

**2010 No. 236**

**ENVIRONMENTAL PROTECTION**

**The Solvent Emissions (Scotland) Regulations 2010**

*Made* - - - - *10th June 2010*

*Laid before the Scottish Parliament* *11th June 2010*

*Coming into force in accordance with regulation 1(2) to (4)*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2 of the Pollution Prevention and Control Act 1999(a) and all other powers enabling them to do so.

In accordance with section 2(4) of that Act, they have consulted the Scottish Environment Protection Agency, such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate and such other bodies or persons as they consider appropriate.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Solvent Emissions (Scotland) Regulations 2010 and come into force in accordance with paragraphs (2) to (4).

(2) Except as specified in paragraphs (3) and (4), these Regulations come into force on 5th July 2010.

(3) Regulations 2(3)(b), (4)(b), (5)(b), (7), (10) and (12)(b) and 3(2)(b) come into force on 1st December 2010.

(4) Regulations 2(3)(c), (4)(c), (5)(c), (8), (11) and (12)(c) and 3(2)(c) come into force on 1st June 2015.

**Amendment of the Pollution Prevention and Control (Scotland) Regulations 2000**

2.—(1) The Pollution Prevention and Control (Scotland) Regulations 2000(b) are amended as follows.

(2) In regulation 2(1), in the definition of “the Solvent Emissions Directive”, at the end insert “, as amended by Directive 2008/112/EC of the European Parliament and of the Council amending

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(a) 1999 c.24, to which there are amendments not relevant to these Regulations. The functions of the Secretary of State were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46), as read with section 5(3) of the said 1999 Act. Directive 2008/112/EC of the European Parliament and of the Council amending certain Directives in order to adapt them to Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures (O.J. L 345, 23.12.2008, p. 68) was designated for the purposes of paragraph 20(2)(c) of Part 1 of Schedule 1 to the 1999 Act by the Pollution Prevention and Control (Designation of Classification of Substances and Mixtures Directive) (Scotland) Order 2010 (S.S.I. 2010/235).

(b) S.S.I. 2000/323, as relevantly amended by S.S.I. 2004/26 and 110, and 2005/340 and 510.

certain Directives in order to adapt them to Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures”.

(3) In Schedule 1, Part 1, Chapter 7, Part B—

- (a) in column 1 of the table, in the description of the activity of surface cleaning—
  - (i) for “preparations” substitute “mixtures”; and
  - (ii) for “the risk phrase R40” substitute “ either of the risk phrases R40 or R68”;
- (b) in column 1 of the table, for the description of the activity of surface cleaning substitute—

“Surface cleaning using substances or mixtures which because of their content of volatile organic compounds classified as carcinogens, mutagens or toxic to reproduction under Regulation (EC) No. 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures are assigned or need to carry one or more of the hazard statements H340, H350, H350i, H360D or H360F or one or more of the risk phrases R45, R46, R49, R60 or R61, or halogenated volatile organic compounds which are assigned or need to carry either of the hazard statements H341 or H351 or either of the risk phrases R40 or R68”;

- (c) in column 1 of the table, for the description of the activity of surface cleaning substitute—

“Surface cleaning using substances or mixtures which because of their content of volatile organic compounds classified as carcinogens, mutagens or toxic to reproduction under Regulation (EC) No. 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures are assigned or need to carry one or more of the hazard statements H340, H350, H350i, H360D or H360F, or halogenated volatile organic compounds which are assigned or need to carry either of the hazard statements H341 or H351”;

- (d) in column 1 of the table, in the entry for the activity of manufacture of coating preparations, varnishes, inks and adhesives, for “preparations” substitute “mixtures”; and
- (e) in paragraph (2), in the definitions of “adhesive”, “coating”, “ink” and “manufacturing of coating preparations, varnishes, inks and adhesives”, for “preparation” and “preparations” wherever they occur (including in the expression being defined) substitute “mixture” and “mixtures” respectively.

(4) In Schedule 3, Part 3, paragraph 16—

- (a) for “preparation” wherever it occurs substitute “mixture”;
- (b) after “risk phrase” wherever it occurs insert “or hazard statement”;
- (c) for “risk phrase or hazard statement” wherever it occurs substitute “hazard statement”.

(5) In Schedule 3, Part 3, paragraph 17(2), in the definition of “affected part”—

- (a) for “preparation” substitute “mixture”;
- (b) after “risk phrase” insert “or hazard statement”;
- (c) omit “risk phrase or”.

(6) In Schedule 3, Part 3, paragraph 17(2), in the definition of “risk phrase substance or preparation”—

- (a) for “preparation” wherever it occurs (including in the expression being defined) substitute “mixture”; and
- (b) for “the risk phrase R40” substitute “the risk phrases R40 and R68”.

(7) In Schedule 3, Part 3, paragraph 17(2), for the definition of “risk phrase substance or mixture” substitute—

““risk phrase or hazard statement substance or mixture” means—

- (a) in relation to a SED activity other than dry cleaning (as defined in paragraph (2) of Part B of Chapter 7 of Part 1 of Schedule 1), a substance or mixture which, because of its content of volatile organic compounds classified as carcinogens, mutagens or toxic to reproduction under Regulation (EC) No. 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures is assigned or needs to carry the hazard statements H340, H350, H350i, H360D and H360F or the risk phrases R45, R46, R49, R60 and R61 or, in the case of halogenated volatile organic compounds, is assigned or needs to carry the hazard statements H341 and H351 or the risk phrases R40 and R68; and a substance or mixture “becomes a risk phrase or hazard statement substance or mixture” when, because of its content of volatile organic compounds or, as the case may be, halogenated volatile organic compounds, it is assigned or needs to carry one or more of those hazard statements or risk phrases;
- (b) in relation to dry cleaning (as defined in paragraph (2) of Part B of Chapter 7 of Part 1 of Schedule 1), a substance or mixture which, because of its content of volatile organic compounds classified as carcinogens, mutagens or toxic to reproduction under Regulation (EC) No. 1272/2008 is assigned or needs to carry the hazard statements H340, H350, H350i, H360D and H360F or the risk phrases R45, R46, R49, R60 and R61; and a substance or mixture “becomes a risk phrase or hazard statement substance or mixture” when, because of its content of volatile organic compounds, it is assigned or needs to carry one or more of those hazard statements or risk phrases;”.

(8) In Schedule 3, Part 3, paragraph 17(2)—

- (a) after the definition of “halogenated volatile organic compound” insert—

““hazard statement substance or mixture” means—

- (a) in relation to a SED activity other than dry cleaning (as defined in paragraph (2) of Part B of Chapter 7 of Part 1 of Schedule 1), a substance or mixture which, because of its content of volatile organic compounds classified as carcinogens, mutagens or toxic to reproduction under Regulation (EC) No. 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures is assigned or needs to carry the hazard statements H340, H350, H350i, H360D and H360F or, in the case of halogenated volatile organic compounds, is assigned or needs to carry the hazard statements H341 and H351; and a substance or mixture “becomes a hazard statement substance or mixture” when, because of its content of volatile organic compounds or, as the case may be, halogenated volatile organic compounds, it is assigned or needs to carry one or more of those hazard statements;
- (b) in relation to dry cleaning (as defined in paragraph (2) of Part B of Chapter 7 of Part 1 of Schedule 1), a substance or mixture which, because of its content of volatile organic compounds classified as carcinogens, mutagens or toxic to reproduction under Regulation (EC) No. 1272/2008 is assigned or needs to carry the hazard statements H340, H350, H350i, H360D and H360F; and a substance or mixture “becomes a hazard statement substance or mixture” when, because of its content of volatile organic compounds, it is assigned or needs to carry one or more of those hazard statements;”;

- (b) omit the definition of “risk phrase or hazard statement substance or mixture”.

(9) In Schedule 4, Part 1, paragraph 1C(1)(b)—

- (a) for “preparations” wherever it occurs substitute “mixtures”; and
- (b) for “the risk phrase R40” substitute “the risk phrases R40 and R68”.

(10) For Schedule 4, Part 1, paragraph 1C(1)(b) substitute—

“(b) where there are used in a SED installation substances or mixtures which, because of their content of volatile organic compounds classified as carcinogens, mutagens, or toxic to reproduction under Regulation (EC) No. 1272/2008 are assigned or need to carry the hazard statements H340, H350, H350i, H360D and H360F or the risk phrases R45, R46, R49, R60 and R61, a timetable for replacing as far as possible such substances or mixtures by less harmful substances or mixtures within the shortest possible time taking into account any guidance published under Article 7 of the Solvent Emissions Directive or, in the case of halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 and H351 or the risk phrases R40 and R68, how the emission limit value in Article 5(8) of the Directive will be complied with.”.

(11) For Schedule 4, Part 1, paragraph 1C(1)(b) substitute—

“(b) where there are used in a SED installation substances or mixtures which, because of their content of volatile organic compounds classified as carcinogens, mutagens or toxic to reproduction under Regulation (EC) No. 1272/2008 are assigned or need to carry the hazard statements H340, H350, H350i, H360D and H360F, a timetable for replacing as far as possible such substances or mixtures by less harmful substances or mixtures within the shortest possible time taking into account any guidance published under Article 7 of the Solvent Emissions Directive or, in the case of halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 and H351, how the emission limit value in Article 5(8) of the Directive will be complied with.”.

(12) In Schedule 4, Part 1, paragraph 3A—

- (a) for “preparation” substitute “mixture”;
- (b) after “risk phrase” insert “ or hazard statement”;
- (c) omit “risk phrase or”.

#### **Amendment of the Solvent Emissions (Scotland) Regulations 2004**

3.—(1) The Solvent Emissions (Scotland) Regulations 2004(a) are amended as follows.

(2) In regulations 3, 5 and 6—

- (a) for “preparation” wherever it occurs substitute “mixture”;
- (b) after “risk phrase” wherever it occurs insert “or hazard statement”;
- (c) for “risk phrase or hazard statement” wherever it occurs substitute “hazard statement”.

*R CUNNINGHAM*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
10th June 2010

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(a) S.S.I. 2004/26.

## EXPLANATORY NOTE

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

These Regulations transpose Article 3 of Directive 2008/112/EC of the European Parliament and of the Council amending certain Directives in order to adapt them to Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures (“the Directive”). This Article makes minor terminological amendments to Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations (O.J. L 85, 29.3.99, p.1 - “the Solvent Emissions Directive”).

The Solvent Emissions Directive was transposed by the Solvent Emissions (Scotland) Regulations 2004, which also amended the Pollution Prevention and Control (Scotland) Regulations 2000 to make provision for activities and installations covered by that Directive. The Solvent Emissions (Scotland) Regulations 2010 therefore transpose Article 3 of the Directive by amending the Solvent Emissions (Scotland) Regulations and the Pollution Prevention and Control (Scotland) Regulations. In line with Article 3 of the Directive, certain amendments will only take effect on 1st December 2010, and others not until 1st June 2015.

No Regulatory Impact Assessment has been prepared for these Regulations as they have no impact on the cost of business.

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