L.N. 301 of 2007

PRODUCT SAFETY ACT (CAP. 427)

Dangerous Substances and Preparations (Restrictions) (Amendment) (No. 2) Regulations, 2007

IN exercise of the powers conferred by article 39 of the Product Safety Act, the Minister for Competitiveness and Communications has, on the advice of the Malta Standards Authority, made the following regulation:-

Citation. L.N. 346 of 2003.

1. The title of these regulations is the Dangerous Substances and Preparations (Restrictions) (Amendment) Regulations, 2007, and they shall be read and construed as one with the Dangerous Substances and Preparations (Restrictions) Regulations, 2003, hereinafter referred to as "the principal regulations".

Commencement and Scope.

2. These regulations implement the provisions of Directive 2006/122/EC of the European Parliament and of the Council of 12th December, 2006, and shall enter into force on 27th June 2008.

Amends the First Schedule to the principal regulations.

3. For the First Schedule to the principal regulations, the following point shall be added:

"52. Perfluorooctane sulfonates (PFOS) $C_8F_{17}SO_2X$ (X = OH, Metal salt (O-M+), halide, amide, and other derivatives including polymers)

(1) May not be placed on the market or used as a substance or constituent of preparations in a concentration equal to or higher than 0,005 % by mass.

(2) May not be placed on the market in semi-finished products or articles, or parts thereof, if the concentration of PFOS is equal to or higher than 0,1 %by mass calculated with reference to the mass of structurally or microstructurally distinct parts that contain PFOS or, for textiles or other coated materials, if the amount of PFOS is equal to or higher than 1µg/m^2 of the coated material.

(3) By way f derogation, paragraphs 1 and 2 shall not apply to the following items, nor to substances and preparations needed to produce them:

(a) photoresists or anti reflective coatings for photolithography processes,

(b) photographic coatings applied to films, papers, or printing plates,

(c) mist suppressants for non-decorative hard chromium (VI) plating and wetting agents for use in controlled electroplating systems where the amount of PFOS released into the environment is minimised, by fully applying relevant best available techniques developed within the framework of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (*),

(d) hydraulic fluids for aviation.

(4) By way of derogation from paragraph 1, fire-fighting foams that have been placed on the market before 27 December 2006 can be used until 27 June 2011.

(5) Paragraphs 1 and 2 shall apply without prejudice to Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents (**).

(6) Not later than 27 December 2008 Member States shall establish and communicate to the Commission an inventory that covers:

(a) processes that are subject to derogation in paragraph 3(c) and the amounts of PFOS used in and released from them,

(b) existing stocks of fire-fighting foams containing PFOS.

(7) As soon as new information on details of uses and safer alternative substances or technologies for the uses

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(*) OJ L257, 10.10.1996, p. 26. Directive as last amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council (OJ L 33, 4.2.2006, p. 1).

(**) OJ L104, 8.4.2004, p. 1. Regulation as amended by Commission Regulation (EC) No 907/2006 (OJ L 168, 21.6.2006, p. 5).".

becomes available, the Commission shall review each of the derogations in paragraph 3(a) to (d) so that:

(a) the uses of PFOS will be phased out as soon as the use of safer alternatives is technically and economically feasible,

(b) a derogation can only be continued for essential uses for which safer alternatives do not exist and where the efforts undertaken to find safer alternatives have been reported on,

(c) releases of PFOS into the environment have been minimised, by applying best available techniques.

(8) The Commission shall keep under review the ongoing risk assessment activities and the availability of safer alternative substances or technologies related to the uses of perfluorooctanoic acid (PFOA) and related substances and propose all necessary measures to reduce identified risks, including restrictions on marketing and use, in particular when safer alternative substances or technologies, that are technically and economically feasible, are available.

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