STATUTORY RULES OF NORTHERN IRELAND

2004 No. 509

EUROPEAN COMMUNITIES
PUBLIC HEALTH

The Marketing and Use of Dangerous Substances (No. 4) Regulations (Northern Ireland) 2004

Made - - - - 10th December 2004

Coming into operation 1st January 2005

The Department of the Environment, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to restrictions on the marketing and use of certain dangerous substances and preparations, in exercise of the powers conferred upon it by that section and of every other power enabling it in that behalf, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Marketing and Use of Dangerous Substances (No. 4) Regulations (Northern Ireland) 2004 and shall come into operation on 1st January 2005.

Interpretation

2.—(1) In these Regulations –

"octabromodiphenyl ether" means diphenylether, octabromo derivative $C_{12}H_2Br_8O$;

"pentabromodiphenyl ether" means diphenylether, pentabromo derivative $C_{12}H_5Br_5O$.

(2) Expressions used in these Regulations which are also used in Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations(**3**), as last amended by Commission Directive 2004/98/EC amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of pentabromodiphenyl ether in aircraft emergency evacuation systems for the purpose of adapting its Annex I to technical progress(**4**), shall have the meaning they bear in that Directive.

(**1**) S.I.1992/1711
(**2**) 1972 c. 68
(**3**) O.J. No. L262, 27.9.1976, p. 201
(**4**) O.J. No. L305, 1.10.2004, p. 63

(3) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Scope

3. These Regulations shall not apply to –

(a) the placing on the market or use of dangerous substances or preparations for research and development or analysis purposes;

(b) the carriage of dangerous substances or preparations by rail, road, inland waterway, sea or air;

(c) dangerous substances or preparations exported to a country which is not a Member State; and

(d) dangerous substances or preparations in transit and subject to customs inspection, provided that they undergo no processing.

Prohibition on the placing on the market and use of pentabromodiphenyl ether

4.—(1) Subject to paragraph (3), a person shall not place on the market –

(a) pentabromodiphenyl ether as a substance or as a constituent of substances or of preparations in concentrations higher than 0.1% by mass;

(b) any articles which contain pentabromodiphenyl ether in concentrations higher than 0.1% by mass; or

(c) any articles which include any flame-retarded parts which contain pentabromodiphenyl ether in concentrations higher than 0.1% by mass.

(2) Subject to paragraph (3), a person shall not use pentabromodiphenyl ether as a substance or as a constituent of substances or of preparations in concentrations higher than 0.1% by mass.

(3) This regulation shall not apply to aircraft emergency evacuation systems until 31st March 2006.

Prohibition on the placing on the market and use of octabromodiphenyl ether

5.—(1) A person shall not place on the market –

(a) octabromodiphenyl ether as a substance or as a constituent of substances or of preparations in concentrations higher than 0.1% by mass;

(b) any articles which contain octabromodiphenyl ether in concentrations higher than 0.1% by mass; or

(c) any articles which include any flame-retarded parts which contain octabromodiphenyl ether in concentrations higher than 0.1% by mass.

(2) A person shall not use octabromodiphenyl ether as a substance or as a constituent of substances or of preparations in concentrations higher than 0.1% by mass.

Offences and penalties

6.—(1) Any person who contravenes regulation 4 or 5, or causes or permits another person to contravene either of those regulations, shall be guilty of an offence.

(2) Any person guilty of an offence under paragraph (1) shall be liable –

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(**5**) 1954 c. 33 (N.I.)