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STATUTORY INSTRUMENTS

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**2005 No. 2773**

**The Volatile Organic Compounds in Paints, Varnishes  
and Vehicle Refinishing Products Regulations 2005**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005 and come into force on 1<sup>st</sup> November 2005.

(2) With the exception of regulation 9, which extends to England and Wales only, these Regulations extend to the whole of the United Kingdom.

**Definitions**

2. In these Regulations—

“organic compound” means any compound containing at least the element carbon and one or more of hydrogen, oxygen, sulphur, phosphorus, silicon, nitrogen, or a halogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates;

“relevant product” has the meaning given by regulation 3(1);

“volatile organic compound” (VOC) means any organic compound having an initial boiling point less than or equal to 250°C measured at a standard pressure of 101,3 kPa;

“VOC content” means the mass of volatile organic compounds, expressed in grams/litre (g/l), in the formulation of the product in its ready to use condition; the mass of volatile organic compounds in a given product which react chemically during drying to form part of the coating shall not be considered part of the VOC content.

**Scope**

3.—(1) Subject to paragraphs (2) and (3) below, these Regulations apply to the paints, varnishes, vehicle refinishing products and subcategories as defined in Schedule 1 to these Regulations (“the relevant products”).

(2) These Regulations do not apply to relevant products that are to be used in a country or territory outside the customs territory of the European Community.

(3) These Regulations shall not apply to products which are sold for exclusive use in an activity—

- (a) which is a SED (solvent emissions directive) Activity; and
- (b) carried out in a SED installation.

(4) In this regulation—

“SED Activity” means any activity falling within —

- (i) section 7 of Part 1 of Schedule 1 of the Pollution Prevention and Control (England and Wales) Regulations 2000(1);

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(1) [S.I.2000/1973](#) as amended by the Solvent Emissions (England and Wales) Regulations 2004, [S.I.2004/107](#), which implement in England and Wales Directive [1999/13/EC](#), O.J. L85, 23.3.1999, p.1 (and cover new and existing solvent emissions

- (ii) the section in Chapter 7 of Part 1 of Schedule 1 of the Pollution Prevention and Control (Scotland) Regulations 2000(2) where operated above the solvent consumption thresholds specified for that activity as set out in that section of that Chapter; and
- (iii) section 7 of Part 1 of Schedule 1 of the Pollution Prevention and Control Regulations (Northern Ireland) 2003(3);

“SED installation” means—

- (i) a stationary technical unit where one or more SED activities are carried out; and
- (ii) any other location on the same site where any other directly associated activities are carried out.

### **Limitations on marketing paints and varnishes and vehicle refinishing products**

4.—(1) Subject to regulation 10, it shall not be lawful to place on the market any relevant product after the dates laid down for that product in Schedule 2 to these Regulations(4), unless that product—

- (a) has a VOC content not exceeding the limit value set out for that product in Schedule 2; and
- (b) carries a label in compliance with regulation 5.

(2) In determining compliance with the VOC content limit values set out in Schedule 2, the analytical methods set out in Schedule 3(5) apply.

(3) For relevant products to which solvents or other components containing solvents have to be added for the product to be ready for use, the limit values in Schedule 2 shall apply to the VOC content of the product in its ready for use condition.

### **Labelling**

5.—(1) A label referred to in regulation 4(1)(b) must indicate—

- (a) the sub-category of the product and the relevant VOC limit values, measured in g/l, as set out in Schedule 2; and
- (b) the maximum content of VOC in g/l of the product in a ready to use condition.

(2) Paragraph (1) is without prejudice to any requirement in any other enactment that requires a relevant product to be marked or labelled.

### **Designation of competent authority**

6.—(1) The Secretary of State is designated as the competent authority for the purposes of Article 5 (responsibility for fulfilment of obligations) of the Directive.

(2) In exercising her responsibilities under these Regulations, insofar as relevant responsibilities have been devolved to them the Secretary of State shall consult—

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- installations or SED installations and SED activities), as amended by Regulation (EC) No. 1882/2003, O.J. L2884, 31.10.2003, p.1. There are other amending instruments but none is relevant.
  - (2) [S.S.I. 2000/323](#) as amended by the Solvent Emissions (Scotland) Regulations 2004, [S.S.I. 2004/126](#) and the Pollution Prevention and Control (Scotland) Amendment (No.2) Regulations 2005, [S.S.I. 2005/340](#), which implement in Scotland Directive [1999/13/EC](#), O.J. L85, 23.3.1999, p.1 (and cover new and existing solvent emissions installations or SED installations and SED activities), as amended by Regulation (EC) No. 1882/2003, O.J. L2884, 31.10.2003, p.1. There are other amending instruments but none is relevant.
  - (3) [S.R. 2003 No.46](#) as amended by the [Solvent Emissions Regulations \(Northern Ireland\) 2004 S.R. 2004 No.36](#) and the [Pollution Prevention and Control \(Amendment\) and Connected Provisions \(No.2\) Regulations \(Northern Ireland\) 2005 S.R.2005 No.285](#) which implement in Northern Ireland Directive [1999/13/EC](#). O.J.L85,23.3.1999,p1 (and cover new and existing solvent emissions installations or SED installations and SED activities)as amended by Regulation (EC) No.1882/2003,O.J. L2884,31.10.2003 p.1. There are other amending instruments but none is relevant.
  - (4) Schedule 2 sets out the maximum VOC content limit values in Annex II to the Directive.
  - (5) Schedule 3 sets out the analytical methods in Annex III to the Directive and referred to in Article 3.1 of that Directive.

- (a) the Scottish Ministers;
- (b) the Welsh Assembly Government; and
- (c) the Northern Ireland Department of the Environment.

### **Monitoring and enforcement**

7.—(1) The Secretary of State shall establish and maintain a programme of monitoring for the purpose of verifying compliance with these Regulations.

(2) Subject to paragraph (3) the Secretary of State shall enforce these Regulations.

(3) Nothing in paragraph (2) above authorises the Secretary of State to prosecute for an offence under these Regulations in Scotland.

(4) The Secretary of State may delegate any or all of her functions under this regulation and may make such delegation to such extent (including geographical extent), and subject to such conditions, as she may determine.

(5) After making any delegation under paragraph (4), the Secretary of State shall forthwith give notice of the delegation, including its extent and where further details, including any conditions which the delegation is subject to, can be obtained, as follows—

- (a) for a delegation affecting England, Wales, or both, in the London Gazette;
- (b) for a delegation affecting Scotland, in the Edinburgh Gazette;
- (c) for a delegation affecting Northern Ireland, in the Belfast Gazette.

(6) The enforcement provisions in relation to Northern Ireland are set out in Schedule 4(6).

### **Offences**

8.—(1) It shall be an offence to contravene regulation 4(1).

(2) Where an offence under paragraph (1) above, which has been committed by a body corporate, is proved to have been committed with the consent or connivance of, or to have been attributable to, any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be liable to prosecution.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Where an offence under paragraph (1) has been committed by a Scottish Partnership and has been committed with the consent or connivance of, or is attributable to the neglect of, a partner or a person who was purporting to act as such, that person as well as the partnership is guilty of the offence.

(5) Where a person charged with an offence under this regulation claims that the product was produced before the appropriate date in Schedule 2, it is for that person to prove that the product was produced before that date and had not been placed on the market for more than 12 months following the appropriate date applicable to that product.

(6) The maximum penalty on conviction for an offence under paragraph (1) shall be—

- (a) on summary conviction, a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, a fine.

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(6) In England, Wales and Scotland, the enforcement powers in section 108 of the Environment Act 1995 apply.

## **Amendment to the Pollution Prevention and Control (England and Wales) Regulations 2000**

**9.** The definition of “vehicle refinishing” in paragraph (2) of Section 7 (SED Activities) of Part 1 of Schedule 1 (Activities, Installations and Mobile Plant) to the Pollution Prevention and Control (England and Wales) Regulations 2000 shall be amended as respects England and Wales by deleting sub-paragraph (a) (the coating of road vehicles).

### **Transitional provisions**

**10.** Any relevant product which—

- (a) does not meet the VOC limits required by Schedule 2; and
- (b) was produced before the dates specified in Schedule 2,

may be placed on the market for a period of 12 months following the dates applicable to that product in Schedule 2.

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Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

9th October 2005