

2004 No. 76

EUROPEAN COMMUNITIES

PUBLIC HEALTH

**The Marketing and Use of Dangerous Substances
Regulations (Northern Ireland) 2004**

Made - - - - - *2nd March 2004*

Coming into operation *30th June 2004*

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, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Marketing and Use of Dangerous Substances Regulations (Northern Ireland) 2004 and shall come into operation on 30th June 2004.

Interpretation

2.—(1) 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 amended by Commission Directive 2003/03/EC(d), shall have the meaning they bear in that Directive.

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

Scope

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

- (a) the placing on the market or use of “blue colourant” for research and development or analysis purposes;
- (b) the carriage of “blue colourant” by rail, road, inland waterway, sea or air;
- (c) “blue colourant” exported to a country which is not a Member State; and
- (d) “blue colourant” in transit and subject to customs inspection, provided that they undergo no processing.

(a) S.I. 1992/1711

(b) 1972 c. 68

(c) O.J. No. L262, 27.9.1976, p. 201

(d) O.J. No. L4, 9.1.2003, p. 12

(e) 1954 c. 33 (N.I.)

(2) In this regulation “blue colourant” means the colourant referred to in regulation 4.

Prohibition on the placing on the market and use of “blue colourant”

4. A person shall not place on the market or use for colouring textile and leather articles, the “blue colourant” defined in the Schedule as a substance or constituent of preparations in concentrations higher than 0.1% by mass.

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

(3) Where an offence under this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that body, or any person purporting to act in any such capacity, he is also guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, paragraph (3) shall apply 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.

Powers of enforcing authority in relation to “blue colourant”

6.—(1) For the purposes of this regulation, “enforcing authority” means the Department of the Environment.

(2) Any person who appears suitable to the enforcing authority may be authorised in writing by that authority, for the purposes of determining whether regulation 4 is being, or has been, complied with, to exercise any of the powers specified in paragraph (3).

(3) The powers exercisable under paragraph (2) are the powers in paragraph (2)(a) to (l) of Article 72 of the Waste and Contaminated Land (Northern Ireland) Order 1997^(a) as modified by paragraph (4) and subject to paragraphs (4) to (13) of that Article as also modified by paragraph (4).

(4) For the purposes of paragraph (3), Article 72 shall apply as if –

(a) in paragraph (2) –

- (i) in sub-paragraph (g), for the words “have caused or to be likely to cause pollution of the environment or harm to human health” there were substituted the words “be or contain a substance referred to in regulation 4 of the Marketing and Use of Dangerous Substances Regulations (Northern Ireland) 2004”;
- (ii) in sub-paragraph (h), for the words in sub-paragraph (iii) there were substituted the words “to ensure that it is available for use as evidence in any proceedings for an offence under regulation 5 of the Marketing and Use of Dangerous Substances Regulations (Northern Ireland) 2004”;
- (iii) in sub-paragraph (j), sub-paragraph (i) was omitted;

(b) in paragraph (12) the definition of “authorised person” included a person authorised under paragraph (2) of this regulation.

Sealed with the Official Seal of the Department of the Environment on 2nd March 2004.

(L.S.)

Judena Goldring

A senior officer of the Department of the Environment

(a) S.I. 1997/2778 (N.I. 19)

SCHEDULE

Regulation 4

“BLUE COLOURANT” REFERRED TO IN REGULATION 4

In this Schedule: –

“CAS number” means the number given in the CAS Registry Handbook, ISSN 0093-058X,

“Index number” means the identification code given to the substance in amended Annex I of Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances(a),

“EC number” means the identification code given to the substance and published in the European Inventory of Existing Commercial Chemical Substances (Einecs).

	<i>CAS number</i>	<i>Index number</i>	<i>EC number</i>	<i>Substances</i>
1	Not allocated Component 1: CAS-No.: 118685-33-9 C ₃₉ H ₂₃ ClCrN ₇ O ₁₂ S ₂ Na Component 2: C ₄₆ H ₃₀ CrN ₁₀ O ₂₀ S ₂ ·3Na	611-070-00-2	405-665-4	A mixture of: disodium (6-(4-anisidino)-3-sulfonato-2-(3,5-dinitro-2-oxidophenylazo)-1-naphtholato) (1-(5-chloro-2-oxidophenylazo)-2-naphtholato)chromate(1-); and trisodium bis(6-(4-anisidino)-3-sulfonato-2-(3,5-dinitro-2-oxidophenylazo)-1-naphtholato)chromate(1)

(a) S.I. 1997/2778(N.I. 19)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to Commission Directive 2003/03 on blue colourant which adapts to technical progress for the twelfth time 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 to the restrictions on the placing on the market and use of dangerous substances and preparations under the Regulations.

Regulation 4 prohibits the marketing and use of "blue colourant" defined in the Schedule for colouring textile and leather articles as a substance or constituent of preparations in concentrations higher than 0.1% by mass.

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

Regulation 6 specifies the powers of the Department to enforce regulation 4.

In these Regulations, the substances in the Schedule are identified by reference to their CAS Numbers, Index Numbers and EC Numbers. The CAS Number is given in the CAS Registry Handbook, ISSN 0093-058X, which may be inspected on-line at the Royal Society of Chemistry, Burlington House, Piccadilly, London W1V 0BN. The Index Number is the identification code given to the substance in amended Annex 1 of Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (O.J. No. P196, 16.8.67, p. 1) and published in the European List of Notified Chemical Substances (Elincs). The EC Number is the identification code given to the substance and published in the European Inventory of Existing Commercial Chemical Substances (Einecs).

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

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