

**EXPLANATORY MEMORANDUM TO THE  
EXPORT AND IMPORT OF DANGEROUS CHEMICALS REGULATIONS**

**2005 No.928**

1. This explanatory memorandum has been prepared by The Health and Safety Executive and is laid before Parliament by the Command of Her Majesty.

**2. DESCRIPTION**

2.1 Export and Import of Dangerous Chemicals Regulations 2005 will make any breach of the requirements or prohibitions imposed on the exporter by European Union Regulation (EC) 304/2003 subject to the enforcement penalties of the 1974 Health and Safety at Work etc Act.

**3. MATTERS OF SPECIAL INTEREST TO THE JOINT COMMITTEE ON STATUTORY INSTRUMENTS**

3.1 Regulation (EC) 304/2003 was adopted on 7 March 2003 and is already binding in the UK. Article 18 of the Regulation requires all Member States to create enforcement powers to address infringements of the Regulation. This is the purpose of the proposed Export and Import of Dangerous Chemicals Regulations 2005.

**4. LEGISLATIVE BACKGROUND**

4.1 Regulation (EC) 304/2003 replaced Regulation (EC) 2455/92 on the 7 March 2003. Regulation (EC) 2455/92 implemented a joint United Nations Environment Programme and the Food and Agriculture Organisation of the United Nation scheme on trade in certain dangerous chemicals.

4.2 The new Regulation maintains the control measures of (EC) 2455/92 and implements a number of new measures sufficient to allow the European Community to;

(i) implement the recently ratified Rotterdam Convention. The Convention is an internationally recognised scheme agreed in 1998 requiring importing countries to give prior informed consent before certain hazardous chemicals and pesticides can be exported to them; and

(ii) reinforce the existing controls by including-

- (a) the separation of chemicals into sub-categories for pesticides and industrial chemicals for professional and consumer use;
- (b) banning the export of substances from the Community that are banned for use within the Community;
- (c) requiring chemicals to be exported at least six months before their expiry date;
- (d) extending the requirements of information exchange and technical assistance, and

- (e) adding 22 substances banned or severely restricted within the Community to the list requiring export notification.

4.3 Regulation (EC) 304/2003 is a direct acting measure, which does not require transposition into UK legislation. However Member States do have to make enforcement arrangements and this is the purpose of the proposed UK Regulations.

## **5. EXTENT**

5.1 The instrument will apply to the whole of Great Britain.

5.2 Northern Ireland is intending to implement similar penalties for infringements of the provisions of Regulation 304/2003.

## **6. EUROPEAN CONVENTION ON HUMAN RIGHTS.**

6.1 Not Applicable.

## **7. POLICY BACKGROUND**

7.1 The Health and Safety Commission launched a 13-week consultation exercise in April 2004 on the proposed UK Regulations. The consultation elicited 11 responses from individual companies, trade associations, trade unions, public sector bodies and private individuals. The responses are summarised below. The number of respondents shown in brackets

- no comments (3)
- exclusive comments in relation to Regulation (EC) 304/2003 (5)
- multiple comments ranging from, the proposal to grant HSE powers to comments on the explanatory note and background of the Consultative Document (3).

7.2 Only one company commented on the issue under consultation. They argued that UK regulations were premature and unnecessary. We have met the company and explained to them that this is not the case; we are treaty bound to set in place the arrangements to a strict deadline.

7.3 The Regulation requires limited duties to be undertaken by HM Customs and Excise. Officials and Lawyers of Customs and Excise have been consulted and have agreed to enforce them.

## **8. IMPACT**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **9. CONTACT**

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