

**HEALTH AND SAFETY EXECUTIVE**  
**REACH ENFORCEMENT REGULATIONS 2008**  
**CERTIFICATE OF EXEMPTION No. 2 OF 2015**

In accordance with the powers conferred upon it by Schedule 5A to the REACH Enforcement Regulations 2008<sup>1</sup> (“the Regulations”) and, being satisfied as required by paragraph 4 of Schedule 5A to the Regulations that the health and safety of persons who are likely to be affected will not be prejudiced as a result, the Executive grants the following Certificate of Exemption (“exemption”).

**EXEMPTION**

1. The prohibition imposed by Article 67 (1) and Annex XVII, entry 6 of REACH, on placing on the market articles to which asbestos fibres have intentionally been added, does not apply to any person in relation to cylinders which contain chrysotile and are used to store and/or transport acetylene gas, provided that conditions (a) to (e) in paragraph 3 are complied with.

**DEFINITIONS**

2. In this certificate:

“the 2009 Regulations” means the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009<sup>2</sup>;

“the 2014 Regulations” means the Acetylene Safety (England and Wales and Scotland) Regulations 2014<sup>3</sup>;

“acetylene” means the hydrocarbon chemical listed under that name in the European inventory of existing commercial chemical substances, published in OJ C 146A on 15th June 1990, under entry number 200-816-9;

“acetylene gas” has the meaning prescribed in regulation 2 of the 2014 Regulations;

“chrysotile” means the asbestos fibre listed at entry 6(f) of Annex XVII to REACH, CAS No 12001-29-5 CAS No 132207-32-0;

“cylinder” has the meaning prescribed in regulation 2 of the 2014 Regulations;

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<sup>1</sup> SI 2008/2852 as amended by SI 2013/2919

<sup>2</sup> SI 2009/1348

<sup>3</sup> SI 2014/1639

“the Executive” means the Health and Safety Executive;

“person” includes any body of persons (whether corporate or unincorporate);

“placing on the market” means supplying or making available, whether in return for payment or free of charge, to a third party. Importation is deemed to be placing on the market;

“REACH” means Regulation (EC) No 1907/2006<sup>4</sup> of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals;

“statutory inspection” means an inspection carried out pursuant to the 2009 Regulations.

### CONDITIONS

3. The conditions referred to in paragraph 1 are:
  - a) the cylinders were in service before 1 January 2005;
  - b) obligations under relevant legislation, including the 2009 Regulations, the Control of Asbestos Regulations 2012<sup>5</sup>, the 2014 Regulations, and any other applicable aspects of REACH, are complied with as appropriate;
  - c) any person likely to handle the cylinders for a purpose related to placing them on the market is, prior to that handling:
    - i. made aware that the cylinders contain asbestos; or
    - ii. where the cylinders are placed on the market together with, but are indistinguishable from, those which do not contain asbestos, made aware that some cylinders will contain asbestos, and provided with suitable and sufficient instruction on how to handle them safely;
  - d) the cylinders have not been damaged or otherwise become unsafe in the period following their most recent statutory inspection; and
  - e) where the person placing the cylinders on the market retains legal ownership of them, that person has an adequate system in place to ensure that, so far as is reasonably practicable, asbestos is safely disposed of when any of those cylinders is taken out of service.

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<sup>4</sup> OJ L396, 30.12.2006, p.1 as amended by Commission Regulation (EC) No 552/2009 2009 (OJ L164 26.06.2009 p.7)

<sup>5</sup> SI 2012/632

This exemption takes effect from the date of the signature below and will remain in force for ten years, subject to the power of the Executive to vary or revoke it at any time by a further notice in writing.

Signed by:   
David Bench

Director of the Chemicals Regulation Directorate of the Executive who has been duly authorised by the Executive to sign on its behalf.

Date: 23 DEC 2013

