
STATUTORY INSTRUMENTS

1992 No. 31

ENVIRONMENTAL PROTECTION

**The Environmental Protection (Controls
on Injurious Substances) Regulations 1992**

<i>Made</i>	- - - -	<i>9th January 1992</i>
<i>Laid before Parliament</i>		<i>14th January 1992</i>
<i>Coming into force</i>	- -	<i>28th February 1992</i>

The Secretary of State for the Environment, as respects England, the Secretary of State for Wales, as respects Wales, and the Secretary of State for Scotland, as respects Scotland—

having consulted the committee constituted under section 140(5) of the Environmental Protection Act 1990⁽¹⁾;

having published notices in pursuance of section 140(6) (b) of that Act;

having considered representations made to them in accordance with the notices;

considering it appropriate to make these Regulations for the purpose of preventing the substances specified in them from causing pollution of the environment or harm to human health or to the health of animals and plants;

in exercise of the powers conferred on them by section 140(1), (2) (b) and (9) of the Environmental Protection Act 1990, and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Environmental Protection (Controls on Injurious Substances) Regulations 1992 and shall come into force on 28th February 1992.

(2) 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 and 1987 to 1991 by the Chemical Abstracts Service, American Chemical Society, Columbus, Ohio, USA;

“competent authority” means—

(1) 1990 c. 43.

- (a) where substances are to be supplied for use (or, where regulation 3(3) (b) applies, are to be used) in the restoration or maintenance of an historic building, the Historic Buildings and Monuments Commission if the building is in England, the Historic Buildings Council for Wales if the building is in Wales and the Secretary of State for Scotland if the building is in Scotland, and
- (b) where substances are to be supplied for use (or, where regulation 3(3) (b) applies, are to be used) in the restoration or maintenance of a fine or decorative work of art, the Museums and Galleries Commission;

“DBB” means di- μ -oxo-di-n-butylstanniohydroxyborane $C_8H_{19}BO_3Sn$, CAS Number 75113—37—0;

“historic building” means—

- (a) a listed building (within the meaning of section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990⁽²⁾ or section 52(7) of the Town and Country Planning (Scotland) Act 1972⁽³⁾) which when last notified to a local planning authority by the Secretary of State as a building of special architectural or historic interest was classified as a Grade I or Grade II (starred) or, in Scotland, as a category A listed building, or
- (b) a building which is a scheduled monument within the meaning of section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979⁽⁴⁾;

“lead carbonate” means neutral anhydrous carbonate $PbCO_3$, CAS Number 598—63—0 and lead hydrocarbonate $2PbCO_3 \cdot Pb(OH)_2$ CAS Number 1319—46—6;

“lead sulphate” means $PbSO_4$ (1:1) CAS Number 7446—14—2 and Pb_xSO_4 CAS Number 15739—80—7.

PCBs and PCTs

2. The Control of Pollution (Supply and Use of Injurious Substances) Regulations 1986⁽⁵⁾ shall be amended in regulation 2 by substituting “0.005 per cent” for “0.010 per cent”.

Lead carbonate and sulphate in paint

3.—(1) Subject to paragraphs (2) and (3), no person shall—

- (a) supply by way of sale for any purpose, or
- (b) use in connection with any trade or business or manufacturing process,

lead carbonate or lead sulphate which is intended for use as paint, or any substance so intended of which lead carbonate or lead sulphate forms a constituent.

(2) Paragraph (1) (a) shall not apply to the supply of paste or paint which is ready for use and—

- (a) is supplied for use in the restoration or maintenance of an historic building, or of a fine or decorative work of art, where it is required to restore or maintain historic textures or finishes,
- (b) is supplied not earlier than three weeks after the supplier has given the competent authority a completed declaration made in the form set out in the Schedule to these Regulations, and
- (c) is supplied in accordance with that declaration.

(3) Paragraph (1) (b) shall not apply to the use of paste or paint which is ready for use and—

(2) 1990 c. 9.
 (3) 1972 c. 52 (section 52(7) was amended by the Housing and Planning Act 1986 (c. 63), Schedule 9, paragraph 13(1)).
 (4) 1979 c. 46.
 (5) S.I. 1986/902.

- (a) was supplied to the user before these Regulations came into force, or
- (b) was supplied to the user in accordance with these Regulations, and—
 - (i) is used in accordance with the declaration in accordance with which they were so supplied, or
 - (ii) is used, not earlier than three weeks after the user has given to the competent authority a further completed declaration made in the form set out in the Schedule to these Regulations, in accordance with that further declaration.

Mercury compounds in heavy duty textiles

4. No person shall supply by way of sale, or use in connection with any trade or business or manufacturing process—

- (a) mercury compounds which are intended for use in the impregnation of heavy-duty industrial textiles, or of yarn intended for the manufacture of such textiles, or
- (b) any substance so intended of which mercury compounds are a constituent.

Mercury, arsenic and organostannic compounds in industrial waters

5. No person shall supply by way of sale, or use in connection with any trade or business or manufacturing process—

- (a) mercury, arsenic or organostannic compounds intended for use in the treatment of industrial waters, irrespective of the use of those waters, or
- (b) any substance so intended of which mercury, arsenic or organostannic compounds are a constituent.

DBB

6.—(1) Subject to paragraph (2), no person shall supply by way of sale for any purpose, or use in connection with any trade or business or manufacturing process DBB, or any substance containing DBB, in a concentration equal to or greater than 0.1 per cent by weight.

(2) Paragraph (1) shall not apply to DBB or any substance containing DBB if that substance is intended solely for conversion into finished products in which the concentration of DBB will be less than 0.1 percent by weight.

Offences and penalties

7. A person who contravenes regulation 3, 4, 5 or 6 or causes or permits another person to contravene one of those regulations shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and, on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

6th January 1992

Michael Heseltine
Secretary of State for the Environment

8th January 1992

David Hunt
Secretary of State for Wales

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9th January 1992

Strathclyde
Parliamentary Under Secretary of State, Scottish
Office

SCHEDULE

Regulation 3

THE ENVIRONMENTAL PROTECTION ACT 1990

The Environmental Protection (Controls on Injurious Substances) Regulations 1992

DECLARATION ON INTENDED SUPPLY AND USE OF
LEAD CARBONATE OR LEAD SULPHATE IN PAINT

NOTES:

* Selling or using this paint without completing, and complying with, a Declaration could bring you a fine or a prison sentence.

* Please read the notes before filling it in.

* Please use typescript or BLOCK CAPITALS.

* If you intend to use the paint, you must complete the first Part of the Declaration.

* If you intend to supply the paint, you must complete the second Part of the Declaration.

* When the person intending to use the paint has completed Part 1 of the Declaration, he/she should pass it to the person who is to supply the paint. (If the Declaration relates to the use of left-over paint supplied after an earlier Declaration, he/she must send it direct to the appropriate competent authority listed in the Notes on this page. In such a case, the supplier need not complete Part 2 of the Declaration.)

* The person intending to supply the paint must send the completed Declaration to the competent authority shown below, and wait for 3 weeks before supplying the paint to the intended user. (The period of 3 weeks begins on the day on which the Declaration was delivered to the competent authority or, if posted, on the day on which it would be delivered in the ordinary course of post.) The competent authority may advise that the intended use does not appear to fall within the uses allowed by the Regulations, and that the supplier may be committing a criminal offence if he/she supplies the paint, and the user may be committing a criminal offence if he/she uses it.

* The intended user can make a new or revised Declaration on intended use at any date— for example, if he/she was refused the paint by the supplier on the advice of the competent authority. But the supplier must go through the whole process again (completing the Declaration on intended supply, sending the whole Declaration to the competent authority and awaiting its comments) before supplying the paint.

* Any work involving application and removal of such paint should be undertaken in accordance with the relevant health and safety requirements including:

[The Control of Lead At Work Regulations 1980 \(S.I. 1980 No. 1248\)](#)

The Approved Code of Practice on Control of Lead At Work;

The Factories Act 1961 (especially section 131) ;

[The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985 \(S.I. 1985 No. 2023\)](#)

* Any unused paint can be used for another purpose only if another Declaration on intended use is completed by the intended user. He/she should send this direct to the appropriate competent authority at one of the addresses shown below, and wait for 3 weeks before using the paint for that purpose. Again, the competent authority may advise that the intended use does not appear to fall within the uses allowed by the Regulations, and that the user may be committing a criminal offence if he/she uses it. The competent authorities are:

Listed buildings or scheduled monuments (England):

English Heritage, Fortress House, 23 Savile Row, London W1X 1AB

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Listed buildings or scheduled monuments (Scotland):

Historic Scotland, 20 Brandon Street, Edinburgh EH3 5RA

Listed buildings or scheduled monuments (Wales):

Cadw, Brunel House, 2 Fitzallen Road, Cardiff CF2 1UY

Works of Art:

The Conservation Unit, Museums and Galleries Commission, 16 Queen Anne's Gate, London SW1H 9AA

Part 1. Declaration by Person Intending to USE the Paint

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I declare that I (name)
have ordered (exact quantity)
of paint (trade name)
(manufacturer) for which
the basis or pigment is lead carbonate or lead sulphate. I shall use the paint solely for the
restoration/maintenance# of either:†

(a) A Listed Building or Scheduled Monument

(name and address of building)

.....

which is a: Grade I/II*/Listed Building/Category A# listed building/scheduled monument
owned by (name)

I intend to use the paint on (describe exactly the clearly identifiable parts of the building or
monument which you intend to restore/maintain#)

.....

.....

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.....

(b) A Work of Art (if several, give these details for each one)

(name of work of art)
(date of work)
(author of work)
(location of work)

(owner)
(owner's address)

(name of work of art)
(date of work)
(author of work)
(location of work)

(owner)
(owner's address)

(name of work of art)
(date of work)
(author of work)
(location of work)

(owner)
(owner's address)

The paint needs to be used, to restore/maintain# historic textures or finishes, because

.....

.....

.....

.....

.....

Delete where inapplicable
† Complete (a) or (b) as appropriate

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Part 1 (continued)

I realise that the use of these leaded paints has been banned in the European Community – except for the restoration and maintenance of historic buildings and works of art – because of the risks to health (particularly to children) posed by exposure to lead in the environment; and that this ban has been implemented in Great Britain by the Environmental Protection (Controls on Injurious Substances) Regulations 1992.

I realise that the use of such paints for any purpose other than in accordance with those Regulations and this Declaration is an offence punishable by fines and/or a prison sentence.

I have read the Notes accompanying this Declaration and am aware of the need to comply with the other requirements shown there.

Signed Date
authorised to sign on behalf of (company/organisation's title)
company/organisation's address
.....
Telephone

End of Part 1

Part 2. Declaration by Person Intending to SUPPLY the Paint

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I declare that I (supplier's name)
of (address)

.....
have received the order described in Part 1 of this Declaration, from the person described in Part 1, and intend to supply him/her# with the quantity and type of paint described in Part 1.

I realise that the marketing of these leaded paints has been banned in the European Community—except for the restoration and maintenance of historic buildings and works of art—because of the risks to health (particularly to children) posed by exposure to lead in the environment; and that this ban has been implemented in Great Britain by the Environmental Protection (Controls on Injurious Substances) Regulations 1992.

I realise that marketing such paints other than in accordance with those Regulations and this Declaration is an offence punishable by fines and/or a prison sentence.

I am sending this Declaration by first-class post/second-class post/I am delivering this Declaration# to
..... (the competent authority listed in the Regulations)
on the date which appears below. I understand that I may supply the paint 3 weeks or more after the Declaration was given to that competent authority, but that the competent authority may advise me that the intended use described in Part 1 of this Declaration does not appear to fall within the uses allowed by the Regulations.

Signed Date
authorised to sign on behalf of (company title)
company address
.....
Telephone

End of Declaration

Delete where inapplicable

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations give effect to part of Council Directive 89/677/EEC (OJ No. L 398, 30.12.1989, p.19) which amended for the eighth time Directive 76/769/EEC (OJ No. L 375, 31.12.1985, p.1.) 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.

Regulation 2 of these Regulations amends the Control of Pollution (Supply and Use of Injurious Substances) Regulations 1986 (S.I. 1986/902) to provide that the supply or use of preparations or waste with a PCB or PCT content higher than 50 parts per million is prohibited.

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Regulation 3 prohibits the supply and use of certain lead paint other than its supply and use, under certain conditions, for the restoration or maintenance of certain historic buildings or of fine or decorative works of art.

Regulations 4, 5 and 6 prohibit the supply and use of mercury compounds intended for use in heavy duty textiles, mercury, arsenic and organostannic compounds for the treatment of industrial waters, and DBB in a concentration of, or above, 1,000 parts per million unless it is for conversion into finished products with a concentration below that level.

Regulation 7 makes it a criminal offence to contravene regulations 3 to 6, and specifies the penalties for such offences.

The CAS Registry Handbook may be inspected free of charge at the Royal Society of Chemists, Royal Academy, Burlington House, Piccadilly, London W1V 0BN.