STATUTORY RULES OF NORTHERN IRELAND

2004 No. 125

EUROPEAN COMMUNITIES
PUBLIC HEALTH

The Marketing and Use of Dangerous Substances (No. 2) Regulations (Northern Ireland) 2004

Made - - - -	*19th March 2004*
Coming into operation	*15th August 2004*

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 on 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. 2) Regulations (Northern Ireland) 2004 and shall come into operation on 15th August 2004.

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 amended for the 24th time by European Parliament and Council Directive 2003/11/EC(**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. L42, 15.2.2003, p. 45

(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 and octabromodiphenyl ether

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

(a) pentabromodiphenyl ether or 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 pentabromodiphenyl ether or octabromodiphenyl ether in concentrations higher than 0.1% by mass; or

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

(2) A person shall not use pentabromodiphenyl ether or 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

5.—(1) Any person who contravenes regulation 4, or causes or permits another person to contravene that regulation, 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

(b) on conviction on indictment, to a fine.

(3) For the purposes of this regulation, section 20(2) of the Interpretation Act (NI) 1954 applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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