Commission Delegated Regulation (EU) 2020/1676 of 31 August 2020 amending Article 25 of Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures as regards bespoke paints (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2020/1676

of 31 August 2020

amending Article 25 of Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures as regards bespoke paints

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006[(1)], and in particular Article 53(1) thereof,

Whereas:

(1) Regulation (EC) No 1272/2008 was amended by Commission Regulation (EU) 2017/542[(2)] to add certain requirements for the submission of information relating to emergency health response and for the inclusion of a 'unique formula identifier' (UFI) in the supplemental information provided on the label of a hazardous mixture. Importers and downstream users are required to start complying with the requirements in stages, according to a series of compliance dates depending on the use for which a mixture is placed on the market.

(2) The paints sector has raised a specific concern regarding the workability of the emergency health response requirements in the case of paints formulated in limited amounts on a tailor-made basis for an individual consumer or professional user at the point of sale. In order to satisfy customer demand for very specific paint shades, formulators can be asked to formulate and supply paints with an almost unlimited number of different compositions. Compliance with the emergency health response requirements would therefore require formulators either to submit information and create UFIs in advance for an extremely large number of paints of all possible colour combinations, many of which may never be supplied in reality, or else to postpone each supply at the point of sale until the information had been submitted and the UFI had been created. Either approach would place a disproportionate burden on the bespoke paints industry.

(3) In order to avoid disproportionate administrative burden, in particular for small and medium-sized enterprises, for bespoke paints, the requirements are to be amended by

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1676. (See end of Document for details)*

Commission Delegated Regulation (EU) 2020/1677[(3)] to provide for the possibility to exempt bespoke paints from the notification obligations in Annex VIII to Regulation (EC) No 1272/2008 and from the obligation in that Annex to create a UFI. However, in that case, in order to allow poison centres to formulate a suitable emergency health response, the individual mixtures contained in bespoke paints are to remain subject to all the requirements of Annex VIII.

(4) In the light of that, it is appropriate to amend Article 25 of Regulation (EC) No 1272/2008 in order to lay down a rule for bespoke paints for which no information is notified and no corresponding UFI created requiring the UFIs of all the mixtures contained in the bespoke paint to be indicated on the label of the bespoke paint. In addition, if the concentration of a mixture with a UFI contained in the bespoke paint exceeds 5 %, the concentration should be included in the supplemental information indicated on the label of the bespoke paint, since mixtures in bespoke paints of such concentration are more likely to be relevant for emergency health responses.

(5) Considering that the compliance date for mixtures for consumer and professional use of 1 January 2021 laid down in Annex VIII to Regulation (EC) No 1272/2008 is approaching, and that this Regulation enables all sectors to comply with that Annex, this Regulation should enter into force as early as possible.

(6) Regulation (EC) No 1272/2008 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 25 of Regulation (EC) No 1272/2008, the following paragraph is added:

8. In the case of a bespoke paint for which no submission in accordance with Annex VIII has been made and no corresponding unique formula identifier has been created, the unique formula identifiers of all the mixtures contained in the bespoke paint in a concentration exceeding 0,1 % which themselves are subject to notification under Article 45 shall be included in the supplemental information on the label of the bespoke paint, located together and listed in descending order of the mixtures' concentration in the bespoke paint, in accordance with the provisions of Section 5 of Part A of Annex VIII.

In a case falling within the first subparagraph, where the concentration of a mixture with a unique formula identifier in the bespoke paint exceeds 5 %, the concentration of that mixture shall also be included in the supplemental information on the label of the bespoke paint next to its unique formula identifier, in accordance with Section 3.4 of Part B of Annex VIII.

For the purposes of this paragraph, "bespoke paint" means a paint that is formulated in limited amounts on a tailor-made basis for an individual consumer or professional user at the point of sale by tinting or colour mixing.

Article 2

This Regulation shall enter into force on the day after its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States.