1994 No. 222

EUROPEAN COMMUNITIES

PUBLIC HEALTH

The Marketing and Use of Dangerous Substances 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 Regulations (Northern Ireland) 1994 and shall come into operation on 1st August 1994.

Interpretation

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

(2) In these Regulations—

"dangerous substance" means a substance which is—

(*a*) a PCB;

(*b*) a PCT; or

(*c*) preparations, including waste oils, with a PCB or PCT content higher than 0·005 per cent. by weight;

"the Department" means the Department of the Environment;

"the Directive" means Council Directive 76/769/EEC(**d**);

(**a**) S.I. 1992/1711
(**b**) 1972 c. 68
(**c**) 1954 c. 33 (N.I.)
(**d**) O.J. No. L262, 27.9.76, p. 201. Relevant amending Directives are Council Directives 79/663/EEC (O.J. No. L197, 3.8.79, p. 37), 82/806/EEC (O.J. No. L339, 1.12.82, p. 55), 82/828/EEC (O.J. No. L350, 10.12.82, p. 34), 83/264/EEC (O.J. No. L147, 6.6.83, p. 9), 83/478/EEC (O.J. No. L263, 24.9.83, p. 33), 85/467/EEC (O.J. No. L269, 11.10.85, p. 56), 85/610/EEC (O.J. No. L375, 31.12.85, p. 1), 89/677/EEC (O.J. No. L398, 30.12.89, p. 19), 91/173/EEC (O.J. No. L85, 5.4.91, p. 34), 91/338/EEC (O.J. No. L186, 12.7.91, p. 59), 91/339/EEC (O.J. No. L186, 12.7.91, p. 64), and 91/659/EEC (O.J. No. L363, 31.12.91, p. 36)

"large condenser" means a condenser having a total weight of 1 kilogramme or more;

"PCB" means any polychlorinated biphenyl other than a dichlorinated biphenyl;

"PCT" means any polychlorinated terphenyl;

"preparations" and "substances" have the meanings assigned by Article 1.3 of the Directive; and

"small condenser" means a condenser having a total weight less than 1 kilogramme.

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 analysis purposes.

Prohibition of use of dangerous substances

4.—(1) Subject to paragraph (2), no person shall use any dangerous substance.

(2) Paragraph (1) shall not apply to the use of any dangerous substance—

(*a*) in the equipment or plant, or for the purposes specified in the Schedule, provided that the equipment or plant was in service prior to 30th June 1986, or

(*b*) for supplementing, in the normal conditions of maintenance of equipment, the level of liquids containing PCBs in properly functioning existing plant purchased before 30th June 1986, or

(*c*) for the purposes of, or in the course of, any process which has been approved by the Department, in consequence of an application made in accordance with regulation 5, as a process by means of which a dangerous substance will be converted into a substance which is not prohibited by the Directive as amended and which will not, in the opinion of the Department, constitute a danger to health or the environment.

Approvals under regulation 4(2)(c)

5. Any person seeking approval of a process under regulation 4(2)(*c*) shall submit his application in writing to the Department at least 3 months before it is proposed to commence that process, or such shorter period as the Department may in the circumstances of the particular case allow.