

2002 No. 302

HEALTH AND SAFETY

**Biocidal Products (Amendment) Regulations
(Northern Ireland) 2002**

Made - - - - - *30th September 2002*

Coming into operation *14th November 2002*

The Department of Enterprise, Trade and Investment(**a**), being a Department designated(**b**) for the purpose of section 2(2) of the European Communities Act 1972(**c**) in relation to the notification and control of substances and to measures relating to biocides, in exercise of the powers conferred on it by the said section 2(2) and, being the Department concerned(**d**), in exercise of the powers conferred on it by Articles 17(1), (2), (3) and (5), 40(2) and (4) and 55(2) of, and paragraphs 1(1), (4) and (5), 3(1), 12(1), 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**e**) and of every other power enabling it in that behalf, and for the purpose of giving effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A) of that Order(**f**), after the carrying out by the said Executive of consultations in accordance with Article 46(3)(**g**) of that Order, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Biocidal Products (Amendment) Regulations (Northern Ireland) 2002 and shall come into operation on 14th November 2002.

Amendment of the Biocidal Products Regulations (Northern Ireland) 2001

2.—(1) The Biocidal Products Regulations (Northern Ireland) 2001(**h**) shall be amended in accordance with the following paragraphs.

(2) For paragraph (5) of regulation 8 there shall be substituted the following paragraph:

“(5) It shall be the duty of any person using a biocidal product containing an active substance which is included in Annex 1B to use that product in a manner which involves the rational application of a combination of physical, biological, chemical or other measures as appropriate to limit the use of biocidal products to the minimum necessary for the effective control of target organisms.”.

(3) After sub-paragraph (3) of paragraph 2 of Schedule 10 there shall be added the following sub-paragraph:

(**a**) Formerly the Department of Economic Development; *see* S.I. 1999/283 (N.I. 1), Article 3(5)
(**b**) S.I. 1981/1536 and S.I. 1999/2788
(**c**) 1972 c. 68
(**d**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**e**) S.I. 1978/1039 (N.I. 9)
(**f**) Article 13(1A) was inserted by S.I. 1998/2795 (N.I. 18), Article 4
(**g**) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18(c)
(**h**) S.R. 2001 No. 422

“(4) Without prejudice to the generality of sub-paragraphs (1) to (3), any person who fails to discharge a duty under regulation 8(5) shall be guilty of an offence under Article 31(1)(c) of the 1978 Order.”.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 30th September 2002.

(L.S.)

James McKeown

A senior officer of the Department of Enterprise, Trade and Investment

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Biocidal Products Regulations (Northern Ireland) 2001 (S.R. 2001 No. 422) by –

- (a) replacing paragraph (5) of regulation 8 with a new paragraph defining the duty on any person using a biocidal product containing certain active substances; and
- (b) introducing a new provision into Schedule 10 to explicitly make a breach of that duty an offence.

The effect of these amendments is to clarify that, in any prosecution for breach of the duty under regulation 8(5), the onus lies on the prosecution to prove that the use of the product was not in accordance with the requirements of the duty.

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