

2004 No. 302

EUROPEAN COMMUNITIES

PUBLIC HEALTH

**The Marketing and Use of Dangerous Substances (No. 3)
Regulations (Northern Ireland) 2004**

Made - - - - - 15th July 2004

Coming into operation 17th January 2005

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 upon it by that section and of every other power enabling it in that behalf, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Marketing and Use of Dangerous Substances (No. 3) Regulations (Northern Ireland) 2004 and shall come into operation on 17th January 2005.

Interpretation

2.—(1) In these Regulations –

“nonylphenol” means nonylphenol $C_6H_4(OH)C_9H_{19}$; and

“nonylphenol ethoxylate” means nonylphenol ethoxylate $(C_2H_4O)_nC_{15}H_{24}O$.

(2) Expressions used in these Regulations which are also used in Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations(c), as last amended by Directive 2003/53/EC of the European Parliament and of the Council amending for the 26th time Council Directive 76/769/EEC relating to restrictions on the marketing and use of certain dangerous substances and preparations (nonylphenol, nonylphenol ethoxylate and cement)(d), shall have the meaning they bear in that Directive.

(3) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(a) S.I. 1992/1711
(b) 1972 c. 68
(c) O.J. No. L262, 27.9.1976, p. 201
(d) O.J. No. L178, 17.7.2003, p. 24
(e) 1954 c. 33 (N.I.)

Scope

3.—(1) These Regulations do not apply to –

- (a) the placing on the market or use of dangerous substances or preparations for research and development or analysis purposes;
- (b) the carriage of dangerous substances or preparations by rail, road, inland waterway, sea or air;
- (c) dangerous substances or preparations exported to a country which is not a Member State of the European Community nor Norway, Iceland or Liechtenstein; and
- (d) substances or preparations in transit and subject to customs inspection, provided that they undergo no processing.

(2) These regulations shall not prohibit the placing on the market or use of any pesticides or biocidal products containing nonylphenol ethoxylate as a co-formulant if, and to the extent to which, such placing on the market or use is authorised by a relevant approval.

(3) In paragraph (2), a “relevant approval” means a valid approval granted before 17th July 2003 under –

- (a) the Control of Pesticides Regulations (Northern Ireland) 1987(a);
- (b) the Plant Protection Products Regulations (Northern Ireland) 2004(b).

Prohibition on the placing on the market and use of nonylphenol and nonylphenol ethoxylate

4. No person shall place on the market or use nonylphenol or nonylphenol ethoxylate as a substance or constituent of preparations in concentrations equal to or higher than 0.1% by mass for the following purposes –

- (a) industrial and institutional cleaning, except –
 - (i) controlled closed dry cleaning systems where the washing liquid is recycled or incinerated;
 - (ii) cleaning systems with special treatment where the washing liquid is recycled or incinerated;
- (b) domestic cleaning;
- (c) textiles and leather processing, except –
 - (i) processing with no release into waste water;
 - (ii) systems with special treatment where the process water is pre-treated to remove the organic fraction completely prior to biological waste water treatment (such as degreasing of sheepskin);
- (d) emulsifier in agricultural teat dips;
- (e) metal working, except uses in controlled closed systems where the washing liquid is recycled or incinerated;
- (f) manufacturing of pulp and paper;
- (g) cosmetic products;
- (h) other personal care products, except spermicides;
- (i) co-formulants in pesticides or biocides.

Offences and penalties

5.—(1) Any person who contravenes regulation 4, or causes or permits another person to contravene that regulation, shall be guilty of an offence.

(2) Any person guilty of an offence under paragraph (1) shall be liable:

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or

(a) S.R.1987 No.414 as amended by regulation 21(3) of the Food Safety (Northern Ireland) Order 1991 (Consequential Modifications) Order (Northern Ireland) 1991 (S.R. 1991 No. 203), the Control of Pesticides (Amendment) Regulations (Northern Ireland) 1997 (S.R. 1997 No. 469), the Biocidal Products Regulations (Northern Ireland) 2001 (S.R. 2001 No. 422)

(b) S.R. 2004 No. 126

(b) on conviction on indictment, to a fine.

(3) For the purposes of this regulation, section 20(2) of the Interpretation Act (NI) 1954 applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Sealed with the Official Seal of the Department of the Environment on 15th July 2004.

(L.S.)

Ian Maye

A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations give effect to European Parliament and Council Directive 2003/53/EC (on nonylphenol, nonylphenol ethoxylate and cement) insofar as it relates to nonylphenol and nonylphenol ethoxylate (“the restricted substances”). This Directive makes amendments to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations.

Regulation 3 sets out exclusions from the scope of the Regulations.

Regulation 4 places restrictions on the placing on the market or the use of either of the restricted substances for certain specified purposes.

Regulation 5 makes it an offence to contravene regulation 4 and specifies the penalties for such an offence.

Copies of the Directive may be obtained from the Stationery Office Bookshop, 16 Arthur Street, Belfast BT1 4GD.

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