

2014 No. 2882

CONSUMER PROTECTION

ENVIRONMENTAL PROTECTION

HEALTH AND SAFETY

The REACH Enforcement (Amendment) Regulations 2014

<i>Made</i> - - - -	<i>25th October 2014</i>
<i>Laid before Parliament</i>	<i>31st October 2014</i>
<i>Coming into force</i> - -	<i>1st December 2014</i>

The Secretary of State is a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to measures relating to persistent organic pollutants, dangerous substances, preparations and chemicals.

These Regulations are made by the Secretary of State in exercise of the powers conferred by section 2(2) of that Act.

Citation and commencement

1. These Regulations may be cited as the REACH Enforcement (Amendment) Regulations 2014 and come into force on 1st December 2014.

Amendments to the REACH Enforcement Regulations 2008

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

(2) In regulation 2(2) after the definition of “offshore installation” insert—

““paint stripper” means material that, when applied to a coated substrate, softens the coating so that it can be removed easily, and “paint stripping” is to be construed accordingly;

“paint stripper containing dichloromethane” means any paint stripper containing dichloromethane in a concentration equal to or greater than 0.1% by weight;

“professional” means any person undertaking paint stripping in the course of their

(a) S.I. 2006/608, to which there is an amendment not relevant to these Regulations.
(b) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3 of, and Part I of the Schedule to, the European Union (Amendment) Act 2008 (c.7). The power of the Minister to make regulations in relation to matters in or as regards Scotland is preserved by section 57(1) of the Scotland Act 1998 (c.46).
(c) S.I. 2008/2852; amended by S.I. 2013/2919. There are other amending instruments but none is relevant.

professional activity other than within an industrial installation(a) where the conditions set out in entry 59 paragraph 4 of Annex XVII to REACH are complied with.”

(3) After regulation 8A(b) insert—

“Placing on the market and use of paint stripper containing dichloromethane

8B.—(1) A person (“P”) who places on the market paint stripper containing dichloromethane for supply to a professional or to a person for use by a professional does not breach the restriction on this activity provided for by Article 67 of REACH(c) where P complies with the provisions of paragraph 1 of Schedule 5B.

(2) A professional who uses paint stripper containing dichloromethane does not breach the restriction on this activity provided for by Article 67 of REACH where that professional complies with the provisions of paragraphs 2 and 3 of Schedule 5B.

(3) Schedule 5B (Placing on the market and use of paint stripper containing dichloromethane) has effect.”

(4) After regulation 11(4) insert—

“(5) Where a person (“P”) is charged with an offence for a contravention of Article 67 of REACH under regulation 11(2) of these Regulations for placing on the market paint stripper containing dichloromethane for supply to—

- (a) a person who is not a professional; or
- (b) a person for use by a person who is not a professional,

it is a defence that P took all reasonable steps and exercised all due diligence to avoid the commission of the offence.”

(5) After Schedule 5A(d) insert—

“SCHEDULE 5B

Regulation 8B(3)

Placing on the market and use of paint stripper containing dichloromethane

1. A person (“P”) may place on the market paint stripper containing dichloromethane for supply to a professional or to a person for use by a professional provided the professional to whom, or for whose use, such paint stripper is supplied holds a certificate of competence in the safe use of such paint stripper issued by the Executive in accordance with paragraph 3(b).

2. A professional may use paint stripper containing dichloromethane where that professional—

- (a) demonstrates proper training and competence in the safe use of paint stripper containing dichloromethane in accordance with paragraph 3; and
- (b) applies in practice all appropriate safety measures, including the use of personal protective equipment that complies with the Personal Protective Equipment Regulations 2002(e).

(a) The term “industrial installation” has the meaning given by entry 59 paragraph 1(c)(ii) of Annex XVII to REACH (Regulation (EC) No. 1907/2006 of the European Parliament and of the Council concerning Registration, Evaluation, Authorisation and Restriction of Chemicals (OJ No L 396, 20.12.2006, p1, as read with the corrigenda published in OJ No L136, 29.5.2007, p3 and OJ No L 36 5.2.2009, p84)). By virtue of regulation 2(3) of the REACH Enforcement Regulations 2008, expressions used in those Regulations which are also used in REACH have the meaning given by REACH.

(b) Regulation 8A was inserted by S.I. 2013/2919.

(c) REACH is defined in regulation 2(1) of S.I. 2008/2852 and referred to as amended from time to time (this ambulatory reference was inserted by S.I. 2013/2919).

(d) Schedule 5A was inserted by S.I. 2013/2919.

(e) S.I. 2002/1144, to which there are amendments not relevant to these Regulations.

3. A professional may only demonstrate proper training and competence in the safe use of paint stripper containing dichloromethane by—

- (a) undertaking training in the safe use of such paint stripper which covers as a minimum—
 - (i) awareness, evaluation and management of risks to health, including information on existing substitutes or processes, which under their conditions of use are less hazardous to the health and safety of workers;
 - (ii) the use of adequate ventilation; and
 - (iii) the use of appropriate personal protective equipment that complies with the Personal Protective Equipment Regulations 2002; and
- (b) holding a certificate of competence issued by the Executive in the safe use of paint stripper containing dichloromethane.

4. A certificate issued under paragraph 3(b) may be revoked in writing at any time by the Executive if the Executive believes that the professional holding the certificate is no longer competent in the safe use of paint stripper containing dichloromethane.”

de Mauley

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

25th October 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the REACH Enforcement Regulations 2008 (“the 2008 Regulations”).

The 2008 Regulations provide for the enforcement in the United Kingdom of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

These Regulations insert a new regulation 8B and Schedule 5B into the 2008 Regulations. These provide for the exercise of a derogation for the placing on the market and use of paint strippers containing dichloromethane by approved professionals as set out in entry 59 in Annex XVII to the REACH Regulation (Annex XVII was amended by Commission Regulation (EU) No 276/2010 (OJ No L 86, 1.4.10, p.7)).

The new regulation 8B(1) allows the placing on the market of paint strippers containing dichloromethane for supply to professionals who comply with the requirements set out in Schedule 5B, or to persons for use by such professionals. Regulation 8B(2) allows the use of paint strippers containing dichloromethane by such professionals. Schedule 5B sets out requirements for the professional to demonstrate proper training and competence and apply in practice all appropriate safety measures. Proper training and competence is demonstrated by the professional undertaking training in the safe use of paint stripper containing dichloromethane and holding a certificate issued by the Health and Safety Executive in Great Britain or the Health and Safety Executive for Northern Ireland in Northern Ireland.

Regulation 2(4) inserts a new regulation 11(5) into the 2008 Regulations. It provides a due diligence defence for a person who contravenes Article 67 of REACH under regulation 11(2) of the 2008 Regulations by placing on the market for supply paint stripper containing dichloromethane to a person who is not a professional or to a person for use by a person who is not a professional.

A full regulatory impact assessment to the effect that this instrument will have on the costs of business and the voluntary sector is available from the Health and Safety Executive, Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS. A copy of this document has been placed in the Library of each House of parliament and is annexed to the Explanatory Memorandum which is available alongside these Regulations at www.legislation.gov.uk.

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