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Chemicals Act 2008



Number 13 of 2008

CHEMICALS ACT 2008

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Number 13 of 2008

CHEMICALS ACT 2008

AN ACT TO REGULATE AND CONTROL THE MANUFACTURE, USE, PLACING ON THE MARKET, EXPORT, IMPORT, TRANSPORT, TESTING, STORAGE, CLASSIFICATION, LABELLING AND PACKAGING OF CHEMICALS; TO MAKE PROVISION IN RELATION TO MAJOR ACCIDENT HAZARDS, AND THE PREVENTION OF ACCIDENTS, INVOLVING CHEMICALS; FOR THOSE PURPOSES TO GIVE FURTHER EFFECT TO REGULATION (EC) NO. 304/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 28 JANUARY 2003 CONCERNING THE EXPORT AND IMPORT OF DANGEROUS CHEMICALS ¹, REGULATION (EC) NO. 648/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 31 MARCH 2004 ON DETERGENTS ² AND REGULATION (EC) NO. 1907/2006 OF THE EUROPEAN

PARLIAMENT AND OF THE COUNCIL OF 18 DECEMBER 2006 CONCERNING THE REGISTRATION, EVALUATION, AUTHORISATION AND RESTRICTION OF CHEMICALS (REACH) AND ESTABLISHING A EUROPEAN CHEMICALS AGENCY³; TO CONFER POWER ON THE MINISTER FOR ENTERPRISE, TRADE AND EMPLOYMENT TO MAKE REGULATIONS FOR THE PURPOSE OF GIVING EFFECT TO CERTAIN PROVISIONS OF THE TREATIES GOVERNING THE EUROPEAN COMMUNITIES AND CERTAIN ACTS OF THE INSTITUTIONS OF THOSE COMMUNITIES; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[9th July, 2008]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Preliminary and General

Short title and commencement.

1.— (1) This Act may be cited as the Chemicals Act 2008.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Interpretation.

2.— (1) In this Act—

“ Act of 1972 ” means the [European Communities Act 1972](#) ;

“ Authority ” means the Health and Safety Authority;

“ chemical ” includes—

(a) a chemical, preparation or article within the meaning of the Rotterdam Regulation,

(b) a detergent within the meaning of the Detergents Regulation, and

(c) a substance, preparation or article within the meaning of the REACH Regulation;

“ code of practice ” means a code of practice prepared and published, or approved of, by the Authority in accordance with [section 7](#) , and includes part of a code of practice;

“ contravention notice ” has the meaning assigned to it by [section 15](#) ;

“ Detergents Regulation ” means Regulation (EC) No. 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents, as amended by Commission Regulation (EC) No. 907/2006 of 20 June 2006⁴ ;

“ European Communities ” has the same meaning as it has in the Act of 1972;

“ European Regulations ” means—

- (a) the Rotterdam Regulation,
- (b) the Detergents Regulation, and
- (c) the REACH Regulation;

“ external authority ” has the meaning assigned to it by [section 9](#) ;

“ improvement plan ” means a plan required to be submitted under [section 14](#) ;

“ information notice ” has the meaning assigned to it by [section 27](#) ;

“ inspector ” means a person appointed under [section 11](#) by a national authority;

“ Member State ” means a state that is a member of the European Communities and includes states that are parties to the agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the protocol done at Brussels on 17 March 1993;

“ Minister ” means the Minister for Enterprise, Trade and Employment;

“ mutual cooperation arrangements ” means arrangements under [section 9](#) ;

“ national authority ” means—

- (a) a designated national authority in the State under [section 8 \(1\)](#),
- (b) a competent authority in the State under [section 8 \(2\)](#) or [8 \(3\)](#), or
- (c) a person prescribed in accordance with [section 5 \(3\)](#);

“ place ” means any structure, premises, land or other location or part of such place, and includes any container, railway wagon, vessel, aircraft, motor or other vehicle;

“ prescribed ” means prescribed by regulations made by the Minister under this Act;

“ prohibition notice ” has the meaning assigned by [section 16](#) ;

“ REACH Regulation ” means Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency, as amended by Council Regulation (EC) No. 1354/2007 of 15 November 2007 ⁵ ;

“ record ” includes any memorandum, book, report, statement, register, plan, chart, map, drawing, specification, diagram, pictorial or graphic work or other document, any photograph, film or recording (whether of sound or images or both), any form in which data (within the meaning of the Data Protection Acts 1988 and 2003) are held, any form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically, and anything that is a part or copy, in any form, of any of, or any combination of, the foregoing;

“ relevant chemicals statutory provisions ” means—

- (a) the European Regulations,
- (b) this Act, or
- (c) regulations made under this Act;

“ relevant Minister ” means, in relation to a national authority that is not a Minister of the Government, the Minister of the Government (other than the Minister) in whom functions are vested in relation to that national authority;

“ Rotterdam Regulation ” means Regulation (EC) No. 304/2003 of the European Parliament and of the Council of 28 January 2003 concerning the export and import of dangerous chemicals, as amended by the following:

- (a) Commission Regulation (EC) No. 1213/2003 of 7 July 2003 ⁶ ;
- (b) Commission Regulation (EC) No. 775/2004 of 26 April 2004 ⁷ ;
- (c) Commission Regulation (EC) No. 777/2006 of 23 May 2006 ⁸ ;
- (d) Commission Regulation (EC) No. 1376/2007 of 23 November 2007 ⁹ ;

“ special report ” means a report made under [section 18](#) .

(2) Subject to *subsection (1)*, a word or expression that is used in this Act and is also used in a European Regulation has the same meaning in this Act that it has in that European Regulation.

Service of notices.

3.— (1) A notice or other document required or authorised to be served on, sent or given to a person under the relevant chemicals statutory provisions shall, subject to *subsection (2)*, be addressed to the person concerned by name, and may be served on, sent or given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (d) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the notice or other document relates to any place of business, by delivering it to a person over the age of 16 years resident or employed at the place of business or by affixing it in a conspicuous position at or near the place of business;
- (e) if the person concerned has agreed to service of notices by means of an electronic communication (within the meaning assigned by [section 2](#) of the [Electronic Commerce Act 2000](#)), service by such means, provided that there is a facility for confirming receipt of electronic communication and that such receipt has been confirmed;
- (f) where there is a facility for receiving a facsimile of the notice by electronic means at the address at which the person ordinarily resides or carries on business, by transmitting a facsimile of the notice by such means to that address, or
- (g) by any other means that may be prescribed.

(2) Where a notice or other document required or authorised under the relevant chemicals statutory provisions is to be served on, sent or given to a person who is the owner or occupier of a place of business and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words, “the owner” or, as the case may require, “the occupier”.

(3) For the purposes of this section, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Expenses.

4.— The expenses incurred by the Minister or any other Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid

out of moneys provided by the Oireachtas.

PART 2

Regulations and Codes of Practice

Regulations.

5.— (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) The Minister may make regulations for the purpose of giving effect to a provision of the treaties governing the European Communities, or an act adopted by an institution of the European Communities, relating to—

- (a) the manufacture, export, import, placing on the market, testing, storage, transport, use or disposal of chemicals, or
- (b) the control of major accident hazards relating to chemicals and the prevention of accidents involving chemicals or the minimisation of the effects of such hazards or accidents on persons and the environment.

(3) Without prejudice to the generality of *subsection (2)*, regulations under that subsection may—

- (a) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations (including provisions repealing, amending or applying, with or without modification, other law, exclusive of this Act, the Act of 1972 and the [European Communities Act 2007](#)),
- (b) make provision in relation to—
 - (i) the classification, labelling and packaging of chemicals, and
 - (ii) the establishment and maintenance of such registers, and keeping of such records, as may be specified in the regulations,
- (c) apply either generally or to such class or classes of chemicals, persons, places or activities as may be specified in the regulations, and
- (d) prescribe persons to perform the functions of a national authority for the purposes of the regulations and the provision of the treaties governing the European Communities or act adopted by an institution of the European Communities to which the regulations give effect.

(4) Where the Minister proposes to make regulations under this Act, upon a proposal from the Authority, he or she shall consult with the Authority before making the regulations.

(5) The Minister shall, before making regulations under *subsection (2)(a)*, obtain the consent of—

- (a) the Minister for Agriculture, Fisheries and Food,
- (b) the Minister for the Environment, Heritage and Local Government, and
- (c) the Minister for Finance,

to the making of the regulations.

(6) The Minister shall, before making regulations under *subsection (2)(b)*, obtain the consent of—

- (a) the Minister for the Environment, Heritage and Local Government,
- (b) the Minister for Health and Children,
- (c) the Minister for Justice, Equality and Law Reform, and
- (d) the Minister for Transport,

to the making of the regulations.

(7) In this section “ chemical ” includes a dangerous substance within the meaning of—

- (a) Council Directive 96/82/EC of 9 December 1996 ¹⁰ on the control of major accident hazards involving dangerous substances, and
- (b) Council Directive 67/548/EEC of 27 June 1967 ¹¹ on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances.

Reviews of, and proposals regarding, relevant chemicals statutory provisions.

6.— (1) The Authority shall—

- (a) undertake such reviews of the operation of the relevant chemicals statutory provisions as the Minister may direct, or as the Authority considers appropriate, and

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