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STATUTORY INSTRUMENTS

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**1999 No. 3244**

**ENVIRONMENTAL PROTECTION**

**The Environmental Protection (Controls  
on Injurious Substances) Regulations 1999**

<i>Made</i>	- - - -	<i>6th December 1999</i>
<i>Laid before Parliament</i>		<i>8th December 1999</i>
<i>Coming into force</i>	- -	<i>29th December 1999</i>

The Secretary of State in exercise of the powers conferred on him by section 2(2) of the European Communities Act 1972<sup>(1)</sup>, being a Minister designated<sup>(2)</sup> for the purposes of that subsection in relation to measures relating to restrictions on the marketing and use of certain dangerous substances and preparations, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Environmental Protection (Controls on Injurious Substances) Regulations 1999 and shall come into force on 29th December 1999.

(2) These Regulations extend to Great Britain.

**Interpretation**

2.—(1) In these Regulations—

“controlled substance or preparation” means a substance or preparation containing one or more of the substances listed in the Schedule to these Regulations;

“professional and industrial use” includes use on railways, in electric power transmission and telecommunications, for fencing and in harbours and waterways;

“treated wood” means wood that has been treated with a controlled substance or preparation that contained:

- (a) benzo-a-pyrene at a concentration of greater than 0.05% by mass; or
- (b) water extractable phenols at a concentration of greater than 3% by mass.

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(1) 1972 c. 68.  
(2) S.I.1992/1711.

(2) Unless the context otherwise requires, expressions used in these Regulations which are also used in Council Directive [76/769/EEC](#) on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations<sup>(3)</sup>, as amended for the fourteenth time by European Parliament and Council Directive [94/60/EC](#)<sup>(4)</sup>, shall have the meaning they bear in that Directive.

### **Marketing of treated wood**

3.—(1) Subject to paragraphs (2) to (4), no person shall place treated wood on the market.

(2) Treated wood may be placed on the market for the first time for professional and industrial use: provided that the controlled substance or preparation with which it was treated contained—

- (a) benzo-a-pyrene at a concentration of less than 0.05% by mass;
- (b) water extractable phenols at a concentration of less than 3% by mass.

(3) Old treated wood may be placed on the second hand market.

(4) Treated wood may be placed on the market for research and development or analysis purposes.

### **Use of treated wood**

4.—(1) Subject to paragraph (3), no person shall use treated wood other than for—

- (a) a professional or industrial use; or
- (b) research and development or analysis purposes.

(2) Subject to paragraph (3), no person shall use treated wood—

- (a) inside any building;
- (b) for the manufacture of containers intended for the purposes of growing plants or for any retreatment of such containers;
- (c) for the manufacture of packaging which may come into contact with raw, intermediate or finished products intended for human or animal consumption;
- (d) for the manufacture of materials other than packaging which may contaminate raw, intermediate or finished products intended for human or animal consumption;
- (e) for any re-treatment of packaging or materials referred to in sub-paragraphs (c) and (d);
- (f) in playgrounds and in other outdoor places of public pleasure; or
- (g) in other situations where there is a risk that it may come into contact with skin.

(3) Paragraphs (1) and (2)(g) shall not apply to old treated wood.

### **Offences and penalties**

5. Any person who contravenes regulation 3(1), regulation 4(1) or regulation 4(2), or causes or permits another person to contravene any of those provisions, shall be guilty of an offence and shall be liable, on summary conviction to a fine not exceeding the statutory maximum and, on conviction on indictment, to a fine.

### **Amendment of Regulations**

6. In regulation 5 of the Environmental Protection (Controls on Hexachloroethane) Regulations 1998<sup>(5)</sup> for “level 5 on the standard scale” there is substituted “the statutory maximum”.

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(3) OJ No. L262, 27.9.1976, p.201.

(4) OJ No. L365, 31.12.1994, p.1.

(5) S.I. [1998/545](#).

Signed by authority of the Secretary of State

6th December 1999

*Michael Meacher*  
Minister of State,  
Department of the Environment, Transport and  
the Regions

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## SCHEDULE

Regulation 2(1)

**SUBSTANCES CONTAINED IN CONTROLLED SUBSTANCES AND PREPARATION(6)**

<i>Substance</i>	<i>EINECS Number</i>	<i>CAS Number</i>
Creosote	232-287-5	8001-58-9
Creosote oil	263-047-8	61789-28-4
Distillates (coal tar), naphthalene oils	283-484-8	84650-04-4
Creosote oil, acenaphthene fraction	292-605-3	90640-84-9
Distillates (coal tar), upper	266-026-1	65996-91-0
Anthracene oil	292-602-7	90640-80-5
Tar acids, Coal, Crude	266-019-3	65996-85-2
Creosote, wood	232-419-1	8021-3-4
Low temperature tar oil, alkaline	310-191-5	122384-78-5

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which apply to Great Britain, give effect in part to European Parliament and Council Directive [94/60/EC](#) amending for the fourteenth time Directive [76/769/EEC](#) (OJNo. L262, 27.9.1976, p.201) on the approximation of the laws, regulations and administrative provisions of the Member States relating to restriction on the marketing and use of certain dangerous substances and preparations.

Regulation 3 prohibits, subject to exceptions, the placing on the market of wood treated with substances or preparations containing one or more substances listed in the Schedule to these Regulations at more than a specified concentration.

Regulation 4 prohibits, subject to an exception for old treated wood, the use of treated wood in certain circumstances.

Regulation 6 makes it a criminal offence to contravene any of the prohibitions in regulations 3 and 4 and specifies the penalty.

The regulations also make a technical amendment to the Environmental Protection (Controls on Hexachloroethane) Regulations 1998. These Regulations apply to Great Britain.

(6) In Directive [94/60/EC](#), each listed substance is identified by reference to its CAS number and its EINECS number. The CAS number is the one given in the CAS Registry Handbook, ISSN 0093-058X, and the EINECS number is given in the European Inventory of Existing Commercial Chemical Substances (OJ No. 146A, 15.6.90, p.1).

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In Directive [76/769/EEC](#), substances are identified by reference to their CAS number and EINECS number, shown in each case in the Schedule to these regulations. These numbers are given in, respectively, the CAS Registry Handbook, ISSN 0093-058X, which may be inspected at the Royal Society of Chemistry, Burlington House, Piccadilly, London W1V 0BN and the European Inventory of Existing Commercial Chemical Substances (OJ No. C 146A, 15.6.90, p.1).