

## STATUTORY INSTRUMENTS

# 2008 No. 2852

## The REACH Enforcement Regulations 2008

### PART 1 U.K.

#### Introduction

#### Citation and commencement U.K.

1. These Regulations may be cited as the REACH Enforcement Regulations 2008 and come into force on 1st December 2008.

#### [<sup>F1</sup>Application E+W+S

1A. These Regulations apply to—

- (a) England and Wales and Scotland; and
- (b) offshore installations in relevant waters, other than such waters within the seaward limits of the territorial sea adjacent to Northern Ireland.]

#### Textual Amendments

**F1** Reg. 1A inserted (E.W.S) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 1A** (as inserted by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(b), **10(6)**); 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(1)

#### [<sup>F44</sup>Application N.I.

1A. These Regulations apply to Northern Ireland, including offshore installations in relevant waters within the seaward limits of the territorial sea adjacent to Northern Ireland.]

#### Textual Amendments

**F44** Reg. 1A inserted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(1)**

#### Interpretation E+W+S

2.—(1) In these Regulations—

“a listed REACH provision” means a provision of REACH listed in [<sup>F2</sup>a REACH table];

[<sup>F3</sup>“REACH” means Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals as amended from time to time;]

[<sup>F4</sup>“a REACH table” means—

- (a) the table in Schedule 1 to these Regulations,
- (b) the table in Schedule 1A to these Regulations, or
- (c) the table in Schedule 1B to these Regulations;

“the relevant REACH table” means—

- (a) in relation to a listed REACH provision, the REACH table in which that REACH provision is listed;
- (b) in relation to an enforcement duty, the REACH table under which that enforcement duty arises.]

(2) In these Regulations—

[<sup>F5</sup>“asbestos-containing article” means an article in its entirety containing any of the asbestos fibres listed at point 6 of Annex XVII to REACH;

“asbestos exemption certificate” has the meaning given in paragraph 2 of Schedule 5A;]

“authorised person” means a person authorised by an enforcing authority under regulation 10;

[<sup>F6</sup> ...

“devolved administration or the Assembly” means the Scottish Ministers, the Welsh Ministers or the Northern Ireland Assembly;

[<sup>F7</sup>“district council” has the meaning given by section 44 of the Interpretation Act (Northern Ireland) 1954;]

“enforcement duty” means a duty placed on an enforcing authority under regulation 3;

“enforcing authority” means—

- (a) the Department of the Environment;
- (b) the Environment Agency;
- (c) the Health and Safety Executive;
- (d) the Health and Safety Executive for Northern Ireland;
- (e) a local (consumer safety) authority;
- (f) a local (health and safety) authority;
- (fa) [<sup>F8</sup>[<sup>F9</sup>the Office of Rail Regulation]] [<sup>F9</sup>the Office of Rail and Road];]
- (fb) [<sup>F10</sup>the Office for Nuclear Regulation;]
- (g) the Scottish Environment Protection Agency;
- (h) the Secretary of State;
- (i) [<sup>F11</sup>the Natural Resources Body for Wales;]

[<sup>F12</sup>“the Executive” means—

- (a) in Great Britain, the Health and Safety Executive;
- (b) in Northern Ireland, the Health and Safety Executive for Northern Ireland;]

“a local (consumer safety) authority” means—

- (a) in Greater London, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;

- (b) in England outside Greater London, a county council or, in relation to an area for which there is a district council but no county council, the district council, and the Council of the Isles of Scilly;
- (c) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972<sup>(2)</sup>;
- (d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(3)</sup>;
- (e) in Wales, a county council or county borough council;

“a local (health and safety) authority” means—

- (a) in Greater London, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;
- (b) in England, outside Greater London, a district council or, in relation to an area for which there is a county council but no district council, the county council, and the Council of the Isles of Scilly;
- (c) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;
- (d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
- (e) in Wales, a county council or county borough council;

[<sup>F13</sup>“offshore installation” means—

- (a) an offshore installation within the meaning of section 44(1) of the Petroleum Act 1998; or
- (b) a carbon storage installation within the meaning of section 30(5) of the Energy Act 2008;]

[<sup>F14</sup>“paint stripper” means material that, when applied to a coated substrate, softens the coating so that it can be removed easily, and “paint stripping” is to be construed accordingly;

“paint stripper containing dichloromethane” means any paint stripper containing dichloromethane in a concentration equal to or greater than 0.1% by weight;

“professional” means any person undertaking paint stripping in the course of their

professional activity other than within an industrial installation<sup>(1)</sup> where the conditions set out in entry 59 paragraph 4 of Annex XVII to REACH are complied with.]

[<sup>F15</sup>“relevant nuclear site” means a site which is—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or
- (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).]

[<sup>F16</sup>“railway” means—

- (a) except in Northern Ireland, any system of transport the operation of which is specified in regulation 3(2) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006;

---

(2) 1972 c.9 as amended by S.I. 1985/454.

(3) 1994 c.39.

(1) The appointment of the competent authorities, except in relation to Scotland, was made under S.I. 2007/1742. By administrative arrangements, the competent authorities have delegated the Health and Safety Executive to act on their behalf.

- (b) in relation to Northern Ireland, any railway or tramway which in either case is used for the carriage of persons or goods;]
- [<sup>F17</sup>“relevant waters”, in relation to an offshore installation, has the meaning given in section 44(4) of the Petroleum Act 1998;]
- [<sup>F18</sup>“Scotland” includes Scottish controlled waters;]
- [<sup>F19</sup>“Scottish controlled waters” means—
- (a) in relation to an offshore installation which is maintained (or intended to be established) for the purposes of the exploration for, or exploitation of, petroleum (within the meaning of section 1 of the Petroleum Act 1998), any waters which are controlled waters within the meaning of section 30A(1) of the Control of Pollution Act 1974; and
- (b) in relation to any other offshore installation, waters within the seaward limits of the territorial sea adjacent to Scotland.]
- (3) Other expressions used in these Regulations which are used in REACH have the meaning they bear in REACH.

#### Textual Amendments

- F2** Words in reg. 2(1) substituted (E.W.S.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 1(1)(a)** (as amended by S.I. 2020/1577, regs. 1(1)(a), 3(1)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 2(1) substituted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **3(1)**
- F4** Words in reg. 2(1) substituted (E.W.S.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 1(1)(b)** (as amended by S.I. 2020/1577, regs. 1(1)(a), 3(1), 10(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 2(2) inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **3(2)(a)**
- F6** Words in reg. 2(2) omitted (E.W.S.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 2** (as amended by S.I. 2020/1577, regs. 1(1)(a), 3(1)); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in reg. 2(2) inserted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(3)(b)**
- F8** Words in reg. 2(2) inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **3(2)(b)**
- F9** Words in reg. 2(2) substituted (E.W.S.) (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), reg. 1(2), **Sch. para. 8(a)**
- F10** Words in reg. 2(2) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 132(a)** (with Sch. 4)
- F11** Words in reg. 2(2)(i) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 303** (with Sch. 7)
- F12** Words in reg. 2(2) inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **3(2)(c)**
- F13** Words in reg. 2(2) substituted (1.7.2010) by [The Energy Act 2008 \(Consequential Modifications\) \(Offshore Environmental Protection\) Order 2010 \(S.I. 2010/1513\)](#), arts. 1(1), **10(a)**
- F14** Words in reg. 2(2) inserted (1.12.2014) by [The REACH Enforcement \(Amendment\) Regulations 2014 \(S.I. 2014/2882\)](#), regs. 1, **2(2)**
- F15** Words in reg. 2(2) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 132(b)** (with Sch. 4)

- F16** Words in reg. 2(2) inserted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **3(2)(d)**
- F17** Words in reg. 2(2) inserted (1.7.2010) by The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513), arts. 1(1), **10(b)**
- F18** Words in reg. 2(2) inserted (1.7.2010) by The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513), arts. 1(1), **10(c)**
- F19** Words in reg. 2(2) substituted (1.7.2010) by The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513), arts. 1(1), **10(d)**

## Interpretation **N.I.**

### 2.—(1) In these Regulations—

“a listed REACH provision” means a provision of REACH listed in [<sup>F45</sup>a REACH table];

[<sup>F46</sup>“REACH” means—

- (a) in respect of the listed REACH provisions in Schedule 1, Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals as it has effect in EU law as amended from time to time (“EU REACH”),
- (b) in respect of the listed REACH provisions in Schedule 1A, Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals as it forms part of retained EU law as amended from time to time (“retained REACH”) ]

[<sup>F47</sup>“a REACH table” means—

- (a) the table in Schedule 1 to these Regulations, or
- (b) the table in Schedule 1A to these Regulations;

“the relevant REACH table” means—

- (a) in relation to a listed REACH provision, the REACH table in which that REACH provision is listed;
- (b) in relation to an enforcement duty, the REACH table under which that enforcement duty arises.]

### (2) In these Regulations—

[<sup>F48</sup>“asbestos-containing article” means an article in its entirety containing any of the asbestos fibres listed at point 6 of Annex XVII to REACH;

“asbestos exemption certificate” has the meaning given in paragraph 2 of Schedule 5A;]

“authorised person” means a person authorised by an enforcing authority under regulation 10;

“competent authority” has the same meaning it has in REACH and in respect of the United Kingdom the authorities are—

- (a) in England, the Secretary of State;
- (b) in Scotland, the Scottish Ministers;
- (c) in Wales, the Welsh Ministers;
- (d) in Northern Ireland, the [<sup>F49</sup>Department for the Economy] and the [<sup>F50</sup>Department of Agriculture, Environment and Rural Affairs] acting alone or jointly; and
- (e) in relation to matters outside the competence of a devolved administration or the Assembly, the Secretary of State;

“devolved administration or the Assembly” means the Scottish Ministers, the Welsh Ministers or the Northern Ireland Assembly;

[<sup>F51</sup>“district council” has the meaning given by section 44 of the Interpretation Act (Northern Ireland) 1954;]

“enforcement duty” means a duty placed on an enforcing authority under regulation 3;

“enforcing authority” means—

- (a) the [<sup>F52</sup>Department of Agriculture, Environment and Rural Affairs];
- (b) the Environment Agency;
- (c) the Health and Safety Executive;
- (d) the Health and Safety Executive for Northern Ireland;
- (e) a local (consumer safety) authority;
- (f) a local (health and safety) authority;
- (fa) [<sup>F53</sup>the Office of Rail Regulation;
- (fb) [<sup>F54</sup>the Office for Nuclear Regulation;]
- (g) the Scottish Environment Protection Agency;
- (h) the Secretary of State;
- (i) [<sup>F55</sup>the Natural Resources Body for Wales;]
- (j) [<sup>F56</sup>a district council;]

[<sup>F57</sup>“the Executive” means—

- (a) in Great Britain, the Health and Safety Executive;
- (b) in Northern Ireland, the Health and Safety Executive for Northern Ireland;]

“a local (consumer safety) authority” means—

- (a) in Greater London, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;
- (b) in England outside Greater London, a county council or, in relation to an area for which there is a district council but no county council, the district council, and the Council of the Isles of Scilly;
- (c) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;
- (d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
- (e) in Wales, a county council or county borough council;

“a local (health and safety) authority” means—

- (a) in Greater London, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;
- (b) in England, outside Greater London, a district council or, in relation to an area for which there is a county council but no district council, the county council, and the Council of the Isles of Scilly;
- (c) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;

(d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

(e) in Wales, a county council or county borough council;

[<sup>F58</sup>“offshore installation” means—

(a) an offshore installation within the meaning of section 44(1) of the Petroleum Act 1998; or

(b) a carbon storage installation within the meaning of section 30(5) of the Energy Act 2008;]

[<sup>F59</sup>“paint stripper” means material that, when applied to a coated substrate, softens the coating so that it can be removed easily, and “paint stripping” is to be construed accordingly;

“paint stripper containing dichloromethane” means any paint stripper containing dichloromethane in a concentration equal to or greater than 0.1% by weight;

“professional” means any person undertaking paint stripping in the course of their professional activity other than within an industrial installation where the conditions set out in entry 59 paragraph 4 of Annex XVII to REACH are complied with.]

[<sup>F60</sup>“relevant nuclear site” means a site which is—

(a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013);

(b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998); or

(c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations).]

[<sup>F61</sup>“railway” means—

(a) except in Northern Ireland, any system of transport the operation of which is specified in regulation 3(2) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006;

(b) in relation to Northern Ireland, any railway or tramway which in either case is used for the carriage of persons or goods;]

[<sup>F62</sup>“relevant waters”, in relation to an offshore installation, has the meaning given in section 44(4) of the Petroleum Act 1998;]

[<sup>F63</sup>“retained REACH Agency” means the Agency as defined in Article 2A of retained REACH;]

[<sup>F64</sup>“Scotland” includes Scottish controlled waters;]

[<sup>F65</sup>“Scottish controlled waters” means—

(a) in relation to an offshore installation which is maintained (or intended to be established) for the purposes of the exploration for, or exploitation of, petroleum (within the meaning of section 1 of the Petroleum Act 1998), any waters which are controlled waters within the meaning of section 30A(1) of the Control of Pollution Act 1974; and

(b) in relation to any other offshore installation, waters within the seaward limits of the territorial sea adjacent to Scotland.]

(3) Other expressions used in these Regulations which are used in [<sup>F66</sup>EU REACH] have the meaning they bear in [<sup>F66</sup>EU REACH].]

### Textual Amendments

- F45** Words in reg. 2(1) substituted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(2)(a)**
- F46** Words in reg. 2(1) substituted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(2)(b)**
- F47** Words in reg. 2(1) substituted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(2)(c)**
- F48** Words in reg. 2(2) inserted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **3(2)(a)**
- F49** Words in reg. 2(2) substituted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(3)(a)(i)**
- F50** Words in reg. 2(2) substituted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(3)(a)(ii)**
- F51** Words in reg. 2(2) inserted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(3)(b)**
- F52** Words in reg. 2(2) substituted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(3)(c)(i)**
- F53** Words in reg. 2(2) inserted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **3(2)(b)**
- F54** Words in reg. 2(2) inserted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 3 para. 132(a)** (with Sch. 4)
- F55** Words in reg. 2(2)(i) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 4 para. 303** (with Sch. 7)
- F56** Words in reg. 2(2) inserted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(3)(c)(ii)**
- F57** Words in reg. 2(2) inserted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **3(2)(c)**
- F58** Words in reg. 2(2) substituted (1.7.2010) by The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513), arts. 1(1), **10(a)**
- F59** Words in reg. 2(2) inserted (1.12.2014) by The REACH Enforcement (Amendment) Regulations 2014 (S.I. 2014/2882), regs. 1, **2(2)**
- F60** Words in reg. 2(2) inserted (1.4.2014) by The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469), art. 1(2), **Sch. 3 para. 132(b)** (with Sch. 4)
- F61** Words in reg. 2(2) inserted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **3(2)(d)**
- F62** Words in reg. 2(2) inserted (1.7.2010) by The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513), arts. 1(1), **10(b)**
- F63** Words in reg. 2(2) inserted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(3)(d)**
- F64** Words in reg. 2(2) inserted (1.7.2010) by The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513), arts. 1(1), **10(c)**
- F65** Words in reg. 2(2) substituted (1.7.2010) by The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513), arts. 1(1), **10(d)**
- F66** Words in reg. 2(3) substituted (N.I.) (31.12.2020) by The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1577), regs. 1(1)(c), **15(4)**



## PART 2 **U.K.**

### Enforcement

#### **Enforcement** **E+W+S**

3.—(1) An enforcing authority must enforce a listed REACH provision where it is named against that provision in the [<sup>F20</sup>relevant REACH table].

(2) The duty in paragraph (1) is subject to the following provisions of this regulation and [<sup>F21</sup>regulations 3A and 6].

(3) The enforcement duty commences—

- (a) except for Article 67 of REACH, on 1st December 2008;
- (b) for Article 67, on 1st June 2009.

(4) Except in relation to—

- (a) an offshore installation; or
- (b) a local (consumer safety) authority or a local (health and safety) authority,

the enforcement duty applies to an enforcing authority in the relevant part or parts of the United Kingdom shown at the head of the column in which the enforcing authority is named in the [<sup>F20</sup>relevant REACH table].

(5) In relation to an offshore installation, the enforcement duty applies—

- (a) for an installation in relevant waters (except such waters [<sup>F22</sup>within the seaward limits of the territorial sea adjacent to Northern Ireland])—
  - (i) to the Health and Safety Executive; and
  - (ii) except in Scottish controlled waters, to the Secretary of State,where they are named under the column heading “Offshore Installations” in the [<sup>F20</sup>relevant REACH table];

<sup>F23</sup>(b) .....

- (c) for an installation in Scottish controlled waters, to the Scottish Environment Protection Agency, where that Agency is named under the column heading “Scotland” in the [<sup>F20</sup>relevant REACH table].

(6) For a local (consumer safety) authority or a local (health and safety) authority, the enforcement duty applies to the area of that authority.

(7) The enforcement duty applies to an enforcing authority where enforcement of the listed REACH provision is a function of that authority.

(8) The functions of an enforcing authority for the purposes of these Regulations are set out in Schedule 2 (functions of enforcing authorities).

#### **Textual Amendments**

**F20** Words in reg. 3 substituted (E.W.S.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 1(2)(a)** (as amended by S.I. 2020/1577, regs. 1(1)(a), **3(1)**, 10(3)); 2020 c. 1, **Sch. 5 para. 1(1)**

**F21** Words in reg. 3(2) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 133** (with Sch. 4)

- F22** Words in reg. 3(5)(a) substituted (E.W.S.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 1(2)(c)(i)** (as amended by [S.I. 2020/1577](#), regs. 1(1)(a), **3(1)**, 10(3)); 2020 c. 1, **Sch. 5 para. 1(1)**
- F23** Reg. 3(5)(b) omitted (E.W.S.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 1(2)(c)(ii)** (as amended by [S.I. 2020/1577](#), regs. 1(1)(a), **3(1)**, 10(4)); 2020 c. 1, **Sch. 5 para. 1(1)**

## Enforcement **N.I.**

3.—(1) An enforcing authority must enforce a listed REACH provision where it is named against that provision in the [<sup>F67</sup>relevant REACH table].

(2) The duty in paragraph (1) is subject to the following provisions of this regulation and [<sup>F68</sup>regulations 3A and 6].

(3) The enforcement duty commences—

- (a) except for Article 67 of REACH, on 1st December 2008;
- (b) for Article 67, on 1st June 2009.

(4) Except in relation to—

- (a) an offshore installation; or
- (b) a local (consumer safety) authority or a local (health and safety) authority,

the enforcement duty applies to an enforcing authority in the relevant part or parts of the United Kingdom shown at the head of the column in which the enforcing authority is named in the [<sup>F67</sup>relevant REACH table].

(5) In relation to an offshore installation, the enforcement duty applies—

- <sup>F69</sup>(a) .....
- (b) for an installation [<sup>F70</sup>within the seaward limits of the territorial sea] adjacent to Northern Ireland—
  - (i) to the Health and Safety Executive for Northern Ireland; and
  - (ii) to the Secretary of State,
 where they are named under the column heading “Offshore Installations” in the [<sup>F67</sup>relevant REACH table];

<sup>F71</sup>(c) .....

(6) For a local (consumer safety) authority or a local (health and safety) authority, the enforcement duty applies to the area of that authority.

(7) The enforcement duty applies to an enforcing authority where enforcement of the listed REACH provision is a function of that authority.

(8) The functions of an enforcing authority for the purposes of these Regulations are set out in Schedule 2 (functions of enforcing authorities).

### Textual Amendments

- F67** Words in reg. 3 substituted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(5)(a)**
- F68** Words in reg. 3(2) substituted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 133** (with Sch. 4)

- F69** Reg. 3(5)(a) omitted (N.I.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(5)(b)(i)**
- F70** Words in reg. 3(5)(b) substituted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(5)(b)(ii)**
- F71** Reg. 3(5)(c) omitted (N.I.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(5)(b)(iii)**

**[<sup>F24</sup>Enforcement: relevant nuclear sites **E+W+S****

**3A.**—(1) This regulation applies where the Office for Nuclear Regulation is named [<sup>F25</sup>against any listed REACH provision in any column of the relevant REACH table].

(2) The enforcement duty, so far as it relates to that provision of REACH, in relation to anything done or omitted to be done, on a relevant nuclear site—

- (a) applies to the Office for Nuclear Regulation;
- (b) does not apply to any other enforcing authority.

(3) No enforcement duty applies to the Office for Nuclear Regulation except as provided by this regulation.

(4) Paragraph (5) applies where there is uncertainty as to what are the respective responsibilities of the Office for Nuclear Regulation and any other enforcing authority or enforcing authorities for the enforcement of any listed REACH provision in respect of any particular circumstances.

(5) The responsibility for enforcing the relevant listed REACH provision in that respect may be assigned by the Office for Nuclear Regulation and the other enforcing authority or enforcing authorities to—

- (a) the Office for Nuclear Regulation; or
- (b) any other enforcing authority or enforcing authorities.

(6) An assignment may only be made under paragraph (5)—

- (a) by the Office for Nuclear Regulation and the other enforcing authority or all the other enforcing authorities acting jointly;
- (b) where the Office for Nuclear Regulation and the other enforcing authority or all the other enforcing authorities agree—
  - (i) that there is uncertainty in the particular circumstances as to what are their respective responsibilities in relation to enforcement of the listed REACH provision in question; and
  - (ii) which authority is, or authorities are (as the case may be), more appropriate to be responsible for the enforcement in those circumstances.

(7) Where such an assignment is made, the authority or authorities to which responsibility is assigned must give notice of the assignment to persons affected by it.

(8) Nothing in this regulation affects the power of the Office for Nuclear Regulation and any other enforcing authority to agree arrangements under regulation 5(2).]

**Textual Amendments**

- F24** Reg. 3A inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 134** (with Sch. 4)

**F25** Words in reg. 3A(1) substituted (E.W.S.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 1(3)** (as amended by [S.I. 2020/1577](#), regs. 1(1)(a), 3(1)); 2020 c. 1, Sch. 5 para. 1(1)

**Enforcement: relevant nuclear sites** **N.I.**

<sup>F72</sup>**3A.** .....

**Textual Amendments**

**F72** Reg. 3A omitted (N.I.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(6)**

**Co-operation and information sharing** **E+W+S**

4.—(1) An enforcing authority must co-operate with—

- [<sup>F26</sup>(za) the Agency;
- (zb) the appropriate authorities; and]
- (a) other enforcing authorities;
- <sup>F27</sup>(b) .....
- <sup>F27</sup>(c) .....
- <sup>F27</sup>(d) .....

where this will facilitate compliance with, or the effective enforcement of, REACH <sup>F28</sup> ....

(2) An enforcing authority must disclose to a person referred to in paragraph (1) information it holds in relation to compliance with, or the enforcement of, REACH where it believes—

- (a) it is reasonable for it to make that disclosure; and
- (b) the disclosure will facilitate compliance with, or the effective enforcement of, REACH <sup>F29</sup> ....

(3) The Commissioners for Revenue and Customs may disclose to an enforcing authority information obtained or held by the Commissioners in exercise of their functions in relation to imports—

- (a) where the Commissioners believe it is appropriate to do so to facilitate the exercise of the duty of an enforcing authority under these Regulations; and
- (b) whether or not the information has been requested by the enforcing authority.

**Textual Amendments**

**F26** Reg. 4(1)(za)(zb) inserted (E.W.S.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 3(2)(a)** (as amended by [S.I. 2020/1577](#), regs. 1(1)(a), 3(1)); 2020 c. 1, Sch. 5 para. 1(1)

**F27** Reg. 4(1)(b)-(d) omitted (E.W.S.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 3(2)(b)** (as amended by [S.I. 2020/1577](#), regs. 1(1)(a), 3(1)); 2020 c. 1, Sch. 5 para. 1(1)

**F28** Words in reg. 4(1) omitted (E.W.S.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 3(2)(c)** (as amended by [S.I. 2020/1577](#), regs. 1(1)(a), 3(1)); 2020 c. 1, Sch. 5 para. 1(1)

**F29** Words in reg. 4(2)(b) omitted (E.W.S.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), [Sch. 10 para. 3\(3\)](#) (as amended by [S.I. 2020/1577](#), regs. 1(1)(a), 3(1)); 2020 c. 1, Sch. 5 para. 1(1)

## Co-operation and information sharing **N.I.**

4.—(1) An enforcing authority must co-operate with—

- (a) other enforcing authorities;
- (b) a competent authority;
- (c) the equivalent of an enforcing authority in [<sup>F73</sup>a member State]; and
- (d) the European Chemicals Agency,

where this will facilitate compliance with, or the effective enforcement of, [<sup>F74</sup>EU REACH in Northern Ireland or the European Union].

[<sup>F75</sup>(1A) An enforcing authority must co-operate with—

- (a) the retained REACH Agency;
- (b) the appropriate authorities; and
- (c) other enforcing authorities,

where this will facilitate compliance with, or the effective enforcement of, retained REACH.]

(2) An enforcing authority must disclose to a person referred to in [<sup>F76</sup>paragraph (1) or (1A)] information it holds in relation to compliance with, or the enforcement of, REACH where it believes—

- (a) it is reasonable for it to make that disclosure; and
- (b) the disclosure will facilitate compliance with, or the effective enforcement of, REACH [<sup>F77</sup>Northern Ireland or] in the European Union.

(3) The Commissioners for Revenue and Customs may disclose to an enforcing authority information obtained or held by the Commissioners in exercise of their functions in relation to imports—

- (a) where the Commissioners believe it is appropriate to do so to facilitate the exercise of the duty of an enforcing authority under these Regulations; and
- (b) whether or not the information has been requested by the enforcing authority.

### Textual Amendments

- F73** Words in reg. 4(1)(c) substituted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), [15\(7\)\(a\)](#)
- F74** Words in reg. 4(1) substituted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), [15\(7\)\(b\)](#)
- F75** Reg. 4(1A) inserted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), [15\(7\)\(c\)](#)
- F76** Words in reg. 4(2) substituted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), [15\(7\)\(d\)\(i\)](#)
- F77** Words in reg. 4(2)(b) inserted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), [15\(7\)\(d\)\(ii\)](#)

**Enforcement agreements** **U.K.**

5.—(1) This regulation applies to agreements between an enforcing authority (“A”) and another enforcing authority (“B”) intended to facilitate the carrying out of an enforcement duty, or part of it.

(2) A may agree arrangements with B for B to carry out on A’s behalf any matters in relation to an enforcement duty that applies to A.

(3) Where an enforcement duty applies to both A and B, they may agree arrangements for performance of that duty to be divided between them in such a way as they consider to be administratively convenient.

(4) An agreement in respect of the matters in paragraph (2) or (3)—

- (a) may deal with more than one listed REACH provision;
- (b) must be in writing;
- (c) must give sufficient particulars of the matters to which it relates; and
- (d) may be made subject to limitations and conditions.

(5) Such an agreement—

- (a) may be varied in writing by the parties, acting jointly;
- (b) may be revoked by any party on sixty days notice in writing to the other party or parties to the agreement.

**Health and safety enforcement** **U.K.**

6.—<sup>F30</sup>(1) This regulation applies where the Executive is jointly under an enforcement duty with any of the following enforcing authorities, whether or not any other enforcing authority is also under an enforcement duty in respect of the same listed REACH provision—

- (a) a local (health and safety) authority;
- (b) <sup>F31</sup>the Office of Rail Regulation]<sup>F31</sup>the Office of Rail and Road] .]

(2) Schedule 3 (health and safety enforcement) has effect.

(3) In circumstances not provided for under Schedule 3, the Executive must perform the joint duty on behalf of a local (health and safety) authority.

(4) The arrangements under Schedule 3 and the arrangement under paragraph (3) may be varied by <sup>F32</sup>an assignment made in accordance with regulation 3A or] an enforcement agreement made in accordance with regulation 5.

<sup>F33</sup>(5) .....

Textual Amendments	
<b>F30</b>	Reg. 6(1) substituted (16.12.2013) by <a href="#">The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919)</a> , regs. 1(b), <b>4(a)</b>
<b>F31</b>	Words in reg. 6(1)(b) substituted (E.W.S.) (16.10.2015) by <a href="#">The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682)</a> , reg. 1(2), <b>Sch. para. 8(b)</b>
<b>F32</b>	Words in reg. 6(4) inserted (1.4.2014) by <a href="#">The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014 (S.I. 2014/469)</a> , art. 1(2), <b>Sch. 3 para. 135</b> (with Sch. 4)
<b>F33</b>	Reg. 6(5) omitted (16.12.2013) by virtue of <a href="#">The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919)</a> , regs. 1(b), <b>4(b)</b>

## PART 3 **U.K.**

### Exemptions

#### Defence **E+W+S**

- 7.—(1) A person is exempt from compliance with a listed REACH provision if that person—
- (a) has the benefit of a defence exemption certificate made by the Secretary of State in respect of that provision; <sup>F34</sup> . . .
  - <sup>F34</sup>(b) . . . . .
- (2) Schedule 4 (defence exemption certificates) has effect.

#### Textual Amendments

**F34** Reg. 7(1)(b) and word omitted (E.W.S.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 4** (as amended by [S.I. 2020/1577](#), regs. 1(1)(a), 3(1)); 2020 c. 1, Sch. 5 para. 1(1)

#### Defence **N.I.**

- 7.—(1) A person is exempt from compliance with a listed REACH provision [<sup>F78</sup>in Schedule 1] if that person—
- (a) has the benefit of a defence exemption certificate made by the Secretary of State in respect of that provision; or
  - (b) can demonstrate that the appropriate authorities of [<sup>F79</sup>a] member State have exempted that person from compliance in the interests of defence.
- [<sup>F80</sup>(1A) A person is exempt from compliance with a listed REACH provision in Schedule 1A if that person has the benefit of a defence exemption certificate made by the Secretary of State in respect of that provision.]
- (2) Schedule 4 (defence exemption certificates) has effect.

#### Textual Amendments

**F78** Words in reg. 7(1) inserted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(8)(a)**

**F79** Word in reg. 7(1)(b) substituted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(8)(b)**

**F80** Reg. 7(1A) inserted (N.I.) (31.12.2020) by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(8)(c)**

#### Marketing and use of leaded paint **U.K.**

8. A person who markets or uses leaded paint does not breach the restriction on the marketing and use of leaded paint provided for by Article 67 of REACH where that person complies with the provisions of Schedule 5 (marketing and use of leaded paint).

**[<sup>F35</sup>Placing asbestos-containing articles on the market U.K.]**

**8A.**—(1) A person who places an asbestos-containing article on the market does not breach the restriction on this activity provided for by Article 67 of REACH where—

- (a) this is done in accordance with an asbestos exemption certificate; and
  - (b) the asbestos-containing article was installed or in service before 1st January 2005.
- (2) Schedule 5A (placing asbestos-containing articles on the market) has effect.]

**Textual Amendments**

**F35** Reg. 8A inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), 5

**[<sup>F36</sup>Placing on the market and use of paint stripper containing dichloromethane U.K.]**

**8B.**—(1) A person (“P”) who places on the market paint stripper containing dichloromethane for supply to a professional or to a person for use by a professional does not breach the restriction on this activity provided for by Article 67 of REACH where P complies with the provisions of paragraph 1 of Schedule 5B.

(2) A professional who uses paint stripper containing dichloromethane does not breach the restriction on this activity provided for by Article 67 of REACH where that professional complies with the provisions of paragraphs 2 and 3 of Schedule 5B.

(3) Schedule 5B (Placing on the market and use of paint stripper containing dichloromethane) has effect.]

**Textual Amendments**

**F36** Reg. 8B inserted (1.12.2014) by [The REACH Enforcement \(Amendment\) Regulations 2014 \(S.I. 2014/2882\)](#), regs. 1, 2(3)

**PART 4 U.K.**

**Enforcement powers and civil proceedings**

**Enforcement powers U.K.**

**9.**—(1) Schedule 6 (powers of enforcement) has effect.

(2) To facilitate the exercise of a duty of an enforcing authority under these Regulations, an officer of Revenue and Customs may detain, for not more than two working days, an article or substance which has been imported.

(3) Anything detained must be dealt with in such manner as the Commissioners for Revenue and Customs may direct.

(4) In paragraph (2), the reference to two working days has the meaning given in section 25A of the Health and Safety at Work etc Act 1974(4)(power of customs officer to detain articles and substances).

---

(4) [1974 c. 37](#); section 25A was inserted by section 36 and Schedule 3, paragraph 3 of the Consumer Protection Act [1987 \(c. 43\)](#).



## Authorised persons **U.K.**

10.—(1) An enforcing authority may authorise in writing such persons who appear suitable to act on its behalf (“authorised persons”), subject to any limitations or conditions as the enforcing authority sees fit.

(2) Where—

(a) a person has been authorised by an enforcing authority under a provision relevant to that authority listed in Schedule 7 (authorisations); and

(b) unless the enforcing authority provides to the contrary,

that person is an authorised person for the purposes of paragraph (1) in respect of that authority.

## PART 5 **U.K.**

### Offences and penalties

#### CHAPTER 1 **U.K.**

Offences and penalties in relation to a listed REACH provision and Schedules 4 and 5

## Offences **U.K.**

11.—(1) Except in relation to Article 67 of REACH, it is an offence for a person to contravene a listed REACH provision or cause or permit another person to do so.

(2) On and after 1st June 2009, it is an offence for a person to contravene Article 67 of REACH or cause or permit another person to do so.

(3) It is an offence for a person when subject to paragraph 6 of Schedule 4 (defence exemption certificates)—

(a) to provide a false certificate or copy; or

(b) to fail to provide when requested, as appropriate—

(i) the defence exemption certificate;

(ii) a copy of the certificate made by the Secretary of State; or

(iii) a copy of an extract of the certificate made by the Secretary of State,

or cause or permit another person to do so.

(4) On and after 1st June 2009, it is an offence for a person to contravene paragraph 5(b) or 6 of Part 1 of Schedule 5 (marketing and use of leaded paint) or cause or permit another person to do so.

[<sup>F37</sup>(5) Where a person (“P”) is charged with an offence for a contravention of Article 67 of REACH under regulation 11(2) of these Regulations for placing on the market paint stripper containing dichloromethane for supply to—

(a) a person who is not a professional; or

(b) a person for use by a person who is not a professional,

it is a defence that P took all reasonable steps and exercised all due diligence to avoid the commission of the offence.]

### Textual Amendments

**F37** Reg. 11(5) inserted (1.12.2014) by [The REACH Enforcement \(Amendment\) Regulations 2014 \(S.I. 2014/2882\)](#), regs. 1, 2(4)

**Penalties** U.K.

12. Any person guilty of an offence under regulation 11 is liable—
- (a) on summary conviction, to a fine not exceeding 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 U.K.

## Other offences and penalties

**Offences** U.K.

- 13.—(1) It is an offence for a person—
- (a) intentionally to obstruct an authorised person in the exercise or performance of the powers or duties of the authorised person; or
  - (b) to make a statement—
    - (i) which that person knows to be false or misleading in a material particular; or
    - (ii) recklessly and which is false or misleading in a material particular,
 where the statement is made in purported compliance with a listed REACH provision or with a requirement to furnish any information imposed by or under these Regulations.
- (2) Where an authorised person exercises the powers in Schedule 6 (powers of enforcement), it is an offence for a person—
- (a) to fail to comply with—
    - (i) any requirement imposed by or made under those powers;
    - (ii) a notice described in that Schedule;
  - (b) to fail or refuse—
    - (i) to provide facilities or assistance; or
    - (ii) to permit any inspection,
 when reasonably required by an authorised person;
 

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.
- (3) It is a defence for a person charged with an offence under paragraph (2) to prove that they had a reasonable excuse for the matters with which they are charged.
- (4) It is an offence for a person to pretend to be an authorised person.
- (5) It is an offence for a person to disclose the information described in paragraph (6) where—
- (a) that person received that information from the Commissioners for Revenue and Customs; and
  - (b) the disclosure has not been made—
    - (i) with the prior consent of the Commissioners; or
    - (ii) pursuant to a legal obligation.
- (6) The information referred to in paragraph (5) is information which relates to a person whose identity—
- (a) is specified in the disclosure; or

(b) may be deduced from the disclosure,  
but excludes information about internal administrative arrangements of Her Majesty’s Revenue and Customs (whether relating to Commissioners, officers or others).

(7) It is a defence for a person charged with an offence under paragraph (5) to prove that they believed that—

- (a) the disclosure was lawful; or
- (b) the information had already and lawfully been made available.

(8) In this regulation, “powers or duties” includes powers or duties exercisable by virtue of a warrant.

### **Penalties** **U.K.**

14.—(1) A person guilty of an offence under regulation 13 is liable—

- (a) on summary conviction to a fine not exceeding 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 3 **U.K.**

### Bodies corporate, Scottish partnerships and remediation

#### **Bodies corporate and Scottish partnerships** **U.K.**

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

- (a) it is committed with the consent or connivance of an officer; or
- (b) it is attributable to any neglect on the officer’s 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 that member’s functions of management as if the member were a director of the body corporate.

(4) Where an offence under this Part is committed by a Scottish partnership and—

- (a) it is committed with the consent or connivance of a partner; or
- (b) it is attributable to any neglect on the partner’s part,

the partner as well as the partnership is guilty of the offence and is 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** **U.K.**

16.—(1) Paragraph (2) applies 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 that person’s power to remedy.

(2) Where paragraph (1) applies, the court may order the person convicted—

- (a) in addition to or instead of imposing any punishment; and
- (b) within such time as may be fixed by the order,

to take such steps as may be specified in the order for remedying the matters in respect of which the person was convicted.

(3) The time fixed by an order under paragraph (2) 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.

(4) Where a person is ordered under paragraph (2) to remedy any matters, that person is not liable under regulation 11 or 13 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 (3).

## CHAPTER 4 **U.K.**

### Matters in relation to criminal proceedings

#### **Appearance of authorised persons before a court of summary jurisdiction** **U.K.**

17.—(1) Where an authorised person is authorised in that behalf by—

- (a) the Health and Safety Executive,<sup>F38</sup>...
- (b) the Health and Safety Executive for Northern Ireland; [<sup>F39</sup>or
- (c) the Office for Nuclear Regulation.]

that person may, although not of counsel or a solicitor, prosecute before a court of summary jurisdiction proceedings for an offence committed under regulation 11 or 13.

(2) Paragraph (1) does not apply in Scotland.

#### **Textual Amendments**

**F38** Word in reg. 17(1)(a) omitted (1.4.2014) by virtue of [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 3 para. 136\(a\)](#) (with Sch. 4)

**F39** Reg. 17(1)(c) and word inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), [Sch. 3 para. 136\(b\)](#) (with Sch. 4)

#### **Criminal proceedings under regulation 11 or 13** **U.K.**

18.—(1) No criminal proceedings for an offence under regulation 11 or 13 may, in England and Wales, be instituted except—

- (a) by an enforcing authority; or
- (b) by or with the consent of the Director of Public Prosecutions.

(2) No criminal proceedings for an offence under regulation 11 or 13 may be instituted in Northern Ireland except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

#### **Criminal proceedings against the Crown** **U.K.**

19.—(1) No contravention by the Crown of these Regulations makes the Crown criminally liable but the High Court or, in Scotland, the Court of Session, may on the application of an enforcing authority declare unlawful any act or omission of the Crown which constitutes a contravention of these Regulations.

(2) Notwithstanding paragraph (1), these Regulations apply to persons in the public service of the Crown as they apply to other persons.

## CHAPTER 5 **U.K.**

### Civil Proceedings

#### Proceedings before a civil court **U.K.**

**20.** If an enforcing authority is of the opinion that proceedings against a person for an offence under this Part 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 6 **U.K.**

### Appeals against notices and service of documents

#### Appeals against notices **U.K.**

**21.**—(1) Where a person is served with a notice described in paragraph (2), that person may appeal that notice.

(2) The following Parts of Schedule 8 (appeals) provide for the appeals procedure applicable to the notices described—

- (a) Part 1, for a notice served under section 4 of Part 1 of Schedule 6 (powers of enforcement) by the Environment Agency, [<sup>F40</sup>the Natural Resources Body for Wales,] the Scottish Environment Protection Agency or the Department of the Environment except a notice described in paragraph 27 of that section;
- (b) Part 2, for a notice served under section 2 of Part 2 of Schedule 6 by the Health and Safety Executive, the Health and Safety Executive for Northern Ireland [<sup>F41</sup>, Office for Nuclear Regulation] or a local (health and safety) authority;
- (c) Part 3, for a notice served under section 2 of Part 3 of Schedule 6 by a local (consumer safety) authority;
- (d) Part 4, for a notice served under section 2 of Part 4 of Schedule 6 by the Secretary of State.

#### Textual Amendments

**F40** Words in reg. 21(2)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 304** (with Sch. 7)

**F41** Words in reg. 21(2)(b) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 3 para. 137** (with Sch. 4)

#### Service of documents **U.K.**

**22.** Schedule 9 (service of documents) has effect.

PART 7 **U.K.**

Revocations and amendments

Revocations and amendments **U.K.**

23. Schedule 10 (revocations and amendments) has effect.

[<sup>F42</sup>PART 8 **U.K.**

Review

**Textual Amendments**

**F42** Pt. 8 inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), 6

Review of these Regulations **E+W+S**

24.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations in relation to England;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

<sup>F43</sup>(2) .....

(3) The report must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which the objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with 16<sup>th</sup> December 2013.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.]

**Textual Amendments**

**F43** Reg. 24(2) omitted (E.W.S.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 10 para. 5** (as amended by S.I. 2020/1577, regs. 1(1) (a), 3(1)); 2020 c. 1, Sch. 5 para. 1(1)

Review of these Regulations **N.I.**

<sup>F81</sup>24. ....

---

**Changes to legislation:** There are currently no known outstanding effects for the  
The REACH Enforcement Regulations 2008. (See end of Document for details)

---

**Textual Amendments**

**F81** Reg. 24 omitted (N.I.) (31.12.2020) by virtue of [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1577\)](#), regs. 1(1)(c), **15(9)**

*Huw Irranca-Davies*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

**Changes to legislation:**

There are currently no known outstanding effects for the The REACH Enforcement Regulations 2008.