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STATUTORY INSTRUMENTS

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**2008 No. 2852**

**CONSUMER PROTECTION  
ENVIRONMENTAL PROTECTION  
HEALTH AND SAFETY**

**The REACH Enforcement Regulations 2008**

*Made* - - - - *1st November 2008*  
*Laid before Parliament* *10th November 2008*  
*Coming into force* - - *1st December 2008*

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to persistent organic pollutants, dangerous substances, preparations and chemicals, makes the following Regulations in exercise of the powers conferred by that section:

**PART 1**

**Introduction**

**Citation and commencement**

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

**Interpretation**

2.—(1) In these Regulations—

“a listed REACH provision” means a provision of REACH listed in the REACH table;

[<sup>F1</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;]

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(1) [S.I. 2006/608](#).

(2) [1972 c. 68](#). The power of the Minister to make regulations in relation to matters in or as regards Scotland is preserved by section 57(1) of the Scotland Act [1998 \(c.46\)](#).

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“the REACH table” means the table in Schedule 1 to these Regulations.

(2) In these Regulations—

[<sup>F2</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 Department of Enterprise, Trade and Investment and the Department of the Environment acting alone or jointly; and
- (e) in relation to matters outside the competence of a devolved administration or the Assembly, the Secretary of State<sup>(3)</sup>;

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

“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>F3</sup>the Office of Rail Regulation;]
- (fb) [<sup>F4</sup>the Office for Nuclear Regulation;]
- (g) the Scottish Environment Protection Agency;
- (h) the Secretary of State;
- (i) [<sup>F5</sup>the Natural Resources Body for Wales;]

[<sup>F6</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;

(3) 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 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(4);
- (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>F7</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>F8</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>F9</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>F10</sup>“relevant waters”, in relation to an offshore installation, has the meaning given in section 44(4) of the Petroleum Act 1998;]

[<sup>F11</sup>“Scotland” includes Scottish controlled waters;]

[<sup>F12</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

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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

- F1** 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)**
- F2** 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)**
- F3** 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)**
- F4** 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)
- F5** 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)
- F6** 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)**
- F7** 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)**
- F8** 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)
- F9** 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)**
- F10** 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)**
- F11** 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)**
- F12** 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)**

## PART 2

### Enforcement

#### Enforcement

**3.—(1)** An enforcing authority must enforce a listed REACH provision where it is named against that provision in the REACH table.

(2) The duty in paragraph (1) is subject to the following provisions of this regulation and <sup>F13</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 REACH table.

- (5) In relation to an offshore installation, the enforcement duty applies—  
(a) for an installation in relevant waters (except such waters 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 REACH table;  
(b) for an installation in relevant waters 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 REACH table;  
(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 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

**F13** 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)

#### [<sup>F14</sup>Enforcement: relevant nuclear sites

**3A.**—(1) This regulation applies where the Office for Nuclear Regulation is named in any column of the REACH table against any listed REACH provision.

(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.

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(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

**F14** 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)

#### Co-operation and information sharing

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 another member State; and
- (d) the European Chemicals Agency,

where this will facilitate compliance with, or the effective enforcement of, REACH in the European Union.

(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 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.

### Enforcement agreements

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

6.—<sup>F15</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) the Office of Rail Regulation.]

(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>F16</sup>an assignment made in accordance with regulation 3A or] an enforcement agreement made in accordance with regulation 5.

<sup>F17</sup>(5) .....

#### Textual Amendments

**F15** Reg. 6(1) substituted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), 4(a)

**F16** Words in reg. 6(4) 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. 135** (with Sch. 4)

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**F17** Reg. 6(5) omitted (16.12.2013) by virtue of [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **4(b)**

## PART 3

### Exemptions

#### Defence

- 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; 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 4 (defence exemption certificates) has effect.

#### Marketing and use of leaded paint

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>F18</sup>Placing asbestos-containing articles on the market

- 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

**F18** Reg. 8A inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **5**

## PART 4

### Enforcement powers and civil proceedings

#### Enforcement powers

- 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<sup>(5)</sup>(power of customs officer to detain articles and substances).

### **Authorised persons**

**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**

### **Offences and penalties**

#### **CHAPTER 1**

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

### **Offences**

**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.

### **Penalties**

**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.

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(5) [1974 c. 37](#); section 25A was inserted by section 36 and Schedule 3, paragraph 3 of the Consumer Protection Act [1987 \(c. 43\)](#).

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## CHAPTER 2

### Other offences and penalties

#### Offences

- 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**

**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**

### **Bodies corporate, Scottish partnerships and remediation**

#### **Bodies corporate and Scottish partnerships**

**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**

**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.

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(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

### Matters in relation to criminal proceedings

#### Appearance of authorised persons before a court of summary jurisdiction

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

- (a) the Health and Safety Executive;<sup>F19</sup>...
- (b) the Health and Safety Executive for Northern Ireland; [<sup>F20</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

- F19** 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)
- F20** 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

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

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

### Civil Proceedings

#### Proceedings before a civil court

**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

### Appeals against notices and service of documents

#### Appeals against notices

**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>F21</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>F22</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

**F21** 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)

**F22** 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

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

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## PART 7

### Revocations and amendments

#### Revocations and amendments

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

## [<sup>F23</sup>PART 8

### Review

#### Textual Amendments

**F23** 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

- 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.
- (2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to how REACH (which is enforced by means of these Regulations) is enforced in other member States.
- (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.]

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

## SCHEDULE 1

Regulation 2(1)

## Table of REACH provisions

Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
Article 5.	Prohibition on manufacture or placing on the market of substances on their own, in [ <sup>F24</sup> mixtures] or in articles without registration.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 7(2) (Subject to Article 7(6)).	Requirement on a producer or an importer of an article to notify the European Chemicals Agency.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 7(3) (Subject to Article 7(6)).	Requirement on a producer or an importer to supply appropriate instructions to the recipient of the article.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 8(2) (first sentence).	Requirement on a representative of a non-community manufacturer to comply with obligations of importers.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
Article 9(2).	Requirement on a manufacturer, importer or producer of articles to notify the European Chemicals Agency of relevant information when that person is seeking to rely on the exemption for product and process orientated research and development.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 9(6).	Requirement on a manufacturer, an importer or a producer of articles to comply with conditions imposed by the European Chemicals Agency.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  [ <sup>F26</sup> In relation to England, the Environment Agency. In relation to Wales, the Natural Resources Body for Wales.]  Local (health and safety) authorities.  Local (consumer	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.  Local (health and safety) authorities.  Local (consumer safety) authorities.	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.  Local (health and safety) authorities.  Local (consumer safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
		safety) authorities.			
Article 12(2).	Requirement on a manufacturer or an importer to notify the European Chemicals Agency of additional information where it reaches the next tonnage threshold.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 14(6).	Requirement on a registrant to identify and apply the appropriate measures adequately to control the risks identified in the chemical safety assessment and where suitable to recommend them in a safety data sheet that is supplied.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  [ <sup>F27</sup> In relation to England, the Environment Agency. In relation to Wales, the Natural Resources Body for Wales.]  Local (health and safety) authorities.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.  Local (health and safety) authorities.	The Health and Safety Executive.  The Department of the Environment.  Local (health and safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.
Article 14(7).	Requirement on a registrant to keep a chemical safety report available	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	and up to date.				for Northern Ireland.
Article 22(1).	Requirement on a registrant to update the registrant's registration.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 22(2).	Requirement on a registrant to submit to the European Chemicals Agency an updated registration where this is required by a decision of the European Chemicals Agency.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 24(2).	Requirement on a manufacturer or an importer to notify, in accordance with Article 10 (information to be submitted for general registration purposes) and Article 12 (information to be submitted	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	depending on tonnage), if the quantity of a notified substance reaches the next tonnage threshold.				
Article 26(1).	Requirement on a potential registrant of a non-phase in substance or a potential registrant of a phase-in substance who has not pre-registered, to inquire of the European Chemicals Agency if the same substance has been registered.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 27(1) (a).	Requirement on a potential registrant to request information on vertebrate animals tests from a previous registrant.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 30(6).	Subject to Article 30(5)	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for	The Health and Safety Executive.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	(appeals), failure by owner of a relevant study to provide either proof of the cost of the study or the study itself.			Northern Ireland.	The Health and Safety Executive for Northern Ireland.
Article 31(1).	Requirement on a supplier of a substance or a [F28 mixture] to provide the recipient of that substance or [F28 mixture] with a safety data sheet compiled in accordance with Annex II (guide to the compilation of safety data sheets).	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 31(2)-(9).	Requirement on an actor in the supply chain who has been requested to perform a chemical safety assessment to ensure that information in the safety data sheet	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	is consistent with the information in the assessment.				
	Requirement on a supplier to provide a safety data sheet when requested for a [F28 mixture] which falls within Article 31(3).	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Requirement on a supplier to provide a downstream user or a distributor with a safety data sheet when requested for a [F28 mixture] or dangerous substance which is offered or sold to the general public.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Requirement on a supplier to provide to the recipient of a substance or a [F28 mixture]	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	a safety data sheet in the language of the Member State concerned.				
	Requirement that the safety data sheet contains the information listed in Article 31(6).	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Requirement on an actor in the supply chain to place the relevant exposure scenarios in an annex to the safety data sheet in accordance with section 3 of Annex XI (general rules for adaptation of the standard testing regime set out in Annexes VII to X).	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Requirement on a downstream user to include the relevant exposure	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	scenarios and use other relevant information from the safety data sheet in its own safety data sheet for identified uses.				for Northern Ireland.
	Requirement on a distributor to pass on relevant exposure scenarios and use other relevant information from the safety data sheet when compiling its own data sheet for identified uses.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Requirement to provide a safety data sheet free of charge either electronically or on paper [F29, and by no later than the date on which the substance or mixture is first supplied].	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	Requirement on a supplier to update a safety data sheet.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
[ <sup>F30</sup> Article 31(10)]	Requirement on a supplier to include the classification of substances or mixtures in a safety data sheet.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.]
Article 32.	Duty on a supplier to provide to all recipients to whom supplies have been made within the preceding twelve months an updated safety data sheet.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Duty on a supplier who does not have to supply a safety data sheet to provide the recipient with the information	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	in Article 32(1).				
Article 32(2), (3).	Duty on a supplier to provide information free of charge no later than the time of first delivery of a substance or a [ <sup>F28</sup> mixture] after 1st June 2007.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Duty on a supplier to update the information when required by Article 32(1).	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Duty on a supplier to provide to all recipients to whom they have supplied within the preceding twelve months updated information.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 33(1).	Duty on a supplier of an article meeting the criteria in Article 57 (substances	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	to be included in Annex XIV) and identified in accordance with Article 59(1) to provide the recipient with sufficient information to allow safe use, including as a minimum the name of that substance.	Local (health and safety) authorities.	Local (health and safety) authorities.	Local (health and safety) authorities.	for Northern Ireland.
Article 33(2).	Duty on a supplier of an article meeting the criteria in Article 57(substances) to be included in Annex XIV) and identified in accordance with Article 59(1) to provide a consumer on request with sufficient information to allow the safe use, including as a minimum the name of that substance.	The Health and Safety Executive. [ <sup>F25</sup> The Office for Nuclear Regulation] [ <sup>F31</sup> Local (consumer safety) authorities] .	The Health and Safety Executive. [ <sup>F25</sup> The Office for Nuclear Regulation] [ <sup>F31</sup> Local (consumer safety) authorities] .	The Health and Safety Executive for Northern Ireland. [ <sup>F31</sup> Local (consumer safety) authorities] .	The Health and Safety Executive. The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
Article 34.	Duty on an actor in the supply chain to communicate the information referred to in Article 34(a) and (b) to the next actor or distributor up the supply chain.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 35.	Requirement on an employer to provide workers and their representative with access to information relating to substances or [F24 mixtures] which they may use or be exposed to in the course of their work.	The Health and Safety Executive.  [F25The Office for Nuclear Regulation]  Local (health and safety) authorities.	The Health and Safety Executive.  [F25The Office for Nuclear Regulation]  Local (health and safety) authorities.	The Health and Safety Executive for Northern Ireland.  Local (health and safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 36(1).	Requirement on a manufacturer, importer, downstream user or distributor to keep available for at least ten years after it last	The Health and Safety Executive.  [F25The Office for Nuclear Regulation]  [F32In relation to England, the Environment Agency.	The Health and Safety Executive.  [F25The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	manufactured, imported, supplied or used the substance or [F28 mixture], all the information it requires to carry out its duties under REACH.	In relation to Wales, the Natural Resources Body for Wales.] Local (consumer safety) authorities. Local (health and safety) authorities.	Local (consumer safety) authorities. Local (health and safety) authorities.	Local (consumer safety) authorities. Local (health and safety) authorities.	
	Requirement on a manufacturer, importer, downstream user or distributor to submit or make available information to a competent authority or the European Chemicals Agency when requested to do so.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive. The Health and Safety Executive for Northern Ireland.
Article 36(2).	Requirement on a party responsible for liquidating the registrant's, downstream user's or distributor's undertaking or assuming	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive. The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	responsibility for the placing on the market of the substance or [F28 mixture] concerned, to comply with Article 36(1).				
Article 37(3).	Requirements providing when a manufacturer, importer or downstream user must comply with Article 14 (chemical safety report and duty to apply and recommend risk reduction measures) for registered substances.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Requirements providing when a manufacturer, importer or downstream user must comply with Article 14 for a phase-in substance.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
	Requirement on a manufacturer, importer or	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for	The Health and Safety Executive.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	downstream user to provide the European Chemicals Agency and downstream users with reasons why a use identified by a downstream user cannot be included in the chemical safety report.			Northern Ireland.	The Health and Safety Executive for Northern Ireland.
	Prohibition on a manufacturer, importer or downstream user supplying a downstream user with a substance without stating in the information referred to in Article 31 (requirements for safety data sheets) and Article 32 (duty to communicate information down the supply chain for substances on their own or in	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	[ <sup>F24</sup> mixtures] for which a safety data sheet is not required) the reasons why a use is not an identified-use.				
	Requirement on a manufacturer or an importer to include the use notified under Article 37(2) in the update of the registration under Article 22(1)(d).	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 37(4).	Requirement on a downstream user to prepare a chemical safety report in accordance with Annex XII (general provisions for downstream users to assess substances and prepare chemical safety reports) for any use	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  [ <sup>F33</sup> In relation to England, the Environment Agency. In relation to Wales, the Natural Resources Body for Wales.]  Local (health and safety) authorities.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.  Local (health and safety) authorities.	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.  Local (health and safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	outside of the conditions described in an exposure scenario, a use and exposure category in a safety data sheet or for any use that a supplier advises against.				
Article 37(5) (read in association with Article 39(1)).	Requirement on a downstream user to identify and apply appropriate measures to adequately control risks identified in (a) a safety data sheet; (b) its own chemical safety assessment; or (c) any information received in accordance with Article 32 (duty to communicate information down the supply chain for substances on their own or in [F24 mixtures] for which a safety data	The Health and Safety Executive. [F25The Office for Nuclear Regulation] [F34In relation to England, the Environment Agency. In relation to Wales, the Natural Resources Body for Wales.] Local (health and safety) authorities.	The Health and Safety Executive. [F25The Office for Nuclear Regulation] The Scottish Environment Protection Agency. Local (health and safety) authorities.	The Health and Safety Executive for Northern Ireland. The Department of the Environment. Local (health and safety) authorities.	The Health and Safety Executive. The Health and Safety Executive for Northern Ireland. Secretary of State.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	sheet is not required).				
Article 37(5) (read in association with Article 39(1)).	Requirement on a downstream user to recommend, where suitable, measures adequately to control the risks identified in (a) a safety data sheet supplied to it; (b) its own chemical safety assessment or (c) any information received in accordance with Article 32.	The Health and Safety Executive.. [ <sup>F25</sup> The Office for Nuclear Regulation]  [ <sup>F34</sup> In relation to England, the Environment Agency. In relation to Wales, the Natural Resources Body for Wales.]  Local (health and safety) authorities.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.  Local (health and safety) authorities.	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.  Local (health and safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.
Article 37(6).	Requirement on a downstream user to identify and apply appropriate risk management measures that are needed to ensure that the risks to human health and the environment are	The Health and Safety Executive. [ <sup>F35</sup> In relation to England, the Environment Agency. In relation to Wales, the Natural Resources Body for Wales.]  Local (health and safety) authorities.	The Health and Safety Executive.  The Scottish Environment Protection Agency.  Local (health and safety) authorities.	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.  Local (health and safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	adequately controlled.				
Article 37(7) (read in association with Article 39(1)).	Requirement on a downstream user to keep its chemical safety report up to date and available.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 38(1) (read in association with Article 39(2)).	Requirement on a downstream user to report information in Article 38(2) to the European Chemicals Agency before commencing or continuing with a particular use of a substance that has been registered by an actor up the supply chain.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  [ <sup>F36</sup> In relation to England, the Environment Agency. In relation to Wales, the Natural Resources Body for Wales.]  Local (health and safety) authorities.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.  Local (health and safety) authorities.	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.  Local (health and safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.
Article 38(3).	Requirement on a downstream user to update the information provided in Article 38(2).	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  [ <sup>F37</sup> In relation to England, the Environment	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  The Scottish Environment	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
		Agency. In relation to Wales, the Natural Resources Body for Wales.]  Local (health and safety) authorities.	Protection Agency.  Local (health and safety) authorities.	Local (health and safety) authorities.	Secretary of State.
Article 38(4) (read in association with Article 39(2)).	Requirement on a downstream user to report to the European Chemicals Agency if its classification of a substance is different to that of its supplier.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 41(4).	Requirement on a registrant to submit information required to the European Chemicals Agency.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 46(2).	Requirement on a registrant to submit further information in accordance with a decision prepared by the	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	competent authority.				
Article 49(a).	Requirement on a registrant to submit further information as requested by the competent authority in relation to a risk identified for on-site isolated intermediates.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 50(4).	Requirement on a registrant to provide, in accordance with Article 46 (requests for further information and check of information submitted), further information.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 56(1) (subject to Article 56(4)-(6)).	Prohibition on a manufacturer, importer or downstream user placing a substance on the market for a use or use it itself if that substance is included in Annex XIV (list of substances	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  [ <sup>F38</sup> In relation to England, the Environment Agency. In relation to Wales, the Natural Resources	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.  Local (consumer	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.  Local (consumer safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	subject to authorisation unless Article 56(1)(a), (b), (c), (d) or (e) are satisfied.	Body for Wales.]  Local (consumer safety) authorities.  Local (health and safety) authorities.	safety) authorities.  Local (health and safety) authorities.	Local (health and safety) authorities.	
Article 56(2) (subject to 56(4)-(6)).	Prohibition on a downstream user using a substance otherwise than in accordance with the conditions of an authorisation granted to an actor up that actor's supply chain for that use.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  [ <sup>F39</sup> In relation to England, the Environment Agency. In relation to Wales, the Natural Resources Body for Wales.]  Local (health and safety) authorities.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.  Local (health and safety) authorities.	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.  Local (health and safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.
Article 60(10).	Requirement on a holder of an authorisation to ensure that the exposure is reduced to as low a level as is technically and practically possible.	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  [ <sup>F40</sup> In relation to England, the Environment Agency. In relation to Wales, the Natural	The Health and Safety Executive.  [ <sup>F25</sup> The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.	The Health and Safety Executive for Northern Ireland.  The Department of the Environment.  Local (health and safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.  Secretary of State.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
		Resources Body for Wales.]  Local (health and safety) authorities.	Local (health and safety) authorities.		
Article 65.	Requirement on a holder of an authorisation or a downstream user to include the authorisation number on the label before placing the substance or [F28 mixture] on the market for an authorised use.	The Health and Safety Executive.  Local (consumer safety) authorities.  Local (health and safety) authorities.	The Health and Safety Executive.  Local (consumer safety) authorities.  Local (health and safety) authorities.	The Health and Safety Executive for Northern Ireland.  Local (consumer safety) authorities.  Local (health and safety) authorities.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 66(1).	Requirement on a downstream user using a substance in accordance with Article 56(2) to notify the European Chemicals Agency within three months of the first supply.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.  The Health and Safety Executive for Northern Ireland.
Article 67(1) (subject to Article 67(2)).	Prohibition on the manufacture, placing on the market	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive.

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Provision of REACH	Subject Matter	Enforcing authority			
		England and Wales	Scotland	Northern Ireland	Offshore installations
	or use of a substance on its own, in a [F28 mixture] or in an article for which Annex XVII (restrictions on the manufacture, placing on the market and use of certain dangerous substances, [F24 mixtures] and articles) contains a restriction unless the manufacture, placing on the market or use complies with the conditions of that restriction.	[F25 The Office for Nuclear Regulation]  [F41 In relation to England, the Environment Agency. In relation to Wales, the Natural Resources Body for Wales.]  Local (consumer safety) authorities.  [F42 The Office of Rail Regulation.]	[F25 The Office for Nuclear Regulation]  The Scottish Environment Protection Agency.  Local (consumer safety) authorities.  [F42 The Office of Rail Regulation.]	The Department of the Environment.  Local (consumer safety) authorities.  Local (health and safety) authorities.	The Health and Safety Executive for Northern Ireland.  Secretary of State.
F43 ...	F43 ...	F43 ...	F43 ...	F43 ...	F43 ...
F43 ...	F43 ...	F43 ...	F43 ...	F43 ...	F43 ...

### Textual Amendments

- F24** Words in Sch. 1 substituted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **7(2)(a)**
- F25** Words in Sch. 1 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. 138** (with Sch. 4)
- F26** Words in Sch. 1 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), Sch. 4 para. 305(2), **(3)(a)** (with Sch. 7)

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- F27** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(b)** (with Sch. 7)
- F28** Words in Sch. 1 substituted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **7(2)(b)**
- F29** Words in Sch. 1 inserted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **7(3)**
- F30** Words in Sch. 1 inserted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **7(4)**
- F31** Words in Sch. 1 substituted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **7(5)**
- F32** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(c)** (with Sch. 7)
- F33** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(d)** (with Sch. 7)
- F34** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(e)** (with Sch. 7)
- F35** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(f)** (with Sch. 7)
- F36** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(g)** (with Sch. 7)
- F37** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(h)** (with Sch. 7)
- F38** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(i)** (with Sch. 7)
- F39** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(j)** (with Sch. 7)
- F40** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(k)** (with Sch. 7)
- F41** Words in Sch. 1 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 4 para. 305(2), **(3)(l)** (with Sch. 7)
- F42** Words in Sch. 1 inserted (16.12.2013) by The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **7(6)**
- F43** Words in Sch. 1 omitted (16.12.2013) by virtue of The REACH Enforcement (Amendment) Regulations 2013 (S.I. 2013/2919), regs. 1(b), **7(7)**

## SCHEDULE 2

Regulation 3(8)

### Functions of enforcing authorities

1. The functions of the Environment Agency, [<sup>F44</sup>the Natural Resources Body for Wales,] the Scottish Environment Protection Agency and the Department of the Environment are to—

- (a) prevent, minimise, remedy or mitigate the effects of pollution of the environment;
- (b) ensure the safety of the environment.

#### Textual Amendments

- F44** Words in Sch. 2 para. 1 inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 4 para. 306** (with Sch. 7)

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2. Subject to paragraph 3, the functions of the Health and Safety Executive, the Health and Safety Executive for Northern Ireland [<sup>F45</sup>, the Office for Nuclear Regulation] and a local (health and safety) authority are to—

- (a) secure the health, safety and welfare of persons at work;
- (b) protect others against risks to health and safety in connection with activities of persons at work;
- (c) control the manufacture and placing on the market of articles and substances.

#### Textual Amendments

**F45** Words in Sch. 2 para. 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. 139](#) (with Sch. 4)

[<sup>F46</sup>3. In Northern Ireland, paragraph 2 does not apply in respect of—

- (a) substances for which the Explosives Acts (Northern Ireland) 1875 to 1970, the Health and Safety Quarries (Explosives) Regulations (Northern Ireland) 2006, or the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 make provision; or
- (b) tier 1 substances within the meaning of the Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014.]

#### Textual Amendments

**F46** [Sch. 2 para. 3](#) substituted (2.9.2014) by [The Control of Explosives Precursors etc. Regulations \(Northern Ireland\) 2014 \(S.R. 2014/224\)](#), regs. 1(2), [29\(6\)](#) (with reg. 31)

4. The function of a local (consumer safety) authority is to ensure that goods made available to the public for their personal consumption are safe.

5. The function of the Secretary of State is to control the use on, and discharge from, offshore installations of articles and substances in order to protect the marine environment.

[<sup>F47</sup>6.—(1) Subject to sub-paragraph (2), the functions of the Office of Rail Regulation are to—

- (a) secure the health, safety and welfare of persons at work;
- (b) protect others against risks to health and safety in connection with the activities of persons at work;
- (c) control the manufacture and placing on the market of articles and substances.

(2) The functions of the Office of Rail Regulation—

- (a) only apply in relation to the manufacture, placing on the market and use of asbestos fibres in so far as this relates to the operation of a railway; and
- (b) do not apply in relation to Northern Ireland.

(3) In sub-paragraph (2) “operation of a railway” has the meaning given in regulation 2 of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006.]

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**Textual Amendments**

**F47** Sch. 2 para. 6 inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **8**

SCHEDULE 3

Regulation 6(2)

Health and safety enforcement

PART 1

Definitions

1. For the purposes of this Schedule—

(a) “agricultural activities”—

- (i) includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, forestry, the use of land as grazing land, market gardens and nursery grounds and the preparation of land for agricultural use;
- (ii) does not include such activities at a garden centre or other shop.

but “livestock breeding and keeping” does not include activities the main purpose of which is entertainment.

(b) “common parts” means those parts of premises used in common by, or for providing common services to or common facilities for, the occupiers of the premises;

(c) “consumer services” means services of a type ordinarily supplied to persons who receive them otherwise than in the course of a trade, business or other undertaking carried on by them (whether for profit or not);

(d) “dock premises” has the meaning assigned to it by—

- (i) in relation to Great Britain, regulation 2(1) of the Docks Regulations 1988(6);
- (ii) in relation to Northern Ireland, regulation 2(1) of the Docks Regulations (Northern Ireland) 1989(7);

(e) “electricity system” does not include—

- (i) in relation to Great Britain, the consumer’s installation within the meaning of regulation 3(1) of the Electricity Safety, Quality and Continuity Regulations 2002(8);
- (ii) in relation to Northern Ireland, the electric lines situated upon the consumer’s side of the supply terminals together with any apparatus permanently connected or intended to be permanently connected thereto;
- (iii) the electric lines situated upon the consumer’s side of the supply terminals together with any apparatus or equipment permanently connected or intended to be permanently connected thereto;

<sup>F48</sup>(f) .....

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(6) S.I. 1988/1655.  
(7) S.R. (NI) 1989 No 320.  
(8) S.I. 2002/2665.

- (g) “fairground” means such part of premises as is for the time being used wholly or mainly for the operation of any fairground equipment, other than a coin-operated ride, non-powered children’s playground equipment, swimming pool slide, go-kart, or plant designed to be used by members of the public for entertainment purposes for bouncing upon;
- (h) “gas” has the meaning assigned to it by—
- (i) in relation to Great Britain, section 48 of the Gas Act 1986<sup>(9)</sup>;
  - (ii) in relation to Northern Ireland, Part III of the Gas (Northern Ireland) Order 1996<sup>(10)</sup>;
- (i) “gas fitting” has the meaning assigned to it by—
- (i) in relation to Great Britain, section 48 of the Gas Act 1986;
  - (ii) in relation to Northern Ireland, regulation 2(1) of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 1997<sup>(11)</sup>;
- (j) “guided bus system” means a system of transport, used wholly or mainly for the carriage of passengers, that employs buses which for some or all of the time when they are in operation—
- (i) travel along roads; and
  - (ii) are guided (whether while on the road or at other times) by means of—
    - (aa) apparatus, a structure or other device which is fixed and not part of the bus;  
or
    - (bb) a guidance system which is automatic.
- (k) “guided transport” means a system of transport, used wholly or mainly for the carriage of passengers, employing vehicles which for some or all of the time when they are in operation are guided by means of—
- (i) rails, beams, slots, guides or other apparatus, structures or devices which are fixed and not part of the vehicle; or
  - (ii) a guidance system which is automatic,
- and for this purpose “vehicle” includes a mobile traction unit.
- (l) “livestock” means any creature kept for the production of food, wool, skins or fur or for the purpose of any agricultural activity;
- (m) “mine” has the meaning assigned to it by—
- (i) in relation to Great Britain, section 180 of the Mines and Quarries Act 1954<sup>(12)</sup> but, notwithstanding subsection (5) of that section, does not include any railway serving the mine unless and to the extent that the railway is located within the curtilage of the mine;
  - (ii) in relation to Northern Ireland, section 156(1) of the Mines Act (Northern Ireland) 1969<sup>(13)</sup>;
- (n) “office activities” includes any activity for the purposes of administration, clerical work, handling money, telephone and telegraph operating and the production of computer software by the use of computers; and for this purpose “clerical work” includes writing, book-keeping, sorting papers, filing, typing, duplicating, machine calculating, drawing and the editorial preparation of matter for publication except where that preparation is on the premises where newspapers, magazines, periodicals or books are printed;

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<sup>(9)</sup> 1986 c.44.

<sup>(10)</sup> 1996 No. 275 (N.I. 2).

<sup>(11)</sup> S.R. (NI) 1997 No 194.

<sup>(12)</sup> 1954 c.70.

<sup>(13)</sup> 1969 c.6.

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- (o) “pleasure craft” has the meaning assigned to it by—
  - (i) in relation to Great Britain, regulation 2(1) of the Docks Regulations 1988;
  - (ii) in relation to Northern Ireland, regulation 2(1) of the Docks Regulations (Northern Ireland) 1989;
- (p) “preparation dangerous for supply” means a preparation which is in one or more of the categories of danger—
  - (i) in relation to Great Britain, in Schedule 1 to the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002**(14)**;
  - (ii) in relation to Northern Ireland, in Schedule 1 to the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002**(15)**.
- (q) “quarry” has the meaning assigned to it by—
  - (i) in relation to Great Britain, regulation 3 of the Quarries Regulations 1999**(16)**;
  - (ii) in relation to Northern Ireland, regulation 3 of the Quarries Regulations (Northern Ireland) 2006**(17)**;
- <sup>F49</sup>(r) .....
- (s) “road”—
  - (i) in England and Wales, means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes;
  - (ii) in Scotland, has the same meaning as in the Roads (Scotland) Act 1984**(18)**;
- (t) “trolley vehicle system” means a system of transport by vehicles constructed or adapted for use on roads without rails under electric power transmitted to them by overhead wires (whether or not there is in addition a source of power on board the vehicles);
- (u) “veterinary surgery” has the meaning assigned to it by section 27 of the Veterinary Surgeons Act 1966**(19)**;
- (v) “work” in relation to a gas fitting has the meaning assigned to it by—
  - (i) in relation to Great Britain, regulation 2(1) of the Gas Safety (Installation and Use) Regulations 1998**(20)**;
  - (ii) in relation to Northern Ireland, regulation 2(1) of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 1997**(21)**;
- (w) “zoo” has the meaning assigned to it in relation to Great Britain by section 1(2) of the Zoo Licensing Act 1981**(22)**;
- (x) “zoological establishment” has the meaning assigned to it in relation to Northern Ireland, by section 12(1) of the Welfare of Animals Act (Northern Ireland) 1972**(23)**.

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(14) S.I. 2002/1689 to which there are amendments not relevant to these Regulations.  
 (15) S.R. (NI) 2002 No 301 to which there are amendments not relevant to these Regulations.  
 (16) S.I. 1999/2024 to which there are amendments not relevant to these Regulations.  
 (17) S.R. (NI) 2006 No 205.  
 (18) 1984 c.54.  
 (19) 1966 c.36.  
 (20) S.I. 1998/2451.  
 (21) S.R. (NI) 1997 No 194.  
 (22) 1981 c.37.  
 (23) 1972 c.7 (N.I.); section 12(1) was amended by S.I. 1994/1891 (N.I. 6) article 14.

### Textual Amendments

- F48** Sch. 3 Pt.1 para. 1(f) omitted (16.12.2013) by virtue of [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **9(a)**
- F49** Sch. 3 Pt.1 para. 1(r) omitted (16.12.2013) by virtue of [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **9(a)**

## PART 2

### Local (health and safety) authorities

1. Subject to Part 4, a local (health and safety) authority must perform the joint enforcement duty on behalf of the Executive where the main activity carried on in non-domestic premises is referred to in paragraph 2.

2. The main activity referred to in paragraph 1 is—

- (a) the sale of goods, or the storage of goods for retail or wholesale distribution, except—
  - (i) at container depots where the main activity is the storage of goods in the course of transit to or from dock premises, an airport or a railway;
  - (ii) where the main activity is the sale or storage for wholesale distribution of any substance or preparation dangerous for supply;
  - (iii) where the main activity is the sale or storage of water or sewage or their by-products or natural or town gas.
- (b) the display or demonstration of goods at an exhibition for the purposes of offer or advertisement for sale;
- (c) office activities;
- (d) catering services;
- (e) the provision of permanent or temporary residential accommodation including the provision of a site for caravans or campers;
- (f) consumer services provided in a shop except dry cleaning or radio and television repairs;
- (g) cleaning (wet or dry) in coin operated units in launderettes and similar premises;
- (h) the use of a bath, sauna or solarium, massaging, hair transplanting, skin piercing, manicuring or other cosmetic services and therapeutic treatments, except where they are carried out under the supervision or control of a registered medical practitioner, a dentist registered under the Dentists Act 1984(24), a physiotherapist, an osteopath or a chiropractor;
- (i) the practice or presentation of the arts, sports, games, entertainment or other cultural or recreational activities except where the main activity is the exhibition of a cave to the public;
- (j) the hiring out of pleasure craft for use on inland waters;
- (k) the care, treatment, accommodation or exhibition of animals, birds or other creatures, except where the main activity is horse breeding or horse training at a stable, or is an agricultural activity or veterinary surgery;
- (l) the activities of an undertaker, except where the main activity is embalming or the making of coffins;

(24) 1984 c.24; relevant amending instruments are S.I. 1996/1496, 1998/811 and 2007/3101.

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- (m) church worship or religious meetings;
  - (n) the provision of car parking facilities within the perimeter of an airport;
  - (o) the provision of child care, or playgroup or nursery facilities.
3. For the purposes of paragraph 2—
- (a) where a vehicle is parked in connection with the sale of—
    - (i) food;
    - (ii) drink; or
    - (iii) other articles,
 the vehicle, including its pitch, must be regarded as separate premises for the purposes of paragraph 2;
  - (b) where any non-domestic premises are occupied by more than one occupier each part separately occupied must be regarded as being separate premises;
  - (c) where the main activity carried on in premises is the sale and fitting of motor vehicle tyres, exhausts, windscreens or sunroofs, the main activity must be regarded as the sale of goods.

## PART 3

### The Executive

1. Subject to Part 4, the Executive must perform the joint enforcement duty on behalf of a local (health and safety) authority in relation to—
- (a) any activity in a mine or quarry other than a quarry in respect of which notice of abandonment has been given—
    - (i) in relation to Great Britain, under regulation 45(1) of the Quarries Regulations 1999;
    - (ii) in relation to Northern Ireland, under regulation 39(1) of the Quarries Regulations (Northern Ireland) 2006;
  - (b) any activity in a fairground;
  - (c) any activity in premises occupied by a radio, television or film undertaking in which the activity of broadcasting, recording or filming is carried on, and the activity of broadcasting, recording or filming wherever carried on, and for this purpose “film” includes video;
  - (d) construction work if—
    - (i) the project which includes the work is notifiable within the meaning of—
      - (aa) in relation to Great Britain, regulation 2(3) of the Construction (Design and Management) Regulations 2007<sup>(25)</sup>;
      - (bb) in relation to Northern Ireland, regulation 2(3) of the Construction (Design and Management) Regulations (Northern Ireland) 2007<sup>(26)</sup>.
    - (ii) the whole or part of the work contracted to be undertaken by the contractor at the premises is to the external fabric or other external part of a building or structure;
    - (iii) it is carried out in a physically segregated area of the premises, the activities normally carried out in that area have been suspended for the purpose of enabling the construction work to be carried out, the contractor has authority to exclude from that area persons who are not attending in connection with the carrying out of the

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<sup>(25)</sup> S.I. 2007/320.

<sup>(26)</sup> S.R. (NI) 2007 No 291.

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- work and the work is not the maintenance of insulation on pipes, boilers or other parts of heating or water systems or its removal from them.
- (e) the installation, maintenance or repair of any gas system, or any work in relation to a gas fitting;
  - (f) the installation, maintenance or repair of electricity systems;
  - (g) work with ionising radiations except work in one or more of the categories set out—
    - (i) in relation to Great Britain, in Schedule 1 to the Ionising Radiations Regulations 1999(27);
    - (ii) in relation to Northern Ireland, in Schedule 1 to the Ionising Radiations Regulations (Northern Ireland) 2000(28);
  - (h) the use of ionising radiations for medical exposure;
  - (i) any activity in premises occupied by a radiography undertaking in which there is carried on any work with ionising radiations;
  - (j) in relation to Northern Ireland, any activity involving genetic modification within the meaning of regulation 2(1) of the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2001(29);
  - (k) agricultural activities, and any activity at an agricultural show which involves the handling of livestock or the working of agricultural equipment;
  - (l) any activity on board a sea-going ship;
  - (m) any activity in relation to a ski slope, ski lift, ski tow or cable car;
  - (n) fish, maggot and game breeding except in a zoo or zoological establishment;
  - (o) in relation to Northern Ireland, horse breeding or horse training at a stable;
  - (p) any activity in relation to a pipeline within the meaning of—
    - (i) in relation to Great Britain, regulation 3 of the Pipelines Safety Regulations 1996(30);
    - (ii) in relation to Northern Ireland, regulation 3 of the Pipelines Safety Regulations (Northern Ireland) 1997(31).
  - (q) except in Northern Ireland, the operation of—
    - (i) a guided bus system; or
    - (ii) any other system of guided transport, other than a railway, that employs vehicles which for some or all of the time when they are in operation travel along roads.
  - (r) in relation to Northern Ireland, the operation of a railway;
  - (s) except in Northern Ireland, the operation of a trolley vehicle system;
  - (t) the manufacture of ammonium nitrate blasting intermediate under the Manufacture and Storage of Explosives Regulations 2005(32).
2. In relation to paragraph 1(d)(iii)—
- (a) reference to a physically segregated area does not include an area segregated only in order to prevent the escape of asbestos; and

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(27) S.I. 1999/3232.

(28) S.R. (NI) 2000 No 375.

(29) S.R. (NI) 2001 No 295.

(30) S.I. 1996/825.

(31) S.R. (NI) 1997 No 193.

(32) S.I. 2005/1082. These Regulations do not apply in Northern Ireland.

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- (b) “asbestos” has the meaning assigned to it in relation to Great Britain, by regulation 2(1) of [<sup>F50</sup>the Control of Asbestos Regulations 2012] or in relation to Northern Ireland, by regulation 2(1) of the Control of Asbestos Regulations (Northern Ireland) 2007(**33**).

#### Textual Amendments

**F50** Words in Sch. 3 Pt 3 para. 2(b) substituted (06.04.2012) by [The Control of Asbestos Regulations 2012 \(S.I. 2012/632\)](#), [Sch 3](#)

**3.** In paragraph 1, “ionising radiations” and “medical exposure” in relation to those radiations have the meaning assigned to them in relation to Great Britain, by regulation 2(1) of the Ionising Radiations Regulations 1999 or in relation to Northern Ireland, by regulation 2(1) of the Ionising Radiations Regulations (Northern Ireland) 2000.

**4.** Subject to Part 4, the Executive must perform the joint enforcement duty on behalf of a local (health and safety) authority—

- (a) in relation to a body specified in paragraph 5 or 6;
- (b) in relation to the officers or servants of such a body; or
- (c) in relation to any part of premises occupied by such a body.

**5.** In Great Britain, the bodies referred to in paragraph 4 are—

- (a) a local authority being—
  - (i) 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;
  - (ii) in England outside Greater London, a county council or a district council, and the Council of the Isles of Scilly;
  - (iii) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**34**);
  - (iv) in Wales, a county council or county borough council;
- (b) a parish council in England or a community council in Wales or Scotland;
- (c) a police authority [<sup>F51</sup>, local policing body] or the Receiver for the Metropolitan Police District(**35**);
- (d) a fire and rescue authority under the Fire and Rescue Services Act 2004 (**36**);
- [<sup>F52</sup>(e) the Scottish Fire and Rescue Service;]
- (f) a headquarters or an organisation designated for the purposes of the International Headquarters and Defence Organisation Act 1964(**37**);
- (g) a service authority of a visiting force within the meaning of section 12 of the Visiting Forces Act 1952(**38**);
- (h) the United Kingdom Atomic Energy Authority;

(33) S.R. (NI) 2007 No 31.

(34) 1994 c.39.

(35) Section 327 of the Greater London Authority Act 1999 (c. 29) provides for the abolition of the office of Receiver but an order to do so under that section has not yet been made.

(36) 2004 c.21.

(37) 1964 c.5 .

(38) 1952 c.67.

- (i) the Crown, except in relation to any part of any premises occupied by the Health and Safety Executive.

#### Textual Amendments

- F51** Words in Sch. 3 Pt. 3 para. 5(c) inserted (16.1.2012) by [The Local Policing Bodies \(Consequential Amendments\) Regulations 2011 \(S.I. 2011/3058\)](#), regs. 1(2), **24(2)**
- F52** Sch. 3 Pt. 3 para. 5(e) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 2 para. 24**

6. In Northern Ireland, the bodies referred to in paragraph 4 are—
- (a) a district council established under section 1 of the Local Government Act (Northern Ireland) 1972<sup>(39)</sup>;
  - (b) the Northern Ireland Policing Board as defined in section 2 of the Police (Northern Ireland) Act 2000<sup>(40)</sup>;
  - (c) the Northern Ireland Fire and Rescue Service Board as referred to in article 3 of the Fire and Rescue Services (Northern Ireland) Order 2006<sup>(41)</sup>;
  - (d) a headquarters or an organisation designated for the purposes of the International Headquarters and Defence Organisation Act 1964;
  - (e) a service authority of a visiting force within the meaning of section 12 of the Visiting Forces Act 1952;
  - (f) the Crown.
7. Subject to Part 4, the Executive must perform the joint enforcement duty on behalf of a local (health and safety) authority in relation to—
- (a) the tunnel system within the meaning it would have in section 1(7) of the Channel Tunnel Act 1987<sup>(42)</sup> if the words “to be” did not appear;
  - (b) an offshore installation;
  - (c) a building or construction site, that is to say, premises where the only activities being undertaken are construction work and activities for the purposes of or in connection with such work;
  - (d) the campus of a university, college, school or similar educational establishment;
  - (e) a hospital;
  - (f) in relation to Northern Ireland, a railway station, railway goods yard, railway track and any part of adjacent premises, occupied in connection with them.

## PART 4

### Local (health and safety) authorities and the Executive

1. Subject to paragraph 3, paragraph 2 applies to the common parts of any non-domestic premises where those premises are occupied by more than one occupier.
2. Where this paragraph applies—

<sup>(39)</sup> 1972 c.9 as amended by S.I. 1985/454.

<sup>(40)</sup> 2000 c.32.

<sup>(41)</sup> 2006/1254 (N.I. 9).

<sup>(42)</sup> 1987 c.53.

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- (a) to the extent the Executive must perform a joint enforcement duty on behalf of a local (health and safety) authority under this Schedule for all other parts of the premises, it must also do so for the common parts of those premises;
  - (b) to the extent a local (health and safety) authority must perform a joint enforcement duty on behalf of the Executive under this Schedule for all other parts of the premises, it must also do so for the common parts of those premises.
3. In relation to land within the perimeter of an airport which consists of common parts,—
- (a) for those parts not within a building or to which passengers are admitted but other members of the public are not admitted, the Executive must perform the joint enforcement duty on behalf of a local (health and safety) authority;
  - (b) for the remaining common parts, a local (health and safety) authority must perform the joint enforcement duty on behalf of the Executive.

## [<sup>F53</sup>PART 5

### The Office of Rail Regulation

#### Textual Amendments

**F53** Sch. 3 Pt. 5 inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **9(b)**

1. The Office of Rail Regulation must perform the joint enforcement duty on behalf of the Executive in relation to Article 67 of REACH in so far as this relates to its functions in paragraph 6 of Schedule 2.]

#### SCHEDULE 4

Regulation 7(2)

#### Defence exemption certificates

1. The Secretary of State may decide that it is necessary in the interests of defence for a person to be exempt from compliance with a listed REACH provision.
2. The Secretary of State may decide to apply the exemption—
  - (a) to a person, including the Secretary of State, or a category of persons;
  - (b) to one or more provision at the same time;
  - (c) prospectively;
  - (d) for a limited or unlimited period;
  - (e) generally or to a particular case;
  - (f) subject to such limitations and conditions as the Secretary of State sees fit.
3. A decision of the Secretary of State to apply the exemption must be evidenced in writing by a certificate.
4. A certificate—
  - (a) must contain sufficient particulars of the persons to whom, and the matters to which, it relates; and

- (b) may be varied or revoked in writing.
- 5. The Secretary of State may provide to a person who has the benefit of a certificate—
  - (a) the certificate;
  - (b) a copy of it; or
  - (c) a copy of a relevant extract of the certificate.
- 6. A person who claims the benefit of a certificate must produce to the persons listed in paragraph 7 when reasonably requested to do so—
  - (a) the certificate;
  - (b) a copy of it made by the Secretary of State; or
  - (c) a copy made by the Secretary of State of a relevant extract of the certificate.
- 7. The persons referred to in paragraph 6—
  - (a) an enforcing authority;
  - (b) a competent authority;
  - (c) the equivalent of an enforcing authority of another member State;
  - (d) the European Chemicals Agency
- 8. Unless the contrary is proved—
  - (a) a certificate;
  - (b) a copy of it made by the Secretary of State; or
  - (c) a copy made by the Secretary of State of a relevant extract of the certificate,is conclusive evidence of the matters to which it relates.

## SCHEDULE 5

Regulation 8

### Marketing and use of leaded paints

## PART 1

### Permitted marketing and use

- 1. A person may market leaded paint if it is marketed with a view to its use as set out in paragraph 2.
- 2. Subject to paragraph 3, a person may use leaded paint if the paint is used in the restoration or maintenance of—
  - (a) historic buildings or their interiors;
  - (b) scheduled monuments; or
  - (c) fine or decorative works of art,where it is required to restore or maintain historic textures or finishes.
- 3. A person who intends to use leaded paint must—
  - (a) where that person intends to obtain the paint from a supplier of such paint, provide to that supplier a relevant declaration; or

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- (b) in any other case, provide to the competent body a relevant declaration and comply with paragraph 6.
4. A person may supply leaded paint if that person complies with paragraph 5.
5. A person who receives a relevant declaration pursuant to paragraph 3(a) and agrees to supply leaded paint to the intended user stated in the declaration—
- (a) must send the declaration to the competent body with a notification; and
  - (b) must not supply the paint—
    - (i) earlier than 3 weeks after providing the relevant declaration and notification to the competent body; or
    - (ii) if that person receives a notice under paragraph 7(a) from the competent body.
6. A person who provides a relevant declaration under paragraph 3(b) must not use the paint—
- (a) earlier than 3 weeks after providing the relevant declaration to the competent body; or
  - (b) if that person receives a notice under paragraph 7(a) from the competent body.
7. If a competent body is not satisfied with the content of a relevant declaration or notification, it must—
- (a) within 2 weeks of receipt, give notice to that effect in writing to the person from whom it was received with reasons for its decision; and
  - (b) as soon as possible, provide a copy of that notice to such enforcing authorities as the competent body believes are appropriate.
8. For the purposes of this Schedule—
- “competent body” means—
- (a) English Heritage if the historic building, scheduled monument or work of art is in England;
  - (b) Cadw if the historic building, scheduled monument or work of art is in Wales;
  - (c) the Scottish Ministers if the historic building, scheduled monument or work of art is in Scotland;
  - (d) the Department of the Environment if the historic building, scheduled monument or work of art is in Northern Ireland;
- “historic building” means—
- (e) in relation to England and Wales, a listed building within the meaning of section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>(43)</sup> which is classified as Grade I or Grade II (starred);
  - (f) in relation to Scotland, a listed building within the meaning of section 1(4) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997<sup>(44)</sup> which is classified as category A;
  - (g) in relation to Northern Ireland, a listed building within the meaning of article 42(7) of the Planning (Northern Ireland) Order 1991<sup>(45)</sup>;
- “leaded paint” means paint containing [<sup>F54</sup>lead carbonates] or lead sulphates listed at points 16 and 17 of Annex XVII of REACH;
- “notification” means a written notification that contains the matters in Part 3 of this Schedule;

<sup>(43)</sup> 1990 c.9.

<sup>(44)</sup> 1997 c.9.

<sup>(45)</sup> S.I.1991/1220 (N.I.11).

“relevant declaration” means a written declaration that contains the matters in Part 2 of this Schedule ;

“scheduled monument” has the same meaning—

- (h) in England, Wales and Scotland, as it has in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979<sup>(46)</sup>;
- (i) in Northern Ireland, as it has in article 3(2) of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995<sup>(47)</sup>.

#### Textual Amendments

**F54** Words in [Sch. 5 Pt.1 para. 8](#) substituted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **10**

## PART 2

### Contents of a relevant declaration

1. The name, address and telephone number of the intended user of the paint.
2. The quantity, trade name and manufacturer of the paint intended to be used.
3. In the case of a listed building, the name, address and owner of the building and, where appropriate, its listing category.
4. In the case of a scheduled monument, the name, location and owner (if known) of the monument.
5. In the case of a listed building or scheduled monument, details of the parts of the building or monument where the paint is to be applied.
6. In the case of a work of art, its name, date, author, location, the name and address of the owner and details of how the paint is intended to be used.
7. The date the declaration is made and the signature and name of the person making it.

## PART 3

### Contents of a notification

1. The name, address and telephone number of the intended supplier of the paint.
2. A statement that the intended supplier agrees to supply to the intended user paint of the quantity and type stated in the relevant declaration.
3. The date the notification is made and the signature and name of the person making it.

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<sup>(46)</sup> 1979 c.46.

<sup>(47)</sup> S.I.1995/1625 (N.I.9).

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## [<sup>F55</sup>SCHEDULE 5A

Regulation 8A(2)

### Placing asbestos-containing articles on the market

#### Textual Amendments

**F55** Sch. 5A inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), reg. 1(b), [Sch.](#)

1. For the purposes of this Schedule “exempting authority” means—
  - (a) the Executive;
  - (b) the Office of Rail Regulation;
  - (c) in relation to matters outside the functions of the Executive and the Office of Rail Regulation, the competent authority.
2. An exempting authority may issue a certificate in writing exempting a person or class of persons from the prohibition on the placing on the market of asbestos-containing articles provided for by Article 67 of REACH (“asbestos exemption certificate”) in relation to—
  - (a) an activity or a class of activities;
  - (b) an asbestos-containing article or a class of such articles.
3. An asbestos exemption certificate—
  - (a) must include conditions ensuring a high level of protection of human health;
  - (b) may be subject to a limit of time;
  - (c) may be varied or revoked by a notice in writing; and
  - (d) may be issued jointly by more than one exempting authority.
4. An exempting authority must not issue an asbestos exemption certificate unless it is satisfied that the health or safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it, having regard to the circumstances of the case, and in particular to—
  - (a) the conditions which it proposes to attach to the exemption; and
  - (b) any other requirements imposed by or under any enactments which apply to the case.]

## SCHEDULE 6

Regulation 9(1)

### Powers of enforcement

## PART 1

The Environment Agency, [<sup>F56</sup>the Natural Resources Body for Wales,] the Scottish Environment Protection Agency and the Department of the Environment

#### Textual Amendments

**F56** Words in Sch. 6 Pt. 1 inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 307](#) (with Sch. 7)

## SECTION 1

### *Powers of entry and warrants*

1. The powers of any authorised person are—
  - (a) to enter at any reasonable time (or, in an emergency, at any time and, if need be, by force) any premises which that person has reason to believe it is necessary to enter;
  - (b) on entering any premises by virtue of sub-paragraph (a), to—
    - (i) be accompanied by any other person duly authorised by the enforcing authority and, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of the authorised person’s duty, a constable;
    - (ii) take any equipment or materials required for any purpose for which the power of entry is being exercised;
  - (c) to make such examination and investigation as may in any circumstances be necessary;
  - (d) as regards any premises which the authorised person has power to enter, to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
  - (e) to take such measurements and photographs and make such recordings as the authorised person considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
  - (f) to take samples, or cause samples to be taken, of any thing found in or on any premises which the authorised person has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises;
  - (g) in the case of any thing found in or on any premises which the authorised person has power to enter and which appears to that person to be in contravention of a listed REACH provision, to cause it to be dismantled or subjected to any process or test (but not so as to destroy or damage it, unless that is necessary);
  - (h) in the case of any thing mentioned in sub-paragraph (g), to take possession of it and detain it for so long as is necessary for all or any of the following purposes—
    - (i) to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which the authorised person has power to do under that sub-paragraph;
    - (ii) to ensure that it is not tampered with before examination of it is completed; and
    - (iii) to ensure that it is available for use in any proceedings for an offence under regulation 11 or 13;
  - (i) to require any person whom the authorised person has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of that person’s answers;
  - (j) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which it is necessary for the authorised person to see for the purposes of an examination or investigation under sub-paragraph (c) and to inspect, and take copies of, or of any entry in, the records; and
  - (k) to require any person to afford the authorised person such facilities and assistance with respect to any matters or things within the other person’s control or in relation to which

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that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on the authorised person by Part 1 of this Schedule.

2. Except in an emergency, in any case where it is proposed to enter any premises used for residential purposes, or to take heavy equipment on to any premises which are to be entered, any entry by virtue of paragraph 1 must only be effected—

- (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question; and
- (b) either—
  - (i) with the consent of the person who is in occupation of those premises; or
  - (ii) under the authority of a warrant by virtue of section 2 of Part 1 of this Schedule.

3. Except in an emergency, where an authorised person proposes to enter any premises and—

- (a) entry has been refused and the authorised person apprehends on reasonable grounds that the use of force may be necessary to effect entry; or
- (b) the authorised person apprehends on reasonable grounds that entry is likely to be refused and that the use of force may be necessary to effect entry,

any entry on to those premises by virtue of paragraph 1 must only be effected under the authority of a warrant by virtue of section 2 of Part 1 of this Schedule.

4. In relation to any premises belonging to or used for the purposes of the United Kingdom Atomic Energy Authority, the powers under paragraph 1 have effect subject to section 6(3) of the Atomic Energy Authority Act 1954<sup>(48)</sup> (which restricts entry to such premises where they have been declared to be prohibited places for the purposes of the Official Secrets Act 1911<sup>(49)</sup>).

5. Where an authorised person proposes to exercise the power conferred by paragraph 1(g), that person must, if so requested by a person who at the time is present on and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that other person.

6. Before exercising the power conferred by paragraph 1(g), an authorised person must consult—

- (a) such persons having duties on the premises where the thing is to be dismantled or subject to the process or test; and
- (b) such other persons,

as appear to the authorised person to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which it is proposed to do or cause to be done under the power.

7. No answer given by a person in pursuance of a requirement imposed under paragraph 1(i) is admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings, or in Scotland against that person in any criminal proceedings.

8. Nothing in paragraph 1 compels the production by any person of a document which—

- (a) except in relation to Scotland, that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the County Court or High Court; or
- (b) in relation to Scotland, contains confidential information made by or to an advocate or solicitor in that capacity and which that person would be entitled to withhold production on an order for the production of documents in an action in the Court of Session.

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<sup>(48)</sup> 1954 c.32.

<sup>(49)</sup> 1911 c.28.

**9.** Section 2 of Part 1 of this Schedule has effect with respect to the powers of entry and related powers conferred by paragraph 1.

**10.** In this section—

“emergency” means a case in which it appears to the authorised person in question—

(a) that there is an immediate risk of serious pollution of the environment or serious harm to human health; or

(b) that circumstances exist which are likely to endanger life or health,

and that immediate entry to any premises is necessary to verify the existence of that risk or those circumstances or to ascertain the cause of that risk or those circumstances or to effect a remedy;

“premises” means any land, vehicle, vessel or plant which is designed to move or be moved whether on roads or otherwise.

## SECTION 2

### *Warrants, evidence and compensation*

**11.** If it is shown to the satisfaction, in England and Wales of a justice of the peace, in Scotland of the sheriff or a justice of the peace, or in Northern Ireland of a lay magistrate, on sworn information in writing—

(a) that there are relevant grounds for the exercise in relation to any premises of the powers under paragraph 1; and

(b) that one or more of the conditions specified in paragraph 12 is fulfilled in relation to those premises,

the justice, sheriff or lay magistrate may by warrant authorise an enforcing authority to designate a person who is authorised to exercise the power in relation to those premises, in accordance with the warrant and, if need be, by force.

**12.** The conditions mentioned in paragraph 11 are—

(a) that the exercise of the power in relation to the premises has been refused;

(b) that such a refusal is reasonably apprehended;

(c) that the premises are unoccupied;

(d) that the occupier is temporarily absent from the premises and the case is one of urgency; or

(e) that an application for admission to the premises would defeat the object of the proposed entry.

**13.** In a case where paragraph 12 applies, a justice of the peace, sheriff or lay magistrate must not issue a warrant under paragraph 11 by virtue only of being satisfied that the exercise of the power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless the justice of the peace, sheriff or lay magistrate is also satisfied that the notice required by that paragraph has been given and that the period of that notice has expired.

**14.** Every warrant under paragraph 11 continues in force until the purposes for which the warrant was issued have been fulfilled.

**15.** An authorised person must produce evidence of that person’s authorisation or designation and other authority before exercising the power.

**16.** Information obtained in consequence of the exercise of the powers in paragraph 1, with or without the consent of any person is admissible in evidence against that or any other person.

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**17.** Without prejudice to the generality of paragraph 16, information obtained by means of monitoring or other apparatus installed on any premises in the exercise of the powers in paragraph 1, with or without the consent of any person in occupation of the premises, is admissible in evidence in any proceedings against that or any other person.

**18.** A person who, in exercise of the powers in paragraph 1, enters on any premises which are unoccupied or whose occupier is temporarily absent must leave the premises as effectively secured against trespassers as that person found them.

**19.** Where any person exercises any power conferred by paragraph 1(a) or (b), it is the duty of the enforcing authority under whose authorisation that person acts to make full compensation to any person who has sustained loss or damage by reason of—

- (a) the exercise of a power under paragraph 1 by the authorised person; or
- (b) the performance of, or failure of the authorised person to perform, the duty imposed under paragraph 18.

**20.** Compensation is not payable by virtue of paragraph 19 in respect of any loss or damage if—

- (a) it is attributable to the default of the person who sustained it; or
- (b) it is loss or damage in respect of which compensation is payable by virtue of any other enactment.

**21.** Any dispute as to a person's entitlement to compensation under paragraph 19, or as to the amount of any such compensation—

- (a) in England and Wales, must be referred to the arbitration of a single arbitrator appointed by agreement between the enforcing authority in question and the person who claims to have sustained the loss or damage or, in default of agreement, appointed by the Secretary of State;
- (b) in Scotland, must be referred to the arbitration of an arbiter, appointed by agreement between the enforcing authority in question and the person who claims to have sustained the loss or damage or, in default of agreement, appointed by the Scottish Ministers; or
- (c) in Northern Ireland, must be referred to and determined by the Lands Tribunal for Northern Ireland.

**22.** An authorised person is not to be liable in any civil proceedings for anything done in the purported exercise of the powers under paragraph 1 if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

### SECTION 3

#### *Seizure in cases of imminent danger of serious pollution*

**23.** If an authorised person has entered any premises and has reasonable cause to believe that any thing there is a cause of imminent danger of serious pollution of the environment, the authorised person may seize it and cause it to be rendered harmless (whether by destruction or otherwise).

**24.** An authorised person who exercises the power in paragraph 23 must as soon as possible prepare and sign a written report giving particulars of the circumstances in which the thing was seized and so dealt with and must—

- (a) give a signed copy of the report to a responsible person at the premises where the thing was found; and
- (b) unless the person is the owner of the thing, also serve a signed copy of the report on the owner.

**25.** If the authorised person cannot after reasonable inquiry ascertain the name or address of the owner, the copy may be served on the owner by giving it to the person to whom a copy was given under paragraph 24(a).

**26.** Where the powers under paragraph 23 are exercised, the enforcing authority is entitled to recover the costs it reasonably incurs from the person who knowingly caused or permitted the thing to become a cause of imminent danger of serious pollution of the environment.

## SECTION 4

### Notices

**27.** An authorised person may, by a notice served on any person, require that person to furnish such information as is specified in the notice, in such form and within such period following service of the notice or at such time as is so specified.

**28.** If an authorised person is of the opinion that a person has contravened, is contravening or is likely to contravene a listed REACH provision, the authorised person may serve on that person an enforcement notice.

**29.** An enforcement notice must—

- (a) state that the authorised person is of the opinion referred to in the preceding paragraph;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the period within which those steps must be taken.

**30.** An enforcement notice may be withdrawn at any time.

**31.** If an authorised person is of the opinion that the activities of a person, in relation to a contravention or likely contravention of a listed REACH provision, are such that they involve an imminent danger of serious pollution of the environment, the authorised person may serve on that person a prohibition notice.

**32.** A prohibition notice must—

- (a) state that the authorised person is of the opinion referred to in the preceding paragraph;
- (b) specify the danger involved in the activity; and
- (c) specify the steps that must be taken to remove it and the period within which they must be taken.

**33.** A prohibition notice may be withdrawn at any time.

**34.** If a person fails to comply with an enforcement notice or prohibition notice, the enforcing authority may do what that person was required to do and may recover from that person any expenses reasonably incurred in doing so.

**35.** References in this Part to an “enforcement notice” or a “prohibition notice” have effect only for the purposes of this Part.

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## Part 2

The Health and Safety Executive, the Health and Safety Executive for Northern Ireland [<sup>F57</sup>, the Office of Rail Regulation][<sup>F58</sup>, the Office for Nuclear Regulation] and local (health and safety) authorities

### Textual Amendments

- F57** Words in Sch. 6 Pt. 2 heading inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **12(a)**
- F58** Words in Sch. 6 Pt. 2 heading 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. 140(2)** (with Sch. 4)

### SECTION 1

#### *Powers of entry*

1. The powers of an authorised person are—
  - (a) at any reasonable time (or, in a situation which the authorised person believes is or may be dangerous, at any time) to enter any premises which that person has reason to believe it is necessary to enter;
  - (b) to be accompanied by a constable if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of that person's duty;
  - (c) without prejudice to the preceding sub-paragraph, on entering any premises by virtue of sub-paragraph (a) to—
    - (i) be accompanied by any other person duly authorised by the authorised person's enforcing authority; and
    - (ii) take any equipment or materials required for any purpose for which the power of entry is being exercised.
  - (d) to make such examination and investigation as may in any circumstances be necessary for the purpose for which the power is being exercised;
  - (e) as regards any premises which the authorised person has power to enter, to direct that those premises or any part of them, or anything therein, must be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (d);
  - (f) to take such measurements and photographs and make such recordings as the authorised person considers necessary for the purpose of any examination or investigation under sub-paragraph (d);
  - (g) to take samples of any thing found in any premises which the authorised person has power to enter and of the atmosphere in or in the vicinity of any such premises;
  - (h) in the case of any thing found in any premises which the authorised person has power to enter and which appears to be in contravention of a listed REACH provision, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary);
  - (i) in the case of any such thing as is mentioned in sub-paragraph (h), to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—

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- (i) to examine it and do to it anything which the authorised person has power to do under that sub-paragraph;
  - (ii) to ensure that it is not tampered with before the authorised person's examination of it is completed;
  - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under regulation 11 or 13.
- (j) to require any person whom the authorised person has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (d) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of that person's answers;
- (k) to require the production of, inspect, and take copies of or of any entry in—
- (i) any books or documents which by virtue of any of the listed REACH provisions are required to be kept; and
  - (ii) any other books or documents which it is necessary for the authorised person to see for the purposes of any examination or investigation under sub-paragraph (d);
- (l) to require any person to afford the authorised person such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred upon the authorised person by this Part;
- (m) to seize and cause to be rendered harmless (whether by destruction or otherwise) any thing which is found by the authorised person in any premises and which the authorised person has reasonable cause to believe that, in the circumstances in which it is found is a cause of imminent danger of serious personal injury.
- (n) any other power which is necessary for the purpose of carrying out the enforcement duty.

**2.** Where an authorised person proposes to exercise the power conferred by paragraph 1(h) and if requested by a person who at the time is present in and has responsibilities in relation to those premises, the authorised person must cause anything which is to be done by virtue of that power to be done in the presence of that other person unless the authorised person considers that would be prejudicial to the safety of any person.

**3.** Before exercising the power conferred by paragraph 1(h), an authorised person must consult such persons as appear to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which it is proposed to do under that power.

**4.** Where under the power conferred by paragraph 1(i) an authorised person takes possession of any thing found in any premises, the authorised person must leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that thing sufficient to identify it and stating that the authorised person has taken possession of it under that power; and before taking possession of any such thing under that power an authorised person must, if it is practicable to do so, take a sample and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

**5.** No answer given by a person in pursuance of a requirement imposed under paragraph 1(j) is admissible in evidence against that person or the spouse or civil partner of that person in any proceedings.

**6.** Before the power in paragraph 1(m) to render harmless any thing is exercised, an authorised person must, if it is practicable to do so, take a sample of it and give it to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

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7. As soon as may be after any thing has been seized and rendered harmless under paragraph 1(m), the authorised person must prepare and sign a written report giving particulars of the circumstances in which it was seized and so dealt with by the authorised person, and must—

(a) give a signed copy of the report to a responsible person at the premises where the thing was found; and

(b) unless that person is the owner of it, also serve a signed copy of the report on the owner, and if, where sub-paragraph (b) applies, the authorised person cannot after reasonable enquiry ascertain the name or address of the owner, the copy may be served on the owner by giving it to the person to whom a copy was given under paragraph 4.

8. Nothing in this Part compels the production by any person of a document which—

(a) except in relation to Scotland, that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the County Court or High Court; or

(b) in relation to Scotland, contains confidential information made by or to an advocate or solicitor in that capacity and which that person would be entitled to withhold production on an order for the production of documents in an action in the Court of Session.

9. Where—

(a) an action has been brought against an authorised person in respect of an act done in the execution or purported enforcement of a listed REACH provision;

(b) the circumstances are such that the authorised person is not legally entitled to require an indemnity from the<sup>[F59]</sup> appropriate authority]; and

(c) the <sup>[F59]</sup> appropriate authority]; is satisfied that the authorised person honestly believed that the act complained of was within that person’s powers and that the duty of an authorised person required or entitled that act,

the <sup>[F59]</sup> appropriate authority]; may indemnify the authorised person against the whole or part of any damages and costs which that person may be ordered to pay or may have incurred.

#### Textual Amendments

**F59** Words in Sch. 6 Pt. 2 para. 9 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. 140 (3)** (with Sch. 4)

<sup>[F60]</sup>**9A.** The powers of an authorised person acting on behalf of the Office of Rail Regulation—

(a) do not include the powers in paragraph 1(m) or (n);

(b) only apply in relation to non-domestic premises.]

#### Textual Amendments

**F60** Sch. 6 Pt. 2 para. 9A inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **12(b)(i)**

<sup>[F61]</sup>**9B.** For the purposes of this section of this Schedule “the appropriate authority” means—

(a) in Great Britain—

(i) in relation to a relevant nuclear site, the Office for Nuclear Regulation;

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- (ii) otherwise, the Health and Safety Executive;
- (b) in Northern Ireland, the Health and Safety Executive for Northern Ireland.]

**Textual Amendments**

**F61** Sch. 6 Pt. 2 para. 9B 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. 140\(4\)](#) (with Sch. 4)

**F62** 10. ....

**Textual Amendments**

**F62** Sch. 6 Pt. 2 para. 10 omitted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), [12\(b\)\(ii\)](#)

*SECTION 2*

*Notices*

- 11.** If an authorised person is of the opinion that—
- (a) activities are being carried on or are likely to be carried on by or under the control of a person; and
  - (b) the activity involves or as the case may be, will involve a risk of serious personal injury,
- the authorised person may serve on that person a prohibition notice.
- 12.** A prohibition notice must—
- (a) state that the authorised person is of the opinion referred to in the preceding paragraph;
  - (b) specify the matters which in the authorised person’s opinion give or, as the case may be, will give rise to the said risk;
  - (c) where in the opinion of the authorised person any of those matters involves or, as the case may be, will involve a contravention of a listed REACH provision, the authorised person must—
    - (i) state that opinion;
    - (ii) specify the provision or provisions which relate to that opinion; and
    - (iii) give particulars of the reasons supporting that opinion;
  - (d) direct that the activities to which the notice relates must not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of sub-paragraph (b) and any associated contraventions of provisions so specified in pursuance of sub-paragraph (c) above have been remedied.
- 13.** A direction contained in a prohibition notice in pursuance of paragraph 12(d) takes effect—
- (a) at the end of the period specified in the notice; or
  - (b) if the notice so declares, immediately.
- 14.** If an authorised person is of the opinion that a person—
- (a) is contravening one or more of the listed REACH provisions; or

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- (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

the authorised person may serve on that person an improvement notice.

**15.** An improvement notice must—

- (a) state that the authorised person is of the opinion referred to in the preceding paragraph;
- (b) specify the provision or provisions as to which the authorised person is of that opinion, giving particulars of the reasons supporting that opinion;
- (c) require that the person to whom the improvement notice is addressed remedies the contravention or, as the case may be, the matters occasioning it within such period (ending not earlier than the period within which an appeal against the notice can be brought as provided by regulation 21) as may be specified in the notice.

**16.** If an authorised person is of the opinion that a person has contravened, is contravening or is likely to contravene a listed REACH provision, the authorised person may serve on that person an enforcement notice.

**17.** An enforcement notice must—

- (a) state that the authorised person is of the opinion referred to in the preceding paragraph;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the period within which those steps must be taken.

**18.** Where a prohibition notice, an improvement notice or an enforcement notice has been served but is not to take immediate effect—

- (a) the notice may be withdrawn by an authorised person at any time before the end of the period specified therein;
- (b) the period so specified may be extended or further extended by an authorised person at any time when an appeal against the notice is not pending.

**19.** References in this Part to a “prohibition notice”, an “improvement notice” or an “enforcement notice” have effect only for the purposes of this Part and Part 2 of Schedule 8.

[<sup>F63</sup>**20.** This section does not apply to an authorised person acting on behalf of the Office of Rail Regulation.]

#### Textual Amendments

**F63** Sch. 6 Pt. 2 para. 20 inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **12(c)**

## PART 3

### Local (consumer safety) authorities

#### SECTION 1

##### *Powers of entry*

1. An authorised person may at any reasonable hour and on production, if required, of that person's credentials exercise any of the powers conferred by the following provisions of this section.

2. An authorised person may, for the purposes of ascertaining whether there has been any contravention of a listed REACH provision, inspect any goods and enter any premises other than premises occupied only as a person's residence.

3. An authorised person may, for the purpose of ascertaining whether there has been any contravention of a listed REACH provision, examine any procedure (including any arrangements for carrying out a test) connected with the production of any goods.

4. If an authorised person has reasonable grounds for suspecting that there has been a contravention of a listed REACH provisions, the authorised person may—

- (a) require any person carrying on a business, or employed in connection with a business, to produce any records relating to the business;
- (b) for the purpose of ascertaining (by testing or otherwise) whether there has been any such contravention, seize and detain the goods;
- (c) take copies of, or of any entry in, any records produced by virtue of sub-paragraph (a).

5. An authorised person may seize and detain any goods or records which the authorised person has reasonable grounds for believing may be required as evidence in proceedings for any offence in respect of a contravention of a listed REACH provision.

6. If and to the extent that it is reasonably necessary to prevent a contravention of a listed REACH provision, the authorised person may—

- (a) require any person having authority to do so to open any container or to open any vending machine; and
- (b) open or break open any such container or machine where a requirement made under sub-paragraph (a) in relation to the container or machine has not been complied with.

7. An authorised person seizing any goods or records under this Part must inform the following persons that the goods or records have been so seized, that is to say—

- (a) the person from whom they are seized; and
- (b) in the case of imported goods seized on any premises under the control of the Commissioners for Revenue and Customs, the importer of those goods (within the meaning of the Customs and Excise Management Act 1979<sup>(50)</sup>).

8. If a justice of the peace—

- (a) is satisfied by any written information on oath that there are reasonable grounds for believing either—
  - (i) that any goods or records which any authorised person has power to inspect under this Part are on any premises and that their inspection is likely to disclose evidence that there has been a contravention of a listed REACH provision; or

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(50) 1979 c.2.

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- (ii) that such a contravention has taken place, is taking place or is about to take place on any premises; and
- (b) is also satisfied by any such information either—
  - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this section has been given to the occupier; or
  - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return,

the justice may by warrant, which shall continue in force for a period of one month, authorise any authorised person to enter the premises, if need be by force.

**9.** An authorised person entering any premises by virtue of this section may be accompanied by such other persons and may take such equipment as may appear to the authorised person to be necessary.

**10.** On leaving any premises which an authorised person is authorised to enter by a warrant under this section, that person must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as the authorised person found them.

**11.** Where any goods seized by an authorised person under this Part are submitted to a test, the authorised person must inform the persons mentioned in paragraph 7 of the result of the test and, if—

- (a) proceedings are brought for an offence in respect of a contravention of a listed REACH provision; and
- (b) the authorised person is requested to do so and it is practicable to comply with the request,

the authorised person must allow any person who is a party to the proceedings or, as the case may be, has an interest in the goods to which the notice relates, to have the goods tested.

**12.** In the application of this section to Scotland, the reference in paragraph 8 to a justice of the peace includes a reference to a sheriff and the references to written information on oath include references to evidence on oath.

**13.** In the application of this section to Northern Ireland, the reference in paragraph 8 to a justice of the peace includes a reference to a lay magistrate and references to any information on oath include references to any complaint on oath.

## SECTION 2

### Notices

**14.** Where an authorised person has reasonable grounds for suspecting that a listed REACH provision has been contravened in relation to any goods, the authorised person may serve a notice (“a suspension notice”).

**15.** A suspension notice may prohibit the person on whom it is served, for such period ending not more than six months after the date of the notice as is specified in the notice, from doing any of the following without the consent of an authorised person—

- (a) supplying the goods;
- (b) offering to supply them;
- (c) agreeing to supply them or exposing them for supply.

**16.** A suspension notice served by an authorised person in respect of any goods must—

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- (a) describe the goods in a manner sufficient to identify them;
- (b) set out the grounds on which the authorised person suspects that a listed REACH provision has been contravened in relation to the goods; and
- (c) state that, and the manner in which, the person on whom the notice is served may appeal against the notice.

**17.** A suspension notice may require a person to keep the enforcing authority informed of the whereabouts throughout the period of the notice of any of those goods in which that person has an interest.

**18.** Where a suspension notice has been served on any person in respect of any goods, no further such notice must be served on that person in respect of the same goods unless—

- (a) proceedings against that person for an offence in respect of a contravention, in relation to the goods, of a listed REACH provision; or
- (b) proceedings for the forfeiture of the goods,

are pending at the end of the period specified in the notice.

**19.** A consent given by an authorised person for the purposes of paragraph 15 may impose such conditions on the doing of anything for which the consent is required as the authorised person considers appropriate.

**20.** Where an authorised person serves a suspension notice in respect of any goods, the authorised person is liable to pay compensation to any person having an interest in the goods in respect of any loss or damage caused by reason of the service of the notice if—

- (a) there has been no contravention in relation to the goods of a listed REACH provision; and
- (b) the exercise of the power is not attributable to any neglect or default by that person having an interest in the goods.

**21.** Any disputed question as to the right to or the amount of any compensation payable under this section must be determined by arbitration or, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

### SECTION 3

#### *Forfeiture*

**22.** An authorised person in England and Wales or Northern Ireland may apply under this section for an order for the forfeiture of any goods on the grounds that there has been a contravention in relation to the goods of a listed REACH provision.

**23.** An application under this section may be made—

- (a) where proceedings have been brought in a magistrates' court for an offence in respect of a contravention of a listed REACH provision in relation to some or all of the goods, to that court;
- (b) where no application for the forfeiture of the goods has been made under sub-paragraph (a) by way of complaint to a magistrates' court.

**24.** On an application under this section the court may make an order for the forfeiture of any goods only if it is satisfied that there has been a contravention of a listed REACH provision in relation to the goods.

**25.** A court may infer for the purposes of this section that there has been a contravention of a listed REACH provision in relation to any goods if it is satisfied that any such provision has been

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contravened in relation to goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

**26.** Any person aggrieved by an order made under this section by a magistrates' court, or by a decision of such a court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
- (b) in Northern Ireland, to the county court,

and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980<sup>(51)</sup> or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(52)</sup>(statement of case).

**27.** Subject to paragraph 28, where any goods are forfeited under this section they must be destroyed in accordance with such directions as the court may give.

**28.** On making an order under this section a magistrates' court may, if it considers it appropriate to do so, direct that the goods to which the order relates may (instead of being destroyed) be released, to such person as the court may specify, on condition that that person—

- (a) does not supply those goods to any person otherwise than as specified;
- (b) complies with any order to pay costs or expenses which has been made against that person in the proceedings for the order for forfeiture.

**29.** In Scotland a sheriff may make an order for forfeiture of any goods in relation to which there has been a contravention of a listed REACH provision—

- (a) on an application by the procurator-fiscal; or
- (b) where a person is convicted of any offence in respect of any such contravention, in addition to any other penalty which the sheriff may impose.

**30.** The procurator-fiscal making an application under paragraph 29 must serve on any person appearing to be the owner of, or otherwise to have an interest in, the goods to which the application relates a copy of the application, together with a notice giving the opportunity to appear at the hearing of the application to show cause why the goods should not be forfeited.

**31.** Service under paragraph 30 must be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings.

**32.** Any person upon whom notice is served under paragraph 30 and any other person claiming to be the owner of, or otherwise to have an interest in, goods to which an application under this section relates is entitled to appear at the hearing of the application to show cause why the goods should not be forfeited.

**33.** The sheriff must not make an order following an application under paragraph 29—

- (a) if any person on whom notice is served under paragraph 30 does not appear, unless service of the notice on that person is proved; or
- (b) if no notice under paragraph 30 has been served, unless the court is satisfied that in the circumstances it was reasonable not to serve notice on any person.

**34.** An order under this section may be made only if the sheriff is satisfied that there has been a contravention in relation to those goods of a listed REACH provision.

**35.** The sheriff may infer for the purposes of this section that there has been a contravention of a listed REACH provision in relation to any goods if the sheriff is satisfied that any such provision

<sup>(51)</sup> 1980 c.43.

<sup>(52)</sup> S.I. 1981/1675 (N.I. 26).

has been contravened in relation to any goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

**36.** Where an order for the forfeiture of any goods is made following an application by the procurator-fiscal under paragraph 29, any person who appeared, or was entitled to appear, to show cause why goods should not be forfeited may, within twenty-one days of the making of the order, appeal to the High Court by Bill of Suspension on the ground of an alleged miscarriage of justice; and section 182(5)(a) to (e) of the Criminal Procedure (Scotland) Act 1995(**53**) applies to an appeal under this section as it applies to a stated case under Part X of that Act.

**37.** An order following an application under paragraph 29 does not take effect—

- (a) until the end of the period of twenty-one days beginning with the day after the day on which the order is made; or
- (b) if an appeal is made under paragraph 36 within that period, until the appeal is determined or abandoned.

**38.** An order under paragraph 29 does not take effect—

- (a) until the end of the period within which an appeal against the order could be brought under the Criminal Procedure (Scotland) Act 1995; or
- (b) if an appeal is made within that period, until the appeal is determined or abandoned.

**39.** Subject to paragraph 40, goods forfeited under this section must be destroyed in accordance with such directions as the sheriff may give.

**40.** The sheriff may direct that the goods be released, to such person as may be specified, on condition that that person does not supply those goods to any other person otherwise than as mentioned in section 46(7)(a) or (b) of the Consumer Protection Act 1987(**54**).

## PART 4

### The Secretary of State

#### SECTION 1

##### *Powers of entry*

**1.** An authorised person may on producing evidence of that person's appointment—

- (a) at any reasonable time (or, in a situation which in that person's opinion may give rise to a risk of significant pollution to the environment as a result of the use or discharge from an offshore installation of an article or substance, at any time) board any offshore installation;
- (b) on boarding an offshore installation be accompanied by any other person authorised for those purposes by the Secretary of State and take any equipment or materials that the authorised person thinks may be required;
- (c) make such examination or investigation as the authorised person considers necessary (including any examination or investigation of an offshore installation, for which purpose the authorised person may install or maintain monitoring or other apparatus on the offshore installation);

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(53) 1995 c.46.

(54) 1987 c.43.

**Status:** Point in time view as at 02/09/2014.

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- (d) give a direction requiring that any part of the offshore installation be left undisturbed (whether generally or in particular respects) for so long as reasonably necessary for the purposes of any examination or investigation under sub-paragraph (c);
- (e) take such measurements and photographs and make such recordings as the authorised person considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (f) take samples of any thing found on the offshore installation or in the atmosphere or any land, seabed (including the subsoil thereof) or water in the vicinity of the offshore installation;
- (g) in the case of any thing which the authorised person finds on the offshore installation, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that in the circumstances of the case is necessary);
- (h) in the case of any such thing mentioned in sub-paragraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
  - (i) to examine it and do to it anything which the authorised person has power to do under that sub-paragraph;
  - (ii) to ensure that it is not tampered with before an examination of it is completed; and
  - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under regulation 11 or 13;
- (i) require any person who the authorised person has reasonable cause to believe is able to give any information relevant to any examination or investigation under sub-paragraph (c)—
  - (i) to attend at a place and time specified by the authorised person;
  - (ii) to answer (in the absence of any person other than persons whom the authorised person may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the authorised person thinks fit to ask; and
  - (iii) to sign a declaration of truth of that person’s answers;
- (j) require the production of, and inspect and take copies of or of any entry in—
  - (i) any records which by virtue of any provision of any permit granted under the Offshore Chemicals Regulations 2002(55) are required to be kept;
  - (ii) any records which the authorised person considers it necessary to see for the purposes of any examination or investigation under sub-paragraph (c);
- (k) require any person to afford the authorised person such facilities and assistance with respect to any matters or things within that person’s control or in relation to which that person has responsibilities as the authorised person considers are necessary to enable the authorised person to exercise any of the powers conferred on the authorised person by this Part.

## SECTION 2

### Notices

2. An authorised person may serve on a person a notice in writing (“an enforcement notice”) if the authorised person is of the opinion that the person has contravened, is contravening or is likely to contravene a listed REACH provision.

3. An enforcement notice must—

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(55) S.I. 2002/1355.

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- (a) state that the authorised person is of the opinion referred to in the preceding paragraph;
  - (b) specify the matters that constitute, constituted or, as the case may be, are likely to constitute the contravention;
  - (c) specify the steps that must be taken to remedy or, as the case may be, prevent the contravention; and
  - (d) specify the period within which those steps must be taken.
4. The steps mentioned in paragraph 3(c) include steps that must be taken to remedy any pollution caused by the contravention.
5. Where a person to whom an enforcement notice is addressed has failed to take the action required by it within such time as may be specified by it and such a notice has not been revoked, the Secretary of State may undertake any action so required and the reasonable costs and expenses of the Secretary of State's so doing are recoverable as a debt from that person.
6. A person to whom an enforcement notice is addressed must afford such assistance as the Secretary of State may reasonably require for the purpose of facilitating the exercise of any powers conferred on the Secretary of State by paragraph 5.
7. An authorised person may revoke an enforcement notice.
8. An authorised person may serve on a person a notice in writing ("a prohibition notice") if the authorised person is of the opinion that where the person has contravened, is contravening or is likely to contravene a listed REACH provision, that contravention involves an imminent risk of pollution.
9. A prohibition notice must—
- (a) state that the authorised person is of the opinion referred to in the preceding paragraph;
  - (b) specify the risk involved;
  - (c) specify the steps that must be taken to remove it and the period within which they must be taken.
10. An authorised person may by notice withdraw a prohibition notice wholly or in part at any time and must withdraw a notice when the authorised person is satisfied that the steps required by the notice have been taken.
11. It is the duty of the person to whom the prohibition notice is addressed to comply with its terms save to the extent that it is withdrawn wholly or in part.

### SECTION 3

#### *Miscellaneous*

12. An answer given by a person in compliance with a requirement imposed under paragraph 1(i) is admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings or, in Scotland, against that person in criminal proceedings.
13. In criminal proceedings in which such person as is mentioned in paragraph 12 is charged with an offence to which this paragraph applies, no evidence relating to that person's answer may be adduced and no question relating to it may be asked by or on behalf of the prosecution unless evidence relating to it is adduced by or on behalf of that person.
14. Paragraph 13 applies to any offence other than one under—
- (a) regulation 18(1)(e)(ii) of the Offshore Chemicals Regulations 2002(56)(offences);

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(56) S.I. 2002/1355.

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- (b) section 5 of the Perjury Act 1911<sup>(57)</sup>(false statements made otherwise than on oath);
  - (c) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995<sup>(58)</sup>(false statements made otherwise than on oath); or
  - (d) article 10 of the Perjury (Northern Ireland) Order 1979<sup>(59)</sup>(false statutory declarations and other false unsworn statements).
- 15.** Nothing in this Part compels the production by any person of a document which—
- (a) except in relation to Scotland, that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the County Court or High Court; or
  - (b) in relation to Scotland, contains confidential information made by or to an advocate or solicitor in that capacity and which that person would be entitled to withhold production on an order for the production of documents in an action in the Court of Session.
- 16.** References in this Part to an “information notice” or a “prohibition notice” have effect only for the purposes of this Part.

## SCHEDULE 7

Regulation 10(2)

### Authorisations

#### SECTION 1

*The Environment Agency [F<sup>64</sup>, the Natural Resources Body for Wales] and the Scottish Environment Protection Agency*

#### Textual Amendments

**F64** Words in Sch. 7 para. 1 heading inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 308(3)** (with Sch. 7)

**1.** In respect of the Environment Agency [F<sup>65</sup>, the Natural Resources Body for Wales] or the Scottish Environment Protection Agency, an authorisation made under section 108 of the Environment Act 1995<sup>(60)</sup>(powers of enforcing authorities and persons authorised by them).

#### Textual Amendments

**F65** Words in Sch. 7 para. 1 inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 308(2)** (with Sch. 7)

#### SECTION 2

*The Department of the Environment*

**2.** In respect of the Department of the Environment, an authorisation made under—

<sup>(57)</sup> 1911 c.6.

<sup>(58)</sup> 1995 c.39.

<sup>(59)</sup> S.I. 1979/1714 (N.I. 19).

<sup>(60)</sup> 1995 c.25.

**Status:** Point in time view as at 02/09/2014.

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- (a) article 72 of the Waste and Contaminated Land (Northern Ireland) Order 1997<sup>(61)</sup>(powers of enforcing authorities and persons authorised by them);
- (b) article 25 of the Water (Northern Ireland) Order 1999<sup>(62)</sup>(powers of entry and inspection);  
or
- (c) regulation 8 of the Pollution, Prevention and Control Regulations (Northern Ireland) 2003<sup>(63)</sup>(appointment of chief inspector and other inspectors).

### SECTION 3

*The Health and Safety Executive* <sup>F66</sup>, *the Office of Rail Regulation* <sup>F67</sup>, *the Office for Nuclear Regulation* <sup>F70</sup> and local (health and safety) authorities in Great Britain

#### Textual Amendments

- F66** Words in Sch. 7 s. 3 heading inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **13(a)**
- F67** Words in Sch. 7 s. 3 heading 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. 141(2)** (with Sch. 4)

#### 3. In respect of—

- (a) the Health and Safety Executive, <sup>F68</sup>...
- (b) a local (health and safety) authority in Great Britain, <sup>F69</sup>...
- <sup>F70</sup>(c) the Office of Rail Regulation, <sup>F71</sup>or
- (d) the Office for Nuclear Regulation.]

an authorisation made under section 19 of the Health and Safety at Work etc. Act 1974<sup>(64)</sup>(appointment of inspectors).

#### Textual Amendments

- F68** Word in Sch. 7 s. 3 omitted (16.12.2013) by virtue of [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **13(b)**
- F69** Word in Sch. 7 s. 3 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. 141(3)(a)** (with Sch. 4)
- F70** Sch. 7 s. 3(c) and word inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **13(c)**
- F71** Sch. 7 s. 3(d) 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. 141(3)(b)** (with Sch. 4)

<sup>(61)</sup> S.I. 1997/2778 (N.I. 19).

<sup>(62)</sup> S.I. 1999/662 (N.I. 6).

<sup>(63)</sup> S.R. (NI) 2003 No. 46.

<sup>(64)</sup> 1974 c.37.

**Status:** Point in time view as at 02/09/2014.

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#### SECTION 4

##### *The Health and Safety Executive for Northern Ireland and local (health and safety) authorities in Northern Ireland*

4. In respect of—

- (a) the Health and Safety Executive for Northern Ireland; or
- (b) a local (health and safety) authority in Northern Ireland,

an authorisation made under article 21 of the Health and Safety at Work (Northern Ireland) Order 1978(**65**)(appointment of inspectors).

#### SECTION 5

##### *Local (consumer safety) authorities*

5. In respect of—

- (a) a local (consumer safety) authority in Great Britain, an authorisation made under section 72 of the Weights and Measures Act 1985(**66**)(appointment of inspectors);
- (b) a local (consumer safety) authority in Northern Ireland, an authorisation made for the purposes of section 27(2) of the Consumer Protection Act 1987(**67**)(enforcement).

#### SECTION 6

##### *The Secretary of State*

6. In respect of the Secretary of State, an authorisation made under regulation 16 of the Offshore Chemicals Regulations 2002(**68**)(appointment of inspectors).

### SCHEDULE 8

Regulation 21(2)

#### Appeals

### PART 1

Notices served by the Environment Agency, [<sup>F72</sup>the Natural Resources Body for Wales,] the Scottish Environment Protection Agency or the Department of the Environment

#### Textual Amendments

**F72** Words in Sch. 8 Pt. 1 heading inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 309\(2\)](#) (with Sch. 7)

1. The appeal body means, where the notice is served by—

(65) S.I. 1978/1039 (N.I. 9).

(66) 1985 c.72.

(67) 1987 c.43.

(68) S.I. 2002/1355.

- [<sup>F73</sup>(a) the Environment Agency, the Secretary of State;]
- [<sup>F74</sup>(aa) the Natural Resources Body for Wales, the Welsh Ministers;]
- (b) the Scottish Environment Protection Agency, the Scottish Ministers;
- (c) the Department of the Environment, the Planning Appeals Commission.

#### Textual Amendments

- F73** Sch. 8 Pt. 1 para. 1(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 309(2)(a)** (with Sch. 7)
- F74** Sch. 8 Pt. 1 para. 1(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 309(2)(b)** (with Sch. 7)

2. An appeal must be received by the appeal body no later than two months from the date of the notice.

3. The appeal body may consider an appeal received after the date referred to in paragraph 2.

4. Where an appeal is brought, this does not have the effect of suspending the operation of the notice.

5. On the determination of an appeal, the appeal body may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the appeal body sees fit.

6. In relation to the making and determination of appeals under this section, the appeal body may adopt such procedures as it sees fit.

[<sup>F75</sup>7. The appeal body may—

- (a) appoint a person, with or without payment, to determine the appeal;
- (b) refer any matter involved in the appeal to such person as that body may appoint for that purpose, with or without payment.]

#### Textual Amendments

- F75** Sch. 8 Pt.1 para. 7 inserted (16.12.2013) by [The REACH Enforcement \(Amendment\) Regulations 2013 \(S.I. 2013/2919\)](#), regs. 1(b), **14**

## PART 2

Notices served by the Health and Safety Executive, the Health and Safety Executive for Northern Ireland [<sup>F76</sup>, the Office for Nuclear Regulation] or local (health and safety) authorities

#### Textual Amendments

- F76** Words in Sch. 8 Pt. 2 heading 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. 142(2)** (with Sch. 4)

1. An appeal may be made to a tribunal.

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2. [<sup>F77</sup>Schedule 4 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004](69)[<sup>F77</sup>Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013] applies to a notice served in Great Britain by—

- (a) the Health and Safety Executive;
- [<sup>F78</sup>(aa) the Office for Nuclear Regulation;]
- (b) a local (health and safety) authority.

#### Textual Amendments

**F77** Words in Sch. 8 Pt. 2 para. 2 substituted (E.W.S.) (30.8.2013) by virtue of [The Employment Tribunals \(Constitution and Rules of Procedure\) \(Consequential Amendments\) Regulations 2013 \(S.I. 2013/1948\)](#), reg. 7(2)

**F78** Sch. 8 Pt. 2 para. 2(aa) 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. 142\(3\)](#) (with Sch. 4)

3. Under paragraph 2, an enforcement notice is to be treated in the same way as an improvement notice for the purposes of [<sup>F79</sup>Schedule 4][<sup>F79</sup>Schedule 1] referred to.

#### Textual Amendments

**F79** Words in Sch. 8 Pt. 2 para. 3 substituted (E.W.S.) (30.8.2013) by virtue of [The Employment Tribunals \(Constitution and Rules of Procedure\) \(Consequential Amendments\) Regulations 2013 \(S.I. 2013/1948\)](#), reg. 7(3)

4. Schedule 5 to the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005(70) applies to a notice served in Northern Ireland by—

- (a) the Health and Safety Executive for Northern Ireland;
- (b) a local (health and safety) authority.

5. Under paragraph 4, an enforcement notice is to be treated in the same way as an improvement notice for the purposes of Schedule 5 referred to.

6. The tribunal may cancel or affirm the notice and, if it affirms it, may do so in its original form or with such modifications as the tribunal may in the circumstances see fit.

7. In the case of an improvement notice, the bringing of the appeal has the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.

8. In the case of a prohibition notice or an enforcement notice, the bringing of the appeal has the same effect as described in paragraph 7 if, on the application of the appellant, the tribunal so directs and only from the giving of that direction.

9. One or more assessors may be appointed in respect of proceedings brought before a tribunal under this Part.

10. In this Part—

- (a) “assessor” has the same meaning as it has—

(69) [S.I. 2004/1861](#).

(70) [S.R. 2005 No. 150](#).

- (i) in Great Britain, under section 24 of the Health and Safety at Work etc. Act 1974<sup>(71)</sup>;
- (ii) in Northern Ireland, under article 26 of the Health and Safety at Work (Northern Ireland) Order 1978<sup>(72)</sup>;
- (b) “tribunal” means—
  - (i) in Great Britain, an employment tribunal;
  - (ii) in Northern Ireland, an industrial tribunal.

## PART 3

### Notices served by local (consumer safety) authorities

1. An appeal may be brought by a person having an interest in any goods in respect of which a suspension notice is in force.
2. In England and Wales or Northern Ireland, an appeal may be made to a magistrates’ court and where proceedings have not been brought—
  - (a) for an offence under regulation 11 or 13; or
  - (b) for forfeiture of the goods under section 3 of Part 3 of Schedule 6;the appeal may be brought by way of complaint to the court.
3. In Scotland, an appeal may be made to the sheriff by way of summary application.
4. A magistrates’ court must not make an order setting aside a suspension notice unless it is satisfied that there has been no contravention in relation to the goods of a listed REACH provision.
5. A sheriff must not make an order setting aside a suspension notice unless the sheriff is satisfied at the date of the order that proceedings—
  - (a) for an offence under regulation 11 or 13; or
  - (b) for forfeiture of the goods under section 3 of Part 3 of Schedule 6,have not been brought or, having been brought, have been concluded.
6. A person aggrieved by an order made by a magistrates’ court under this Part or a decision not to make such an order, may appeal that order or decision—
  - (a) in England and Wales, to the Crown Court;
  - (b) in Northern Ireland, to the county court.
7. An order made by a magistrates’ court under this Part may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal under paragraph 6.

## PART 4

### Notices served by the Secretary of State

1. An appeal may be made to the court.
2. An appeal must be brought within 28 days of the date of the notice.

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<sup>(71)</sup> 1974 c.37.

<sup>(72)</sup> 1978 No.1039 (NI. 9).

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3. Unless the court otherwise directs, an appeal does not have the effect of suspending the operation of the notice.
4. In this section, “the court” means, in respect of a notice that relates to—
  - (a) the English area, the High Court;
  - (b) the Scottish area, (excluding Scottish controlled waters), the Court of Session;
  - (c) the Northern Irish area, the High Court in Northern Ireland.
5. Where a notice relates to more than one area referred to in paragraph 4, an appeal may be made to any of the courts with jurisdiction for the area or areas in question.
6. Reference in paragraph 4 to—
  - “the English area”;
  - “the Scottish area”;
  - “the Northern Irish area”,

has the same meaning as it has in the Civil Jurisdiction (Offshore Activities) Order 1987<sup>(73)</sup>.

## SCHEDULE 9

Regulation 22

### Service of documents

1. The provisions of this Schedule apply to the service of a document except where a contrary provision applies under Schedule 6 (powers of enforcement).
2. A document must be in writing.
3. A document may be served on or given to a person by—
  - (a) delivering it to that person in person;
  - (b) leaving it at that person’s proper address, or
  - (c) sending it by post or electronic means to that person’s proper address.
4. In the case of a body corporate, a document may be served on or given to the secretary or clerk of that body.
5. In the case of a partnership, a document may be served on or given to a partner or a person having control or management of the partnership business.
6. If a person to be served with or given a document has specified an address in the United Kingdom (other than that person’s proper address) at which that person or someone on that person’s behalf will accept documents of that description, that address must instead be treated as that person’s proper address.
7. For the purposes of this Schedule, “proper address” means—
  - (a) in the case of a body corporate or their secretary or clerk—
    - (i) the registered or principal office of that body, or
    - (ii) the email address of the secretary or clerk;
  - (b) in the case of a partnership or a partner or person having control or management of the partnership business—
    - (i) the principal office of the partnership, or

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<sup>(73)</sup> S.I. 1987/2197.

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- (ii) the email address of a partner or a person having that control or management;
- (c) in any other case, a person's last known address, which includes an email address.

8. For the purposes of paragraph 7, the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.

9. Where an enforcing authority specifies an electronic address for submission of a document, it may be submitted electronically to that address.

## SCHEDULE 10

Regulation 23

## Revocations and amendments

## PART 1

## Revocations to Regulations that extend to the United Kingdom

<i>Statutory Instrument Number</i>	<i>Citation</i>	<i>Extent of revocation</i>	<i>Date of revocation</i>
<a href="#">S.I. 2003/1511</a>	The Creosote (Prohibition on Use and Marketing)(No. 2) Regulations 2003	The whole instrument.	1st June 2009
<a href="#">S.I. 2003/2650</a>	The Creosote (Prohibition on Use and Marketing)(No. 2) Amendment Regulations 2003	The whole instrument.	1st June 2009
<a href="#">S.I. 2005/2001</a>	The Dangerous Substances and Preparations (Nickel) (Safety) Regulations 2005	The whole instrument.	1st June 2009
<a href="#">S.I. 2003/3310</a>	The Controls on Certain Azo Dyes and "Blue Colourant" Regulations 2003	The whole instrument.	1st June 2009
<a href="#">S.I. 2004/2913</a>	The Controls on Certain Azo Dyes and "Blue Colourant" (Amendment) Regulations 2004	The whole instrument.	1st June 2009
<a href="#">S.I. 2006/2916</a>	The Dangerous Substances and Preparations (Safety) Regulations 2006	The whole instrument.	1st June 2009
<a href="#">S.I. 2006/3311</a>	The Controls on Dangerous Substances and Preparations Regulations 2006	The whole instrument.	1st June 2009

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<i>Statutory Instrument Number</i>	<i>Citation</i>	<i>Extent of revocation</i>	<i>Date of revocation</i>
<a href="#">S.I. 2007/386</a>	The Dangerous Substances and Preparations (Safety) (Amendment) Regulations 2007	The whole instrument.	1st June 2009
<a href="#">S.I. 2007/1596</a>	The Controls on Dangerous Substances and Preparations (Amendment) Regulations 2007	The whole instrument.	1st June 2009
<a href="#">S.I. 2007/3438</a>	The Controls on Dangerous Substances and Preparations (Amendment)(No. 2) Regulations 2007	The whole instrument.	1st June 2009

## PART 2

### Revocations to Regulations that extend to Great Britain

<i>Statutory Instrument Number</i>	<i>Citation</i>	<i>Extent of revocation</i>	<i>Date of revocation</i>
<a href="#">S.I.1993/3050</a>	The Notification of New Substances Regulations 1993	The whole instrument.	1st December 2008
<a href="#">S.I. 1994/1806</a>	The Notification of Existing Substances (Enforcement) Regulations 1994	The whole instrument.	1st December 2008
<a href="#">S.I. 1996/1373</a>	The Notification of Existing Substances (Enforcement) (Amendment) Regulations 1996	The whole instrument.	1st December 2008
<a href="#">S.I. 2001/1055</a>	The Notification of New Substances (Amendment) Regulations 2001	The whole instrument.	1st December 2008
<a href="#">S.I. 2002/1689</a>	The Chemicals (Hazard Information and Packaging for Supply) Regulations 2002	In regulation 8, paragraphs (4), (5) and (6).	1st June 2009
		Regulation 12(1)(d). Schedule 4.	1st December 2008
<a href="#">S.I. 2002/2176</a>	The Notification of New Substances (Amendment) Regulations 2002	The whole instrument.	1st December 2008
<a href="#">S.I. 2002/2677</a>	The Control of Substances Hazardous to Health Regulations 2002	Regulation 4(4). In Schedule 2, entries numbered 11, 12 and 13.	1st June 2009

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<i>Statutory Instrument Number</i>	<i>Citation</i>	<i>Extent of revocation</i>	<i>Date of revocation</i>
<a href="#">S.I. 2004/3386</a>	The Control of Substances Hazardous to Health (Amendment) Regulations 2004	Regulation 2(g).	1st June 2009
<a href="#">S.I. 2005/2571</a>	The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 2005	Regulation 2(3).	1st December 2008
<a href="#">S.I. 2006/2739</a>	The Control of Asbestos Regulations 2006	Regulations 25(3), 27, 28, 29 and 32(2).	1st June 2009
<a href="#">S.I. 2008/736</a>	The Health and Safety (Fees) Regulations 2008	Regulation 14 and Schedule 11.	1st December 2008

## PART 3

### Amendments to Regulations that extend to Great Britain

#### The Chemicals (Hazard Information and Packaging for Supply) Regulations 2002

1. The Chemicals (Hazard Information and Packaging for Supply) Regulations 2002<sup>(74)</sup> are amended as follows on 1st December 2008.

2. In paragraph (1) of regulation 2 (interpretation)—

(a) for paragraph (c) in the definition of “EC number” substitute—

“(c) in the case of a dangerous substance that is not a phase-in substance within the meaning of REACH, the number for that substance if it is listed in ELINCS;”;

(b) after the definition of “radioactive substance” insert—

““REACH” means Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals<sup>(75)</sup>”;

3. In paragraph (3) of regulation 4 (classification of dangerous substances and dangerous preparations) omit the wording after paragraph (a) and substitute—

“(b) has been registered in accordance with Title II of REACH, shall be classified in conformity with that registration.”.

4. For regulation 5 (safety data sheets for dangerous substances, dangerous preparations and certain other preparations) substitute—

“5. The supplier of a dangerous substance or a dangerous preparation shall provide the recipient of that dangerous substance or dangerous preparation with a safety data sheet compiled in accordance with the requirements of REACH.”.

<sup>(74)</sup> [S.I. 2002/1689](#).

<sup>(75)</sup> OJ No L 396, 30.12.2006, p1.

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### The Control of Substances Hazardous to Health Regulations 2002

5. The Control of Substances Hazardous to Health Regulations 2002(76) are amended as follows on 1st June 2009.

6. Omit paragraph (2)(a) of regulation 4 (prohibitions relating to certain substances).

### The Control of Asbestos Regulations 2006

7. The Control of Asbestos Regulations 2006(77) are amended as follows on 1st June 2009.

8. In paragraph (1) of regulation 25 (interpretation of prohibitions) omit the definitions of “asbestos cement” and “use”.

9. In paragraph (1) of regulation 32 (exemption certificates ) omit “to (7) and 27” and substitute “and (7)”.

10. In regulation 33 (exemptions relating to the Ministry of Defence) omit “all or any of the prohibitions” and substitute “the prohibition”.

11. In paragraph (2) of regulation 35 (existing licences and exemption certificates) omit the reference to regulation 32(2).

## PART 4

### Revocations to Statutory Rules of Northern Ireland

<i>Statutory Rule Number</i>	<i>Citation</i>	<i>Extent of revocation</i>	<i>Date of revocation</i>
<a href="#">S.R. (NI) 1994 No 6</a>	The Notification of New Substances Regulations (Northern Ireland) 1994	The whole instrument.	1st December 2008
<a href="#">S.R. (NI) 2002 No 301</a>	The Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002	In regulation 8, paragraphs (4), (5) and (6).	1st June 2009
		Regulation 12(1)(d). Schedule 4.	1st December 2008
<a href="#">S.R. (NI) 2003 No 34</a>	The Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003	Regulation 4(3). In Schedule 2, entries numbered 11, 12 and 13.	1st June 2009
<a href="#">S.R. (NI) 2003 No 36</a>	The Notification of New Substances (Amendment) Regulations (Northern Ireland) 2003	The whole instrument.	1st December 2008
<a href="#">S.R. (NI) 2004 No 76</a>	The Marketing and Use of Dangerous Substances	The whole instrument.	1st June 2009

(76) S.I. 2002/2677.

(77) S.I. 2006/2739.

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<i>Statutory Rule Number</i>	<i>Citation</i>	<i>Extent of revocation</i>	<i>Date of revocation</i>
	Regulations (Northern Ireland) 2004		
<a href="#">S.R. (NI) 2005 No 165</a>	The Control of Substances Hazardous to Health (Amendment) Regulations (Northern Ireland) 2005	Regulation 3(g).	1st June 2009
<a href="#">S.R. (NI) 2005 No 463</a>	The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations (Northern Ireland) 2005	Regulation 2(3).	1st December 2008
<a href="#">S.R. (NI) 2007 No 31</a>	The Control of Asbestos Regulations (Northern Ireland) 2007	Regulations 25(3), 27, 28 and 31(2).	1st June 2009
<a href="#">S.R. (NI) 2008 No 21</a>	The Health and Safety (Fees) Regulations (Northern Ireland) 2008	Regulation 8 and Schedule 6.	1st December 2008

## PART 5

### Amendments to Statutory Rules of Northern Ireland

#### **The Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002**

1. The Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002(78) are amended as follows on 1st December 2008.

2. In paragraph (1) of regulation 2 (interpretation)—

(a) for paragraph (c) in the definition of “EC number” substitute—

“(c) in the case of a dangerous substance that is not a phase-in substance within the meaning of REACH, the number for that substance if it is listed in ELINCS;”;

(b) after the definition of “radioactive substance” insert—

““REACH” means Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals(79);”.

3. In paragraph (3) of regulation 4 (classification of dangerous substances and dangerous preparations) omit the wording after paragraph (a) and substitute—

“(b) has been registered in accordance with Title II of REACH, shall be classified in conformity with that registration.”.

(78) [S.R. \(NI\) 2002 No 301](#).

(79) [OJ No L 396, 30.12.2006, p1](#).

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4. For regulation 5 (safety data sheets for dangerous substances, dangerous preparations and certain other preparations) substitute—

“5. The supplier of a dangerous substance or a dangerous preparation shall provide the recipient of that dangerous substance or dangerous preparation with a safety data sheet compiled in accordance with the requirements of REACH.”.

### **The Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003**

5. The Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003(80) are amended as follows on 1st June 2009.

6. Omit paragraph (2)(a) of regulation 4 (prohibitions relating to certain substances).

### **The Control of Asbestos Regulations (Northern Ireland) 2007**

7. The Control of Asbestos Regulations (Northern Ireland) 2007(81) are amended as follows on 1st June 2009.

8. In paragraph (1) of regulation 25 (interpretation of prohibitions) omit the definitions of “asbestos cement” and “use”.

9. In regulation 32 (exemptions relating to the Ministry of Defence) omit “all or any of the prohibitions” and substitute “the prohibition”.

10. In paragraph (2) of regulation 34 (existing licences and exemption certificates) omit the reference to regulation 31(2).

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations apply to the United Kingdom and provide for the enforcement of Regulation (EC) No. 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)(OJ No L 396, 30.12.2006, p1).

Under regulation 2, the enforcing authorities are: (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 (g) the Scottish Environment Protection Agency and (h) the Secretary of State.

Regulation 3 imposes enforcement duties on enforcing authorities to enforce those provisions of REACH listed in Schedule 1.

Regulation 4 requires enforcing authorities to cooperate and share information with other bodies connected to REACH enforcement and provides for information sharing by the Commissioners for Revenue and Customs.

Regulation 5 provides for agreements between enforcing authorities under which one authority may act on behalf of another authority.

(80) S.R. (NI) 2003 No 34.

(81) S.R. (NI) 2007 No 31.

Regulation 6 provides for arrangements between enforcing authorities responsible for the enforcement of health and safety aspects of REACH.

Regulation 7 provides for defence exemption certificates.

Regulation 8 makes provision for an exemption from Article 67 of REACH for the marketing and use of leaded paint.

Regulation 9 provides for the powers of enforcing authorities as set out in Schedule 6 and regulation 10 provides for those persons authorised to act as authorised persons for those authorities.

Regulation 11 creates criminal offences and regulation 12 provides for penalties in respect of those offences. Further criminal offences are created under regulation 13 and penalties in respect of those offences are set out in regulation 14.

Regulation 15 provides for the liability of corporate bodies.

Under regulation 16 a court may require persons convicted of an offence under these Regulations to remedy those matters for which they were convicted.

Under regulation 17 persons authorised by the Health and Safety Executive or the Health and Safety Executive for Northern Ireland may, except in Scotland, prosecute an offence under these Regulations.

Regulation 18 provides that no criminal proceedings for an offence under these Regulations may be instituted in England and Wales except by an enforcing authority or by or with the consent of the Director of Public Prosecutions and in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

Regulation 19 provides that the Crown will not be criminally liable for any contravention of these Regulations.

Under regulation 20 enforcing authorities may institute civil proceedings against a person where criminal proceedings are unlikely to result in an effective remedy.

Regulation 21 provides for appeals against notices issued by enforcing authorities.

Regulation 22 and Schedule 9 provide for service of documents.

Regulation 23 and Schedule 10, provide for revocations and amendments of enactments.

Schedule 1 contains a table listing provisions of REACH which enforcing authorities must enforce. Schedule 2 sets out the functions of enforcing authorities.

Schedule 3 provides for arrangements between enforcing authorities responsible for the enforcement of health and safety aspects of REACH.

Schedule 4 provides for matters in connection with defence exemption certificates.

Schedule 5 provides for matters in relation to leaded paint.

Schedule 6 sets out the powers of enforcing authorities.

Schedule 7 sets out those provisions under other enactments which enable a person to act as an authorised person of an enforcing authority under these Regulations.

Schedule 8 contains provisions relating to appeals against notices issued by enforcing authorities.

Schedule 9 contains provisions concerning service of documents.

Schedule 10 lists enactments amended or revoked under these Regulations.

A transposition note and an Impact Assessment of the effect of this instrument on the costs to business have been prepared. They may be obtained from the Chemicals and Nanotechnology team, Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR and at [www.defra.gov.uk](http://www.defra.gov.uk). Copies have been placed in the library of each House of Parliament.

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