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STATUTORY INSTRUMENTS

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**1996 No. 2421**

**CONSUMER PROTECTION**

**The Aerosol Dispensers (EEC Requirements)  
(Amendment) Regulations 1996**

<i>Made</i>	- - - -	<i>17th September 1996</i>
<i>Laid before Parliament</i>		<i>19th September 1996</i>
<i>Coming into force</i>	- -	<i>31st October 1996</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures for safety and consumer protection as respects aerosols, and any provisions concerning the composition, labelling, marketing, classification or description of aerosols, in exercise of the powers conferred on him by that section and of all other powers enabling him in that behalf hereby makes the following Regulations:—

1. These Regulations may be cited as the Aerosol Dispensers (EEC Requirements) (Amendment) Regulations 1996 and shall come into force on 31st October 1996.

2. The Aerosol Dispensers (EEC Requirements) Regulations 1977<sup>(3)</sup> are amended as follows—

(a) by the addition after the definition of “aerosol dispenser” in paragraph (1) of regulation 2 of the following—

““competent authority” means a local weights and measures authority or an authority in any other member State designated for the purposes of Article 9a of the Directive;”;

(b) by the addition at the end of the definition of “the Directive” in paragraph (1) of regulation 2 of the words “as amended by the Act of Accession of the Hellenic Republic<sup>(d)</sup>, the Act of Accession of Spain and the Portuguese Republic<sup>(e)</sup> and Commission Directive 94/1/EC<sup>(f)</sup>” and by the addition of the following corresponding footnotes—

“(d)O.J. No. L291, 19.11.1979, p. 17.

(e)O.J. No. L302, 15.11.1985, p. 23.

(f)O.J. No. L23, 28.1.1994, p. 28.”;

(c) by the addition after the definition of “the Directive” in paragraph (1) of regulation 2 of the following—

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(1) S.I. 1972/1811.

(2) 1972 c. 68.

(3) S.I. 1977/1140; the relevant amending instruments are S.I. 1981/1549 and 1985/1279.

““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993(g);”

and by the addition of the following corresponding footnote—

“(g)Annex II to the EEA Agreement was amended by Decision No. 13/94 of the EEA Joint Committee which came into force on 1 December 1994 (O.J. No. L325, 17.12.1994, p. 64). Council Directive [75/324/EEC](#), as last amended by Commission Directive [94/1/EC](#), was added to Chapter VIII of Annex II to the EEA Agreement by the said Decision No. 13/94.”;

- (d) by the addition after the definition of “EEA Agreement”, added by regulation 2(c) of these Regulations to paragraph (1) of regulation 2, of the following—

““flammable contents” means contents which, but for Note 2 in Part I of Schedule 1 to the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994(h)and Part II of that Schedule, would be substances or preparations corresponding to the criteria laid down for the categories “extremely flammable”, “highly flammable” or “flammable” set out in Part I of that Schedule;”

and by the addition of the following corresponding footnote—

“(h)S.I.1994/3247, to which there are amendments not relevant to these Regulations.”;

- (e) by the addition after the definition of “local weights and measures authority” in paragraph (1) of regulation 2 of the following—

““member State” means a State which is a Contracting Party to the EEA Agreement; and”;

- (f) by the substitution of “(i)” for “(d)” in paragraph (2) of regulation 2 and in the corresponding footnote;
- (g) by the substitution of “(j)” and “(k)” for “(e)” and “(f)” respectively in paragraph (3) of regulation 2 and in the corresponding footnotes;
- (h) by the insertion at the beginning of paragraph (1) of regulation 3 of the words “Subject to paragraphs (3) and (4) below”, and by the addition after paragraph (2) of the following—

“(3) Notwithstanding the provisions of paragraph (1) above, an aerosol dispenser which does not comply with the provisions of section 2.2(b) or section 2.3(b) of the Annex to the Directive may nonetheless be marked with the reversed epsilon if—

- (a) the person responsible for marketing it is in possession of test results or other data showing that although it has flammable contents those contents do not present any risk of ignition under normal or reasonably foreseeable conditions of use;
- (b) the dispenser or a label attached to it is marked with a statement in clear, legible and indelible characters of the quantity of flammable material contained in it, as follows—

“X% by mass of the contents are flammable”; and

- (c) the person responsible for marketing the dispenser retains a copy of the test results or other data referred to in sub-paragraph (a) above and provides a copy to a competent authority on request.

(4) Notwithstanding regulation 12 of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994, there shall be no requirement for the packaging of any aerosol dispenser which is required by Article 8(d) of the Directive to be labelled “extremely flammable” or “highly flammable” to carry a tactile warning of danger of the kind referred to in paragraph (8) of regulation 12 of those Regulations.”; and

(i) by the substitution of the following for paragraph 1 of the Schedule—

“1. In regulation 2—

- (a) in the definition of “competent authority”, for the words “a local weights and measures authority” there shall be substituted the words “the Department of Economic Development”;
- (b) in the definition of “flammable contents”, for the words “the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994(h)” there shall be substituted the words “the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995(h)”, with the corresponding footnote “(h)S.R. 1995 No. 60, to which there are amendments not relevant to these Regulations.”; and
- (c) the definition of “local weights and measures authority” shall be omitted.

1A. In Regulation 3(4), for the words “regulation 12 of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994”, there shall be substituted the words “regulation 13 of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995”, and for the words “regulation 12 of those Regulations” there shall be substituted the words “regulation 13 of those Regulations.”.

Department of Trade and Industry  
17th September 1996

*John M. Taylor,*  
Parliamentary Under-Secretary of State for  
Corporate and Consumer Affairs,

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Aerosol Dispensers (EEC Requirements) Regulations 1977 (“the principal Regulations”). They implement the amendments made by Commission Directive [94/1/EC](#) (O.J. No. L23, 28.1.1994, p. 28) to Council Directive [75/324/EEC](#) (O.J. No. L147, 9.6.1975, p. 40) relating to aerosol dispensers (“the Aerosols Directive”).

The Regulations implement Commission Directive [94/1/EC](#) by amending the principal Regulations to provide that the reversed epsilon (that is the symbol “3”) is only to be applied to aerosol dispensers which (among other things) are marked with the information required by sections 2.2 and 2.3 of the Annex to the Aerosols Directive, as amended by Commission Directive [94/1/EC](#) (regulation 2(a)).

The Regulations also implement Commission Directive [94/1/EC](#) by providing that an aerosol dispenser which is not marked with the information required by sections 2.2(b) or 2.3(b) of the Annex to the Aerosols Directive may still be marked with the reversed epsilon if (i) the person responsible for marketing it has test results or other data showing that its contents, even though they may be flammable, do not present any risk of ignition under normal or reasonably foreseeable conditions of use, (ii) the dispenser or a label attached to it is marked with a statement in the specified form of the quantity of flammable material contained in it and (iii) the person responsible for marketing the dispenser keeps a copy of the relevant test results or other data and provides a copy to a competent authority on request (regulation 2(h)).

The Regulations also disapply the requirement in the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994 and the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995 that aerosol dispensers containing substances or preparations which are required to be labelled with the indication of danger “extremely flammable” or “highly flammable” must carry a tactile warning of danger (regulation 2(h)).

A Compliance Cost Assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are also available from the Consumer Affairs and Competition Policy Directorate of the Department of Trade and Industry, Room 4.D.2, 1 Victoria Street, London SW1H 0ET.