

DIRECTIVE 2006/11/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 15 February 2006****on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community****(Codified version)****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

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

Whereas:

(1) Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community ⁽³⁾ has been significantly amended on several occasions ⁽⁴⁾. In order to clarify matters, a codification of the provisions in question should be drawn up.

(2) There is a need for general and simultaneous action by the Member States to protect the aquatic environment of the Community from pollution, particularly that caused by certain persistent, toxic and bioaccumulable substances.

(3) Several conventions are designed to protect international watercourses and the marine environment from pollution. It is important to ensure the coordinated implementation of these conventions.

(4) Discrepancies between the provisions applicable in the various Member States with regard to the discharge of certain dangerous substances into the aquatic environment may give rise to unequal conditions of competition and thus have a direct influence on the functioning of the internal market.

(5) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme ⁽⁵⁾, provides for a number of measures to protect fresh water and sea water from certain pollutants.

(6) In order to ensure effective protection of the aquatic environment of the Community, it is necessary to establish a first list, called List I, of certain individual substances selected mainly on the basis of their toxicity, persistence and bioaccumulation, with the exception of those which are biologically harmless or which are rapidly converted into substances which are biologically harmless, and a second list, called List II, containing substances which have a deleterious effect on the aquatic environment, which can, however, be confined to a given area and which depends on the characteristics and location of the water into which such substances are discharged. Any discharge of these substances should be subject to prior authorisation which specifies emission standards.

(7) Pollution through the discharge of the various dangerous substances within List I must be eliminated. Limit values were fixed by the Directives referred to in Annex IX to Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ⁽⁶⁾. Article 16 of Directive 2000/60/EC provides for the procedures for developing the control measures and environmental quality standards applicable to priority substances.

⁽¹⁾ OJ C 117, 30.4.2004, p. 10.

⁽²⁾ Opinion of the European Parliament of 26 October 2004 (OJ C 174 E, 14.7.2005, p. 39) and Council Decision of 30 January 2006.

⁽³⁾ OJ L 129, 18.5.1976, p. 23. Directive as last amended by Directive 2000/60/EC of the European Parliament and of the Council (OJ L 327, 22.12.2000, p. 1).

⁽⁴⁾ See Part A of Annex II.

⁽⁵⁾ OJ L 242, 10.9.2002, p. 1.

⁽⁶⁾ OJ L 327, 22.12.2000, p. 1. Directive as amended by Decision No 2455/2001/EC (OJ L 331, 15.12.2001, p. 1).

- (8) It is necessary to reduce water pollution caused by the substances within List II. To this end Member States should establish programmes which incorporate environmental quality standards for water, drawn up in compliance with Council Directives, where they exist. The emission standards applicable to such substances should be calculated in terms of these environmental quality standards.
- (9) It is appropriate for one or more Member States to be able, individually or jointly, to take measures more stringent than those provided for under this Directive.
- (10) An inventory of discharges of certain particularly dangerous substances into the aquatic environment of the Community should be drawn up in order to know where they originated.
- (11) It may be necessary to revise and, where required, supplement Lists I and II of Annex I on the basis of experience, if appropriate by transferring certain substances from List II to List I.
- (12) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Part B of Annex II,
- (c) 'fresh water limit' means the place in the watercourse where, at low tide and in a period of low fresh water flow, there is an appreciable increase in salinity due to the presence of sea water;
- (d) 'discharge' means the introduction into the waters referred to in Article 1 of any substances in List I or List II of Annex I, with the exception of:
- (i) discharges of dredgings;
 - (ii) operational discharges from ships in territorial waters;
 - (iii) dumping from ships in territorial waters;
- (e) 'pollution' means the discharge by man, directly or indirectly, of substances or energy into the aquatic environment, the results of which are such as to cause hazards to human health, harm to living resources and to aquatic ecosystems, damage to amenities or interference with other legitimate uses of water.

Article 3

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject to Article 7, this Directive shall apply to:

- (a) inland surface water;
- (b) territorial waters;
- (c) internal coastal waters.

Article 2

For the purposes of this Directive:

- (a) 'inland surface water' means all static or flowing fresh surface water situated in the territory of one or more Member States;
- (b) 'internal coastal waters' means waters on the landward side of the base line from which the breadth of territorial waters is measured, extending, in the case of water-courses, up to the fresh water limit;

Member States shall take the appropriate steps to eliminate pollution of the waters referred to in Article 1 by the dangerous substances in the families and groups of substances in List I of Annex I, hereinafter referred to as 'List I substances', and to reduce pollution of the said waters by the dangerous substances in the families and groups of substances in List II of Annex I, hereinafter referred to as 'List II substances', in accordance with this Directive.

Article 4

With regard to List I substances:

- (a) all discharges into the waters referred to in Article 1 which are liable to contain any such substance, shall require prior authorisation by the competent authority of the Member State concerned;
- (b) the authorisation shall lay down emission standards with regard to discharges of any such substance into the waters referred to in Article 1 and, where this is necessary for the implementation of this Directive, to discharges of any such substance into sewers;
- (c) authorisations may be granted for a limited period only. They may be renewed, taking into account any changes in the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC.

Article 5

1. The emission standards laid down in the authorisations granted pursuant to Article 4 shall determine:

- (a) the maximum concentration of a substance permissible in a discharge. In the case of dilution, the emission limit value laid down by the Directives referred to in Annex IX to Directive 2000/60/EC shall be divided by the dilution factor;
- (b) the maximum quantity of a substance permissible in a discharge during one or more specified periods of time, expressed, if necessary, as a unit of weight of the pollutant per unit of the characteristic element of the polluting activity (e.g. unit of weight per unit of raw material or per product unit).

2. For each authorisation, the competent authority of the Member State concerned may, if necessary, impose more stringent emission standards than those resulting from the application of the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC, taking into account in particular the toxicity, persistence and bioaccumulation of the substance concerned in the environment into which it is discharged.

3. If the discharger states that he is unable to comply with the required emission standards, or if this situation is evident to the competent authority in the Member State concerned, authorisation shall be refused.

4. Should the emission standards not be complied with, the competent authority in the Member State concerned shall take all appropriate steps to ensure that the conditions of authorisation are fulfilled and, if necessary, that the discharge is prohibited.

Article 6

1. In order to reduce pollution of the waters referred to in Article 1 by List II substances, Member States shall establish programmes in the implementation of which they shall apply in particular the methods referred to in paragraphs 2 and 3.

2. All discharges into the waters referred to in Article 1 which are liable to contain any List II substances, shall require prior authorisation by the competent authority in the Member State concerned, in which emission standards shall be laid down. Such standards shall be based on the environmental quality standards, which shall be fixed as provided for in paragraph 3.

3. The programmes referred to in paragraph 1 shall include environmental quality standards for water; these shall be laid down in accordance with Council Directives, where they exist.

4. The programmes may also include specific provisions governing the composition and use of substances or groups of substances and products and shall take into account the latest economically feasible technical developments.

5. The programmes shall set deadlines for their implementation.

6. Summaries of the programmes and the results of their implementation shall be communicated to the Commission.

7. The Commission, together with the Member States, shall arrange for regular comparisons of the programmes in order to ensure sufficient coordination in their implementation. If it sees fit, it shall submit relevant proposals to the European Parliament and to the Council to this end.

Article 7

Member States shall take all appropriate steps to implement measures adopted by them pursuant to this Directive in such a way as not to increase the pollution of waters to which Article 1 does not apply. They shall in addition prohibit all acts which intentionally or unintentionally circumvent the provisions of this Directive.

Article 8

The application of the measures taken pursuant to this Directive may on no account lead, either directly or indirectly, to increased pollution of the waters referred to in Article 1.

Article 9

Where appropriate, one or more Member States may individually or jointly take more stringent measures than those provided for under this Directive.

Article 10

The competent authority shall draw up an inventory of the discharges into the waters referred to in Article 1 which may contain List I substances to which emission standards are applicable.

Article 11

1. At intervals of three years, and for the first time for the period 1993 to 1995 inclusive, Member States shall send information to the Commission on the implementation of this Directive, in the form of a sectoral report which shall also cover other pertinent Community Directives. This report shall be drawn up on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure referred to in Article 6 of Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment ⁽¹⁾. The questionnaire or outline shall be sent to the Member States six months before the start of the period covered by the report. The report shall be sent to the Commission within nine months of the end of the three-year period covered by it.

The Commission shall publish a Community report on the implementation of the Directive within nine months of receiving the reports from the Member States.

2. Information acquired as a result of the application of paragraph 1 shall be used only for the purpose for which it was requested.

3. The Commission and the competent authorities of the Member States, their officials and other servants shall not disclose information acquired by them pursuant to this Directive and of a kind covered by the obligation of professional secrecy.

4. The provisions of paragraphs 2 and 3 shall not prevent publication of general information or surveys which do not contain information relating to particular undertakings or associations of undertakings.

Article 12

The European Parliament and the Council, acting on a proposal from the Commission, which shall act on its own initiative or at the request of a Member State, shall revise and, where necessary, supplement Lists I and II of Annex I on the basis of experience, if appropriate, by transferring certain List II substances to List I.

Article 13

Directive 76/464/EEC is hereby repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Part B of Annex II.

References to the repealed Directive shall be construed as references to this Directive and should be read in accordance with the correlation table in Annex III.

Article 14

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

Article 15

This Directive is addressed to the Member States.

Done at Strasbourg, 15 February 2006.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

H. WINKLER

⁽¹⁾ OJ L 377, 31.12.1991, p. 48. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

ANNEX I

List I of families and groups of substances

List I contains certain individual substances which belong to the following families and groups of substances, selected mainly on the basis of their toxicity, persistence and bioaccumulation, with the exception of those which are biologically harmless or which are rapidly converted into substances which are biologically harmless:

1. organohalogen compounds and substances which may form such compounds in the aquatic environment;
2. organophosphorus compounds;
3. organotin compounds;
4. substances which have been proved to possess carcinogenic properties in or via the aquatic environment ⁽¹⁾;
5. mercury and its compounds;
6. cadmium and its compounds;
7. persistent mineral oils and hydrocarbons of petroleum origin;

and for the purposes of implementing Articles 3, 7, 8 and 12:

8. persistent synthetic substances which may float, remain in suspension or sink and which may interfere with any use of the waters.

List II of families and groups of substances

List II contains:

- substances belonging to the families and groups of substances in List I for which the emission limit values laid down by the Directives referred to in Annex IX to Directive 2000/60/EC have not been determined by those Directives,
- certain individual substances and categories of substances belonging to the families and groups of substances listed below,

and which have a deleterious effect on the aquatic environment, which can, however, be confined to a given area and which depends on the characteristics and location of the water into which such substances are discharged.

Families and groups of substances referred to in the second indent

1. The following metalloids and metals and their compounds:

- | | | | |
|-------------|---------------|---------------|---------------|
| 1. zinc | 6. selenium | 11. tin | 16. vanadium |
| 2. copper | 7. arsenic | 12. barium | 17. cobalt |
| 3. nickel | 8. antimony | 13. beryllium | 18. thalium |
| 4. chromium | 9. molybdenum | 14. boron | 19. tellurium |
| 5. lead | 10. titanium | 15. uranium | 20. silver |

2. Biocides

and their derivatives not appearing in List I.

⁽¹⁾ Where certain substances in List II are carcinogenic, they are included in category 4 of this list.

3. Substances which have a deleterious effect on the taste and/or smell of the products for human consumption derived from the aquatic environment,

and compounds liable to give rise to such substances in water.
4. Toxic or persistent organic compounds of silicon, and substances which may give rise to such compounds in water, excluding those which are biologically harmless or are rapidly converted in water into harmless substances.
5. Inorganic compounds of phosphorus and elemental phosphorus.
6. Non-persistent mineral oils and hydrocarbons of petroleum origin.
7. Cyanides,

fluorides.
8. Substances which have an adverse effect on the oxygen balance, particularly:

ammonia,

nitrites.

Statement on Article 7

With regard to the discharge of waste water into the open sea by means of pipelines, Member States undertake to lay down requirements which shall be not less stringent than those imposed by this Directive.

ANNEX II

PART A

REPEALED DIRECTIVE WITH ITS SUCCESSIVE AMENDMENTS

(referred to in Article 13)

Council Directive 76/464/EEC (OJ L 129, 18.5.1976, p. 23)	Annex I, point (a) only Only as regards the reference in Article 22(2), fourth indent, to Article 6 of Directive 76/ 464/EEC
Council Directive 91/692/EEC (OJ L 377, 31.12.1991, p. 48)	
Directive 2000/60/EC of the European Parliament and of the Council (OJ L 327, 22.12.2000, p. 1)	

PART B

LIST OF TIME LIMITS FOR TRANSPOSITION INTO NATIONAL LAW

(referred to in Article 13)

Directive	Time limit for transposition
76/464/EEC	—
91/692/EEC	1 January 1993
2000/60/EC	22 December 2003

ANNEX III

CORRELATION TABLE

Directive 76/464/EEC	This Directive
Article 1(1), introductory wording	Article 1, introductory wording
Article 1(1), first indent	Article 1(a)
Article 1(1), second indent	Article 1(b)
Article 1(1), third indent	Article 1(c)
Article 1(1), fourth indent	—
Article 1(2), introductory wording	Article 2, introductory wording
Article 1(2)(a), (b) and (c)	Article 2(a), (b) and (c)
Article 1(2)(d), first indent	Article 2(d)(i)
Article 1(2)(d), second indent	Article 2(d)(ii)
Article 1(2)(d), third indent	Article 2(d)(iii)
Article 1(2)(e)	Article 2(e)
Article 2	Article 3
Article 3, introductory wording	Article 4, introductory wording
Article 3, point 1	Article 4(a)
Article 3, point 2	Article 4(b)
Article 3, point 3	—
Article 3, point 4	Article 4(c)
Article 4	—
Article 5	Article 5
Article 7	Article 6
Article 8	Article 7
Article 9	Article 8
Article 10	Article 9
Article 11	Article 10
Article 12	—
Article 13	Article 11
Article 14	Article 12
—	Article 13
—	Article 14
Article 15	Article 15
Annex	Annex I
—	Annex II
—	Annex III