

Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008 (Text with EEA relevance)

CHAPTER III

**RESTRICTIONS ON USE AND STORAGE OF MERCURY,  
MERCURY COMPOUNDS AND MIXTURES OF MERCURY**

*Article 7*

**Industrial activities**

1 The use of mercury and mercury compounds in the manufacturing processes listed in Part I of Annex III shall be prohibited as from the dates set out therein.

2 The use of mercury and mercury compounds in the manufacturing processes listed in Part II of Annex III shall only be allowed subject to the conditions set out therein.

3 Interim storage of mercury and of the mercury compounds and mixtures of mercury listed in Annex I to this Regulation shall be carried out in an environmentally sound manner, in accordance with the thresholds and requirements set out in <sup>F1</sup>—

- a) for England and Wales, the Environmental Permitting (England and Wales) Regulations 2016 and the Control of Major Accident Hazards Regulations 2015;
- b) for Scotland, the Pollution Prevention and Control (Scotland) Regulations 2012 and the Control of Major Accident Hazards Regulations 2015.]

[<sup>F2</sup>The appropriate authority may, by regulations, prescribe] technical requirements for environmentally sound interim storage of mercury, mercury compounds and mixtures of mercury in line with decisions adopted by the Conference of the Parties to the Convention in accordance with Article 10(3) and Article 27 of the Convention <sup>F3</sup> ... <sup>F4</sup> ...

**Textual Amendments**

- F1** Words in Art. 7(3) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **18(2)(a)**
- F2** Words in Art. 7(3) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **18(2)(b)(i)(aa)**
- F3** Words in Art. 7(3) omitted (31.12.2020) by virtue of [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **18(2)(b)(i)(bb)**
- F4** Words in Art. 7(3) omitted (31.12.2020) by virtue of [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **18(2)(b)(ii)**

*Article 8*

**New mercury-added products and new manufacturing processes**

1 Economic operators shall not manufacture or place on the market mercury-added products that were not being manufactured prior to 1 January 2018 ('new mercury-added

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products’) unless authorised to do so [<sup>F5</sup>in accordance with] paragraph 6 of this Article or allowed to do so under [<sup>F6</sup>the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012].

The first subparagraph shall not apply to any of the following:

- a equipment which is necessary for the protection of the essential interests of the security of [<sup>F7</sup>the United Kingdom], including arms, munitions and war material intended for specifically military purposes;
- b equipment designed to be sent into space;
- c technical improvements made to or the redesign of mercury-added products that were being manufactured prior to 1 January 2018 provided that such improvements or redesign lead to less mercury being used in those products.

2 Economic operators shall not use manufacturing processes involving the use of mercury or mercury compounds that were not processes used prior to 1 January 2018 (‘new manufacturing processes’) unless authorised to do so [<sup>F8</sup>in accordance with] paragraph 6.

The first subparagraph of this paragraph shall not apply to processes manufacturing or using mercury-added products other than those subject to the prohibition laid down in paragraph 1.

3 Where an economic operator intends to apply for [<sup>F9</sup>authorisation in accordance with] paragraph 6 in order to manufacture or place on the market a new mercury-added product, or to use a new manufacturing process, that would provide significant environmental or health benefits and pose no significant risks either to the environment or to human health, and where no technically practicable mercury-free alternatives providing such benefits are available, that economic operator shall notify [<sup>F10</sup>one of the competent authorities]. That notification shall include the following information:

- a a technical description of the product or process concerned;
- b an assessment of its environmental and health benefits and risks;
- c evidence demonstrating the absence of technically practicable mercury-free alternatives providing significant environmental or health benefits;
- d a detailed explanation of the manner in which the process is to be operated or the product is to be manufactured, used and disposed of as waste after use, in order to ensure a high level of protection of the environment and of human health.

[<sup>F11</sup>4 The competent authority concerned shall forward to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, the Scottish Ministers and the Welsh Ministers the notification received from the economic operator if the competent authority considers on the basis of its own assessment of the information provided that the condition in the second subparagraph of paragraph 6 is fulfilled.

The competent authority concerned shall inform the Secretary of State, the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, the Scottish Ministers and the Welsh Ministers of cases in which it considers that the condition in the second subparagraph of paragraph 6 is not fulfilled.]

<sup>F12</sup>5 .....

6 The [<sup>F13</sup>Secretary of State] shall examine the notification received and assess whether it has been demonstrated that the [<sup>F14</sup>condition in the second subparagraph is met].

[<sup>F15</sup>The condition is that the new mercury-added product or new manufacturing process would provide significant environmental or health benefits and pose no significant

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risks either to the environment or to human health, and that no technically practicable mercury-free alternatives providing such benefits are available.

The Secretary of State shall inform the competent authority of the result of the assessment under the first subparagraph.

Where the Secretary of State assesses that the condition in the second subparagraph is met, the Secretary of State shall, by regulations, specify that the relevant new mercury-added product or new manufacturing process is authorised.]

F167

#### Textual Amendments

- F5** Words in Art. 8(1) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(2)(a)(i)**
- F6** Words in Art. 8(1) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(2)(a)(ii)**
- F7** Words in Art. 8(1)(a) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(2)(b)**
- F8** Words in Art. 8(2) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(3)**
- F9** Words in Art. 8(3) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(4)(a)**
- F10** Words in Art. 8(3) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(4)(b)**
- F11** Art. 8(4) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(5)**
- F12** Art. 8(5) omitted (31.12.2020) by virtue of [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(6)**
- F13** Words in Art. 8(6) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(7)(a)(i)**
- F14** Words in Art. 8(6) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(7)(a)(ii)**
- F15** Words in Art. 8(6) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(7)(b)**
- F16** Art. 8(7) omitted (31.12.2020) by virtue of [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **19(8)**

#### Article 9

##### Artisanal and small-scale gold mining and processing

1 Artisanal and small-scale gold mining and processing in which mercury amalgamation is used to extract gold from ore shall be prohibited.

2 Without prejudice to paragraph 1 of this Article <sup>F17</sup>..., where there is evidence of there being more than isolated cases of non-compliance with the prohibition laid down in paragraph 1 of this Article, the competent authority <sup>F18</sup>... shall develop and implement a national plan in accordance with Annex IV.

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#### Textual Amendments

- F17** Words in Art. 9(2) omitted (31.12.2020) by virtue of [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **20(a)**
- F18** Words in Art. 9(2) omitted (31.12.2020) by virtue of [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **20(b)**

### Article 10

#### Dental amalgam

1 From 1 January 2019, dental amalgam shall only be used in pre-dosed encapsulated form. The use of mercury in bulk form by dental practitioners shall be prohibited.

2 From 1 July 2018, dental amalgam shall not be used for dental treatment of deciduous teeth, of children under 15 years and of pregnant or breastfeeding women, except when deemed strictly necessary by the dental practitioner based on the specific medical needs of the patient.

<sup>F19</sup>3 .....

4 From 1 January 2019, operators of dental facilities in which dental amalgam is used or dental amalgam fillings or teeth containing such fillings are removed, shall ensure that their facilities are equipped with amalgam separators for the retention and collection of amalgam particles, including those contained in used water.

Such operators shall ensure that:

- a amalgam separators put into service from 1 January 2018 provide a retention level of at least 95 % of amalgam particles;
- b from 1 January 2021, all amalgam separators in use provide the retention level specified in point (a).

Amalgam separators shall be maintained in accordance with the manufacturer's instructions to ensure the highest practicable level of retention.

5 Capsules and amalgam separators complying with [<sup>F20</sup>United Kingdom standards, or with] international standards that provide an equivalent level of quality and retention, shall be presumed to satisfy the requirements set out in paragraphs 1 and 4.

6 Dental practitioners shall ensure that their amalgam waste, including amalgam residues, particles and fillings, and teeth, or parts thereof, contaminated by dental amalgam, is handled and collected by an authorised waste management establishment or undertaking.

Dental practitioners shall not release directly or indirectly such amalgam waste into the environment under any circumstances.

#### Textual Amendments

- F19** Art. 10(3) omitted (31.12.2020) by virtue of [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **21(2)**
- F20** Words in Art. 10(5) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **21(3)**

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