

**2020 No. 489**

**ENVIRONMENTAL PROTECTION, ENGLAND AND WALES**

**The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) (Amendment) Regulations 2020**

*Made* - - - - at 9.30 a.m. on 5th May 2020

*Laid before Parliament* at 2.30 p.m. on 5th May 2020

*Coming into force* - - 1st July 2020

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State has been designated for the purposes of section 2(2) of that Act in relation to persistent organic pollutants(b).

**Citation and commencement**

1.—(1) These Regulations may be cited as the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) (Amendment) Regulations 2020.

(2) These Regulations come into force on 1st July 2020.

**Amendments to the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000**

2.—(1) The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000(c) are amended as follows.

(2) In regulation 2(1), in the definition of “PCBs”, for “4(3) and (4), 5(3), 6(2) and 9(3)” substitute “4(3A), (3C) and (4), 5(3) and 9(3)”.

(3) In regulation 4—

(a) in paragraph (1), for “(2), (3)” substitute “(2) to (3D)”;

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(a) 1972 c. 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1)). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

(b) S.I. 2006/608.

(c) S.I. 2000/1043, amended by S.I. 2010/1159, 2010/1820 (W. 177), 2013/755 (W. 90); there are other amending instruments but none is relevant.

- (b) for paragraph (3), substitute—
- “(3A) Paragraph (3B) applies to a transformer in respect of which it is reasonable to assume that the fluids contain—
- (a) 0.005% by weight, or less, of PCBs; or
  - (b) a total volume of 0.05dm<sup>3</sup>, or less, of PCBs.
- (3B) A transformer to which this paragraph applies—
- (a) may be held until the end of its useful life; and
  - (b) must then be decontaminated in accordance with paragraph (4)(b) to (d), or disposed of, as soon as possible.
- (3C) Paragraph (3D) applies to a transformer in respect of which it is reasonable to assume that the fluids contain—
- (a) more than 0.005% but no more than 0.05% by weight of PCBs; and
  - (b) a total volume of more than 0.05dm<sup>3</sup> of PCBs.
- (3D) A transformer to which this paragraph applies—
- (a) may be held until the end of 31st December 2025; and
  - (b) must then be decontaminated in accordance with paragraph (4)(b) to (d), or disposed of, as soon as possible.”;

(c) in paragraph (4)(a), for “less than 0.05% by weight and, if possible, to no more than 0.005% by weight” substitute “0.005% by weight, or less, or a total volume of 0.05dm<sup>3</sup>, or less”;

(d) in paragraph (9)—

    - (i) in paragraph (a), for “(2), (3)” substitute “(2) to (3D)”;
    - (ii) in paragraphs (b) and (c), for “not contaminated”, in both places it occurs, substitute “relevant”;

(e) after paragraph (9) insert—

“(10) In paragraph (9), “relevant equipment” means any equipment (including any capacitor or receptacle containing residual stocks) which—

    - (a) contains PCBs; or
    - (b) having contained PCBs, has not been decontaminated,

other than one which contains a total volume of PCBs exceeding 0.05dm<sup>3</sup>.

(11) For the purposes of paragraph (10)—

    - (a) the PCB volume of a power capacitor shall be measured by reference to all of the separate elements of a combined set; and
    - (b) any thing of a type which may contain PCBs shall be treated as containing PCBs unless it is reasonable to assume the contrary.”.

(4) For regulation 5(3) substitute—

“(3) Equipment in respect of which it is reasonable to assume that the fluids contain—

      - (a) 0.005% by weight, or less, of PCBs; or
      - (b) a total volume of 0.05dm<sup>3</sup>, or less, of PCBs,

may be labelled as “PCBs contaminated <0.005% or <0.05dm<sup>3</sup>.”.

(5) Omit regulation 6(2)(b).

(6) In regulation 10, in paragraph (1), for “(2), (3)” substitute “(2) to (3D)”.

(7) For regulation 13(2)(c)(i), substitute—

      - “(ia) in a case to which paragraph (3A) of regulation 4 applies, as soon as possible after the end of its useful life;

(ib) in a case to which paragraph (3C) of regulation 4 applies, as soon as possible after 31st December 2025;”.

(8) In regulation 13A(1), in the table, for the entry relating to regulation 13(2)(c)(i) substitute—

“regulation 13(2)(c)(ia)	Yes	Yes	No	Yes
regulation 13(2)(c)(ib)	Yes	Yes	No	Yes”.

(9) In regulation 13B(1), in the table, for the entry relating to regulation 13(2)(c)(i) substitute—

“regulation 13(2)(c)(ia)	Yes	Yes	No	Yes
regulation 13(2)(c)(ib)	Yes	Yes	No	Yes”.

*Rebecca Pow*

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

At 9.30 a.m. on 5th May 2020

#### **EXPLANATORY NOTE**

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

These Regulations partially implement Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants (recast) (OJ No. L 169, 25.6.2019, p. 45).

Regulation 2(3) amends regulation 4 of the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000 (S.I. 2000/1043) (“2000 Regulations”), in particular by replacing paragraph (3) with new paragraphs (3A) to (3D).

This amendment partially implements the second sentence of the entry in the fourth column of the row relating to Polychlorinated Biphenyls in the table at Part A of Annex 1 to Regulation (EU) 2019/1021. That sentence provides that Member States shall identify and remove from use equipment (e.g. transformers, capacitors or other receptacles containing liquid stocks) containing more than 0.005 % PCBs and volumes greater than 0.05 dm<sup>3</sup>, as soon as possible but no later than 31st December 2025.

The remaining provisions make related changes to the 2000 Regulations, in particular to regulation 13 (offences and penalties), regulation 13A (civil sanctions in England) and regulation 13B (civil sanctions in Wales).

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector may be seen alongside this instrument at [legislation.gov.uk](http://legislation.gov.uk) or obtained by writing to the Department for Environment, Food and Rural Affairs, Ground Floor, Seacole Building, 2 Marsham Street, London SW1P 4DF.

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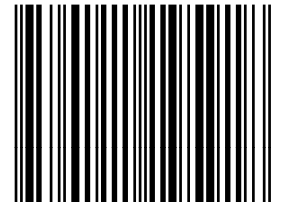
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