

**2003 No. 105**

**EUROPEAN COMMUNITIES**

**PUBLIC HEALTH**

**The Marketing and Use of Dangerous Substances  
Regulations (Northern Ireland) 2003**

*Made - - - - - 27th February 2003*

*Coming into operation 10th April 2003*

The Department of the Environment, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to restrictions on the marketing and use of certain dangerous substances and preparations, in exercise of the powers conferred on it by that section and of every other power enabling it in that behalf, hereby makes the following Regulations:

**Citation and commencement**

**1.** These Regulations may be cited as the Marketing and Use of Dangerous Substances Regulations (Northern Ireland) 2003 and shall come into operation on 10th April 2003.

**Interpretation**

**2.—(1)** In these Regulations –

“CAS Number” means a number described in the CAS Registry Handbook, ISSN 0093-058X, published in instalments from 1965 to 1971 with supplements for 1972 to 1976, 1977 to 1981, 1982 to 1986, 1987 to 1991, 1992 to 1996, and single year supplements from 1997 to 2002 by the Chemical Abstracts Service, American Chemical Society, Columbus, Ohio, USA;

“the Department” means the Department of the Environment;

“the Directive” means Council Directive 76/769/EEC(c) as amended by Council Directive 91/173/EEC(d) and Commission Directive 99/51/EC(e);

“HCDD” means all the isomers of hexachlorodibenzoparadioxin;

“industrial installation” means an industrial installation not emitting or discharging PCP in quantities greater than those prescribed by existing legislation;

“PCP” means pentachlorophenol CAS Number 87-86-5 and its salts and esters; and

“preparations” and “substances” have the meanings assigned by Article 1.3 of Council Directive 76/769/EEC.

---

(a) S.I. 1992/1711

(b) 1972 c. 68

(c) O.J. No. L262, 27.9.76, p. 201

(d) O.J. No. L85, 5.4.91, p. 34

(e) O.J. No. L142, 5.6.99, p. 22

(2) The Interpretation Act (Northern Ireland) 1954<sup>(a)</sup> shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

### Exceptions

3. Regulations 4 to 6 shall not apply to –
- (a) the carriage of PCP or any substances or preparations containing PCP, by rail, road, inland waterway, sea or air, or
  - (b) the export of PCP or any substances or preparations containing PCP, to a destination in the territory of a state which is not a Member State, or
  - (c) the holding of PCP or any substances or preparations containing PCP, in transit, provided that during that time the said PCP, substances or preparations undergo no processing and are available for examination by customs officers of the United Kingdom, or
  - (d) the placing on the market of PCP, or any substances or preparations containing PCP, approved for sale or supply in accordance with the Directive under regulation 5(1) of the Control of Pesticides Regulations (Northern Ireland) 1987<sup>(b)</sup>, or
  - (e) the use of PCP, or any substances or preparations containing PCP, approved for use in accordance with the Directive under regulation 5(1) of the Control of Pesticides Regulations (Northern Ireland) 1987.

### Placing PCP on the market

4.—(1) Subject to paragraph (2), a person shall not place on the market, other than for research and development or analysis purposes, any substance containing PCP, in a concentration equal to or greater than 0.1 per cent by mass.

(2) Until 31st December 2008, paragraph (1) shall not apply to the placing on the market of PCP, either alone or as a component of preparations, which has a total HCDD content below 2 parts per million and which –

- (a) is intended solely for use in industrial installations –
  - (i) for the treatment of wood, or
  - (ii) for the impregnation of fibres and heavy duty textiles not intended for clothing or for decorative furnishings;
- (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 for sale to the general public; and
- (d) is not waste to which Council Directive 75/442/EEC<sup>(c)</sup> or Council Directive 91/689/EEC<sup>(d)</sup> applies.

### Using PCP

5.—(1) Subject to paragraph (2), a person shall not use, other than for research and development or analysis purposes, any substance containing PCP, in a concentration equal to or greater than 0.1 per cent by mass.

(2) Until 31st December 2008, paragraph (1) shall not apply to the use of any substance containing PCP which has a total HCDD content below 2 parts per million, in industrial installations for the impregnation of fibres and heavy duty textiles not intended for clothing or for decorative furnishings.

### Using wood treated with PCP

6. A person shall not –
- (a) use wood treated with PCP inside buildings, whether for decorative purposes or not and whatever the purpose of the buildings; or

---

(a) 1954 c. 33 (N.I.)

(b) S.R. 1987 No. 414 as amended by S.R. 1997 No. 469

(c) O.J. No. L194, 25.7. 1975, p. 39 as amended by O.J. No. L78, 26.3.1991, p. 32

(d) O.J. No. L377, 31.12.1991, p. 20

- (b) use wood treated with PCP for the manufacture of –
  - (i) containers intended for growing products for human or animal consumption, or
  - (ii) packaging or other materials which may come into contact with or contaminate raw, intermediate or finished products intended for human and/or animal consumption,or for the re-treatment of such containers, packaging or other materials.

**Offences and penalties**

- 7. A person guilty of an offence under regulation 4, 5 or 6 shall be liable –
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or a term of imprisonment not exceeding 2 years, or both.

Sealed with the Official Seal of the Department of the Environment on 27th February 2003.

(L.S.)

*Judena Goldring*

A senior officer of the Department of the Environment

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations implement, in part, Commission Directive 99/51/EC (O.J. No. L142, 5.6.99, p. 22) which adapts to technical progress for the fifth time Annex 1 to Council Directive 76/769/EEC (O.J. No. L262, 27.9.76, p. 201), on the approximation of the laws, regulations and administration provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations.

Regulation 3 sets out certain exceptions to the Regulations.

Regulation 4 prohibits the placing on the market of any substance containing PCP. There is a derogation for the placing on the market of PCP under certain conditions for specific purposes, until 31st December 2008.

Regulation 5 prohibits the use of PCP. There is a derogation for the use of PCP for certain purposes, with conditions, until 31st December 2008.

Regulation 6 prohibits the use of wood treated with PCP inside buildings or for the manufacture of certain containers, packaging and other materials.

Regulation 7 makes it a criminal offence to contravene regulations 4, 5 or 6, and specifies the penalties for such offences.

Copies of the Directives may be obtained from The Stationery Office Bookshop, 16 Arthur Street, Belfast BT1 4GD.

Information on pentachlorophenol can be obtained from the CAS Registry Handbook may be inspected on-line at the Royal Society of Chemistry, Burlington House, Piccadilly, London W1J 0BA.

© Crown Copyright 2003

Published and printed in the UK by The  
Stationery Office Limited  
under the authority and  
superintendence of Carol  
Tullo, Controller of  
Her Majesty's Stationery  
Office being the Government  
Printer for Northern Ireland and  
the Officer appointed to print the  
Acts of the Northern Ireland Assembly  
Dd. N830. C3. 3/03. Gp. 130. 14567.  
£1.75

ISBN 0-337-94932-8



9 780337 949326