

1978 No. 564

**PUBLIC HEALTH, ENGLAND AND WALES**  
**PUBLIC HEALTH, SCOTLAND**  
**PUBLIC HEALTH, NORTHERN IRELAND**  
**The Detergents (Composition) Regulations 1978**

<i>Made - - - -</i>	<i>11th April 1978</i>
<i>Laid before Parliament</i>	<i>24th April 1978</i>
<i>Coming into Operation</i>	<i>1st January 1979</i>

The Secretary of State for the Environment, as respects England, the Secretary of State for Wales, as respects Wales, the Secretary of State for Scotland, as respects Scotland, and the Secretary of State for Northern Ireland, as respects Northern Ireland, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972(a) and by the European Communities (Designation) Order 1972(b), hereby make the following regulations:—

*Citation, commencement and extent*

1.—(1) These regulations may be cited as the Detergents (Composition) Regulations 1978 and shall come into operation on 1st January 1979.

(2) These regulations shall apply to the United Kingdom.

(3) In the application of these regulations to Northern Ireland any reference to the Secretary of State shall have effect as if it were a reference to the Department of the Environment for Northern Ireland.

*Interpretation*

2.—(1) In these regulations, unless the context otherwise requires—

“approved analyst” means the Government Chemist or the Director of the Water Research Centre;

“the confirmatory test procedure” means a test carried out in accordance with that part of the OECD method which is referred to as “Confirmatory test procedure” in Council Directive No. 73/405/EEC(c) on methods of testing anionic surface active agents, and is set out in full in the Annex to that Directive;

“detergent” means a substance, other than soap, which contains one or more surface active agents and which is used, or intended to be used, for the purpose of cleaning articles, surfaces or other things, and where any question arises whether a substance is a detergent for the purposes of these regulations, regard shall be had to the definition of “detergent” in Council Directive No. 73/404/EEC(d) on the approximation of laws relating to detergents;

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(a) 1972 c. 68.

(b) S.I. 1972/1811.

(c) O.J. No. L347, 17.12.1973, pp. 53-63.

(d) O.J. No. L347, 17.12.1973, pp. 51 and 52.

and “contravening detergent” has the meaning assigned to it in regulation 3(1);

“entitled person” has the meaning assigned to it in regulation 4(8);

“level of biodegradability”, in relation to a surface active agent, means the figure which represents the degree to which that surface active agent is capable of being eliminated under laboratory conditions, being a figure ascertained by a test carried out in accordance with the confirmatory test procedure and expressed as a percentage in the manner set out in that procedure;

“the OECD method” means the method of testing referred to as “the OECD method” in Council Directive No. 73/405/EEC;

“premises” includes land;

“sample” includes a part of a sample;

“sampling officer” has the meaning assigned to it in regulation 4(1);

“the screening test procedure” means a test carried out in accordance with that part of the OECD method which is referred to therein as “Screening test procedure”;

“substance” includes a preparation;

“surface active agent” includes any chemical compound which in dilute aqueous solution wets surfaces, removes dirt, disperses solid particles and emulsifies oil and grease;

“use” has the meaning assigned to it in regulation 3(1).

(2) A reference in these regulations to a numbered regulation is a reference to the regulation so numbered in these regulations.

(3) The Interpretation Act 1889(a) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

*Prohibition of sale or use of certain detergents*

3.—(1) In these regulations “contravening detergent” means a detergent containing a surface active agent which—

(a) is an anionic surface active agent, and

(b) has a level of biodegradability which is less than 80 per cent;  
and “use” means use for the purpose of washing or cleaning any fabric, utensil, surface, or other thing.

(2) Subject to paragraph (3) below, no person shall—

(a) on or after 1st January 1979 use in the United Kingdom, or sell for use in the United Kingdom, any contravening detergent which he has manufactured in, or imported into, or caused to be imported into, the United Kingdom;

(b) on or after 1st January 1981 use any contravening detergent in the United Kingdom, or sell any such detergent for use in the United Kingdom.

(3) The preceding paragraph shall not apply to the sale or use of a contravening detergent by a person who does not know, and has no reasonable cause to believe, that it is a contravening detergent.

*Power to enter and take samples*

4.—(1) Subject to the provisions of this regulation and of regulation 5, any person authorised in writing in that behalf by the Secretary of State (in these regulations referred to as “a sampling officer”) may at any reasonable time—

- (a) enter any factory, warehouse, dock, airport, shop or other premises for the purpose of determining whether any provision of these regulations is being contravened;
- (b) examine any substance in or on the premises which appears to him to be a detergent;
- (c) take samples of any detergent in or on the premises which in his reasonable opinion is being used, or is intended for sale by retail in the United Kingdom, or is intended to be used in the United Kingdom.

(2) This regulation shall not apply to premises in so far as they consist of a private dwelling.

(3) Any sample so taken—

- (a) shall be of not less than 900 grammes in weight, excluding materials used for purposes of packing only;
- (b) may be taken from any package, store or consignment, or may comprise one or more packages.

(4) As soon as possible after taking a sample, the sampling officer shall divide it into three parts and mark and seal or fasten up each part in such manner as its nature permits.

(5) Where any sample comprises two or more packages, the sampling officer—

- (a) shall ensure, as far as is reasonably practicable, that the packages are similar in origin and content, and
- (b) shall thoroughly mix their contents before he divides the sample in compliance with paragraph (4) above.

(6) After he has divided the sample, the sampling officer shall supply one part of the sample to the person specified in column (2) of the following table in relation to the type of detergent concerned, as specified in column (1) thereof:—

TABLE

Type of detergent (1)	Person to whom part of sample is to be supplied (2)
Detergent in transit from outside the United Kingdom and not yet delivered to the consignee	The consignee
Detergent in transit, having been consigned from a point within the United Kingdom	The consignor
Detergent not in transit	The owner or, if the owner consents, the person whose name and address are marked or shown in relation to the detergent in accordance with regulation 9(1)(b) or 9(2)

- (7) Of the remaining parts, the sampling officer shall—
- (a) submit one part for analysis to an approved analyst, and
  - (b) retain the other part for production, if required, in pursuance of regulation 8.

(8) In these regulations “entitled person”, in relation to a part of a sample supplied to a person by a sampling officer in pursuance of this regulation, means the person to whom that part is so supplied.

*Provisions supplementary to regulation 4*

5.—(1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing or, in Scotland, if it is shown to the satisfaction of a sheriff, magistrate or justice of the peace on evidence on oath—

- (a) that admission to any premises which a person is entitled to enter in pursuance of regulation 4 has been refused to that person, or that refusal is apprehended, or that the premises are unoccupied, or that the occupier is temporarily absent, or that an application for admission would defeat the object of the entry; and
- (b) that there is reasonable ground for entry to the premises for the purpose for which entry is required,

then, subject to the provisions of this regulation, the justice, sheriff or magistrate may by warrant under his hand authorise that person to enter the premises, if need be by force.

(2) A justice of the peace, sheriff or magistrate shall not issue a warrant in pursuance of the preceding paragraph in respect of any premises unless he is satisfied—

- (a) that admission to the premises in pursuance of regulation 4 was sought after not less than seven days notice of the intended entry had been served on the occupier; or
- (b) that the premises are unoccupied; or
- (c) that an application for admission to the premises would defeat the object of the entry.

(3) A warrant issued in pursuance of this regulation shall continue in force until the purpose for which the entry is required has been satisfied.

(4) A person authorised to enter any premises in pursuance of regulation 4 or this regulation shall, if so required, produce evidence of his authority before he enters the premises, or at any time while he is on the premises.

(5) A person who, in the exercise of powers conferred on him by virtue of regulation 4 or this regulation, enters any premises which are unoccupied, or of which the occupier is temporarily absent, shall leave the premises as effectively secured against unauthorised entry as he found them.

(6) It shall be the duty of the Secretary of State to make full compensation to any person who has sustained damage by reason of—

- (a) the exercise by a sampling officer of any powers conferred on him by virtue of regulation 4 or this regulation; or
- (b) the failure of a sampling officer to perform any duty imposed on him by paragraph (5) above,

except where the damage is attributable to the default of the person who sustained it; and any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of any such compensation, shall be deter-

mined by arbitration and, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

(7) A person who wilfully obstructs another person acting in the exercise of any powers conferred on the other person by virtue of regulation 4 or this regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

*Analysis of sample*

6.—(1) Where an approved analyst receives from a sampling officer a part of a sample submitted in pursuance of paragraph (7) of regulation 4, he shall analyse it first by the screening test procedure and then, subject to paragraph (2) below, by the confirmatory test procedure, or cause it to be so analysed by some other person under his direction, and shall send to the sampling officer a certificate recording the result of the analysis and in particular specifying—

- (a) whether the detergent contains a surface active agent which is an anionic surface active agent, and, if so,
- (b) the level of biodegradability of that surface active agent.

(2) In any case where—

- (a) an approved analyst has carried out, or caused to be carried out, as aforesaid, the screening test procedure in relation to a sample submitted to him under regulation 4, and
- (b) it appears to him or to the person carrying out the analysis under his direction, as the case may be, that the sample does not contain an anionic surface active agent, or that the level of biodegradability of an anionic surface active agent contained therein is, or will be found to be, not less than 80 per cent,

he shall send to the sampling officer a report to that effect (in this regulation referred to as “a screening report”), and shall not perform or authorise the analysis of the sample by the confirmatory test procedure unless and until the sampling officer authorises him to do so.

(3) The sampling officer shall forward to the Secretary of State—

- (a) any certificate received in pursuance of paragraph (1) above, or
- (b) in a case where, having regard to a screening report received by him under paragraph (2) above, he does not authorise the approved analyst to analyse the sample in question by the confirmatory test procedure, that screening report.

(4) When the Secretary of State receives from a sampling officer a certificate, or a screening report, as the case may be, relating to a sample taken in pursuance of these regulations, he shall forthwith furnish a copy of it to the entitled person.

(5) Any certificate or report issued under this regulation shall be signed by the person who issues it.

(6) Any entitled person, or any defendant or, in Scotland, any accused in any proceedings for an offence under these regulations, may at his own expense submit to any approved analyst for analysis the part of the sample in his possession, with a request for a certificate in accordance with paragraph (1) above, or a report in accordance with paragraph (2) above, or both, as may be appropriate, and on receipt of any such sample and request the approved analyst shall comply with the request.

*Evidence and procedure*

7.—(1) The provisions of this regulation shall have effect for the purpose of any proceedings for an offence under these regulations.

(2) A document produced by a party to the proceedings and purporting to be a certificate or a report issued under regulation 6 shall be sufficient evidence of the facts stated in the document, unless the other party requires that the person who issued the document shall be called as a witness.

(3) A document produced by one party which has been supplied to him by the other party as being a copy of such a certificate or report shall be sufficient evidence of the facts stated in the document.

(4) A defendant or, in Scotland, an accused shall give the prosecutor 3 days notice in writing of his intention to produce a certificate or report, or of his requiring that the person who issued the certificate or report shall be called as a witness.

(5) Where a defendant or, in Scotland, an accused satisfies the court that the adjournment of the court is reasonably required to enable him to arrange for the analysis of a sample, or to allow time for the completion of such an analysis, it shall grant such an adjournment.

*Analysis under direction of court*

8.—(1) In any proceedings for an offence under these regulations where the proceedings relate to a substance of which a sample has been taken under regulation 4, the part of the sample retained by the sampling officer in pursuance of paragraph (7) of that regulation shall be produced as evidence by the prosecutor, and the court may, if it thinks fit, and upon the request of either party shall, cause that part to be sent for analysis to an approved analyst.

(2) In any such case, the approved analyst shall analyse the sample, or cause it to be so analysed by some other person under his direction, and thereafter the provisions of paragraphs (1), (2) and (5) of regulation 6 shall have effect in respect of that analysis and of the issuing and sending of any certificate or screening report in relation thereto as if any reference in those provisions to the sampling officer were a reference to the court.

(3) Any such certificate or screening report shall be sufficient evidence of the facts stated in it unless any party to the proceedings requires that the person who issued it shall be called as a witness.

(4) The costs of the analysis shall be paid by the prosecutor or the defendant or, in Scotland, the accused as the court may order.

*Labelling and documentation of detergents*

9.—(1) As from 1st January 1981, any person offering or supplying in the United Kingdom, by way of sale, or with a view to sale in the United Kingdom, a container or package containing a detergent shall ensure that the container or package is clearly marked with the following particulars:—

- (a) a general description of the nature of the contents, expressed in one of the following forms, as may be most appropriate, that is to say—
  - (i) “washing powder”, or
  - (ii) “liquid detergent”, or
  - (iii) a brief description of a similar kind, and
- (b) the name and address of the seller (whether by retail or otherwise) or of the manufacturer of the detergent or, if the detergent was manufactured outside, and imported into, the United Kingdom, of the consignee or the person first offering or supplying it as aforesaid after its importation into the United Kingdom.

(2) Any person consigning any quantity of detergent to a destination in the United Kingdom otherwise than in a container or package marked in compliance with paragraph (1) above, shall ensure that the documents accompanying the consignment include—

- (a) a statement of the particulars specified in paragraph (1) above, or
- (b) where it is proposed that the detergent shall not be used in the United Kingdom, a statement that it is so proposed.

*Offences and penalties*

10.—(1) Any person who sells or uses any contravening detergent contrary to regulation 3 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine.

(2) Any person who fails to comply with regulation 9 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

(3) Proceedings for an offence under paragraph (1) or (2) above shall not in England and Wales be instituted except by the Secretary of State, or with his consent, or by the Director of Public Prosecutions.

(4) Where an offence under these regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (4) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

*Contravention due to fault of other person*

11.—(1) Where a contravention by any person of any provision of these regulations constitutes an offence by virtue of regulation 10, and is due to an act or default of another person, that other person shall be guilty of the offence; and a person may be charged with and convicted of an offence by virtue of this paragraph whether or not proceedings for the offence are taken against any other person.

(2) In any proceedings for an offence under regulation 10 it shall be a defence for the accused person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

22nd March 1978

*Peter Shore,*  
Secretary of State for the Environment.

3rd April 1978 *John Morris,*  
Secretary of State for Wales.

21st March 1978 *Bruce Millan,*  
Secretary of State for Scotland.

11th April 1978 *Roy Mason,*  
Secretary of State for Northern Ireland.

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#### EXPLANATORY NOTE

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

These Regulations give effect to certain provisions of Community Legislation, namely Council Directives 73/404/EEC and 73/405/EEC, which relate to the biodegradability of surface active agents ("surfactants") in detergents, and particularly to surface active agents which are anionic. They come into effect throughout the United Kingdom on 1st January 1979.

The Regulations provide for tests to be carried out for the purposes of the Regulations by the method referred to in the Directives as "the OECD method" (Regulation 2). They prohibit the sale or use in the United Kingdom of detergents containing an anionic surface active agent of which the level of biodegradability ascertained by that method is less than 80 per cent (Regulations 3 and 10), and prescribe a procedure which may be followed when a contravention of the regulations may be due to the act of some person other than the person originally charged (Regulation 11).

Provision is made for the taking of samples (Regulations 4 and 5), the analysis of samples (Regulation 6), the giving of evidence as to the results of analysis (Regulation 7) and the carrying out of analysis under the direction of the court (Regulation 8).

Regulation 9 prescribes particulars which are to be marked on certain containers and packages containing detergents from 1st January 1981.

Full details of "the OECD method", comprising the two methods referred to in the Regulations as "the screening test procedure" and "the confirmatory test procedure", are set out in "Pollution by Detergents: Determination of the Biodegradability of Anionic Synthetic Surface Active Agents. Report submitted by the Expert Group on Biodegradability of Synthetic Detergents" (Paris: Organisation for Economic Co-operation and Development, 1971), copies of which may be obtained from the Department of the Environment (Directorate of Water), 2 Marsham Street, Westminster, London, SW1P 3EB.





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