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*Number 32 of 2010*

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**CHEMICALS (AMENDMENT) ACT 2010**

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ARRANGEMENT OF SECTIONS

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ACTS REFERRED TO

Chemicals Act 2008	2008, No. 13
European Communities Act 1972	1972, No. 27
European Communities Act 2007	2007, No. 18
Safety, Health and Welfare at Work Act 2005	2005, No. 10



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*Number 32 of 2010*

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**CHEMICALS (AMENDMENT) ACT 2010**

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AN ACT TO AMEND THE CHEMICALS ACT 2008 AND THE  
SAFETY, HEALTH AND WELFARE AT WORK ACT 2005;  
AND TO PROVIDE FOR RELATED MATTERS.

[24th November, 2010]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Principal Act” means the Chemicals Act 2008. Definition.

2.—Subsection (1) of section 2 of the Principal Act is amended by— Amendment of section 2 of Principal Act.

(a) substituting the following definition for the definition of “chemical”:

“ ‘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,
- (c) a substance, preparation or article within the meaning of the REACH Regulation,
- (d) a substance, mixture or article within the meaning of the CLP Regulation, and
- (e) a dangerous substance within the meaning of—
  - (i) Council Directive 96/82/EC of 9 December 1996<sup>1</sup> on the control of major accident hazards involving dangerous substances, and
  - (ii) Council Directive 67/548/EEC of 27 June 1967<sup>2</sup> on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances;”

<sup>1</sup>OJ L10, 14.01.1997, p. 14

<sup>2</sup>OJ L196, 16.08.1967, p. 1

(b) inserting the following definition:

“ ‘CLP Regulation’ means Regulation (EC) No. 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures<sup>3</sup>,”

(c) substituting the following definition for the definition of “Detergents Regulation”:

“ ‘Detergents Regulation’ means Regulation (EC) No. 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents<sup>4</sup>,”

(d) substituting the following definition for the definition of “European Regulations”:

“ ‘European Regulations’ means—

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

(e) substituting the following paragraph for paragraph (b) of the definition of “national authority”:

“(b) a competent authority in the State under section 8(2), 8(3) or 8(3A) (inserted by *section 4* of the *Chemicals (Amendment) Act 2010*), or”

(f) substituting the following definition for the definition of “REACH Regulation”:

“ ‘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<sup>5</sup>,”

and

(g) substituting the following definition for the definition of “Rotterdam Regulation”:

“ ‘Rotterdam Regulation’ means Regulation (EC) No. 689/2008 of the European Parliament and of the Council of 17 June 2008 concerning the export and import of dangerous chemicals<sup>6</sup>.”

Amendment of  
section 5 of  
Principal Act.

**3.—Section 5 of the Principal Act is amended—**

(a) in subsection (2), by substituting the following paragraph for paragraph (a):

<sup>3</sup>OJ L353, 31.12.2008, p. 1

<sup>4</sup>OJ L104, 08.04.2004, p. 1

<sup>5</sup>OJ L396, 30.12.2006, p. 1

<sup>6</sup>OJ L204, 31.07.2008, p. 1

“(a) the manufacture, classification, labelling, packaging, export, import, placing on the market, testing, storage, transport, use or disposal of chemicals, or”,

(b) in subsection (3), by—

(i) substituting the following paragraph for paragraph (a):

“(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 section, the Act of 1972 and the European Communities Act 2007),”

(ii) deleting subparagraph (i) of paragraph (b), and

(iii) substituting “national authority or competent authority” for “national authority” in paragraph (d),

and

(c) by deleting subsection (7).

4.—Section 8 of the Principal Act is amended—

Amendment of section 8 of Principal Act.

(a) by substituting the following paragraph for paragraph (c) of subsection (2):

“(c) Beaumont Hospital Board, for the purposes only of Article 9(3) of that Regulation;”

and

(b) by inserting the following subsection after subsection (3):

“(3A) The following are competent authorities in the State for the purposes of the CLP Regulation:

(a) the Authority;

(b) the Minister for Agriculture, Fisheries and Food, in respect of pesticides;

(c) Beaumont Hospital Board, for the purposes only of Article 45 of that Regulation.”

5.—Section 9 of the Principal Act is amended by substituting the following paragraph for paragraph (b) of subsection (8):

Amendment of section 9 of Principal Act.

“(b) a competent authority in a Member State for the purposes of the Detergents Regulation, the REACH Regulation or the CLP Regulation.”

6.—Section 14 of the Principal Act is amended—

Amendment of section 14 of Principal Act.

- (a) in subsection (1) by substituting “an improvement plan (in this section and in section 15 referred to as a ‘plan’)” for “an improvement plan”,
- (b) in paragraph (b) of subsection (2) by substituting “a plan” for “an improvement plan”,
- (c) by substituting the following subsection for subsection (3):

“(3) An inspector shall, not later than one month after receiving a plan submitted under subsection (2) or a revised improvement plan (in this section and in section 15 also referred to as a ‘plan’) submitted pursuant to a direction under subsection (4), confirm by notice to the person who submitted the plan whether or not the inspector is satisfied that the plan is adequate.”,

and

- (d) by inserting the following new subsections:

“(4) If an inspector is not satisfied that a plan is adequate he or she shall, not later than one month after receiving the plan, require, by direction in writing, the person who prepared the plan to—

- (a) revise the plan in such manner as is specified in the direction, and
- (b) resubmit the plan as so revised to the inspector not later than the date of the expiration of such period as is specified in the direction.

(5) Where an inspector confirms by notice under subsection (3) that he or she is satisfied that a plan is adequate the person concerned shall implement the plan forthwith.

(6) A person to whom a direction under this section applies shall comply with the direction.

(7) A direction or notice under this section shall be signed and dated by the inspector.”.

Amendment of  
section 15 of  
Principal Act.

7.—Subsection (1) of section 15 of the Principal Act is amended by—

- (a) substituting the following paragraph for paragraph (b):

“(b) has failed to comply with a direction under section 14,”,

and

- (b) inserting the following paragraphs:

“(c) has submitted a plan in relation to which an inspector has confirmed by notice under section 14(4) that he or she is not satisfied that the plan is adequate, or

(d) has failed to implement the plan,”.

**8.**—Section 16 of the Principal Act is amended by substituting the following subsection for subsection (1):

Amendment of section 16 of Principal Act.

“(1) Where an inspector is of the opinion that at any place—

- (a) a person is or is likely to be in control of any activity relating to a chemical that involves or is likely to involve a serious risk to health or the environment, or
- (b) the measures taken by a person for the prevention and mitigation of major accidents are or are likely to be seriously deficient,

the inspector may serve a notice (in this Act referred to as a ‘prohibition notice’) on the person concerned.”.

**9.**—Section 29 of the Principal Act is amended by inserting the following subsection after subsection (3):

Amendment of section 29 of Principal Act.

“(3A) Where—

- (a) a distributor,
- (b) a downstream user,
- (c) an importer,
- (d) a manufacturer,
- (e) a notifier,
- (f) a producer of an article, or
- (g) a supplier,

contravenes a provision of the CLP Regulation that applies to him or her, that person shall be guilty of an offence.”.

**10.**—Section 30 of the Principal Act is amended in paragraph (a) of subsection (1) by substituting “12 months” for “6 months”.

Amendment of section 30 of Principal Act.

**11.**—(1) A reference in the Principal Act to—

- (a) the Rotterdam Regulation,
- (b) the Detergents Regulation,
- (c) the REACH Regulation, or
- (d) the CLP Regulation,

Construction of references in Principal Act.

shall be construed as a reference to that Regulation as amended by a European act (other than a directive adopted by an institution of the European Union), whether the amendment is made before, on or after the passing of this Act.

(2) In this section—

“Act of 1972” means the European Communities Act 1972;

“European act” means—

- (a) a provision of the treaties governing the European Union, or
- (b) an act adopted by an institution of the European Union, an institution of the European Communities or any other body competent under those treaties;

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

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

“treaties governing the European Union” has the same meaning as it has in the Act of 1972.

Amendment of  
Safety, Health and  
Welfare at Work  
Act 2005.

**12.**—The Safety, Health and Welfare at Work Act 2005 is amended—

- (a) in subsection (5) of section 18, by deleting “who is not in his or her employment”,
- (b) in subsection (8) of section 29, by inserting “or, if an appeal has been brought, the appeal has been abandoned” after “no appeal has been brought”,
- (c) in section 58, by deleting subsection (2),
- (d) in section 65—
  - (i) in subsection (1), by substituting “an improvement plan (in this section and in section 66 referred to as a ‘plan’)” for “an improvement plan”,
  - (ii) in paragraph (b) of subsection (2), by substituting “a plan” for “an improvement plan”,
  - (iii) in subsection (2), by deleting paragraph (c),
  - (iv) in subsection (4), by substituting “a plan” for “an improvement plan”, and
  - (v) by inserting the following new subsections:

“(5) Within one month of receipt of a plan submitted pursuant to a notice under subsection (4), an inspector shall confirm by written notice to the person who submitted the plan, whether or not he or she is satisfied that the plan is adequate.

(6) A notice under subsection (4) or (5) shall, where the inspector is satisfied with the plan, require the employer concerned to implement the plan.

(7) A person to whom a direction under subsection (1) or a notice under subsection (4) or (5) applies shall comply with the notice or direction.

(8) A direction or notice under this section shall be signed and dated by the inspector.”



(e) in section 66—

(i) by substituting the following paragraph for paragraph (b) of subsection (1):

“(b) has failed to comply with a direction under section 65(1), or a notice under section 65(4)(b), or”,

(ii) by inserting the following paragraphs in subsection (1):

“(c) has submitted a plan in relation to which an inspector has confirmed by notice under section 65(5) that he or she is not satisfied that the plan is adequate, or

(d) has failed to implement a plan,”,

and

(iii) by deleting paragraph (d) of subsection (2),

and

(f) in section 78—

(i) in subsection (1), by substituting “€5,000” for “€3,000”,

(ii) in paragraph (i) of subsection (2), by substituting—

(I) “€5,000” for “€3,000”, and

(II) “12 months” for “6 months”,

and

(iii) in subsection (4), by substituting “or consultants” for “of or consultants”.

**13.—(1)** This Act may be cited as the *Chemicals (Amendment) Act 2010*.

Short title,  
collective citations  
and  
commencement.

(2) The Principal Act and this Act (other than *section 12*) may be cited together as the *Chemicals Acts 2008 and 2010*.

(3) The *Safety, Health and Welfare at Work Act 2005*, section 37 of the Principal Act and *section 12* may be cited together as the *Safety, Health and Welfare at Work Acts 2005 and 2010*.

(4) This Act shall come into operation on such day or days as the Minister for Enterprise, Trade and Innovation 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.