Subsidiary Legislation made under s.13.

Chemicals Regulations 2026

LN.2026/183

Commencement **15.7.2026**

ARRANGEMENT OF REGULATIONS

Regulation

In exercise of the powers conferred on it by section 13 of the Treaty on Gibraltar and the European Union Act 2026, and all other enabling powers, and in order to make provision for the purposes of the implementation of Article 219(4) of the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community of the one part and the United Kingdom of Great Britain and Northern Ireland in respect of Gibraltar on the regulation of chemical substances and mixtures and their safe use, including the authorisation of substances of very high concern and the provision of emergency health response information, the Government has made these Regulations–

PART 1
PRELIMINARY

Title.

1. These Regulations may be cited as the Chemicals Regulations 2026.

Commencement.

2. These Regulations come into operation on the Implementation Date.

Interpretation.

3.(1) In these Regulations–

"article" means an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition;

"the 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, as amended from time to time;

"competent authority" means the authority designated under regulation 26;

"customs officer" has the meaning given in the Imports and Exports Act 1986;

"downstream user" means any natural or legal person established in Gibraltar or any member state of the European Union, other than the manufacturer or the importer, who uses a substance, either on its own or in a mixture, in the course of his industrial or professional activities, and includes a re-filler and a re-packager;

"hazard category" means the division of criteria within each hazard class, specifying hazard severity;

"hazard class" means the nature of the physical, health or environmental hazard of a substance or mixture;

"hazardous", in relation to a substance or mixture, means that the substance or mixture–

(a) fulfils the criteria relating to physical hazards, health hazards or environmental hazards laid down in Parts 2 to 5 of Annex I to the CLP Regulation; and

(b) is classified in relation to one or more of the hazard classes or hazard categories provided for in that Annex;

"hazard pictogram" means a graphical composition that includes a symbol plus other graphic elements, such as a border, background pattern or colour, that is intended to convey specific information about the hazard concerned;

"hazard statement" means a phrase assigned to a hazard class and category that describes the nature of the hazard of a substance or mixture;

"Implementation Date" has the meaning given in section 3 of the Treaty on Gibraltar and the European Union Act 2026;

"importer" means any natural or legal person established in Gibraltar or any Member State of the European Union who is responsible for importing a substance, on its own or in a mixture or in an article, into Gibraltar;

"inspector" means a person appointed by the competent authority under regulation 26(2), being a police officer, an officer of the competent authority, or a customs officer;

"mixture" means a mixture or solution composed of two or more substances;

"placing on the market" means supplying or making available, whether in return for payment or free of charge, to a third party in Gibraltar, and includes importation into Gibraltar;

"police officer" has the meaning given in the Police Act 2006;

"precautionary statement" means a phrase that describes recommended measures to minimise or prevent adverse effects resulting from exposure to a hazardous substance or mixture;

"the 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), as amended from time to time;

"safety data sheet" means a document providing information on the properties of a substance or mixture, its hazards and instructions for handling, disposal and transport, and first-aid, fire-fighting and exposure-control measures;

"scientific research and development" means any scientific experimentation, analysis or chemical research carried out under controlled conditions in a volume not exceeding the quantity strictly necessary for those purposes;

"signal word" means a word that indicates the relative level of severity of a hazard, being either 'Danger' or 'Warning';

"substance" means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

"substance of very high concern" means a substance identified as such in accordance with Schedule 2;

"substance subject to authorisation" means a substance listed in Annex XIV to the REACH Regulation;

"supplier" means any manufacturer, importer, downstream user or distributor placing on the market a substance, on its own or in a mixture, or a mixture.

(2) In these Regulations, a reference to a hazard class, hazard category, hazard sub-category or hazard differentiation is a reference to that class, category, sub-category or differentiation as set out in Annex I to the CLP Regulation.

PART 2
RESTRICTION OF SUBSTANCES

Prohibition on placing on market of restricted substances.

4.(1) A person must not manufacture, place on the market, export or use a substance, on its own, in a mixture or in an article, in contravention of the conditions of restriction set out in Schedule 1.

(2) Subject to sub-regulation (3), sub-regulation (1) does not apply to the use of a substance in scientific research and development.

(3) Schedule 1 may specify whether the exemption in sub-regulation (2) applies to product and process orientated research and development, and the maximum quantity exempted.

Substances of very high concern: duty to communicate information.

5.(1) A supplier of an article containing a substance of very high concern in a concentration above 0.1% weight by weight must provide the recipient of the article with sufficient information, available to the supplier, to allow safe use of the article, including, as a minimum, the name of the substance.

(2) The information required by sub-regulation (1) must be provided free of charge within 45 days of receipt of a request.

(3) A supplier of an article containing a substance of very high concern in a concentration above 0.1% weight by weight must, on request by a consumer, provide the consumer with the information specified in sub-regulation (1), free of charge, within 45 days of receipt of the request.

Duty to notify competent authority of substances of very high concern in articles.

6.(1) A producer or importer of articles must notify the competent authority where a substance of very high concern is present in those articles above a concentration of 0.1% weight by weight and where the total quantity of the substance in those articles exceeds one tonne per producer or importer per year.

(2) A notification under sub-regulation (1) must include–

(a) the identity and contact details of the producer or importer;

(b) the identity of the substance, including its registration number where available;

(c) the classification of the substance;

(d) a brief description of the use of the substance in the article and of the uses of the article;

(e) the tonnage range of the substance present in the articles, such as 1 to 10 tonnes, 10 to 100 tonnes.

(3) Sub-regulation (1) does not apply where the producer or importer can exclude exposure to humans or the environment during normal or reasonably foreseeable conditions of use including disposal, in which case the producer or importer must provide appropriate instructions to the recipient of the article.

PART 3
AUTHORISATION

Prohibition on use of substances subject to authorisation.

7.(1) A person must not place on the market or use a substance subject to authorisation, on its own or in a mixture, unless an authorisation for that use has been granted in accordance with Title VII, Chapter 2 (Articles 60 to 64) of the REACH Regulation, and the conditions of that authorisation (including any conditions imposed under Article 60(8) and (9) of the REACH Regulation) are complied with.

(2) The substances listed in Annex XIV to the REACH Regulation are the substances subject to authorisation for the purposes of these Regulations.

(3) Sub-regulation (1) does not apply where–

(a) the substance is used in scientific research and development;

(b) the sunset date referred to in Article 58(1)(c)(i) of the REACH Regulation in respect of the substance has not yet been reached; or

(c) the substance is present in a mixture in a concentration below the lowest of the concentration limits specified in the CLP Regulation which results in the mixture being hazardous.

Recognition of EU authorisations.

8. An authorisation granted by the European Commission under Article 60 of the REACH Regulation in respect of a substance subject to authorisation shall be treated as an authorisation for the purposes of regulation 7(1), and the placing on the market or use of that substance in Gibraltar shall be subject to the same conditions, time limits, and review periods as those imposed by the Commission in the authorisation.

PART 4
CLASSIFICATION, LABELLING AND PACKAGING

Obligation to classify.

9.(1) A supplier must, before placing a substance or mixture on the market, classify it in accordance with Title II (Articles 5 to 16) and the criteria set out in Parts 2 to 5 of Annex I to the CLP Regulation.

(2) A substance or mixture which meets the criteria for classification in one or more of the hazard classes set out in Part 2 (physical hazards), Part 3 (health hazards), Part 4 (environmental hazards) or Part 5 (additional hazards) of Annex I to the CLP Regulation must be classified in relation to the relevant hazard class or classes and the applicable hazard categories or differentiations within each class, in accordance with Article 13 of the CLP Regulation.

(3) Where a substance is subject to harmonised classification and labelling through an entry in Part 3 of Annex VI to the CLP Regulation, that substance must be classified in accordance with that entry for the hazard classes, differentiations or physical states covered by the entry, and the supplier must not carry out a self-classification for those hazard classes or differentiations.

(4) When classifying a substance or mixture, a supplier must take into account all available and relevant information including–

(a) data generated by tests carried out in accordance with recognised scientific methods;

(b) epidemiological data and experience on the effects on humans;

(c) any other information generated in accordance with internationally recognised scientific methods.

Duty to review classification.

10.(1) A supplier must take all reasonable steps available to it to become aware of new scientific or technical information that may affect the classification of a substance or mixture it places on the market.

(2) Where a supplier becomes aware of information which it considers to be adequate and reliable and which may affect the classification of a substance or mixture, the supplier must without undue delay carry out a new evaluation of the classification in accordance with regulation 9.

(3) Where a supplier makes a change to the composition of a mixture that is hazardous, the supplier must carry out a new evaluation of the classification where the change involves–

(a) a change in the initial concentration of one or more of the hazardous constituents at or above the applicable concentration limits set out in the CLP Regulation; or

(b) the substitution or addition of one or more constituents in concentrations at or above the applicable cut-off values set out in the CLP Regulation.

(4) A supplier must adapt the classification of the substance or mixture in accordance with the results of any new evaluation carried out under this regulation.

Labelling requirements.

11.(1) A supplier must, before placing a substance or mixture on the market, label it in accordance with the requirements of this regulation.

(2) A label must contain–

(a) the name, address and telephone number of the supplier;

(b) the nominal quantity of the substance or mixture in the package made available to the general public, unless that quantity is specified elsewhere on the package;

(c) product identifiers;

(d) where applicable, hazard pictograms in accordance with the CLP Regulation;

(e) where applicable, signal words;

(f) where applicable, hazard statements;

(g) where applicable, appropriate precautionary statements;

(h) where applicable, supplemental information required by Annex II to the CLP Regulation, including any supplemental hazard statements (EUH statements) and any other supplemental label elements assigned to the substance or mixture by virtue of its properties or the provisions of that Annex.

(3) The label must be written in English.

(4) The label must be firmly affixed to one or more surfaces of the packaging immediately containing the substance or mixture and must be legible horizontally when the package is set down normally.

Advertising.

12.(1) A person who places an advertisement for a substance that is hazardous must mention in the advertisement the hazard class or hazard classes concerned.

(2) A person who places an advertisement for a mixture that is hazardous, or for a mixture to which supplemental labelling under regulation 11(2)(h) applies, which allows a member of the general public to conclude a contract for purchase without first having sight of the label, must mention in the advertisement the type or types of hazard indicated on the label.

Updating information on labels.

13.(1) A supplier must update the label of a substance or mixture without undue delay following any change to the classification or labelling of that substance or mixture where–

(a) the new hazard is more severe than the hazard previously identified; or

(b) new supplemental labelling elements are required under regulation 11(2)(h).

(2) Where labelling changes are required other than those referred to in sub-regulation (1), the supplier must update the label within 18 months of the change.

Packaging requirements.

14.(1) Packaging containing a hazardous substance or mixture must–

(a) be designed and constructed so that the contents cannot escape, except where other more specific safety devices are prescribed;

(b) not be made of material susceptible to adverse attack by the contents or liable to form hazardous compounds with the contents;

(c) be strong and solid throughout to ensure that they will not loosen and will safely meet the normal stresses and strains of handling.

(2) Replaceable fastenings must be designed so that the packaging can be repeatedly re-fastened without the contents escaping.

(3) Packaging containing a substance or mixture supplied to the general public must not have a shape or design likely to attract or arouse the active curiosity of children or to mislead consumers, and must not have a presentation or designation used for human or animal food, cosmetics, medicines or similar products.

Child-resistant fastenings and tactile warnings.

15.(1) Packaging of a substance or mixture supplied to the general public must be fitted with a child-resistant fastening in accordance with section 3.1 of Annex II to the CLP Regulation where the substance or mixture is classified for any of the following–

(a) acute toxicity, categories 1 to 3, as set out in section 3.1 of Annex I to the CLP Regulation;

(b) specific target organ toxicity — single exposure, category 1, as set out in section 3.8 of Annex I to the CLP Regulation;

(c) specific target organ toxicity — repeated exposure, category 1, as set out in section 3.9 of Annex I to the CLP Regulation;

(d) skin corrosion, category 1, as set out in section 3.2 of Annex I to the CLP Regulation.

(2) Packaging of a substance or mixture supplied to the general public must bear a tactile warning of danger in accordance with section 3.2 of Annex II to the CLP Regulation where the substance or mixture is classified for any of the following–

(a) acute toxicity, as set out in section 3.1 of Annex I to the CLP Regulation;

(b) skin corrosion, as set out in section 3.2 of Annex I to the CLP Regulation;

(c) germ cell mutagenicity, category 2, as set out in section 3.5 of Annex I to the CLP Regulation;

(d) carcinogenicity, category 2, as set out in section 3.6 of Annex I to the CLP Regulation;

(e) reproductive toxicity, category 2, as set out in section 3.7 of Annex I to the CLP Regulation;

(f) respiratory sensitisation, as set out in section 3.4 of Annex I to the CLP Regulation;

(g) specific target organ toxicity (single exposure or repeated exposure), as set out in sections 3.8 and 3.9 of Annex I to the CLP Regulation;

(h) aspiration hazard, as set out in section 3.10 of Annex I to the CLP Regulation; or

(i) flammable gases, as set out in section 2.2 of Annex I to the CLP Regulation, flammable liquids categories 1 or 2, as set out in section 2.6 of Annex I to the CLP

Regulation, or flammable solids, as set out in section 2.7 of Annex I to the CLP Regulation.

(3) Child-resistant fastenings referred to in sub-regulation (1) must comply with the standard EN ISO 8317:2015, or any successor standard which provides an at least equivalent level of protection.

(4) Tactile warnings referred to in sub-regulation (2) must comply with the standard EN ISO 11683:2020, or any successor standard which provides an at least equivalent level of protection.

(5) Sub-regulation (1) does not apply where it can be demonstrated that the packaging cannot be opened by a child without the use of a tool.

Notification of classification.

16.(1) A supplier who places on the market a substance which is hazardous must notify the competent authority of the following information–

(a) the identity of the supplier;

(b) the identity of the substance;

(c) the classification of the substance in terms of hazard class and category;

(d) where the substance is classified in some but not all hazard classes or differentiations of a hazard class, an indication as to whether this is due to a lack of data, inconclusive data, or data which is conclusive for non-classification;

(e) the applicable specific concentration limits or multiplying factors, where relevant.

(2) The notification under sub-regulation (1) must be made within one month of placing the substance on the market.

Notification for emergency health response.

17.(1) An importer or downstream user who places a mixture that is hazardous for health or physical effects on the market must notify the competent authority of the following information–

(a) the product identifier of the mixture, including any trade name;

(b) the classification of the mixture for health and physical hazards;

(c) the composition of the mixture, including the identity and concentration of its components in so far as relevant to emergency health response;

(d) the type and size of the packaging in which the mixture is supplied to the general public or professional users;

(e) the colour and physical state of the mixture as supplied;

(f) the intended use category of the mixture; and

(g) toxicological information as set out in the safety data sheet, where available.

(2) The notification must be made before, or at the time of, placing the mixture on the market for the first time.

(3) The notification must be updated without undue delay where–

(a) the classification of the mixture for health or physical hazards changes;

(b) new toxicological information relevant to emergency health response on the hazardous properties of the mixture or its components becomes available; or

(c) the composition of the mixture changes by the addition, substitution or deletion of a component, or by a change in the concentration of a component beyond the applicable variation threshold.

(4) The competent authority must maintain a record of notifications received under this regulation and must make such information available, for the purposes of emergency health response, to–

(a) the Gibraltar Health Authority established under the Medical (Gibraltar Health Authority) Act, 1987 ;

(b) the Civil Contingencies Committee established under the Civil Contingencies Act 2007; and

(c) any person providing emergency medical treatment in Gibraltar.

(5) The Government may by regulations–

(a) prescribe the form and manner of notifications under this regulation;

(b) require the generation and inclusion on the label of a unique formula identifier for mixtures notified under this regulation;

(c) prescribe the format of such unique formula identifier; and

(d) make any further provision relating to the information to be submitted for emergency health response purposes.

Recognition of EU classifications.

18. The harmonised classifications set out in Schedule 3 shall be recognised and applied for the purposes of these Regulations.

PART 5
SAFETY DATA SHEETS

Duty to provide safety data sheets.

19.(1) A supplier of a substance or mixture must provide the recipient with a safety data sheet where–

(a) the substance or mixture is hazardous;

(b) the substance is persistent, bioaccumulative and toxic or very persistent and very bioaccumulative in accordance with the criteria set out in Annex XIII of the REACH Regulation; or

(c) the substance is included in Schedule 2 for reasons other than those referred to in paragraphs (a) and (b).

(2) A supplier of a mixture which is not hazardous but which contains–

(a) in an individual concentration of >= 1% by weight for non-gaseous mixtures and >= 0.2% by volume for gaseous mixtures, a substance posing human health or environmental hazards; or

(b) in an individual concentration of >= 0.1% by weight for non-gaseous mixtures, a substance which is persistent, bioaccumulative and toxic, very persistent and very bioaccumulative, or a substance of very high concern,

must, on request, provide the recipient with a safety data sheet.

(3) The safety data sheet must be provided free of charge, in paper or electronic form, and in the English language, no later than the date on which the substance or mixture is first supplied.

Duty to communicate information where no safety data sheet is required.

20.(1) A supplier of a substance on its own or in a mixture who does not have to supply a safety data sheet in accordance with regulation 19 must provide the recipient with the following information–

(a) where any restriction applies to the substance under Part 2 of these Regulations, details of that restriction;

(b) whether the substance is a substance of very high concern within the meaning of Schedule 2;

(c) whether the substance is subject to authorisation under Part 3 of these Regulations and, if so, details of any authorisation granted or denied in the supply chain; and

(d) any other available and relevant information about the substance that is necessary to enable appropriate risk management measures to be identified and applied.

(2) The information required by sub-regulation (1) must be provided free of charge, in paper or electronic form, no later than the date on which the substance or mixture is first supplied.

(3) A supplier must update the information provided under sub-regulation (1) without delay on the following occasions–

(a) as soon as new information which may affect the risk management measures becomes available;

(b) where a new restriction is imposed under Part 2 of these Regulations; or

(c) where an authorisation is granted, refused or revoked in respect of the substance.

Format and content of safety data sheets.

21.(1) A safety data sheet must contain the following headings–

(a) identification of the substance or mixture and of the supplier;

(b) hazards identification;

(c) composition and information on ingredients;

(d) first-aid measures;

(e) fire-fighting measures;

(f) accidental release measures;

(g) handling and storage;

(h) exposure controls and personal protection;

(i) physical and chemical properties;

(j) stability and reactivity;

(k) toxicological information;

(l) ecological information;

(m) disposal considerations;

(n) transport information;

(o) regulatory information;

(p) other information.

(2) The safety data sheet must be compiled in accordance with the requirements of Annex II to the REACH Regulation.

Updating of safety data sheets.

22.(1) A supplier must update a safety data sheet without delay on the following occasions–

(a) as soon as new information which may affect the risk management measures, or new information on hazards, becomes available;

(b) where a restriction has been imposed under Part 2 of these Regulations in respect of the substance;

(c) where an authorisation under Part 3 of these Regulations, or under the REACH Regulation, has been granted, refused or revoked in respect of the substance; or

(d) where any other material change in circumstances makes the existing safety data sheet inaccurate or inadequate.

(2) The updated safety data sheet must be provided to all recipients to whom the substance or mixture was supplied in the preceding twelve months.

(3) An updated safety data sheet must be dated and marked with the revision number.

PART 6
OBLIGATIONS ON IMPORTERS AND DOWNSTREAM USERS

Duties of importers.

23.(1) An importer must ensure that any substance, mixture or article imported into Gibraltar complies with–

(a) the restrictions set out in Schedule 1;

(b) the authorisation requirements set out in Part 3 of these Regulations;

(c) the classification, labelling and packaging requirements set out in Part 4 of these Regulations; and

(d) the safety data sheet requirements set out in Part 5 of these Regulations.

(2) An importer must keep records of all substances, mixtures and articles imported, including the classification and labelling applied, for a period of not less than 10 years from the date of last importation.

(3) An importer must make the records referred to in sub-regulation (2) available to the competent authority on request.

Duties of downstream users.

24.(1) A downstream user must–

(a) use a substance or mixture in accordance with the conditions set out in the safety data sheet provided to it;

(b) apply the risk management measures identified in the safety data sheet;

(c) inform the supplier without delay of any new information on hazardous properties of the substance or mixture, regardless of the uses concerned;

(d) inform the supplier of any information that might call into question the appropriateness of the risk management measures identified in the safety data sheet.

(2) A downstream user who uses a substance or mixture in a manner not covered by the conditions communicated to it in a safety data sheet must ensure that such use does not pose an unacceptable risk to human health or the environment.

Duty to keep records.

25.(1) A supplier, importer or downstream user must keep records of all information required to carry out its duties under these Regulations for a period of not less than 10 years after that person last supplied, manufactured, imported or used the substance or mixture.

(2) The records referred to in sub-regulation (1) must be made available to the competent authority on request.

PART 7
COMPETENT AUTHORITY AND ENFORCEMENT

Designation of competent authority.

26.(1) The Government shall by notice in the Gazette, within 2 months of the commencement of this regulation, designate a competent authority for the purposes of these Regulations.

(2) The competent authority shall carry out the functions assigned to it by these Regulations and may appoint inspectors for the purposes of enforcement.

(3) The competent authority must issue a certificate of appointment to each inspector, and an inspector must, if so required when exercising a power under these Regulations, produce the certificate.

Powers of inspectors.

27.(1) An inspector may, for the purpose of enforcing these Regulations, at any reasonable time–

(a) enter any premises which the inspector has reason to believe it is necessary for the inspector to enter;

(b) inspect and examine any substance, mixture, article or equipment found on the premises;

(c) take samples of any substance or mixture found on the premises;

(d) require the production of, inspect and take copies of, any records, books or documents which the inspector considers may be relevant to the enforcement of these Regulations;

(e) seize and detain any substance, mixture or article which the inspector has reasonable grounds to believe is in contravention of these Regulations;

(f) require any person to give such information as the inspector may reasonably require for the purpose of enforcing these Regulations.

(2) An inspector may not exercise the power of entry under sub-regulation (1)(a) in respect of any premises used exclusively as a private dwelling house without the authority of a warrant issued by a Magistrate.

(3) A Magistrate may issue a warrant under sub-regulation (2) if satisfied by information on oath that there are reasonable grounds for entering the premises for the purposes of enforcing these Regulations.

Improvement notices.

28.(1) Where an inspector is of the opinion that a person is contravening one or more of these Regulations, or has contravened one or more of these Regulations in circumstances that make it likely that the contravention will continue or be repeated, the inspector may serve on that person an improvement notice.

(2) An improvement notice must–

(a) state the opinion of the inspector;

(b) specify the provision or provisions concerned;

(c) give particulars of the reasons for the opinion; and

(d) require the person to remedy the contravention within such period as may be specified in the notice, being a period of not less than 21 days from the date of service.

(3) A person on whom an improvement notice is served may appeal to the Supreme Court within 21 days of the date of service of the notice.

Prohibition notices.

29.(1) Where an inspector is of the opinion that a person is placing on the market a substance, mixture or article in contravention of these Regulations and that the contravention involves a risk of serious harm to human health or the environment, the inspector may serve on that person a prohibition notice.

(2) A prohibition notice must–

(a) state the opinion of the inspector;

(b) specify the provision or provisions concerned;

(c) give particulars of the reasons for the opinion; and

(d) direct that the activity specified in the notice must not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice have been remedied.

(3) A prohibition notice takes effect immediately on service.

(4) A person on whom a prohibition notice is served may appeal to the Supreme Court within 21 days of the date of service of the notice, but such appeal shall not operate to suspend the notice unless the Court so orders.

PART 8
OFFENCES AND PENALTIES

Offences.

30.(1) A person who–

(a) places on the market or uses a substance, mixture or article in contravention of regulation 4(1);

(b) contravenes regulation 7(1) by placing on the market or using a substance subject to authorisation without the required authorisation;

(c) fails to classify, label or package a substance or mixture in accordance with Part 4 of these Regulations;

(d) fails to provide a safety data sheet or information in accordance with Part 5 of these Regulations;

(e) fails to comply with a duty imposed by Part 5 of these Regulations;

(f) fails to comply with an improvement notice served under regulation 28;

(g) fails to comply with a prohibition notice served under regulation 29;

(h) intentionally obstructs an inspector in the exercise of any power conferred by regulation 27;

(i) without reasonable excuse, fails to comply with any requirement imposed by an inspector under regulation 27;

(j) in purported compliance with a requirement imposed by an inspector under regulation 27, makes a statement which the person knows to be false or misleading in a material particular;

(k) contravenes regulation 12(1) or (2) by placing an advertisement for a substance or mixture that is hazardous without mentioning the relevant hazard class or classes; or

(l) fails to comply with a duty imposed by regulation 10 (duty to review classification),

commits an offence.

(2) A person who fails to notify the competent authority in accordance with regulation 6, regulation 16 or regulation 17 commits an offence.

(3) A person who, intentionally or by gross negligence, does any of the following commits an offence—

(a) manufactures, places on the market, exports or uses a substance, whether on its own, in a mixture or in an article, in contravention of the restrictions set out in Schedule 1;

(b) places on the market, exports or uses a substance or mixture in a manner that is not in compliance with Part 3 of these Regulations,

and that conduct causes or is likely to cause death of, or serious injury to, any person, or substantial damage to the quality of air, the quality of soil or the quality of water, or substantial damage to an ecosystem, animals or plants.

(4) In this regulation, "serious injury" means injury which creates a substantial risk to life, or which causes serious disfigurement or substantial or permanent loss of function of a bodily organ or member.

Penalties.

31.(1) A person who commits an offence under regulation 30(1) is liable–

(a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both.

(2) A person who commits an offence under regulation 30(3) where the offence causes the death of a person is liable on conviction on indictment to imprisonment for a term not exceeding 10 years, or to a fine, or to both.

(3) A person who commits an offence under regulation 30(3), not falling within sub-regulation (2), is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both.

Defence of due diligence.

32.(1) In proceedings for an offence under these Regulations, it is a defence for the person charged to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) Where the defence provided by sub-regulation (1) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged must not, without leave of the court, be entitled to rely on that defence unless, at least 7 clear days before the hearing, the person has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in the person's possession.

Liability of officers of legal persons.

33.(1) Where an offence under these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, sub-regulation (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

PART 9
MISCELLANEOUS

Recognition of EU decisions and determinations.

34.(1) For the purposes of these Regulations–

(a) a substance identified on the Candidate List for Authorisation maintained by the European Chemicals Agency under Article 59 of the REACH Regulation shall be treated as a substance of very high concern;

(b) the restrictions set out in Annex XVII to the REACH Regulation shall apply as restrictions for the purposes of Part 2 and Schedule 1;

(c) the substances listed in Annex XIV to the REACH Regulation shall be the substances subject to authorisation for the purposes of Part 3; and

(d) the harmonised classifications set out in Part 3 of Annex VI to the CLP Regulation, shall be recognised and applied for the purposes of Part 4 and Schedule 3.

(2) The competent authority must maintain a register of the substances, restrictions, authorisations and classifications recognised under sub-regulation (1) and must make such register publicly available.

Power to amend Schedules.

35. The Government may by regulations amend any of the Schedules to these Regulations.

SCHEDULE 1

(Regulations 4, 5, 34)

RESTRICTED SUBSTANCES

1. The restrictions on the manufacture, placing on the market and use of certain hazardous substances, mixtures and articles set out in Annex XVII to the REACH Regulation, as that Annex has effect from time to time, shall apply as if they were set out in this Schedule.

2. A reference in Annex XVII to the REACH Regulation to a Member State or to the European Union shall, for the purposes of these Regulations, be read as a reference to Gibraltar.

3. A reference in Annex XVII to the REACH Regulation to a competent authority of a Member State shall, for the purposes of these Regulations, be read as a reference to the competent authority designated under regulation 26.

SCHEDULE 2

(Regulations 5, 6, 20, 34)

SUBSTANCES OF VERY HIGH CONCERN

1. The substances identified on the Candidate List for Authorisation maintained by the European Chemicals Agency under Article 59 of the REACH Regulation, as that list has effect from time to time, shall be treated as substances of very high concern for the purposes of these Regulations.

2. The competent authority must publish a list of substances of very high concern recognised under paragraph 1 and must update the list within 3 months of any amendment to the Candidate List maintained by the European Chemicals Agency.

SCHEDULE 3

(Regulations 18, 34)

HARMONISED CLASSIFICATION AND LABELLING

1. The harmonised classifications set out in Part 3 of Annex VI to the CLP Regulation, as that Annex has effect from time to time, shall apply for the purposes of these Regulations.

2. Where a substance has been assigned a harmonised classification in Part 3 of Annex VI to the CLP Regulation, that classification must be applied by any supplier classifying that substance in accordance with Part 4 of these Regulations.

3. A reference in Part 3 of Annex VI to the CLP Regulation to a competent authority of a Member State shall, for the purposes of these Regulations, be read as a reference to the competent authority designated under regulation 26.