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## Draft Legal Act

# “On approval of the Minimum Safety and Health Requirements for Workers in Workplaces”

Technical recommendations for its better alignment with  
the applicable International Labour Standards and  
EU Acquis

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## A. PURPOSE OF WORK

These **technical recommendations** are intended to promote a better alignment of the SLS draft Legal Act “On approval of the Minimum Safety and Health Requirements for Workers in Workplaces”, with the main applicable International and European labour standards and best practices.

In particular, with:

- ILO’s Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), Occupational Safety and Health Convention, 1981 (No. 155), Occupational Health Services Convention, 1985 (No. 161), Labour Inspection Convention, 1947 (No. 81) and Labour Inspection (Agriculture) Convention, 1969 (No. 129); and, **most especially with**
- EU Council [Directive 89/391/EEC](#), of 12 June 1989, on the introduction of measures to encourage improvements in the safety and health of workers at work; and the EU Council [Directive 89/654/EEC](#), of 30 November, concerning the minimum safety and health requirements for the workplace.

## **B. WORK SYSTEMATIC**

### **I. MAIN POSITIVE ASPECTS**

### **II. KEY ASPECTS TO IMPROVE**

### **III. EU-ILO PROJECT DETAILED RECOMMENDATIONS**

## I. MAIN POSITIVE ASPECTS

1. The development of a modern legal regulation.
2. It reflects a more goal-oriented and organizational preventive approach.
3. Shifts from an approach based on protection, correction and compensation to an approach focused on prevention and foreseeing the general principles of prevention (GPP).
4. The specification of the employers' obligations on the arrangement and design of the place of work, in order to guarantee a better standard of safety and health at work and to ensure workers good working conditions.
5. The establishment of the minimum requirements and rules to be applied in the maintenance processes, to permanently ensure good working conditions and high levels of safety at the workplace and on the use of work equipment and devices.

## I. MAIN POSITIVE ASPECTS (continuation)

6. The provision of information, instructions and training to workers, and the assurance of their consultation and participation.
7. The alignment of national legislation with the EU OSH legal framework, namely with Council Directive 89/654/EEC, ensures a better coordination, articulation and inter-relation between OSH legislation and its simplification.
8. It integrates the principle of application to all sectors of economic activity, including public administration, as requested by the EU Council Directive 89/391/EEC, of 12 June 1989, and by the ILO Occupational Safety and Health Convention, 1981 (No. 155).
9. It reinforces regulations on the obligations of employers regarding workplaces used for the first time; and a larger transitional period for workplaces already in use.

## ▶ II. KEY ASPECTS TO IMPROVE

1. This normative act, or legal instrument, should assume the typology of, at least, a Cabinet of Ministers of Ukraine (CMU) Decree or Resolution, instead of an Order of the Ministry of Social Policy (or of the Ministry of Economy).
2. The title of the draft legal act “On approval of the Minimum Safety and Health Requirements for Workers in Workplaces” should also be replaced by “On approval of the Minimum Safety and Health Requirements for the Workplaces”, because the “Safety and Health Requirements” are not “of the workers”, but, instead, of the “workplaces”.
3. The legal act systematics, structure and clarity should be improved, in order to simplify it and to facilitate its understanding and alignment with the EU Directive 89/654/EEC, of 30 November, namely through:
  - a) Adoption of sections, to group the different types of issues addressed;
  - b) Ensuring that each legal norm, command or provision corresponds to a single and clearly identifiable and hierarchically numbered paragraph;
  - c) Group provisions related to the same issue into the same Article and ensure that all articles are dully and hierarchically numbered;

## ▶ II. KEY ASPECTS TO IMPROVE (continuation)

- d) Avoiding the repetition of legal commands that are in other laws, because it can give rise to dysfunctional interpretive effects that undermine the legal certainty and security of the legal order.
- 4. The terminology used should also be revised and better aligned with the ILS and EU Acquis. Terms such as “labour protection” and “labour hygiene” should be replaced, respectively, by “occupational safety” and “occupational health” (that also includes “hygiene”).
- 5. Omission of the definition of the state authority that has the legal competence to promote, control and enforce compliance with its legal provisions.
- 6. It should also be ensured that the violation of the provisions of this legal act is properly covered by legal provisions aimed at sanctioning such infringements.

## ▶ II. KEY ASPECTS TO IMPROVE (continuation)

7. It is also recommended to provide for:

- a) Date of entry into force of this legal act and its annexes;
- b) Implementation of the measures necessary to conform the national legal framework with its provisions in order to ensure its effective application; and
- c) Indication of the legislation repealed with its entry into force, where applicable.



## II. KEY ASPECTS TO IMPROVE (continuation)

8. Sometimes the translation does not express exactly the content of Directive 89/654/EEC and, as a consequence, the proposed legal provisions do not translate exactly what the Community Legislator intended. For example:
- a) The title of provision 3 of Annex I, is “Electrical equipment”. However, the concept of electrical installation is broader than that of electrical equipment.
  - b) The provision 11 “Doors and gates”, paragraph 4, of Annex I, states “*If transparent or translucent parts in doors and gates are not made of sufficiently strong material and if there is a danger that workers may be injured by fragments of those parts, the parts must be protected from contact with people*”. Anyway, it is not a question of whether or not the doors are made of strong enough material, but of safe material.
  - c) In the same provision 11, paragraph 6 of Annex I, the wording refers that “Doors and gates opening upwards must be protected against falling back”. With regard to safety and health at work, it is not enough to write that doors and gates must be installed in such a way as to prevent them from falling back.

## II. KEY ASPECTS TO IMPROVE (continuation)

- d) In Annex II, in its provision 13 - “Sanitary facilities” -, in paragraph 5, it is stated that “*Workstations should be equipped in such a way that workers, if required by the nature of their work, could use adjacent shower rooms.*” Given the definition of “workstation”, it is impossible for workstations to be equipped in such a way that workers use showers in their vicinity.
- e) In provision 14 of Annex II, in its paragraph 1, the draft legal act mentions that “*Workplaces must be equipped with first aid facilities. They must be signposted in accordance with the Technical Regulation and be easily accessible*”. In place of “facilities”, the word “equipment” was placed, because in that provision, the Directive intends to have first aid material/equipment in different places of the same workplace.



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