
STATUTORY INSTRUMENTS

2003 No. 1511

The Creosote (Prohibition on Use and Marketing)(No. 2) Regulations 2003

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Creosote (Prohibition on Use and Marketing) (No.2) Regulations 2003 and except for regulation 2(2) shall come into force on 30th June 2003.

(2) Regulation 2(2) shall come into force on 9th June 2003.

Revocation

2.—(1) The Environmental Protection (Controls on Injurious Substances) Regulations 1999(1) other than regulation 6 thereof are hereby revoked.

(2) The Creosote (Prohibition on Use and Marketing) Regulations 2003(2) are hereby revoked.

Interpretation

3. In these Regulations—

“the Directive” means Commission Directive 2001/90/EC(3) adapting to technical progress for the seventh time Annex 1 to Council Directive 76/769/EEC(4) 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 (creosote);

“dangerous substance or preparation” means a substance or preparation for use in wood treatment and containing one or more of the substances set out in the Schedule to these Regulations;

“industrial or professional use” includes use on railways, in electric power transmission and telecommunications, for fencing, for agricultural purposes (such as stakes for tree support) and in harbours and waterways; and

“treated wood” means wood that has been treated with a dangerous substance or preparation.

Prohibition on use of a dangerous substance or preparation

4.—(1) Subject to the following paragraphs, no person may use a dangerous substance or preparation in the treatment of wood.

(2) A dangerous substance or preparation to which paragraph (3) applies may be used—

(a) for wood treatment in industrial installations; and

(b) for in situ retreatment of wood for industrial or professional use by professionals covered by European Community legislation on the protection of workers.

(1) S.I. 1999/3244.

(2) S.I. 2003/721.

(3) OJNo. L283, 27.10.01, p. 41.

(4) OJ No. L262, 27.9.76, p. 201.

- (3) This paragraph applies to a dangerous substance or preparation which contains—
- (i) benzo[a]pyrene at a concentration of less than 0.005 per cent by mass; and
 - (ii) water extractable phenols at a concentration of less than 3 per cent by mass.

Marketing and sale

- 5.—(1) No person may sell a dangerous substance or preparation to a consumer.
- (2) Subject to the following paragraphs, no person may place on the market—
- (a) a dangerous substance or preparation; or
 - (b) treated wood.
- (3) Paragraph (2)(a) does not apply to the placing on the market of a dangerous substance or preparation to which regulation 4(3) applies, provided—
- (a) the packaging in which the dangerous substance or preparation is placed on the market bears, in lettering which is indelible and easily legible, the words “For use in industrial installations or professional treatment only”; and
 - (b) the said packaging has a capacity equal to or greater than 20 litres.
- (4) Paragraph (2)(b) does not apply to the placing on the market for the first time of wood treated in accordance with regulation 4(2)(a) for industrial or professional use.
- (5) Paragraph (2)(b) does not apply to the placing on the second-hand market for re-use of treated wood where that wood was treated with the dangerous substance or preparation before these Regulations come into force.

Prohibition on use of treated wood

- 6.—(1) Subject to paragraph (3) wood treated in accordance with regulation 4(2)(a) or to which regulation 5(5) applies may not be used—
- (a) inside any building;
 - (b) in toys;
 - (c) in playgrounds;
 - (d) in parks, gardens and outdoor recreational and leisure facilities where there is a risk of frequent skin contact;
 - (e) in the manufacture of garden furniture (such as picnic tables); or
 - (f) for the manufacture of—
 - (i) containers intended for growing purposes;
 - (ii) packaging which may come into contact with raw materials, intermediate or finished products intended for human or animal consumption; or
 - (iii) any other materials which may contaminate the products mentioned in this sub-paragraph
- (2) The items mentioned in paragraph (1)(f) may not be retreated with a dangerous substance or preparation.
- (3) The prohibition in paragraph (1) on the use of treated wood does not apply where the treated wood was in such use before these Regulations came into force.

Offences and Penalties

7. Any person who contravenes regulation 4, 5 or 6 shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale.

9th June 2003

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Department of Trade and Industry