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STATUTORY INSTRUMENTS

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**1993 No. 3050**

**The Notification of New Substances Regulations 1993**

**PART V**

**MISCELLANEOUS AND GENERAL**

**Enforcement and civil liability**

**21.**—(1) Insofar as any provision of regulations 4 to 20 is made under section 2(2) of the European Communities Act 1972<sup>(1)</sup>—

- (a) subject to paragraph (2), the provisions of the Health and Safety at Work etc. Act 1974 which relate to the approval of codes of practice and their use in criminal proceedings, enforcement and offences shall apply to that provision as if that provision had been made under section 15 of that Act; and
- (b) breach of any duty imposed by any provision of those regulations shall confer a right of action in civil proceedings, if that breach of duty causes damage.

(2) Notwithstanding regulation 3 of the Health and Safety (Enforcing Authority) Regulations 1989<sup>(2)</sup> and subject to regulation 22(2), the enforcing authority for these Regulations shall be the Executive.

**Prohibition of importation and placing on the market of unnotified substances**

**22.**—(1) Where a new substance is required to be notified under regulation 4 or 6, the importation of that substance into the United Kingdom is prohibited unless it has been duly notified in accordance with that regulation.

(2) Any contravention of paragraph (1) shall be punishable under the Customs and Excise Management Act 1979<sup>(3)</sup> and not as a contravention of a health and safety regulation.

(3) Where the Executive has reasonable cause to believe that a person has or is likely to have in his possession a new substance to which these Regulations apply and which has not been duly notified in accordance with regulation 4 or 6 or Article 7(1) of the Directive it may, by notice in writing prohibit that person from placing that substance on the market or disposing of it until 60 days, or in the case of a substance that is required to be notified under regulation 6 30 days, after in either case it has been duly notified.

**Exemption certificates**

**23.**—(1) Subject to paragraph (2) and to any provisions imposed by the Communities in respect of the notification, control and regulation of substances, the Executive may, by a certificate in writing, exempt any person or class of persons, substance or class of substances from all or any of the

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(1) 1972 c. 68.  
(2) S.I.1989/1903.  
(3) 1979 c. 2.

requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, that it proposes to attach to the exemption; and
- (b) any requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption or the protection of the environment will not be prejudiced in consequence of it.

#### **Fees for notifications etc.**

**24.** The fee fixed by column 2 of Schedule 4 shall be payable in advance by a notifier to the Executive in relation to any matter referred to in the corresponding entry in column 1 of that Schedule.

#### **Revocations, amendments and transitional provisions**

**25.—**(1) The following Regulations are revoked—

- (a) the Notification of New Substances Regulations 1982<sup>(4)</sup>;
- (b) the Notification of New Substances (Amendment) Regulations 1986<sup>(5)</sup>; and
- (c) the Notification of New Substances (Amendment) Regulations 1991<sup>(6)</sup>.

(2) In the Chemicals (Hazard Information and Packaging) Regulations 1993—

- (a) in regulation 5(3)—
  - (i) for “the Notification of New Substances Regulations 1982”, there shall be substituted “the [Notification of New Substances Regulations 1993 \(S.I.No.3050\)](#)”, and
  - (ii) for “regulation 4(1)”, there shall be substituted “regulation 4 or (1) or (2)”;
- (b) in regulation 18(3) at the end (but before the full stop) there shall be added the words “and as if the maximum period of imprisonment on summary conviction specified in subsection (5) thereof were 3 months instead of 6 months”; and
- (c) regulation 21(4) shall be revoked.

(3) After 31st January 1994, notifications made under the Notification of New Substances Regulations 1982 as in force immediately before that date shall be treated as notifications made under these Regulations and the requirements of these Regulations shall apply to such notifications as they apply to notifications made after that date.

(4) Between 31st January 1994 and 31st July 1994, it shall be a sufficient compliance with these Regulations, if a notifier provides such information (if any) about a new substance as was required by the Notification of New Substances Regulations 1982 as in force immediately before the coming into force of these Regulations, and other additional information required under these Regulations by 31st July 1994.

(5) In the case of a new substance which was not required to be notified under the Notification of New Substances Regulations 1982 as for the time being in force by virtue of a certificate of exemption granted under regulation 12 of those Regulations, it shall be a sufficient compliance with

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(4) S.I. [1982/1496](#).

(5) S.I. [1986/890](#).

(6) S.I. [1991/1914](#).

these Regulations if the notifier notifies the substance in accordance with these Regulations before 31st July 1994.