. the hazards to their health and safety associated with the manual handling of loads and the measures to be taken to restrict these hazards as much as possible.

**2.** Adequate information should be given to the employees involved about the weight of the load to be handled and - when the weight of the load is not evenly divided - about the centre of gravity or the heaviest side of this load.

**Article 5.6. Annexes of the Directive**

As regards physical load, Annexes I and II to the Directive are observed.

**Section 2. Computer screen work**

**Article 5.7. Definitions**

In this Section, the following terms mean the following:

a. visual display unit (VDU): an alphanumeric or graphic screen regardless of the display process used;

b. VDU workstation: an assembly comprising of display unit equipment and, where appropriate, a keyboard or data input device and/or the human/machine interface software, optional accessories, peripherals, telephone, modem, printer, document holder, chair, desk or work surface and the immediate working environment.

**Article 5.8. Applicability**

**1.** This Section does not apply to:

a. operating stations on machines;

b. computer systems intended primarily for use by the public;

c. so-called portable systems not continuously in use on a workstation;

d. calculating machines, cash tills and other equipment provided with a small display for information or quantities and required for the direct use of this equipment.

**2.** Neither does this Section apply to work whereby an employee usually uses a VDU less than two hours in every 24-hours.

**Article 5.9. Risk assessment and evaluation**

**1.** In the risk assessment and evaluation meant in Article 5 of the Act, specific attention should be given to the visual hazards and hazards of physical and psychological stress as a result of working with a VDU.

**2.** Based on the outcomes of the risk assessment and evaluation meant in the first paragraph, effective measures should be taken to overcome the respective hazards taking into account the consequences of these hazards and their mutual correlation.

**Article 5.10. Work schedule**

The work on a VDU should be organised in such a manner that this work is alternated with other work or by a break after not more than two consecutive hours to the extent that the load of performing the work on a VDU is lightened.

**Article 5.11. Measures concerning the protection of the eyes and sight of employees**

**1.** Each employee entrusted for the first time with work on a VDU, should in addition to Article 18 of the Act be given the opportunity to submit to a suitable health examination of the eyes and sight before commencing this work and from time to time thereafter.

**2.** The employee should be given the opportunity to submit again to an examination as meant in the first paragraph if he is suffering from visual disorders which might be the result of working with VDUs.

**3.** If necessary because of the results of the examination meant in the first and second paragraph, the employee involved should be given the opportunity to submit to an ophthalmological examination.

**4.** If necessary because of the results of the examination meant in the first to the third paragraph and if normal means of eye-correction cannot be used, the employee involved should be given special means of eye-correction in connection with the respective work.

**Article 5.12. Provisions for the organisation of VDU workstations**

Without prejudice to Article 5.4 detailed provisions will be laid down by Ministerial Order with respect to the VDU workstation and the interaction between the equipment used and the employees.

**Section 3. Special sectors and special categories of employees**

**§ 1. Transport**

**Article 5.13. Applicability**

Section 2 of this Chapter does not apply to:

a. operating positions on a vehicle on a public road or railway;

b. computer systems in an aircraft, a seagoing vessel or inland vessel or a vehicle on a public road or railway.

**§ 2. Pregnant and breast-feeding employees**

**Article 5.13a. Physical load**

Pregnant employees and breast-feeding employees are prohibited from:

a. squatting, kneeling, bending or operating foot pedals while standing more than once per hour per day during the last trimester of pregnancy;

b. lifting more than 10 kilogrammes during a single action throughout the pregnancy and during the period up to three months after the birth;

c. lifting more than 5 kilograms more than 10 times per day from the twentieth week of pregnancy; or

d. lifting more than 5 kilograms more than 5 times per day from the thirtieth week of pregnancy.

**§ 3. Homeworkers**

**Article 5.14. Applicability**

[Repealed on 01-07-2012]

**Article 5.15. Workstation**

[Repealed on 01-07-2012]

**Chapter 6. Physical factors**

**Section 1. Temperature and ventilation**

**Article 6.1. Temperature**

**1.** Taking into account the nature of the activities carried out by the employees and the physical load resulting from them, the temperature at the workplace should not cause damage to the health of the employees.

**2.** If because of the temperature in the workplace or by unfavourable weather conditions damage can still be caused to the health of the employees, personal protective equipment should be made available. If the personal protective equipment made available cannot prevent the damage to health, the duration of the work should be restricted in its extent or the work be alternated frequently by a temporary stay in a place where there is a temperature as meant in the first paragraph, so that no damage to health is caused.

**Article 6.2. Ventilation**

**1.** Sufficient non-polluted air should be present in the workplace.

**2.** Ventilation installations should always be ready for operation.

**3.** Ventilation installations should function such that employees are not subjected to inconvenient draughts.

**4.** Ventilation installations should be supplied with a control system which detects faults in the installation insofar as this is necessary for the health of the employees.

**5.** The first paragraph does not apply to workplaces in a building as meant in Article 1, paragraph one, of the Housing Act.

**6.** A workplace in a building as meant in Article 1, first paragraph, of the Housing Act may only be used if the building complies with the provisions laid down in or pursuant to the Buildings Decree 2012 with regard to the applicable designated use within the sense of that Decree.

**Section 2. Lighting**

**Article 6.3. Daylight and artificial light**

**1.** Workplaces and connecting roads must be illuminated such that the light present does not create a risk to the health and safety of the employees.

**2.** Insofar as this is possible sufficient daylight should enter workplaces and sufficient provisions for artificial lighting should be present.

**3.** The provisions for artificial lighting should be fitted in such a manner that danger of accidents is prevented.

**4.** The colour used for artificial lighting should not change or affect the observation of the health or safety signs provided for in or pursuant to Section 2 of Chapter 8.

**Article 6.4. Keeping out sunlight**

In an enclosed space where people are working, direct sunlight which shines in may be kept out.

**Section 3. Noise**

**§ 1. Generalities**

**Article 6.6. Definitions**

In this Section, the following terms mean the following:

a. peak noise pressure (Ppeak): maximum value of the «C» frequency-weighted momentary noise pressure;

b. daily exposure to noise (LEX,8h) (dB(A) re. 20 μPa): time-weighted average of the levels of exposure to noise on a nominal working day of eight hours as defined in the international ISO standard 1999:1990, point 3.6. This includes all noises present at work including impulse noises;

c. weekly exposure to noise (LEX,8h): time-weighted average of the daily levels of exposure to noise in a nominal week of five working days of eight hours as defined in the international ISO standard 1999:1990, point 3.6 (note 2).

**§ 2. Provisions with regard to noise**

**Article 6.7. Detailed provisions for risk assessment and evaluation, assessment and measuring**

**1.** Within the framework of the risk assessment and evaluation referred to in Article 5 of the Act, the noise levels to which the employees have been exposed, are assessed and, if necessary, measured in order to determine where and to which extent employees can be exposed to the levels of harmful noise which have been established in Article 6.8.

**2.** The assessment and measurement will, as a supplement to Article 5 of the Act, be conducted periodically, according to a written time schedule, by the experts specified in Article 13 of the Act, or by the experts or health and safety services specified in Articles 14 and 14a of the Act, and in any case will be repeated if the circumstances have changed radically, if there are reasons to assume that the assessment or measurement conducted is incorrect or if the results of the occupational health medical examination specified in Article 6.10, first to third paragraph, necessitate this. The measurement uncertainties, which have been established according to the good practice in measuring, are taken into account at the assessment of the measurement results.

**3.** The methods and apparatus used at the measurement are geared to the relevant circumstances. Special attention is paid to the features of the noise to be measured, the duration of the exposure, the environmental factors and the features of the measuring devices. The used methods and apparatus are suitable to determine whether or not the levels of harmful noise, as established in Article 6.8, third, fourth, seventh, ninth and tenth paragraphs, are exceeded. When random checks are used, these are representative for the personal exposure of an employee.

**4.** At the assessment meant in the first paragraph, attention will be paid in any case to the following:

a. the level, nature and duration of the exposure including any exposure to impulse noise;

b. the action values determined in Article 6.8, third, fourth, seventh and ninth paragraph and the limit values for exposure determined in Article 6.8, tenth paragraph;

c. the possible consequences for the health and safety of the employees forming part of the specially sensitive risk group;

d. insofar as this is technically feasible, the possible consequences for the health and safety of the employees and the interaction between noise and work-related ototoxic substances and between noise and vibrations;

e. the possible indirect consequences for the health and safety of the employees of the interaction between noise and warning signals or other noises which should be monitored in order to reduce the risk of accidents;

f. the information about the noise emission supplied by the manufacturers of the work equipment;

g. the existence of alternative work equipment designed to reduce the noise emission;

h. the continuation of the exposure to noise outside normal working hours under the employer’s responsibility;

i. relevant information derived from the occupational health medical examination as meant in Article 6.10, first to third paragraph, including published information insofar as this is possible;

j. the availability of individual ear protectors with sufficiently deadening effect.

**5.** The Works Council or the staff representation body or, in the absence thereof, the interested employees, should be given the opportunity to express their opinion on the manner of assessment and measurement.

**6.** The results of the assessments and measurements carried out under this Article should be recorded in a suitable form and retained so that it is possible to consult them at a later stage.

**7.** The results meant in the sixth paragraph and an explanation of them should be brought to the notice of the works council or the staff representation body or, in the absence thereof, to the interested employees.

**8.** The risk assessment and evaluation meant in the first paragraph must be adequately documented and should state the measures taken pursuant to Articles 6.8, 6.9 and 6.11.

**Article 6.8. Measures to prevent or limit exposure**

**1.** In order to prevent or restrict the exposure to noise, technical or organisational measures must be taken such that the risks of exposure are removed at source or restricted to a minimum taking into account technical progress and the availability of measures.

**2.** In preventing or restricting the exposure meant in the first paragraph, the following are in any event taken into account:

a. alternative working methods resulting in less exposure to noise;

b. the choice of the right work equipment taking into account the work to be carried out, making the lowest possible noise including the possibility of letting the employees use work equipment which has the aim or the consequence of a restriction of the exposure to noise;

c. the design and organisation of the workstation and the workplace;

d. suitable information and effective instructions to teach the employees how to use work equipment properly in order to restrict the exposure to noise to a minimum;

e. technical measures to restrict noise:

i. restriction of the airborne noise, for instance by screening off, encasement or covering with sound-absorbing materials;

ii. restriction of construction noises for instance by deadening or insulation;

f. suitable maintenance programmes for the work equipment, the workstation and the systems at the workstation;

g. the organisation of the activities with a view to a restriction of the noise:

i. restriction of the duration and intensity of the exposure;

ii. suitable work schedules with sufficient breaks.

**3.** If the daily exposure to noise exceeds 85 dB(A) or the peak noise pressure exceeds 140 Pa, on the basis of the assessment and measuring meant in Article 6.7, first paragraph, with due observance of the measures meant in the second paragraph, in connection with the plan of action meant in Article 5 of the Act, technical or organisational measures must be determined and implemented in order to restrict the exposure to a minimum.

**4.** Workplaces where the daily exposure to noise can exceed 85 dB(A) or the peak noise pressure can exceed 140 Pa, should be clearly indicated by means of suitable signs and effectively demarcated. If this is technically feasible and it is justified by the risk of exposure, the access to these workplaces should be restricted.

**5.** The exposure to noise in recreation rooms as meant in Article 3.20 and the night rooms as meant in Article 3.21 must be restricted to a level that is compatible with the function of the rooms and the circumstances in which they are used.

**6.** The measures referred to in paragraph one up to and including paragraph five will be adapted to the needs of workers belonging to particularly sensitive risk groups.

**7.** In cases in which the daily exposure to noise is higher than 80 dB(A) or the peak acoustic pressure is higher than 112 Pa, adequate, properly made-to-measure, individual ear protectors are put at the disposal of the employees. The individual ear protectors must prevent the risk of hearing impairment or should reduce this risk to a minimum.

**8.** The works council or the staff representation body or, in the absence thereof, the interested employees will be given the opportunity to express their opinions about the measures referred to in the first to fifth paragraph, and about the choice of the individual ear protectors to be provided, as referred to in the seventh paragraph.

**9.** If the daily exposure to noise is at least 85 dB(A) or the peak noise pressure is at least 140 Pa, individual ear protectors must be worn by the employees.

**10.** The daily exposure to noise, taking into account the deadening effect of the individual ear protectors worn by the employee, may never be higher than 87 dB(A) or the peak acoustic pressure may not be higher than 200 Pa anyway.

**11.** If despite all the measures meant in the first to the seventh and ninth paragraph it is established that the daily exposure to noise, taking into account the deadening effect of the individual ear protector worn by the employee, exceeds the limit values determined in the tenth paragraph, the following must take place:

a. measures should be taken immediately to reduce the exposure to a level below the limit values;

b. the causes of the excessive exposure must be determined; and

c. the measures meant in the first to the seventh and ninth paragraph must be adjusted to prevent a repeat.

**Article 6.9. Weekly average**

In cases in which employees have to perform special tasks and therefore have to stay at a workplace where the daily exposure to noise differs significantly per working day and compliance with the obligations referred to in Article 6.8, third, fourth, seventh, ninth, tenth and eleventh paragraphs, cannot reasonably be required, «daily exposure to noise» should, in these paragraphs, be read as «weekly exposure to noise». In that case, the weekly exposure, taking into account the deadening effect of the individual ear protectors worn by the employee, may not be higher than 87 dB(A) and effective measures shall be taken in order to reduce the risk associated with these activities to a minimum.

**Article 6.10. Audiometric testing**

**1.** If it appears from the results of the assessment and measurement meant in Article 6.7, first paragraph, that the health of an employee is at risk, this employee shall, as a supplement to Article 18 of the Act, be given the opportunity to submit to an occupational health medical examination in the form of audiometric testing.

**2.** Each employee who is exposed on a daily basis to noise exceeding 85 dB(A) or a peak acoustic pressure exceeding 140 Pa shall be given the opportunity to submit to an occupational health medical examination in the form of audiometric testing.

**3.** Each employee who is exposed on a daily basis to noise exceeding 80 dB(A) or a peak acoustic pressure exceeding 112 Pa shall be given the opportunity to submit to an occupational health medical examination in the form of audiometric testing, if the assessment and measurement meant in Article 6.7, first paragraph, show that there is a health risk.

**4.** The audiometric testing meant in the first to third paragraphs shall focus on an early diagnosis of any loss of hearing due to noise, and to preserve the hearing function.

**5.** The expert person meant in Article 2.14a, second paragraph, or the health and safety service must keep an up-to-date personal medical file of every employee who has submitted to audiometric testing as meant in the first to third paragraphs, which file includes a summary of the results of the audiometric testing meant in the first to third paragraph.

**6.** The personal medical files shall be stored in such form that they can be consulted at a later time, with due observance of medical confidentiality.

**7.** Every employee is entitled to inspect his medical file.

**8.** A supervisor designated to this end shall, upon request, receive of copy of the medical files meant in the fifth paragraph.

**Article 6.10a. Measures in case of hearing impairment**

**1.** If audiometric testing meant in Article 6.10, first to third paragraphs, shows a demonstrable hearing impairment in an employee, the expert person meant in Article 2.14a, second paragraph, or a specialist, if this is deemed necessary by the expert person, will assess if the impairment is probably due to exposure to noise at work.

**2.** If it is established that the hearing impairment is due to exposure to noise at work:

a. the assessment and measuring meant in Article 6.7, first paragraph, will be carried out again;

b. the measures to prevent or restrict the exposure meant in Article 6.8 must be reviewed;

c. in taking the measures to prevent or restrict the exposure as meant in Article 6.8, including providing other work without exposure risk, the advice of the expert meant in Article 2.14a, second paragraph, or the designated supervisor should be taken into account; and

d. every employee who is exposed in a similar manner should be given the opportunity to submit in the meantime to a new occupational health medical examination in the form of audiometric testing.

**Article 6.11. Information and instruction**

Suitable information and effective instructions should be given to employees exposed to a daily exposure to noise of at least 80 dB(A) and a peak noise pressure of at least 112 Pa with regard to the following:

a. the nature and risks resulting from exposure to noise;

b. the measures taken, as meant in Article 6.8, to prevent the risks meant under a or to restrict them to a minimum;

c. the action values meant in Article 6.8, third, fourth, seventh and ninth paragraph and the limit values meant in Article 6.8, tenth paragraph;

d. the results of the assessment and measuring of the noise levels to which the employees are exposed as meant in Article 6.7, first and second paragraph, and an explanation of the meaning and associated risks, if any;

e. the correct use of individual ear protectors;

f. how signs of hearing impairment can be detected and notified;

g. the circumstances in which employees are entitled to an occupational health medical examination and the aim of this examination; and

h. safe working methods to restrict exposure to noise to a minimum.

**Section 3a. Vibrations**

**§ 1. Generalities**

**Article 6.11a. Definitions, limit values and action values**

**1.** In this Section, the following terms mean the following:

a. Directive: Directive No. 2002/44/EC of the European Parliament and the Council of the European Union of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (OJ EU L 177);

b. hand-arm vibrations: mechanical vibrations which when transmitted to the hand-arm system of humans, entail a health and safety risk for the employees in particular vascular, bone or joint, nerve or muscle disorders;

c. body vibrations: mechanical vibrations which when transmitted to the whole body, entail a health and safety risk for the employees in particular disorders in the lower back and damage to the spine.

**2.** For the hand-arm vibrations:

a. the limit value for daily exposure, converted to a standard reference period of eight hours, is determined at 5m/s2;

b. the action value for daily exposure, converted to a standard reference period of eight hours, is determined at 2.5m/s2.

**3.** For body vibrations:

a. the limit value for daily exposure, converted to a standard reference period of eight hours, is determined at 1.15 m/s2;

b. the action value for daily exposure, converted to a standard reference period of eight hours, is determined at 0.5 m/s2.

**§ 2. Conditions with regard to vibrations**

**Article 6.11b. Detailed provisions for risk assessment and evaluation, assessment and measuring**

**1.** In connection with the risk assessment and evaluation meant in Article 5 of the Act, the mechanical vibration levels to which the employee is exposed, must be assessed and if necessary measured.

**2.** The assessment and measuring must be planned with due care and carried out at suitable intervals.

**3.** The assessment and measuring for hand-arm vibrations must be carried out in accordance with points 1 and 2 of part A and for body vibrations in accordance with points 1 and 2 of part B of the Annex of the Directive.

**4.** The results of the measuring must be retained in a suitable form so that they can be consulted at a later stage.

**5.** The assessment should at least include the following aspects:

a. the level, nature and duration of the exposure including any exposure to periodic vibrations or repeated shocks;

b. the limit values and action values for the exposure determined, as meant in Article 6.11a, second and third paragraph;

c. possible consequences for the health and safety of employees with an increased risk;

d. possible indirect consequences for the safety of employees caused by the interaction between mechanical vibrations and the workplace or other work equipment;

e. the information supplied by manufacturers of the work equipment;

f. the existence of replacement material which is designed to reduce the levels of exposure to mechanical vibrations;

g. continuation of the exposure to body vibrations outside normal working hours under the employer’s responsibility;

h. special working conditions such as working at low temperatures;

i. relevant information obtained via occupational health medical examinations meant in Article 6.11e, including published information insofar as this is possible.

**6.** The assessment should regularly be reviewed, in any event if changed circumstances or results of the occupational health medical examinations meant in Article 6.11e give rise to it.

**Article 6.11c. Preventing or restricting harmful vibrations**

**1.** If the action values meant in Article 6.11a, second paragraph under b, and the third paragraph under b, are or can be exceeded, with due observance of Article 3, first paragraph under b, of the Act, attention should be given to the following points in the risk assessment and evaluation meant in Article 5 of the Act and in the associated plan of action:

a. alternative working methods reducing the necessity of exposure to mechanical vibrations;

b. the choice of the right work equipment, properly ergonomically designed and causing the least possible vibrations taking into account the work to be carried out;

c. providing aids to prevent the risk of damage to health as a result of vibrations;

d. suitable maintenance programmes for the work equipment, the workplace and the systems at the workplace;

e. the design and lay-out of the workplace;

f. adequate information and instructions to the employees so that they use the work equipment safely and correctly such that the exposure to mechanical vibrations is as low as possible;

g. restriction of the duration and intensity of the exposure;

h. suitable work schedules with sufficient breaks;

i. providing clothing protecting the exposed employees against cold and damp.

**2.** Employees should not be exposed to vibrations above the limit value for exposure meant in Article 6.11a, second paragraph under a, and third paragraph under a.

**3.** If nevertheless the limit value has been exceeded:

a. measures should immediately be taken to reduce the exposure to below the limit value for exposure;

b. the cause of exceeding the limit value must be investigated;

c. the protection and prevention measures must be adjusted to prevent the limit value being exceeded again.

**4.** The employer must tailor the measures to the needs of the high-risk employees.

**Article 6.11d. Information and instruction**

Suitable information and effective instructions should be given to employees who are exposed to risks in connection with mechanical vibrations at work about the following:

a. measures taken to remove or restrict to a minimum the risks in connection with mechanical vibrations;

b. the limit values and action values for exposure;

c. the results of the assessments and measuring of mechanical vibrations carried out in accordance with Article 6.11b and the damage to health which the work equipment used may cause;

d. the use of the method for detecting and reporting symptoms of damage to health;

e. the circumstances in which the employees are entitled to an occupational health medical examination;

f. safe working methods to restrict exposure to mechanical vibrations to a minimum.

**Article 6.11e. Occupational health medical examination with regard to vibrations**

**1.** Any employee who is entrusted with activities for the first time which as appears from the assessment meant in Article 6.11b, first paragraph, might cause hazards to health and safety, should as an addition to Article 18 of the Act be given the opportunity to submit to an occupational health medical examination before commencing the work.

**2.** If the employee is found to have a disorder which could be the result of exposure to mechanical vibrations, employees who have been exposed in a similar way to mechanical vibrations should in the meantime be given the opportunity to submit to an occupational health medical examination.

**3.** The occupational health medical examination can be re-taken at the request of the employer or the employee involved. The results of the re-taken examination replace the previous one.

**4.** When a demonstrable disease or a harmful effect to the health has been established in an employee as a result of exposure to mechanical vibrations, he is informed by the expert person, as referred to in Article 2.14a, second paragraph, or the health and safety service, about the manner in which he will be enabled to be subjected to an occupational health medical examination after the exposure has ended.

**Section 4. Radiation**

**Article 6.12. Appliances**

[Repealed on 01-07-2016]

**Section 4a.Artificial optical radiation**

**§ 1. Generalities**

**Article 6.12a. Definitions**

In this Section, the following terms mean the following:

a. *Directive:* Directive 2006/25/EC of the European Parliament and of the Council of the European Union of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ EU L 114);

b. *optical radiation:* electromagnetic radiation in the wavelength range between 100 nm and 1 mm, where the spectrum of the optical radiation is divided into ultraviolet radiation, visible radiation and infrared radiation;

c. *ultraviolet radiation:* optical radiation in the wavelength range between 100 nm and 400 nm, where the ultraviolet region is divided into UVA (315 nm – 400 nm), UVB (280 nm – 315 nm) and UVC (100 nm – 280 nm);

d. *visible radiation:* optical radiation in the wavelength range between 380 nm and 780 nm;

e. *infrared radiation:* optical radiation in the wavelength range between 780 nm and 1 mm, where the infrared region is divided into IRA (780 nm – 1400 nm), IRB (1400 nm – 3000 nm) and IRC (3000 nm – 1 mm);

f. *artificial optical radiation:* optical radiation that does not originate from natural sources;

g. *laser:* device with the capacity to produce or strengthen electromagnetic radiation in the wavelength range of optical radiation, mainly by means of controlled stimulated emission;

h. *laser radiation:* optical radiation originating from a laser;

i. *non-coherent radiation:* any optical radiation other than laser radiation;

j. *limit values:* limits on exposure to optical radiation which are based directly on established health effects and biological considerations;

k. *irradiance (E) or power density:* the radiant power incident per unit area upon a surface expressed in watts per square metre (Wm-2);

l. *radiant exposure (H):* the time integral of the irradiance, expressed in joules per square metre (Jm-2);

m. *radiance (L):* the radiant flux or power output per unit of solid angle expressed in watts per square metre per steradian (Wm-2sr-1);

n. *level:* the combination of irradiation power, radiant exposure and radiance to which a worker is exposed.

**Article 6.12b. Scope**

This Section refers to work during which workers are or can be exposed to artificial optical radiation to such a degree that it can represent a risk to health and safety due to adverse effects on the eyes or skin.

**Article 6.12c. Exposure limit values**

When implementing the regulations in this section, the following limit values apply:

a. the exposure limit values to incoherent radiation, other than those that are irradiated by natural sources of optical radiation, specified in Annex I to the Directive;

b. the limit values for exposure to laser radiation, specified in Annex II to the Directive.

**§ 2. Regulations with respect to artificial optical radiation**

**Article 6.12d. Further regulations for risk assessment and evaluation, assessment, measurement and calculation**

**1.** In the context of the risk assessment and evaluation specified in Article 5 of the Act, the levels of optical radiation to which the workers will probably be exposed will be assessed and, if necessary, measured or calculated.

**2.** The assessment, measurement and calculation, as referred to in the first paragraph, are conducted in accordance with the standards of the International Electrotechnical Commission for laser radiation and the recommendations of the International Commission on Illumination and the European Commission for Standardisation for incoherent radiation.

**3.** In exposure situations not covered by the standards and the recommendations specified in the second paragraph, assessment, measurement and calculation will be conducted in accordance with scientifically-based standards to be designated by Ministerial Order.

**4.** In the exposure situations specified in the second and third paragraphs, during the assessment the information specified by the producer of the work equipment may be taken into account when that work equipment falls under a relevant Community directive.

**5.** The assessment, measurement and calculation, as referred to in the first paragraph, will be scheduled in a professional way and will be conducted with appropriate frequency by the experts specified in Article 13 of the Act, or by the experts or health and safety services specified in Articles 14 and 14a of the Act, and in any case will be repeated if the circumstances have changed radically or if the results of the occupational health medical examination specified in Article 6.12g necessitate this.

**6.** The results of the assessments, measurements and calculations conducted in pursuance of this Article will be registered and stored in the appropriate format so that they can be consulted at a later date.

**7.** The Works Council or the staff representation or, in the absence thereof, the workers in question will be given the opportunity to express their opinions about the assessment, measurement and calculation method specified in the first paragraph.

**8.** The results referred to in the sixth paragraph will be accompanied with an explanation and brought to the attention of the Works Council or the staff representation or, in the absence thereof, the workers in question.

**9.** During the risk assessment and evaluation, as referred to in Article 5 of the Act, attention will be paid in any case to the following:

a. the level, the wavelength ranges and the duration of the exposure to artificial sources of optical radiation;

b. the limit values;

c. possible consequences for the health and safety of workers belonging to particularly sensitive risk groups;

d. possible consequences for the health and safety of workers from interaction at the workplace between optical radiation and photosensitising chemical substances;

e. possible indirect effects, such as temporary blindness, explosion, or fire;

f. the existence of replacement work equipment designed to reduce the levels of exposure to artificial optical radiation;

g. the relevant information obtained by means of the occupational health medical examinations referred to in Article 6.12g, including published information, insofar as that is possible;

h. multiple sources of exposure to artificial optical radiation;

i. a classification applied to lasers as defined in accordance with the relevant standard of the International Electrotechnical Commission, as well as similar classifications with respect to artificial sources likely to inflict similar damage to that of lasers of class 3B or 4; and

j. the information supplied by the producer of sources of optical radiation and related work equipment in accordance with the relevant Community directives.

**10.** The risk assessment and evaluation specified in the first paragraph will be adequately documented and will specify the measures taken in pursuance of Articles 6.12e and 6.12f.

**Article 6.12e. Measures to prevent or limit exposure**

**1.** The appropriate technical or organisational measures will be taken to remove or minimise the risks of exposure to artificial optical radiation, taking account of technical advances and the possibility to take measures to control the risk at the source.

**2.** If the assessment or calculation referred to in Article 6.12d, first paragraph, shows that it is in any way possible for the limit values to be exceeded, in the framework of the plan of action referred to in Article 5 of the Act, technical or organisational measures will be determined and implemented to prevent the limit values from being exceeded, with in any case regard for the following:

a. alternative working methods that reduce the risk of optical radiation;

b. the option to use work equipment that emits less optical radiation, taking account of the work to be carried out;

c. technical measures to reduce the emission of optical radiation, including, where necessary, the use of interlocks, shielding or similar health protection mechanisms;

d. appropriate maintenance programmes for the work equipment, the workplace and the systems at the workplace;

e. the design and lay-out of the workplace;

f. restriction of the duration and level of exposure;

g. the availability of appropriate personal protective equipment;

h. the instructions of the manufacturer of the work equipment when these fall under a relevant Community directive.

**3.** Workplaces in which workers are or can be exposed to levels of optical radiation from artificial sources that exceed the limit values will be clearly indicated by means of the appropriate signs. If technically feasible and if there is a risk that the limit values will be exceeded, the workplaces will be screened off and access to them will be restricted.

**4.** Workers must not be exposed to artificial optical radiation above the limit values. If the limit values are nevertheless exceeded:

a. the employer will immediately take measures to reduce the exposure so that it is under the limit values;

b. the employer will check why the limit values were exceeded;

c. the employer will adapt the measures specified in the first and second paragraphs to prevent the limit values from being exceeded again.

**5.** The measures referred to in paragraph one up to and including paragraph four will be adapted to the needs of workers belonging to particularly sensitive risk groups.

**6.** The Works Council or the staff representation or, in the absence thereof, the workers in question will be given the opportunity to express their opinions about the measures taken in pursuance of this Article.

**Article 6.12f. Information and instruction**

**1.** Workers that are exposed to risks related to artificial optical radiation will be provided with all the necessary information and instruction regarding the results of the assessment, measurement and calculation as referred to in Article 6.12d, first paragraph.

**2.** Workers will in any case be given information and instruction about the following:

a. measures taken in pursuance of this section;

b. the exposure limit values and the related potential dangers;

c. the results of the assessment, measurement and calculation referred to in Article 6.12d, first paragraph, together with an explanation of the meaning and the potential dangers thereof;

d. the method used to pinpoint and report the harmful effects on health of the exposure;

e. the circumstances in which the employees are entitled to an occupational health medical examination;

f. safe working methods to minimise the risks of exposure; and

g. proper use of appropriate personal protective equipment.

**Article 6.12g. Occupational health medical examination**

**1.** If a worker is exposed to optical radiation above the exposure limit values, supplementary to Article 18 of the Act, he or she will be given the opportunity to undergo an occupational health medical examination. This examination will also be offered when it has been ascertained that the worker is suffering from a recognisable illness or is experiencing harmful effects to health that are adjudged by an expert as referred to in Article 2.14a, second paragraph, or a health and safety service to be the result of exposure to artificial optical radiation at work.

In both cases, if the limit values have been exceeded or if harmful consequences for a person’s health, including illness, have been determined:

a. workers will be informed by the expert referred to in Article 2.14a, second paragraph, or the health and safety service about the result that affects them personally. In particular, they will be given information and advice about the occupational health medical examination after cessation of the exposure.

b. the employer will be notified of any significant findings of the occupational health medical examination,

c. it is the employer’s task to:

1°. repeat the assessment, measurement and calculation referred to in Article 6.12d, first paragraph;

2°. review the measures taken by him in pursuance of Article 6.12e;

3°. take heed of the advice of the expert specified in Article 2.14a, second paragraph, or the health and safety service when implementing the measures required to eliminate or reduce the risk in accordance with Article 6.12e;

4°. facilitate a further occupational health medical examination and an evaluation of the health of all other workers that were exposed in a similar way to optical radiation. In those cases, the expert referred to in Article 2.14a, second paragraph, or the health and safety service can propose that the workers that were exposed to optical radiation be subjected to a medical examination.

**2.** For every worker who undergoes an occupational health medical examination as referred to in the first paragraph, an individual medical dossier will be compiled; this dossier will be updated regularly. The medical dossiers will contain a summary of the results of the occupational health medical examination that was conducted. The medical dossiers will be stored in a suitable format so that they can be consulted at a later date.

**3.** The employer will take appropriate measures to guarantee that the expert referred to in Article 2.14a, second paragraph, or the health and safety service has access to the results of the assessment, measurement and calculation specified in Article 6.12d, first paragraph.

**4.** All workers are entitled to view the results that relate to them.

**Section 4b. Electromagnetic fields**

**§ 1. Generalities**

**Article 6.12h. Definitions**

In this Section, the following terms mean the following:

a. *action levels:* levels of electromagnetic fields outside the body, established for the purpose of simplifying the process of demonstrating the compliance with relevant limit values or, where appropriate, to take the measures referred to in this Section;

b. *direct biophysical effects:* effects in the human body directly caused by its presence in an electromagnetic field, including:

1°. thermal effects, such as tissue heating through energy absorption from electromagnetic fields in the tissue;

2°. non-thermal effects, such as the stimulation of muscles, nerves or sensory organs; and

3°. limb currents;

c. *electromagnetic fields:* static electric, static magnetic and time-varying electric, magnetic and electromagnetic fields with frequencies up to 300 GHz;

d. *limit values:* exposure limit values, expressed in quantities characterising the physical effects that are induced by electromagnetic fields in the body;

e. *health effects limit values:* limit values above which workers might be subject to adverse health effects, such as thermal heating or stimulation of nerve and muscle tissue;

f. *sensory effects limit values:* limit values above which workers might be subject to transient disturbed sensory perceptions and minor changes in brain functions;

g. *indirect effects:* effects, caused by the presence of an object in an electromagnetic field, which may become the cause of a safety or health hazard, such as:

1°. interference with medical electronic equipment and devices, including cardiac pacemakers and other implants or medical devices worn on the body;

2°. the projectile risk from ferromagnetic objects in static magnetic fields;

3°. the initiation of electro-explosive devices (detonators);

4°. fires and explosions resulting from the ignition of flammable materials by sparks caused by induced fields, contact currents or spark discharges; and

5°. contact currents;

h. *MRI:* magnetic resonance imaging;

i. *Directive:* Directive 2013/35/EU of the European Parliament and of the Council of the European Union of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) and repealing Directive 2004/40/EC (OJ EU 2004, L 159) (OJ EU 2013, L 179).

**Article 6.12i. Scope**

**1.** This Section applies to work during which the known direct biophysical effects and indirect effects caused by electromagnetic fields could entail health and safety risks for workers.

**2.** This Section does not apply to:

a. suggested long-term effects; or

b. risks resulting from contact with live conductors.

**3.** Where this Section speaks of Annex II or III to the Directive, compliance with this Directive shall take place with due observance of the physical quantities with respect to exposure to electromagnetic fields referred to in Annex I to the Directive.

**Article 6.12j. Exposure limit values and action levels**

**1.** It shall be ensured that exposure of workers to electromagnetic fields is limited to the health effects limit values and sensory effects limit values set out in Annex II and Annex III to the Directive.

**2.** Based on the procedures referred to in Article 6.12k, it shall be established whether the health effects limit values and sensory effects limit values are complied with.

**3.** Where the exposure of workers to electromagnetic fields exceeds the limit values referred to in the first paragraph, immediate action shall be taken as referred to in Article 6.12l, ninth paragraph.

**4.** The health effects limit values and sensory effects limit values shall have been complied with if it is demonstrated that the action levels set out in Annex II and III to the Directive are not exceeded.

**5.** Where the exposure of workers exceeds the action levels referred to in the fourth paragraph, action shall be taken as referred to in Article 6.12l, second and third paragraphs, unless the assessment carried out as referred to in Article 6.12k, first to third paragraphs, demonstrates that the relevant limit values are not exceeded and that safety risks can be excluded.

**6.** In derogation of the fourth paragraph, exposure of workers may exceed:

a. low action levels for electric fields set out in Annex II, Table B1, to the Directive, provided that:

1°. the sensory effects limit values set out in Annex II, Table A3, to the Directive, are not exceeded; or

2°. the following conditions are met:

i. the health effects limit values set out in Annex II, Table A2, to the Directive, are not exceeded;

ii. the excessive spark discharges and contact currents set out in Annex II, Table B3, to the Directive are prevented by specific protection measures as set out in Article 6.12l, seventh paragraph; and

iii. information as referred to in Article 6.12m, second paragraph, under f, has been given to workers;

b. low action levels for magnetic fields set out in Annex II, Table B2, to the Directive, provided that:

1°. the sensory effects limit values set out in Annex II, Table A3, to the Directive, are not exceeded; or

2°. the following conditions are met:

i. the sensory effects limit values are exceeded only temporarily;

ii. the health effects limit values set out in Annex II, Table A2, to the Directive, are not exceeded;

iii. where there are transient symptoms, the risk assessment and the measures referred to in Article 6.12l, tenth paragraph, will be updated where necessary; and

iv. information as referred to in Article 6.12m, second paragraph, under f, has been given to workers.

**7.** In derogation of the first paragraph and where there are well-founded reasons for this, exposure of workers may exceed:

a. the sensory effects limit values set out in Annex II, Table A1, to the Directive, provided that:

1°. they are only exceeded temporarily;

2°. the health effects limit values set out in Annex II, Table A1, to the Directive, are not exceeded;

3°. action has been taken as referred to in Article 6.12l, eighth paragraph;

4°. where there are transient symptoms, the risk assessment and the measures referred to in Article 6.12l, tenth paragraph, will be updated where necessary; and

5°. information as referred to in Article 6.12m, second paragraph, under f, has been given to workers;

b. the sensory effects limit values set out in Annex II, Table A3, and Annex III, Table A2, to the Directive, provided that:

1°. they are only exceeded temporarily;

2°. the health effects limit values set out in Annex II, Table A2, and Annex III, Tables A1 and A3, to the Directive, are not exceeded;

3°. where there are transient symptoms, the risk assessment and the measures referred to in Article 6.12l, tenth paragraph, will be updated where necessary; and

4°. information as referred to in Article 6.12m, second paragraph, under f, has been given to workers.

**§ 2. Obligations**

**Article 6.12k. Further regulations for risk assessment and evaluation, assessment, measurement and calculation**

**1.** Within the context of the risk assessment and evaluation referred to in Article 5 of the Act, all risks to which workers may be exposed as a result of electromagnetic fields at the workplace shall be assessed and, if necessary, the levels of these electromagnetic fields shall be measured or calculated.

**2.** The assessment referred to in the first paragraph shall, among other things, take into account the practical guides referred to in Article 14 of the Directive and other scientifically based standards and recommendations to be designated by a Ministerial Order.

**3.** If compliance with the limit values referred to in Article 6.12j cannot be determined on the basis of the sources referred to in the second paragraph, the assessment of the exposure shall be carried out on the basis of measurements or calculations.

**4.** The assessment, measurement and calculation, as referred to in the first to third paragraph, will be scheduled in a careful way and will be conducted with appropriate frequency by the experts specified in Article 13 of the Act, or by the experts or health and safety services specified in Articles 14 and 14a of the Act, and in any case will be repeated if the circumstances have changed or if the results of the occupational health medical examination specified in Article 6.12n necessitate this.

**5.** The results of the assessments, measurements and calculations conducted in pursuance of this Article will be registered and stored in an appropriate format so that they can be consulted at a later date.

**6.** The Works Council or the staff representation or, in the absence thereof, the workers in question will be given the opportunity to express their opinions about the assessment, measurement and calculation method specified in the first and third paragraph.

**7.** The results referred to in the fifth paragraph will be accompanied with an explanation and brought to the attention of the Works Council or the staff representation or, in the absence thereof, the workers in question.

**8.** If it concerns a workplace that can be accessed by third parties, it shall be possible, when drawing up the risk assessment and evaluation referred to in the first paragraph, to use an already existing assessment on the basis of Recommendation No. 1999/519/EC (OJ EU 1999, L 59) on the limitation of exposure of the general public to electromagnetic fields (0 Hz – 300 GHz), provided that:

a. the restrictions for workers set out in the Recommendation are complied with; and

b. the health and safety risks of workers are excluded.

**9.** The conditions referred to in the eighth paragraph are deemed to be met if the equipment used complies with the applicable EU regulations and is used as intended.

**10.** During the risk assessment and evaluation, as referred to in Article 5 of the Act, attention will be paid in any case to the following:

a. the limit values and action levels referred to in Article 6.12j and in Annexes II and III to the Directive;

b. the frequency, the level, duration and type of exposure, including the distribution over the worker’s body and over the volume of the workplace;

c. any direct biophysical effects;

d. any effects on the health and safety of workers at particular risk;

e. any indirect effects;

f. multiple sources of exposure;

g. simultaneous exposure to multiple frequency fields;

h. the existence of replacement equipment designed to reduce the level of exposure to electromagnetic fields;

i. appropriate information obtained from the health medical examination referred to in Article 6.12n;

j. information provided by the manufacturer of the equipment; and

k. other relevant health and safety related information.

**Article 6.12l. Measures to prevent or limit exposure**

**1.** Such measures shall be taken that the risks for workers resulting from electromagnetic fields at the workplace are removed or minimised, taking account of technical advances and the availability of measures to control the emergence of electromagnetic fields at the source.

**2.** If it appears that the action levels referred to in Article 6.12j and Annexes II and III to the Directive are exceeded, a plan of action as referred to in Article 5, third paragraph, of the Act shall be drawn up and implemented, which plan shall include technical and organisational measures to prevent exposure exceeding limit values, unless the assessment referred to in Article 6.12k, first to third paragraphs, shows that the limit values referred to in Article 6.12j and in Annexes II and III to the Directive, are not exceeded and health and safety risks can be excluded.

**3.** The plan of action meant in the second paragraph shall, in any case, focus on the following:

a. other working methods that entail less exposure to electromagnetic fields;

b. the choice of equipment emitting less intense electromagnetic fields;

c. technical measures to reduce the emission of electromagnetic fields, including, where necessary, the use of interlocks, shielding or similar mechanisms;

d. appropriate delimitation and access measures, such as signals, labels, floor markings, barriers, in order to limit or control access;

e. in the case of exposure to electric fields, measures and procedures to manage spark discharges and contact currents through technical means and through the training of workers;

f. appropriate maintenance programmes for work equipment, workplaces and workstation systems;

g. the design and layout of workplaces;

h. limitations of the duration and intensity of the exposure; and

i. the availability of adequate personal protective equipment.

**4.** The plan of action referred to in the second and third paragraph shall also include technical or organisational measures to prevent any risks to workers at particular risk, and any risks due to indirect effects.

**5.** As a supplement to the fourth paragraph, separate risk assessments shall, where necessary, be carried out for workers at particular risk.

**6.** If the risk assessment and evaluation referred to in Article 6.12k shows that workers are exposed to electromagnetic fields that exceed the action levels referred to in Annexes II and III to the Directive, the relevant workplaces shall be indicated by appropriate signs. The areas in question shall be identified and access to them limited, as appropriate.

**7.** Where Article 6.12j, sixth paragraph, under a, applies, measures shall be taken, such as:

a. the training of workers as meant in Article 6.12m;

b. the use of technical means and personal protection, for example the grounding of work objects;

c. the equipotential bonding of workers with objects referred to under b;

d. the use of insulating shoes, gloves and protective clothing.

**8.** If there are circumstances as referred to in Article 6.12j, seventh paragraph, under a, measures, such as controlling movements, shall be taken.

**9.** Workers shall not be exposed above the health effects limit values and sensory effects limit values, unless the conditions under Article 6.12o or under Article 9.17c or under Article 6.12j, sixth or seventh paragraph, are fulfilled. If, despite the measures taken, these limit values are exceeded, immediate action shall be taken to reduce exposure below these limit values. The reasons why the limit values have been exceeded shall be identified and recorded, and the measures referred to in the first and third paragraph shall be amended in order to prevent the limit values from being exceeded again.

**10.** If there are circumstances as referred to in Article 6.12j, sixth paragraph, under b, and seventh paragraph, and if the worker reports transient symptoms which are considered by an expert person as referred to in Article 2.14a, second paragraph, or a health and safety service to be the result of exposure to electromagnetic fields at work, the risk assessment and the measures referred to in the first and third paragraph will be updated if necessary.

**11.** The Works Council or the staff representation or, in the absence thereof, the workers in question will be given the opportunity to express their opinions about the measures taken in pursuance of this Article.

**Article 6.12m. Worker information and training**

**1.** Workers that may be exposed to risks related to electromagnetic fields shall be offered all the necessary information and training relating to the results of the risk assessment referred to in Article 6.12k, first paragraph.

**2.** Information and training shall, in any case, be offered concerning:

a. measures taken in pursuance of this section;

b. the values and concepts of the limit values and action levels and the associated possible risks and the preventive measures taken;

c. the possible indirect effects of exposure;

d. the results of the assessment, measurement or calculations of the levels of exposure to electromagnetic fields, referred to in Article 6.12k, first to fourth paragraphs;

e. how to detect adverse health effects of exposure and how to report them;

f. the possibility of transient symptoms and sensations related to effects in the central or peripheral nervous system;

g. the circumstances in which workers are entitled to an occupational health medical examination;

h. safe working practices to minimise risks resulting from exposure; and

i. workers at particular risk, as referred to in Article 6.12k, tenth paragraph, under d, and Article 6.12l, fourth paragraph.

**§ 3. Miscellaneous provisions**

**Article 6.12n. Occupational health medical examination**

**1.** If a worker is exposed to electromagnetic fields above the limit values, supplementary to Article 18 of the Act, he or she will be given the opportunity to undergo an occupational health medical examination. This examination will also be offered to a worker when it has been ascertained that he is suffering from a recognisable illness or is experiencing harmful effects to health that are adjudged by an expert as referred to in Article 2.14a, second paragraph, or a health and safety service to be the result of exposure to electromagnetic fields at work.

**2.** For every worker who undergoes an occupational health medical examination as referred to in the first paragraph, an individual medical dossier will be compiled. The medical dossiers will be stored in a suitable format so that they can be consulted at a later date.

**3.** All workers are entitled to view the results that relate to them.

**Article 6.12o. MRI equipment**

**1.** If it has been established on the basis of the risk assessment referred to in Article 6.12k, first paragraph, that limit values will be exceeded, these limit values may, in derogation of Article 6.12j, be exceeded if the exposure is connected with the activities referred to in the second paragraph, provided that the following conditions are met:

a. all technical and organisational measures have been implemented considering the latest technology;

b. the circumstances justify exceeding the limit values;

c. the characteristics of the workplace, the work equipment or the work practices have been taken into account; and

d. it is demonstrated that the employees remain protected against adverse health effects and against safety risks.

**2.** The activities referred to in the first paragraph concern:

a. the research and development, installation and testing and maintenance of MRI equipment, or

b. the use of MRI equipment for public health purposes.

**Section 5. Working under excess pressure**

**Article 6.13. Definitions and applicability**

**1.** In the provisions of or pursuant to this Section the following terms have the following meaning:

a. diving work: carrying out work in a liquid or a dry diving bell including the stay in this liquid or in this dry diving bell whereby for the purposes of breathing a gas is used under a higher pressure than atmospheric pressure;

b. caisson work: carrying out work in a space under pressure of at least 104 Pa above atmospheric pressure fully or partially surrounded by liquid as well as the stay in and the transport to and from this space;

c. other work under excess pressure: carrying out work other than diving or caisson work in a space under pressure of at least 104 Pa above atmospheric pressure including the stay in this space.

**2.** This Section also applies to the work in or on a seagoing vessel directly linked to the work to be carried out under excess pressure.

**3.** Articles 6.14 and 6.15, paragraph one, under a and b and d, apply exclusively to diving work with a Self-Contained Underwater Breathing Apparatus (SCUBA), consisting of the instructions for sport divers up to a diving depth of not more than 50 metres with a decompression time of not more than 20 minutes and with a partial oxygen pressure in the breathing gas of not more than 1.4 105 Pa.

**Article 6.14. Suitability**

Diving work, caisson work and other work under excess pressure should be carried out by persons in a physical and mental condition such as to be able to be aware of the dangers associated with the work they are to carry out and to prevent or restrict these dangers where possible.

**Article 6.14a. Occupational health medical examination**

**1.** Persons entrusted with diving work, caisson work and other work under excess pressure are to be submitted to an occupational health medical examination before the start of that work aimed at the special health hazards to which they might be exposed in the performance of that work.

**2.** After a period of not more than twelve months after the examination meant in the first paragraph, the occupational health medical examination should be repeated and thereafter each time with an interval of not more than twelve months since the previous examination.

**3.** The occupational health medical examination meant in the first and second paragraph must be carried out by a physician in the possession of a diving physician certificate issued by our Minister or a certifying institution.

**4.** Detailed provisions concerning the performance of the occupational health medical examination will be laid down by a Ministerial Order. These provisions may relate to:

a. the information submitted at the examination;

b. the manner in which the examination is carried out;

c. the manner of assessment whether the persons are suitable or not for performing diving work, caisson work or other work under excess pressure;

d. the manner of recording, processing and retaining the information derived from the examination and also how long this will be retained.

**5.** A person should only perform diving work, caisson work or other work under pressure if it is evident from the occupational health medical examination that performing this work is acceptable on medical grounds. If it appears from the findings of the occupational health medical examination that performing diving work, caisson work or other work under excess pressure is only acceptable under the restricting provisions indicated therein, these provisions should be observed.

**6.** At the request of the employer or the person examined, the examination meant in this Article can be carried out again once by another physician who is in the possession of a diving physician certificate as meant in the third paragraph. The result of the re-examination replaces the previous one.

**Article 6.14b. Diving physician**

In connection with carrying out the occupational health medical examinations as meant in Article 6.14a, first and second paragraph, various professional skills, training or registration requirements for the issue of the diving physician certificate meant in Article 6.14a, third paragraph can be set in a Ministerial Order.

**Article 6.15. Safety measures**

**1.** If the diving work, caisson work or other work under excess pressure is undertaken, the following should be adhered to with due observance of the latest technology and taking into account the specific work to be carried out:

a. proper written work instructions should be present close to the place where the work is being carried out which at least contain the safety measures to be taken by the employees as well as the emergency procedures;

b. sound materials in good conditions and sufficient breathing gas of good quality should be made available to the employees;

c. a person specifically trained for this purpose should be present close to the place where the work is being carried out and be able to give adequate medical guidance to the employees;

d. adequate first-aid equipment should be present close to the place where the work is being carried out.

**2.** The person meant in the first paragraph under c may immediately contact a physician as meant in Article 6.14a, third paragraph.

**Article 6.15a. Certification of maintenance system for diving and caisson equipment**

[Repealed on 01-07-2014]

**Article 6.16. Diving work**

**1.** Diving work should be carried out by one or more divers assisted by a reserve diver and a team leader.

**2.** The reserve diver should only carry out diving work consisting of giving support to and rescuing divers in trouble. When using a diving bell, the reserve diver should be present in the bell.

**3.** The team leader should be in the possession of a diving team leader certificate issued either by Our Minister or a certifying institution which is relevant to the type of work he or she is carrying out.

**4.** Contrary to the first paragraph, the team leader may also act as a reserve diver if the diving work is carried out in a liquid consisting mainly of water with a maximum attainable depth of 9 metre and a maximum current velocity of 0.5 metre per second and whereby there is no foreseeable chance that the divers would get into trouble in this liquid.

**5.** Anyone who has carried out diving work should record this in a personal diving logbook. Apart from the nature of the diving work, at least the diving schedule followed should be recorded in this logbook including the decompression process followed as well as the duration of the stay in the liquid.

**6.** The divers and reserve diver should be in possession of a diving work certificate with respect to the type of work they are carrying out, issued by Our Minister or a certifying institution.

**7.** If diving work is being carried out, the person meant in Article 6.15, paragraph one under c, should be in the possession of a medical diving assistance certificate issued by our Minister or a certifying institution which is relevant to the type of work he or she is carrying out.

**8.** The diving team leader certificate, the diving work certificate and the medical diving assistance certificate meant in the third or the sixth and seventh paragraph, or copies of these must be present at the workplace and should be shown to the supervisor on request.

**9.** Paragraph six does not apply to a person who is carrying out diving work within the scope of a diving course, provided this takes place under the supervision of a person who is in the possession of a certificate as meant in that paragraph.

**Article 6.17. Reporting diving work**

**1.** If diving work is carried out,

a. at a depth exceeding 9 metres;

b. under a current velocity exceeding 0.5 metre per second;

c. with intended decompression;

d. with breathing gas other than air;

e. for a period exceeding a week; or

f. for the underground mining industry or mineral-extracting industry through drilling, this should be notified to a supervisor designated to this end at least five working days before it commences specifying the location where the work will be carried out, the time this work will start, the probable number of employees involved and the number of employees that will actually carry out the diving work.

**2.** If the period between the instructions to perform the diving work as meant in the first paragraph and its execution is shorter than five working days due to the unforeseen and urgent nature of the diving work, the diving work should be reported to the official meant in the first paragraph as soon as possible.

**3.** With regard to the diving work for the underground mining industry or the mineral-extracting industry through drilling the notification meant in the first paragraph should be accompanied by information about the health and safety risks of the diving location.

**4.** The first paragraph does not apply to work carried out in connection with diving training.

**Article 6.18. Diving work compression room**

**1.** A suitable compression room supplied with an air lock for people and medicines should be present at the location where diving work is being carried out in water at a depth of more than 15 metres or in another liquid under a pressure exceeding 1.5 105 Pa of atmospheric pressure.

**2.** Notwithstanding the first paragraph a compression room should be present at the location where diving work is carried out if the travelling time between the diving site and the nearest processing facility with a compression room exceeds 2 hours.

**3.** The compression room meant in the first paragraph:

a. should have a size and design geared to the number of persons carrying out diving work and the nature of the activities, and

b. should offer room for at least two persons.

**4.** The compression room should be used in the proper manner.

**Article 6.19. Caisson work**

**1.** Caisson work should be carried out by at least two persons.

**2.** At least 30 days before performing caisson work a supervisor designated to this end should be notified of this under submission of a proper work plan.

**3.** A caisson should be built, installed, adjusted or disassembled under supervision of a specially designated person.

**4.** Caissons should be inspected regularly by a specially designated person.

**Article 6.20. Caisson work compression room**

**1.** A suitable compression room supplied with an air lock for persons and medicines should be present near the site where caisson work is being carried out under a pressure exceeding 1.5 105 Pa above atmospheric pressure.

**2.** Notwithstanding the first paragraph, a compression room should be present at the location where caisson work is carried out if the travelling time between that location and the nearest processing facility with a compression room exceeds 2 hours.

**3.** The compression room meant in the first paragraph:

a. should have a size and design geared to the number of persons carrying out caisson work and the nature of the activities, and

b. should offer room for at least two persons.

**4.** The compression room should be used in the proper manner.

**Section 5A. Additional provisions for underground mining industries**

**Article 6.20a. Linking provision**

Apart from the provisions of Sections 1 to 5 of this Chapter the provisions of this Section also apply to a workplace in the underground mining industry.

**Article 6.20b. Ventilation**

**1.** All normally accessible underground worksites should be properly ventilated. By means of permanent ventilation, with a sufficient safety margin, an atmosphere should be ensured:

a. which is healthy;

b. in which the explosion danger and the danger of breathable dust particles are kept under control;

c. in which the working conditions during working hours are adequate considering the working methods applied and the physical load of the employees.

**2.** If the natural ventilation does not comply with the first paragraph, the main ventilation should be provided by one or more mechanical ventilators. Measures should be taken to guarantee a constant and continuous ventilation. The underpressure of the main ventilators should be checked continuously. There should be an automatic alert in the event that the main ventilators fail unexpectedly.

**3.** The parameters of the ventilation:

a. must be measured regularly, and

b. the results of this must be recorded.

**4.** A ground plan should be made and regularly updated with all useful information about the ventilation system. The ground plan must be present at the workplace and must be shown to the supervisor on request.

**Article 6. Lighting 20c** [Repealed on 01-01-2007]

**Section 5B. Additional provisions for the extracting industry through drilling**

**Article 6.20d. Linking provision**

Apart from the provisions of Sections 1 to 5 of this Chapter the provisions of this Section also apply to a workplace in the mineral-extracting industry through drilling.

**Article 6.20e. Lighting**

Lighting systems should be designed such that operational control rooms, escape routes, embarkation areas and danger zones are illuminated during the presence of employees.

**Section 6. Special sectors and special categories of employees**

**§ 1. Transport**

**Article 6.21. Exception for noise**

[Repealed on 15-02-2006]

**Article 6.22. Definition**

[Repealed on 15-02-2006]

**Article 6.23. Noise regulations for seagoing vessels and aircraft**

[Repealed on 15-02-2006]

**Article 6.24. Other exceptions to means of transport**

**1.** Articles 6.3 and 6.4 do not apply to aircraft for which a Dutch or an equivalent certificate of airworthiness has been issued before 1 January 1997 unless compliance with this may reasonably be required.

**2.** Articles 6.3 and 6.4 do not apply to seagoing vessels constructed before 1 January 1994 unless compliance with this may reasonably be required.

**3.** The date of manufacture of a seagoing vessel is determined on the basis of the provisions laid down in this respect in Article 2 of the Ships Decree 2004 or, if a seagoing fishing vessel is concerned, in the Fishing Vessels Decree or the Fishing Vessels Decree 2002.

**4.** Article 6.3 and 6.4 do not apply to vehicles on a public road or railway constructed before 1 January 1994 unless compliance with this may reasonably be required.

**§ 2. Custodial institutions**

**Article 6.25. Climate, daylight and artificial lighting and ventilation**

Articles 6.1, 6.2 and 6.3 do not apply to workplaces in custodial institutions which were in operation as such before 1 September 1990, insofar as compliance with this cannot reasonably be required.

**§ 3. Young persons**

**Article 6.26. Linking provision**

In addition to the provisions set out in or pursuant to this Chapter the provisions and prohibitions mentioned in this division also apply to young employees.

**Article 6.27. Work prohibitions for young employees**

**1.** Young employees are not allowed to carry out diving work, caisson work and other work under excess pressure as meant in Article 6.13.

**2.** Young employees are not allowed to carry out work with appliances which may radiate harmful electromagnetic fields or artificial optical radiation.

**3.** Young employees are not allowed to carry out work at a workplace where the daily exposure to noise exceeds 85 dB(A) or the peak noise pressure exceeds 140 Pa.

**4.** Young employees should not be exposed to harmful vibrations.

**§ 4. Pregnant employees**

**Article 6.28. Linking provision**

In addition to the provisions in or pursuant to this Chapter, the provisions set out in this division also apply to pregnant employees.

**Article 6.29. Work prohibitions for working under excess pressure**

A pregnant employee is prohibited from carrying out diving work, caisson work and other work under excess pressure as meant in Article 6.13.

**Article 6.29a. Working in the underground mining industry**

Pregnant employees or breast-feeding employees are prohibited from working in the underground mining industry.

**Article 6.29b. Harmful vibrations**

Pregnant employees may not, at the workplace:

a. be exposed to physical vibrations or shocks of an acceleration in excess of 0.25 m/s2; or

b. come into direct contact with an ultrasonic source of vibration with a frequency in excess of 20 kHz, where the exposure is greater than 110 dB per terts band.

**Article 6.29c. Harmful noise**

Pregnant employees may not, at the workplace, be exposed to equivalent noise levels in excess of 80 dB(A) and peak noise levels in excess of 112 Pa.

**§ 5. Homeworkers**

**Article 6.30. Daylight and artificial light**

[Repealed on 01-07-2012]

**§ 6. Education**

**Article 6.31. Diving work of pupils and students**

**1.** Article 6.16, sixth paragraph, is not applicable to pupils or students in educational institutions if these pupils or students carry out diving activities which:

a. are performed within the scope of scientific research;

b. are of a light nature, and

c. are carried out by a diving team as meant in Article 6.16, first paragraph, whereby the pupil or student functions as an additional member of this diving team.

**2.** In carrying out the diving activities meant in the first paragraph, the pupils or students should be in the possession of a sport diving certificate to be indicated by a Ministerial Order.

**3.** With respect to the first paragraph detailed provisions can be laid down in a Ministerial Order.

**Chapter 7. Work equipment and specific activities**

**Section 1. Applicability and definition**

**Article 7.1. Work equipment not in use**

This Chapter does not apply to work equipment which is disassembled or dismantled such that it cannot be put back into use easily.

**Article 7.2. Work equipment with a CE marking**

**1.** Work equipment provided by the employer to the employee should comply with the Commodities Act Decrees applicable to that work equipment.

**2.** Work equipment is presumed to comply with Articles 7.4, first and second paragraph, 7.7, 7.10, 7.13, 7.14, 7.15, 7.16, 7.17a, 7.17b, with the exception of paragraph four and 7.18b, first paragraph, under a, if in accordance with the Commodities Act Decrees applicable to this work equipment it is provided with a CE marking together with an EC declaration of conformity and the work equipment is being used in accordance with the associated user instructions.

**3.** If work equipment is only provided with a CE marking for one or more of its components together with an EC declaration of conformity, the work equipment is only presumed to comply with the Articles mentioned in the second paragraph with respect to the marked component(s).

**Article 7.2a. Definition of test**

In this Chapter the term test means: an inspection or trial.

**Section 2. General provisions**

**Article 7.3. Suitability of work equipment**

**1.** With respect to the choice of the work equipment which the employer makes available, the employer should take into account the specific characteristics of the work as shown in the risk assessment and evaluation meant in Article 5 of the Act, the circumstances under which it is carried out, together with the hazards already existing in the workplace and the additional hazards which might result from the use of the respective work equipment.

**2.** In order to prevent the use of the work equipment creating a hazard to the health and safety of the employees, the work equipment being made available to the employees in the workplace should be used exclusively for the purpose, and in the manner and the place for which they have been fitted out and intended.

**3.** Moreover, the work equipment should be suitable for the work to be carried out or suitably adjusted to this end.

**4.** Insofar as it is not reasonably possible to avoid the hazards when using the work equipment, such measures should be taken that the hazards are restricted as much as possible.

**Article 7.4. Soundness of work equipment and unintended events**

**1.** Work equipment should consist of sound materials.

**2.** Work equipment should be properly constructed.

**3.** Work equipment should be placed, mounted or fitted out such and be used such that the danger of an unintended event arising, such as shifting, falling over, toppling over, being hit by the work equipment or parts of it, overheating, fire, explosion, lightning strike and being directly or indirectly in contact with electricity, is prevented as much as possible.

**4.** Article 3.17 applies accordingly.

**Article 7.4a. Tests**

**1.** Any work equipment the safety of which depends on the manner of its installation, should be tested after installation and before it is put in operation for the first time to check whether it is correctly installed and is functioning properly and safely.

**2.** In addition, work equipment as meant in paragraph one should be tested after any assembly at a new location or new place to check whether it is correctly installed and is functioning properly and safely.

**3.** Work equipment subject to influences resulting in deterioration which could give rise to a hazardous situation should be tested as often as necessary to safeguard its good condition and be tried out if necessary.

**4.** Work equipment as meant in the third paragraph should also be tested and if necessary tried out every time exceptional circumstances have arisen which might have harmful consequences for the safety of the work equipment. Exceptional circumstances would in any event include: natural phenomena, changes to the work equipment, accidents with the work equipment and the work equipment being shut off for a long time.

**5.** Tests should be carried out by an expert natural person, corporation or institution.

**6.** Written evidence of the tests carried out must be present at the workplace and must be shown to the supervisor on request.

**7.** This Article does not apply to amusement and gambling machines to which the Amusement and Gambling Machines Commodities Act Decree applies.

**8.** The first to the fifth paragraphs do not apply to scaffolding to which Article 7.34 applies.

**9.** Paragraph one to three do not apply to:

a. hoisting and lifting machines and hoisting and lifting tools on board vessels to which Article 7.29 applies;

b. lifts to which the Lifts Commodities Act Decree 2016 applies.

**10.** [This paragraph has not yet come into force.]

**11.** The first and second paragraphs do not apply to pressure equipment to which Article 21 of the Pressure Equipment Commodities Act Decree 2016 applies.

**12.** The third paragraph does not apply to:

a. hoisting and lifting tools to which Article 7.20 applies;

b. containers to which the Containers Commodities Act Decree applies;

c. hoisting cranes to which Articles 6d to 6f of the Machines Commodities Act Decree apply;

d. pressure equipment to which Article 22 of the Pressure Equipment Commodities Act Decree 2016 is applicable.

**13.** With regard to changes or repairs the fourth paragraph does not apply to pressure equipment to which Article 22 of the Pressure Equipment Commodities Act Decree 2016 applies.

**14.** Paragraph one to three do not apply to lifting and hoisting equipment for the professional transport of passengers to which the Machines Commodities Act Decree applies.

**Article 7.5. Assembly, disassembly, maintenance, repair and cleaning of work equipment**

**1.** The necessary measures should be taken to ensure that the work equipment is sufficient maintained over its full useful life so as to remain in such a condition that a hazard to the health and safety of the employees is prevented as much as possible.

**2.** Maintenance, repair and cleaning activities to work equipment should only be carried out if the work equipment is switched off and has been de-pressurised or is dead. If this is not possible, suitable measures should be taken in order to be able to carry out those activities safely.

**3.** The second paragraph applies accordingly to production and adjustment activities with or to work equipment.

**4.** Maintenance books belonging to work equipment should be kept properly up-to-date.

**5.** Assembly and disassembly of work equipment should take place in a safe manner with due observance of any instructions from the manufacturer.

**Article 7.6. Expertise of employees**

**1.** With respect to work equipment the use of which might create a specific hazard to the safety of the employees, their use should be reserved to employees who have been entrusted with this.

**2.** Employees entrusted with the conversion, maintenance, repair or cleaning of work equipment as meant in the first paragraph, should have specific expertise and experience to this end.

**Article 7.7. Safety provisions in connection with moving parts of work equipment**

**1.** If moving parts of work equipment create a hazard, they should be provided with screens or safety devices such that the hazard is avoided as much as possible.

**2.** The screens or safety devices should be of a solid construction.

**3.** The screens or safety devices should not create additional hazards.

**4.** It should not be possible to easily ignore or put the screens or safety devices out of operation.

**5.** The screens or safety devices should be fitted at a sufficient distance from the danger area of the work equipment.

**6.** The screens or safety devices should interfere as little as possible with the view of the work.

**7.** The screens or safety devices should be fitted in such a manner that the necessary maintenance and repair activities can be carried out safely. In doing so, dismounting the screens or safety devices should be avoided as much as possible.

**Article 7.8. Lighting**

In addition to Article 6.3, operating and maintenance points of work equipment should be sufficiently and effectively lit.

**Article 7.9. High and low temperatures**

Employees should be prevented as much as possible from coming into the direct surroundings of work equipment or its parts which are at very high or very low temperatures. If this is not possible, suitable measures should be taken to prevent contact with this work equipment or its parts.

**Article 7.10. Alarm signals**

Alarm signals of work equipment should be easily and clearly observable and properly recognisable as such. They should comply with the provisions set out in or pursuant to Section 2 of Chapter 8.

**Article 7.11. Disconnecting work equipment**

**1.** Work equipment should have clearly recognisable provisions by which it can be disconnected from its power source.

**2.** Reconnecting the work equipment after it has been disconnected from its power source should not create any hazard for the employees.

**Article 7.11a. Information**

**1.** Operating instructions belonging to work equipment should be brought to the notice of the employees involved in an understandable form.

**2.** If the use or presence of work equipment in the direct work surroundings could create hazards for the employees, this will be pointed out to them even if the employees are not directly using this equipment.

**Section 3. Work equipment with an operating system**

**Article 7.12. Linking provision**

Apart from the provisions in Sections 1 and 2 of this Chapter, the provisions of this Section also apply to work equipment with an operating system.

**Article 7.13. Operating systems and operating units**

**1.** Operating systems of work equipment should be safe.

**2.** Operating systems should not create a hazard for the employees even when unintentional actions are taken.

**3.** When choosing operating systems, the faults, breakdowns and expected loads when using the operating system should be taken into account.

**4.** An operating unit should be clearly visible and recognisable and - where necessary - should be provided with functional indications to this end in a suitable manner.

**5.** Operating units should be situated outside the danger area of the work equipment as much as possible.

**6.** The location of the operating unit should not create additional hazards for the employees.

**7.** If work equipment can be put into operation or stopped from a place from which there is not a complete view of this work equipment, then in order to protect the respective employees, before putting the work equipment into operation or shutting it off, a signal should be given in good time at every occasion in compliance with the provisions set out in or pursuant to Section 2 of Chapter 8.

**Article 7.14. Putting work equipment into operation**

**1.** Operating units should only be able to be put into operation by an intentional action with an operating system intended to this end.

**2.** The first paragraph applies accordingly to resuming operation after a pause regardless of its cause and also for bringing about an important change in the operation of the work equipment unless the resuming of the operation or this change cannot create any hazards for people.

**3.** The second paragraph does not apply if the putting into operation or change in the operation of work equipment forms part of the normal programme of an automatic cycle.

**Article 7.15. Shutting down work equipment**

**1.** It should be possible to shut off work equipment in a safe manner with an operating unit intended for this purpose. Depending on the hazard, operating systems should stop either the complete work equipment or parts of it, to the extent that the work equipment is in a safe condition.

**2.** When the work equipment or parts of it have been stopped, the energy supply should be interrupted to the work equipment or those of its parts causing the hazard.

**3.** It should not be possible to cancel the instruction to stop the work equipment or part of it by an instruction to start up the work equipment or a part of it.

**Article 7.16. Emergency stop provision**

Work equipment should have an emergency stop provision if this is necessary with a view to the hazards of this work equipment and the normal time required to stop this work equipment.

**Section 4. Additional provisions for specific work equipment and activities**

**§ 1. Adjustment**

**Article 7.17. Linking provision**

Apart from the provisions of Sections 1 to 3 of this Chapter the provisions of this Section also apply to the specific work equipment and activities mentioned in this Section.

**§ 2. Provisions for mobile work equipment**

**Article 7.17a. Outfit of mobile work equipment**

**1.** Mobile work equipment on which one or more persons can be transported should be fitted out in such a manner that the hazards for these persons during transport are restricted as much as possible.

**2.** Mobile work equipment able to transport one or more persons, with the exception of forklift trucks, should be fitted out in such a manner that under actual user circumstances the hazards which could result from the mobile work equipment toppling over or falling are restricted as much as possible by:

a. a protective construction preventing the mobile work equipment from tilting more than a quarter turn;

b. a construction ensuring that there is sufficient free space around the persons to be transported when the mobile work equipment is able to move more than a quarter turn; or

c. other provisions with an equal level of safety.

**3.** The second paragraph does not apply if the mobile work equipment is stabilised during use or if the mobile work equipment is designed in such a manner that it cannot fall or topple over.

**4.** If there is a danger that when mobile work equipment topples over or falls that the persons to be transported could become trapped between the parts of it and the ground, a system should be installed by which they can be held back.

**5.** Forklift trucks able to transport one or more persons should be fitted out in such a manner that the hazard of toppling over or the consequences of this are restricted as much as possible by:

a. a driver cabin;

b. a device preventing the forklift truck from toppling over;

c. a device making sure that if the forklift truck topples over, there is sufficient free space between the ground and certain parts of the forklift truck for the persons being transported;

d. a device on each seat of the forklift truck by which the persons present on the truck are able to secure themselves on the seat; or

e. other provisions with an equal level of safety.

**6.** If a sudden jamming of parts for the energy transmission between the mobile work equipment and its accessories or trailers could create specific hazards, this work equipment should be fitted with a provision to prevent this jamming. If such jamming cannot be avoided, measures should be taken such that the hazards are restricted as much as possible.

**7.** Mobile work equipment should be provided with means of fastening parts of the energy transmission when these parts may become dirty or damaged because of being dragged over the ground.

**Article 7.17b. Outfit of self-propelled mobile work equipment**

**1.** In addition to Article 7.17a this Article applies to self-propelled mobile work equipment which when in motion could cause hazards for the employees.

**2.** Mobile work equipment should be equipped with:

a. provisions to prevent it being put into operation by unauthorised persons;

b. effective provisions to restrict the consequences of any collision, if various mobile work equipment on rails are being moved at the same time;

c. a brake and stop provision;

d. an emergency provision insofar as this is required for safety reasons, which enables the mobile work equipment to be braked or brought to a standstill by easily accessible control units or by automatic systems in cases of a breakdown in the main braking system and stop provision;

e. effective aids to give the driver a sufficient view if his direct field of view is insufficient to safeguard the safety of persons.

**3.** If mobile work equipment is being used at night or in dark places, it should be provided with lighting equipment adjusted to the work to be carried out and offering sufficient safety to employees.

**4.** If mobile work equipment, their trailers or loads may create a fire hazard for people, they should be provided with effective fire fighting means, unless the workplace has been equipped with this within a suitably short distance from this work equipment, their trailers or loads.

**5.** If mobile work equipment is remote-operated, they should automatically come to a standstill when they leave the control area.

**6.** If mobile work equipment is remote-operated and is able to drive into or trap employees under normal user circumstances, they should be equipped with provisions offering protection against these hazards unless other suitable provisions are present to restrict the hazard of collisions.

**Article 7.17c. Use of mobile work equipment**

**1.** Self-propelled mobile work equipment should be operated by employees having a specific expertise to this end.

**2.** Employees should only be allowed to ride on self-propelled mobile work equipment on safe places specifically fitted out for this purpose.

**3.** If activities are carried out when the work equipment as meant in the second paragraph is moving, the speed of the work equipment should be adjusted if necessary.

**4.** If mobile work equipment is moving within a work area where employees might be situated, effective traffic rules should be determined.

**5.** Effective organisational measures should be taken in order to prevent employees from being present in the work area of self-propelled mobile work equipment.

**6.** If the presence of employees in a work area as meant in the fifth paragraph is necessary for the proper execution of the activities, suitable measures should be taken in order to avoid their becoming injured by the mobile work equipment.

**7.** Mobile work equipment with an I.C.-engine should not be used in the workplace unless sufficient clean air is ensured.

**8.** Mobile work equipment can only be left by the driver after it has been brought to a stop and it has been ensured that after leaving it, it does not start to move unexpectedly.

**Article 7.17d. Transporting persons over water**

With respect to transport of employees over water, effective measures should be taken to guarantee the safety of these employees.

**§ 2a. Provisions for work equipment for hoisting and lifting loads or persons**

**Article 7.18. Hoisting and lifting machines**

**1.** Hoisting or lifting machines should be supplied with a properly readable indication on or close to the operating position stating the permissible operating load for each usual configuration of this machine.

**2.** Hoisting or lifting machines should not - except for testing - be put under a heavier load than the permissible operating load or operating loads nor loads heavier than safe use allows.

**3.** Hoisting and lifting machines should be operated by persons having specific expertise to this end.

**4.** No persons should be transported instead of or together with goods in a hoisting or lifting machine which is exclusively intended and fitted out for the transport of goods.

**5.** Hoisting or lifting machines not intended or equipped for hoisting or lifting persons and where there is a chance of them being used wrongly, should be provided with properly legible warnings against the transport of passengers.

**6.** Hoisting and lifting machines should be installed in such a manner as to restrict the hazard of the load hitting employees or falling freely or becoming unintentionally dislodged in a dangerous way.

**7.** Effective measures should be taken to ensure that employees do not stay under the suspended loads.

**8.** Suspended loads should not be moved above non-protected workplaces where employees are usually situated.

**9.** If when implementing paragraphs seven and eight the proper progress of the activities cannot be guaranteed, suitable procedures should be determined and applied in order to guarantee the safety of the employees involved.

**Article 7.18a. Hoisting and lifting machines for non-guided loads**

**1.** In addition to Article 7.18 this Article applies to the use of hoisting and lifting machines intended for hoisting or lifting non-guided loads.

**2.** When two or more hoisting or lifting machines are installed or assembled in the workplace in such a way that their work areas overlap, suitable measures should be taken to avoid collisions between the loads or parts of these machines.

**3.** When using a mobile hoisting or lifting machine, suitable measures should be taken to prevent the machine from toppling over, starting to move or slipping away unintentionally.

**4.** There should be supervision to ensure that the measures meant in the third paragraph are carried out properly.

**5.** When the operator of a hoisting or lifting machine cannot follow the complete path of the load either directly or by means of informative aids, an employee should be designated who is in communication with the operator to give him guidance.

**6.** In addition, further organisational measures should be taken to avoid unintentional collisions with the load of the hoisting or lifting machine.

**7.** When loads are manually fastened or loosened, the activity should be organised in such a manner that the employee is able to carry out these actions safely and keep direct or indirect control over it.

**8.** All actions for hoisting or lifting should be planned correctly in order to guarantee the safety of the employees.

**9.** The actions meant in the eighth paragraph should be carried out under effective supervision.

**10.** Particularly if a load is hoisted or lifted simultaneously by two or more hoisting or lifting machines, a procedure should be determined and applied in order to guarantee proper coordination of the actions of the operators.

**11.** If hoisting or lifting machines can no longer hold their loads because of a complete or partial breakdown in the energy supply, suitable measures should be taken in order to prevent employees from being exposed to the associated hazards.

**12.** Loads as meant in the eleventh paragraph should be continuously supervised, unless the access to the danger area has been prevented and the loads are fastened and secured completely safely.

**13.** Hoisting and lifting machines used in the open air should be shut down as soon as the weather conditions deteriorate to such an extent that there is a danger to safe operation and employees are exposed to hazards. In this case suitable protective measures should be taken in particular to avoid the hoisting or lifting machine toppling over.

**Article 7.18b. Hoisting and lifting machines for persons**

**1.** In addition to Articles 7.18 and 7.18a hoisting and lifting machines intended and equipped for hoisting or lifting persons should be equipped with such provisions that the following is avoided as much as possible:

a. the hoisting or lifting platform falling down,

b. persons falling from this platform,

c. the person making use of the hoisting or lifting machine being crushed, trapped or struck particularly as a result of unintentional contact with an object.

**2.** A hoisting or lifting machine as meant in the first paragraph should also have provisions such that - whilst there is any fault on the machine - the persons situated on the hoisting or lifting platform have their safety ensured as much as possible and that they can be freed.

**3.** If for reasons in connection with the site conditions and the difference in height, the hazard meant in the first paragraph under a cannot be avoided by means of a safety device, then a suitable cable, chain or other provision with an increased safety coefficient should be fitted in the suspension of the hoisting or lifting platform.

**4.** In the case meant in the third paragraph the proper condition of the cable, chain or other provision fitted in the suspension should be checked every working day.

**Article 7.19. Hoisting cranes**

[Repealed on 01-09-2003]

**Article 7.20. Hoisting and lifting tools**

**1.** Hoisting and lifting tools should be chosen according to the loads, strop points, hook provision and weather conditions taking into account the manner of slinging the load and the hoisting or lifting machine to be used.

**2.** Hoisting or lifting tools, other than ropes or steel cables, should be supplied with a properly readable indication stating the operational load.

**3.** Composite hoisting and lifting tools should be clearly marked in order to enable the user to know their characteristics.

**4.** Hoisting or lifting tools should not - except for testing - be under a load heavier than the allowable operating load or than safe use allows.

**5.** Hoisting and lifting tools should be stored in such a way that they cannot be damaged or affected.

**6.** Hoisting and lifting tools should be examined at least once a year by an expert natural person, a corporation or institution as to their proper condition and, if necessary, should then be tested. This person or institution should have the necessary equipment to this end at their disposal.

**7.** Documentary evidence of the examinations and tests meant in the sixth paragraph must be present at the workplace and shown to the supervisor on request.

**Article 7.21. Activities in lift shafts**

**1.** If two or more lifts are situated in a lift shaft, adequate technical measures should be taken in order to prevent persons working on one of the lifts in the shaft being hit by parts of an adjacent lift.

**2.** If taking the measures meant in the first paragraph is not feasible, the hazard meant in the first paragraph should be avoided by shutting off the adjacent lift.

**Article 7.22. Transport of persons in work cages**

[Repealed on 01-01-2007]

**§ 2b. Provisions with regard to the use of the work equipment provided for temporary work at heights**

**Article 7.23. Generalities**

**1.** If temporary activities at heights cannot be carried out safely and under suitable ergonomic circumstances on a work floor suitable to this end, the most suitable work equipment should be chosen to safeguard safe working conditions and to maintain them. In order to achieve this:

a. collective safety measures should have priority over personal protective measures;

b. the dimensions of the work equipment should be:

1°. geared to the nature of the activities to be carried out;

2°. geared to the foreseeable loads; and

3°. such that through passage is possible without any danger;

c. the most suitable means of access for the temporary workplace at heights must be chosen depending on the traffic, the height to be bridged and the user period;

d. the means of access chosen should in the event of a threat of danger offer the opportunity to vacate the site;

e. stepping from a means of access across to the platforms, floors or walkways and vice versa should not create an extra risk of falling down.

**2.** With due observance of the first paragraph the use of ladders and stairways as workplaces at heights should be restricted to circumstances in which the use of other, safer work equipment is not justified in connection with the low risk, and

a. because of the short user period, or

b. the existing characteristics of the locations which cannot be changed by the employer.

**3.** Access and positioning techniques with lines should only be used under circumstances in which it appears from the risk assessment and evaluation meant in Article 5 of the Act that the work can be carried out safely and in which the use of other safer work equipment is not reasonably possible.

**4.** In the case meant in the third paragraph, taking into account the risk assessment and evaluation meant in Article 5 of the Act and the duration of the activities and the ergonomic requirements, a seat with suitable accessories should be provided.

**5.** Depending on the work equipment to be used the necessary measures should be taken in order to minimise the risks for the employees associated with this work equipment. If necessary fall protection devices should be fitted.

**6.** The fall protection provisions should have a configuration and strength such that falling from heights is prevented or that any fall is stopped such that injuries of employees is prevented as much as possible.

**7.** The collective fall protection provisions should only be interrupted where there is access to a ladder or staircase.

**8.** When the performance of the activities requires that a collective fall protection provision is temporarily removed, suitable, replacement safety provisions should be arranged.

**9.** The activities meant in the eighth paragraph, should only be performed after these replacement provisions have been made.

**10.** After the final or temporary termination of the activities meant in the eighth paragraph, the collective fall protection provisions should again be fitted.

**11.** Temporary activities at heights should only be carried out when the weather conditions do not endanger the health and safety of the employees.

**Article 7.23a. Specific provisions with regard to the use of ladders and stairways**

**1.** Ladders and stairways must be placed such that their stability during use is guaranteed. To this end the following measures should be taken in any event:

a. the bearings of portable ladders and stairways should rest on a stable, solid and immovable base of sufficient scope so that the rungs stay horizontal;

b. hanging ladders should be attached securely and, with the exception of rope ladders, in such a manner that they cannot slide and that swinging to and fro is prevented.

**2.** In using ladders and stairways the following measures should be taken in any event:

a. portable ladders and stairways losing their footings during use should be prevented by securing the top or bottom of the stiles or by means of an anti-slip device or another solution equally as effective;

b. access ladders should protrude at least 1 metre above the access level unless other provisions enable a safe grip;

c. multiple-part ladders and sliding ladders must be used such that the different parts cannot shift in relation to each other;

d. ladders and stairways on wheels must be secured before people can step onto them.

**3.** Ladders and stairways must be used such that the employees have at all times a safe support and grip. In any event manually carrying a load on a ladder or a stairway should not hinder a safe grip.

**Article 7.23b. Specific provisions regarding scaffolding**

**1.** When the strength and stability calculation is not available for the chosen scaffolding or the structure configurations considered are not included in the calculation, a strength and stability calculation must still be made unless the scaffolding is constructed in accordance with a generally acknowledged standard configuration.

**2.** Depending on the complexity of the scaffolding chosen, an assembly, disassembly and conversion diagram must be drawn up by a person authorised to this end. This diagram can have the form of a general working drawing supplemented by detailed drawings for specific scaffolding.

**3.** The supports of a scaffolding should be safeguarded against slippage either by securing it to the supporting surface or by an anti-slip device or another solution equally as effective.

**4.** The supporting surface of the supports must have sufficient capacity.

**5.** The stability of the scaffolding must be ensured. Unintended movements of scaffolding on wheels during activities at heights must be prevented by a suitable provision.

**6.** The dimensions, form and position of the floors of scaffolding must be adjusted to the nature of the activities to be carried out and the loads to be carried and must be such that safe traffic can take place and work can be carried out safely.

**7.** The floors of scaffolding must be assembled such that its parts cannot move during normal use. No dangerous openings should be present between the parts of the floors and the vertical devices of the collective fall protection provisions.

**8.** If certain parts of scaffolding are not ready for use, these parts must with due observance of Section 2 of Chapter 8 be marked with safety warnings and properly demarcated by material partitions preventing access to the danger zone.

**9.** Scaffolding should only be erected, dismantled or fundamentally changed under the supervision of an authorised person and by employees who have had sufficient and specific training for the intended activities with regard to the specific risks, particularly aimed at:

a. understanding the assembly, disassembly and conversion diagram of the respective scaffolding;

b. safely assembling, disassembling or converting the respective scaffolding;

c. measures to prevent the risk of persons or objects falling;

d. safety measures when changing weather conditions which might prejudice the safety of the scaffolding are involved;

e. the acceptable load, and

f. any other risk that might be involved in the assembly, disassembly or conversion activities.

**10.** The person supervising the activities and the employees involved should have the assembly, disassembly and conversion diagram meant in the second paragraph at their disposal, including any associated instructions.

**Article 7.23c. Specific provisions with regard to the use of access and positioning techniques with lines**

**1.** When using access and positioning techniques with lines as meant in Article 7.23, third paragraph, the following conditions must be met:

a. the system must include at least two separately tied lines, namely:

1°. a working line serving to get on top or out of the workplace, and

2°. a safety line operating as a reserve line;

b. the employees should have a suitable harness at their disposal which complies with the provisions determined in or pursuant to Section 1 of Chapter 8, by which they are connected to the safety line;

c. the safety line must be provided with:

1°. a safe ascending and descending mechanism, and

2°. a self-blocking mechanism so that the user cannot fall when he loses control of his movements;

d. the safety line must be fitted with a movable fall protection mechanism which follows the employee in his movements;

e. the tools and other accessories used by the employee must be connected to the harness or the seat of the employee meant in Article 7.23, fourth paragraph, or attached in another suitable manner;

f. the work should be properly planned and be supervised so that, if necessary, the employee can be given assistance immediately;

g. the employees involved must have had adequate and specific training for the intended activities, in particular with regard to the rescue procedures.

**2.** In exceptional circumstances in which the use of two lines would render the work more dangerous considering the risk assessment and evaluation meant in Article 5 of the Act, the use of one single line may be allowed provided suitable measures are taken to guarantee safety.

**Article 7.23d. Specific provisions with regard to the use of work cages**

**1.** Article 7.18, fourth paragraph, does not apply to the transport of employees by means of a work cage linked to hoisting or lifting equipment if activities are carried out from that work cage which take place at the most a few times each year and which on each occasion do not take longer than four hours, at locations which are difficult to access and if the application of other more suitable means to reach those places would involve greater dangers than the transport of employees with a work cage as meant above or the application of such means cannot reasonably be required.

**2.** With regard to the application of the first paragraph, work cages are only used whereby:

a. if the work cage is attached to a forklift truck or similar mobile lifting machine, the load of the fully loaded work cage should not exceed half of the maximum acceptable load of the lifting machine in its most unfavourable position;

b. if the work cage is attached to a hoisting crane, the load of the fully loaded work cage and the associated hoisting equipment should not exceed one quarter of the acceptable work load of the hoisting crane. Contrary to this - when using a work cage attached to a fixed hoisting crane or to a hoisting crane mounted on a permanent crane track - the load should not exceed three-quarters of the nominal load for which these cranes are designed.

**3.** When the first paragraph is applied, the operating position of the hoist or lifting machine should be permanently manned.

**4.** When applying the first paragraph – when using a forklift truck or a similar mobile lifting machine - the horizontal move of a work cage which has been lifted more than 0.2 m is only allowed if it is driven with a speed of not more than 2.5 km per hour in order to position the work cage.

**5.** When applying the first paragraph the following provisions apply with regard to the hoisting crane and the lifting tools used in combination with a work cage:

a. one should not drive a mobile hoisting crane to which a manned work cage is attached;

b. it is only allowed to drive a hoisting crane on a crane track with a manned work cage with a speed of not more than 2.5 km per hour.

**6.** When applying the first paragraph, the following provisions apply to the employees involved:

a. the employees being hoisted or lifted should have effective means of communication at their disposal, and

b. effective provisions should be made in order to evacuate the employees if a hazard occurs.

**§ 3. Provisions for loading and unloading vessels**

**Article 7.24. Access to the vessel**

**1.** In addition to Article 3.2 the access to a hold or deck of a vessel should only be allowed by means of a fixed staircase and if this is not feasible a fixed ladder or clamps or foot openings of suitable dimensions with sufficient strength and proper construction or other proper means of access.

**2.** The means of access mentioned in the first paragraph should be separated from the hatch openings if this is reasonably feasible.

**Article 7.25. Hatches**

**1.** Hatches being fitted or removed by means of hoisting or lifting machines should be fitted out with properly accessible and suitable fixings for attaching the hoisting equipment.

**2.** If hatches are not mutually interchangeable, they should be clearly marked in order to indicate the hold openings and locations to which they belong.

**3.** Motor-driven or hydraulic hatches and other motor-driven or hydraulic ship's equipment should only be fitted or removed by a person authorised to this end.

**4.** The hatches and ship's equipment meant in the third paragraph should only be fitted or removed if this can take place safely.

**5.** Hatch openings not fitted with effective hatch coamings should be closed or otherwise secured as soon as the loading and unloading activities are concluded.

**6.** Hatches should not be fitted or removed if work is being carried out in the hold under the hatch opening.

**7.** Hatches not sufficiently secured against being moved, should be removed before the loading or unloading activities are commenced.

**Article 7.26. Handling goods or materials**

**1.** Storing or transferring, loading or unloading, stowing or otherwise handling goods or materials on the quay, in sheds or in the ship should take place in a safe and tidy manner taking into account the nature of these goods or materials and their packaging.

**2.** Loads should not be raised or lowered unless they are safely hitched or otherwise attached to the hoisting or lifting machine.

**Article 7.27. Rigging plans and tying or hoisting equipment**

**1.** For safely rigging cargo booms and associated equipment, rigging plans and all related information should be present on board the ship. The rigging plans must be shown to the supervisor on request.

**2.** Disposable tying or hoisting equipment should not be re-used.

**Article 7.28. Containers**

During the loading and unloading of containers, proper equipment should be present to guarantee the safety of the employees when fitting or removing the lashings of the containers.

**Article 7.29. Hoisting and lifting machines and hoisting and lifting tools on board ships**

**1.** Contrary to Articles 7.20, sixth and seventh paragraph the following provisions apply to hoisting and lifting machines as well as hoisting and lifting tools on board ships being used for loading and unloading.

**2.** Hoisting and lifting machines including their associated accessories, parts, attachment points, anchorages and supports and hoisting and lifting tools should be suitably tested as to their good condition before they are put into use for the first time.

**3.** Machines and tools as meant in the second paragraph should be effectively tested and examined to check their good condition after any relevant change or repair which might affect safety.

**4.** Machines and tools as meant in the second paragraph should - depending on the load - be regularly and effectively tested to check their good condition but in any event at least once every five years.

**5.** Hoisting and lifting machines and hoisting and lifting tools should - depending on their actual load - be regularly tested to check their good condition but in any event at least once every year.

**6.** Hoisting and lifting tools should - depending on their use - be tested regularly to check their good condition.

**7.** Tests and checks as meant in paragraphs two to four should be carried out by Our Minister or a certifying institution.

**8.** Tests and checks as meant in the fifth and sixth paragraph should be carried out by an expert natural person, corporation or a certifying institution.

**9.** Certificates of the tests and checks as meant in paragraphs two to four should be issued by the certifying institution meant in the seventh paragraph in accordance with a model determined in a Ministerial Order.

**10.** On board any ship an up-to-date register of the hoisting and lifting machines and the hoisting and lifting tools should be kept in accordance with a model determined in a Ministerial Order in which the certificates meant in the ninth paragraph are included. The register should include the operational load or loads of the hoisting and lifting machines, the operating load of the hoisting and lifting tools as well as the times and results of the tests and examinations mentioned in the second to the fifth paragraph. The times and the results of the checks meant in the sixth paragraph should be stated if a fault was found during the respective checks. The register must be shown to the supervisor on request.

**Article 7.30. Weight indication on heavy objects**

**1.** Lots or objects weighing at least 1000 kilograms gross and which are transported in a ship should be marked clearly and permanently on the outside with an indication of the weight of these lots or objects.

**2.** When transporting lots or objects as meant in the first paragraph, instead of the exact weight it is permitted to indicate the approximate weight as accurately as possible:

a. if the nature, composition or dimension of the lot or object form an impediment to determining the precise weight;

b. if the weight as a result of climatic influences is subject to considerable changes.

**Section 5. Additional provisions for construction sites**

**§ 1. Adjustment**

**Article 7.31. Linking provision**

Apart from the provisions of Sections 1 to 4 of this Chapter the provisions of this Section also apply to construction sites.

**§ 2. Work equipment on the construction site**

**Article 7.32. Operating tower cranes, mobile cranes and foundation machines**

**1.** Tower cranes, mobile cranes or foundation machines falling into a category described in a Ministerial Order can only be operated by a person who:

a. is in the possession of a certificate of competence issued by Our Minister or a certifying institution;

b. is in a physical and mental condition such that he is able to be aware of and avoid the hazards associated with the operation of the respective work equipment.

**2.** The certificate of competence or a copy of it should be present at the workplace and should be shown to the supervisor on request.

**3.** The first paragraph does not apply to persons who operate a tower crane, mobile crane or foundation machine within the scope of a training course for machinists, provided this takes place under supervision of a person in the possession of a certificate of competence as meant in the first paragraph under a.

**Article 7.33. Ladders and stairways**

[Repealed on 15-07-2006]

**Article 7.34. Scaffolding**

**1.** The safety of the construction of a scaffolding should be regularly checked by a person expert in this field but in any event before being put into use and additionally after any change in the construction of the scaffolding, after any period in which the scaffolding has not been used, after abnormal weather conditions and also after any other event by which the safety of the construction of the scaffolding might be affected.

**2.** Scaffolding should not be overloaded. Loads should be spread as evenly as possible over the scaffolding.

**3.** Rolling scaffolding should be safeguarded against unintentional movements.

**Article 7.35. Earth moving and material transfer machines**

**1.** Drivers and operators of earth moving and material transfer machines should have a specific expertise to this end.

**2.** Effective measures should be taken to prevent earth moving and material transfer machines unintentionally ending up in excavations or in water.

**Article 7.36. Pressure equipment**

[Repealed on 05-12-1998]

**Section 5A. Additional provisions for the opencast mining industry, underground mining industry or extracting industry by drilling**

**Article 7.36a. Linking provision**

Apart from the provisions of Parts 1 to 4 of this Chapter the provisions of this Section also apply to opencast mining industry, underground mining industry or extracting industry by drilling.

**Article 7.36b. Equipment**

**1.** The health and safety of the employees should be taken into account with regard to the choice, installation, commissioning, operation and maintenance of the mechanical and electrotechnical equipment.

**2.** If the equipment is situated in an area where there is or might be a risk of fire or explosion as a result of the ignition of gases, vapours or volatile liquids, this equipment should be adjusted to use in such an area. If necessary, it should be provided with sufficient protective equipment and systems to provide breakdown protection.

**3.** The mechanical equipment and installations should have the necessary strength, be free of visible faults and suitable for their intended use. The electrotechnical equipment and installations should have the necessary power and capacity for their intended use.

**4.** An effective plan should be drawn up for the systematic inspection, maintenance and, as the case may be, testing of the equipment and installations. Maintenance, inspection and tests of any part of the equipment and installations must be carried out by an expert designated to this end. Effective inspection and test reports should be drawn up and properly kept up-to-date.

**Section 6. Special sectors and special categories of employees**

**§ 1. Transport**

**Article 7.37. Exceptions to means of transport**

**1.** Chapter 7 applies to launching equipment for life-saving devices on seagoing vessels insofar as the intended use of this equipment is not affected.

**2.** Article 7.4a, first to third paragraph, does not apply to seagoing vessels insofar as this involves launching equipment for life-saving devices and mechanical pilot ladders.

**3.** Article 7.29 does not apply to fishing vessels as meant in Article 1 of the Ships Act.

**§ 2. Young employees**

**Article 7.38. Linking provision**

In addition to the provisions set out in or pursuant to this Chapter the provisions and prohibitions mentioned in this division also apply to young employees.

**Article 7.39. Expert supervision**

Article 1.37, second paragraph, applies accordingly to young employees who:

a. carry out work involving driving trucks and connecting or disconnecting trailers or equipment in direct connection with this;

b. carry out work with wild, poisonous or other animals which can cause a hazard;

c. slaughter animals industrially;

d. are carrying out non-varied and repetitious activities of short duration on the basis of piece rates whereby the pace is controlled in such a manner that the young employee himself is prevented from affecting the pace of the work.

**§ 3. Homeworkers**

**Article 7.40. Applicability**

[Repealed on 01-07-2012]

**Article 7.41. Work equipment**

[Repealed on 01-07-2012]

**Article 7.42. Electrical equipment**

[Repealed on 01-07-2012]

**Chapter 8. Personal protective equipment and health and safety signs**

**Section 1. Personal protective equipment**

**Article 8.1. General requirements for personal protective equipment**

**1.** Personal protective equipment made available by the employer to the employee should be in accordance with the respective provisions concerning health and safety design and construction meant in the Personal Protective Equipment Commodities Act Decree. The previous sentence only applies insofar as the said personal protective equipment falls within the scope of the said Decree.

**2.** In all cases personal protective equipment should:

a. be suitable for the hazards to be avoided without being itself inherently more hazardous;

b. meet the existing circumstances in the workplace;

c. be geared to the ergonomic demands and health and safety requirements of the employees;

d. be suitable for the wearer after the necessary adjustments.

**3.** If wearing more than one piece of personal protective equipment is required simultaneously to counter different hazards, these separate pieces of personal protective equipment should be geared to each other and they should remain effective against the respective hazard or the respective hazards.

**4.** The choice of personal protective equipment and the manner in which it should be used, particularly with regard to the time it must be worn, should be determined according to the seriousness of the hazard, the frequency of the exposure to the hazard and the characteristics of the workplace of each separate employee as well as the effectiveness of the respective personal protective equipment.

**5.** In principle, personal protective equipment is intended for use by one person. If the circumstances require that the same personal protective equipment is being used by more than one person, effective measures should be taken to ensure that such use does not create health or hygiene problems for the various users.

**6.** Adequate information on each item of personal protective equipment required for application of the first, second, third and fourth paragraph should be available in the business or establishment and should be passed on if necessary.

**7.** Personal protective equipment should only be used for the purpose for which it was intended.

**8.** Personal protective equipment should be used in accordance with the user instructions.

**Article 8.2. Choice of personal protective equipment**

Before choosing personal protective equipment, the employer should make an assessment in connection with the risk assessment and evaluation meant in Article 5 of the Act, of the equipment he intends to make available in order to ascertain the extent to which this complies with the conditions set out in Article 8.1, first, second and third paragraph. This assessment includes:

a. a risk assessment and evaluation of the hazards which cannot be avoided by other equipment;

b. a description of the characteristics which the personal protective equipment should have in order to overcome the hazards mentioned under a, taking into account any hazard sources which the personal protective equipment itself might create;

c. a risk assessment and evaluation of the characteristics of the respective personal protective equipment which is available in comparison with the characteristics meant under b.

**Article 8.3. Availability and use of personal protective equipment**

**1.** If there is a hazard or a potential hazard to the safety or health of an employee in the workplace, sufficient quantities of personal protective equipment should be available to the employees who are or might be exposed to this hazard.

**2.** In the cases meant in the first paragraph it should be ensured that the employees use the personal protective equipment.

**3.** Personal protective equipment should be maintained, repaired and kept clean.

**4.** Personal protective equipment should be replaced when necessary so that it continues to function properly.

**Section 2. Health and safety signs**

**Article 8.4. General requirements for health and safety signs**

**1.** In order to avoid or restrict hazards to the health and safety of employees, the employer should make sure that if hazards in the workplace or the hazards of the work equipment give rise to it, effective health and safety signs are present.

**2.** With respect to the first paragraph detailed provisions will be laid down in a Ministerial Order.

**Section 3**

**Article 8.5. Definitions**

[Repealed on 01-11-1999]

**Article 8.6. Request for retesting**

[Repealed on 01-11-1999]

**Article 8.7. Procedure for submission**

[Repealed on 01-11-1999]

**Article 8.8. Formation and duties of the committee**

[Repealed on 01-11-1999]

**Article 8.9. Examination**

[Repealed on 01-11-1999]

**Article 8.10. Judgment**

[Repealed on 01-11-1999]

**Article 8.11. Data storage**

[Repealed on 01-11-1999]

**Article 8.12. Right of inspection**

[Repealed on 01-11-1999]

**Section 4. Special sectors and special categories of employees**

**§ 1**

**Article 8.13. Retesting**

[Repealed on 01-11-1999]

**§ 2. Transport**

**Article 8.14. Health and safety signs**

**1.** Section 2 of this Chapter does not apply to the health and safety signs used on or in an aircraft, seagoing vessel or inland vessel or a vehicle on the public road or railway insofar as these signs are prescribed under any other statutory provision.

**2.** If there are reasons for this, the health or safety signs meant in Article 8.4 should be used in or on the means of transport mentioned in the first paragraph when they are situated on the premises of the business or establishment.

**§ 3. Homeworkers**

**Article 8.15. Applicability to homeworkers**

[Repealed on 01-07-2012]

**Chapter 9. Obligations, offences, violations, administrative provisions and transitional and final provisions**

**Section 1. Designation of target groups to which the obligations stipulated under or pursuant to this Decree apply**

**Article 9.1. Obligations of the employer**

The employer is obliged to comply with the provisions and prohibitions laid down in or pursuant to this Decree, with the exception of Articles 1.25, 2.6, 2.26 to 2.29, 2.32 to 2.34 and 7.21.

**Article 9.1a. Obligations of the managing owner**

The managing owner is obliged vis-à-vis seafarers who do not have an employer, to comply with the provisions and prohibitions which have been imposed on an employer by the Act or pursuant to this Decree.

**Article 9.2. Obligations upon the employer in the event of location-independent work**

The employer who commissions an employee to carry out location-independent work is obliged to comply with the provisions and prohibitions included in the following Articles:

a. of Chapter 1: Articles 1.46, 1.47, second paragraph, 1.48, 1.49, second to sixth paragraph, 1.51 and 1.52;

b. of Chapter 2: Articles 2.14, first paragraph, and 2.15;

c. of Chapter 5: Articles 5.1 to 5.12;

d. of Chapter 7: Articles 7.1 to 7.16, with the exception of 7.4a and 7.11a; and

e. of Chapter 8: Articles 8.1 to 8.3.

**Article 9.3. Obligations of the employee**

**1.** If by virtue of the provisions in or pursuant to this Decree personal protective equipment or aids have been made available to the employee, the employee is obliged to use and keep clean this personal protective equipment and these aids in accordance with the applicable provisions. The previous sentence does not apply to the cases meant in Article 6.8, seventh paragraph, first sentence.

**2.** In addition, the employee is obliged to comply with the provisions and prohibitions included in the following Articles:

a. of Chapter 1: Article 1.5ha;

b. of Chapter 2: Article 2.42g;

c. of Chapter 3: Articles 3.5, 3.5g, first paragraph, and 3.5h, second, fourth and fifth paragraph;

d. of Chapter 4: Articles 4.1c, first paragraph, under h, k and l, 4.7, third paragraph, under c and d, 4.8, second, third and fourth paragraph, 4.9, second and third paragraph, 4.19, under a, 4.45, first paragraph, 4.47a, third paragraph, 4.48a, first and fourth paragraph, 4.50, fifth and sixth paragraph, 4.51, 4.54d, fourth, sixth and eighth paragraph, insofar as it concerns the certificates from the fourth and sixth paragraph, 4.58, first paragraph, 4.59, first paragraph, 4.60, first paragraph, 4.61, second to fifth paragraph, 4.61a, first paragraph, 4.61b, first paragraph, 4.86, third paragraph, 4.87a, third paragraph, under d, 4.89, first and fourth paragraph, 4.97, second paragraph, under d, 4.108 and 4.109, as well as with respect to working with asbestos or products containing asbestos, as referred to in Article 4.37, Articles 4.19, opening sentence and under a, and 4.20, third paragraph;

e. of Chapter 6: Articles 6.14, 6.14a, fifth paragraph, 6.15, first paragraph, under c, 6.16, first to third paragraph and fifth to eighth paragraph, 6.18, fourth paragraph, 6.19, first paragraph, 6.20, fourth paragraph, and 6.29;

f. of Chapter 7: Articles 7.5, second and third paragraph, 7.13, seventh paragraph, 7.17c, second, third, seventh and eighth paragraph, 7.18, second, fourth, sixth to eighth paragraph, and ninth paragraph, as regards the application of the determined procedures referred to in this paragraph, 7.18a, second paragraph, third paragraph, tenth paragraph, as regards the application of the determined procedures referred to in this paragraph, and thirteenth paragraph, 7.20, fourth paragraph, 7.21, second paragraph, 7.23c, first paragraph, under b, 7.23d, first, third and fifth paragraph, 7.24, first paragraph, 7.25, sixth paragraph, and 7.32, first and second paragraph.

**3.** The obligations of employees mentioned in this Article do not apply to pupils and students in educational institutions.

**Article 9.3a. Obligations of the seafarer**

A seafarer who is not an employee is obliged to comply with the regulations and prohibitions imposed on an employee by the Act or pursuant to this Decree.

**Article 9.4. Obligations upon the employee in the event of location-independent work**

The employee who carries out location-independent work is obliged to comply with the provisions and prohibitions included in the Articles 1.46, first paragraph, and 1.53.

**Article 9.5. Obligations of self-employed persons and co-operating employers**

**1.** A self-employed person and an employer as meant in Article 16, seventh paragraph, under b, of the Act are obliged to comply with the provisions and prohibitions included in the following Articles:

a. of Chapter 1: Articles 1.5ha and 1.42;

b. of Chapter 3: Articles 3.2, first paragraph, 3.3, 3.4, 3.5, 3.5d, first and second paragraph, 3.5e, 3.5g, 3.5h, 3.6, first paragraph, 3.7, first paragraph, 3.16, 3.17, 3.28, first paragraph, 3.29, second and fifth paragraph, 3.30, 3.31, second paragraph, and 3.34, first paragraph;

c. of Chapter 4: Articles 4.1c, 4.1d, 4.3, second, third and fourth paragraph, 4.5, 4.8, 4.9, 4.10, second and third paragraph, 4.16, second, third and fourth paragraph, 4.17, 4.19, 4.45, 4.46, 4.47b, 4.47c, first paragraph, points a and e, 4.48a, second paragraph, under b and c, and fourth paragraph, 4.51a, first and third to fifth paragraph, 4.54, 4.54a, with due observance of Articles 4.54b, 4.54d, 4.58, 4.59, 4.60, 4.61, 4.61a, 4.61b, 4.62b, 4.87, 4.87a, 4.87b, 4.89, 4.94, 4.95, 4.108, 4.109, and 9.15, under a, sub 1° to 4°, and under b;

d. of Chapter 6: Articles 6.8, ninth paragraph, 6.14a, 6.16, 6.17, 6.18, 6.19, first paragraph, 6.20, 6.29 and 6.29a;

e. of Chapter 7: Articles 7.3, fourth paragraph, 7.4, first and second paragraph, insofar as this relates to agricultural trucks weighing at least 800 kg, third and fourth paragraph, 7.5, second, third and fifth paragraph, 7.7, first paragraph, 7.9, 7.11, second paragraph, 7.16, 7.17a, first, second and fifth paragraph, 7.17b, second paragraph, 7.17c, second paragraph, 7.18, second, fourth, sixth and seventh paragraph, 7.18a, third and thirteenth paragraph, 7.18b, first paragraph, 7.20, fourth paragraph, 7.21, 7.23, 7.23a to 7.23d, 7.25, first, sixth and seventh paragraph, 7.27, second paragraph, 7.28, 7.32, first and second paragraph, and 7.34, second and third paragraph;

f. of Chapter 8: Article 8.3, second, third and fourth paragraph;

g. of the Act: Articles 10, 11 and 32.

**2.** In addition to the first paragraph a self-employed person and an employer as meant in Article 16, paragraph seven, under b, of the Act, exploiting an establishment to which Article 2.3 applies, are also obliged to comply with Section 2 of Chapter 2 and Article 19, paragraph one, of the Act.

**3.** In addition to the first paragraph a self-employed person and an employer as meant in Article 16, seventh paragraph, under b, of the Act who perform work in connection with the construction of a structure on a building site are also obliged to comply with:

a. Article 19, first paragraph, of the Act;

b. Article 2.35;

c. the Articles of Chapter 7 insofar as they are not mentioned in the first paragraph, under e, and

d. Articles 8.1, first to fifth and seventh paragraph, 8.2 and 8.3, first paragraph.

**4.** In addition to the first paragraph, a self-employed person and an employer as meant in Article 16, seventh paragraph, under b of the Act, who are while working exposed to crop protection products or biocides as meant in Article 1 of the Crop Protection Products and Biocides Act, are also obliged to comply with the following Articles:

a. of Chapter 3: Article 3.23;

b. of Chapter 4: Articles 4.6 and 4.7, bearing in mind that Article 4.7 applies mutatis mutandis to a self-employed person;

c. of Chapter 8: Articles 8.1, sixth paragraph, and 8.4.

**5.** In addition to the first paragraph, a self-employed person and an employer as referred to in Article 16, seventh paragraph, under b, of the Act are also obliged to comply with the regulations and prohibitions set out in the following Articles, unless:

a. it involves work that he carries out on behalf of a client as referred to in Article 1.1, second paragraph, under c, sub 2°, with him being the only contracting party;

b. it involves work that he carries out on behalf of a client, with several other contracting parties who are not concurrently present with him on the work location; or

c. it involves work carried out on behalf of several clients, with several other contracting parties who are not concurrently present with him on the work location:

1°. of Chapter 3: the Articles 3.1b, 3.2, second paragraph, 3.5d, third, fourth and sixth paragraph, 3.7, second to sixth paragraph, 3.9, 3.11, 3.12, 3.13, 3.14, 3.15, 3.19, 3.27, 3.28, second paragraph, 3.29, first, third and fourth paragraph, 3.31, first paragraph, 3.35, first and third paragraph, 3.37, 3.37g, 3.37h, 3.37k, 3.37m, 3.37p, 3.37t, first paragraph, 3.37y and 3.48;

2°. of Chapter 4: the Articles 4.4, 4.6, 4.7, first, second and third paragraph, 4.18, second, third and fourth paragraph, 4.47a, first and third to eighth paragraph, 4.47c, first paragraph, under a, b, c, e and f, and second paragraph, 4.51, 4.51a, second paragraph, 4.88, 4.98, 4.99. 4.100, 4.101 and 4.105;

3°. of Chapter 5: the Articles 5.2, 5.3, under a, 5.4, 5.6, 5.10 and 5.13a;

4°. of Chapter 6: the Articles 6.1, 6.2, 6.3, 6.4, 6.8, first to fourth, sixth, seventh, tenth and eleventh paragraph, 6.9, 6.11c, second and third paragraph, 6.12c, 6.12e, first, third to fifth paragraph, 6.12j, first paragraph, and 6.12l, first, fourth, sixth and ninth paragraph, 6.14, 6.15, 6.19, second to fourth paragraph, 6.20b, 6.27, 6.29b and 6.29c;

5°. of Chapter 7: the Articles 7.3, second, third paragraph, 7.4, second paragraph, 7.4a, 7.5, first paragraph, 7.6, 7.7, second to seventh paragraph, 7.8, 7.10, 7.11, first paragraph, 7.13, 7.14, 7.15, 7.17a, third, fourth, sixth and seventh paragraph, 7.17b, third to sixth paragraph, 7.17c, first, third to eighth paragraph, 7.17d, 7.18, first, third and fifth paragraph, 7.18a, first, second, fifth, eighth to twelfth paragraph, 7.18b, second to fourth paragraph, 7.20, first to third, fifth to seventh paragraph, 7.24, 7.25 second to fifth paragraph, 7.26, 7.27, first paragraph, 7.29, 7.30, 7.34, first paragraph, 7.35 and 7.36b;

6°. of Chapter 8: the Articles 8.1, first to fifth paragraph, seventh and eighth paragraph, and 8.4.

**Article 9.5a. Obligations of those providing work to volunteers**

**1.** A party who provides work to volunteers is obliged to comply with the provisions and prohibitions with regard to those volunteers which are included in the following Articles:

a. of the Act: Articles 3, 4, 5 and 18 insofar as this relates to work with dangerous substances, and biological agents to which Chapter 4 of the Decree applies, 6 to 11, 16 to 44;

b. of Chapter 3: Articles 3.2, first paragraph, 3.3, 3.4, 3.5, 3.5d, first paragraph, 3.5g, 3.5h, 3.6, first paragraph, 3.16 and 3.17;

c. of Chapter 4: Articles 4.1b to 4.10d, 4.13 to 4.21, 4.23, 4.44 to 4.54d, 4.58 to 4.61, 4.61a, 4.61b, 4.62b, 4.84 to 4.102, 4.108 and 4.109;

d. of Chapter 5: Articles 5.2 and 5.3, opening sentence and under a and 5.13a;

e. of Chapter 6: Articles 6.8, first to third, seventh, ninth, tenth and eleventh paragraph, 6.11c, second paragraph, 6.12e, first, second and fourth paragraph, 6.12j, first paragraph, 6.12l, first, second and ninth paragraph, 6.13, 6.14, 6.14a, 6.14b, 6.15, 6.16, 6.17, 6.18, 6.19 and 6.20;

f. of Chapter 7: Articles 7.3, second to fourth paragraph, 7.4, 7.5, second, third and fifth paragraph, 7.7, first paragraph, 7.9, 7.11, second paragraph, 7.16, 7.17a, first, second and fifth paragraph, 7.17b, first and second paragraph, 7.17c, first and second paragraph, 7.18, second, third, fourth, sixth and seventh paragraph, 7.18a, third and thirteenth paragraph, 7.18b, first paragraph, 7.23, 7.23a to 7.23d and 7.32 to 7.35;

g. of Chapter 8: Articles 8.1, second, seventh and eighth paragraph, and 8.4.

**2.** The person meant in the first paragraph is also obliged toward volunteers below the age of 18 to comply with the provisions and prohibitions with regard to those volunteers which are included in Articles 1.37, first paragraph, first sentence, and second paragraph, 3.46, 6.27 and 7.39.

**3.** The person meant in the first paragraph is also obliged toward pregnant or breast-feeding volunteers to comply with the provisions and prohibitions with regard to those volunteers which are included in Articles 1.42, 1.42a, 3.48, 6.29, 6.29a, 6.29b and 6.29c.

**Article 9.5b. Obligations of persons performing work or having work performed in the territorial waters or the exclusive economic area**

**1.** Anyone performing work or having work performed in the territorial waters or in the exclusive economic area is obliged to transport the supervisor in the exercise of his or her duties to the locations indicated by the supervisor where this work is being performed, provided that this transport takes place between 7.00 a.m. and 8.00 p.m.

**2.** In the event of accidents at work that lead to death, lasting injury or hospital admission, or where performance of work could cause serious danger to the safety or health of employees or self-employed persons, transport shall take place according to the instructions of the designated supervisor at any time of the day or night.

**Article 9.6. Obligations of the client**

The client is obliged to comply with the provisions included in Articles 2.26 to 2.29 and 2.32.

**Article 9.7. Obligations of the designing party**

The designing party is obliged to comply with the provisions included in Article 2.34.

**Article 9.8. Obligations of the implementing party**

The implementing party is obliged to comply with the provisions included in Articles 2.29 and 2.33.

**Article 9.9. Obligations of the lift owner or manager**

The owner or manager of a lift is obliged to comply with the provisions included in Article 7.21.

**Section 2. Offences and violations**

**§ 1. Offences**

**Article 9.9a. Violations**

**1.** An offence is regarded an action or omission which contravenes the provisions and prohibitions included in the Articles 1.46, first paragraph, 2.5a, first and second paragraph, 2.5b, first to fourth paragraph, 2.5c, first, third and fourth paragraph, 2.5d, 2.5e, first paragraph, 2.5f, 2.5g, first and second paragraph, 2.5h, 2.42k, first and second paragraph, 2.42l, first to fourth paragraph, 2.42m, 2.42n, 2.42o, 2.42p and 3.37za, first and second paragraph, and the Articles of the Ministerial Order laid down on the basis of the Act and this Decree, insofar as and in the manner specified in that Order.

**2.** Insofar as exemption subject to certain requirements has been granted from the Articles meant in the first paragraph, the action or omission contravening these requirements is also regarded as an offence.

**§ 2. Violations**

**Article 9.9b**

**1.** Actions or omissions that contravene the provisions included in the following Articles are regarded as violations with respect to which an administrative fine might be imposed:

a. of Chapter 1: Articles 1.5ha, 1.36, 1.37, first and second paragraph, 1.38, 1.41, 1.42, 1.42a, 1.46, second to thirteenth paragraph, 1.48, 1.49, second to sixth paragraph, 1.51 to 1.53;

b. of Chapter 2: Articles 2.1, 2.13, 2.14a, first and second paragraph, 2.15, 2.26 to 2.29, 2.32 to 2.35, 2.41, 2.42, second to fourth and sixth paragraph, 2.42a up to 2.42c, 2.42e, first paragraph, 2.42f, first to third paragraph, 2.42g, 2.42h and 2.43, second paragraph;

c. of Chapter 3: Articles 3.1b, 3.2, 3.3, 3.4, first to third paragraph, 3.5, first to fourth and seventh paragraph, 3.5b, second paragraph, 3.5c up to 3.5g, first, second and fourth paragraph, 3.5h, second to fifth paragraph, 3.6 up to 3.15, 3.16, first and fifth paragraph, 3.17 up to 3.25, 3.27 up to 3.31, 3.33 up to 3.35, 3.37 up to 3.37t, 3.37u, 3.37v, first to third paragraph, 3.37w, 3.37y, 3.46 and 3.48;

d. of Chapter 4: Articles 4.1b, 4.1c, 4.1d, 4.2, first to eighth paragraph, 4.2a, 4.3, second to fourth paragraph, 4.4, 4.5, first to third paragraph, 4.6, first and second paragraph, 4.7, 4.8, first to fourth paragraph, 4.9, first to third paragraph, 4.10, second and third paragraph, 4.10a, first, second, fourth and fifth paragraph, 4.10b, first and second paragraph, 4.10c, fourth and fifth, 4.10d, 4.13, 4.15, 4.16, second to fourth paragraph, 4.17, 4.18, 4.19, 4.20, 4.23, second paragraph, 4.45, first paragraph, 4.45a, 4.45b, 4.46, 4.47, first, second and fifth to eighth paragraph, 4.47a, first, third to sixth and eighth paragraph, 4,47b, 4.47c, first and second paragraph, 4.48a, first, second and fourth paragraph, 4.50, 4.51, 4.51a, first to fourth paragraph, 4.52, first, third and fourth paragraph, 4.53, first to third paragraph, 4.54, 4.54a, 4.54d, first and third to ninth paragraph, 4.58, 4.59, first and second paragraph, 4.60, first and third paragraph, 4.61, second to fifth paragraph, 4.61a, first and third paragraph, 4.61b, first paragraph, 4.62b, 4.85, 4.86, third paragraph, 4.87, 4.87a, first to third paragraph, 4.87b, 4.88 to 4.90, 4.91, first to third, fifth, sixth and tenth paragraph, 4.94, first, third and fifth paragraph, 4.95 to 4.100, first paragraph, 4.101, 4.102, 4.105, 4.106, 4.108, and 4.109;

e. of Chapter 5: Articles 5.2 to 5.5, 5.9 to 5.11 and 5.13a;

f. of Chapter 6: Articles 6.1, 6.2, first to fourth and sixth paragraph, 6.3, 6.4, 6.7, first to fourth paragraph, sixth and eighth paragraph, 6.8, first, third, fourth to seventh, and ninth to eleventh paragraph, 6.9 up to 6.11, 6.11b, first to fourth paragraph and sixth paragraph, 6.11c, first to third paragraph, 6.11d, 6.11e, first, second and fourth paragraph, 6.12d, first to sixth, ninth and tenth paragraph, 6.12e, first to fifth paragraph, 6.12f, 6.12g, 6.12j, 6.12k, first, second, fourth, fifth and tenth paragraph, 6.12l, first to tenth paragraph, 6.12m, 6.12n, 6.14, 6.14a, first to third and fifth paragraph, 6.15, 6.16, first to third and fifth to eighth paragraph, 6.17, first, second and third paragraph, 6.18 to 6.20, 6.20b, 6.20e, 6.27, 6.29 to 6.29c;

g. of Chapter 7: Articles 7.2, first paragraph, 7.3 up to 7.4a, first to sixth paragraph, 7.5 up to 7.11a, 7.13, 7.14, first paragraph, 7.15 up to 7.17a, first, second and fourth up to seventh paragraph, 7.17b, second up to sixth paragraph, 7.17c up to 7.18a, second up to thirteenth paragraph, 7.18b, 7.20, 7.21, 7.23 up to 7.23c, 7.24 up to 7.29, second up to eighth paragraph and tenth paragraph, 7.30, first paragraph, 7.32, first and second paragraph, 7.34, 7.35, 7.36b and 7.39;

h. of Chapter 8: Articles 8.1 to 8.4, first paragraph;

i. the Articles of the Ministerial Order laid down on the basis of the Act and this Decree, insofar as and in the manner specified in that Order.

**2.** Insofar as an exemption subject to certain requirements has been granted from the Articles meant in the first paragraph, the action or omission contravening these requirements is regarded as a violation with respect to which an administrative fine can be imposed.

**Article 9.9c. Second category**

[Repealed on 01-01-2013]

**Section 3. Administrative law provisions**

**§ 1. Administrative enforcement and the preventive shutting down of work**

**Article 9.10. Administrative enforcement order**

It is possible to impose an administrative enforcement order with regard to the compliance with the stipulations set out in Article 9.9b, first paragraph and the regulations referred to in the second paragraph of that Article.

**Article 9.10a. Shutting down work because of a repeated offence**

**1.** In the event of a repeated violation or a similar violation, a warning will be issued as referred to in Article 28a, first paragraph, of the Act and if the repetition of this violation or a similar violation is established as referred to in that Article of the Act, an order will be issued by the designated official to the effect that the work specified by the latter must be shut down or may not commence for a period indicated by the official.

**2.** If a serious violation is established, then – contrary to the first paragraph – a warning as referred to in Article 28a, first paragraph, of the Act, will be issued for the first violation and if the violation or a similar violation is established again that is again of a serious nature, an order will be issued by the designated official to the effect that the work specified by the latter must be shut down or may not commence for a period indicated by the official.

**3.** A serious violation as referred to in the second paragraph is understood to mean:

a. a violation whereby the employer intentionally carried out acts or omissions that are contrary to the Act or its corresponding provisions and which caused an occupational accident that almost immediately resulted in death;

b. acts or omissions that are in violation of the following Articles:

1°. of Chapter 4: the Articles 4.54d, first paragraph, 4.58, 4.59, first and second paragraph, 4.60, first and thirdparagraph, and 4.61, second paragraph, 4.61a, first and third paragraph, 4.61b, first paragraph, 4.105, 4.108 and 4.109;

2°. of Chapter 6: the Articles 6.27, 6.29 and 6.29a.

**4.** If the nature of the violation, the circumstances relating to the violation or the consequences of shutting down the work give rise to this, it may be possible to decide not to issue a warning as referred to in the first and second paragraph nor to impose an order as referred to in the first and second paragraph.

**5.** A warning as referred to in the first and second paragraph is not issued and an order as referred to in the first and second paragraph is not imposed if, pursuant to the policy guidelines referred to in Article 34, tenth paragraph of the Act, the penalty standard amount for the administrative fine referred to in the first and second paragraph falls below the penalty standard amount to be established by Ministerial Order.

**Article 9.10b. Classification of serious violations**

Serious violations in the sense of Article 34, sixth and ninth paragraph of the Act are understood to mean the violations referred to in Article 9.10a, third paragraph.

**Article 9.10c. Classification of similar violations**

The similar obligations and prohibitions, as referred to in Article 34, fifth and seventh paragraph, and the similar violations referred to in Article 9.10a, first and second paragraph, are designated by Ministerial Order.

**§ 2. Exemption or dispensation**

**Article 9.11. Request for exemption or dispensation**

A request for exemption or dispensation from the provisions set out in the Act must be filed electronically. Article 2.1, first paragraph, second sentence, applies accordingly.

**Article 9.12. Exemption from asbestos prohibition**

[Repealed on 08-03-2005]

**Article 9.13. Dispensation from asbestos prohibition**

[Repealed on 08-03-2005]

**Article 9.14. Exemption or dispensation from specific substance prohibitions**

Dispensation or exemption from the prohibition set out in Article 4.59, first paragraph, can only be granted for:

a. the use of substances for research and tests including analyses;

b. activities aimed at the removal of the substances present in a mixture or solution in a concentration below 0.1 of weight percentage;

c. production processes whereby the substances are manufactured in a closed process installation and are converted in this into other substances without the substances in the meantime being taken out of the process installation other than insofar as this is required for checking the production process and the maintenance of the process installation.

**Article 9.15. Exemption from specific substance prohibition**

In cases whereby exemption is granted from the prohibitions set out in Article 4.59, the following applies:

a. if there is the intention of manufacturing, using or keeping in stock the substance mentioned in the exemption, the following information should be notified in writing to a supervisor designated to this end:

1°. the identity of the substance to be manufactured or used or to be kept in stock;

2°. the quantity of the substance to be manufactured or used or kept in stock each year;

3°. the location at which the substance will be manufactured, used or kept in stock;

4°. the types of work to be carried out with the substance;

5°. the number of employees who might be exposed to the substance within the scope of their work;

6°. the manner in which and the extent to which the employees might be exposed to the substance during their work;

7°. the measures taken to prevent employees from being exposed to the substance during their work;

b. if there is an intention to effect a major change in the circumstances underlying the information submitted under the provisions set out under a, the information meant in this paragraph should be notified in writing once again to a supervisor designated to this end.

**Article 9.16. Dispensation from specific substance prohibition**

With respect to an application for a dispensation from the prohibitions set out in Article 4.59, the reasons for the application must be given and the information meant in Article 9.15, under a, should be submitted.

**Article 9.16a. Exemption or dispensation from replacement obligation of volatile organic substances**

Exemption or dispensation from Article 4.62b may only be granted in cases whereby it is technically not feasible to use substances which are not harmless or less harmful than volatile organic substances or products containing these substances.

**Article 9.17. Exemption or dispensation from noise provisions**

**1.** Exemption or dispensation from Article 6.8, seventh paragraph, first sentence, ninth, tenth and eleventh paragraph, will only be granted when in exceptional circumstances the full and correct use of individual ear protectors might result in greater health and safety risks than if these protectors were not used.

**2.** Conditions will be attached to an exemption or dispensation as meant in the first paragraph in order to guarantee, taking the special circumstances into account, that:

a. the health and safety risks resulting from this will be limited to a minimum and

b. the respective employees will be under tighter medical supervision.

**3.** An exemption or dispensation as meant in the first paragraph will only be granted for a period of not more than four years.

**Article 9.17a. Exemption conditions with regard to vibrations**

Exemption from Article 6.11c, second paragraph, can only be granted if:

a. the exposure remains usually under the action values meant in Article 6.11a, second paragraph, under b, and third paragraph, under b;

b. when the action value is exceeded, this is incidental in nature;

c. the average exposure over a 40-hour period remains under the exposure limit value;

d. there is evidence that the exposure pattern risks are less than the risks of exposure to the exposure limit value;

e. the risks resulting from this are restricted to a minimum;

f. the respective employees and the Works Council or staff representation body or, in the absence thereof, the interested employees were consulted in advance about the nature and contents of the application for an exemption, and

g. the respective employees are under tighter health supervision.

**Article 9.17b. Exemption for seagoing vessels and aircraft**

The exemption of Article 6.11c, second paragraph can be granted to seagoing vessels and aircraft, insofar as this relates to the limit value meant in Article 6.11a, third paragraph, under a, if:

a. considering the latest technology and the specific characteristics of the workplace, it is not possible despite the implementation of technical and/or organisational measures, to comply with the limit value for exposure to body vibrations;

b. the risks resulting from this are restricted to a minimum, and

c. the respective employees are under tighter health supervision.

**Article 9.17c. Exemption or dispensation from regulations with respect to electromagnetic fields**

Only if the risk assessment meant in Article 6.12k, first paragraph, shows that limit values will be exceeded may an exemption or dispensation from Article 6.12j be granted in specific sectors or for specific activities, not being the derogation meant in Article 6.12o, provided that:

a. the limit values are only exceeded temporarily;

b. all technical and organisational measures have been implemented considering the latest technology;

c. the characteristics of the workplace, the work equipment or the work practices have been taken into account; and

d. it is demonstrated that the employees remain protected against adverse health effects and against safety risks.

**Article 9.18. Exemption or dispensation with respect to loading and unloading vessels**

**1.** Exemption or dispensation from Articles 7.24 to 7.28 can only be granted:

a. with respect to places where the traffic is irregular;

b. with respect to inland vessels with a length of less than 55 metres, seagoing vessels smaller than 500 GT or fishing vessels as meant in Article 1 of the Ships Act.

**2.** Exemption or dispensation from Article 7.29 can only be granted:

a. with respect to places where the traffic is irregular;

b. with respect to inland vessels with a length of less than 55 metres or seagoing vessels smaller than 500 GT.

**Article 9.19. Restriction to exemption or dispensation possibilities**

No exemption or dispensation can be granted with regard to the provisions and prohibitions, meant in the following Articles and the provisions based on them:

a. of Chapter 1: the Articles of Sections 8 and 9;

b. of Chapter 2: the Articles of Sections 5, 6 and 6a;

c. of Chapter 3: Article 3.1b, the Articles of division 2a of Section 1 and of Sections 2, 3, 3a, 3b and 3c and divisions 4 and 5 of Section 5;

d. of Chapter 4: the Articles of Section 1, with the exception of Articles 4.8, 4.9 and 4.10, the Articles of Sections 2, 5, 6, 7, with the exception of Article 4.62b, and 9 and the Articles of divisions 2 and 3 of Section 10;

e. of Chapter 5: the Articles of Sections 1 and 2;

f. of Chapter 6: the Articles of Sections 1 and 2, 3, with the exception of Article 6.8, seventh paragraph, first sentence, ninth, tenth and eleventh paragraph, Section 3a, with the exception of Article 6.11c, second paragraph, Section 4a, Section 5a, and the Articles of divisions 3 and 4 of Section 6;

g. of Chapter 7: the Articles of the Sections 1, 2, 3 and 4, with the exception of the Articles 7.20, sixth paragraph, and 7.21, and the Articles of the Sections 5, with the exception of Article 7.32, and 5a and division 2 of Section 6;

h. of Chapter 8: the Articles of Sections 1 and 2;

i. of Chapter 9: Articles 9.15 and 9.16.

**Article 9.20. Duration of the exemption or dispensation**

Exemptions or dispensations are only granted for a limited duration and will in any event be withdrawn when the reasons for which they were granted have lapsed.

**§ 3. Compliance requirement**

**Article 9.21. Designation**

[Repealed on 01-11-1999]

**Article 9.22. Compliance requirement**

**1.** A requirement may be made in accordance with Article 27, first paragraph, of the Act concerning the manner in which the provisions laid down pursuant to Articles 6, first paragraph, and 16 of the Act should be complied with.

**2.** The first paragraph does not apply in cases as meant in Article 1.33.

**3.** Moreover, the first paragraph does not apply to the following Articles either:

a. of Chapter 1: Articles 1.26 to 1.32 and 1.34;

b. of Chapter 4: Articles 4.1c, first paragraph, under l, 4.58, 4.59, 4.60, first and third paragraph, 4.61, second paragraph, 4.61b, 4.105, 4.108, 4.109 and 4.110;

c. of Chapter 6: the Articles 6.27, 6.29 and 6.29a.

**4.** When a requirement has been imposed on the employer or employee to which both Section 2 and Section 4 or 6 of Chapter 1 applies, the provisions with regard to this and set out in Section 4 or 6 should be observed.

**5.** A requirement to which Section 2 of Chapter 2 applies which is related to a regulation attached to a permit by virtue of one of the environmental protection laws for the foundation, putting into operation, operation, expansion or alteration of a company or establishment or for the alteration of a method used in it, that has one or more areas of common ground of such a nature that it can come into conflict with that regulation, shall not be imposed by the supervisor designated to this end before consultations have been held with the authority that issued the permit.

**6.** When a requirement has been imposed on an employer or employee to which Section 4 or 6 of Chapter 1 applies, the provisions regarding this and set out in that Section should be observed.

**7.** If with respect to one or more provisions of this Decree a requirement of compliance has been imposed in accordance with Article 27, first paragraph, of the Act, in this situation it is no longer possible to grant a dispensation from the respective requirement or the respective requirements.

**Section 3a.Disclosure of inspection data**

[This part has not yet come into force.]

**Section 4. Transitional and final provisions**

**§ 1. Repeal of regulations**

**Article 9.23. Repeal of decrees**

[Repealed on 01-01-2007]

**§ 2. Amendment to regulations**

**Article 9.24. Trading Hours Act (Exemption) Decree**

[Repealed on 01-01-2007]

**Article 9.25. Decree Implementing the Disabled Workers Employment Act**

[Repealed on 01-11-1999]

**Article 9.26. Order Designating Administrative Bodies under the Government Information (Public Access) Act and the National Ombudsman Act**

[Repealed on 01-11-1999]

**Article 9.27. Nail Guns Decree**

[Repealed on 01-01-2007]

**Article 9.28. Inland Waterway Vessels Decree**

[Repealed on 01-01-2007]

**Article 9.29. Arable farms (Environmental Management) Decree**

[Repealed on 01-01-2007]

**Article 9.30. Woodworking Companies (Environmental Management) Decree**

[Repealed on 01-01-2007]

**Article 9.31. Continental Shelf Mining Regulations**

[Repealed on 01-01-2007]

**Article 9.32. Mining Regulations 1964**

[Repealed on 01-01-2007]

**§ 3. Transitional law**

**Article 9.33. Health and safety protection system, additional risk assessment and evaluation and emergency plan for extracting industries for the detection and extraction of hydrocarbons**

The supplement to the policy and the health and safety protection system as meant in Article 2.42k, first and second paragraph, the supplement to the risk assessment and evaluation and measures as meant in Article 2.42l, first and second paragraph, and the supplement to the emergency plan meant in Article 3.37za, shall be recorded and sent by the employer to the supervisor:

a. for existing installations: before 19 July 2016;

b. for new installations: before the start of the work.

**Article 9.34. Labelling of mixtures at the workplace**

Mixtures that are present at the workplace before 1 June 2015 or are supplied on or after this date, with due observance of Article 61, fourth paragraph, second sentence, of the EC regulation on classification, labelling and packaging of substances and mixtures, for use at the workplace to the employer or the employer who has employees perform location-independent work, may, in derogation of Articles 1.46, fourth paragraph, or 4.1d, first paragraph, until 31 May 2017, indicate the danger categories referred to in Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations (OJ EU 1999, L 200).

**Article 9.35. Noise in the music and entertainment sector**

[Repealed on 01-07-2012]

**Article 9.35a. Noise on board seagoing vessels and seagoing fishing vessels**

[Repealed on 01-07-2012]

**Article 9.36**

[Repealed on 01-07-2015]

**Article 9.36a. Equipment**

[Repealed on 01-01-2007]

**Article 9.37. Explosive atmospheres**

Article 3.5e, under e, does not apply to work equipment for use in areas where an explosive atmosphere might occur which have been taken into use before 30 June 2003.

**Article 9.37a. Vibrations**

**1.** Article 6.11c, second and third paragraph, is not applicable until 6 July 2010 if work equipment is being used which was provided to the employees before 6 July 2007 and whereby the exposure limit values considering the latest technical developments and despite the implementation of organisational measures cannot be observed.

**2.** Contrary to the first paragraph, Article 6.11c, second and third paragraph, is not applicable until 6 July 2014 to work equipment as meant in the first paragraph used in agriculture and forestry.

**3.** With respect to the conditions meant in the first paragraph detailed provisions can be laid down in a Ministerial Order.

**Article 9.37b. Certificate**

A certificate issued pursuant to the Act and valid on the day prior to the date on which the Decree of 7 September 2009, Bulletin of Acts and Decrees 395, takes effect, is deemed to have been issued in observance of the provisions of or pursuant to this Decree as of the date on which the said Decree takes effect, without prejudice to the provisions of or pursuant to Articles 1.5g and 1.5i.

**Article 9.37c. Designation of certifying institution on request**

**1.** A designation as a certifying institution on request, issued pursuant to the Act and valid on the day prior to the date on which the Decree of 7 September 2009, Bulletin of Acts and Decrees 395, takes effect, is deemed to have been issued in observance of the provisions of or pursuant to this Decree as of the date on which the said Decree takes effect.

**2.** Without prejudice to the provisions of the third and sixth paragraph, the designation referred to in the first paragraph expires by law twenty-four months following the date on which the Ministerial Order referred to in 1.5a, second paragraph, takes effect for the field of work in which the institution in question operates.

**3.** The designation referred to in the first paragraph, which lapses prior to the expiry date referred to in the second paragraph, expires by law on the original expiry date unless the institution in question has submitted a request for assessment for a renewal of the designation to the Accreditation Council Foundation in Utrecht within five month of the date on which the Ministerial Order, as referred to in Article 1.5a, second paragraph, applying for the field of work in which the institution operates, takes effect and prior to the original expiry date. In that case, the designation remains in effect until no later than the statutory expiry date referred to in the second paragraph.

**4.** The institution for which the designation expires pursuant to the second or third paragraph may apply to Our Minister for a renewed designation in observance of the provisions of or pursuant to this Decree, in their form as of the date on which the Decree of 7 September 2009, Bulletin of Acts and Decrees 395, took effect.

**5.** By way of departure from Article 1.5b, fourth paragraph, the costs associated with the assessment by the Accreditation Council Foundation referred to in the third paragraph shall be borne by Our Minister if the institution referred to in the first paragraph has submitted an application for assessment of a renewed designation to the aforementioned Accreditation Council Foundation within five months of the date on which the Ministerial Order referred to in Article 1.5a, second paragraph, for the field of work in which the institution operates takes effect.

**6.** If Our Minister decides on an application for a renewed designation on a date prior to the statutory expiry date referred to in the second paragraph, the original designation expires on the date on which the new designation takes effect.

**§ 4. Final provisions**

**Article 9.38. Evaluation**

[Repealed on 01-01-2007]

**Article 9.39. Amendments to Annexes of EC Directives**

For the purposes of application of this Decree and the provisions based on it, an amendment to one of the Annexes of an EC Directive which is referred to in this Decree, will become effective as from the date on which implementation of the respective amendment directive should have taken place, unless another date has been determined in a Ministerial Order published in the Government Gazette.

**Article 9.40. Entry into force**

[Repealed on 01-01-2007]

**Article 9.41. Official title**

This Decree is called: the Working Conditions Decree.

Ordain and order that this Decree with its associated explanatory memorandum be entered into the Bulletin of Acts and Decrees.

The Hague, 15 January 1997

Beatrix

The State Secretary of Social Affairs and Employment,  
F. H. G. de Grave

The Minister of Education, Culture and Science,  
J. M. M. Ritzen

The Minister of the Interior,  
H. F. Dijkstal

The Minister of Transport, Public Works and Water Management,  
A. Jorritsma-Lebbink

The Minister of Justice,  
W. Sorgdrager

The State Secretary of Defence,  
J. C. Gmelich Meijling

The Prime Minister, Minister of General Affairs,  
W. Kok

Issued the twenty-fifth of February 1997

The Minister of Justice,  
W. Sorgdrager