STATUTORY RULES OF NORTHERN IRELAND

2002 No. 301

HEALTH AND SAFETY

Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002

Made - - - -	*30th September 2002*
Coming into operation	*14th November 2002*

The Department of Enterprise, Trade and Investment(**1**), being a Department designated(**2**) for the purpose of section 2(2) of the European Communities Act 1972(**3**) in relation to the regulation and control of classification, packaging and labelling of dangerous substances and preparations, and for measures relating to consumer protection, in the exercise of the powers conferred on it by the said section 2(2) and, being the Department concerned(**4**), in exercise of the powers conferred by Articles 17(1), (2), (3), (5) and (6)(**5**), and 55(2) of, and paragraphs 1(1), (4) and (5), and 2(2), 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**6**) and of every other power enabling it in that behalf, and for the purpose of giving effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A) of that Order(**7**) after the carrying out by the said Executive of consultations in accordance with Article 46(3) of that Order(**8**), hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002 and shall come into operation on 14th November 2002.

(**1**) Formerly the Department of Economic Development; *see* S.I. 1999/283 (N.I. 1), Article 3(5)
(**2**) S.I. 1976/897 and S.I. 1993/2661
(**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**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**5**) Article 17 must be read with S.I. 1992/1728 (N.I. 17), Articles 3(2) and 4(2)
(**6**) 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), Article 3(1). Article 47A was inserted by Article 3, and Article 2 was amended by Articles 4 and 8, of S.I. 1997/1774 (N.I. 16)
(**7**) Article 13(1A) 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)

Interpretation

2.—(1) In these Regulations –

"the 1978 Order" means the Health and Safety at Work (Northern Ireland) Order 1978;

"aerosol dispenser" means an article which consists of a non-reusable receptacle containing a gas compressed, liquefied or dissolved under pressure, with or without liquid, paste or powder and fitted with a release device allowing the contents to be ejected as solid or liquid particles in suspension in a gas, as a foam, paste or powder or in a liquid state;

"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;

"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 (Seventh Edition)" approved by the Health and Safety Commission on 16th April 2002;

"category of danger" means, in relation to a dangerous substance or dangerous preparation, one of the categories of danger specified in column 1 of Schedule 1;

"the CDGCPL Regulations" means the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997(**9**);

"Community workplace exposure limit" means, in respect of a substance, an exposure limit for that substance established in a Community instrument;

"dangerous preparation" means a preparation which is in one of or more of the categories of danger specified in column 1 of Schedule 1;

"dangerous substance" means a substance –

(a) which is listed in the approved supply list; or

(b) if it is not so listed, which is in one or more of the categories of danger specified in column 1 of Schedule 1;

"EC number" means –

(a) in the case of a dangerous substance that appears in the approved supply list, the EC number specified in that list;

(b) in the case of a dangerous substance that is not included in the approved supply list or for which an EC number is not given in that list, the number for that substance specified in EINECS; or

(c) in the case of a dangerous substance that is a new substance within the meaning of the NONS Regulations, the number for that substance listed in ELINCS;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993(**10**) and adopted as respects the United Kingdom by the European Economic Area Act 1993(**11**);

"EEA State" means a state which is a contracting party to the EEA Agreement;

"EINECS" means the European Inventory of Existing Commercial Chemical Substances(**12**);

(**9**) S.R. 1997 No. 247 as amended by S.R. 1997 No. 360, S.R. 1998 No. 438, S.R. 1998 No. 448, S.R. 1999 No. 150, S.R. 2000 No. 119 and S.R. 2002 No. 34

(**10**) The Agreement was amended by Decision 7/94 of the EEA Joint Committee of 21st March 1994 (O.J. No. L160, 28.6.94, p. 1). There are other amendments to the Agreement which are not relevant to these Regulations

(**11**) 1993 c. 51

(**12**) O.J. No. C146A, 15.6.90, p. 1

"ELINCS" means the European List of Notified Chemical Substances(**13**) as revised or re-issued from time to time;

"enforcing authority" shall be construed in accordance with regulation 14;

"the Executive" means the Health and Safety Executive for Northern Ireland;

"indication of danger" means, in relation to a dangerous substance or dangerous preparation, one or more of the indications of danger referred to in column 1 of Schedule 2 and –

(a) in the case of a dangerous substance listed in the approved supply list, it is one or more of the indications of danger specified for that substance by a symbol-letter in that list;

(b) in the case of any other dangerous substance or a dangerous preparation, it is one or more indications of danger determined in accordance with the classification of that substance or preparation in accordance with regulation 4 and the approved classification and labelling guide;

"the NONS Regulations" means the Notification of New Substances Regulations (Northern Ireland)1994(**14**);

"plant protection product" has the same meaning as it has in regulation 2(1) of the Plant Protection Products Regulations;

"the Plant Protection Products Regulations" means the Plant Protection Products Regulations (Northern Ireland) 1995(**15**);

"preparation" means a mixture or a solution of two or more substances;

"radioactive substance" means a substance which contains one or more radionuclides whose activity or concentration cannot be disregarded as far as radiation protection is concerned;

"receptacle" means a container together with any material, wrapping and component, including any closure or fastener, associated with the container which enables the container to perform its containment function;

"risk phrase" means a risk phrase listed in the approved supply list;

"safety phrase" means a safety phrase listed in the approved supply list;

"substance" means a chemical element and its compounds in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

"supply" in relation to a substance or preparation means, except in regulation 6, making that substance or preparation available to another person and includes importation of the substance or preparation into Northern Ireland, and "supplier" shall be construed accordingly;

"territorial sea" means the territorial sea of the United Kingdom adjacent to Northern Ireland and "within the territorial sea" includes on, over and under it.

(2) In these Regulations, "package" means –

(a) subject to paragraph (3), the package in which a dangerous substance, dangerous preparation or preparation specified in regulation 5(3) is supplied, including the receptacle containing the dangerous substance or preparation in question; or

(b) a pallet or other device which enables more than one receptacle to be handled as a unit,

but does not include a container used to transport the dangerous substance or preparation unless that container is retained by the person to whom the dangerous substance or preparation is supplied

(**13**) O.J. No. C130, 10.5.93, p. 1
(**14**) S.R. 1994 No. 6, to which there are amendments not relevant to these Regulations
(**15**) S.R. 1995 No. 371, to which there are amendments not relevant to these Regulations

for the purpose of storing that dangerous substance or preparation, and related expressions shall be construed accordingly.

(3) In the case of supply by way of retail sale, a package does not include any paper or plastic bag or other form of outer wrapping in which the package is placed when it is presented to the purchaser.

(4) In these Regulations –

(a) where reference is made to a quantity of a dangerous substance or dangerous preparation expressed in litres, that reference shall mean –

(i) in the case of a liquid, the volume in litres of that liquid,

(ii) in the case of a compressed gas, the volume in litres of the receptacle containing that gas, and

(iii) in the case of a compressed gas dissolved in a solvent, liquefied gas or solid, the same number of kilograms of that gas or solid; and

(b) for the purposes of aggregation, one kilogram of a solid shall be deemed to be equivalent to one litre of liquid or gas.

(5) In these Regulations –

(a) a risk phrase may be designated by the letter "R" followed by a distinguishing number or combination of numbers; and

(b) a safety phrase may be designated by the letter "S" followed by a distinguishing number or combination of numbers.

(6) The Interpretation Act (Northern Ireland) 1954(**16**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Application

3.—(1) Subject to paragraphs (3) to (8), these Regulations shall apply to any dangerous substance or dangerous preparation.

(2) Subject to paragraphs (3) to (8) –

(a) regulation 5, except paragraph (1), shall apply to the preparations specified in paragraph (3) of that regulation;

(b) regulation 7 and paragraphs (2) and (4) to (6) of regulation 11 shall apply to the preparations specified in paragraph (3) of regulation 11;

(c) paragraphs (1) and (2) of regulation 9 shall apply to a preparation to which section B or C of Part II of Schedule 5 applies; and

(d) paragraphs (4) and (5) of regulation 8 shall apply to a substance or preparation specified in those paragraphs.

(3) These Regulations shall not apply to a substance or preparation which is –

(a) intended for use as a medicinal product within the meaning of section 130 of the Medicines Act 1968(**17**);

(b) specified in an order made under section 104 or 105 of the Medicines Act 1968 which is for the time being in force and which directs that specified provisions of that Act shall have effect in relation to that dangerous substance or dangerous preparation as such provisions have effect in relation to medicinal products within the meaning of that Act;

(**16**) 1954 c. 33 (N.I.)
(**17**) 1968 c. 67

(c) a controlled drug within the meaning of the Misuse of Drugs Act 1971(**18**) except that these Regulations shall apply to drugs which are excepted from section 4(1)(b) of that Act (which makes it unlawful to supply a controlled drug) by Regulations made under section 7(1)(a) of that Act;

(d) a cosmetic product within the meaning of the Cosmetic Products (Safety) Regulations 1996(**19**);

(e) in the form of waste to which Annex 1 of Council Directive 91/156/EEC(**20**) and the Special Waste Regulations (Northern Ireland) 1998(**21**) apply;

(f) intended for use as food within the meaning of Article 2(2) of the Food Safety (Northern Ireland) Order 1991(**22**);

(g) intended for use as an animal feeding stuff within the meaning of section 66(1) of the Agriculture Act 1970(**23**);

(h) radioactive substances or preparations containing radioactive substances; or

(i) a medical device within the meaning of the Medical Devices Regulations 2002(**24**) which is invasive or used in direct contact with the human body,

in the finished state, intended for the final user.

(4) These Regulations shall not apply to –

(a) a substance or preparation which is a sample taken by an authority responsible for the enforcement of any requirement imposed by or under any enactment;

(b) a substance or preparation which is under customs control;

(c) subject to Council Regulation EC 2455/92(**25**) on the export notification and information exchange of dangerous substances, a substance or preparation which is intended for export to a country which is not an EEA State; or

(d) a substance to which paragraph (7) of regulation 6 of the NONS Regulations applies (including new substances not yet fully tested) which is labelled in accordance with the provisions of that paragraph.

(5) Regulations 7 to 11 shall only apply to dangerous substances, dangerous preparations or preparations specified in regulation 5(3) which are supplied in packages.

(6) Regulations 7 to 11 shall not apply to munitions and explosives which are placed on the market with a view to obtaining an explosive or pyrotechnic effect.

(7) Regulations 7 to 11 shall not apply to a substance to which the Explosives Acts (Northern Ireland) 1875 to 1970(**26**) or the Explosives (Northern Ireland) Order 1972(**27**) applies.

(8) Regulation 6 shall not apply to a plant protection product approved under the Plant Protection Products Regulations or to a product approved under the Control of Pesticides Regulations (Northern Ireland) 1987(**28**).

(9) These Regulations shall not apply to the carriage of substances or preparations by rail, road, inland waterway, sea or air.

(**18**) 1971 c. 38
(**19**) S.I. 1996/2925, to which there are amendments not relevant to these Regulations
(**20**) O.J. No. L78, 26.3.91, p. 32
(**21**) S.R. 1998 No. 289, to which there are amendments not relevant to these Regulations
(**22**) S.I. 1991/762 (N.I. 7)
(**23**) 1970 c. 40; section 66(1) was modified by S.R. 1992 No. 270
(**24**) S.I. 2002/618
(**25**) O.J. No. L251, 29.8.92, p. 13
(**26**) 1875 c. 17; 1924 c. 5 (N.I.); 1970 c. 10 (N.I.)
(**27**) S.I. 1972/730 (N.I. 3)
(**28**) S.R. 1987 No. 414, to which there are amendments not relevant to these Regulations