STATUTORY RULES OF NORTHERN IRELAND

# 2008 No. 424

# HEALTH AND SAFETY

## The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations (Northern Ireland) 2008

| | |
|---|---|
| *Made - - - -* | *22nd October 2008* |
| *Coming into operation* | *28th November 2008* |

The Department of Enterprise, Trade and Investment(**1**), being the Department concerned(**2**) makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**3**) and Articles 17(1) to (6)(**4**) and 55(2) of, and paragraphs 1(1), (4) and (5), 2(2), 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**5**).

The Department was designated(**6**) for the purposes of the said section 2(2) in relation to the regulation and control of classification, packaging and labelling of dangerous substances and preparations, and for measures relating to consumer protection.

The Regulations give effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A)(**7**) of the 1978 Order after the Executive had carried out consultations in accordance with Article 46(3)(**8**).

### Citation, commencement and interpretation

**1.**—(1) These Regulations may be cited as the Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 28th November 2008.

(2) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(**1**) Formerly the Department of Economic Development; *see*S.I. 1999/283 (N.I. 1), Article 3(5); that Department was formerly the Department of Manpower Services, *see* S.I. 1982/846 (N.I. 11), Article 3
(**2**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**3**) 1972 c. 68; the definition of "the Treaties" referred to in section 2(2) was extended by section 1 of the European Economic Area Act 1993 (c. 51)
(**4**) Article 17 must be read with S.I. 1992/1728 (N.I. 17), Articles 3(2) and 4(2)
(**5**) S.I. 1978/1039 (N.I. 9), the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I. 17), Articles 3(1) and 4(1). Article 55(2) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 2, paragraph 19
(**6**) S.I. 1976/897 and S.I. 1993/2661
(**7**) Article 13(1) was inserted by S.I. 1998/2795 (N.I. 18), Article 4
(**8**) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18(c)
(**9**) 1954 c. 33 (N.I.)

**Amendments to the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002**

**2.**—(1) The Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002(**10**) shall be amended in accordance with the following paragraphs.

(2) In regulation 2(1)—

(a) for the definition of "the approved classification and labelling guide" substitute—

> ""the approved classification and labelling guide" means the guide approved by the Executive for the purposes of these Regulations and entitled "Approved Guide to the Classification and Labelling of Dangerous Substances and Dangerous Preparations (Fifth Edition)" approved by the Health and Safety Commission on 16th April 2002(**11**), as revised or re-issued from time to time;"; and

(b) for the definition of "the approved supply list" substitute—

> ""the approved supply list" means the document approved by the Executive for the purposes of these Regulations and entitled "Information Approved for the Classification and Labelling of Dangerous Substances and Dangerous Preparations (Eighth Edition)" approved by the Health and Safety Commission on 26th July 2005(**12**), as revised or re-issued from time to time;".

(3) In regulation 8A(4) after "this regulation" add "and regulation 9(2)".

(4) Regulation 9 shall be amended as follows—

(a) in paragraph (2) for "regulation 8A" substitute "paragraph (2A)"; and

(b) after paragraph (2) add—

> "(2A) Where a package would be required to be labelled and marked in accordance with any of the national or international transport rules listed in regulation 8A(4) and the package consists of one or more receptacles in outer packagings, it shall be sufficient compliance with paragraph (2) if the package shows the labels and markings required by whichever of the national or international rules is appropriate.".

(5) Schedule 3 shall be amended as follows—

(a) in Part I omit paragraph 19(2);

(b) in Part II Tables II and IIA omit in both footnotes marked with a dagger "carcinogenic or";

(c) for Part II Table VI substitute the Table VI set out in Schedule 1 to these Regulations;

(d) for Part II Table VIA substitute the Table VIA set out in Schedule 1 to these Regulations;

(e) for Part III Tables 1 and 2 substitute Tables 1a, 1b and 2 set out in Schedule 2 to these Regulations; and

(f) for Part III Table 5 substitute the Table set out in Schedule 3 to these Regulations.

(6) For Part II of Schedule 5 substitute the Part set out in Schedule 4 to these Regulations.

**Amendments to the Control of Major Accident Hazards Regulations (Northern Ireland) 2000**

**3.**—(1) The Control of Major Accident Hazards Regulations (Northern Ireland) 2000(**13**) shall be amended in accordance with the following paragraphs.

(**10**) S.R. 2002 No. 301 as amended by S.R. 2005 No. 165, S.R. 2005 No. 463, S.R. 2006 No. 173, S.R. 2006 No. 425, S.I. 2007/386 and S.I. 2008/2108
(**11**) ISBN 0717623696
(**12**) ISBN 0717661385
(**13**) S.R. 2000 No. 93 as amended by S.R. 2005 No. 305

(2) In regulation 2(1), after the definition of "the Directive", insert the following definition—

""the district council" means a district council within the meaning of the Local Government Act (Northern Ireland) 1972(**14**);".

(3) For regulation 20(6) substitute the following paragraphs—

"(6) Notwithstanding the Health and Safety (Enforcing Authority) Regulations (Northern Ireland)1999(**15**), the Executive shall, for the purposes of the 1978 Order, be the enforcing authority for the relevant statutory provisions at an establishment to which any of these Regulations apply, unless a transfer of responsibility is made under paragraph (7) below.

(7) The responsibility, for the purposes of the 1978 Order, for enforcing any of the relevant statutory provisions at any establishment to which any of these Regulations apply may be transferred from the Executive to the district council, insofar as the main activity carried on at that establishment is the sale of goods, or the storage of goods for retail or wholesale distribution, except—

(a) 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;

(b) where the main activity is the sale or storage for wholesale distribution of any substance or preparation dangerous for supply, or

(c) where the main activity is the sale or storage of water or sewage or their by-products or natural or town gas.

(8) A transfer may be made only by agreement between the Executive and the district council.

(9) Where a transfer has been made, the district council shall cause notice of the transfer to be given to persons affected by it.".

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 22nd October 2008.

L.S.

*M. Bohill*
A senior officer of the Department of Enterprise, Trade and Investment

(**14**) 1972 c. 9 (N.I.)
(**15**) S.R. 1999 No. 90 as amended by S.R. 2000 No. 375, S.R. 2003 No. 33, S.R. 2006 No. 205, S.R. 2006 No. 425, S.R. 2007 No. 31 and S.R. 2007 No. 291

SCHEDULE 1 Regulation 2(5)(c) and (d)

TABLES TO BE SUBSTITUTED FOR TABLES VI AND VIA OF SCHEDULE 3 TO THE CHEMICALS (HAZARD INFORMATION AND PACKAGING FOR SUPPLY) REGULATIONS (NORTHERN IRELAND) 2002

"**Table VI**

| *Classification of the substance* | *Classification of the preparation* | |
|---|---|---|
| | *Categories 1 and 2* | *Category 3* |
| Carcinogenic substances of category 1 or 2 with R45 or R49 | Concentration ≥ 0.1% carcinogenic R45, R49 obligatory as appropriate | |
| Carcinogenic substances of category 3 with R40 | | Concentration ≥ 1% carcinogenic R40 obligatory (*unless already assigned R45*(*)) |
| Mutagenic substances of category 1 or 2 with R46 | Concentration ≥ 0.1% mutagenic R46 obligatory | |
| Mutagenic substances of category 3 with R68(**) | | Concentration ≥ 1% mutagenic R68(**) obligatory (*unless already assigned R46*) |
| Substances "toxic for reproduction" of category 1 or 2 with R60 (fertility) | Concentration ≥ 0.5% toxic for reproduction (fertility) R60 obligatory | |
| Substances "toxic for reproduction" of category 3 with R62 (fertility) | | Concentration ≥ 5% toxic for reproduction (fertility) R62 obligatory (*unless already assigned R60*) |
| Substances "toxic for reproduction" of category 1 or 2 with R61 (development) | Concentration ≥ 0.5% toxic for reproduction (development) R61 obligatory | |
| Substances "toxic for reproduction" of category 3 with R63 (development) | | Concentration ≥ 5% toxic for reproduction (development) R63 obligatory (*unless already assigned R61*) |

**(*)** In cases where the preparation is assigned R49 and R40, both R phrases shall be kept, because R40 does not distinguish between the exposure routes, whereas R49 is only assigned for the inhalation route.

**(**)** R68 here refers to substances classified as mutagenic. Concentration limits for substances required to be labelled R68 but classified as harmful are given in Table II.

(**1**)
(**1**)
(**1**)

**Table VIA**

| *Classification of the substance (gas)* | *Classification of the gaseous preparation* | |
|---|---|---|
| | *Categories 1 and 2* | *Category 3* |
| Carcinogenic substances of category 1 or 2 with R45 or R49 | Concentration ≥ 0.1% carcinogenic R45, R49 obligatory as appropriate | |
| Carcinogenic substances of category 3 with R40 | | Concentration ≥ 1% carcinogenic R40 obligatory (*unless already assigned R45*(*)) |
| Mutagenic substances of category 1 or 2 with R46 | Concentration ≥ 0.1% mutagenic R46 obligatory | |
| Mutagenic substances of category 3 with R68(**) | | Concentration ≥ 1% mutagenic R68(**) obligatory (*unless already assigned R46*) |
| Substances "toxic for reproduction" of category 1 or 2 with R60 (fertility) | Concentration ≥ 0.2% toxic for reproduction (fertility) R60 obligatory | |
| Substances "toxic for reproduction" of category 3 with R62 (fertility) | | Concentration ≥ 1% toxic for reproduction (fertility) R62 obligatory (*unless already assigned R60*) |
| Substances "toxic for reproduction" of category 1 or 2 with R61 (development) | Concentration ≥ 0.2% toxic for reproduction (development) R61 obligatory | |
| Substances "toxic for reproduction" of category 3 with R63 (development) | | Concentration ≥ 1% toxic for reproduction (development) R63 obligatory (*unless already assigned R61*)" |

**(*)** In cases where the preparation is assigned R49 and R40, both R phrases shall be kept, because R40 does not distinguish between the exposure routes, whereas R49 is only assigned for the inhalation route.

**(**)** R68 here refers to substances classified as mutagenic. Concentration limits for substances required to be labelled R68 but classified as harmful are given in Table IIA.

(**1**)
(**1**)
(**1**)