
STATUTORY INSTRUMENTS

2006 No. 3311

ENVIRONMENTAL PROTECTION

**The Controls on Dangerous Substances
and Preparations Regulations 2006**

<i>Made</i>	- - - -	<i>11th December 2006</i>
<i>Laid before Parliament</i>		<i>15th December 2006</i>
<i>Coming into force</i>	- -	<i>7th January 2007</i>

The Secretary of State is a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to persistent organic pollutants, dangerous substances, preparations and chemicals. He makes the following Regulations in exercise of the powers conferred on him by that section:

PART 1

Introduction and restriction

Citation and commencement

1. These Regulations may be cited as the Controls on Dangerous Substances and Preparations Regulations 2006 and come into force on 7th January 2007.

Interpretation

2.—(1) In these Regulations—

“authorised person” means a person authorised under regulation 9(2) and includes any person authorised under paragraph 11 of Schedule 3;

“CAS Number” means a number assigned by the Chemicals Abstracts Service and given in the CAS Registry Handbook⁽³⁾;

⁽¹⁾ [S.I. 2006/608](#).

⁽²⁾ [1972 c. 68](#). The power of the Minister to make regulations in relation to matters in or as regards Scotland is preserved by section 57(1) of the Scotland Act [1998 \(c.46\)](#).

⁽³⁾ The CAS Registry Handbook, ISSN 0093-058X, is published by the Chemical Abstracts Service, American Chemical Society, Columbus, Ohio, USA.

“the Dangerous Substances Directive” means Council Directive [76/769/EEC](#) on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations⁽⁴⁾, as amended at the date that these Regulations are made⁽⁵⁾;

“EINECS Number” means the number given in the European Inventory of Existing Commercial Chemical Substances⁽⁶⁾;

“the enforcing authority” means in respect of—

- (a) England and Wales, the Environment Agency;
- (b) Scotland, the Scottish Environment Protection Agency;
- (c) Northern Ireland, the Department of the Environment.

“preparations” means mixtures or solutions composed of two or more substances;

“substances” means chemical elements and their compounds as they occur in the natural state or as produced by industry.

(2) Other expressions used in these Regulations which are used in the Dangerous Substances Directive have the meaning they bear in that Directive.

Restriction on the placing on the market or use of dangerous substances and preparations

3.—(1) No person shall place on the market or use any of the dangerous substances and preparations listed in Schedule 1 except in accordance with the restrictions set out in column 4 of that Schedule.

(2) Paragraph (1) is subject to regulations 4 to 7.

PART 2

Matters outside the scope of, and exceptions to, the restriction in regulation 3

Matters outside the scope of the restriction in regulation 3

4. Regulation 3(1) does not apply to—

- (a) the carriage of dangerous substances and preparations by rail, road, inland waterway, sea or air;
- (b) dangerous substances and preparations exported to a country which is not a Member State of the European Community, or to Norway, Iceland or Liechtenstein;
- (c) substances and preparations in transit and subject to customs inspection, provided that they undergo no processing;
- (d) marketing or use for research and development or analysis purposes.

Leaded paint

5.—(1) A person may market leaded paint if it is marketed with a view to its use as set out in paragraph (2).

(4) OJ L262, 27.9.1976, p.201.

(5) As at the date that these Regulations are made, Council Directive [76/769/EEC](#) has been amended 28 times, the last published amendment is Directive [2005/69/EC](#) (OJ L323, 9.12.2005, p.51).

(6) OJ C146A, 15.6.1990, p.1. For each substance listed in the European Inventory of Existing Commercial Chemical Substance (EINECS) there is an identification code, starting at 200-001-8.

(2) Subject to paragraph (3), a person may use leaded paint if the paint is used in the restoration or maintenance of—

- (a) historic buildings or their interiors;
- (b) scheduled monuments; or
- (c) fine or decorative works of art,

where it is required to restore or maintain historic textures or finishes.

(3) A person who intends to use leaded paint shall—

- (a) where he intends to obtain the paint from a person who supplies such paint, provide to that person a relevant declaration; or
- (b) in any other case, provide to the competent body a relevant declaration and comply with paragraph (6).

(4) A person may supply leaded paint if he complies with paragraph (5).

(5) A person who receives a relevant declaration pursuant to paragraph (3)(a) and agrees to supply leaded paint to the intended user stated in the declaration—

- (a) shall send the declaration to the competent body with a notification; and
- (b) shall not supply the paint—
 - (i) earlier than 3 weeks after providing the relevant declaration and notification to the competent body; or
 - (ii) if he receives a notice under paragraph (7)(a) from the competent body.

(6) A person who provides a relevant declaration under paragraph (3)(b) shall not use the paint—

- (a) earlier than 3 weeks after providing the relevant declaration to the competent body; or
- (b) if he receives a notice under paragraph (7)(a) from the competent body.

(7) If a competent body is not satisfied with the content of a relevant declaration or notification, it shall—

- (a) within 2 weeks of receipt, give notice to that effect in writing to the person from whom it was received with reasons for its decision; and
- (b) as soon as possible, provide a copy of that notice to the enforcing authority.

(8) For the purposes of this regulation—

“competent body” means—

- (a) English Heritage if the historic building, scheduled monument or work of art is in England;
- (b) Cadw if the historic building, scheduled monument or work of art is in Wales;
- (c) the Scottish Ministers if the historic building, scheduled monument or work of art is in Scotland;
- (d) the Department of the Environment if the historic building, scheduled monument or work of art is in Northern Ireland;

“historic building” means—

- (a) in relation to England and Wales, a listed building within the meaning of section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990(7) which is classified as Grade I or Grade II (starred);

- (b) in relation to Scotland, a listed building within the meaning of section 1(4) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997⁽⁸⁾ which is classified as category A;
- (c) in relation to Northern Ireland, a listed building within the meaning of article 42(7) of the Planning (Northern Ireland) Order 1991⁽⁹⁾;

“lead paint” means paint containing lead carbons or lead sulphates listed in column 2 of Schedule 1 against point numbers 17 and 18;

“notification” means a written notification that contains the matters in Part 2 of Schedule 2;

“relevant declaration” means a written declaration that contains the matters in Part 1 of Schedule 2;

“scheduled monument” has the same meaning—

- (a) in England, Wales and Scotland, as it has in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979⁽¹⁰⁾;
- (b) in Northern Ireland, as it has in article 3(2) of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995⁽¹¹⁾.

PCP

6.—(1) PCP may be—

- (a) placed on the market if the provisions of paragraph (2) or (3) are satisfied; and
- (b) used if the provisions of paragraph (4) or (5) are satisfied.

(2) The placing on the market of PCP intended for use alone or as a component of preparations is permitted if it is approved—

- (a) under regulation 5(1) of the Control of Pesticides Regulations 1986⁽¹²⁾; or
- (b) under regulation 5(1) of the Control of Pesticides Regulations (Northern Ireland) 1987⁽¹³⁾,

and takes place in accordance with such approval.

(3) Until 31st December 2008, any substance that contains PCP may be placed on the market if it has a total H₆CDD content below 2 parts per million and that substance—

- (a) is intended solely for the uses permitted under paragraph (4) or (5);
- (b) is placed on the market in packages of 20 litres or more marked clearly and indelibly with the words, “Reserved for industrial and professional use”;
- (c) is not sold to the general public; and
- (d) is not waste to which either of which the following Directives (as amended on the date these Regulations are made) apply—
 - (i) Directive 2006/12/EC of the European Parliament and of the Council⁽¹⁴⁾;
 - (ii) Council Directive 91/689/EEC⁽¹⁵⁾.

⁽⁸⁾ 1997 c.9.

⁽⁹⁾ S.I.1999/1220 (N.I.11).

⁽¹⁰⁾ 1979 c.46.

⁽¹¹⁾ S.I.1995/1625 (N.I.9).

⁽¹²⁾ S.I. 1986/1510 as amended by S.I. 1997/188 and S.I. 2001/880.

⁽¹³⁾ S.R.1987 No.414 as amended by article 21(3) of the Food Safety (Northern Ireland) Order 1991 (Consequential Modifications) Order (Northern Ireland) 1991 (S.R. 1991 No.203), the Control of Pesticides (Amendment) Regulations (Northern Ireland) 1997 (S.R. 1997 No.469) and regulation 42 of the Biocidal Products Regulations (Northern Ireland) 2001 (S.R. 2001 No.422).

⁽¹⁴⁾ OJ L114, 27.4.2006, p.9.

⁽¹⁵⁾ OJ L377, 31.12.1991, p.20. Council Directive 91/689/EEC has been amended by Council Directive 94/31/EC (OJ L168, 2.7.1994, p.28) and Regulation (EC) 166/2006 of the European Parliament and of the Council (OJ L33, 4.2.2006, p.1).

(4) The use of PCP alone or as a component of preparations is permitted if that use is approved—
(a) under regulation 5(1) of the Control of Pesticides Regulations 1986; or
(b) under regulation 5(1) of the Control of Pesticides Regulations (Northern Ireland) 1987,
and takes place in accordance with such approval.

(5) Until 31st December 2008, any substance or preparation that contains PCP may be used in industrial installations—

- (a) in the treatment of wood except that any wood so treated may not be used—
 - (i) inside buildings, whether for decorative purposes or not, and whatever the purpose of the building; or
 - (ii) for the manufacture and re-treatment of—
 - (aa) containers intended for growing purposes;
 - (bb) packaging that may come into contact with raw materials, intermediate or finished products destined for human and/or animal consumption; or
 - (cc) other materials that may contaminate the products referred to in subparagraphs (aa) and (bb);

or

- (b) for the impregnation of fibres or heavy duty textiles if such material—
 - (i) is not intended for clothing or for decorative furnishings; and
 - (ii) has a total H₆CDD content below 2 parts per million.
- (6) For the purposes of this regulation—
“H₆CDD” means all the isomers of hexachlorodibenzoparadioxin;
“PCP” means pentachlorophenol and its salts and esters.

Nonylphenol and nonylphenol ethoxylate

7.—(1) Nonylphenol and nonylphenol ethoxylate may be placed on the market or used as part of a pesticide or biocide product if, and to the extent which, the placing on the market or use of the pesticide or biocide is authorised by a relevant approval.

(2) In this regulation—

“nonylphenol” means nonylphenol C₆ H₄ (OH)C₉ H₁₉;

“nonylphenol ethoxylate” means nonylphenol ethoxylate (C₂ H₄ O)_n C₁₅ H₂₄ O;

“relevant approval” means an approval granted before 17th July 2003 which is valid under—

- (a) the Control of Pesticides Regulations 1986;
- (b) the Control of Pesticides Regulations (Northern Ireland) 1987;
- (c) the Plant Protection Products Regulations 2005(16); or
- (d) the Plant Protection Products Regulations (Northern Ireland) 2005(17).

(16) S.I. 2005/1435.

(17) S.R. 2005 No.526.

PART 3

Enforcement, powers and civil proceedings

Enforcement

8. For the purposes of the control of pollution, the enforcing authority shall enforce the restriction in regulation 3.

Powers of the enforcing authority and authorisation

9.—(1) The enforcing authority and persons authorised for the purposes of paragraph (2) shall have the powers set out in Schedule 3.

(2) The enforcing authority may authorise in writing such persons who appear suitable to act on its behalf, subject to any limitations or conditions as the enforcing authority sees fit.

(3) An authorisation under—

- (a) section 108 of the Environment Act 1995⁽¹⁸⁾(powers of enforcing authorities and persons authorised by them); or
- (b) article 72 of the Waste and Contaminated Land (Northern Ireland) Order 1997⁽¹⁹⁾(powers of enforcing authorities and persons authorised by them),

is an authorisation for the purposes of paragraph (2).

Proceedings before a civil court

10. If the enforcing authority is of the opinion that proceedings against a person for an offence under Part 4 would afford an ineffectual remedy against that person, the enforcing authority may take civil proceedings against that person for the purpose of seeking such remedy as the enforcing authority believes is appropriate in the circumstances.

PART 4

Offences and penalties

CHAPTER 1

Regulations 3 and 5

Offences

11. It is an offence for a person—

- (a) to contravene the restriction in regulation 3; or
- (b) to contravene paragraphs (5)(b) or (6) of regulation 5,

or cause or permit another person to do so.

⁽¹⁸⁾ 1995 c.25.

⁽¹⁹⁾ S.I. 1997/2778 (N.I.19).

Penalties

- 12.** Any person guilty of an offence under regulation 11 shall be liable—
- (a) on summary conviction, to a fine which shall not exceed the statutory maximum or to imprisonment not exceeding three months, or both;
 - (b) on conviction on indictment, to a fine or to imprisonment not exceeding two years, or both.

CHAPTER 2

Regulation 9 and Schedule 3

Offences

- 13.—**(1) It is an offence for a person—
- (a) intentionally to obstruct an authorised person in the exercise or performance of his powers or duties; or
 - (b) to make a statement which he knows to be false or misleading in a material particular, or recklessly makes a statement which is false or misleading in a material particular, where the statement is made in purported compliance with a requirement to furnish any information imposed by or under these Regulations.
- (2) It is an offence for a person, without reasonable excuse—
- (a) to fail to comply with—
 - (i) any requirement under the powers in Part 1 or 2 of Schedule 3;
 - (ii) any notice made under Part 4 of Schedule 3;
 - (b) to fail or refuse to provide facilities or assistance or to permit any inspection reasonably required by an authorised person under or by virtue of those powers; or
 - (c) to prevent any other person from appearing before an authorised person, or answering any question to which an authorised person may require an answer, pursuant to the powers in Part 1 or 2 of Schedule 3.
- (3) It is an offence for a person falsely to pretend to be an authorised person.
- (4) In this regulation, “powers or duties” includes powers or duties exercisable by virtue of a warrant under paragraph 11 of Schedule 3.

Penalties

- 14.—**(1) A person guilty of an offence under regulation 13 shall be liable—
- (a) in the case of an offence of obstructing an authorised person in the execution of his powers under Part 3 (seizure in cases of imminent danger of serious pollution) of Schedule 3—
 - (i) on summary conviction, to a fine not exceeding the statutory maximum;
 - (ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both;
 - and
 - (b) in any other case, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (2) A person guilty of an offence under regulation 13(2) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

CHAPTER 3

Bodies corporate, Scottish partnerships and remediation

Bodies corporate and Scottish partnerships

15.—(1) Where an offence under this Part committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) “Officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Where an offence under this Part committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he, as well as the partnership shall be deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.

(5) In paragraph (4) “partner” includes a person purporting to act as a partner.

Power of court to order cause of offence to be remedied

16.—(1) Where a person is convicted of an offence under this Part in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying those matters.

(2) The time fixed by an order under paragraph (1) may be extended or further extended by order of the court on an application made before the end of the time as originally fixed or extended under this paragraph, as the case may be.

(3) Where a person is ordered under paragraph (1) to remedy any matters, that person shall not be liable under regulation 12 or 14 in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under paragraph (2).

PART 5

Appeals against enforcement and prohibition notices

Appeals against enforcement and prohibition notices

17.—(1) A person on whom an enforcement notice or prohibition notice is served under Part 4 (notices) of Schedule 3 may appeal against that notice to the appeal body.

(2) The appeal body means, where the notice is served by—

- (a) the Environment Agency, the Secretary of State;
- (b) the Scottish Environment Protection Agency, the Scottish Ministers;
- (c) the Department of the Environment, the Planning Appeals Commission.

(3) An appeal shall be received by the appeal body no later than two months from the date of the notice.

(4) The appeal body may allow an appeal received after the date referred to in paragraph (3).

(5) Where an appeal is brought, this shall not have the effect of suspending the operation of the notice.

(6) On the determination of an appeal, the appeal body may either quash or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the appeal body sees fit.

(7) In relation to the making and determination of appeals under this regulation, the appeal body may adopt such procedures as it sees fit.

PART 6

Revocations and savings

Revocations and savings

18.—(1) The instruments listed in Schedule 4 are revoked.

(2) The following Regulations shall continue to have effect in relation to any completed declaration referred to in those Regulations which is made before these Regulations come into force—

- (a) the Environmental Protection (Controls on Injurious Substances) Regulations 1992⁽²⁰⁾;
- (b) the Marketing and Use of Dangerous Substances (No.2) Regulations (Northern Ireland) 1994⁽²¹⁾.

11th December 2006

Jeff Rooker
Minister of State
Department for Environment, Food and Rural
Affairs

⁽²⁰⁾ S.I. 1992/31.

⁽²¹⁾ S.R. 1994 No.223.

Status: This is the original version (as it was originally made).

SCHEDULE 1

Regulation 3

Table of substances, preparations and restrictions

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
17.	Lead carbons: — neutral anhydrous carbonate Pb CO ₃ (CAS Number 598-63-0) — trilead-bis(carbonate)-dihydroxide 2 PB CO ₃ - Pb(OH) ₂ (CAS Number 1319-46-6)	Council Directive 89/677/EEC (OJ L398, 30.12.1989, p.19)	May not be used as substances or constituents of preparations intended for use as paints except as provided under regulation 5.
18.	Lead sulphates: PbSO ₄ (1:1) (CAS No 7446-14-2) Pb _x SO ₄ (CAS Number 15739-80-7)	Council Directive 89/677/EEC (OJ L398, 30.12.1989, p.19)	May not be used as substances or constituents of preparations intended for use as paints except as provided under regulation 5.
19.	Mercury compound	Council Directive 89/677/EEC	May not be used as substances and constituents of preparations intended for use: (a) to prevent the fouling by micro-organisms, plants or animals of: — the hulls of boats,

(1) The numbers and chapter numbers contained in the column are those used under [Council Regulation \(EEC\) No. 2658/87](#) on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).

(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
		(OJ L398, 30.12.1989, p.19)	<ul style="list-style-type: none"> — cages, floats, nets and any other appliances or equipment used for fish or shellfish farming, — any totally or partly submerged appliances or equipment; <p>(b) in the preservation of wood;</p> <p>(c) in the impregnation of heavy-duty industrial textiles and yarn intended for their manufacture;</p> <p>(d) in the treatment of industrial waters, irrespective of their use.</p>
20.	Arsenic compounds	Commission Directive 2003/2/EC (OJ L4, 9.1.2003, p.9)	<p>1. May not be used as substances and constituents of preparations intended for use:</p> <p>(a) to prevent the fouling by micro-organisms, plants or animals of:</p> <ul style="list-style-type: none"> — the hulls of boats, — cages, floats, nets and any other appliances or equipment used for fish or shellfish farming, — any totally or partly submerged appliances or equipment; <p>(b) in the preservation of wood. Furthermore, wood so treated may not be placed on the market;</p> <p>(c) however, by way of derogation:</p> <p>(i) relating to the substances and preparations in the preservation of wood: these may only be used in industrial installations using vacuum or pressure to impregnate wood if they are solutions of inorganic compounds of copper, chromium, arsenic (CCA) type C. Wood so treated may not be placed on the market before fixation of the preservative is completed.</p> <p>(ii) relating to wood treated with CCA solutions in industrial installations according to point (i): this may be</p>
<p>(1) The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).</p> <p>(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.</p>			

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<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
			<p>placed on the market for professional and industrial use provided that the structural integrity of the wood is required for human or livestock safety and skin contact by the general public during its service life is unlikely:</p> <ul style="list-style-type: none"> — as structural timber in public and agricultural buildings, office buildings, and industrial premises, — in bridges and bridgework, — as constructional timber in freshwater areas and brackish waters, e.g. jetties and bridges, — as noise barriers, — in avalanche control, — in highway safety fencing and barriers, — as debarked round conifer livestock fence posts, — in earth retaining structures, — as electric power transmission and telecommunications poles, — as underground railway sleepers. <p>(iii) All treated wood placed on the market shall be individually labelled “For professional and industrial installation and use only, contains arsenic.” In addition, all wood placed on the market in packs shall also bear a label stating “Wear gloves when handling this wood. Wear a dust mask and eye protection when cutting or otherwise crafting this wood. Waste from this wood shall be</p>
<p>(1) The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).</p> <p>(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.</p>			

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
			<p>treated as hazardous by an authorised undertaking.”</p> <p>(iv) treated wood referred to under points (i) and (ii) may not be used:</p> <ul style="list-style-type: none"> — in residential or domestic constructions, whatever the purpose, — in any application where there is a risk of repeated skin contact, — in marine waters, — for agricultural purposes other than for livestock fence posts and structural uses in accordance with point (ii), — in any application where the treated wood may come into contact with intermediate or finished products intended for human and/or animal consumption. <p>2. May not be used as substances and constituents of preparations intended for use in the treatment of industrial waters, irrespective of their use.</p>
21.	Organostannic compounds	<p>Commission Directive 2002/62/EC</p> <p>(OJ L183, 12.7.2002, p.58)</p>	<p>1. May not be placed on the market for use as substances and constituents of preparations when acting as biocides in free association paint.</p> <p>2. May not be placed on the market or used as substances and constituents of preparations which act as biocides to prevent the fouling by microorganisms, plants or animals of:</p> <ul style="list-style-type: none"> (a) all craft irrespective of their length intended for use in marine, coastal, estuarine and inland waterways and lakes; (b) cages, floats, nets and any other appliances or equipment used for fish or shellfish farming;

(1) The numbers and chapter numbers contained in the column are those used under [Council Regulation \(EEC\) No. 2658/87](#) on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).

(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.

Status: This is the original version (as it was originally made).

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
			(c) any totally or partly submerged appliance or equipment.
			3. May not be used as substances and constituents of preparations intended for use in the treatment of industrial waters.
22.	di-μ-oxo-di-n-butylstanniohydride (C ₈ H ₁₉ BO ₃ S _n) (CAS Number 75113-37-0) (DBB)	Council Directive 89/677/EEC (OJ L398, 30.12.1989, p.19)	Shall be prohibited in a concentration equal to or greater than 0.1% in substances and constituents of preparations placed on the market. However, this provision shall not apply to this substance (DBB) or preparations containing it if these are intended solely for conversion into finished products, among which this substance will no longer feature in a concentration equal to or greater than 0.1%.
23.	Pentachlorophenol and its salts and esters	Commission Directive 1999/51/EC (OJ L142, 5.6.1999, p.22)	Shall not be used in a concentration equal to or greater than 0.1% by mass in substances or preparations placed on the market except as provided under regulation 6.
24.	Cadmium (CAS Number 7440-43-9) and its compounds	Council Directive 91/338/EEC (OJ L186, 12.7.1991, p.59)	1.1. May not be used to give colour to finished products manufactured from the substances and preparations listed below ⁽¹⁾ : <ul style="list-style-type: none"> — polyvinyl chloride (PVC)[390410] [390421] [390422] — polyurethane (PUR)[390950] — low density polyethylene (ld PE), with the exception of low density polyethylene used for the production of coloured masterbatch [390110] — cellulose acetate (CA) [391211][391212] — cellulose acetate butyrate (CAB) [391211] [391212] — epoxy resins [390730]. <p>In any case, whatever their use or intended final purpose, finished products or components of</p>

(1) The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).

(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
			<p>products manufactured from the substances and preparations listed above coloured with cadmium may not be placed on the market if their cadmium content (expressed as Cd metal) exceeds 0.01% by mass of the plastic material.</p> <p>1.2. Section 1.1 also applies for:</p> <p>(a) finished products manufactured from the following substances and preparations:</p> <ul style="list-style-type: none"> — melamine – formaldehyde (MF) [390920] — urea – formaldehyde (UF) [390910] — unsaturated polyesters (UP) [390791] — polyethylene terephthalate (PET) [390760] — polybutylene terephthalate (PBT) — transparent/general purpose polystyrene [390311][390319] — acrylonitrile methylmethacrylate (AMMA) — cross-linked polyethylene (VPE) — high-impact polystyrene — polypropylene (PP) [390210] — paints [3208][3209] <p>However, if the paints have a high zinc content, their residual concentration of cadmium must be as low as possible and at all events not exceed 0.1% by mass.</p> <p>1.3. However, sections 1.1 and 1.2 do not apply to products to be coloured for safety reasons.</p> <p>2.1. May not be used to stabilize the finished products listed below manufactured from polymers or copolymers of vinyl chloride:</p> <ul style="list-style-type: none"> — packaging materials (bags, containers, bottles, lids) [3923 29 10][392041] [392042] — office or school supplies [392610] — fittings for furniture, coachwork or the like [392630] <p>(1) The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).</p> <p>(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.</p>

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<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
			<ul style="list-style-type: none"> — articles of apparel and clothing accessories (including gloves) [392620] — floor and wall coverings [391810] — impregnated, coated, covered or laminated textile fabrics [590310] — imitation leather [4202] — gramophone records [852410] — tubes and pipes and their fittings [391723] — swing doors — vehicles for road transport (interior, exterior, underbody) — coating of steel sheet used in construction or in industry — insulation for electrical wiring. <p>In any case, whatever their use or intended final purpose, the placing on the market of the above finished products or components of products manufactured from polymers or copolymers of vinyl chloride, stabilized by substances containing cadmium is prohibited, if their cadmium content (expressed as Cd metal) exceeds 0.01% by mass of the polymer.</p> <p>2.2. However, section 2.1 does not apply to finished products using cadmium-based stabilizers for safety reasons.</p> <p>3. “Cadmium plating” means any deposit or coating of metallic cadmium on a metallic surface.</p> <p>3.1. May not be used for cadmium plating metallic products or components of the products used in the sectors/applications listed below,</p> <p>(a) equipment and machinery for:</p> <ul style="list-style-type: none"> — food production [8210][841720][841981][842111][842112][8422][8435][8437][8438][847611] — agriculture [841931][842481][8432][8433][8434][8436] — cooling and freezing [8418] <p>(1) The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).</p> <p>(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.</p>

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
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- printing and book-binding [8440][8442][8443],
- (b) equipment and machinery for the production of:
 - household goods [7321][842112][8450][8509][8516]
 - furniture [8465][8466][9401][9402][9403][9404]
 - sanitary ware [7324]
 - central heating and air conditioning plant [7322][8403][8404][8415].

In any case, whatever their use or intended final purpose, the placing on the market of cadmium-plated products or components of such products used in the sectors/applications listed in (a) and (b) above and of products manufactured in the sectors listed in (b) above is prohibited.

The provisions referred to in Section 3.1 are also applicable to cadmium-plated products or components of such products when used in the sectors/applications listed in (a) and (b) below and to products manufactured in the sectors listed in (b) below:

- (a) equipment and machinery for the production of:
 - paper and board [841932][8439][8441]
 - textiles and clothing [8444](1)[8445][8447][8448][8449][8451][8452],
- (b) equipment and machinery for the production of:
 - industrial handling equipment and machinery [8425][8426][8427][8428][8429][8430][8431]
 - road and agricultural vehicles [chapter 87]

- (1) The numbers and chapter numbers contained in the column are those used under [Council Regulation \(EEC\) No. 2658/87](#) on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).
- (2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.

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Point number in Annex I to Council Directive 76/769/EEC	Substance or preparation	Directives amending Council Directive 76/769/EEC relevant to the substance or preparation	Restrictions
			<ul style="list-style-type: none"> — rolling stock [chapter 86] — vessels [chapter 89].
			<p>3.3. However, Sections 3.1 and 3.2 do not apply to:</p> <ul style="list-style-type: none"> — products and components of the products used in the aeronautical, aerospace, mining, offshore and nuclear sectors whose applications require high safety standards and in safety devices in road and agricultural vehicles, rolling stock and vessels, — electrical contacts in any sector of use, on account of the reliability required of the apparatus on which they are installed.
25.	Monomethyl – tetrachlorodiphenyl methane	Council Directive 91/339/EEC	<p>The marketing and use of this substance and of preparations and products containing it shall be prohibited. By way of exception this provision shall not apply:</p> <ol style="list-style-type: none"> 1) in the case of plant and machinery already in service on 18 June 1994 until such plant and machinery is disposed of ⁽²⁾; 2) in the case of the maintenance of plant and machinery already in service on 18 June 1994. <p>The placing on the secondhand market of this substance , preparations containing this substance and plant/machinery containing this substance shall be prohibited.</p>
	Trade name: Ugilec 141	(OJ L186, 12.7.1991, p.64)	
	(CAS Number 76253-60-6)		
26.	Monomethyl-dichloro-diphenyl methane.	Council Directive 91/339/EEC	<p>The marketing and use of this substance and of preparations and products containing it shall be prohibited.</p>
	Trade name: Ugilec 121, Ugilec 21.	(OJ L186, 12.7.1991, p.64)	
	(CAS Number unknown)		

(1) The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).

(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
27.	Monomethyl-dibromo-diphenyl methane. Trade name: DBBT (CAS Number 99688-47-8)	Council Directive 91/339/EEC (OJ L186, 12.7.1991, p.64)	The marketing and use of this substance and of preparations and products containing it shall be prohibited.
41.	Hexachloroethane (CAS Number 67-72-1) (EINECS Number 2006664)	Commission Directive 2001/91/EC (OJ L286, 30.10.2001, p.27)	May not be used in the manufacturing or processing of non-ferrous metals.
42.	Alkanes, C ₁₀ -C ₁₃ , chloro (short-chain chlorinated paraffins)	Directive 2002/45/EC of the European Parliament and of the Council (OJ L177, 6.7.2002, p.21)	May not be placed on the market for use as substances or as constituents of other substances or preparations in concentrations higher than 1%: — in metalworking; — for fat liquoring of leather.
44.	Diphenylether, pentabromo derivative C ₁₂ H ₅ Br ₅ O.	Directive 2003/11/EC of the European Parliament and of the Council	1. May not be placed on the market or used as a substance or as a constituent of substances or of preparations in concentrations higher than 0.1% by mass. 2. Articles may not be placed on the market if they, or flame-retardant parts thereof, contain this substance in concentrations higher than 0.1% by mass.
(1) The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).			
(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.			

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Point number in Annex I to Council Directive 76/769/EEC	Substance or preparation	Directives amending Council Directive 76/769/EEC relevant to the substance or preparation	Restrictions
		(OJ L42, 15.2.2003, p.45) as amended by Commission Directive 2004/98/EC (OJ L305, 1.10.2004, p.63)	
45.	Diphenylether, octabromo derivative C ₁₂ H ₂ Br ₈ O.	Directive 2003/11/EC of the European Parliament and of the Council (OJ L42, 15.2.2003, p.45)	<ol style="list-style-type: none"> 1. May not be placed on the market or used as a substance or as a constituent of substances or of preparations in concentrations higher than 0.1% by mass. 2. Articles may not be placed on the market if they, or flame-retardant parts thereof, contain this substance in concentrations higher than 0.1% by mass.
46.	<ol style="list-style-type: none"> (1) Nonylphenol C₆ H₄ (OH)C₉ H₁₉ (2) Nonylphenol ethoxylate (C₂ H₄ O)_n C₁₅ H₂₄ O 	Directive 2003/53/EC of the European Parliament and of the Council (OJ L178, 17.7.2003, p.24)	May not be placed on the market or used as a substance constituent of preparations in concentrations equal or higher than 0.1% by mass for the following purposes: <ol style="list-style-type: none"> (1) industrial and institutional cleaning except: <ul style="list-style-type: none"> — controlled closed dry cleaning systems where the washing liquid is recycled or incinerated, — cleaning systems with special treatment where the washing liquid is recycled or incinerated; (2) domestic cleaning; (3) textiles and leather processing except: <ul style="list-style-type: none"> — processing with no release into waste water, — systems with special treatment where the process water is pre-treated to remove
<ol style="list-style-type: none"> (1) The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987). (2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations. 			

Point number in Annex I to Council Directive 76/769/EEC	Substance or preparation	Directives amending Council Directive 76/769/EEC relevant to the substance or preparation	Restrictions
			the organic fraction completely prior to biological waste water treatment (degreasing of sheepskin):
			(4) emulsifier in agricultural teat dips;
			(5) metal working except: <ul style="list-style-type: none"> — uses in controlled closed systems where the washing liquid is recycled or incinerated;
			(6) manufacturing of pulp and paper;
			(7) cosmetic products;
			(8) other personal care products except spermicides;
			(9) co-formulants in pesticides and biocides except as provided under regulation 7.
49.	Trichlorobenzene CAS Number 120-82-1	Directive 2005/59/EC of the European Parliament and of the Council (OJ L309, 25.11.2005, p.13)	On or after 15th June 2007, may not be placed on the market or used as a substance or constituent of preparations in a concentration equal to or higher than 0.1% by mass for all uses except <ul style="list-style-type: none"> — as an intermediate of synthesis; — as a process solvent in closed chemical applications for chlorination reactions; or — in the manufacture of 1,3,5 – trinitro – 2,4,6 – triaminobenzene (TATB).
50.	Polycyclic-aromatic hydrocarbons (PAH) 1. Benzo(a)pyrene (BaP) CAS Number 50-32-8 2. Benzo(c)pyrene (BcP) CAS Number 192-97-2	Directive 2005/69/EC of the European Parliament and of the Council (OJ L323, 22.12.2005, p.51)	1. On or after 1st January 2010, extender oils may not be placed on the market and used for the production of tyres or parts of tyres, if they contain: <ul style="list-style-type: none"> — more than 1mg/kg BaP; or — more than 10mg/kg of the sum of all listed PAHs. <p>These limits are regarded as kept, if the polycyclic aromatics (PCA) extract is less than 3% by mass, as measured by the Institute of Petroleum standard IP346:1998 (Determination of PCA in unused lubricating base oils and asphaltene free petroleum fractions – Dimethyl</p>
(1) The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).			
(2) Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.			

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3.	Benzo(a)anthracene (BaA) CAS Number 56-55-3		sulphoxide extraction refractive index method), provided that compliance with the limit values of BaP and of the listed PAHs, as well as the correlation of the measured values with the PCA extract, is controlled by the manufacturer or importer every six months or after each major operational change, whichever is earlier.
4.	Chrysen (CHR) CAS Number 218-01-9		
5.	Benzo(b)fluoranthene (BbFA) CAS Number 205-99-2		2. Furthermore, the tyres and treads for retreading manufactured on or after 1st January 2010 may not be placed on the market if they contain extender oils exceeding the limits indicated in paragraph 1.
6.	Benzo(j)fluoranthene (BjFA) CAS Number 207-08-9		These limits are regarded as kept, if the vulcanised rubber compounds do not exceed the limit of 0.35% Bay protons as measured and calculated by ISO 21461 (Rubber vulcanised – Determination of aromaticity of oil in vulcanised rubber compounds).
7.	Benzo(k)fluoranthene (BkFA) CAS Number 207-08-9		
8.	Dibenzo(a,h)anthracene (DBA _h A) CAS Number 53-70-3		3. By way of derogation, paragraph 2 shall not apply to retreaded tyres if their tread does not contain extender oils exceeding the limits indicated in paragraph 1.

- (1) The numbers and chapter numbers contained in the column are those used under [Council Regulation \(EEC\) No. 2658/87](#) on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).
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SCHEDULE 2

Regulation 5(8)

Leaded paints

PART 1

Contents of a relevant declaration

1. The name, address and telephone number of the intended user of the paint.
2. The quantity, trade name and manufacturer of the paint intended to be used.
3. In the case of a listed building, the name, address and owner of the building and, where appropriate, its listing category.
4. In the case of a scheduled monument, the name, location and owner (if known) of the monument.
5. In the case of a listed building or scheduled monument, details of the parts of the building or monument where the paint is to be applied.
6. In the case of a work of art, its name, date, author, location, the name and address of the owner and details of how the paint is intended to be used.
7. The date the declaration is made and the signature and name of the person making it.

PART 2

Contents of a notification

8. The name, address and telephone number of the intended supplier of the paint.
9. A statement that the intended supplier agrees to supply to the intended user paint of the quantity and type stated in the relevant declaration.
10. The date the notification is made and the signature and name of the person making it.

SCHEDULE 3

Regulation 9

Powers of entry, warrants, additional powers and notices

PART 1

Powers of entry and inspection

1. The powers of any authorised person are—
 - (a) to enter at any reasonable time (or, in an emergency, at any time and, if need be, by force) any premises which he has reason to believe it is necessary for him to enter;
 - (b) on entering any premises by virtue of sub-paragraph (a), to take with him—
 - (i) any other person duly authorised by the enforcing authority and, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;

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- (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
 - (c) to make such examination and investigation as may in any circumstances be necessary;
 - (d) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (f) to take samples, or cause samples to be taken, of any articles or substances found in or on any premises which he has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises;
 - (g) in the case of any article or substance found in or on any premises which he has power to enter, being an article or substance which appears to him to be or contain a substance or preparation restricted under regulation 3, to cause it to be dismantled or subjected to any process or test (but not so as to destroy or damage it, unless that is necessary);
 - (h) in the case of any article or substance mentioned in sub-paragraph (g), to take possession of it and detain it for so long as is necessary for all or any of the following purposes—
 - (i) to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which he has power to do under that paragraph;
 - (ii) to ensure that it is not tampered with before examination of it is completed; and
 - (iii) to ensure that it is available for use in any proceedings for an offence under regulation 11;
 - (i) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;
 - (j) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which it is necessary for him to see for the purposes of an examination or investigation under sub-paragraph (c) and to inspect, and take copies of, or of any entry in, the records; and
 - (k) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by Part 1 of this Schedule.
2. Except in an emergency, in any case where it is proposed to enter any premises used for residential purposes, or to take heavy equipment on to any premises which are to be entered, any entry by virtue of paragraph 1 shall only be effected—
- (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question; and
 - (b) either—
 - (i) with the consent of the person who is in occupation of those premises; or
 - (ii) under the authority of a warrant by virtue of Part 2 of this Schedule.

3. Except in an emergency, where an authorised person proposes to enter any premises and—
- (a) entry has been refused and he apprehends on reasonable grounds that the use of force may be necessary to effect entry; or
 - (b) he apprehends on reasonable grounds that entry is likely to be refused and that the use of force may be necessary to effect entry,

any entry on to those premises by virtue of paragraph 1 shall only be effected under the authority of a warrant by virtue of Part 2 of this Schedule.

4. In relation to any premises belonging to or used for the purposes of the United Kingdom Atomic Energy Authority, the powers under paragraph 1 shall have effect subject to section 6(3) of the Atomic Energy Authority Act 1954⁽²²⁾ (which restricts entry to such premises where they have been declared to be prohibited places for the purposes of the Official Secrets Act 1911⁽²³⁾).

5. Where an authorised person proposes to exercise the power conferred by paragraph 1(g) in the case of an article or substance found on any premises, he shall, if so requested by a person who at the time is present on and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person.

6. Before exercising the power conferred by paragraph 1(g) in the case of any article or substance, an authorised person shall consult—

- (a) such persons having duties on the premises where the article or substance is to be dismantled or subject to the process or test; and
- (b) such other persons,

as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do or cause to be done under the power.

7. No answer given by a person in pursuance of a requirement imposed under paragraph 1(i) shall be admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings, or in Scotland against that person in any criminal proceedings.

8. Nothing in paragraph 1 shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the County Court, High Court or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

9. Part 2 of this Schedule shall have effect with respect to the powers of entry and related powers conferred by paragraph 1.

10. In this Part—

“emergency” means a case in which it appears to the authorised person in question—

- (a) that there is an immediate risk of serious pollution of the environment or serious harm to human health; or
- (b) that circumstances exist which are likely to endanger life or health,

and that immediate entry to any premises is necessary to verify the existence of that risk or those circumstances or to ascertain the cause of that risk or those circumstances or to effect a remedy;

“premises” means any land, vehicle, vessel or plant which is designed to move or be moved whether on roads or otherwise.

⁽²²⁾ 1954 c.32.

⁽²³⁾ 1911 c.28.

PART 2

Warrants, evidence and compensation

11. If it is shown to the satisfaction, in England and Wales of a justice of the peace, in Scotland of the sheriff or a justice of the peace, or in Northern Ireland of a lay magistrate, on sworn information in writing—

- (a) that there are relevant grounds for the exercise in relation to any premises of the powers under paragraph 1; and
- (b) that one or more of the conditions specified in paragraph 12 is fulfilled in relation to those premises,

the justice, sheriff or lay magistrate may by warrant authorise an enforcing authority to designate a person who shall be authorised to exercise the power in relation to those premises, in accordance with the warrant and, if need be, by force.

12. The conditions mentioned in paragraph 11 are—

- (a) that the exercise of the power in relation to the premises has been refused;
- (b) that such a refusal is reasonably apprehended;
- (c) that the premises are unoccupied;
- (d) that the occupier is temporarily absent from the premises and the case is one of urgency; or
- (e) that an application for admission to the premises would defeat the object of the proposed entry.

13. In a case where paragraph 2 applies, a justice of the peace, sheriff or lay magistrate shall not issue a warrant under paragraph 11 by virtue only of being satisfied that the exercise of the power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless he is also satisfied that the notice required by that paragraph has been given and that the period of that notice has expired.

14. Every warrant under paragraph 11 shall continue in force until the purposes for which the warrant was issued have been fulfilled.

15. An authorised person shall produce evidence of his authorisation or designation and other authority before he exercises the power.

16. Information obtained in consequence of the exercise of the powers in paragraph 1, with or without the consent of any person, shall be admissible in evidence against that or any other person.

17. Without prejudice to the generality of paragraph 16, information obtained by means of monitoring or other apparatus installed on any premises in the exercise of the powers in paragraph 1, with or without the consent of any person in occupation of the premises, shall be admissible in evidence in any proceedings against that or any other person.

18. A person who, in exercise of the powers in paragraph 1, enters on any premises which are unoccupied or whose occupier is temporarily absent shall leave the premises as effectually secured against trespassers as he found them.

19. Where any person exercises any power conferred by paragraph 1(a) or (b), it shall be the duty of the enforcing authority under whose authorisation he acts to make full compensation to any person who has sustained loss or damage by reason of—

- (a) the exercise of a power under paragraph 1 by the authorised person; or
- (b) the performance of, or failure of the authorised person to perform, the duty imposed under paragraph 18.

20. Compensation shall not be payable by virtue of paragraph 19 in respect of any loss or damage if—

- (a) it is attributable to the default of the person who sustained it; or
- (b) it is loss or damage in respect of which compensation is payable by virtue of any other enactment.

21. Any dispute as to a person's entitlement to compensation under paragraph 19, or as to the amount of any such compensation—

- (a) in England and Wales, shall be referred to the arbitration of a single arbitrator appointed by agreement between the enforcing authority in question and the person who claims to have sustained the loss or damage or, in default of agreement, appointed by the Secretary of State;
- (b) in Scotland, shall be referred to the arbitration of an arbiter, appointed by agreement between the enforcing authority in question and the person who claims to have sustained the loss or damage or, in default of agreement, appointed by the Scottish Ministers; or
- (c) in Northern Ireland, shall be referred to and determined by the Lands Tribunal for Northern Ireland.

22. An authorised person shall not be liable in any civil proceedings for anything done in the purported exercise of the powers under paragraph 1 if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

PART 3

Seizure in cases of imminent danger of serious pollution

23. If an authorised person has entered any premises and has reasonable cause to believe that an article there is a cause of imminent danger of serious pollution of the environment, he may seize it and cause it to be rendered harmless (whether by destruction or otherwise).

24. An authorised person who exercises the power in paragraph 23 shall as soon as possible prepare and sign a written report giving particulars of the circumstances in which the article was seized and so dealt with by him, and shall—

- (a) give a signed copy of the report to a responsible person at the premises where the article was found by him; and
- (b) unless the person is the owner of the article, also serve a signed copy of the report on the owner,

25. If the authorised person cannot after reasonable inquiry ascertain the name or address of the owner, the copy may be served on him by giving it to the person to whom a copy was given under paragraph 24(a).

26. Where the powers under paragraph 23 are exercised, the enforcing authority shall be entitled to recover the costs it reasonably incurs from the person who knowingly caused or permitted the article to become a cause of imminent danger of serious pollution of the environment.

PART 4

Notices

CHAPTER 4

Information notices

27. The enforcing authority may, by a notice served on any person, require that person to furnish such information as is specified in the notice, in such form and within such period following service of the notice or at such time as is so specified.

CHAPTER 5

Enforcement notices

28. If the enforcing authority is of the opinion that a person has contravened, is contravening or is likely to contravene the restriction in regulation 3, the enforcing authority may serve on him an enforcement notice.

29. An enforcement notice shall—

- (a) state that the enforcing authority is of that opinion;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the period within which those steps must be taken.

30. The enforcing authority may withdraw an enforcement notice at any time.

CHAPTER 6

Prohibition notices

31. If the enforcing authority is of the opinion that the activities of a person, in relation to his contravention or likely contravention of the restriction in regulation 3, are such that they involve an imminent danger of serious pollution of the environment, it may serve on him a prohibition notice.

32. A prohibition notice shall—

- (a) state that the enforcing authority is of that opinion;
- (b) specify the danger involved in the activity; and
- (c) specify the steps that must be taken to remove it and the period within which they must be taken.

33. The enforcing authority may withdraw a prohibition notice at any time.

CHAPTER 7

Failure to comply with enforcement or prohibition notices

34. If a person fails to comply with an enforcement notice or prohibition notice, the enforcing authority may do what that person was required to do and may recover from him any expenses reasonably incurred in doing so.

SCHEDULE 4

Regulation 18

Revocations

PART 1

Regulations that extend to the United Kingdom

<i>Statutory Instrument Number</i>	<i>Citation</i>
S.I. 1987/783	The Control of Pollution (Anti-Fouling Paints and Treatments) Regulations 1987

PART 2

Regulations that extend to England and Wales and Scotland

<i>Statutory Instrument Number</i>	<i>Citation</i>
S.I. 1992/31	The Environmental Protection (Controls on Injurious Substances) Regulations 1992
S.I. 1992/1583	The Environmental Protection (Controls on Injurious Substances) (No.2) Regulations 1992
S.I. 1993/1	The Environmental Protection (Controls on Injurious Substances) Regulations 1993
S.I. 1993/1643	The Environmental Protection (Controls on Injurious Substances) (No.2) Regulations 1993
S.I. 2001/3141	The Environmental Protection (Controls on Injurious Substances) (Amendment) Regulations 2001
S.I. 2003/3274	The Environmental Protection (Controls on Dangerous Substances) Regulations 2003
S.I. 2004/1816	The Controls on Nonylphenol and Nonylphenol Ethoxylate Regulations 2004
S.I. 2004/3278	The Controls on Pentabromodiphenyl Ether and Octobromophenyl Ether (No.2) Regulations 2004

PART 3

Statutory Rules of Northern Ireland

<i>Statutory Rule Number</i>	<i>Citation</i>
S.R. 1994 No.223	The Marketing and Use of Dangerous Substances (No.2) Regulations (Northern Ireland) 1994

Status: This is the original version (as it was originally made).

<i>Statutory Rule Number</i>	<i>Citation</i>
S.R. 1994 No.224	The Marketing and Use of Dangerous Substances (No.3) Regulations (Northern Ireland) 1994
S.R. 2003 No.105	The Marketing and Use of Dangerous Substances Regulations (Northern Ireland) 2003
S.R. 2003 No.106	The Marketing and Use of Dangerous Substances (No.2) Regulations (Northern Ireland) 2003
S.R. 2003 No.165	The Marketing and Use of Dangerous Substances (No.3) Regulations (Northern Ireland) 2003
S.R. 2003 No.548	The Marketing and Use of Dangerous Substances (No.4) Regulations (Northern Ireland) 2003
S.R. 2004 No.302	The Marketing and Use of Dangerous Substances (No.3) Regulations (Northern Ireland) 2004
S.R. 2004 No.509	The Marketing and Use of Dangerous Substances (No.4) Regulations (Northern Ireland) 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to restrictions on the marketing and use of certain of the dangerous substances and preparations set out in Council Directive [76/769/EEC](#) on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (OJ L262, 27.9.1976, p.201), as amended.

Regulation 3 restricts the marketing and use of dangerous substances and preparations, subject to various exemptions in regulations 4 to 7.

Regulation 8 provides that the enforcement authorities shall enforce the restriction in regulation 3. The enforcement authorities are given in regulation 2 and are in respect of—

- (a) England and Wales, the Environment Agency;
- (b) Scotland, the Scottish Environment Protection Agency;
- (c) Northern Ireland, the Department of the Environment.

Regulation 9 provides that the enforcement authorities shall have the powers in Schedule 3 and may appoint persons to act on their behalf in respect of enforcement.

Regulation 10 provides for the enforcement authorities to bring civil proceedings instead of proceedings for offences where the latter would afford an ineffectual remedy.

Regulation 11 sets out offences in relation to the contravention of regulation 3 and regulation 12 sets out the penalties in respect of those offences.

Regulation 13 sets out offences in relation to regulation 9 (powers of the enforcing authority and authorisation) and Schedule 3 (powers of entry, warrants, additional powers and notices) and regulation 14 sets out the penalties in respect of those offences.

Regulation 16 provides for powers of a court to order a person to remedy matters where that person has been convicted of an offence under these Regulations.

Under regulation 17, a person may appeal against an enforcement notice or prohibition notice served under Schedule 3.

Regulation 18 and Schedule 4 provide for revocations and savings.

Schedule 1 sets out a list of substances and preparations restricted under these Regulations.

Schedule 2 sets out information that must be provided in relation to the use of leaded paint where this use is permitted under regulation 5.

Schedule 3 sets out the powers of enforcement authorities.

A full Regulatory Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector, and a transposition note, are available from the Chemicals and Nanotechnology Division, Department for Environment, Food and Rural Affairs, 123 Victoria Street, London SW1E 6DE. Copies have been placed in the library of each House of Parliament.