Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2019 No. 0000

EXITING THE EUROPEAN UNION

CONSUMER PROTECTION

ENVIRONMENTAL PROTECTION

PUBLIC HEALTH

The Detergents (Safeguarding) (Amendment) (EU Exit) Regulations 2019

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018(**a**).

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Detergents (Safeguarding) (Amendment) (EU Exit) Regulations 2019 and come into force on the later of exit day or the day after the day on which they are made.

(**a**) 2018 c.16.

PART 2

Amendment of retained direct EU legislation

Interpretation

2. In this Part—

"Contracting Parties" has the meaning given to that expression in the EEA agreement;

"Regulation (EC) No 648/2004" means—

(a) Regulation (EC) No 648/2004 of the European Parliament and of the Council on detergents;

(b) the corresponding act made part of the internal legal order of the Contracting Parties under Article 7(a) of the EEA agreement(**a**).

Amendment of Article 15 of Regulation (EC) No 648/2004

3.—(1) Article 15 of Regulation (EC) No 648/2004 is amended as follows.

(2) In paragraph 1—

(a) in the first subparagraph, for "a Member State", substitute "an appropriate authority with the necessary competence";

(b) for the second subparagraph, substitute—

"Manufacturers and other natural or legal persons involved in the distribution, supply and sale of detergents must comply with provisional measures taken under this Article.";

(c) after the second subparagraph, insert—

"In any particular case, provisional measures may not be imposed for a period of more than ninety days.

After that ninety day period has ended, the General Product Safety Regulations 2005(**b**) are to apply to the specific detergents in respect of which provisional measures have been taken under this Article as if, in regulation 2 of those Regulations:

— in the definition of "product", at the end, there were inserted ""product" includes the specific detergents in respect of which provisional measures have been taken from time to time under Article 15 of Regulation (EC) No 648/2004 of the European Parliament and of the Council on detergents;";

— in the definition of "safe product", at the end of the first sentence, there were inserted "and for the environment";".

(3) For paragraph 2, substitute—

"2. In this Article:

— 'Appropriate authority' means the Secretary of State or the devolved authority;

— 'Devolved authority' means:

- in Scotland, the Scottish Ministers;
- in Wales, the Welsh Ministers;
- in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.".

(4) After paragraph 2, insert—

(**a**) See Decision Nos 144/2005, 15/2007, 66/2010, 106/2012 and 140/2013 of the EEA Joint Committee and point 12u in Chapter 15 of Annex 2 to the EEA agreement available at www.efta.int/eea-lex.

(**b**) S.I. 2005/1803.

"3. The Secretary of State may impose provisional measures if and to the extent that the exercise of the function to impose those measures:

— relates to England;

— relates to Scotland and is not within devolved competence (within the meaning of section 54 of the Scotland Act 1998(**a**));

— relates to Wales and is not within devolved competence (within the meaning of section 58A(7) and (8) of the Government of Wales Act 2006(**b**));

— relates to Northern Ireland:

- and is not within devolved competence in Northern Ireland; or
- where the Department of Agriculture, Environment and Rural Affairs consents to the imposition of provisional measures by the Secretary of State.

4. The Scottish Ministers have competence to impose provisional measures if and to the extent that the exercise of the function to impose those measures is within devolved competence (within the meaning of section 54 of the Scotland Act 1998).

5. The Welsh Ministers have competence to impose provisional measures if and to the extent that the exercise of the function to impose those measures is within devolved competence (within the meaning of sections 58A(7) and (8) of the Government of Wales Act 2006).

6. The Department of Agriculture, Environment and Rural Affairs has competence to impose provisional measures if and to the extent that the exercise of the function to impose those measures is within devolved competence in Northern Ireland.

7. For the purposes of paragraph 6, the exercise of the function of imposing provisional measures is within devolved competence in Northern Ireland except insofar as a provision of an Act of the Northern Ireland Assembly conferring the function of imposing that provisional measure would be outside the legislative competence of the Assembly. The references in this paragraph to a provision being outside the legislative competence of the Northern Ireland Assembly are to be read in accordance with section 6 of the Northern Ireland Act 1998 (**c**).

Any provision that would be outside the legislative competence of the Northern Ireland Assembly unless the Secretary of State consented to it is to be regarded, for the purposes of this paragraph, as outside legislative competence.

8. When an appropriate authority takes provisional measures in accordance with paragraph 1:

— it must immediately inform the other appropriate authorities, giving reasons for its action and submitting the scientific or technical information on which it is based;

— the other appropriate authorities must decide whether or not to impose the same provisional measures within their respective areas of competence.".

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

(**a**) 1998 c. 46.
(**b**) 2006 c. 32; section 58A was inserted by section 19 of the Government of Wales Act 2017 (c. 4).
(**c**) 1998 c. 47.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) ("the 2018 Act") in order to address failures of retained EU law relating to detergents to operate effectively and other deficiencies (including those set out in paragraphs (b), (d) and (g) of section 8(2) of the 2018 Act which apply to this instrument) arising from the withdrawal of the UK from the European Union.

They amend Article 15 (the safeguard clause) of direct EU legislation (Regulation (EC) No 648/2004 (OJ No L104, 8.4.2004, p.1) and the corresponding legislation adopted under the EEA agreement.

Regulation (EC) No 648/2004 and the EEA agreement are published by the National Archives (National Archives, Kew, Richmond, Surrey, TW9 4DU) and are available on www.legislation.gov.uk.

An impact assessment has not been produced for this instrument as no, or no significant impact on the private or voluntary sector is foreseen.

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