STATUTORY RULES OF NORTHERN IRELAND

2004 No. 76

EUROPEAN COMMUNITIES
PUBLIC HEALTH

The Marketing and Use of Dangerous Substances Regulations (Northern Ireland) 2004

Made - - - -	*2nd March 2004*
Coming into operation	*30th June 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 Regulations (Northern Ireland) 2004 and shall come into operation on 30th June 2004.

Interpretation

2.—(1) 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 by Commission Directive 2003/03/EC(**4**), shall have the meaning they bear in that Directive.

(2) 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.—(1) These Regulations do not apply to –

(**1**) S.I.1992/1711
(**2**) 1972 c. 68
(**3**) O.J. No. L262, 27.9.1976, p. 201
(**4**) O.J. No. L4, 9.1.2003, p. 12
(**5**) 1954 c. 33 (N.I.)

(a) the placing on the market or use of "blue colourant" for research and development or analysis purposes;

(b) the carriage of "blue colourant" by rail, road, inland waterway, sea or air;

(c) "blue colourant" exported to a country which is not a Member State; and

(d) "blue colourant" in transit and subject to customs inspection, provided that they undergo no processing.

(2) In this regulation "blue colourant" means the colourant referred to in regulation 4.

Prohibition on the placing on the market and use of "blue colourant"

4. A person shall not place on the market or use for colouring textile and leather articles, the "blue colourant" defined in the Schedule as a substance or constituent 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;

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

(3) Where an offence under this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that body, or any person purporting to act in any such capacity, he is also guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, paragraph (3) shall apply 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.

Powers of enforcing authority in relation to "blue colourant"

6.—(1) For the purposes of this regulation, "enforcing authority" means the Department of the Environment.

(2) Any person who appears suitable to the enforcing authority may be authorised in writing by that authority, for the purposes of determining whether regulation 4 is being, or has been, complied with, to exercise any of the powers specified in paragraph (3).

(3) The powers exercisable under paragraph (2) are the powers in paragraph (2)(a) to (l) of Article 72 of the Waste and Contaminated Land (Northern Ireland) Order 1997(**6**) as modified by paragraph (4) and subject to paragraphs (4) to (13) of that Article as also modified by paragraph (4).

(4) For the purposes of paragraph (3), Article 72 shall apply as if –

(a) in paragraph (2) –

(i) in sub-paragraph (g), for the words "have caused or to be likely to cause pollution of the environment or harm to human health" there were substituted the words "be or contain a substance referred to in regulation 4 of the Marketing and Use of Dangerous Substances Regulations (Northern Ireland) 2004";

(**6**) S.I. 1997/2778 (N.I. 19)