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L.N. 152 of 2012

PRODUCT SAFETY ACT
(CAP. 427)

ENVIRONMENT AND DEVELOPMENT PLANNING ACT
(CAP. 504)

Limitation of Emissions of Volatile Organic Compounds (Paints, Varnishes and Vehicle Refinishing Products) Regulations, 2012

BY virtue of the powers conferred by article 38 of the Product Safety Act, and by articles 2, 61, 64 and 66 of the Environment and Development Planning Act, the Minister for Fair Competition, Small Business and Consumers and the Minister for Tourism, Culture and the Environment have made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Limitation of Emissions of Volatile Organic Compounds (Paints, Varnishes and Vehicle Refinishing Products) Regulations, 2012.

(2) These regulations provide for the implementation of Directive 2004/42/CE of the European Parliament and of the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products and amending Directive 1999/13/EC as amended.

(3) The purpose of these regulations is to limit the total content of VOCs in certain paints and varnishes and vehicle refinishing products in order to prevent or reduce air pollution resulting from the contribution of VOCs to the formation of tropospheric ozone.

(4) These regulations shall apply to the products set out in Schedule I.

Definitions.

2. For the purpose of these regulations and unless the context otherwise requires:

"coating" means any mixture, including all the organic solvents or preparations containing organic solvents necessary for its proper application, which is used to provide a film with decorative, protective or other functional effect on a surface;

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"Environment Protection Directorate" means the Directorate within the Malta Environment and Planning Authority established by virtue of article 12(1) and with assigned responsibilities in terms of the Third Schedule to the Environment and Development Planning Act; Cap. 504.

"film" means a continuous layer resulting from the application of one or more coats to a substrate;

"fitting" means any article which is fixed or attached to any wall, ceiling, floor or roof of a building and any associated structures but which can be removed once the owner leaves;

"fixture" means any article which is fixed or attached to any wall, ceiling, floor or roof of a building and any associated structures and which is considered legally to be part of the building and normally remains in place once the owner moves;

"mixture" means mixtures or solutions composed of two or more substances;

"organic compound" means any compound containing at least the element carbon and one or more of hydrogen, oxygen, sulphur, phosphorus, silicon, nitrogen, or a halogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates;

"organic solvent" means any VOC which is used alone or in combination with other agents to dissolve or dilute raw materials, products, or waste materials, or is used as a cleaning agent to dissolve contaminants, or as a dispersion medium, or as a viscosity adjuster, or as a surface tension adjuster, or as a plasticiser, or as a preservative;

"paints and varnishes" means coatings applied to the walls, ceilings, floors and roofs of buildings and associated structures as well as trims, fittings and fixtures, for decorative, functional and protective purposes and excluding aerosols;

"placing on the market" means making available to third parties, whether in exchange for payment or not. Importation into the Community customs territory shall be deemed to be placing on the market for the purposes of these regulations;

"solvent-borne coatings (SB)" means coatings the viscosity of which is adjusted by the use of organic solvent;

"substances" means any chemical element and its compounds, as they occur in the natural state or as produced by industry, whether in solid or liquid or gaseous form;

"Technical Regulations Division" means the entity established by virtue of article 19 of the Malta Competition and Consumer Affairs Act; Cap. 510.

"trim" means any additional decoration, typically along edges of any wall, ceiling, floor or roof of a building and any associated structures and which is made from a contrasting material or which has a contrasting colour;

"vehicle refinish products" means products used for the coating of road vehicles as defined in the EC Type-Approval of Motor Vehicles and their Trailers Regulations, or part of them, carried out as part of vehicle repair, conservation or decoration outside of manufacturing installations; S.L. 427.23

"VOC content" means the mass of volatile organic compounds, expressed in grams/litre (g/l), in the formulation of the product in its ready to use condition. The mass of volatile organic compounds in a given product which react chemically during drying to form part of the coating shall not be considered part of the VOC content;

"volatile organic compound (VOC)" means any organic compound having an initial boiling point less than or equal to 250°C measured at a standard pressure of 101,3 kPa;

"water-borne coatings (WB)" means coatings the viscosity of which is adjusted by the use of water.

Requirements.

3. (1) The placing on the market (including by any act to offer, expose, advertise or keep for sale and supply by way of compensation or otherwise) and, or use of the paints, varnishes and vehicle refinishing products within the scope of these regulations in accordance with Schedule I is prohibited unless their VOC content is less or equal to (≤) the limit values set out in Schedule II and unless the product is compliant with the labelling requirement in regulation 4.

(2) For determining compliance with the VOC content limit values set out in Schedule II, the analytical methods referred to in Schedule III shall be used.

(3) For products set out in Schedule I to which solvents or other components containing solvents have to be added in order for the product to be ready for use, the limit values in Schedule II shall apply to the VOC content of the product in its ready for use condition.

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(4) By way of derogation from sub-regulation (1), the operator of an installation permitted by the Environment Protection Directorate under regulations 3 and 4 of the Limitation of Emissions of Volatile Organic Compounds Regulations, may be allowed to import, on a yearly basis and for their own use, restricted amounts of paints which are not compliant with the limit values in Schedule II, as long as these products are used exclusively on the site covered by the said permit. S.L. 504.27

(5) The use of the paints covered by the derogation in sub-regulation (4) shall be subject to the approval in writing of the Environment Protection Directorate, which is contingent upon the installation of appropriate abatement measures on the site covered by the permit. This approval shall be granted after the submission of an application for permit by the operator.

(6) Operators making use of the derogation in sub-regulation (4) shall not offer, expose, advertise or keep for sale or supply by way of compensation or otherwise the paints which are not compliant with the limit values in Schedule II to any third party.

(7) In addition, operators making use of the derogation in sub-regulation (4) shall forward to the Environment Protection Directorate a yearly report which shall include the amounts of used and unused non-compliant paints covered by the said derogation. The reported amounts of unused paints shall be kept on site.

(8) For the purposes of restoration and maintenance of buildings and vintage vehicles designated by competent authorities as being of particular historical and cultural value, the Technical Regulations Division may grant individual licences for the sale and purchase in strictly limited quantities of products which do not meet the VOC limit values laid down in Schedule II.

(9) Whoever intends to make use of the derogation under sub-regulation (8) shall register his intent with the Technical Regulations Division and shall provide certification by an authorised body to prove that the vehicle or building in question is regarded as being a vintage vehicle or building of particular historical and cultural value.

4. The Technical Regulations Division shall ensure that the products set out in Schedule I carry a label when they are placed on the market. The label shall indicate: Labelling.

(a) the sub-category of the product and the relevant VOC limit values in g/l as referred to in Schedule II;

(b) the maximum content of VOC in g/l of the product

in a ready-to-use condition.

Monitoring.

5. The Environment Protection Directorate shall, jointly with the Technical Regulations Division, set up a monitoring programme for the purpose of verifying compliance with these regulations.

Free circulation.

6. The placing on the market of products falling under the scope of these regulations and which, in their ready-to-use condition, comply with the requirements of these regulations shall not be prohibited, restricted or prevented on grounds dealt with in these regulations.

Offences under these regulations.

7. Any person shall be guilty of an offence under these regulations if:

(a) he fails to comply with any order lawfully given in terms of any provision of these regulations; or

(b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully given in terms of any of the provision of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

Responsibilities.

8. Responsibility for the enforcement of these regulations shall be shared as follows:

(a) the Technical Regulations Division shall be the competent authority for enforcing the provisions in regulations 3(1) to (3) and 3(8) to 3(9), and regulations 4 and 6;

(b) the Environment Protection Directorate shall jointly with the Technical Regulations Division be responsible for the implementation of the provisions in regulation 5; and

(c) the Environment Protection Directorate shall be responsible for the enforcement of regulations 3(4) to 3(7):

Provided that the Technical Regulations Division and the Environment Protection Directorate shall both exchange all pertinent information and technical support on a continuous basis for the proper implementation of these regulations.

Penalties.

9. Any person who commits an offence against these

regulations shall, on conviction, be liable:

(a) on a first conviction to a fine (*multa*) of not less than twenty-three thousand euro (€23,000) and not exceeding two hundred and thirty-three thousand euro (€233,000) or to imprisonment for a term not exceeding two years or both such fine and imprisonment;

(b) on a second or subsequent convictions, to a fine (*multa*) of not less than forty-six thousand euro (€46,000) and not exceeding four hundred sixty-six thousand euro (€466,000) or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle, where applicable, shall be held liable in the same manner and degree:

Provided further that the court shall order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the public entities and, or other persons acting on their behalf involved in the implementation of these regulations and restitution of the environment as a result of the said offence, the revocation of the permit issued by the competent authority and the confiscation of the *corpus delicti*, including the vehicle, if applicable.

Applicability of the Criminal Code. Cap. 9.

10. (1) The provisions of articles 23 and 30 (1) of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

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Revocation of Limitation of Emissions of Volatile Organic Compounds (Paints, Varnishes and Vehicle Refinishing Products) Regulations, 2006.
L.N. 78 of 2006.

11. The Limitation of Emissions of Volatile Organic Compounds (Paints, Varnishes and Vehicle Refinishing Products) Regulations, 2006 are hereby being revoked.

SCHEDULE I

SCOPE

1. Irrespective of the label which might be attached to the container of the product, products will be considered as being paints and varnishes within the scope of these regulations if at least one of their intended uses is described by product sub-categories (a) to (l) in paragraph 1.1 below. Only those paints and varnishes covered by the derogations in regulation 3 of these regulations are excluded from compliance with these regulations.

1.1 Sub-categories:

(a) "matt coatings for interior walls and ceilings" means coatings designed for application to indoor walls and ceilings with a degree of gloss ≤ 25 @ 60°;

(b) "glossy coatings for interior walls and ceilings" means coatings designed for application to indoor walls and ceilings with a degree of gloss > 25 @ 60°;

(c) "coatings for exterior walls of mineral substrate" means coatings designed for application to outdoor walls of masonry, brick or stucco;

(d) "interior/exterior trim and cladding paints for wood, metal or plastic" means coatings designed for application to trim and cladding which produce an opaque film. These coatings are designed for either a wood, metal or a plastic substrate. This sub-category includes undercoats and intermediate coatings;

(e) "interior/exterior trim varnishes and woodstains" means coatings designed for application to trim which produce a transparent or semi-transparent film for decoration and protection of wood, metal and plastics. This sub-category includes opaque woodstains. Opaque woodstains means coatings producing an opaque film for the decoration and protection of wood, against weathering, as defined in EN 927-1, within the semi-stable category;

(f) "minimal build woodstains" means woodstains which, in accordance with EN 927-1:1996, have a mean thickness of less than 5µm when tested according to ISO 2808: 1997, method 5A;

(g) "primers" means coatings with sealing and, or blocking properties designed for use on wood or walls and ceilings;

(h) "binding primers" means coatings designed to stabilise loose substrate particles or impart hydrophobic properties and, or to protect wood against blue stain;

(i) "one-pack performance coatings" means performance coatings based on film-forming material. They are designed for applications requiring a special performance, such as primer and topcoats for plastics, primer coat for ferrous substrates, primer coat for reactive metals such as zinc and aluminium, anti-corrosion finishes, floor coatings, including for wood and cement floors, graffiti resistance, flame retardant, and hygiene standards in the food or drink industry or health services;

(j) "two-pack performance coatings" means coatings with the same use as one-performance coatings, but with a second component (e.g. tertiary amines) added prior to application;

(k) "multicoloured coatings" means coatings designed to give a two-tone or multiple-colour effect, directly from the primary application;

(l) "decorative effect coatings" means coatings designed to give special aesthetic effects over specially prepared pre-painted substrates or base coats and subsequently treated with various tools during the drying period.

2. Irrespective of the label which might be attached to the container of the product, products will be considered as being vehicle refinish products within the scope of these regulations if at least one of their intended uses is described by product sub-categories (a) to (e) in paragraph 2.1 below. Only those vehicle refinishing products covered by the derogations in regulation 3 of these regulations are excluded from compliance with these regulations.

2.1 Sub-categories:

(a) "preparatory and cleaning" means products designed to remove old coatings and rust, either mechanically or chemically, or to provide a key for new coatings:

(i) preparatory products include gunwash (a product designed for cleaning spray-guns and other equipment), paint strippers, degreasers (including anti-static types for plastic) and silicone removers;

(ii) "precleaner" means a cleaning product designed for the removal of surface contamination during preparation for and prior to the application of coating materials;

(b) "Bodyfiller/stopper" means heavy-bodied compounds designed to be applied to fill deep surface imperfections prior to the application of the surfacer/filler;

(c) "primer" means any coating that is designed for application to bare metal or existing finishes to provide corrosion protection prior to

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application of a primer surfacer:

(i) "surfacer/filler" means a coating designed for application immediately prior to the application of topcoat for the purpose of corrosion resistance, to ensure adhesion of the topcoat, and to promote the formation of a uniform surface finish by filling in minor surface imperfections;

(ii) "general metal primer" means a coating designed for application as primers, such as adhesion promoters, sealers, surfacers, undercoats, plastic primers, wet-on-wet, non-sand fillers and spray fillers;

(iii) "wash primer" means coatings containing at least 0,5% by weight of phosphoric acid designed to be applied directly to bare metal surfaces to provide corrosion resistance and adhesion; coatings used as weldable primers; and mordant solutions for galvanised and zinc surfaces;

(d) "topcoat" means any pigmented coating that is designed to be applied either as a single-layer or as a multiple-layer base to provide gloss and durability. It includes all products involved such as base coatings and clear coatings:

(i) "base coatings" means pigmented coatings designed to provide colour and any desired optical effects, but not the gloss or surface resistance of the coating system;

(ii) "clear coating" means a transparent coating designed to provide the final gloss and resistance properties of the coating system;

(e) "special finishes" means coatings designed for application as topcoats requiring special properties, such as metallic or pearl effect, in a single layer, high-performance solid-colour and clear coats, (e.g. anti-scratch and fluorinated clear-coat), reflective base coat, texture finishes (e.g. hammer), anti-slip, under-body sealers, anti-chip coatings, interior finishes; and aerosols.

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SCHEDULE II

A. MAXIMUM VOC CONTENT LIMIT VALUES FOR PAINTS AND VARNISHES

	Product Sub-category	Type	Phase II g/l (*)
a	Interior matt walls and ceilings (Gloss < 25 @ 60º)	WB	30
		SB	30
b	Interior glossy walls and ceilings (Gloss > 25 @ 60º)	WB	100
		SB	100
c	Exterior walls of mineral substrate	WB	40
		SB	430
d	Interior/exterior trim and cladding paints for wood and metal	WB	130
		SB	300
e	Interior/exterior trim varnishes and woodstains, including opaque woodstains	WB	130
		SB	400
f	Interior and exterior minimal build woodstains	WB	130
		SB	700
g	Primers	WB	30
		SB	350
h	Binding Primers	WB	30
		SB	750
i	One-pack performance coatings	WB	140
		SB	500
j	Two-pack reactive performance coatings for specific end use such as floors	WB	140
		SB	500
k	Multi-coloured coatings	WB	100
		SB	100
l	Decorative effect coatings	WB	200
		SB	200

B. MAXIMUM VOC CONTENT LIMIT VALUES FOR VEHICLE REFINISHING PRODUCTS

	Product Sub-category	Coatings	VOC g/l (*)
a	Preparatory and cleaning	Preparatory	850
		Pre-cleaner	200
b	Bodyfiller/stopper	All types	250
c	Primer	Surfacer/filler and general (metal) primer	540
		Wash primer	780
d	Topcoat	All types	420
e	Special Finishes	All types	840

(*) g/l of ready for use product. Except for sub-category (a) any water content of the product ready for use should be discounted.

SCHEDULE III

METHODS REFERRED TO IN REGULATION 3(2)

Permitted method for products with VOC content below 15% by mass where reactive diluents are not present:

Parameter	Unit	Test	
		Method	Date of publication
VOC content	g/l	ISO 11890-2	2006

Permitted methods for products with VOC content equal to or greater than 15% by mass where reactive diluents are not present:

Parameter	Unit	Test	
		Method	Date of publication
VOC content	g/l	ISO 11890-1	2007
VOC content	g/l	ISO 11890-2	2006

Permitted method for products with VOC content where reactive diluents are present:

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Parameter	Unit	Test	
		Method	Date of publication
VOC content	g/l	ASTMD 2369	2003

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