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STATUTORY RULES OF NORTHERN IRELAND

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**2002 No. 301**

**Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002**

**PART III**

**MISCELLANEOUS**

**Exemption certificates**

**13.**—(1) Subject to paragraph (2), and to any of the provisions imposed by the Community in respect of the free movement of dangerous substances and preparations, the Executive may by a certificate in writing exempt –

- (a) any person or class of persons;
- (b) any substance or preparation; or
- (c) any class of such substances or preparations,

from all or any of the requirements of, or prohibitions imposed by, these Regulations.

(2) An exemption granted under paragraph (1) may be granted subject to conditions and to a limit of time and may be revoked by the Executive at any time by a certificate in writing.

(3) The Executive shall not grant an exemption pursuant to paragraph (1) unless, having regard to the circumstances of the case, and in particular to –

- (a) any conditions which it proposes to attach to the exemption; and
- (b) any requirements imposed by or under any enactments which apply to the case,

it is satisfied that neither the health nor the safety of persons who are likely to be affected by the exemption will be prejudiced in consequence of it.

**Enforcement**

**14.**—(1) To the extent that they would not otherwise do so, Articles –

- (a) 18 to 28 (approval of codes of practice and enforcement);
- (b) 31 to 39 (provisions as to offences); and
- (c) 43(2),

of the 1978 Order shall apply to these Regulations as if they were health and safety Regulations for the purposes of that Order.

(2) Notwithstanding regulation 4 of the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999<sup>(1)</sup> and subject to paragraphs (3) and (4), the enforcing authority for these Regulations shall be the Executive.

(3) Subject to paragraph (4), where a dangerous substance or a dangerous preparation is supplied in or from premises which are registered under section 75 of the Medicines Act 1968(2), the enforcing authority for these Regulations shall be the Department of Health, Social Services and Public Safety.

(4) The enforcing authority for these Regulations shall be the district council for the area in which are situated the premises in or from which such substance or preparation dangerous for supply is supplied –

- (a) where a dangerous substance or a dangerous preparation is supplied other than in the circumstances referred to in paragraph (3), –
  - (i) in or from any shop, mobile vehicle, market stall or other retail outlet, or
  - (ii) otherwise to members of the public, including by way of free sample, prize or mail order; and
- (b) for regulations 6 and 11.

(5) In every case where, by virtue of this regulation, these Regulations are enforced by the Department of Health, Social Services and Public Safety or by a district council they shall be enforced as if they were safety regulations made under section 11 of the Consumer Protection Act 1987(3) and the provisions of section 12 of that Act shall apply to these Regulations as if they were safety regulations and as if the maximum period of imprisonment on summary conviction specified in subsection (5) thereof were 3 months instead of 6 months.

## Defence

15. In any proceedings for an offence for a contravention of any of the provisions of these Regulations, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

## Transitional provisions

16.—(1) Until 21st November 2002 it shall be sufficient compliance with the requirements of these Regulations if the requirements of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995(4) are complied with as in operation immediately before these Regulations came into operation.

(2) In respect of a preparation which is a biocidal product within the meaning of the Biocidal Products Regulations (Northern Ireland) 2001(5), until 30th July 2004 it shall be sufficient compliance with the requirements of these Regulations if the requirements of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995 are complied with as in operation immediately before these Regulations came into operation.

- (3) These Regulations shall not apply to a preparation which is –
  - (a) an approved plant protection product under the Plant Protection Products Regulations (Northern Ireland) 1995; or
  - (b) an approved biocidal product under the Biocidal Products Regulations (Northern Ireland) 2001,

until 30th July 2004.

- (4) These Regulations shall not apply to a preparation which is –

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(2) 1968 c. 67; section 75(8) was amended by S.I.1968/1699

(3) 1987 c. 43; section 11(7)(c) is amended by section 16(1) of, and paragraph 15 of Schedule 4 to, the Gas Act 1995

(4) S.R. 1995 No. 60, as amended by S.R. 1996 No. 376, S.R. 1997 No. 247, S.R. 1997 No. 398, S.R. 1998 No. 459, S.R. 1999 No. 150, S.R. 1999 No. 303 and S.R. 2001 No. 168

(5) S.R. 2001 No. 422

(a) a biocidal product within the meaning of the Biocidal Products Regulations (Northern Ireland) 2001; or

(b) a plant protection product,

and which is an approved product under the Control of Pesticides Regulations (Northern Ireland) 1987<sup>(6)</sup> until 30th July 2004.

(5) In this regulation, “biocidal product” does not include a biocidal product which is a basic substance as defined in article 2 of Directive 98/8(7) of the European Parliament and the Council concerning the placing of biocidal products on the market.

### **Application within the territorial sea**

17. Within the territorial sea these Regulations shall apply only to and in relation to the premises and activities to which any of paragraphs 2 to 6 of Schedule 7 applies.

### **Revocations and modifications**

18.—(1) The Regulations specified in column 1 of Schedule 8 shall be revoked to the extent specified in the corresponding entry in column 3 of that Schedule.

(2) In the CDGCPL Regulations –

(a) in regulation 2(1) for the definition of “the supply Regulations” there shall be substituted the following definition –

““the supply Regulations” means the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 302);”;

(b) for regulations 9 and 10 there shall be substituted the following regulations –

#### **“Derogations from regulation 8 of the supply Regulations and regulation 8 of these Regulations**

9.—(1) Where a package would otherwise be required to show the particulars required by both regulation 8 of the supply Regulations and regulation 8 of these Regulations, it shall be sufficient compliance with both of those regulations if the package shows in accordance with regulation 11 the particulars specified in the following paragraphs of this regulation.

(2) Where the package consists of only a single receptacle, the specified particulars are the particulars required by paragraph (2)(a), (b), (c)(ii), (iii) and (iv) (or paragraph (3) (a), (b), (c)(i), (ii), (iv) and (v) in the case of preparations) of regulation 8 of the supply Regulations and paragraph (2)(b), (c) and (d) of regulation 8 of these Regulations.

(3) Where the package consists of one or more receptacles in outer packagings, the specified particulars are either the particulars required by paragraph (2) or the particulars required by regulation 8.

(4) Where, to facilitate handling, a package consists of two or more smaller packages held together in such a way that the labels on those smaller packages can be clearly seen, then it shall be sufficient compliance with paragraph (3) if those smaller packages are labelled in accordance with that paragraph.

(5) In this regulation “preparations” and “indication of danger” have the same meaning as in the supply Regulations.

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<sup>(6)</sup> S.R. 1987 No. 414, to which there are amendments not relevant to these Regulations

<sup>(7)</sup> O.J. No. L123, 24.4.98, p. 1

### **Derogations from regulation 8 of the supply Regulations**

**10.**—(1) Where a package is required to show the particulars required by regulation 8 of the supply Regulations, but is excepted from showing the particulars required by regulation 8 of these Regulations because it shows the particulars required by any of the transport rules specified in regulation 3(1)(a) to (f), it shall be sufficient compliance with regulation 8 of the supply Regulations if the package shows the particulars specified in the following paragraphs of this regulation.

(2) Where the package consists of only a single receptacle, the specified particulars are –

(a) the particulars required by whichever of the transport rules is appropriate; and

(b) the particulars required by paragraph (2)(a), (b), (c)(ii), (iii) and (iv) (or paragraph (3)(a), (b), (c)(i), (iii), (iv) and (v)) of regulation 8 of the supply Regulations in accordance with regulation 11.

(3) Where the package consists of one or more receptacles in outer packagings, the specified particulars are those required by whichever of the transport rules is appropriate.

(4) In this regulation “indication of danger” has the same meaning as in the supply Regulations.”; and

(c) in paragraph (5) of regulation 11, for the words “regulation 9 of the supply Regulations” there shall be substituted “regulation 8 of the supply Regulations”.