STATUTORY INSTRUMENTS

1980 No. 638

PUBLIC HEALTH, ENGLAND AND WALES
PUBLIC HEALTH, SCOTLAND
PUBLIC HEALTH, NORTHERN IRELAND

The Control of Pollution (Supply and Use of Injurious Substances) Regulations 1980

Made - - - -	*25th April* 1980
Laid before Parliament	*15th May* 1980
Coming into Operation	*1st July* 1980

Whereas the Secretary of State for the Environment, as respects England, the Secretary of State for Wales, as respects Wales, the Secretary of State for Scotland, as respects Scotland, and the Secretary of State for Northern Ireland, as respects Northern Ireland—

(1) have consulted persons appearing to them to represent persons whose activities were likely to be prohibited or restricted by regulations proposed to be made under section 100 of the Control of Pollution Act 1974**(a)**,

(2) have published notices in pursuance of subsection (2)(*b*) of the said section 100,

(3) have considered the representations made to them in accordance with the notices, and

(4) consider it appropriate to make the said regulations for the purpose of preventing the occurrence of damage in a manner described in subsection (1) of the said section 100,

now therefore the said Secretaries of State, in exercise of the powers conferred on them by section 100 of the Control of Pollution Act 1974 and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation, commencement and extent

1.—(1) These regulations may be cited as the Control of Pollution (Supply and Use of Injurious Substances) Regulations 1980 and shall come into operation on 1st July 1980.

(2) These regulations shall extend to the United Kingdom.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"the Communities" has the same meaning as in the European Communities Act 1972**(b)**;

"excepted operation" means an operation mentioned in column (1) of the Schedule;

(a) 1974 c. 40.

(b) 1972 c. 68.

"injurious substance" means a substance which is

(*a*) a PCB;

(*b*) a PCT; or

(*c*) a preparation with a PCB or PCT content higher than 0.1 per cent by weight;

"large capacitor" means a capacitor having a total weight exceeding one kilogramme;

"locating agent" means a thermoplastic substance used, or prepared for use, for supporting or holding materials or objects to enable them to be machined, ground or cut; and "relevant locating agent" means a locating agent which has a PCT content not exceeding 50 per cent by weight;

"the operative date" means the date of coming into operation of these regulations;

"PCB" means any polychlorinated biphenyl other than a dichlorinated biphenyl;

"PCT" means any polychlorinated terphenyl;

"the Schedule" means the schedule to these regulations;

"small capacitor" means a capacitor having a total weight not exceeding one kilogramme;

"substance" includes a preparation which is a mixture or solution containing two or more substances.

(2) A reference in these regulations to a numbered regulation is a reference to the regulation so numbered in these regulations.

Prohibition of supply or use of injurious substances

3. Subject to regulation 4, no person shall—

(*a*) sell, or

(*b*) offer for sale, or

(*c*) use in connection with any trade or business or manufacturing process

any injurious substance.

Exceptions to regulation 3

4. Regulation 3 shall not apply to the sale, or the offer for sale, or the use, of any injurious substance occurring—

(*a*) in relation to, or in the course of, any of the following operations, that is to say—

(i) the carriage of that substance by rail, road, inland waterway, sea or air;

(ii) the carriage of that substance by way of export to a destination in the territory of a state which is not a member state of the Communities;

(iii) the carriage of that substance in circumstances in which it is not subjected to any process during transit and is available for examination during transit by customs officers of the United Kingdom; or

(*b*) for the purposes of, or in the course of, any excepted operation, subject to the special provisions, if any, specified in relation to that operation in column (2) of the Schedule; or

(*c*) for the purposes of, or in the course of, any form of process, other than an excepted operation—

(i) whereby that substance is prepared or adapted for any excepted operation, or is destroyed, or is converted into a substance which is not an injurious substance, or

(ii) in which that substance is a relevant locating agent and is used as a locating agent in accordance with the manufacturer's instructions as to handling, use and disposal; or

(*d*) for the purposes of, or in the course of, research and development; or

(*e*) for the purposes of, or in the course of, analysis.

Offences

5.—(1) A person who contravenes regulation 3 shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £1,000, and, on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.

(2) Where a person is charged with an offence under these regulations, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

Regulations 2 and 4

SCHEDULE

OPERATIONS EXCEPTED FROM THE CONTROL IMPOSED BY REGULATION 3

(1) Operation	(2) Special provisions
1. Use by way of dielectric application in any transformer.	—
2. Use by way of dielectric application in any large capacitor.	—
3. Use by way of dielectric application in any small capacitor which was first used on or before the operative date.	—
4. Use by way of dielectric application in any small capacitor which is first used after the operative date.	In any case where the relevant injurious substance is or contains a PCB, any such substance used in the capacitor— (*a*) shall not contain more than 43 per cent of chlorine, and (*b*) shall not contain more than 3.5 per cent of pentachlorinated or more highly chlorinated biphenyls.
5. Use in any hydraulic fluid employed in any underground mining equipment.	—
6. Use in a heat-transmitting fluid having a PCB content, in a closed-circuit heat-transfer installation (other than an installation for processing foodstuffs, feeding stuffs, or pharmaceutical or veterinary products), where the PCB content of that fluid in that installation has been substantially diluted by the introduction of new fluid having no PCB content.	The best practicable means shall be used to effect a progressive reduction of the PCB content of the fluid concerned to 0.1 per cent or less by the introduction of new fluid from time to time.

18th April 1980. *Michael R. D. Heseltine*,
Secretary of State for the Environment.

21st April 1980. *Nicholas Edwards*,
Secretary of State for Wales.

23rd April 1980. *George Younger*,
Secretary of State for Scotland.

25th April 1980. *Humphrey Atkins*,
Secretary of State for Northern Ireland.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations, which apply to the United Kingdom, give effect to certain provisions of Community Legislation, contained in Council Directive 76/769/EEC (O.J. No. L262, 27.9.1976, pp. 201–203) relating to restrictions on the marketing and use of certain dangerous substances and preparations, particularly polychlorinated biphenyls (PCBs) and polychlorinated terphenyls (PCTs).

Regulation 2 defines "injurious substance" for the purpose of these regulations as a substance which is a PCB or PCT, or which has a PCB or PCT content of more than 0.1 per cent by weight.

Regulation 3 prohibits the sale or offer for sale of any such injurious substance, or its use in connection with trade, business or manufacture.

Regulation 4, read with the Schedule, prescribes certain exemptions from the prohibition contained in regulation 3.

Regulation 5 prescribes penalties for the contravention of regulation 3, and provides that it shall be a defence for an accused person to prove that he took all reasonable steps and exercised all due diligence to avoid committing an offence.