

S.I. No. 354 of 1998.

EUROPEAN COMMUNITIES (CLASSIFICATION, PACKAGING AND LABELLING OF DANGEROUS PREPARATIONS) (AMENDMENT) REGULATIONS, 1998

I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive 88/379/EEC of 7 June, 1988 as amended by Commission Directive 96/54/EC of 30 July, 1996, and Commission Directive 96/65/EC of 11 October, 1996, hereby make the following Regulations.

1O.J. No. L187, 16.7.88, p.14

2O.J. No. L248, 30.9.96, p.1

3O.J. No. L265, 18.10.96, p.15

Citation, interpretation and construction 1.— (1) These Regulations may be cited as the European Communities (Classification, Packaging and Labelling of Dangerous Preparations)(Amendment) Regulations, 1998.

(2) In these Regulations, "the Principal Regulations" means the European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations, 1995 (S.I. No. 272 of 1995).

(3) These Regulations and the Principal Regulations—

(a) shall be construed as one, and

(b) may be cited together as the European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations, 1995 and 1998.

Amendment of interpretation provisions of Principal Regulations. 2. — Regulation 3 of the Principal Regulations is hereby amended—

(a) in paragraph (1) by the substitution of the following definition for the definition of "aerosol dispensers":

" 'aerosol dispensers' has the meaning it has in the European Communities (Aerosol Dispensers) Regulations, 1977 (S.I. No. 144 of 1977), as amended;" and

(b) by the substitution of the following paragraph for paragraph (4):

"(4) References in these Regulations to Chapters 2, 3, 4 and 9 (and specified parts of those chapters) of Annex VI to Council Directive 67/548/EEC means those chapters or parts thereof in Annex VI to Council Directive 67/548/EEC as amended by Commission Directives 93/21/EEC of 27 April, 1993, and 96/54/EC of 30 July, 1996."

Amendment of classification provisions of Principal Regulations — aerosols 3.— Regulation 6 of the Principal Regulations is hereby amended by the substitution of the following paragraph for paragraph (4):

"(4) Notwithstanding paragraph (1), the classification of a preparation, in the form of an aerosol, as extremely flammable shall be in accordance with the provisions of the European Communities (Aerosol Dispensers) Regulations, 1977, as amended."

Amendment of information provisions of Principal Regulations 4.— Regulation 17 of the Principal Regulations is hereby amended by the substitution of the following clause for clause (i):

"(i) the phrase "Caution — this preparation contains a substance not yet fully tested" in the case of a preparation containing at least one substance which is in a concentration equal to or in excess of 1 per cent in the preparation and which is required, in accordance with Article 13(3) of Council Directive 67/548/EEC, to bear the warning 'Caution — substance not yet fully tested.'"

Amendment of alternative labelling provisions 5.— The Principal Regulations are hereby amended by the substitution of the following Regulation for Regulation 27:

"27. Notwithstanding Regulations 16(3), 17, 22 and 25, the requirements of these Regulations in relation to labelling shall be deemed to be satisfied if in the case of a single package containing a preparation to which these Regulations apply —

(a) the package is labelled in accordance with—

(i) international rules on the transport of dangerous substances,

(ii) the Dangerous Substances (Conveyance of Petroleum by Road) Regulations 1979 (S.I. No. 314 of 1979), as amended, or

(iii) the Dangerous Substances (Conveyance of Scheduled Substances by Road) (Trade or Business) Regulations, 1980, (S.I. No. 235 of 1980), as amended, and

(b) the requirements of—

(i) Regulation 17, other than subparagraphs (d), (g), (h) and (i), and

(ii) Regulations 18, 19, 20, 21, 23 and 24,

are complied with."

Amendment of exemption provisions — gas cylinders, aerosol dispensers and containers with sealed spray attachments 6.— Regulation 29 of the Principal Regulations is hereby amended by the addition of the following paragraphs after paragraph (7):

"(8) In the case of a gas cylinder containing a gas preparation to which these Regulations apply, the requirements of Regulation 16 shall, subject to Regulation 27, be deemed to be satisfied if—

(a) the information, required to be contained on the label in accordance with Regulation 17, is contained—

(i) on a label held captive on the cylinder, or

(ii) on a durable information disc so held captive,

(b) the label or durable information disc is so held captive that the information, required in accordance with subparagraph (a), can be easily read when the cylinder is set down normally, and

(c) where the information referred to in subparagraph (a) is contained on a label, Regulations 16(1) (b) and (c) and 16(3) are complied with, or, where that information is contained on a durable information disc—

(i) the colour and presentation of the disc is such that any danger symbol or symbols, which are contained on the disc in accordance with Regulations 17(d) and 22, and its background stand out clearly from the disc,

(ii) that information (other than any symbol or symbols referred to in Regulation 17(d)) is easily distinguishable from its background and the lettering is of such a size and spacing so as to be easily read, and

(iii) the disc is only used to contain that information and, if necessary, any supplementary health or safety information

in accordance with Chapter 9.1.3. of Annex VI to Council Directive 67/548/EEC.

(9) Subject to this paragraph, the requirements of Regulations 17 (d), (e) and (f) and 22, 23 and 24 shall not apply to a gas cylinder containing stench propane, stench butane or stench liquefied petroleum gas as a fuel gas which is released only for combustion if—

(a) those requirements are complied with in relation to the flammability of the gas preparation,

(b) the information that, but for this paragraph, should have been contained on the label is provided, in accordance with Regulation 30, to the industrial user in a safety data sheet, and

(c) sufficient information is furnished to the consumer to enable him or her to take all necessary measures for health and safety,

in accordance with Chapter 9.2. of Annex VI to Council Directive 67/548/EEC.

(10) For the purposes of paragraph (9)—

'gas cylinder' means either a closed refillable gas cylinder or a non-refillable cartridge within the scope of ISEN 417:1993;

'ISEN 417:1993' means Irish Standard ISEN 417:1993 of the National Standards Authority of Ireland.

(11) Notwithstanding the requirements of Regulation 17 (d), (e) and (f) and Regulations 22, 23 and 24, in the case of a preparation which is classified as harmful and assigned the risk phrase R65 in accordance with these Regulations and which is contained in an aerosol dispenser or in a container fitted with a sealed spray attachment, that dispenser or container need not, according to Chapter 9.4 of Annex VI to Council Directive 67/548/EEC, be labelled—

(a) with the harmful symbol and indication of danger, if the preparation is not otherwise classified as harmful,

(b) with the risk phrase R65, and

(c) with the safety phrase S62."

Amendment of Schedule 1 — classification of preparations 7.— Schedule 1 of the Principal Regulations is hereby amended by the substitution of the following Part for Part III:

"Part III

Preparations Containing Organic Peroxides

1. A preparation shall be classified as being oxidizing if it contains one or more organic peroxide substances, classified as oxidizing, unless —

(a) the sum of their concentrations in the preparation does not exceed 5%; or

(b) if the preparation contains not more than 5% hydrogen peroxide, the total available oxygen content from such substances does not exceed 0.5% as given by the following formula —

$$\text{AOC} = 16 \times S (\text{ni} \times \text{ci}/\text{mi})$$

where (i) AOC is the total available oxygen content, expressed as a percentage, of such substances present in the preparation,

(ii) S means the sum of,

(iii) ni is the number of peroxygen groups per molecule of each such substance present in the preparation,

(iv) ci is the concentration, expressed as a percentage, of each such substance present in the preparation, and

(v) mi is the molecular mass of each such substance present in the preparation

in accordance with Chapters 2.2.2.1. and 9.5. of Annex VI to Council Directive 67/548/EEC.

2. For the purposes of paragraph 1, the reference to concentration is a reference to a concentration expressed on a mass/mass basis."

Amendment of Schedule 2 — harmful classification. 8.— Schedule 2 to the Principal Regulations is hereby amended by the insertion into Part IV of the following paragraph:

"5. (1) Subject to Regulation 29(11), a preparation shall be classified as harmful and assigned the risk phrase R65 if it presents an aspiration hazard in humans in accordance with the criteria set down in Chapter 3.2.3. of Annex VI to Council Directive 67/548/EEC.

(2) Notwithstanding that a preparation is classified as very toxic or toxic, it shall, in addition to any other risk phrase assigned to it by these Regulations, be assigned the risk phrase R65 if it presents an aspiration hazard in humans in accordance with the criteria set down in Chapter 3.2.3. of Annex VI to Council Directive 67/548/EEC."

Amendment of risk phrases — R65 added 9.— The Table in Schedule 5 to the Principal Regulations is hereby amended by the insertion, within the relevant columns, at the end of Part I (Single Risk Phrases), of the following:

"R65 Harmful: may cause lung damage if swallowed."

Amendment of Schedule 7 — warnings of danger 10.—Schedule 7 to the Principal Regulations is hereby amended—

(a) in paragraph 2(1) by the substitution of the following clause for clause (b):

"(b) classified as harmful and assigned the risk phrase R65;"

(b) in paragraph 2(2) by the deletion of clause (a), and

(c) by the substitution of the following Part for Part III:

"PART III

Aerosol dispensers and containers fitted with sealed spray attachments.

1. Subject to paragraph 2, Parts I and II shall apply to a preparation offered or sold to the general public in an aerosol dispenser or in a container fitted with a sealed spray attachment.

2. Parts I and II shall not apply to a preparation listed in paragraph 2(1)(b) of Part I when offered or sold to the general public in an aerosol dispenser or in a container fitted with a sealed spray attachment."

GIVEN under my Official Seal, this 23 day of September, 1998.

Mary Harney, T.D.,

Minister for Enterprise Trade, Employment.

EXPLANATORY NOTE

These Regulations amend the European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations, 1995, and give effect to Commission Directive 96/65/EC of 11 October, 1996 (i.e. 4th adaptation to technical progress of Council Directive 88/379/EEC) and those parts of Commission Directive 96/54/EC of 30 July, 1996 (i.e. 22nd adaptation to technical progress of Council Directive 67/548/EEC) which are relevant to preparations.

These Regulations provide for amendments concerning

(i) alternative means for labelling gas cylinders for all gas preparations,

(ii) exemptions to labelling requirements for stenched propane, butane and liquefied petroleum gas (LPG),

(iii) additional criteria for classifying and labelling preparations as harmful with the risk phrase R65 and for insertion of the risk phrase R65, and

(iv) requirements to provide child resistant fastenings and tactile warning dangers on packages of certain preparations on sale to the general public.

They also provide for amendments

(v) to take account that the European Communities (Aerosol Dispensers) Regulations, 1977, have been amended, and

(vi) to give greater clarity to the method of classifying preparations containing organic peroxides.

It should be noted that paragraphs 29 to 33 (inclusive) of the Annex to Council Directive 76/768/EEC of 27 July 1976, as amended by Council Directive 94/60/EC of 20 December 1994, include additional labelling provisions relating to a separate special labelling phrase for packages of certain preparations.