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STATUTORY INSTRUMENTS

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**2005 No. 2773**

**ENVIRONMENTAL PROTECTION**

**The Volatile Organic Compounds in Paints, Varnishes  
and Vehicle Refinishing Products Regulations 2005**

<i>Made</i>	- - - -	<i>9th October 2005</i>
<i>Laid before Parliament</i>		<i>11th October 2005</i>
<i>Coming into force</i>	- -	<i>1st November 2005</i>

The Secretary of State, in exercise of the powers conferred upon her by section 2(2) of the European Communities Act 1972 <sup>M1</sup>, being a Minister designated <sup>M2</sup> for the purpose of that subsection in relation to the control of air pollution, makes the following Regulations:

**Marginal Citations**

**M1** 1972 c. 68.

**M2** S.I. 1988/785. In so far as these regulations deal with matters that are not reserved matters in Scotland, the power of the Secretary of State to make regulations in relation to those matters, in or as regards Scotland is preserved by section 57(1) of the Scotland Act 1998.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005 and come into force on 1<sup>st</sup> November 2005.

(2) With the exception of regulation 9, which extends to England and Wales only, these Regulations extend to the whole of the United Kingdom.

**Definitions**

2. In these Regulations—

“organic compound” means any compound containing at least the element carbon and one or more of hydrogen, oxygen, sulphur, phosphorus, silicon, nitrogen, or a halogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates;

“relevant product” has the meaning given by regulation 3(1);

volatile organic compound (VOC) means any organic compound having an initial boiling point less than or equal to 250°C measured at a standard pressure of 101,3 kPa;

*Status: Point in time view as at 01/06/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005 (revoked). (See end of Document for details)*

“VOC content” means the mass of volatile organic compounds, expressed in grams/litre (g/l), in the formulation of the product in its ready to use condition; the mass of volatile organic compounds in a given product which react chemically during drying to form part of the coating shall not be considered part of the VOC content.

## Scope

3.—(1) Subject to paragraphs (2) and (3) below, these Regulations apply to the paints, varnishes, vehicle refinishing products and subcategories as defined in Schedule 1 to these Regulations (“the relevant products”).

(2) These Regulations do not apply to relevant products that are to be used in a country or territory outside the customs territory of the European Community.

(3) These Regulations shall not apply to products which are sold for exclusive use in an activity—

- (a) which is a SED (solvent emissions directive) Activity; and
- (b) carried out in a SED installation.

(4) In this regulation—

“SED Activity” means any activity falling within —

- (i) section 7 of [<sup>F1</sup>Part 2 of Schedule 1 to the Environmental Permitting (England and Wales) Regulations [<sup>F2</sup>2010]]; and
- (ii) the section in Chapter 7 of Part 1 of Schedule 1 of the Pollution Prevention and Control (Scotland) Regulations 2000 <sup>M3</sup> where operated above the solvent consumption thresholds specified for that activity as set out in that section of that Chapter; and
- (iii) section 7 of Part 1 of Schedule 1 of the Pollution Prevention and Control Regulations (Northern Ireland) 2003 <sup>M4</sup>;

“SED installation” means—

- (i) a stationary technical unit where one or more SED activities are carried out; and
- (ii) any other location on the same site where any other directly associated activities are carried out.

### Textual Amendments

- F1** Words in reg. 3(4) substituted (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 47** (with regs. 69-72)
- F2** Word in reg. 3(4) substituted (6.4.2010 immediately after S.I. 2009/3381 comes into force) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1), **Sch. 26 para. 26** (with reg. 1(2))

### Marginal Citations

- M3** [S.S.I. 2000/323](#) as amended by the Solvent Emissions (Scotland) Regulations 2004, [S.S.I. 2004/126](#) and the Pollution Prevention and Control (Scotland) Amendment (No.2) Regulations 2005, [S.S.I. 2005/340](#), which implement in Scotland Directive 1999/13/EC, O.J. L85, 23.3.1999, p.1 (and cover new and existing solvent emissions installations or SED installations and SED activities), as amended by Regulation (EC) No. 1882/2003, O.J. L2884, 31.10.2003, p.1. There are other amending instruments but none is relevant.
- M4** [S.R. 2003 No.46](#) as amended by the Solvent Emissions Regulations (Northern Ireland) 2004 [S.R. 2004 No.36](#) and the Pollution Prevention and Control (Amendment) and Connected Provisions (No.2) Regulations (Northern Ireland) 2005 [S.R.2005 No.285](#) which implement in Northern Ireland Directive 1999/13/EC. O.J.L85,23.3.1999.p1 (and cover new and existing solvent emissions installations or SED

installations and SED activities)as amended by Regulation (EC) No.1882/2003,O.J. L2884,31.10.2003 p.1. There are other amending instruments but none is relevant.

### Limitations on marketing paints and varnishes and vehicle refinishing products

4.—(1) Subject to regulation 10, it shall not be lawful to place on the market any relevant product after the dates laid down for that product in Schedule 2 to these Regulations<sup>M5</sup>, unless that product—

- (a) has a VOC content not exceeding the limit value set out for that product in Schedule 2; and
- (b) carries a label in compliance with regulation 5.

(2) In determining compliance with the VOC content limit values set out in Schedule 2, the analytical methods set out in Schedule 3<sup>M6</sup> apply.

(3) For relevant products to which solvents or other components containing solvents have to be added for the product to be ready for use, the limit values in Schedule 2 shall apply to the VOC content of the product in its ready for use condition.

#### Marginal Citations

**M5** Schedule 2 sets out the maximum VOC content limit values in Annex II to the Directive.

**M6** Schedule 3 sets out the analytical methods in Annex III to the Directive and referred to in Article 3.1 of that Directive.

### Labelling

5.—(1) A label referred to in regulation 4(1)(b) must indicate—

- (a) the sub-category of the product and the relevant VOC limit values, measured in g/l, as set out in Schedule 2; and
- (b) the maximum content of VOC in g/l of the product in a ready to use condition.

(2) Paragraph (1) is without prejudice to any requirement in any other enactment that requires a relevant product to be marked or labelled.

### Designation of competent authority

6.—(1) The Secretary of State is designated as the competent authority for the purposes of Article 5 (responsibility for fulfilment of obligations) of the Directive.

(2) In exercising her responsibilities under these Regulations, insofar as relevant responsibilities have been devolved to them the Secretary of State shall consult—

- (a) the Scottish Ministers;
- (b) the Welsh Assembly Government; and
- (c) the Northern Ireland Department of the Environment.

### Monitoring and enforcement

7.—(1) The Secretary of State shall establish and maintain a programme of monitoring for the purpose of verifying compliance with these Regulations.

(2) Subject to paragraph (3) the Secretary of State shall enforce these Regulations.

(3) Nothing in paragraph (2) above authorises the Secretary of State to prosecute for an offence under these Regulations in Scotland.

*Status: Point in time view as at 01/06/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005 (revoked). (See end of Document for details)*

(4) The Secretary of State may delegate any or all of her functions under this regulation and may make such delegation to such extent (including geographical extent), and subject to such conditions, as she may determine.

[<sup>F3</sup>(4A) Where under paragraph (4) the Secretary of State delegates any function to a local authority in England, sections 108 and 110 of the Environment Act 1995 apply as if that local authority were an enforcing authority for the purposes of section 108.]

[<sup>F3</sup>(4B) In paragraph (4A) “local authority” means—

- (a) a county or a district council;
- (b) a London borough council;
- (c) the Common Council of the City of London;
- (d) the Council of the Isles of Scilly.]

(5) After making any delegation under paragraph (4), the Secretary of State shall forthwith give notice of the delegation, including its extent and where further details, including any conditions which the delegation is subject to, can be obtained, as follows—

- (a) for a delegation affecting England, Wales, or both, in the London Gazette;
- (b) for a delegation affecting Scotland, in the Edinburgh Gazette;
- (c) for a delegation affecting Northern Ireland, in the Belfast Gazette.

(6) The enforcement provisions in relation to Northern Ireland are set out in Schedule 4 <sup>M7</sup>.

#### Textual Amendments

**F3** Reg. 7(4A)(4B) inserted (E.) (23.12.2009) by [The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products \(Amendment\) \(England\) Regulations 2009 \(S.I. 2009/3145\)](#), regs. 1, 2

#### Marginal Citations

**M7** In England, Wales and Scotland, the enforcement powers in section 108 of the Environment Act 1995 apply.

## Offences

8.—(1) It shall be an offence to contravene regulation 4(1).

(2) Where an offence under paragraph (1) above, which has been committed by a body corporate, is proved to have been committed with the consent or connivance of, or to have been attributable to, any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be liable to prosecution.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) 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.

(4) Where an offence under paragraph (1) has been committed by a Scottish Partnership and has been committed with the consent or connivance of, or is attributable to the neglect of, a partner or a person who was purporting to act as such, that person as well as the partnership is guilty of the offence.

(5) Where a person charged with an offence under this regulation claims that the product was produced before the appropriate date in Schedule 2, it is for that person to prove that the product was

produced before that date and had not been placed on the market for more than 12 months following the appropriate date applicable to that product.

- (6) The maximum penalty on conviction for an offence under paragraph (1) shall be—
- (a) on summary conviction, a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, a fine.

#### **Amendment to the Pollution Prevention and Control (England and Wales) Regulations 2000**

9. The definition of “vehicle refinishing” in paragraph (2) of Section 7 (SED Activities) of Part 1 of Schedule 1 (Activities, Installations and Mobile Plant) to the Pollution Prevention and Control (England and Wales) Regulations 2000 shall be amended as respects England and Wales by deleting sub-paragraph (a) (the coating of road vehicles).

#### **Transitional provisions**

10. Any relevant product which—
- (a) does not meet the VOC limits required by Schedule 2; and
  - (b) was produced before the dates specified in Schedule 2,

may be placed on the market for a period of 12 months following the dates applicable to that product in Schedule 2.

*Ben Bradshaw*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

**Status:** Point in time view as at 01/06/2010.

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## SCHEDULE 1

Regulation 3(1)

1.—(1) For the purposes of these Regulations, “paints and varnishes” means products listed in the sub-categories below, excluding aerosols. They are coatings applied to buildings, their trim and fittings, and associated structures for decorative, functional and protective purpose.

(2) The sub-categories referred to in sub-paragraph (1) are—

- (a) “matt coatings for interior walls and ceilings” means coatings designed for application to indoor walls and ceilings with a degree of gloss  $\leq 25@60^\circ$ ;
- (b) “glossy coatings for interior walls and ceilings” means coatings designed for application to indoor walls and ceilings with a degree of gloss  $>25@60^\circ$ ;
- (c) “coatings for exterior walls of mineral substrate” means coatings designed for application to outdoor walls of masonry, brick or stucco;
- (d) “interior/exterior trim and cladding paints for wood, metal or plastic” means coatings designed for application to trim and cladding which produce an opaque film. These coatings are designed for either a wood, metal or a plastic substrate. This subcategory includes undercoats and intermediate coatings;
- (e) “interior/exterior trim varnishes and woodstains” means coatings designed for application to trim which produce a transparent or semi-transparent film for decoration and protection of wood, metal and plastics. This subcategory includes opaque woodstains. Opaque woodstains means coatings producing an opaque film for the decoration and protection of wood, against weathering, as defined in EN 927-1, within the semi-stable category;
- (f) “minimal build woodstains” means woodstains which, in accordance with EN 927-1:1996, have a mean thickness of less than  $5\mu\text{m}$  when tested according to ISO 2808: 1997, method 5A;
- (g) “primers” means coatings with sealing and/or blocking properties designed for use on wood or walls and ceilings;
- (h) “binding primers” means coatings designed to stabilise loose substrate particles or impart hydrophobic properties and/or to protect wood against blue stain;
- (i) “one-pack performance coatings” means performance coatings based on film-forming material. They are designed for applications requiring a special performance, such as primer and topcoats for plastics, primer coat for ferrous substrates, primer coat for reactive metals such as zinc and aluminium, anticorrosion finishes, floor coatings, including for wood and cement floors, graffiti resistance, flame retardant, and hygiene standards in the food or drink industry or health services;
- (j) “two-pack performance coatings” means coatings with the same use as one-performance coatings, but with a second component (e.g. tertiary amines) added prior to application;
- (k) “multicoloured coatings” means coatings designed to give a two-tone or multiple-colour effect, directly from the primary application;
- (l) “decorative effect coatings” means coatings designed to give special aesthetic effects over specially prepared pre-painted substrates or base coats and subsequently treated with various tools during the drying period.

2.—(1) For the purposes of these Regulations, “vehicle refinishing products” means products listed in the sub-categories below. They are used for the coating of road vehicles as defined in Directive 70/156/EEC<sup>M8</sup>, or part of them, carried out as part of vehicle repair, conservation or decoration outside of manufacturing installations.

(2) The sub-categories referred to in sub-paragraph (1) are—

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- (a) “preparatory and cleaning” means products designed to remove old coatings and rust, either mechanically or chemically, or to provide a key for new coatings:
- (i) preparatory products include gunwash (a product designed for cleaning spray-guns and other equipment), paint strippers, degreasers (including anti-static types for plastic) and silicone removers;
  - (ii) “precleaner” means a cleaning product designed for the removal of surface contamination during preparation for and prior to the application of coating materials;
- (b) “Bodyfiller/stopper” means heavy-bodied compounds designed to be applied to fill deep surface imperfections prior to the application of the surfacer/filler;
- (c) “primer” means any coating that is designed for application to bare metal or existing finishes to provide corrosion protection prior to application of a primer surfacer:
- (i) “surfacer/filler” means a coating designed for application immediately prior to the application of topcoat for the purpose of corrosion resistance, to ensure adhesion of the topcoat, and to promote the formation of a uniform surface finish by filling in minor surface imperfections;
  - (ii) “general metal primer” means a coating designed for application as primers, such as adhesion promoters, sealers, surfacers, undercoats, plastic primers, wet-on-wet, non-sand fillers and spray fillers;
  - (iii) “wash primer” means coatings containing at least 0,5 % by weight of phosphoric acid designed to be applied directly to bare metal surfaces to provide corrosion resistance and adhesion; coatings used as weldable primers; and mordant solutions for galvanised and zinc surfaces;
- (d) “topcoat” means any pigmented coating that is designed to be applied either as a single-layer or as a multiple-layer base to provide gloss and durability. It includes all products involved such as base coatings and clear coatings:
- (i) “base coatings” means pigmented coatings designed to provide colour and any desired optical effects, but not the gloss or surface resistance of the coating system;
  - (ii) “clear coating” means a transparent coating designed to provide the final gloss and resistance properties of the coating system;
- (e) “special finishes” means coatings designed for application as topcoats requiring special properties, such as metallic or pearl effect, in a single layer, high-performance solid-colour and clear coats, (e.g. anti-scratch and fluorinated clear- coat), reflective base coat, texture finishes (e.g. hammer), anti-slip, under-body sealers, anti-chip coatings, interior finishes; and aerosols.
- (3) In this Schedule—
- “coating” means any [<sup>F4</sup>mixture], including all the organic solvents or preparations containing organic solvents necessary for its proper application, which is used to provide a film with decorative, protective or other functional effect on a surface;
- “film” means a continuous layer resulting from the application of one or more coats to a substrate;
- [<sup>F5</sup>mixture” means mixtures or solutions composed of two or more substances.]
- “organic solvent” means any VOC which is used—
- (i) alone or in combination with other agents to dissolve or dilute raw materials, products, or waste materials;
  - (ii) as a cleaning agent to dissolve contaminants;

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- (iii) as a dispersion medium;
- (iv) as a viscosity adjuster;
- (v) as a surface tension adjuster;
- (vi) as a plasticiser; or
- (vii) as a preservative;

F6  
...

“substances” means any chemical element and its compounds, as they occur in the natural state or as produced by industry, whether in solid or liquid or gaseous form.

#### Textual Amendments

- F4** Word in Sch. 1 para. 2(3) substituted (1.6.2010) by [The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products \(Amendment\) Regulations 2010 \(S.I. 2010/783\)](#), regs. 1, **2(2)(a)**
- F5** Words in Sch. 1 para. 2(3) inserted (1.6.2010) by [The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products \(Amendment\) Regulations 2010 \(S.I. 2010/783\)](#), regs. 1, **2(2)(b)**
- F6** Words in Sch. 1 para. 2(3) omitted (1.6.2010) by virtue of [The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products \(Amendment\) Regulations 2010 \(S.I. 2010/783\)](#), regs. 1, **2(2)(c)**

#### Marginal Citations

- M8** O.J. L42, 23.2.1970, p.1, as last amended by Directive 2004/3/EC, O.J. L49, 19.2.2004, p.36.

## SCHEDULE 2

Regulations 4 and 5

### A. MAXIMUM VOC CONTENT LIMIT VALUES FOR PAINTS AND VARNISHES

	<i>Product Subcategory</i>	<i>Type (*)</i>	<i>Phase I (g/l (**))(from 1.1.2007)</i>	<i>Phase II (g/l (**))(from 1.1.2010)</i>
a	Interior matt walls and ceilings (Gloss #? #25@60°)	WB	75	30
		SB	400	30
b	Interior glossy walls and ceilings (Gloss >25@60°)	WB	150	100
		SB	400	100
c	Exterior walls of mineral substrate	WB	75	40
		SB	450	430
d	Interior/exterior trim and cladding paints for wood and metal	WB	150	130
		SB	400	300



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e	Interior/exterior trim varnishes and woodstains, including opaque woodstains	WB	150	130
		SB	500	400
f	Interior and exterior minimal build woodstains	WB	150	130
		SB	700	700
g	Primers	WB	50	30
		SB	450	350
h	Binding primers	WB	50	30
		SB	750	750
i	One-pack performance coatings	WB	140	140
		SB	600	500
j	Two-pack reactive performance coatings for specific end use such as floors	WB	140	140
		SB	550	500
k	Multi-coloured coatings	WB	150	100
		SB	400	100
l	Decorative effect coatings	WB	300	200
		SB	500	200

(\*) “solvent-borne coatings (SB)” means coatings the viscosity of which is adjusted by the use of organic solvent; and

“water-borne coatings (WB)” means coatings the viscosity of which is adjusted by the use of water;

where “coatings” has the meaning defined in paragraph 3 of Schedule 1.

(\*\*) g/l ready to use

## B. MAXIMUM VOC CONTENT LIMIT VALUES FOR VEHICLE REFINISHING PRODUCTS

	<i>Product Subcategory</i>	<i>Coatings</i>	<i>VOC g/l (* (1.1.2007))</i>
a	Preparatory and cleaning	Preparatory	850
		Pre-cleaner	200
b	Bodyfiller/stopper	All types	250

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c	Primer	Surfacer/filler and general (metal) primer Wash primer	540 780
d	Topcoat	All types	420
e	Special finishes	All types	840

(\*) g/l of ready for use product. Except for subcategory (a) any water content of the product ready for use should be discounted.

### SCHEDULE 3

Regulation 4(2)

#### METHODS REFERRED TO IN REGULATION 3(3)

<i>Parameter</i>	<i>Unit</i>	<i>Test</i>	<i>Date of publication</i>
VOC content	g/l	ISO 11890-2)	2002
VOC content where reactive diluents are present	g/l	ASTMD 2369)	2003

### SCHEDULE 4

Regulation 7(6)

#### ENFORCEMENT POWERS AND RELATED OFFENCES IN NORTHERN IRELAND

## PART 1

### POWERS OF ENTRY

1. An authorised person may, on production (if so required) of his authority, exercise any of the powers specified in paragraph 2 for the purpose of determining whether any provision of these Regulations is being, or has been, complied with.

2. The powers of an authorised person are—

- (a) to enter at any reasonable time any premises which he has reason to believe it is necessary for him to enter;
- (b) on entering any premises by virtue of sub-paragraph (a), to take with him—
  - (i) any other person duly authorised by the enforcing authority and, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
  - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) to make such examination and investigation as may in any circumstances be necessary;

- (d) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
  - (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
  - (f) to take samples, or cause samples to be taken, of any relevant product found in or on any premises which he has power to enter, and of the air, in, on, or in the vicinity of, the premises;
  - (g) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;
  - (h) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which it is necessary for him to see for the purposes of an examination or investigation under sub-paragraph (c), and to inspect and take copies of, or of any entry in, the records;
  - (i) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by paragraph 1 and this paragraph;
- 3.** The powers which under paragraphs 1 and 2 are conferred in relation to any premises for the purpose of enabling an enforcing authority to determine whether any provision of these Regulations is being, or has been, complied with shall include power, in order to obtain the information on which that determination may be made, to install, keep or maintain monitoring and other apparatus there.
- 4.** In any case where it is proposed to enter any premises used for residential purposes, any entry by virtue of this Part shall only be effected—
- (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question, and
  - (b) with the consent of a person who is in occupation of those premises;
- 5.** No answer given by a person in pursuance of a requirement imposed under paragraph 2(g) shall be admissible in evidence against that person in any proceedings.
- 6.** Nothing in this Part shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court.
- 7.** Nothing in section 98 of the Local Government Act (Northern Ireland) 1972 (c. 9) shall apply to powers conferred on an authorised person by a district council under this Part.

## PART II

### OFFENCES

- 8.** It is an offence for a person intentionally to obstruct an authorised person in the exercise of his powers or duties.

**Status:** Point in time view as at 01/06/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005 (revoked). (See end of Document for details)

9. It is an offence for a person, without reasonable excuse—
- (a) to fail to comply with any requirement imposed under Part I;
  - (b) to fail or refuse to provide facilities or assistance or any information or to permit any inspection reasonably required by an authorised person in the exercise of his powers or duties under that Part; or
  - (c) to prevent any other person from appearing before an authorised person, or answering any question to which an authorised person may require an answer under that Part.
10. A person guilty of an offence under paragraph 8 or 9 shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## PART III

### DEFINITIONS

11. In this Schedule—

“authorised person” means a person who is authorised in writing by an enforcing authority for the purposes of these Regulations;

“constable” has the meaning given to it by section 43A of the Interpretation Act (Northern Ireland) 1954 <sup>M9</sup>;

“enforcing authority” means—

- (a) the Secretary of State; or
- (b) where the Secretary of State has delegated any or all of her functions under Regulation 7(4) of these Regulations to the Department of the Environment or to a district council in Northern Ireland, that Department or district council;

“mobile plant” means plant which is designed to move or to be moved whether on roads or otherwise;

“premises” includes any land, vehicle, vessel or mobile plant.

#### Marginal Citations

**M9** 1954 c. 33 (N.I.).

## EXPLANATORY NOTE

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

These Regulations are made in implementation of Directive [2004/42/EC](#) (“the VOCs in Paints Directive”) on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products, and amending Directive [1999/13/EC](#) (the Solvent Emissions Directive).

The Volatile Organic Compounds in Paints Directive lays down maximum content limit values for volatile organic compounds (VOCs) which apply in two phases for paints and varnishes, that is

to say, from 1st January 2007 for the first phase limits, and from 1st January 2010 for the tighter, second phase limits. These limits are set out in Part A of Annex II to the Directive. The directive lays down a single set of content limit values for VOCs in vehicle refinishing products in Part B of Annex 2, which apply from 1st January 2007. Annex II is set out in Schedule 2 to these Regulations.

Regulation 3 applies the regulations to the products covered by Annex I of the VOCs in Paints Directive, unless they are for use outside the European Community or are for uses regulated by the regulations implementing Directive [1999/13/EC](#).

Regulation 4 limits the marketing of paints and varnishes and vehicle refinishing products, listed in Schedule 1, unless they have a VOC (volatile organic compound) content which does not exceed the limit values set out in Schedule 2 by the dates set out in that Schedule. Schedule 3 sets out the analytical methods to be applied in determining the VOC content of products.

Regulation 5 requires that products in Schedule 1 carry a label concerning the maximum VOC content of that product in a ready to use condition.

Regulation 6 designates the Secretary of State as the competent authority for the United Kingdom for ensuring fulfilment of the obligations of Directive [2004/42/EC](#), and requires that she consult the devolved administrations as necessary in the exercise of these responsibilities.

Regulation 7 provides that it is the Secretary of State's function to enforce the Regulations (though not to prosecute in Scotland, where the procurator fiscal prosecutes), and requires the Secretary of State to establish and maintain a programme of monitoring for the purpose of determining whether the Regulations are being complied with. The Secretary of State may delegate her monitoring and enforcement functions to others to such extent as she determines, but must publish appropriate notice of any such delegation. Except in Northern Ireland, section 108 of the Environment Act 1995 provides powers for persons authorised by (among other authorities) the Secretary of State to establish whether the regulations, being pollution control enactments, are being complied with and to obtain evidence necessary to take enforcement action. These powers include the power to enter premises and to take samples, which may be tested. Special provisions in relation to enforcement powers in Northern Ireland are set out in Schedule 4.

Regulation 8 creates offences of contravening regulation 4, and prescribes penalties. Directors and similar officers of bodies corporate are liable to conviction in certain circumstances where the offence is attributable to their fault. An evidential burden rests on a person relying on the transitional provision in regulation 10 to show when the product was produced. The maximum penalties are a fine on conviction on indictment, and on summary conviction, a fine of the statutory maximum, which, at the time of making these Regulations, is £5,000.

Regulation 9, which applies to England and Wales only, amends Section 7 of Part 1 of Schedule 1 to the Pollution Prevention and Control (England and Wales) Regulations 2000. This in turn gives effect to the implementation of the Solvent Emissions Directive by the Solvent Emissions (England and Wales) Regulations 2004. Regulation 9 deletes from the scope of the 2000 Regulations one category of "vehicle refinishing" which has been removed by Article 13 of Directive [2004/42/EC](#). Similar amendments will be made by the devolved administrations to the relevant regulations applicable to Scotland and Northern Ireland.

Regulation 10 provides transitional provisions. A product to which these Regulations apply may be placed on the market for 12 months after the appropriate date specified above if it was produced before that date.

The EN standards referred to in paragraph 1e) and f) of Schedule 1, may be obtained from any of the sales outlets operated by the British Standards Institute or the BSI via their website – <http://www.bsi-global.com/index.xalter>. The ISO standards referred to in paragraph 1e) of Schedule 1 and in Schedule 3, may be obtained from the International Organisation for Standardisation (ISO) via their website - <http://www.iso.org/iso/en/ISOOnline.frontpage>. The ASTM standard referred to in Schedule 3, can be obtained from ASTM International via their website - <http://www.astm.org>. A full Regulatory Impact Assessment and a transposition note has been prepared in connection with the amendments made by these Regulations, and placed in the library of each House of Parliament. Copies are obtainable from Ian Oldfield, Air and Environmental Quality Division,

**Status:** Point in time view as at 01/06/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005 (revoked). (See end of Document for details)

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