
STATUTORY INSTRUMENTS

1993 No. 3050

The Notification of New Substances Regulations 1993

PART IV

DISCLOSURE OF INFORMATION

Disclosure of information provided under Part II of these Regulations

18.—(1) Subject to the following paragraphs of this regulation, in so far as any provision in Part II is made under section 2(2) of the European Communities Act 1972, information notified under that provision shall be treated as relevant information for the purposes of section 28 of the Health and Safety at Work etc. Act 1974.

(2) Where a person making a notification in pursuance of Part II indicates that it contains certain information the disclosure of which might harm his competitive position and should be kept confidential, full justification for that indication shall be given and the competent authority shall decide which information shall be kept confidential and shall inform the notifier of the decision.

(3) Nothing in paragraph (2) shall apply to the following information which, where applicable, cannot be kept confidential—

- (a) the trade name of the substance;
- (b) the name of the manufacturer and notifier;
- (c) the physico-chemical data concerning the substance provided in paragraph 3 of Part A, B or C (as appropriate) of Schedule 2;
- (d) the possible ways of rendering the substance harmless;
- (e) the summary results of toxicological and ecotoxicological tests;
- (f) if essential to the classification and labelling for the purpose of introducing the substance into Annex I to the Directive, the degree of purity of the substance and the identity of any impurity or additive which is known to be a dangerous substance;
- (g) the recommended methods and precautions referred to in paragraph 2.3 and the emergency measures referred to in paragraph 2.4 or 2.5 of Part A, B or C (as appropriate) of Schedule 2;
- (h) in the case of a substance which is a dangerous substance, the information to be contained in the safety data sheet provided for the purposes of regulation 6 of the Chemicals (Hazard Information and Packaging) Regulations 1993; and
- (i) in the case of substances listed in the approved supply list, analytical methods that make it possible to detect the substance when discharged into the environment and to determine the direct exposure of humans.

(4) If the manufacturer, an importer or the notifier himself subsequently discloses previously confidential information he shall inform the competent authority accordingly and such information shall no longer be treated as being confidential for the purposes of these Regulations.

Treatment of confidential information

19.—(1) Information which the competent authority has agreed shall be kept confidential shall not be disclosed except—

- (a) with the consent of the notifier;
- (b) to another competent authority or to the European Commission;
- (c) to the extent necessary to evaluate the notification and prepare the risk assessment; or
- (d) for the purposes of legal proceedings.

(2) The competent authority shall inform the other competent authorities and the European Commission of what information it has agreed shall be kept confidential.

(3) Where the competent authority receives information which another competent authority has agreed shall be kept confidential, it shall also treat that information as confidential and shall not disclose it except in accordance with paragraph (1).

Substances appearing in the list of notified substances

20.—(1) A person who makes a notification under regulation 4 or 6(1) or

(2) may at the time of making the notification—

- (a) in the case of a substance that is not a dangerous substance, request the competent authority to require the European Commission to enter it in ELINCS in the form of its trade name for the maximum of 3 years from the date of the entry; or
- (b) in the case of a substance which is a dangerous substance, request the competent authority to require the European Commission to enter it in ELINCS in the form of its trade name until such time as that substance has been introduced into Annex I of the Directive; and in either case the competent authority shall accede to that request.

(2) In a case in which—

- (a) a request had been made in accordance with sub-paragraph (a) of paragraph (1); and
- (b) the notifier considers that the publication of the chemical name in the IUPAC nomenclature itself could reveal information concerning the commercial exploitation or manufacture of the substance,

the notifier may request the competent authority to require the European Commission to enter it in ELINCS in the form of its trade name for so long as the competent authority sees fit, and in such a case the competent authority shall accede to that request unless it considers that the publication of the chemical name in the IUPAC nomenclature itself could not reveal information concerning the commercial exploitation or manufacture of the substance.