
STATUTORY INSTRUMENTS

2013 No. 1506

The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013

PART 3

CHAPTER 1

CHAPTER 4

EXEMPTIONS, PENALTIES AND DUE DILIGENCE DEFENCE

Exemptions

30.—(1) A person is exempt from compliance with provisions imposing requirements or prohibitions in the Biocides Regulation or the CLP Regulation, 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 another Member State have exempted that person from compliance in the interests of defence.
- (2) Schedule 3 (defence exemption certificates) has effect.

31.—(1) These Regulations shall not apply to a substance or mixture which is a sample taken by an authority responsible for the enforcement of any requirement of, or prohibition imposed by or under, the Biocides Regulation, the CLP Regulation or the PIC Regulation.

(2) In this regulation, “substance” and “mixture” have the same meaning as they have in the CLP Regulation.

Penalties

32.—(1) The maximum penalty for an offence—

- (a) under section 33 of the 1974 Act, as applied by these Regulations to the Biocides Regulation, the CLP Regulation, the PIC Regulation and regulations 12,13(2) and 28 of these Regulations; or
- (b) under Article 31 of the 1978 Order as applied by these Regulations to the PIC Regulation and regulation 28 of these Regulations,

shall be determined in accordance with paragraph (2).

(2) The penalty referred to in paragraph (1) shall be—

- (a) on summary conviction—
 - (i) in England, Wales and Northern Ireland, imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;

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- (ii) in Scotland, imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum, or both; and
- (b) on conviction on indictment, imprisonment for a term not exceeding two years, or a fine or both.

Due diligence defence

33.—(1) In any proceedings for an offence under section 33(1)(c) of the 1974 Act, as applied by these Regulations to regulations 12 and 13(2), the Biocides Regulation, the CLP Regulation and the PIC Regulation, it is a defence for the person charged to prove that that person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) In any proceedings for an offence under Article 31(1)(c) of the 1978 Order, as applied by these Regulations to the PIC Regulation, it is a defence for the person charged to prove that that person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.