

Regulation (EU) No 259/2012 of the European Parliament and of the Council of 14 March 2012 amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorus compounds in consumer laundry detergents and consumer automatic dishwasher detergents (Text with EEA relevance)

Article 1

Regulation (EC) No 648/2004 is hereby amended as follows:

- (1) in Article 1(2), the third and fourth indents are replaced by the following, and a fifth indent is added:
 - the additional labelling of detergents, including fragrance allergens,
 - the information that manufacturers must hold at the disposal of the Member States' competent authorities and medical personnel,
 - limitations on the content of phosphates and other phosphorus compounds in consumer laundry detergents and consumer automatic dishwasher detergents.,
- (2) Article 2 is amended as follows:
 - (a) the following points are inserted:
 - 1a. "Consumer laundry detergent" means a detergent for laundry placed on the market for use by non-professionals, including in public laundrettes.
 - 1b. "Consumer automatic dishwasher detergent" means a detergent placed on the market for use in automatic dishwashers by non-professionals.;
 - (b) point 3 is replaced by the following:
 3. "Cleaning" means the process by which an undesirable deposit is dislodged from a substrate or from within a substrate and brought into a state of solution or dispersion.;
 - (c) point 9 is replaced by the following:
 9. "Placing on the market" means the first making available on the Union market. Import into the Union customs territory shall be deemed to be placing on the market.
 - 9a. "Making available on the market" means any supply for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge.;
- (3) the following Article is inserted:

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 259/2012 of the European Parliament and of the Council. (See end of Document for details)

Article 4a

Limitations on the content of phosphates and of other phosphorus compounds

Detergents listed in Annex VIa that do not comply with the limitations on the content of phosphates and of other phosphorus compounds laid down in that Annex shall not be placed on the market from the dates set out therein.;

- (4) in Article 8, paragraph 4 is replaced by the following:
4. The Commission shall make publicly available the lists of competent authorities, mentioned in paragraph 1, and of approved laboratories, mentioned in paragraph 2.;
- (5) in Article 11, paragraph 4 is replaced by the following:
4. Additionally, the packaging of consumer laundry detergents and consumer automatic dishwasher detergents shall bear the information provided for in section B of Annex VII.;
- (6) in Article 12, paragraph 3 is deleted;
- (7) Articles 13 and 14 are replaced by the following:

Article 13

Adaptation of Annexes

- 1 The Commission shall be empowered to adopt delegated acts in accordance with Article 13a in order to introduce amendments necessary for adapting Annexes I to IV, VII and VIII to scientific and technical progress. The Commission shall, wherever possible, use European standards.
- 2 The Commission shall be empowered to adopt delegated acts in accordance with Article 13a in order to introduce amendments to the Annexes of this Regulation regarding solvent-based detergents.
- 3 Where individual risk-based concentration limits for the fragrance allergens are established by the Scientific Committee on Consumer Safety, the Commission shall adopt delegated acts in accordance with Article 13a in order to adapt the limit of 0,01 % set out in section A of Annex VII accordingly.

Article 13a

Exercise of the delegation

- 1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
- 2 The power to adopt delegated acts referred to in Article 13 shall be conferred on the Commission for a period of 5 years from 19 April 2012. By 19 July 2016, the Commission shall draw up a report in respect of the delegation of power. The

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 259/2012 of the European Parliament and of the Council. (See end of Document for details)

delegation of power shall be tacitly extended for further periods of 5 years, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each such period.

3 The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5 A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 14

Free movement clause

1 Member States shall not prohibit, restrict or impede the making available on the market of detergents, and/or of surfactants for detergents, which comply with the requirements of this Regulation, on grounds that are dealt with in this Regulation.

2 Member States may maintain or lay down national rules concerning restrictions on the content of phosphates and of other phosphorus compounds in detergents for which no restrictions on the content are set out in Annex VIa where justified, in particular, on grounds such as the protection of public health or the environment and where technically and economically feasible alternatives are available.

3 Member States may maintain national rules that were in force on 19 March 2012 concerning restrictions on the content of phosphates and of other phosphorus compounds in detergents for which restrictions set out in Annex VIa have not yet become applicable. Such existing national measures shall be reported to the Commission by 30 September 2012 and may remain in force until the date when the restrictions set out in Annex VIa apply.

4 From 19 March 2012 until 31 December 2016 Member States may adopt national rules that implement the restriction on the content of phosphates and of other phosphorus compounds laid down in the point 2 of Annex VIa, where justified, in particular, on grounds such as the protection of public health or the environment and where technically and economically feasible alternatives are available. Member States shall notify such measures to the Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services⁽¹⁾.

5 The Commission shall make publicly available the list of national measures referred to in paragraphs 3 and 4.;

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 259/2012 of the European Parliament and of the Council. (See end of Document for details)

(8) in Article 15, paragraph 1 is replaced by the following:

1. Where a Member State has justifiable grounds for believing that a specific detergent, although complying with the requirements of this Regulation, constitutes a risk to the safety or health of humans or of animals or a risk to the environment, it may take all appropriate provisional measures, commensurate with the nature of the risk, in order to ensure that the detergent concerned no longer presents that risk, is withdrawn from the market or recalled within a reasonable period or its availability is otherwise restricted.

The Member State shall immediately inform the other Member States and the Commission thereof, giving the reasons for its decision.;

(9) Article 16 is replaced by the following:

Article 16

Report

1. By 31 December 2014, the Commission shall, taking into account information from Member States on the content of phosphorus in consumer automatic dishwasher detergents placed on the market in their territories and in the light of any existing or new scientific information available to it regarding substances employed in phosphates-containing and alternative formulations, evaluate by way of a thorough assessment whether the restriction set out in point 2 of Annex VIa should be modified. That assessment shall include an analysis of the impact on the environment, industry and consumers of consumer automatic dishwasher detergents with phosphorus levels above and below the limit value set out in Annex VIa, taking into account matters including cost, availability, cleaning efficiency and the impact on waste water treatment. The Commission shall submit that thorough assessment to the European Parliament and to the Council.

2. In addition, if the Commission, on the basis of the thorough assessment referred to in paragraph 1, considers that the restriction of phosphates and other phosphorus compounds used in consumer automatic dishwasher detergents requires revision, it shall, by 1 July 2015, present an appropriate legislative proposal. Any such proposal must be aimed at minimising the negative impact from all consumer automatic dishwasher detergent products on the wider environment, whilst considering any economic costs as identified in that thorough assessment. Unless the European Parliament and the Council, on the basis of such a proposal, decide otherwise by 31 December 2016, the limit value set out in point 2 of Annex VIa shall become the limitation for phosphorus content in consumer automatic dishwasher detergents from the date set out in that point.;

(10) Article 18 is replaced by the following:

Article 18

Penalties

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. This may also include appropriate measures allowing the competent authorities of

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 259/2012 of the European Parliament and of the Council. (See end of Document for details)

the Member States to prevent the making available on the market of detergents or surfactants for detergents that fail to comply with this Regulation. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions and any subsequent amendment affecting those provisions to the Commission without delay.

Those rules shall include measures allowing the competent authorities of Member States to detain consignments of detergents that fail to comply with this Regulation.;

(11) the text set out in the Annex to this Regulation is inserted as Annex VIa to Regulation (EC) No 648/2004;

(12) Annex VII shall be amended as follows:

(a) in section A, the following text is deleted:

If individual risk-based concentration limits for the fragrance allergens are subsequently established by the SCCNFP, the Commission shall propose the adoption of such limits to replace the limit of 0,01 % mentioned above. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).,

(b) section B is replaced by the following:

B. Labelling of dosage information

As prescribed in Article 11(4), the following provisions on labelling shall apply to the packaging of detergents sold to the general public.

Consumer laundry detergents

The packaging of detergents sold to the general public intended to be used as laundry detergents shall bear the following information:

- the recommended quantities and/or dosage instructions expressed in millilitres or grams appropriate to a standard washing machine load, for soft, medium and hard water hardness levels and making provision for one or two cycle washing processes,
- for heavy-duty detergents, the number of standard washing machine loads of “normally soiled” fabrics, and, for detergents for delicate fabrics, the number of standard washing machine loads of “lightly soiled” fabrics, that can be washed with the contents of the package using water of medium hardness, corresponding to 2,5 millimoles CaCO₃/l,
- the capacity of any measuring cup, if provided, shall be indicated in millilitres or grams, and markings shall be provided to indicate the dose of detergent appropriate for a standard washing machine load for soft, medium and hard water hardness levels,

The standard washing machine loads are 4,5 kg dry fabric for heavy-duty detergents and 2,5 kg dry fabric for light-duty detergents, in line with the definitions of Commission Decision 1999/476/EC of 10 June 1999 establishing the Ecological Criteria for the award of the Community Ecolabel to Laundry Detergents⁽²⁾. A detergent shall be considered to be a heavy-duty detergent unless the claims of the manufacturer predominantly promotes fabric care, i.e. low temperature wash, delicate fibres and colours.

Consumer automatic dishwasher detergents

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 259/2012 of the European Parliament and of the Council. (See end of Document for details)

The packaging of detergents sold to the general public intended to be used as automatic dishwasher detergents shall bear the following information:

- the standard dosage expressed in grams or ml or number of tablets for the main washing cycle for normally soiled tableware in a fully loaded 12 place settings dishwasher, making provisions, where relevant, for soft, medium, and hard water hardness,

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 14 March 2012.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

N. WAMMEN

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 259/2012 of the European Parliament and of the Council. (See end of Document for details)

- (1) OJ L 204, 21.7.1998, p. 37.;
- (2) OJ L 187, 20.7.1999, p. 52. Decision as amended by Decision 2011/264/EU (OJ L 111, 30.4.2011, p. 34).;

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) No 259/2012 of the European Parliament and of the Council.