
STATUTORY INSTRUMENTS

2002 No. 1689

**The Chemicals (Hazard Information and
Packaging for Supply) Regulations 2002**

**PART I
PRELIMINARY**

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 and shall come into force on 24th July 2002.

(2) These Regulations shall not extend to Northern Ireland.

Interpretation

2.—(1) In these Regulations,—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“aerosol dispenser” means an article which consists of a non-reusable receptacle containing a gas compressed, liquefied or dissolved under pressure, with or without liquid, paste or powder and fitted with a release device allowing the contents to be ejected as solid or liquid particles in suspension in a gas, as a foam, paste or powder or in a liquid state;

“the approved classification and labelling guide” means the guide entitled “Approved Guide to the Classification and Labelling of Dangerous Substances and Dangerous Preparations (Fifth Edition)” approved by the Health and Safety Commission on 16th April 2002;

“the approved supply list” means the document entitled “Information Approved for the Classification and Labelling of Dangerous Substances and Dangerous Preparations (Seventh Edition)” approved by the Health and Safety Commission on 16th April 2002;

“category of danger” means, in relation to a dangerous substance or dangerous preparation, one of the categories of danger specified in column 1 of Schedule 1;

“the CDGCPL Regulations” means the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996(1);

“Community workplace exposure limit” means, in respect of a substance, an exposure limit for that substance established in a Community instrument;

“dangerous preparation” means a preparation which is in one of or more of the categories of danger specified in column 1 of Schedule 1;

“dangerous substance” means a substance—

(a) which is listed in the approved supply list; or

(b) if it is not so listed, which is in one or more of the categories of danger specified in column 1 of Schedule 1;

“EC number” means—

- (a) in the case of a dangerous substance that appears in the approved supply list, the EC number specified in that list;
- (b) in the case of a dangerous substance that is not included in the approved supply list or for which an EC number is not given in that list, the number for that substance specified in EINECS; or
- (c) in the case of a dangerous substance that is a new substance within the meaning of the NONS Regulations, the number for that substance listed in ELINCS;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993(2) and adopted as respects the United Kingdom by the European Economic Area Act 1993(3);

“EEA State” means a state which is a contracting party to the EEA Agreement;

“EINECS” means the European Inventory of Existing Commercial Chemical Substances(4);

“ELINCS” means the European List of Notified Chemical Substances(5) as revised or re-issued from time to time;

“enforcing authority” shall be construed in accordance with regulation 14;

“the Executive” means the Health and Safety Executive;

“indication of danger” means, in relation to a dangerous substance or dangerous preparation, one or more of the indications of danger referred to in column 1 of Schedule 2 and—

- (a) in the case of a dangerous substance listed in the approved supply list, it is one or more of the indications of danger specified for that substance by a symbol-letter in that list;
- (b) in the case of any other dangerous substance or a dangerous preparation, it is one or more indications of danger determined in accordance with the classification of that substance or preparation in accordance with regulation 4 and the approved classification and labelling guide;

“the NONS Regulations” means the Notification of New Substances Regulations 1993(6);

“plant protection product” has the same meaning as it has in regulation 2(1) of the Plant Protection Products Regulations;

“the Plant Protection Products Regulations” means the Plant Protection Products Regulations 1995(7);

“preparation” means a mixture or a solution of two or more substances;

“radioactive substance” means a substance which contains one or more radionuclides whose activity or concentration cannot be disregarded as far as radiation protection is concerned;

“receptacle” means a container together with any material, wrapping and component, including any closure or fastener, associated with the container which enables the container to perform its containment function;

“risk phrase” means a risk phrase listed in the approved supply list;

(2) The Agreement was amended by Decision 7/94 of the EEA Joint Committee of 21st March 1994 (OJNo. L160, 28.6.94, p. 1). There are other amendments to the Agreement which are not relevant to these Regulations.

(3) 1993 c. 51.

(4) OJ No. C146A, 15.6.90, p.1.

(5) OJ No. C130, 10.5.93, p.1.

(6) S.I. 1993/3050, to which there are amendments not relevant to these Regulations.

(7) S.I. 1995/887, to which there are amendments not relevant to these Regulations.

“safety phrase” means a safety phrase listed in the approved supply list;

“substance” means a chemical element and its compounds in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

“supply” in relation to a substance or preparation means, except in regulation 6, making that substance or preparation available to another person and includes importation of the substance or preparation into Great Britain, and “supplier” shall be construed accordingly.

(2) In these Regulations, “package” means—

(a) subject to paragraph (3), the package in which a dangerous substance, dangerous preparation or preparation specified in regulation 5(3) is supplied, including the receptacle containing the dangerous substance or preparation in question; or

(b) a pallet or other device which enables more than one receptacle to be handled as a unit,

but does not include a container used to transport the dangerous substance or preparation unless that container is retained by the person to whom the dangerous substance or preparation is supplied for the purpose of storing that dangerous substance or preparation, and related expressions shall be construed accordingly.

(3) In the case of supply by way of retail sale, a package does not include any paper or plastic bag or other form of outer wrapping in which the package is placed when it is presented to the purchaser.

(4) In these Regulations—

(a) where reference is made to a quantity of a dangerous substance or dangerous preparation expressed in litres, that reference shall mean—

(i) in the case of a liquid, the volume in litres of that liquid,

(ii) in the case of a compressed gas, the volume in litres of the receptacle containing that gas, and

(iii) in the case of a compressed gas dissolved in a solvent, liquefied gas or solid, the same number of kilograms of that gas or solid; and

(b) for the purposes of aggregation, one kilogram of a solid shall be deemed to be equivalent to one litre of liquid or gas.

(5) In these Regulations—

(a) a risk phrase may be designated by the letter “R” followed by a distinguishing number or combination of numbers; and

(b) a safety phrase may be designated by the letter “S” followed by a distinguishing number or combination of numbers.

(6) In these Regulations, unless the context otherwise requires, a reference to—

(a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered;

(b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which that reference occurs; and

(c) a lettered sub-paragraph is a reference to the sub-paragraph so lettered in the paragraph in which that reference appears.

Application

3.—(1) Subject to paragraphs (3) to (8), these Regulations shall apply to any dangerous substance or dangerous preparation.

- (2) Subject to paragraphs (3) to (8)—
- (a) regulation 5, except paragraph (1), shall apply to the preparations specified in paragraph (3) of that regulation;
 - (b) regulation 7 and paragraphs (2) and (4) to (6) of regulation 11 shall apply to the preparations specified in paragraph (3) of regulation 11;
 - (c) paragraphs (1) and (2) of regulation 9 shall apply to a preparation to which section B or C of Part II of Schedule 5 applies; and
 - (d) paragraphs (4) and (5) of regulation 8 shall apply to a substance or preparation specified in those paragraphs.
- (3) These Regulations shall not apply to a substance or preparation which is—
- (a) intended for use as a medicinal product within the meaning of section 130 of the Medicines Act 1968⁽⁸⁾;
 - (b) specified in an order made under section 104 or 105 of the Medicines Act 1968 which is for the time being in force and which directs that specified provisions of that Act shall have effect in relation to that dangerous substance or dangerous preparation as such provisions have effect in relation to medicinal products within the meaning of that Act;
 - (c) a controlled drug within the meaning of the Misuse of Drugs Act 1971⁽⁹⁾ except that these Regulations shall apply to drugs which are excepted from section 4(1)(b) of that Act (which makes it unlawful to supply a controlled drug) by Regulations made under section 7(1)(a) of that Act;
 - (d) a cosmetic product within the meaning of the Cosmetic Products (Safety) Regulations 1996⁽¹⁰⁾;
 - (e) in the form of waste to which the Waste Management Licensing Regulations 1994⁽¹¹⁾ or the Special Waste Regulations 1996⁽¹²⁾ applies;
 - (f) intended for use as food within the meaning of section 1 of the Food Safety Act 1990⁽¹³⁾;
 - (g) intended for use as an animal feeding stuff within the meaning of section 66(1) of the Agriculture Act 1970⁽¹⁴⁾;
 - (h) radioactive substances or preparations containing radioactive substances; or
 - (i) a medical device within the meaning of the Medical Devices Regulations 2002⁽¹⁵⁾ which is invasive or used in direct contact with the human body,

in the finished state, intended for the final user.

- (4) These Regulations shall not apply to—
- (a) a substance or preparation which is a sample taken by an authority responsible for the enforcement of any requirement imposed by or under any enactment;
 - (b) a substance or preparation which is under customs control;
 - (c) subject to Council Regulation EC 2455/92⁽¹⁶⁾ on the export notification and information exchange of dangerous substances, a substance or preparation which is intended for export to a country which is not an EEA State; or

⁽⁸⁾ 1968 c. 67.

⁽⁹⁾ 1971 c. 38.

⁽¹⁰⁾ S.I. 1996/2925, to which there are amendments not relevant to these Regulations.

⁽¹¹⁾ S.I. 1994/1056, to which there are amendments not relevant to these Regulations.

⁽¹²⁾ S.I. 1996/972, to which there are amendments not relevant to these Regulations.

⁽¹³⁾ 1990 c. 16.

⁽¹⁴⁾ 1970 c. 40; section 66(1) was modified by S.I. 1991/2840.

⁽¹⁵⁾ S.I. 2002/618.

⁽¹⁶⁾ O.J. No. L251, 29.8.92, p.13.

- (d) a substance to which paragraph (7) of regulation 6 of the NONS Regulations applies (including new substances not yet fully tested) which is labelled in accordance with the provisions of that paragraph;
- (5) Regulations 7 to 11 shall only apply to dangerous substances, dangerous preparations or preparations specified in regulation 5(3) which are supplied in packages.
- (6) Regulations 7 to 11 shall not apply to munitions and explosives which are placed on the market with a view to obtaining an explosive or pyrotechnic effect.
- (7) Regulation 6 shall not apply to a plant protection product approved under the Plant Protection Products Regulations or to a product approved under the Control of Pesticides Regulations 1986(17).
- (8) These Regulations shall not apply to the carriage of substances or preparations by rail, road, inland waterway, sea or air.

PART II

GENERAL REQUIREMENTS

Classification of dangerous substances and dangerous preparations

4.—(1) No person shall supply a dangerous substance or a dangerous preparation unless it has been classified in accordance with paragraphs (2) to (7).

(2) The classification of a dangerous substance which is listed in the approved supply list shall be the classification for that substance specified in that list.

(3) A dangerous substance which—

(a) is a new substance not listed in the approved supply list; and

(b) has been notified in accordance with regulation 4 or 6(1) or (2) of the NONS Regulations, shall be classified in conformity with that notification.

(4) Subject to paragraph (5), a dangerous substance which is not classified in accordance with paragraph (2) or (3) shall be classified—

(a) by ascertaining which of the properties specified in Column 2 of Schedule 1 applies to the dangerous substance and by placing the dangerous substance in one or more of the categories of danger specified in the corresponding entry in Column 1 of that part;

(b) by assigning to the dangerous substance the appropriate risk phrases by the use of the criteria set out in the approved classification and labelling guide; and

(c) where it is proposed to classify a dangerous substance in the category of danger carcinogenic, mutagenic or toxic for reproduction, by an assessment of the evidence by a competent person.

(5) Before a dangerous substance is classified in accordance with paragraph (4), the person carrying out the classification shall make himself aware of all relevant and accessible data which may exist in relation to the dangerous substance in question.

(6) Where a manufacturer, distributor or importer has classified a substance, in accordance with the provisions of paragraph (4), as a dangerous substance in the category of danger carcinogenic, mutagenic or toxic for reproduction, that person shall send to the Executive as soon as possible a document—

(a) summarising the information on which the classification was based; and

(17) S.I. 1986/1510, to which there are amendments not relevant to these Regulations.

(b) including all relevant references and unpublished data, unless that document has already been sent to the relevant authority in another EEA State in which the dangerous substance has been supplied.

(7) A dangerous preparation shall be classified in accordance with Schedule 3 and, where applicable, by use of the criteria contained in the approved classification and labelling guide.

Safety data sheets for dangerous substances, dangerous preparations and certain other preparations

5.—(1) Subject to paragraph (7), the supplier of a dangerous substance or dangerous preparation shall provide the recipient of that dangerous substance or dangerous preparation with a safety data sheet—

- (a) which contains the information under the headings specified in Schedule 4 to enable that recipient to take the necessary measures relating to—
 - (i) health and safety at work, and
 - (ii) the protection of the environment;
- (b) which clearly shows the date of first publication, or the latest revision, as the case may be;
- (c) free of charge; and
- (d) no later than the date on which the dangerous substance or the dangerous preparation is supplied to that recipient for the first time.

(2) Subject to paragraph (7), the supplier of a preparation of the type specified in paragraph (3) shall provide free of charge to a professional user a safety data sheet which—

- (a) contains proportionate information under the headings specified in Schedule 4 relating to that preparation; and
- (b) clearly shows the date of first publication, or the latest revision, as the case may be,

when requested to do so by that professional user.

(3) Paragraph (2) refers to a preparation which is not a dangerous preparation but which contains in an individual concentration of $\geq 1\%$ by weight for non-gaseous preparations and $\geq 0.2\%$ by volume for gaseous preparations—

- (a) a dangerous substance which has been classified in respect of its health or environmental effects; or
- (b) a substance for which there is a Community workplace exposure limit.

(4) The supplier of a dangerous substance or preparation to which this regulation applies shall keep the safety data sheet relating to that dangerous substance or preparation up to date and revise it forthwith if any significant new information relating to safety at work, risks to the health of any person or the protection of the environment becomes available in relation to that dangerous substance or preparation.

(5) When a supplier revises a safety data sheet in accordance with paragraph (4), he shall ensure that the safety data sheet is clearly marked with the word “Revision”.

(6) When a supplier revises a safety data sheet in accordance with paragraph (4), he shall—

- (a) in respect of a dangerous substance or dangerous preparation, provide every person who has received that dangerous substance or dangerous preparation within a period of 12 months preceding the date of the revision with a copy of the revised safety data sheet free of charge; or
- (b) in respect of a preparation specified in paragraph (3), provide every person who—

(i) has received that preparation within a period of 12 months preceding the date of the revision, and

(ii) requested a copy of the safety data sheet in accordance with paragraph (2), with a copy of the revised safety data sheet free of charge, and shall draw the attention of every such person to the revisions in the safety data sheet.

(7) Subject to paragraph (8), a supplier shall not be required to provide a safety data sheet with a dangerous substance or preparation to which this regulation applies provided that—

- (a) the dangerous substance or preparation is sold to the general public in the circumstances to which paragraph (4) or (5) of regulation 14 applies; and
- (b) sufficient information is provided to enable the user of that dangerous substance or preparation to take the necessary measures as regards the protection of health and safety.

(8) Where a person buys a dangerous substance or preparation to which this regulation applies for use at work in the circumstances to which paragraph (4) or (5) of regulation 14 applies, when requested to do so by that person, the supplier of the dangerous substance or preparation in question shall provide that person with a copy of the safety data sheet relating to that dangerous substance or preparation free of charge.

(9) If a supplier provides a safety data sheet in accordance with paragraph (8), paragraph (6) shall not apply.

(10) The information contained in a safety data sheet provided under this regulation shall be in English.

(11) A supplier may provide a safety data sheet or a revision to a safety data sheet under this regulation by electronic communication provided that he has established that the person to whom the safety data sheet, or the revision to a safety data sheet, will be provided has the equipment to enable him to receive the electronic communication.

(12) In this regulation, “supply” shall not include supply by way of—

- (a) offer for sale, and
- (b) returning a dangerous substance or preparation to which this regulation applies to the person who supplied it, provided that the properties of that dangerous substance or preparation remain unchanged,

and “supplier” shall be construed accordingly.

Advertisements for dangerous substances and dangerous preparations

6.—(1) Subject to paragraph (2), a person who supplies a dangerous substance or dangerous preparation shall not advertise that dangerous substance or dangerous preparation, or arrange for the production of any such advertisement, unless mention is made in the advertisement of the type of hazard indicated on the label.

(2) Paragraph (1) shall only apply in respect of a dangerous preparation where the advertisement enables a person, otherwise than in the course of a business, to conclude a contract to purchase the dangerous preparation before that person has seen the label relating to the dangerous preparation.

(3) In this regulation “supply” has the same meaning as it has in section 46 of the Consumer Protection Act 1987(18).

Packaging of dangerous substances and dangerous preparations

7.—(1) No person shall supply a dangerous substance, dangerous preparation or preparation specified in regulation 11(3) unless it is in a package and—

- (a) subject to paragraph (2), the receptacle containing the dangerous substance or dangerous preparation is designed and constructed so that its contents cannot escape;
- (b) the materials constituting the packaging and fastenings are not susceptible to adverse attack by the contents or liable to form dangerous compounds with the contents;
- (c) the packaging and fastenings are strong and solid throughout to ensure that they will not loosen and will meet the normal stresses and strains of handling; and
- (d) any replaceable fastening fitted to the receptacle containing the dangerous substance or dangerous preparation is designed so that the receptacle can be repeatedly refastened without the contents of the receptacle escaping.

(2) Paragraph (1)(a) shall not apply where a special safety device is fitted to the receptacle.

(3) Packaging and fastenings shall be deemed to comply with the requirements of paragraph (1) (a) to (c) if they comply with the relevant requirements of—

- (a) the CDGCPL Regulations;
- (b) the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997⁽¹⁹⁾;
or
- (c) the Air Navigation (Dangerous Goods) Regulations 1994⁽²⁰⁾.

Labelling of dangerous substances and dangerous preparations

8.—(1) Subject to regulations 9 and 10 of the CDGCPL Regulations (which allow combined carriage and supply labelling in certain circumstances) and paragraphs (8) to (12), no person shall supply a dangerous substance or dangerous preparation unless the particulars specified in paragraph (2) relating to a dangerous substance or paragraph (3) relating to a dangerous preparation are clearly shown in accordance with the requirements of regulation 10—

- (a) on the receptacle containing the dangerous substance or dangerous preparation; and
- (b) if that receptacle is inside one or more layers of packaging, on any such layer which is likely to be the outermost layer of packaging during the supply or use of the dangerous substance or dangerous preparation, unless such packaging permits the particulars shown on the receptacle or other packaging to be clearly seen.

(2) The particulars required under paragraph (1) in relation to a dangerous substance shall be—

- (a) the name, full address and telephone number of a person in an EEA State who is responsible for supplying the substance, whether he be its manufacturer, importer or distributor;
- (b) the name of the substance, being—
 - (i) where the substance appears in the approved supply list, the name or one of the names listed therein for that substance, or
 - (ii) where the substance does not appear in the approved supply list, an internationally recognised name;
- (c) the following particulars ascertained in accordance with Part I of Schedule 5, namely—
 - (i) any indications of danger together with corresponding symbols,

⁽¹⁹⁾ S.I. 1997/2367.

⁽²⁰⁾ S.I. 1994/3187.

- (ii) the risk phrases, set out in full,
 - (iii) the safety phrases, set out in full, and
 - (iv) any EC number and, in the case of a substance which is listed in Part I of the approved supply list, the words “EC label”; and
- (d) where required by paragraph (4) or (5), the labelling phrase specified therein.
- (3) The particulars required under paragraph (1) in relation to a dangerous preparation shall be—
 - (a) the name, full address and telephone number of a person in an EEA State who is responsible for supplying the preparation, whether he be its manufacturer, importer or distributor;
 - (b) the trade name or other designation of the preparation;
 - (c) the following particulars ascertained in accordance with Part I of Schedule 5, namely—
 - (i) identification of the constituents of the preparation which result in it being classified as a dangerous preparation,
 - (ii) any indications of danger together with corresponding symbols,
 - (iii) the risk phrases, set out in full,
 - (iv) the safety phrases, set out in full,
 - (v) in the case of a preparation intended for sale to the general public, the nominal quantity (nominal mass or nominal volume);
 - (d) where required by paragraph 5(4) of Part I of Schedule 3, the words specified in that paragraph; and
 - (e) where required by paragraph (4) or (5), the labelling phrase specified therein.
- (4) Subject to paragraph (6), and without prejudice to any other requirements in these Regulations, in respect of a substance specified in Schedule 2 to the Dangerous Substances and Preparations (Safety) (Consolidation) Regulations 1994⁽²¹⁾ or a preparation containing such a substance, either of which is required to be classified and labelled in accordance with these Regulations, as—
 - (a) carcinogenic of category 1 or 2;
 - (b) mutagenic of category 1 or 2; or
 - (c) toxic for reproduction of category 1 or 2,the labelling phrase “Restricted to professional users” shall be included in the particulars specified in paragraph (2) or (3), as the case may be.
- (5) Without prejudice to any other requirements in these Regulations, in respect of—
 - (a) a substance specified in regulation 6D of the Dangerous Substances and Preparations (Safety) (Consolidation) Regulations 1994; or
 - (b) a preparation containing such a substance in a concentration by weight of 0.1% or more, whether or not that substance is a dangerous substance or that preparation is a dangerous preparation, as the case may be, the labelling phrase “For use in industrial installations only” shall be included in the particulars specified in paragraph (2) or (3), as the case may be.
- (6) Paragraph 4 shall not apply to—
 - (a) petrol as defined in regulation 2 of the Motor Fuel (Composition and Content) Regulations 1999⁽²²⁾;
 - (b) mineral oil products intended for use as fuel in mobile or fixed combustion plants;

(21) S.I. 1994/2844, as amended by S.I. 1996/2635.

(22) S.I. 1999/3107.

- (c) fuels sold in closed systems; and
- (d) artists' paints.

(7) Without prejudice to paragraph 4 of Schedule 2 to the Plant Protection Products Regulations, indications such as “non-toxic”, “non-harmful”, “non-polluting”, “ecological” or any other statement indicating that the dangerous substance or preparation is not dangerous or that is likely to lead to underestimation of the dangers of the dangerous substance or preparation shall not appear on the package.

(8) Where paragraph (9) applies, the packaging of a dangerous substance or dangerous preparation classified in one or more of the categories of danger harmful, extremely flammable, highly flammable, flammable, irritant or oxidising shall not be required to be labelled in respect of that hazardous property.

(9) This paragraph shall apply where the package contains such small quantities of that substance or preparation that there is no foreseeable risk, under conditions of supply, use and disposal, arising from that hazardous property to persons handling that substance or preparation or to other persons.

(10) The packaging of a dangerous preparation classified in the category of danger dangerous for the environment (with or without the “N” symbol) shall not be required to be labelled in respect of its environmental hazard in accordance with this regulation provided that it contains such small quantities of that preparation that there is no foreseeable risk, under conditions of supply, use and disposal, to the environment.

(11) Where the package in which a dangerous substance is supplied does not contain more than 125 millilitres of that substance the risk phrases and safety phrases need not be shown if the dangerous substance is classified only in one or more of the categories of danger—

- (a) highly flammable, flammable, oxidising or irritant; or
- (b) harmful, provided the dangerous substance is not sold to the general public.

(12) Where the package in which a dangerous preparation is supplied does not contain more than 125 millilitres of that preparation—

- (a) the risk phrases and safety phrases need not be shown if the dangerous preparation is classified only in one or more of the categories of danger—
 - (i) irritant (except those assigned the risk phrase R41),
 - (ii) dangerous for the environment and assigned the N symbol,
 - (iii) oxidising, or
 - (iv) highly flammable; and
- (b) the safety phrases need not be shown if the dangerous preparation is classified only in one or more of the categories of danger—
 - (i) flammable, or
 - (ii) dangerous for the environment and not assigned the N symbol.

(13) Where a dangerous substance or dangerous preparation is required to be labelled in accordance with these Regulations and is so labelled, that labelling shall be deemed to satisfy the requirements of—

- (a) section 5 of the Petroleum (Consolidation) Act 1928⁽²³⁾ including that section as applied to any dangerous substance by an Order in Council made under section 19 of that Act;
- (b) regulation 6 of the Highly Flammable Liquids and Liquefied Petroleum Gases Regulations 1972⁽²⁴⁾; and

(23) 1928 c. 32.

(24) S.I. 1972/917, to which there are amendments not relevant to these Regulations.

- (c) regulations 3 and 4 of the Farm and Garden Chemicals Regulations 1971⁽²⁵⁾.

Particular labelling requirements for certain preparations

9.—(1) In the case of preparations to which Part II of Schedule 5 applies the appropriate provisions of that Part shall have effect to regulate the labelling of such preparations.

(2) Subject to regulations 9 and 10 of the CDGCPL Regulations (which allow combined carriage and supply labelling in certain circumstances), no person shall supply a preparation to which section B or C of Part II of Schedule 5 applies unless the trade name or other designation of that preparation and the name, full address and telephone number of a person in an EEA State who is responsible for supplying that preparation (whether he be its manufacturer, importer or distributor) are clearly shown in accordance with the requirements of regulation 10—

- (a) on the receptacle containing that preparation; and
- (b) if that receptacle is inside one or more layers of packaging, on any such layer which is likely to be the outermost layer of packaging during the supply or use of that preparation, unless such packaging permits the particulars shown on the receptacle or other packaging to be clearly seen.

(3) The supplier of an aerosol dispenser which contains a dangerous substance or dangerous preparation which has been classified in the category of danger “flammable”, “highly flammable” or “extremely flammable” may choose to omit from the label—

- (a) in the case of a dangerous substance, the particulars referred to in paragraphs (i) to (iii) of regulation 8(2)(c) which relate to that category of danger; and
- (b) in the case of a dangerous preparation, the particulars referred to in paragraphs (ii) to (iv) of regulation 8(3)(c) which relate to that category of danger,

provided the conditions specified in paragraph (4) are satisfied.

(4) The conditions referred to in paragraph (3) are that the supplier—

- (a) is in possession of evidence which shows that the contents of the aerosol dispenser do not present a risk of ignition under normal or reasonably foreseeable conditions of use; and
- (b) identifies the quantity of flammable material contained in the aerosol dispenser in the form of the following inscription on the label—

“X% by mass of the contents are flammable”.

(5) In the case of a plant protection product approved under the Plant Protection Products Regulations or a product approved under the Control of Pesticides Regulations 1986⁽²⁶⁾, the labelling information required by these Regulations shall be accompanied by the wording “To avoid risks to man and the environment, comply with the instructions for use”.

Methods of marking or labelling packages

10.—(1) Any package which is required to be labelled in accordance with regulations 8 and 9 may carry the particulars required to be on the label clearly and indelibly marked on a part of that package reserved for that purpose and, unless the context otherwise requires, any reference in these Regulations to a label includes a reference to that part of the package so reserved.

(2) Subject to paragraph (7), any label required to be carried on a package shall be securely fixed to the package with its entire surface in contact with it and the label shall be clearly and indelibly printed.

⁽²⁵⁾ S.I. 1971/729.

⁽²⁶⁾ S.I. 1986/1510, to which there are amendments not relevant to these Regulations.

(3) The colour and nature of the marking shall be such that any symbol and the wording stand out clearly from the background and the wording shall be of such size and spacing as to be easily read.

(4) The package shall be so labelled that the particulars can be read horizontally when the package is set down normally.

(5) Subject to paragraph (7), the dimensions of the label required under regulation 8 shall be as follows—

| | <i>Capacity of package</i> | <i>Dimensions of label</i> |
|-----|--|--|
| (a) | not exceeding 3 litres | if possible at least 52 × 74 millimetres |
| (b) | exceeding 3 litres but not exceeding 50 litres | at least 74 × 105 millimetres |
| (c) | exceeding 50 litres but not exceeding 500 litres | at least 105 × 148 millimetres |
| (d) | exceeding 500 litres | at least 148 × 210 millimetres |

(6) A symbol required to be shown in accordance with regulation 8(2)(c)(i) or 8(3)(c)(ii) and specified in column 3 of Schedule 2 shall be printed in black on an orange-yellow background and its size (including the orange-yellow background) shall be at least equal to an area of one-tenth of that of a label which complies with paragraph (5) and shall not in any case be less than 100 square millimetres.

(7) If the package is an awkward shape or so small that it is unsuitable to attach a label complying with paragraphs (2) and (5), the label shall be attached in some other appropriate manner.

Child resistant fastenings, tactile warning devices and other consumer protection measures

11.—(1) The British and International Standards referred to in this regulation are further described in Schedule 6.

(2) Subject to paragraph (4) and (5), no person shall supply to the general public a substance or a preparation specified in paragraph (3) in a receptacle of any size fitted with—

- (a) a replaceable closure unless the packaging complies with the requirements of BS EN 28317 or ISO 8317; or
- (b) a non-replaceable closure unless the packaging complies with the requirements of EN 862.

(3) The substances and preparations referred to in paragraph (2) are—

- (a) dangerous substances and dangerous preparations which are required to be labelled with the indication of danger “very toxic”, “toxic” or “corrosive”;
- (b) preparations containing methanol in a concentration equal to or more than 3% by weight;
- (c) preparations containing dichloromethane in a concentration equal to or more than 1% by weight;
- (d) substances which are assigned the risk phrase (R65) in the approved supply list, except where such a substance is supplied in an aerosol dispenser or a container fitted with a sealed spray attachment; and
- (e) substances and preparations which are assigned the risk phrase (R65) and are classified and labelled according to the approved classification and labelling guide, except where such a substance or preparation is supplied in an aerosol dispenser or a container fitted with a sealed spray attachment.

(4) Paragraph (2) shall not apply if the person supplying the substance or preparation in question can show that it is obvious that the packaging in which the substance or preparation is supplied is sufficiently safe for children because they cannot obtain access to the contents without the help of a tool.

(5) If the packaging, in which a substance or preparation specified in paragraph (3) is supplied to the general public, was approved on or before 31st May 1993 by the British Standards Institution as complying with the requirements of BS 6652, that packaging shall be deemed to comply with the requirements of BS EN 28317.

(6) No person shall supply a dangerous preparation or a preparation specified in paragraph (3) to the general public if the packaging in which that preparation is supplied has—

- (a) either a shape or a designation or both likely to attract or arouse the active curiosity of children or to mislead consumers;
- (b) either a presentation or a designation or both used for—
 - (i) human or animal foodstuffs,
 - (ii) medicinal products, or
 - (iii) cosmetic products.

(7) Subject to paragraph (9), no person shall supply to the general public a dangerous substance or a dangerous preparation specified in paragraph (8) in a receptacle of any size, unless the packaging in which that dangerous substance or dangerous preparation is supplied carries a tactile warning of danger in accordance with EN ISO 11683.

(8) The dangerous substances and the dangerous preparations referred to in paragraph (7) are those which are required to be labelled with one or more of the following indications of danger, namely—

- (a) very toxic;
- (b) toxic;
- (c) corrosive;
- (d) harmful;
- (e) extremely flammable; or
- (f) highly flammable.

(9) Paragraph (7) shall not apply to an aerosol dispenser which is classified and labelled only with the indication of danger extremely flammable or highly flammable.

(10) For the purpose of ascertaining whether there has been a contravention of paragraph (2), a duly authorised officer of the enforcing authority may require the person supplying a substance or a preparation to which that paragraph applies to provide him with a certificate from a qualified test house stating that—

- (a) the closure is such that it is not necessary to test to BS EN 28317 or ISO 8317; or
- (b) the closure has been tested and found to conform to BS EN 28317 or ISO 8317.

(11) In this regulation, “qualified test house” means a laboratory that conforms to BS 7501 or EN 45 000.

Retention of data for dangerous preparations

12.—(1) The person who is responsible for first supplying a dangerous preparation shall maintain a record of the information—

- (a) used for the purposes of classifying that dangerous preparation in accordance with regulation 4;

- (b) used for the purposes of labelling that dangerous preparation in accordance with regulation 8;
- (c) relating to any child resistant fastening or any tactile warning which forms part of the packaging in which the dangerous preparation in question is contained; and
- (d) used for the purposes of preparing the safety data sheet relating to that dangerous preparation in accordance with regulation 5,

for at least three years after the date on which that dangerous preparation was supplied by him for the last time.

(2) When requested by the enforcing authority to do so, a person referred to in paragraph (1) shall make the record, or a copy of the record, maintained by him in accordance with that paragraph, available to the enforcing authority within 28 days of the date of the request.

(3) When requested to do so by the enforcing authority, a person who supplies a dangerous preparation shall provide to the enforcing authority a copy of any certificate issued by a qualified test house.

PART III

MISCELLANEOUS

Exemption certificates

13.—(1) Subject to paragraph (2), the Executive may by a certificate in writing exempt—

- (a) any person or class of persons;
- (b) any substance or preparation; or
- (c) any class of such substances or preparations,

from all or any of the requirements of, or prohibitions imposed by, these Regulations.

(2) An exemption granted under paragraph (1) may be granted subject to conditions and to a limit of time and may be revoked by the Executive at any time by a certificate in writing.

(3) The Executive shall not grant an exemption pursuant to paragraph (1) unless, having regard to the circumstances of the case, and in particular to—

- (a) any conditions which it proposes to attach to the exemption; and
- (b) any requirements imposed by or under any enactments which apply to the case,

it is satisfied that neither the health nor the safety of persons who are likely to be affected by the exemption will be prejudiced in consequence of it.

Enforcement

14.—(1) To the extent that they would not otherwise do so, sections—

- (a) 16 to 26 (approval of codes of practice and enforcement);
- (b) 33 to 42 (provisions as to offences); and
- (c) 47(2),

of the 1974 Act shall apply to these Regulations as if they were health and safety Regulations for the purposes of that Act.

(2) Any function of the Health and Safety Commission under any other provision of the 1974 Act which is exercisable in relation to any function of the Executive under or in respect of health and safety Regulations (including their enforcement) shall be exercisable as if these Regulations

were health and safety Regulations for the purposes of that Act to the extent that they would not otherwise be so.

(3) Notwithstanding regulation 3 of the Health and Safety (Enforcing Authority) Regulations 1998(27) and subject to paragraphs (4) and (5), the enforcing authority for these Regulations shall be the Executive.

(4) Subject to paragraph (5), where a dangerous substance or a dangerous preparation is supplied in or from premises which are registered under section 75 of the Medicines Act 1968(28), the enforcing authority for these Regulations shall be the Royal Pharmaceutical Society.

(5) The enforcing authority for these Regulations shall be the local weights and measures authority—

- (a) where a dangerous substance or a dangerous preparation is supplied other than in the circumstances referred to in paragraph (4),—
 - (i) in or from any shop, mobile vehicle, market stall or other retail outlet, or
 - (ii) otherwise to members of the public, including by way of free sample, prize or mail order;
- (b) for regulations 6 and 11.

(6) In every case where, by virtue of this regulation, these Regulations are enforced by the Royal Pharmaceutical Society or the local weights and measures authority, they shall be enforced as if they were safety regulations made under section 11 of the Consumer Protection Act 1987(29) and the provisions of section 12 of that Act shall apply to these Regulations as if they were safety regulations and as if the maximum period of imprisonment on summary conviction specified in subsection (5) thereof were 3 months instead of 6 months.

Defence

15.—(1) In any proceedings for an offence for a contravention of any of the provisions of these Regulations, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Transitional provisions

16.—(1) Until 30th July 2002 it shall be sufficient compliance with the requirements of these Regulations if the requirements of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994(30) are complied with as in force immediately before these Regulations came into force.

(2) In respect of a preparation which is a biocidal product within the meaning of the Biocidal Products Regulations 2001(31), until 30th July 2004 it shall be sufficient compliance with the requirements of these Regulations if the requirements of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994 are complied with as in force immediately before these Regulations came into force.

(3) These Regulations shall not apply to a preparation which is—

- (a) an approved plant protection product under the Plant Protection Products Regulations; or
- (b) an approved biocidal product under the Biocidal Products Regulations 2001,

(27) S.I. 1998/494.

(28) 1968 c. 67; section 75(8) was amended by S.I. 1968/1699.

(29) 1987 c. 43; section 11(7)(c) is amended by section 16(1) of, and paragraph 15 of Schedule 4 to, the Gas Act 1995.

(30) S.I. 1994/3247, as amended by S.I.s 1996/1092, 1997/1460, 1998/3106, 1999/197, 1999/3165, 1999/3194, 2000/2381 and 2000/2897.

(31) S.I. 2001/880.

until 30th July 2004.

(4) These Regulations shall not apply to a preparation which is—

- (a) a biocidal product within the meaning of the Biocidal Products Regulations 2001; or
- (b) a plant protection product,

and which is an approved product under the Control of Pesticides Regulations 1986⁽³²⁾ until 30th July 2004.

(5) In this regulation, “biocidal product” does not include a biocidal product which is a basic substance as defined in article 2 of Directive 98/8⁽³³⁾ of the European Parliament and the Council concerning the placing of biocidal products on the market.

Extension outside Great Britain

17. These Regulations shall apply to any activity outside Great Britain to which sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001⁽³⁴⁾ as they apply to activities within Great Britain.

Revocations and modifications

18.—(1) The instruments specified in column 1 of Schedule 7 shall be revoked to the extent specified in the corresponding entry in column 3 of that Schedule.

(2) In the CDGCPL Regulations—

- (a) for regulations 9 and 10 there shall be substituted the following regulations—

“Derogations from regulation 8 of the supply Regulations and regulation 8 of these Regulations

9.—(1) Where a package would otherwise be required to show the particulars required by both regulation 8 of the supply Regulations and regulation 8 of these Regulations, it shall be sufficient compliance with both of those regulations if the package shows in accordance with regulation 11 the particulars specified in the following paragraphs of this regulation.

(2) Where the package consists of only a single receptacle, the specified particulars are the particulars required by paragraph (2)(a), (b), (c)(ii), (iii) and (iv) (or paragraph (3) (a), (b), (c)(i), (ii), (iv) and (v) in the case of preparations) of regulation 8 of the supply Regulations and paragraph (2)(b), (c) and (d) of regulation 8 of these Regulations.

(3) Where the package consists of one or more receptacles in outer packagings, the specified particulars are either the particulars required by paragraph (2) or the particulars required by regulation 8.

(4) Where, to facilitate handling, a package consists of two or more smaller packages held together in such a way that the labels on those smaller packages can be clearly seen, then it shall be sufficient compliance with paragraph (3) if those smaller packages are labelled in accordance with that paragraph.

(5) In this regulation “preparations” and “indication of danger” have the same meaning as in the supply Regulations.

⁽³²⁾ [S.I. 1986/1510](#), to which there are amendments not relevant to these Regulations.

⁽³³⁾ O.J. No. L123, 24.4.98, p. 1.

⁽³⁴⁾ [S.I. 2001/2127](#).

Derogations from regulation 8 of the supply Regulations

10.—(1) Where a package is required to show the particulars required by regulation 8 of the supply Regulations, but is excepted from showing the particulars required by regulation 8 of these Regulations because it shows the particulars required by any of the transport rules specified in regulation 3(1)(a) to (f), it shall be sufficient compliance with regulation 8 of the supply Regulations if the package shows the particulars specified in the following paragraphs of this regulation.

(2) Where the package consists of only a single receptacle, the specified particulars are—

(a) the particulars required by whichever of the transport rules is appropriate; and

(b) the particulars required by paragraph (2)(a), (b), (c)(ii), (iii) and (iv) (or paragraph (3)(a), (b), (c)(i), (iii), (iv) and (v)) of regulation 8 of the supply Regulations in accordance with regulation 11.

(3) Where the package consists of one or more receptacles in outer packagings, the specified particulars are those required by whichever of the transport rules is appropriate.

(4) In this regulation “indication of danger” has the same meaning as in the supply Regulations.”; and

(b) in paragraph (5) of regulation 11, for the words “regulation 9 of the supply Regulations” there shall be substituted “regulation 8 of the supply Regulations”.

28th June 2002

David Jamieson
Parliamentary Under-Secretary of State,
Department for Transport