
STATUTORY INSTRUMENTS

2013 No. 2919

The REACH Enforcement (Amendment) Regulations 2013

Citation and commencement

1. These Regulations—
 - (a) may be cited as the REACH Enforcement (Amendment) Regulations 2013; and
 - (b) come into force on 16th December 2013.

Amendment of the REACH Enforcement Regulations 2008

2. The REACH Enforcement Regulations 2008(1) are amended as follows.

Regulation 2 (interpretation)

- 3.—(1) In regulation 2(1) for the definition of “REACH” substitute—

““REACH” means Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals as amended from time to time;”.
- (2) In regulation 2(2) —
 - (a) before the definition of “authorised person” insert—

““asbestos-containing article” means an article in its entirety containing any of the asbestos fibres listed at point 6 of Annex XVII to REACH;

“asbestos exemption certificate” has the meaning given in paragraph 2 of Schedule 5A;
 - (b) in the definition of “enforcing authority” after sub-paragraph (f) insert—

“(fa) the Office of Rail Regulation;”;
 - (c) after the definition of “enforcing authority” insert—

““the Executive” means—

 - (a) in Great Britain, the Health and Safety Executive;
 - (b) in Northern Ireland, the Health and Safety Executive for Northern Ireland;”;

and
 - (d) after the definition of “offshore installation” insert—

““railway” means—

 - (a) except in Northern Ireland, any system of transport the operation of which is specified in regulation 3(2) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006(2);

(1) S.I. 2008/2852, amended by S.I. 2010/1513; there are other amending instruments but none is relevant.

(2) S.I. 2006/557. Relevant amending instruments are S.I. 2007/1573 and 2008/2323.

- (b) in relation to Northern Ireland, any railway or tramway which in either case is used for the carriage of persons or goods;”.

Regulation 6 (health and safety enforcement)

4. In regulation 6—

- (a) for paragraph (1) substitute—

“(1) This regulation applies where the Executive is jointly under an enforcement duty with any of the following enforcing authorities, whether or not any other enforcing authority is also under an enforcement duty in respect of the same listed REACH provision—

- (a) a local (health and safety) authority;
- (b) the Office of Rail Regulation.”; and

- (b) omit paragraph (5).

Regulation 8A (placing asbestos-containing articles on the market)

5. After regulation 8 insert—

“Placing asbestos-containing articles on the market

8A.—(1) A person who places an asbestos-containing article on the market does not breach the restriction on this activity provided for by Article 67 of REACH where—

- (a) this is done in accordance with an asbestos exemption certificate; and
 - (b) the asbestos-containing article was installed or in service before 1st January 2005.
- (2) Schedule 5A (placing asbestos-containing articles on the market) has effect.”.

Insertion of Part 8

6. After regulation 23, insert—

“PART 8

Review

Review of these Regulations

24.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations in relation to England;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to how REACH (which is enforced by means of these Regulations) is enforced in other member States.

(3) The report must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;

- (b) assess the extent to which the objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with 16th December 2013.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Amendment of Schedule 1 (table of REACH provisions)

- 7.—(1) The table in Schedule 1 is amended as follows.
- (2) In the second column (subject matter)—
- (a) for “preparations”, in each place occurring, substitute “mixtures”;
 - (b) for “preparation”, in each place occurring, substitute “mixture”.
- (3) In the entries relating to Article 31(2)-(9), in the second column of the ninth entry (requirement to provide a safety data sheet free of charge either electronically or on paper), after “paper” insert “, and by no later than the date on which the substance or mixture is first supplied”.
- (4) After the entries relating to Article 31(2)-(9), insert—

“Article 31(10)(3)	Requirement on a supplier to include the classification of substances or mixtures in a safety data sheet.	The Health and Safety Executive.	The Health and Safety Executive.	The Health and Safety Executive for Northern Ireland.	The Health and Safety Executive. The Health and Safety Executive for Northern Ireland.”;
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- (5) In the entry relating to Article 33(2) for “Local (health and safety) authorities”, in each place occurring, substitute “Local (consumer safety) authorities”.
- (6) In the entry relating to Article 67(1), in the third and fourth columns (enforcing authorities for England and Wales and for Scotland), after “Local (health and safety) authorities.” insert “The Office of Rail Regulation.”.
- (7) Omit the entries relating to Article 113(1) and (3).

Schedule 2 (functions of enforcing authorities)

8. In Schedule 2, after paragraph 5 insert—

- “6.—(1) Subject to sub-paragraph (2), the functions of the Office of Rail Regulation are to—
- (a) secure the health, safety and welfare of persons at work;
 - (b) protect others against risks to health and safety in connection with the activities of persons at work;

(3) Article 31(10) of REACH was inserted by Article 57(2)(b) of Regulation (EC) No. 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (OJ No L 353, 31.12.2008, p1).

- (c) control the manufacture and placing on the market of articles and substances.
- (2) The functions of the Office of Rail Regulation—
 - (a) only apply in relation to the manufacture, placing on the market and use of asbestos fibres in so far as this relates to the operation of a railway; and
 - (b) do not apply in relation to Northern Ireland.
- (3) In sub-paragraph (2) “operation of a railway” has the meaning given in regulation 2 of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006.”.

Schedule 3 (health and safety enforcement)

- 9. In Schedule 3—
 - (a) in paragraph 1 of Part 1 omit sub-paragraphs (f) and (r) (definitions of the “Executive” and “railway”); and
 - (b) after Part 4 insert—

“PART 5

The Office of Rail Regulation

- 1. The Office of Rail Regulation must perform the joint enforcement duty on behalf of the Executive in relation to Article 67 of REACH in so far as this relates to its functions in paragraph 6 of Schedule 2.”.

Schedule 5 (marketing and use of leaded paints)

- 10. In Schedule 5, Part 1, paragraph 8, in the definition of “leaded paint”, for “lead carbons” substitute “lead carbonates”.

Schedule 5A

- 11. After Schedule 5 insert the Schedule set out in the Schedule (new Schedule 5A to the REACH Enforcement Regulations 2008) to these Regulations.

Schedule 6 (powers of enforcement)

- 12. In Schedule 6—
 - (a) in the heading to Part 2, after “Northern Ireland” insert “, the Office of Rail Regulation”;
 - (b) in Part 2, Section 1—
 - (i) after paragraph 9 insert—
 - “9A. The powers of an authorised person acting on behalf of the Office of Rail Regulation—
 - (a) do not include the powers in paragraph 1(m) or (n);
 - (b) only apply in relation to non-domestic premises.”;
 - (ii) omit paragraph 10; and
 - (c) in Part 2, Section 2, after paragraph 19 insert—
 - “20. This section does not apply to an authorised person acting on behalf of the Office of Rail Regulation.”.

Schedule 7 (authorisations)

13. In Schedule 7, in Section 3—

- (a) in the heading, after “Executive” insert, “, the Office of Rail Regulation”;
- (b) omit the “or” after paragraph 3(a);
- (c) after paragraph 3(b) insert “or” and the following paragraph—
 - “(c) the Office of Rail Regulation.”.

Schedule 8 (appeals)

14. In Schedule 8, in Part 1, after paragraph 6 insert—

“7. The appeal body may—

- (a) appoint a person, with or without payment, to determine the appeal;
- (b) refer any matter involved in the appeal to such person as that body may appoint for that purpose, with or without payment.”.

Revocations

15. The Asbestos Products (Safety) Regulations 1985⁽⁴⁾ and the Asbestos Products (Safety) (Amendment) Regulations 1987⁽⁵⁾ are revoked.

16th November 2013

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

⁽⁴⁾ S.I. 1985/2042.

⁽⁵⁾ S.I. 1987/1979.

Changes to legislation:

There are currently no known outstanding effects for the The REACH Enforcement (Amendment) Regulations 2013.