STATUTORY INSTRUMENTS

1986 No. 890

HEALTH AND SAFETY

The Notification of New Substances (Amendment) Regulations 1986

Made - - - - -	15*th May* 1986
Laid before Parliament	28*th May* 1986
Coming into Operation	18*th June* 1986

The Secretary of State, being the designated**(a)** Minister for the purposes of section 2(2) of the European Communities Act 1972**(b)** in relation to the notification and control of substances, in the exercise of the powers conferred on him by the said section 2 and section 15(1) and (2) of, and paragraphs 1(1)(*b*), and (4), and 15(1) of Schedule 3 to, the Health and Safety at Work etc. Act 1974**(c)** ("the 1974 Act") and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(*d*) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Notification of New Substances (Amendment) Regulations 1986 and shall come into operation on 18th June 1986.

Amendment of the Notification of New Substances Regulations 1982

2.—(1) The Notification of New Substances Regulations 1982**(d)** shall be amended in accordance with the following paragraphs of this Regulation.

(2) In Regulation 4 (notification of new substances) after paragraph (4) there shall be inserted the following new paragraphs:—

> "(5) A manufacturer or importer who makes a notification, in accordance with paragraph (1), relating to a substance which is already listed in Part 1A of the approved list as dangerous for supply need not present the declaration concerning adverse effects, particulars of the proposed classification, and proposals relating to safe use, referred to respectively in sub-paragraphs (*b*), (*c*) and (*d*) of paragraph (1).

(a) S.I. 1981/1536. **(b)** 1972 c. 68.

(c) 1974 c. 37; section 15 was amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraph 6.

(d) S.I. 1982/1496.

(6) In this Regulation, "the approved list" has the meaning assigned to it by Regulation 4 of the Classification, Packaging and Labelling of Dangerous Substances Regulations 1984**(a)**."

(3) In Regulation 10 (disclosure of information notified)—

(*a*) in paragraph (3) at the beginning, for the word "Where" there shall be substituted the words "Subject to Regulation 9, where"; and after the words "to any other person" there shall be inserted the words "including the Commission of the European Communities or any member State"; and

(*b*) after paragraph (3) there shall be inserted the following new paragraph:—

"(4) A person who, after making a notification, discloses information which in accordance with paragraph (3), he had previously indicated was commercially sensitive shall forthwith notify the Executive of that disclosure."

(4) In Schedule 4 (categories of substance subject to Regulation 4(3)) in item 5—

(*a*) in the entry in column 2, after the words "twelve months" there shall be inserted the words "by any manufacturer (whether in a member State or not)"; and

(*b*) in the entry in column 3, at the beginning of the paragraph there shall be inserted the letter "(*a*)" and after that paragraph, there shall be inserted the following new paragraph:—

"(*b*) The Executive has been supplied with a declaration signed by the manufacturer of the substance (whether in a member State or not) stating that the manufacturer has not supplied one tonne or more of the substance in any period of twelve months".

Signed by order of the Secretary of State.

David Trippier,
Parliamentary Under Secretary of State,
Department of Employment.

12th May 1986.

Angela Rumbold,
Parliamentary Under Secretary of State,
Department of the Environment.

15th May 1986.

(a) S.I. 1984/1244.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. These Regulations amend the Notification of New Substances Regulations 1982 ("the principal Regulations"). The principal Regulations implemented as respects Great Britain the provisions relating to the notification of substances of the Council Directive 79/831/EEC**(a)** ("the Directive") amending for the sixth time Council Directive 67/548/EEC**(b)** on the classification, packaging and labelling of dangerous substances. The amendments are introduced by Regulation 2 of these Regulations.

2. Paragraph (2) of that Regulation adds two additional paragraphs to the principal Regulations. They provide for a simplified notification procedure for substances which, although new substances within the meaning of the principal Regulations, are listed as dangerous for supply in the approved list relating to the Classification, Packaging and Labelling of Dangerous Substances Regulations 1984 (S.I. No. 1244). The approved list which is published by the Health and Safety Commission is obtainable from Her Majesty's Stationery Office (ISBN 0 11 883712 5).

3. Paragraph (3) of Regulation 2 amends Regulation 10 of the principal Regulations. The purpose of the amendment is to make it clear that the right of the European Commission to the data notified (established by Regulation 9 of the principal Regulations) overrides the considerations of commercial sensitivity to which Regulation 10(3) relates. An additional paragraph, as Regulation 10(4), has been inserted to impose a duty on a notifier to inform the Executive if he has disclosed information which he had previously claimed was commercially sensitive.

4. Paragraph (4) of these Regulations amends item 5 of Schedule 4 to the principal Regulations. This item provides for a simplified notification procedure in cases where the quantity of a new substance supplied is less than one tonne in any period of twelve months. The purpose of the amendment is to ensure that the one tonne limit applies to supply in the Community market as a whole.

(a) OJ No L 259, 15.10.79, p. 10.
(b) OJ No L 196, 16.8.67, p. 1 (OJ/SE 1967, p. 234).

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