
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the REACH Enforcement Regulations 2008 ([S.I. 2008/2852](#)) (“the 2008 Regulations”).

The 2008 Regulations provide for the enforcement in the United Kingdom of Regulation ([EC](#)) [No. 1907/2006](#) of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ No L 396, 30.12.2006, p1, as read with corrigenda published in OJ No L 136, 29.5.2007, p3 and OJ No L 36, 5.2.2009, p84) (“the REACH Regulation”).

Regulation 3(1) inserts an updated definition of “REACH” in regulation 2 of the 2008 Regulations, which includes future amendments to the REACH Regulation.

Regulations 3(2), 4, 7 to 9, 12 and 13 provide for the inclusion of the Office of Rail Regulation as a new enforcing authority under the 2008 Regulations.

Regulations 5 and 11 insert a new regulation 8A and Schedule 5A into the 2008 Regulations. These provide for the exercise of a derogation for the marketing of articles containing asbestos fibres as set out in entry 6 of Annex XVII to the REACH Regulation (Annex XVII was amended by [Commission Regulation \(EC\) No 552/2009](#) amending Regulation ([EC](#)) [No 1907/2006](#) of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards Annex XVII (OJ No L 164, 26.6.2009, p7)). The new regulation 8A allows the marketing of articles containing asbestos which were installed or in service before 1st January 2005 where this is done in accordance with an asbestos exemption certificate. Asbestos exemption certificates may be issued by the Health and Safety Executive, the Health and Safety Executive for Northern Ireland, the Office of Rail Regulation or the competent authority, in accordance with the requirements in the new Schedule 5A.

Regulation 6 inserts a new regulation 24 in the 2008 Regulations requiring the Secretary of State to conduct regular reviews of the operation of those Regulations in England, and set out the conclusions of that review in a published report every five years, starting from the coming into force date of this instrument.

Regulations 7 and 10 make minor updating amendments to the 2008 Regulations that reflect changes made to the REACH Regulation since the 2008 Regulations came into force.

Regulation 15 revokes instruments that implemented Council Directive No [76/769/EEC](#) (OJ No L 262, 27.9.1976, p201) (as amended) which is now repealed by Article 139 of REACH.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Chemicals and Nanotechnology team, Department for Environment, Food and Rural Affairs, Area 2A, Nobel House, 17 Smith Square, London SW1P 3JR and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.