

REACH - PRODUCTION, IMPORT AND SUPPLY OF ARTICLES

Information Sheet

April 2014

Under the EU REACH Regulation, those who place articles on the market are required to comply with a number of REACH duties. This information sheet aims to outline the key responsibilities under the REACH Regulation of those who produce, import or supply articles onto the EU Market.

The REACH Regulation (EC) NO. 1907/2006

The REACH Regulation defines an article as *'an object which during production is given a special shape, surface, or design which determines its function to a greater degree than its chemical composition.'*

Most common objects used in a private household or in industry are articles. Some examples include furniture, clothes, vehicles, books, toys, office and electronic equipment. Articles can be simple (e.g. stapler), or complex (e.g. a laptop computer or a car). Complex articles can also be made up of other articles.

In most cases, it is clear whether something is an article or not. However, there may be other cases where it is not as evident. It can be difficult to determine whether something is an article with an integral substance or whether it is a combination of an article (functioning as a container or carrier material) and a substance.



The European Chemical Agency (ECHA) guidance on requirements for substances in articles, Section 2.4, should be consulted to help make this decision.

It is the responsibility of the importer / producer to determine if they are an importer or producer of an article.

Who is considered an importer of Articles under REACH?

An importer is any natural or legal person established within the European Community who is responsible for the physical introduction into the customs territory of the Community.

Companies who source articles from within the EU are not importers and do not have any importer duties.

Who is considered a Producer of Articles under REACH?

A producer of articles transforms or incorporates substances and/or mixtures into articles during a production process.

Duties of Importer/Producers of Articles under REACH

Duty to Register Substances in Articles

Registration of any chemical substance in an article is required if

- a) The substance is present in those articles in quantities totalling over one tonne per importer/producer per year; **and**
- b) The substance is intended to be released under normal or reasonably foreseeable conditions of use



Registration involves the submission of a technical dossier with information on the properties of a substance, and if required, a chemical safety report detailing an assessment of that substance to the European Chemicals Agency. A registration under Article 7(1) is not required if this substance has already been registered for that use.

There are very few examples of intended release from an article (an example might be the release of a fragrance from an eraser). What might initially be considered an article intentionally releasing a substance/mixture, may in fact be an example of a container containing a substance or mixture.

For example, in the case of an ink cartridge, the cartridge is considered to be an article which acts as a container for the ink. During printing, the ink is then released from the cartridge. The release of the ink from the cartridge fulfils the main function of the object and so it is not regarded as 'intended release' for the purpose of REACH.



In such cases the substance(s) would need to be registered, if greater than 1 tonne per year, in the normal manner under Article 6 of REACH, but not as a substance in an article under Article 7(1).

The ink cartridge container is an article under REACH in its own right and so all the other provisions relating to articles will still apply to it.



Duty to notify Substances of Very High Concern contained in Articles

Substances of Very High Concern (SVHC) are substances that have hazardous properties with serious consequences, e.g. they cause cancer, or they can build up in the environment with serious consequences for plants/animals/humans.

A list of substances that have been identified as SVHCs is maintained by the European Chemicals Agency and is called the **Candidate List**. It is added to regularly and available on the ECHA's website (see further guidance section on page 4). It is important to frequently check the website to view the most up to date list.

If importing/producing an article, then the European Chemicals Agency will need to be notified if the article contains a Substance of Very High Concern i.e. is on the Candidate List when the following applies:

- (a) The substance is present in those articles in quantities totalling over 1 tonne per importer/producer per year; **and**
- (b) The substance is present in those articles above a concentration of 0.1% weight by weight (w/w).

The 0.1% w/w threshold relates to the whole article as imported/produced. For simple articles, it is relatively straightforward to determine the overall concentration of the substance. For complex articles it may be more difficult to determine, as the 0.1% w/w threshold applies to the concentration in the overall assembled article.

If articles are imported prior to assembly, then the 0.1% w/w concentration must be determined in each individual article component.

If an importer imports (or a producer produces) several articles containing the same SVHC, then consideration needs to be given to the % w/w of the substance in each article and the total tonnage. For each article that contains the substance at 0.1% w/w or more then the tonnage of the substance must be summed across all the articles, to determine whether notification is required.

For example, a washing machine is made up of a number of smaller articles/parts. If the washing machine is imported fully assembled into the EU then the 0.1% w/w calculation is made based on the overall weight of the washing machine. However, if individual component parts of the washing machine are imported separately and assembled in the EU, then it is the weight of each individual component article imported that must be considered.

If the criteria in (a) & (b) are met and the substance is listed on the Candidate List as a Substance of Very High Concern, then a notification must be made to the European Chemicals Agency no later than 6 months after the date that the substance is put on the Candidate list.

This duty to notify does not apply if the substance is already registered for that use. There are some other exemptions to the requirement to notify, details of which are contained in the ECHA guidance on requirements for articles available from the European Chemicals Agency (see further guidance section on page 4).

For Information on submitting a notification see ECHA's data submission manual for substances in articles (see further guidance section on page 4).

Duties of suppliers of Articles under REACH

Duty to communicate Information on Substances of Very High Concern in Articles

Any supplier (producer, importer, distributors or other actor) placing an article on the market, whether in return for payment or free of charge, that contains a Substance of Very High Concern at a concentration of greater than 0.1% w/w must provide the recipient of that article with sufficient information to allow safe use of that article. This must include as a minimum, the name of the Substance of Very High Concern.

Importers may need to consult with their suppliers to determine whether such substances are present in their articles.

The recipient in this case is someone who uses/handles the article as part of their work. However, the same requirements apply to consumers if they request this information, and it should be supplied to them free of charge within 45 days of receipt of the request.

This duty applies as soon as the 'Substance of Very High Concern' appears on the Candidate List.

Further Guidance

European Chemicals Agency website www.echa.europa.eu

Guidance on requirements for substances in articles

http://echa.europa.eu/documents/10162/13632/articles_en.pdf

ECHA's Data Submission Manual for Substances in Articles

http://echa.europa.eu/documents/10162/13653/dsm_20_notif_sia_en.pdf

Candidate list <http://echa.europa.eu/web/guest/candidate-list-table>

HSA's Chemicals Helpdesk; email chemicals@hsa.ie or call 1890 289 389

HSA's website www.hsa.ie/chemicals

Restrictions on the import and placing on the market of certain Articles

Annex XVII of REACH contains a list of substances that when present in certain articles or at certain concentrations cannot be imported or placed on the market as they are banned in the EU.

Any supplier (producer, importer, distributors or other actor) of an article, whether in return for payment or free of charge, that contains any chemical substance listed in Annex XVII of REACH should check to see whether the import or placing on the market of the article is permitted, or if it is permitted, that it is in accordance with any specific conditions identified in Annex XVII.

