L.N. 207 of 2008

PRODUCT SAFETY ACT (CAP. 427)

Registration, Evaluation, Authorisation and Restriction of Chemicals Enforcement (E-REACH) Committee Regulations, 2008

IN exercise of the powers conferred by article 39 of the Product Safety Act, the Minister of Finance, Economy and Investment, on the advice of the Malta Standards Authority has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Registration, Evaluation, Authorisation and Restrictions of Chemicals Enforcement (E-REACH) Committee Regulations, 2008.

(2) These regulations shall come into force on such date as the Minister responsible for the Malta Standards Authority may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of these regulations.

Objectives.

2. The objectives of these regulations is to set up a committee to assist the Malta Standards Authority, with the aim to achieve a holistic multi-partite approach for the implementation and management of the enforcement of 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), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC.

Definitions.

3. (1) In these regulations, unless the context otherwise requires:

"Minister" means the minister responsible for the Malta Standards Authority;

"Act" mean the Product Safety Act;

"Chairman" means the Chairman of the Committee;

"competent authority" means the Malta Standards Authority;

"committee" means the Registration, Evaluation, Authorisation and Restrictions of Chemicals Enforcement (E-REACH) Committee;

"chemical" means a substance or preparation;

"substance" means a chemical element and its compounds in the natural state or obtain by any manufacturing proves, including any additive necessary to preserve its stability and any impurity derived from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

"preparation" means a mixture or solution composed of two or more substances;

"Council 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), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC.

(2) Any other terminology shall be understood to have the same meaning ascribed to it under the Council Regulation.

Interpretation.

4. The Registration, Evaluation, Authorisation and Restrictions of Chemicals Enforcement (E-REACH) Committee shall be established under these regulations.

Composition, terms of reference and procedure of the Committee.

5. (1) The composition, terms of reference and procedure of the Committee shall be respectively those shown in Schedules I, II and III to these regulations.

(2) The Minister shall appoint a Board secretary to the Committee.

(3) The members of the Committee shall be so appointed for a term of three years:

Provided that:

(a) the Chairman and the other members of the Committee may resign their office at any time by giving notice in writing to the Minister; and

(b) the Minister may at any time remove the Chairman and, or any of the members of the Committee on grounds of disability to perform their functions, of bankruptcy or neglect of duty.

(4) Without prejudice to any of these regulations and Schedule III to these regulations, the Committee shall regulate its own procedures and meetings.

(5) The quorum necessary for meetings of the Committee shall be the Chairperson and not less than half the other members.

Provided that the Committee may act notwithstanding any vacancy among its members.

(6) The decisions of the Committee shall be taken by a majority of votes of members present at the meeting. The Chairperson of the Committee shall have an original vote and, in the case of equality of votes, also a second or casting vote.

(7) If the powers conferred on the members of the Committee under this regulation contradict or, in any way, come into conflict with any of the powers conferred on the same members under any legislation governing these members, the prevailing powers shall be those set out under the other legislation governing these members.

Consultative committees.

6. The Chairman may set up any consultative committee made up of representatives from the industry, consumer associations and non-governmental organisations to assist the Committee as it may deem necessary.

Judicial and legal representation.

7. The judicial and legal representation of the Committee shall vest in the Chairperson:

Provided that the Committee may appoint any one or more of the other members to appear in the name and on behalf of the Committee in any judicial proceedings, and in any act, contract, instrument or other transaction whatsoever.

Power to publish warnings and information.

8. (1) The committee may make or issue public statements identifying and giving warnings or information about any of the following:

(a) chemicals that are injurious to health or to the environment;

(b) the supply of chemicals, by whomsoever supplied, which are or which may potentially cause injury to the health or which are harmful to the environment, and the persons engaged in the supply of chemicals;

(c) practices, conducted in relation to any chemical operation, which are detrimental to the interests of consumers, the environment and, or the persons who engage in such practices;

(d) any other matter that adversely affects or may adversely affect the environment or health of those persons in connection with the acquisition or use of chemicals.

(2) When making a statement as is referred to in subarticle 8(1) above, the Committee shall adhere to the principles of confidentiality consistency, fairness and objectivity, and shall not make such statements unless it is in the public interest to do so.

(3) The Government, the Committee and any public officer acting on the instructions or authority of the Committee, shall not be or become liable for any acts done in good faith under subarticle 8(1); such exemption from liability shall extend to all persons publishing, printing, recording, broadcasting, communicating or reproducing such information in any form whatsoever.

Conduct of business of Committee.

9. (1) The Minister may appoint a body to periodically advise, supervise and audit the functions of the Committee.

(2) The Minister may make, amend or revoke regulations for the proper conduct of the business of the Committee.

Schedule 1

Composition of the Registration, Evaluation, Authorisation and Restrictions of Chemicals Enforcement (E-REACH) Committee

The Registration, Evaluation, Authorisation and Restrictions of Chemicals Enforcement (E-REACH) Committee shall consist of:

(a) The Director responsible for chemicals within the Malta Standards Authority, designated by the Chairman of that Authority, who shall act as Chairman;

(b) The Director (or his delegate) for environment protection, designated by the Minister responsible for environment protection;

(c) The Director (or his delegate) of the Market Surveillance Directorate within the Malta Standards Authority;

(d) The Comptroller of Customs (or his delegate).

The Occupational Health and Safety Authority and the Public Health Department shall be consulted by the Committee in matters affecting their respective area of competence.

The Chairman may also invite any other representatives as required by the Committee, to attend Committee proceedings without voting rights.

Schedule II

Terms of reference of the Registration, Evaluation, Authorisation and Restrictions of Chemicals Enforcement (E-REACH) Committee

The terms of reference of the Registration, Evaluation, Authorisation and Restrictions of Chemicals Enforcement (E-REACH) Committee shall include:

(a) The monitoring and coordination of enforcement of the Council Regulation and any other relevant legislation, standards and practices in relation to chemical operations, chemical premises and actors in the supply chain operating in the chemical sector;

(b) Formulate and implement policies and strategies with short-term and long-term objectives, in relation to all matters relating to chemicals, including the development of a national surveillance and enforcement plan for chemical safety and to ensure the effective, transparent and comprehensive implementation of such plan;

(c) Carry out studies, research or investigation on any matter relating to the usage of chemicals within the scope of the Council Regulation and for such purposes shall require the submission of any information and shall analyse and interpret any data or information submitted to it;

(d) Ensure that proper records and registers are kept to ensure the persons responsible for any chemical may be identified;

(e) Carry out such other duties as may be conductive to the better performance of its function under these regulations;

(f) Advice the Competent Authority on the nomination of experts for the Risk Assessment and Socio-economic analysis Committees of the Agency;

(g) Provide the nominated experts of the Risk Assessment and Socio-economic analysis Committees with regards to requested information, research and secretarial support;

(h) Propose and advise upon the appropriate legal and administrative framework to implement the Council Regulation;

(i) Management of chemicals affecting the environment, human health and safety;

(j) Gathering of information from actors in the supply chain;

(k) Evaluating the risks of chemicals without prejudice to other provisions adopted;

(l) Setting up an information system on chemicals and the protection of health and the environment.

Schedule III

Procedure of the Registration, Evaluation, Authorisation and Restrictions of Chemicals Enforcement (E-REACH) Committee

(a) The Committee shall affectively apply the precautionary principle when a signification chemical risk to the environment, human health and safety is identified or reasonably suspected;

(b) The Chairman shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion in the draft within a time-limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority as laid down in regulation 5(6);

(c) The Competent Authority shall adopt the measures envisaged if it is in accordance with the opinion of the Committee.

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