EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to European Parliament and Council Directive 2003/11/EC on pentabromodiphenyl ether and octabromodiphenyl ether ("the restricted substances"). This Directive makes amendments to 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. These Regulations extend to Great Britain and come into force on 15th August 2004.

Regulation 3 sets out exclusions from the scope of the Regulations.

Regulation 4(1)(a) prohibits the placing on the market of either of the restricted substances as a substance or as a constituent of substances or of preparations in concentrations higher than 0.1% by mass. Regulation 4(1)(b) prohibits the placing on the market of any articles which contain either of the restricted substances in concentrations higher than 0.1% by mass. Regulation 4(1)(c) prohibits the placing on the market of any articles which include any flame retardant parts which contain either of the restricted substances in concentrations higher than 0.1% by mass. The use of the restricted substances in concentrations higher than 0.1% by mass is also prohibited (regulation 4(2)).

Regulation 5 makes it an offence to contravene regulation 4 (regulation 5(1)) and specifies the maximum penalties for such an offence (regulation 5(2)). It also provides that where an offence is committed by a body corporate or a Scottish partnership, specified individuals may also be guilty of that offence if it were committed with that person's consent or connivance, or as a result of their neglect (regulation 5(3)-(6)).

A Regulatory Impact Assessment and a Transposition Note in relation to these Regulations have been prepared and placed in the library of each House of Parliament. Copies of either of these documents can be obtained from Defra, Chemicals and GM Policy Division, Ashdown House, 123 Victoria Street, London SW1E 6DE.