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STATUTORY INSTRUMENTS

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**2008 No. 2337**

**HEALTH AND SAFETY**

**The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 2008**

<i>Made</i>	- - - -	<i>1st September 2008</i>
<i>Laid before Parliament</i>		<i>5th September 2008</i>
<i>Coming into force</i>	- -	<i>1st October 2008</i>

The Secretary of State is a Minister designated for the purpose of section 2(2) of the European Communities Act 1972<sup>(1)</sup> in relation to the regulation and control of classification, packaging and labelling of dangerous substances and preparations<sup>(2)</sup>, and for measures relating to consumer protection<sup>(3)</sup>.

The Secretary of State makes these Regulations—

- (a) in exercise of the powers conferred upon him by section 2(2) of that Act and by section 15(1), (2), (3)(a) and (c), (4)(a)<sup>(4)</sup> and (b) of, and paragraphs 1(1)(b) and (4) and 3(2) of Schedule 3 to, the Health and Safety at Work etc. Act 1974<sup>(5)</sup> (“the 1974 Act”); and
- (b) for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Executive under section 11(3)<sup>(6)</sup> of the 1974 Act after the carrying out by the said Executive of consultations in accordance with section 50(3) of that Act.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 2008 and shall come into force on 1<sup>st</sup> October 2008.

(2) In these Regulations, “the principal Regulations” means the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002<sup>(7)</sup>.

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(1) 1972 c.68.  
(2) S.I. 1976/897.  
(3) S.I. 1993/2661.  
(4) Section 15(4)(a) is amended by S.I. 2008/960.  
(5) 1974 c. 37, as amended by S.I. 2008/960. Section 1(1)(c) was modified by the Health and Safety at Work etc. Act (Application to Environmentally Hazardous Substances) Regulations 2002, S.I. 2002/282. There are other amending instruments but none is relevant.  
(6) Section 11(3) is substituted by S.I. 2008/960.  
(7) S.I. 2002/1689, amended by S.I. 2004/568, S.I. 2004/3386, S.I. 2005/2092, S.I. 2005/2571 and S.I. 2008/960. There are other amending instruments but none is relevant.

### **Amendments to regulation 2 of the principal Regulations**

2. In regulation 2(1) of the principal Regulations—
- (a) for the definition of “the approved classification and labelling guide” substitute—

““the approved classification and labelling guide” means the guide entitled “Approved Guide to the Classification and Labelling of Dangerous Substances and Dangerous Preparations (Fifth Edition)” approved by the Health and Safety Commission on 16<sup>th</sup> April 2002(8), as revised or re-issued from time to time,”; and
  - (b) for the definition of “the approved supply list” substitute—

““the approved supply list” means the document entitled “Information approved for the Classification and Labelling of Dangerous Substances and Dangerous Preparations (Eighth Edition)” approved by the Health and Safety Commission on 26 July 2005(9), as revised or re-issued from time to time,”.

### **Amendments to regulations 8A and 9 of the principal Regulations**

- 3.—(1) In regulation 8A(4) of the principal Regulations after the words “this regulation” add the words “and regulation 9(2)”.
- (2) In regulation 9(2) of the principal Regulations—
- (a) For the words “regulations 8 and 8A” substitute the words “paragraph (2A)”; and
  - (b) After paragraph (2) add—

“(2A) Where a package would be required to be labelled and marked in accordance with any of the national or international transport rules listed in regulation 8A(4) and the package consists of one or more receptacles in outer packagings, it shall be sufficient compliance with paragraph (2) if the package shows the labels and markings required by whichever of the national or international rules is appropriate.”.

### **Amendments to Schedule 3 of the principal Regulations**

4. Schedule 3 to the principal Regulations shall be amended in accordance with the following paragraphs—
- (a) in Part I omit paragraph 19(2);
  - (b) in Part II Tables II and IIA omit in both footnotes marked with a dagger the words “carcinogenic or”;
  - (c) for Part II Table VI substitute the Table VI contained in Schedule 1 to these Regulations;
  - (d) for Part II Table VIA substitute the Table VIA contained in Schedule 1 to these Regulations;
  - (e) for Part III Tables 1 and 2 substitute Tables 1a, 1b and 2 contained in Schedule 2 to these Regulations; and
  - (f) for Part III Table 5 substitute the Table contained in Schedule 3 to these Regulations.

### **Amendments to Schedule 5 of the principal Regulations**

5. For Schedule 5 Part II of the principal Regulations substitute the Part II contained in Schedule 4 to these Regulations.

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(8) ISBN 0717623696.

(9) ISBN 0717661385.

### **Amendments to the Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 2005**

6. In the Chemicals (Hazard Information and Packaging for Supply)(Amendment) Regulations 2005(10) omit regulation 2(2)(b), (4), (5) and (6).

### **Amendments to the Control of Major Accident Hazards Regulations 1999**

7. For regulation 20(6) of the Control of Major Accident Hazards Regulations 1999(11) substitute the following paragraph—

“(6) Notwithstanding the Health and Safety (Enforcing Authority) Regulations 1998, the Executive shall, for the purposes of the 1974 Act, be the enforcing authority for the relevant statutory provisions at an establishment to which any of these Regulations apply, unless a transfer of responsibility is made under paragraph (7) below.

(7) The responsibility, for the purposes of the 1974 Act, for enforcing any of the relevant statutory provisions at any establishment to which any of these Regulations apply may be transferred from the Executive to the local authority, insofar as the main activity carried on at that establishment is the sale of goods, or the storage of goods for retail or wholesale distribution, except—

- (a) at container depots where the main activity is the storage of goods in the course of transit to or from dock premises, an airport or a railway;
- (b) where the main activity is the sale or storage for wholesale distribution of any substance or preparation dangerous for supply, or
- (c) where the main activity is the sale or storage of water or sewage or their by-products or natural or town gas.

(8) A transfer may be made only by agreement between the Executive and the local authority.

(9) Where a transfer has been made, the local authority shall cause notice of the transfer to be given to persons affected by it.”.

Signed by the authority of the Secretary of State for Work and Pensions

1st September 2008

*William D.McKenzie*  
Parliamentary Under-Secretary of State  
Department for Work and Pensions

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(10) S.I. 2005/2571.

(11) S.I. 1999/743 as amended by S.I. 2008/960, there are other amending instruments but none is relevant.

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## SCHEDULE 1

Regulation 4(c) and (d)

“Table VI

Classification of the substance	Classification of the preparation	
	Categories 1 and 2	Category 3
Carcinogenic substances of category 1 or 2 with R45 or R49	Concentration $\geq$ 0.1% carcinogenic  R45, R49 obligatory as appropriate	
Carcinogenic substances of category 3 with R40		Concentration $\geq$ 1% carcinogenic  R40 obligatory ( <i>unless already assigned R45<sup>(*)</sup></i> )
Mutagenic substances of category 1 or 2 with R46	Concentration $\geq$ 0.1% mutagenic  R46 obligatory	
Mutagenic substances of category 3 with R68 <sup>(**)</sup>		Concentration $\geq$ 1% mutagenic  R68 <sup>(**)</sup> obligatory ( <i>unless already assigned R46</i> )
Substances “toxic for reproduction” of category 1 or 2 with R60 (fertility)	Concentration $\geq$ 0.5%  toxic for reproduction (fertility)  R60 obligatory	
Substances “toxic for reproduction” of category 3 with R62 (fertility)		Concentration $\geq$ 5%  toxic for reproduction (fertility)  R62 obligatory ( <i>unless already assigned R60</i> )
Substances “toxic for reproduction” of category 1 or 2 with R61 (development)	Concentration $\geq$ 0.5%  toxic for reproduction (development)  R61 obligatory	

(\*) In cases where the preparation is assigned R49 and R40, both R phrases shall be kept, because R40 does not distinguish between the exposure routes, whereas R49 is only assigned for the inhalation route.

(\*\*) R68 here refers to substances classified as mutagenic. Concentration limits for substances required to be labelled R68 but classified as harmful are given in Table II.

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Classification of the substance	Classification of the preparation	
	Categories 1 and 2	Category 3
Substances “toxic for reproduction” of category 3 with R63 (development)		Concentration $\geq$ 5%  toxic for reproduction (development)  R63 obligatory ( <i>unless already assigned R61</i> )

(\*) In cases where the preparation is assigned R49 and R40, both R phrases shall be kept, because R40 does not distinguish between the exposure routes, whereas R49 is only assigned for the inhalation route.

(\*\*) R68 here refers to substances classified as mutagenic. Concentration limits for substances required to be labelled R68 but classified as harmful are given in Table II.

**Table VIA**

Classification of the substance (gas)	Classification of the gaseous preparation	
	Categories 1 and 2	Category 3
Carcinogenic substances of category 1 or 2 with R45 or R49	Concentration $\geq$ 0.1% carcinogenic  R45, R49 obligatory as appropriate	
Carcinogenic substances of category 3 with R40		Concentration $\geq$ 1% carcinogenic  R40 obligatory ( <i>unless already assigned R45(*)</i> )
Mutagenic substances of category 1 or 2 with R46	Concentration $\geq$ 0.1% mutagenic  R46 obligatory	
Mutagenic substances of category 3 with R68(**)		Concentration $\geq$ 1% mutagenic  R68(**) obligatory ( <i>unless already assigned R46</i> )
Substances “toxic for reproduction” of category 1 or 2 with R60 (fertility)	Concentration $\geq$ 0.2%  toxic for reproduction (fertility)  R60 obligatory	
Substances “toxic for reproduction” of category 3 with R62 (fertility)		Concentration $\geq$ 1%

(\*) In cases where the preparation is assigned R49 and R40, both R phrases shall be kept, because R40 does not distinguish between the exposure routes, whereas R49 is only assigned for the inhalation route.

(\*\*) R68 here refers to substances classified as mutagenic. Concentration limits for substances required to be labelled R68 but classified as harmful are given in Table IIA.

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Classification of the substance (gas)	Classification of the gaseous preparation	
	Categories 1 and 2	Category 3
		toxic for reproduction (fertility)  R62 obligatory (unless already assigned R60)
Substances “toxic for reproduction” of category 1 or 2 with R61 (development)	Concentration $\geq 0.2\%$  toxic for reproduction (development)  R61 obligatory	
Substances “toxic for reproduction” of category 3 with R63 (development)		Concentration $\geq 1\%$  toxic for reproduction (development)  R63 obligatory (unless already assigned R61)”

(\*) In cases where the preparation is assigned R49 and R40, both R phrases shall be kept, because R40 does not distinguish between the exposure routes, whereas R49 is only assigned for the inhalation route.

(\*\*) R68 here refers to substances classified as mutagenic. Concentration limits for substances required to be labelled R68 but classified as harmful are given in Table IIA.

SCHEDULE 2

Regulation 4(e)

“Table 1a

Acute aquatic toxicity and long-term adverse effects

Classification of the substance	Classification of the preparation		
	N, R50-53	N, R51-53	R52-53
N, R50-53	see Table 1b	see Table 1b	see Table 1b
N, R51-53		$C_n \geq 25\%$	$2.5\% \leq C_n < 25\%$
R52-53			$C_n \geq 25\%$

For preparations containing a substance classified with N, R50-53, the concentration limits and the resulting classification given in table 1b are applicable.

Table 1b

Acute aquatic toxicity and long-term adverse effects of substance very toxic to the aquatic environment

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<i>LC<sub>50</sub> or EC<sub>50</sub> value (“L(E)C<sub>50</sub>”) of substance classified as N, R50-53 (mg/l)</i>	<i>Classification of the preparation</i>		
	<i>N, R50-53</i>	<i>N, R51-53</i>	<i>R52-53</i>
$0.1 < L(E)C_{50} \leq 1$	$C_n \geq 25\%$	$2.5\% \leq C_n < 25\%$	$0.25\% \leq C_n < 2.5\%$
$0.01 < L(E)C_{50} \leq 0.1$	$C_n \geq 2.5\%$	$0.25\% \leq C_n < 2.5\%$	$0.025\% \leq C_n < 0.25\%$
$0.001 < L(E)C_{50} \leq 0.01$	$C_n \geq 0.25\%$	$0.025\% \leq C_n < 0.25\%$	$0.0025\% \leq C_n < 0.025\%$
$0.0001 < L(E)C_{50} \leq 0.001$	$C_n \geq 0.025\%$	$0.0025\% \leq C_n < 0.025\%$	$0.00025\% \leq C_n < 0.0025\%$
$0.00001 < L(E)C_{50} \leq 0.0001$	$C_n \geq 0.0025\%$	$0.00025\% \leq C_n < 0.0025\%$	$0.000025\% \leq C_n < 0.00025\%$

For preparations containing substances with a lower LC<sub>50</sub> or EC<sub>50</sub> value than 0.00001 mg/l, the corresponding concentration limits are calculated accordingly (in factor 10 intervals).

**Table 2**

**Acute aquatic toxicity**

<i>LC<sub>50</sub> or EC<sub>50</sub> value (“L(E)C<sub>50</sub>”) of substance classified either as N, R50 or as N,R50-53 (mg/l)</i>	<i>Classification of the preparation N, R50</i>
$0.1 < L(E)C_{50} \leq 1$	$C_n \geq 25\%$
$0.01 < L(E)C_{50} \leq 0.1$	$C_n \geq 2.5\%$
$0.001 < L(E)C_{50} \leq 0.01$	$C_n \geq 0.25\%$
$0.0001 < L(E)C_{50} \leq 0.001$	$C_n \geq 0.025\%$
$0.00001 < L(E)C_{50} \leq 0.0001$	$C_n \geq 0.0025\%$

For preparations containing substances with a lower LC<sub>50</sub> or EC<sub>50</sub> value than 0.00001 mg/l, the corresponding concentration limits are calculated accordingly (in factor 10 intervals).

**SCHEDULE 3**

Regulation 4(f)

**“Table 5**

**Dangerous for the ozone layer**

<i>Classification of the substance</i>	<i>Classification of preparation N, R59</i>
<i>N with R59</i>	$C_n \geq 0.1\%$

## SCHEDULE 4

Regulation 5

## “PART II

## PARTICULAR PROVISIONS CONCERNING CERTAIN PREPARATIONS

## A

## SPECIAL PROVISIONS FOR DANGEROUS PREPARATIONS

**Dangerous preparations to be supplied to the general public**

1.—(1) The label on the packaging of dangerous preparations intended to be supplied to the general public must in addition to the relevant safety advice bear the relevant safety phrase S1, S2, S45 or S46 in accordance with the approved classification and labelling guide.

(2) When the dangerous preparations referred to in sub-paragraph (1) are classified as very toxic, toxic or corrosive and where it is physically impossible to give the information on the package itself, packages containing such preparations must be accompanied by precise and easily understandable instructions for use including, where appropriate, instructions for the destruction of the empty package.

**Dangerous preparations intended for use by spraying**

2. The label on the packaging containing dangerous preparations intended to be used for spraying shall bear the safety phrase S23 and safety phrase S38 or S51 assigned in accordance with the approved classification and labelling guide.

**Dangerous preparations containing a substance affected by the risk phrase R33 (danger of cumulative effects)**

3. When a dangerous preparation contains at least one substance required to show the risk phrase R33, that phrase must be shown on the label on the packaging of the dangerous preparation when the concentration of that substance is equal to or higher than 1% unless a different value is shown for that substance in the approved supply list.

**Dangerous preparations containing a substance affected by the risk phrase R64 (may cause harm to breast-fed babies)**

4. When a dangerous preparation contains at least one substance required to show the risk phrase R64, that phrase must be shown on the label on the packaging of the dangerous preparation when the concentration of that substance is equal to or higher than 1% unless a different value is shown for that substance in the approved supply list.

## B

## SPECIAL PROVISIONS APPLYING TO ANY PREPARATION

**Paints and varnishes containing lead**

1.—(1) The label on the packaging of paints and varnishes containing lead in quantities exceeding 0.15% (expressed as weight of lead out of the total weight of the preparation and determined in accordance with ISO Standard 6503/1984) shall bear the following inscription—



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“Contains lead. Should not be used on surfaces that are liable to be chewed or sucked by children.”.

(2) In the case of packages containing less than 125 millilitres of the preparations referred to in sub-paragraph (1), the inscription on the label may be–

“Warning! Contains lead.”.

#### **Cyanoacrylate based adhesives**

2.—(1) The label on the immediate packaging of glues based on cyanoacrylates shall bear the following inscription–

“Cyanoacrylate.

Danger.

Bonds skin and eyes in seconds.

Keep out of the reach of children.”.

(2) Appropriate safety advice shall accompany the package.

#### **Preparations containing isocyanates**

3. The label on the packaging of preparations containing isocyanates (whether as monomers, oligomers, prepolymers etc. or as mixtures thereof) shall bear the following inscriptions–

“Contains isocyanates.

See information supplied by the manufacturer.”.

#### **Certain preparations containing epoxy constituents**

4. The label on the packaging of preparations containing epoxy constituents with an average molecular weight  $\leq 700$  shall bear the following inscription–

“Contains epoxy constituents.

See information supplied by the manufacturer.”.

#### **Preparations intended to be sold to the general public that contain active chlorine**

5. The label on the packaging of preparations containing more than 1% of active chlorine which are intended to be sold to the general public shall bear the following inscription–

“Warning! Do not use together with other products. May release dangerous gases (chlorine).”.

#### **Preparations containing cadmium (alloys) intended to be used for brazing or soldering**

6. The label on the packaging of preparations containing cadmium (alloys) intended to be used for brazing or soldering shall bear the following inscriptions–

“Warning! Contains cadmium.

Dangerous fumes are formed during use.

See information supplied by the manufacturer.

Comply with the safety instructions.”.

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### **Preparations containing substances not yet tested completely**

7. Where a preparation contains at least one substance which, in accordance with regulation 6(7) of the Notification of New Substances Regulations 1993(12), bears the inscription “Caution – substance not yet fully tested”, the label on the packaging of the preparation must bear the inscription “Warning – this preparation contains a substance not yet tested completely” if that substance is present in a concentration  $\geq 1\%$ .

### **Preparations not classified as sensitising but containing at least one sensitising substance**

8. The label on the packaging of preparations containing at least one substance classified as sensitising and being present in a concentration  $\geq 0.1\%$  or in a concentration greater than or equal to that specified under a specific note for the substance in the approved supply list must bear the inscription–

“Contains (name of sensitising substance). May produce an allergic reaction.”.

### **Liquid preparations containing halogenated hydrocarbons**

9. For liquid preparations which show no flashpoint or a flashpoint higher than 55°C and contain a halogenated hydrocarbon and more than 5% flammable or highly flammable substances, the label on the packaging must bear the following inscription as appropriate–

“Can become highly flammable in use.” or

“Can become flammable in use.”.

### **Preparations containing a substance assigned the risk phrase R67**

10. When a preparation contains one or more substances assigned the risk phrase R67, the label on the packaging of the preparation must bear the following inscription–

“Vapours may cause drowsiness and dizziness”,

when the total concentration of such substances present in the preparation is  $\geq 15\%$ , unless:

- the preparation is already classified with phrases R20, R23, R26, R68/20, R39/23 or R39/26, or
- the preparation is in a package not exceeding 125 ml.

### **Cement and cement preparations**

11.—(1) The label on the packaging of any cement or cement preparation which would contain, when hydrated, more than 0.0002% soluble chromium (VI) of the total dry weight of the cement but for the use of reducing agents shall be marked with information on the packing date, and on the storage conditions and the storage period appropriate to maintaining the activity of the reducing agent and to preventing the content of soluble chromium (VI) from exceeding 0.0002% of the total dry weight of the cement, unless it is supplied or used for controlled, closed and totally automated processes in which cement and cement-containing preparations are handled solely by machines and in which there is no possibility of contact with the skin.

(2) The label on the packaging of any cement or cement preparation containing more than 0.0002% soluble chromium (VI) of the total dry weight of the cement shall bear the inscription:

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“Contains chromium (VI). May produce an allergic reaction.”

unless the preparation is already classified and labelled as a sensitiser with phrase R43.

## C

### SPECIAL PROVISIONS APPLYING TO CERTAIN OTHER PREPARATIONS

#### **Preparations not intended for the general public**

**12.** The label on the packaging of a preparation of the type specified in regulation 5(3) must bear the following inscription—

“Safety data sheet available for professional user on request.”

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## EXPLANATORY NOTE

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

**1.** Regulations 3 and 6 of these Regulations correct certain errors in the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 (S.I. 2002/1689, as amended in particular by S.I. 2004/568, S.I. 2004/3386, S.I. 2005/2092, S.I. 2005/2571 and S.I. 2008/960) (“the principal Regulations”) in transposing provisions of—

- (a) Council Directive 1992/32/EEC (OJNo. L154, 5.6.92, p.1) amending for the seventh time Council Directive 67/548/EEC (OJ No. L196, 16.8.67, p.1) on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (“the substances Directive”); and
- (b) Council Directive 1999/45/EC (OJ No. L200, 30.7.99, p.1) on the classification, packaging and labelling of dangerous preparations (“the preparations Directive”), concerning the labelling of single receptacles and receptacles in outer packagings where the national and international transport rules also apply. Regulation 3 corrects a cross-reference in regulation 9(2) of the principal regulations. Regulation 6 revokes amendments to the principal regulations that were made in error, as they duplicate amendments already made in an earlier instrument.

**2.** Regulations 4 and 5 amend the principal Regulations in accordance with the provisions of Commission Directive 2006/8/EC (OJ No. L19, 24.1.2006 p.12) amending, for the purposes of their adaptation to technical progress, Annexes II, III and V to the preparations Directive.

**3.** Regulation 7 amends the Control of Major Accident Hazards Regulations 1999 (S.I. 1999/743, as amended by S.I. 2008/960) to provide for the Health and Safety Executive to be the enforcing authority except in the circumstance provided for.

**4.** A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Economic Advisers Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy of this document has been placed in the library of each House of Parliament.