1994 No. 223

EUROPEAN COMMUNITIES

PUBLIC HEALTH

The Marketing and Use of Dangerous Substances (No. 2) Regulations (Northern Ireland) 1994

Made	*17th June 1994*
Coming into operation . .	*1st August 1994*

The Department of the Environment, being a department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) 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, hereby 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) 1994 and shall come into operation on 1st August 1994.

Interpretation

2.—(1) In these Regulations—

"CAS Number" means a number described in the CAS Registry Handbook, ISSN 0093-058X, published in instalments from 1965 to 1971 with supplements 1972 to 1976, 1977 to 1981, 1982 to 1986 and 1987 to 1991 by the Chemical Abstracts Service, American Chemical Society, Columbus, Ohio, USA;

"competent authority" means—

(*a*) where substances are to be used in the restoration or maintenance of an historic building or its interior, the Department, and

(*b*) where substances are to be used in the restoration or maintenance of a work of art, the Museums and Galleries Commission;

"DBB" means di-μ-oxo-di-n-butylstanniohydroxyborane $C_8H_{19}BO_3Sn$, CAS Number 75113-37-0;

"dangerous substances" means lead carbonates, lead sulphates, DBB, mercury compounds, arsenic compounds, organostannic compounds and preparations containing any of those substances;

(**a**) S.I. 1992/1711
(**b**) 1972 c. 68

"the Department" means the Department of the Environment;

"historic building" means—

(*a*) a listed building within the meaning of Article 42(7) of the Planning (Northern Ireland) Order 1991(**a**); or

(*b*) a building which is a scheduled monument within the meaning of section 7(1) of the Historic Monuments Act (Northern Ireland) 1971(**b**);

"lead carbonates" means neutral anhydrous carbonate $PbCO_3$, CAS Number 598-63-0 and lead hydrocarbonate $2PbCO_3.Pb(OH)_2$, CAS Number 1319-46-6;

"lead sulphates" means $PbSO_4$(1:1), CAS Number 7446-14-2 and Pb_xSO_4, CAS Number 15739-80-7; and

"preparations" and "substances" have the meanings assigned by Article 1.3 of Council Directive 76/769/EEC(**c**).

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

Exceptions

3. These Regulations shall not apply to—

(*a*) the carriage of dangerous substances by rail, road, inland waterway, sea or air, or

(*b*) the export of dangerous substances to a destination in the territory of a state which is not a member State, or

(*c*) the holding of dangerous substances in transit, provided that during that time they undergo no processing and are available for examination by customs officers of the United Kingdom, or

(*d*) the marketing or use of dangerous substances for research and development or for analysis purposes.

Lead carbonates and lead sulphates in paint

4.—(1) Subject to paragraph (2) no person shall use lead carbonates or lead sulphates as substances or constituents of preparations intended for use as paints.

(2) Paragraph (1) shall not apply to paste or paint which is ready for use and—

(*a*) is intended for use in the restoration or maintenance of an historic building or its interior, or of a work of art, and

(i) is used not earlier than 3 weeks after the intending user has given to the competent authority a completed declaration in the form set out in the Schedule, or

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(**a**) S.I. 1991/1220 (N.I. 11)
(**b**) 1971 c. 17 (N.I.)
(**c**) O.J. No. L262, 27.9.76, p. 201
(**d**) 1954 c. 33 (N.I.)

(ii) is used not earlier than 3 weeks after the intending user has given to the competent authority a further completed declaration in that form; or

(*b*) was in the possession of the intending user before these Regulations came into operation.

Mercury compounds in heavy duty textiles

5. No person shall use mercury compounds as substances or constituents of preparations intended for use in the impregnation of heavy-duty industrial textiles, or of yarn intended for the manufacture of such textiles.

Mercury compounds, arsenic compounds and organostannic compounds in industrial waters

6. No person shall use mercury compounds, arsenic compounds or organostannic compounds as substances or constituents of preparations intended for use in the treatment of industrial waters, irrespective of the use of those waters.

DBB

7.—(1) Subject to paragraph (2), no person shall place on the market DBB, or any substances or preparations containing DBB, in a concentration equal to or greater than 0.1 per cent.

(2) Paragraph (1) shall not apply if the DBB or the preparations containing it are intended solely for conversion into finished products in which the concentration of DBB will be less than 0.1 per cent.

Offences and penalties

8. A person who contravenes regulation 4, 5, 6 or 7 or causes or permits another person to contravene any of those regulations shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £2,000(**a**) and, on conviction on indictment, to imprisonment for a term not exceeding 2 years, or a fine, or both.

Sealed with the Official Seal of the Department of the Environment on 17th June 1994.

(L.S.) *R. W. Rogers*
Assistant Secretary

(a) *See* para 1(1)(*d*) of Sch. 2 to 1972 c. 68 read with Arts. 5 and 8 of the Fines and Penalties (Northern Ireland) Order 1984 (S.I. 1984/703 (N.I. 3)) as amended by Sch. 4 to S.R. 1984 No. 253

SCHEDULE Regulation 4

THE EUROPEAN COMMUNITIES ACT 1972

The Marketing and Use of Dangerous Substances (No. 2) Regulations (Northern Ireland) 1994

DECLARATION ON INTENDED USE OF LEAD CARBONATES OR LEAD SULPHATES IN PAINT

NOTES

* *Using this paint without completing, and complying with, this Declaration could bring you a fine or a prison sentence.*

* *Please read the notes before completing the Declaration.*

* *Please use typescript or BLOCK CAPITALS.*

* *When you have completed the Declaration it should be sent to the competent authority at the address shown at the end of these notes.*

* *Any work involving application and removal of such paint should be undertaken in accordance with the relevant health and safety requirements including:*

The Control of Lead at Work Regulations (Northern Ireland) 1986 (S.R. 1986 No. 36);

The Approved Code of Practice on Control of Lead at Work (ISBN 0 337 11128 6), obtainable from HMSO;

The Factories Act (Northern Ireland) 1965 (c. 20 (N.I.)) (especially section 129); and

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1986 (S.R. 1986 No. 247).

* *The person intending to use the paint must send the completed Declaration to the competent authority shown below, and wait for 3 weeks before using the paint. The competent authority may advise that the intended use does not appear to fall within the uses allowed by the Regulations, and that* ***the user may be committing a criminal offence*** *if he uses it.*

* *The intending user can make a new or revised Declaration on intended use at any date, but he must go through the whole process again (completing the Declaration on intended use and sending it to the competent authority) before using the paint.*

* *Any unused paint can be used for another purpose only if another Declaration on intended use is completed by the intending user. He should send this to the competent authority at the address shown below and wait for 3 weeks before using the paint for that purpose. Again, the competent authority may advise that the intended use does not appear to fall within the uses allowed by the Regulations and that* ***the user may be committing a criminal offence*** *if he uses it.*