
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in implementation of Directive [2004/42/EC](#) (“the VOCs in Paints Directive”) on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products, and amending Directive [1999/13/EC](#) (the Solvent Emissions Directive).

The Volatile Organic Compounds in Paints Directive lays down maximum content limit values for volatile organic compounds (VOCs) which apply in two phases for paints and varnishes, that is to say, from 1st January 2007 for the first phase limits, and from 1st January 2010 for the tighter, second phase limits. These limits are set out in Part A of Annex II to the Directive. The directive lays down a single set of content limit values for VOCs in vehicle refinishing products in Part B of Annex 2, which apply from 1st January 2007. Annex II is set out in Schedule 2 to these Regulations.

Regulation 3 applies the regulations to the products covered by Annex I of the VOCs in Paints Directive, unless they are for use outside the European Community or are for uses regulated by the regulations implementing Directive [1999/13/EC](#).

Regulation 4 limits the marketing of paints and varnishes and vehicle refinishing products, listed in Schedule 1, unless they have a VOC (volatile organic compound) content which does not exceed the limit values set out in Schedule 2 by the dates set out in that Schedule. Schedule 3 sets out the analytical methods to be applied in determining the VOC content of products.

Regulation 5 requires that products in Schedule 1 carry a label concerning the maximum VOC content of that product in a ready to use condition.

Regulation 6 designates the Secretary of State as the competent authority for the United Kingdom for ensuring fulfilment of the obligations of Directive [2004/42/EC](#), and requires that she consult the devolved administrations as necessary in the exercise of these responsibilities.

Regulation 7 provides that it is the Secretary of State’s function to enforce the Regulations (though not to prosecute in Scotland, where the procurator fiscal prosecutes), and requires the Secretary of State to establish and maintain a programme of monitoring for the purpose of determining whether the Regulations are being complied with. The Secretary of State may delegate her monitoring and enforcement functions to others to such extent as she determines, but must publish appropriate notice of any such delegation. Except in Northern Ireland, section 108 of the Environment Act 1995 provides powers for persons authorised by (among other authorities) the Secretary of State to establish whether the regulations, being pollution control enactments, are being complied with and to obtain evidence necessary to take enforcement action. These powers include the power to enter premises and to take samples, which may be tested. Special provisions in relation to enforcement powers in Northern Ireland are set out in Schedule 4.

Regulation 8 creates offences of contravening regulation 4, and prescribes penalties. Directors and similar officers of bodies corporate are liable to conviction in certain circumstances where the offence is attributable to their fault. An evidential burden rests on a person relying on the transitional provision in regulation 10 to show when the product was produced. The maximum penalties are a fine on conviction on indictment, and on summary conviction, a fine of the statutory maximum, which, at the time of making these Regulations, is £5,000.

Regulation 9, which applies to England and Wales only, amends Section 7 of Part 1 of Schedule 1 to the Pollution Prevention and Control (England and Wales) Regulations 2000. This in turn gives effect to the implementation of the Solvent Emissions Directive by the Solvent Emissions (England and

Status: This is the original version (as it was originally made).

Wales) Regulations 2004. Regulation 9 deletes from the scope of the 2000 Regulations one category of “vehicle refinishing” which has been removed by Article 13 of Directive [2004/42/EC](#). Similar amendments will be made by the devolved administrations to the relevant regulations applicable to Scotland and Northern Ireland.

Regulation 10 provides transitional provisions. A product to which these Regulations apply may be placed on the market for 12 months after the appropriate date specified above if it was produced before that date.

The EN standards referred to in paragraph 1e) and f) of Schedule 1, may be obtained from any of the sales outlets operated by the British Standards Institute or the BSI via their website – <http://www.bsi-global.com/index.xalter>. The ISO standards referred to in paragraph 1e) of Schedule 1 and in Schedule 3, may be obtained from the International Organisation for Standardisation (ISO) via their website - <http://www.iso.org/iso/en/ISOOnline.frontpage>. The ASTM standard referred to in Schedule 3, can be obtained from ASTM International via their website - <http://www.astm.org>.

A full Regulatory Impact Assessment and a transposition note has been prepared in connection with the amendments made by these Regulations, and placed in the library of each House of Parliament. Copies are obtainable from Ian Oldfield, Air and Environmental Quality Division, Department for Environment, Food and Rural Affairs, Room 4/G15, Ashdown House, 123 Victoria Street, London SW1E 6DE (email: ian.oldfield@Defra.gsi.gov.uk).