

2007 No. 1596

ENVIRONMENTAL PROTECTION

**The Controls on Dangerous Substances and Preparations
(Amendment) Regulations 2007**

<i>Made</i> - - - -	<i>30th May 2007</i>
<i>Laid before Parliament</i>	<i>6th June 2007</i>
<i>Coming into force</i> - -	<i>30th June 2007</i>

The Secretary of State has been designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to measures relating to persistent organic pollutants, dangerous substances, preparations and chemicals. The Secretary of State makes the following Regulations under the powers conferred by that section:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Controls on Dangerous Substances and Preparations (Amendment) Regulations 2007 and come into force on 30th June 2007.

(2) In these Regulations, “the 2006 Regulations” means the Controls on Dangerous Substances and Preparations Regulations 2006^(c).

Amendments

2.—(1) In regulation 14(1) of the 2006 Regulations, for “regulation 13” substitute “regulation 13(1)”.

(2) Schedule 1 to the 2006 Regulations is replaced by Schedule 1 set out in the Schedule to these Regulations.

30th May 2007

Jeff Rooker
Minister of State
Department for Environment, Food and Rural Affairs

(a) S.I. 2006/608.

(b) 1972 c. 68. The power of the Minister to make regulations in relation to matters in or as regards Scotland is preserved by section 57(1) of the Scotland Act 1998 (c.46). The power of the Minister to make regulations in relation to matters in or as regards Wales is preserved by paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c.32).

(c) S.I. 2006/3311.

SCHEDULE

Regulation 2

“SCHEDULE 1

Regulation 3

Table of substances, preparations and restrictions

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
17.	Lead carbons: - neutral anhydrous carbonate Pb CO ₃ (CAS No 598-63-0) - trilead-bis(carbonate)-dihydroxide 2 Pb CO ₃ -Pb(OH) ₂ (CAS No 1319-46-6) Lead sulphates: PbSO ₄ (1:1) (CAS No 7446-14-2) Pb ₃ SO ₄ (CAS No 15739-80-7) Mercury compound	Council Directive 89/677/EEC (OJ L398, 30.12.1989, p.19)	May not be used as substances or constituents of preparations intended for use as paints except as provided under regulation 5.
18.		Council Directive 89/677/EEC (OJ L398, 30.12.1989, p.19)	May not be used as substances or constituents of preparations intended for use as paints except as provided under regulation 5.
19.		Council Directive 89/677/EEC	May not be used as substances and constituents of preparations intended for use: (a) to prevent the fouling by micro-organisms, plants or animals of:

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
		(OJ L398, 30.12.1989, p.19)	<ul style="list-style-type: none"> - the hulls of boats, - cages, floats, nets and any other appliances or equipment used for fish or shellfish farming, - any totally or partly submerged appliances or equipment; (b) in the preservation of wood; (c) in the impregnation of heavy-duty industrial textiles and yarn intended for their manufacture; (d) in the treatment of industrial waters, irrespective of their use.
20.	Arsenic compounds	Commission Directive 2006/139/EC (OJ L384, 29.12.2006, p.94)	<p>1. May not be used as substances and constituents of preparations intended for use:</p> <ul style="list-style-type: none"> (a) to prevent the fouling by micro-organisms, plants or animals of: <ul style="list-style-type: none"> - the hulls of boats, - cages, floats, nets and any other appliances or equipment used for fish or shellfish farming, - any totally or partly submerged appliances or equipment; (b) in the preservation of wood. Furthermore, wood so treated may not be placed on the market; (c) however, by way of derogation: <ul style="list-style-type: none"> (i) relating to the substances and preparations in the preservation of wood: these may only be used in industrial installations using vacuum or pressure to impregnate wood if they are solutions of inorganic compounds of copper, chromium, arsenic (CCA) type C. Wood so treated may not be placed on the market before fixation of the preservative is completed. (ii) relating to wood treated with CCA solutions in industrial installations according to point (i): this may be placed on the market for professional and industrial use provided that the structural integrity of the wood is required for human or livestock safety and skin contact by the general public during its service life is unlikely:

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Restrictions</i>
<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	- as structural timber in public and agricultural buildings, office buildings, and industrial premises,	
	- in bridges and bridgework,	- in bridges and bridgework,
	- as constructional timber in freshwater areas and brackish waters, e.g. jetties and bridges,	- as constructional timber in freshwater areas and brackish waters, e.g. jetties and bridges,
	- as noise barriers,	- as noise barriers,
	- in avalanche control,	- in avalanche control,
	- in highway safety fencing and barriers,	- in highway safety fencing and barriers,
	- as debarked round conifer livestock fence posts,	- as debarked round conifer livestock fence posts,
	- in earth retaining structures,	- in earth retaining structures,
	- as electric power transmission and telecommunications poles,	- as electric power transmission and telecommunications poles,
	- as underground railway sleepers.	- as underground railway sleepers.
	Without prejudice to the application of other Community provisions on the classification, packaging and labelling of dangerous substances and preparations, all treated wood placed on the market shall be individually labelled "For professional and industrial installation and use only, contains arsenic." In addition, all wood placed on the market in packs shall also bear a label stating "Wear gloves when handling this wood. Wear a dust mask and eye protection when cutting or otherwise crafting this wood. Waste from this wood shall be treated as hazardous by an authorised undertaking."	Without prejudice to the application of other Community provisions on the classification, packaging and labelling of dangerous substances and preparations, all treated wood placed on the market shall be individually labelled "For professional and industrial installation and use only, contains arsenic." In addition, all wood placed on the market in packs shall also bear a label stating "Wear gloves when handling this wood. Wear a dust mask and eye protection when cutting or otherwise crafting this wood. Waste from this wood shall be treated as hazardous by an authorised undertaking."
	(iii) treated wood referred to under points (i) and (ii) may not be used:	(iii) treated wood referred to under points (i) and (ii) may not be used:
	- in residential or domestic constructions, whatever the purpose,	- in residential or domestic constructions, whatever the purpose,
	- in any application where there is a risk of repeated skin contact,	- in any application where there is a risk of repeated skin contact,
	- in marine waters,	- in marine waters,
	- for agricultural purposes other than for livestock fence posts and structural uses in accordance with point (ii),	- for agricultural purposes other than for livestock fence posts and structural uses in accordance with point (ii),

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
21.	Organostannic compounds	Commission Directive 2002/62/EC (OJ L183, 12.7.2002, p.58)	<p>- in any application where the treated wood may come into contact with intermediate or finished products intended for human and/or animal consumption; and</p> <p>(d) by way of further derogation—</p> <p>(i) wood treated with arsenic compounds which is—</p> <p>(a) placed on the market in accordance with the conditions in points (ii) and (iii) of paragraph 1(c); or</p> <p>(b) in use in the Community before 30 September 2007, may remain in place and continue to be used until it reaches the end of its service life;</p> <p>(ii) wood treated with CCA type C which is—</p> <p>(a) placed on the market in accordance with the conditions in points (ii) and (iii) of paragraph 1(c); or</p> <p>(b) in use in the Community before 30 September 2007, may be used, reused or placed on the second hand market subject to the conditions in points (ii) and (iii) of paragraph 1(c); and</p> <p>(iii) wood treated with CCA solutions other than type C which is in use in the Community before 30 September 2007, may be used, reused or placed on the second hand market subject to the conditions in points (ii) and (iii) of paragraph 1(c).</p> <p>2. May not be used as substances and constituents of preparations intended for use in the treatment of industrial waters, irrespective of their use.</p> <p>1. May not be placed on the market for use as substances and constituents of preparations when acting as biocides in free association paint.</p> <p>2. May not be placed on the market or used as substances and constituents of preparations which act as biocides to prevent the fouling by microorganisms, plants or animals of:</p> <p>(a) all craft irrespective of their length intended for use in marine, coastal, estuarine and inland waterways and lakes;</p>

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
22.	di-μ-oxo-di-n-butylstanniohydroxyborane (C ₈ H ₁₉ BO ₃ S _n) (CAS No 75113-37-0)(DBB)	Council Directive 89/677/EEC (OJ L398, 30.12.1989, p.19)	(b) cages, floats, nets and any other appliances or equipment used for fish or shellfish farming; (c) any totally or partly submerged appliance or equipment. 3. May not be used as substances and constituents of preparations intended for use in the treatment of industrial waters. Shall be prohibited in a concentration equal to or greater than 0.1% in substances and constituents of preparations placed on the market. However, this provision shall not apply to this substance (DBB) or preparations containing it if these are intended solely for conversion into finished products, among which this substance will no longer feature in a concentration equal to or greater than 0.1%.
23.	Pentachlorophenol (CAS No 87-86-5) and its salts and esters	Commission Directive 1999/51/EC (OJ L142, 5.6.1999, p.22)	Shall not be used in a concentration equal to or greater than 0.1% by mass in substances or preparations placed on the market except as provided under regulation 6.
24.	Cadmium (CAS No 7440-43-9) and its compounds	Council Directive 91/338/EEC (OJ L186, 12.7.1991, p.59)	1.1. May not be used to give colour to finished products manufactured from the substances and preparations listed below ⁽¹⁾ : - polyvinyl chloride (PVC) [390410][390421] [390422] - polyurethane (PUR) [390950] - low density polyethylene (ld PE), with the exception of low density polyethylene used for the production of coloured masterbatch [390110] - cellulose acetate (CA) [391211][391212] - cellulose acetate butyrate (CAB) [391211][391212] - epoxy resins [390730]. In any case, whatever their use or intended final purpose, finished products or

<i>Point number in preparation Annex I to Council Directive 76/769/EEC</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
		<p>components of products manufactured from the substances and preparations listed above coloured with cadmium may not be placed on the market if their cadmium content (expressed as Cd metal) exceeds 0.01% by mass of the plastic material.</p> <p>1.2. Section 1.1 also applies for:</p> <p>(a) finished products manufactured from the following substances and preparations:</p> <ul style="list-style-type: none"> - melamine – formaldehyde (MF) [390920] - urea – formaldehyde (UF) [390910] - unsaturated polyesters (UP) [390791] - polyethylene terephthalate (PET) [390760] - polybutylene terephthalate (PBT) - transparent/general purpose polystyrene [390311][390319] - acrylonitrile methylmethacrylate (AMMA) - cross-linked polyethylene (VPE) - high-impact polystyrene - polypropylene (PP) [390210] <p>(b) paints [3208][3209]</p> <p>However, if the paints have a high zinc content, their residual concentration of cadmium must be as low as possible and at all events not exceed 0.1% by mass.</p> <p>1.3. However, sections 1.1 and 1.2 do not apply to products to be coloured for safety reasons.</p> <p>2.1. May not be used to stabilize the finished products listed below manufactured from polymers or copolymers of vinyl chloride:</p> <ul style="list-style-type: none"> - packaging materials (bags, containers, bottles, lids) [3923 29 10][392041][392042] - office or school supplies [392610] - fittings for furniture, coachwork or the like [392630] - articles of apparel and clothing accessories (including gloves) [392620]

<i>Point number in preparation Annex I to Council Directive 76/769/EEC</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
		<ul style="list-style-type: none"> - floor and wall coverings [391810] - impregnated, coated, covered or laminated textile fabrics [590310] - imitation leather [4202] - gramophone records [852410] - tubes and pipes and their fittings [391723] - swing doors - vehicles for road transport (interior, exterior, underbody) - coating of steel sheet used in construction or in industry - insulation for electrical wiring. <p>In any case, whatever their use or intended final purpose, the placing on the market of the above finished products or components of products manufactured from polymers or copolymers of vinyl chloride, stabilized by substances containing cadmium is prohibited, if their cadmium content (expressed as Cd metal) exceeds 0.01% by mass of the polymer.</p> <p>2.2. However, section 2.1 does not apply to finished products using cadmium-based stabilizers for safety reasons.</p> <p>3. “Cadmium plating” means any deposit or coating of metallic cadmium on a metallic surface.</p> <p>3.1. May not be used for cadmium plating metallic products or components of the products used in the sectors/applications listed below,</p> <p>(a) equipment and machinery for:</p> <ul style="list-style-type: none"> - food production [8210][841720][841981][842111][842112][8422][8435][8437][8438][847611] - agriculture [841931][842481][8432][8433][8434][8436] - cooling and freezing [8418] - printing and book-binding [8440][8442][8443],

<i>Point number in preparation Annex I to Council Directive 76/769/EEC</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
		<p>(b) equipment and machinery for the production of:</p> <ul style="list-style-type: none"> - household goods [7321][842112][8450][8509][8516] - furniture [8465][8466][9401][9402][9403][9404] - sanitary ware [7324] - central heating and air conditioning plant [7322][8403][8404][8415]. <p>In any case, whatever their use or intended final purpose, the placing on the market of cadmium-plated products or components of such products used in the sectors/applications listed in (a) and (b) above and of products manufactured in the sectors listed in (b) above is prohibited.</p> <p>The provisions referred to in Section 3.1 are also applicable to cadmium-plated products or components of such products when used in the sectors/applications listed in (a) and (b) below and to products manufactured in the sectors listed in (b) below:</p> <p>(a) equipment and machinery for the production of:</p> <ul style="list-style-type: none"> - paper and board [841932][8439][8441] - textiles and clothing [8444](1) [8445][8447][8448][8449][8451][8452], <p>(b) equipment and machinery for the production of:</p> <ul style="list-style-type: none"> - industrial handling equipment and machinery [8425][8426][8427][8428] [8429][8430][8431] - road and agricultural vehicles [chapter 87] - rolling stock [chapter 86] - vessels [chapter 89]. <p>3.3. However, Sections 3.1 and 3.2 do not apply to:</p> <ul style="list-style-type: none"> - products and components of the products used in the aeronautical, aerospace, mining, offshore and nuclear sectors whose applications require high safety standards and in safety devices in road and agricultural vehicles, rolling stock and vessels, - electrical contacts in any sector of use, on account of the reliability required of the

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25.	Monomethyl – tetrachlorodiphenyl methane Trade name: Ugilec 141 (CAS No 76253-60-6)	Council Directive 91/339/EEC (OJ L186, 12.7.1991, p.64)	apparatus on which they are installed. The marketing and use of this substance and of preparations and products containing it shall be prohibited. By way of exception this provision shall not apply: 1) in the case of plant and machinery already in service on 18 June 1994 until such plant and machinery is disposed of ⁽²⁾ ; 2) in the case of the maintenance of plant and machinery already in service on 18 June 1994. The placing on the second hand market of this substance, preparations containing this substance and plant/machinery containing this substance shall be prohibited. The marketing and use of this substance and of preparations and products containing it shall be prohibited.
26.	Monomethyl-dichloro-diphenyl methane. Trade name: Ugilec 121, Ugilec 21. (CAS No unknown)	Council Directive 91/339/EEC (OJ L186, 12.7.1991, p.64)	The marketing and use of this substance and of preparations and products containing it shall be prohibited.
27.	Monomethyl-dibromo-diphenyl methane. Trade name: DBBT (CAS No 99688-47-8)	Council Directive 91/339/EEC (OJ L186, 12.7.1991, p.64)	The marketing and use of this substance and of preparations and products containing it shall be prohibited.
41.	Hexachloroethane (CAS No 67-72-1) (EINECS Number 2006664)	Commission Directive 2001/91/EC (OJ L286, 30.10.2001, p.27)	May not be used in the manufacturing or processing of non-ferrous metals.
42.	Alkanes, C ₁₀ –C ₁₃ , chloro (short-chain chlorinated paraffins)	Directive 2002/45/EC of the European Parliament and of the Council	May not be placed on the market for use as substances or as constituents of other substances or preparations in concentrations higher than 1%: - in metalworking; - for fat liquoring of leather.

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44.	Diphenylether, pentabromo derivative C ₁₂ H ₅ Br ₅ O.	(OJ L177, 6.7.2002, p.21) Directive 2003/11/EC of the European Parliament and of the Council (OJ L42, 15.2.2003, p.45) as amended by Commission Directive 2004/98/EC (OJ L305, 1.10.2004, p.63)	1. May not be placed on the market or used as a constituent of substances or of preparations in concentrations higher than 0.1% by mass. 2. Articles may not be placed on the market if they, or flame-retardant parts thereof, contain this substance in concentrations higher than 0.1% by mass.
45.	Diphenylether, octabromo derivative C ₁₂ H ₂ Br ₈ O.	Directive 2003/11/EC of the European Parliament and of the Council (OJ L42, 15.2.2003, p.45)	1. May not be placed on the market or used as a constituent of substances or of preparations in concentrations higher than 0.1% by mass. 2. Articles may not be placed on the market if they, or flame-retardant parts thereof, contain this substance in concentrations higher than 0.1% by mass.
46.	(1) Nonylphenol C ₆ H ₄ (OH)C ₉ H ₁₉ (2) Nonylphenol ethoxylate (C ₂ H ₄ O) _n C ₁₅ H ₂₄ O	Directive 2003/53/EC of the European Parliament and of the Council (OJ L178, 17.7.2003, p.24)	May not be placed on the market or used as a substance or constituent of preparations in concentrations equal or higher than 0.1% by mass for the following purposes: (1) industrial and institutional cleaning except: - controlled closed dry cleaning systems where the washing liquid is recycled or incinerated, - cleaning systems with special treatment where the washing liquid is recycled or incinerated; (2) domestic cleaning; (3) textiles and leather processing except:

<i>Point number in Annex I to Council Directive 76/769/EEC</i>	<i>Substance or preparation</i>	<i>Directives amending Council Directive 76/769/EEC relevant to the substance or preparation</i>	<i>Restrictions</i>
49.	Trichlorobenzene CAS No 120-82-1	Directive 2005/59/EC of the European Parliament and of the Council (OJ L309, 25.11.2005, p.13)	<ul style="list-style-type: none"> - processing with no release into waste water, - systems with special treatment where the process water is pre-treated to remove the organic fraction completely prior to biological waste water treatment (degreasing of sheepskin): <ul style="list-style-type: none"> (4) emulsifier in agricultural teat dips; (5) metal working except: <ul style="list-style-type: none"> - uses in controlled closed systems where the washing liquid is recycled or incinerated; (6) manufacturing of pulp and paper; (7) cosmetic products; (8) other personal care products except spermicides; (9) co-formulants in pesticides and biocides except as provided under regulation 7. <p>May not be placed on the market or used as a substance or constituent of preparations in a concentration equal to or higher than 0.1% by mass for all uses except</p> <ul style="list-style-type: none"> - as an intermediate of synthesis; - as a process solvent in closed chemical applications for chlorination reactions; or - in the manufacture of 1,3,5 – trinitro – 2,4,6 – triaminobenzene (TATB).
50.	Polycyclic-aromatic hydrocarbons (PAH) 1. Benzo(a)pyrene (BaP) CAS No 50-32-8 2. Benzo(e)pyren (BeP) CAS No 192-97-2 3. Benzo(a)anthracene (BaA)	Directive 2005/69/EC of the European Parliament and of the Council (OJ L323, 9.12.2005, p.51)	<p>1. On or after 1st January 2010, extender oils may not be placed on the market and used for the production of tyres or parts of tyres, if they contain:</p> <ul style="list-style-type: none"> - more than 1mg/kg BaP; or - more than 10mg/kg of the sum of all listed PAHs. <p>These limits are regarded as kept, if the polycyclic aromatics (PCA) extract is less than 3% by mass, as measured by the Institute of Petroleum standard IP346:1998 (Determination of PCA in unused lubricating base oils and asphaltene free petroleum fractions – Dimethyl sulphoxide extraction refractive index method), provided that</p>

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	CAS No 56-55-3		compliance with the limit values of BaP and of the listed PAHs, as well as the correlation of the measured values with the PCA extract, is controlled by the manufacturer or importer every six months or after each major operational change, whichever is earlier.
	4. Chrysen (CHR)		
	CAS No 218-01-9		
	5. Benzo(b)fluoranthene (BbFA)		
	CAS No 205-99-2		2. Furthermore, the tyres and treads for retreading manufactured on or after 1st January 2010 may not be placed on the market if they contain extender oils exceeding the limits indicated in paragraph 1.
	6. Benzo(j)fluoranthene (BjFA)		These limits are regarded as kept, if the vulcanised rubber compounds do not exceed the limit of 0.35% Bay protons as measured and calculated by ISO 21461 (Rubber vulcanised – Determination of aromaticity of oil in vulcanised rubber compounds).
	CAS No 205-82-3		3. By way of derogation, paragraph 2 shall not apply to retreaded tyres if their tread does not contain extender oils exceeding the limits indicated in paragraph 1.
	7. Benzo(k)fluoranthene (BkFA)		
	CAS No 207-08-9		
	8. Dibenzo(a, h)anthracene (DBAhA)		
	CAS No 53-70-3		

⁽¹⁾ The numbers and chapter numbers contained in the column are those used under Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No L256, 7.9.1987).

⁽²⁾ Member States were permitted, as from 18 June 1994, on grounds of health protection and environmental protection, to prohibit within their territory the use of such plant or machinery before it was disposed of. No such additional restriction is imposed under these Regulations.²⁹

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations substitute a new Schedule 1 to the Controls on Dangerous Substances and Preparations Regulations 2006 (S.I. 2006/3311) (“the 2006 Regulations”). In that Schedule, point 20 (arsenic compounds) is amended to give effect to Commission Directive 2006/139/EC (OJ L384, 29.12.2006, p.94). That Directive amends the restrictions set out in Annex I of Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (OJ L262, 27.9.1976, p.201). A minor amendment is also made to regulation 14 of the 2006 Regulations.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen. A transposition note is available from the Chemicals and Nanotechnology Division, Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR and at www.defra.gov.uk. Copies have been placed in the library of each House of Parliament.

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