

BERMUDA STATUTORY INSTRUMENT

BR 20/1989

**FISHERIES (ANTI-FOULING PAINTS PROHIBITION)
REGULATIONS 1989**

[made under section 13 of the Fisheries Act 1972 [title 25 item 8] and brought into operation on 20 June 1989 except for Regulations 4 and 5 which came into operation on 20 December 1989]

ARRANGEMENT OF REGULATIONS

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Citation

1 These Regulations may be cited as the Fisheries (Anti-Fouling Paints Prohibition) Regulations 1989.

Interpretation

2 In these Regulations, unless the context otherwise requires—
"the Act" means the Fisheries Act 1972 [*title 25 item 8*];
"the Director" means the Director of Environmental Protection;
"diuron" means the chemical 3-(3,4-dichlorophenyl)-1,1-dimethylurea;

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"irgarol" means the chemical N'-tert-butyl-1-N-cyclopropyl-6-(methylthio) - 1,3,5-triazine-2,4-diamine or irgarol 1051.

"organotin anti-fouling paint" means any surface coating containing organotin as one or more of the chemical compounds which have the effect of inhibiting the growth of or having other detrimental effects on freshwater, estuarial or marine life.

[Regulation 2 "Director" amended by 2000:20 s.2 & Sch effective 26 June 2000; "Director" amended by 2002:18 s.2 & Sch effective 1 April 2002; "diuron" and "irgarol" inserted by BR 25/2005 effective 1 July 2005]

Importation of organotin anti-fouling paint

3 (1) No person shall import or cause to be imported into Bermuda any organotin anti-fouling paint, any paint to which an organotin, irgarol or diuron has been added or any organotin, irgarol or diuron additive unless the Minister has, by letter of authority to the importer, copied to the Director and the Collector of Customs, authorised the importation (in which case such authority shall be personal to the addressee), and such letter of authority has not been withdrawn and the organotin anti-fouling paint, paint to which an organotin, irgarol or diuron has been added or an organotin, irgarol or diuron additive, is imported in accordance with the conditions, if any, set out in the letter of authority.

(2) A letter of authority under paragraph (1) of this Regulation may specify the kind of container in which any organotin anti-fouling paint, any paint to which an organotin, irgarol or diuron has been added or any organotin, irgarol or diuron additive may be imported, the manner of labelling any such container and the contents of any such label.

(3) No organotin anti-fouling paint, paint to which an organotin, irgarol or diuron has been added or an organotin, irgarol or diuron additive authorised for importation under paragraph (1) of this Regulation shall be imported by any person unless it is in a container specified in the letter of authority and labelled as specified in the said letter.

(4) Any Customs Officer may require the production of the letter of authority issued under paragraph (1) of this Regulation at the time when the organotin anti-fouling paint, paint to which an organotin has been added or organotin additive is entered under the Revenue Act 1898 [title 14 item 10] and if no such letter is produced, the organotin anti-fouling paint, paint to which an organotin has been added or organotin additive shall be liable to forfeiture, and any such forfeiture shall, for the purposes of the Revenue Act 1898 be deemed to be forfeiture under that Act.

(5) Any person who contravenes any provision of this Regulation commits an offence:

Punishment on summary conviction: imprisonment for one year or a fine of \$5,000; and in any prosecution under this Regulation, a certificate purporting to be under the hand of the Minister stating that any container, and additionally or alternatively, any label, is, or is not, as the case may be, specified for the purpose in a letter of authority under paragraph (1) of this Regulation, shall be admissible in evidence in any proceedings and shall be prima facie evidence of those facts.

[Regulation 3 amended by BR 65/1999 reg 2 effective 1 January 2000; paras (1)-(3) substituted by BR 25/2005 reg 4 effective 1 July 2005]

Prohibition of importation of certain paints

3A (1) No person shall import or cause to be imported into Bermuda any paint or additive containing irgarol or diuron.

(2) Any customs officer, police officer or fisheries officer may seize or detain any paint or additive containing irgarol or diuron which he has reason to believe has been imported in contravention of subsection (1).

(3) Notwithstanding subsection (2) any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine of \$5,000.00 or one year imprisonment or both and the court before which he is convicted may order such paint to be forfeited and destroyed or dealt with in such other manner as the court may order.

[Regulation 3A inserted by BR 25/2005 reg 5 effective 1 July 2005]

Possession and sale of anti-fouling paint

4 (1) No person shall possess, sell, offer for sale or expose for the purpose of sale any —

- (a) paint or additive containing organotin; or
- (b) paint or additive containing irgarol or diuron,

unless such paint or additive has been imported in accordance with regulation 3.

(2) No person shall possess, sell, or offer for sale any —

- (a) paint or additive containing organotin; or
- (b) paint or additive containing irgarol or diuron,

which has been repackaged subsequent to importation.

(3) Any person who contravenes any provision of this Regulation commits an offence:

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Punishment on summary conviction: imprisonment for one year or a fine of \$5,000.

[Regulation 4 amended by BR 65/1999 reg 3 effective 1 January 2000; paras (1) and (2) substituted by BR 25/2005 reg 6 effective 31 December 2005]

Use of organotin anti-fouling paints

5 (1) No person shall in Bermuda apply or cause to be applied to anything, any —

- (a) paint or additive containing organotin; or
- (b) paint or additive containing irgarol or diuron,

unless such paint or additive has been imported in accordance with regulation 3.

(2) Any person who contravenes any provision of this regulation commits an offence and shall on summary conviction —

- (a) be required upon written notice given by the Minister, to remove from the territorial waters of Bermuda anything to which —
 - (i) paint or additive containing organotin; or
 - (ii) paint or additive containing irgarol or diuron;has been applied; and
- (b) be liable to a fine of five thousand dollars or imprisonment for one year.

[Regulation 5 amended by BR 65/1999 reg 4 effective 1 January 2000; substituted by BR 25/2005 reg 7 effective 31 December 2005]

Cleaning of vessels

6 (1) No person shall in the waters of Bermuda clean, or allow to be cleaned the hull or bottom of any vessel which is painted with an organotin anti-fouling paint, paint to which an organotin, irgarol or diuron has been added or any organotin, irgarol or diuron additive.

- (2) Any person who contravenes this Regulation—
 - (a) shall be required upon written notice given by the Minister to cease forthwith the cleaning procedure; and
 - (b) commits an offence:

Punishment on summary conviction: imprisonment for one year or a fine of \$5,000.

[Regulation 6 amended by BR 65/1999 reg 5 effective 1 January 2000; and by BR 25/2005 reg 8 effective 31 December 2005]

Commencement

7 [omitted]

[Amended by:

BR 65/1999

2000 : 20

2002 : 18

BR 25/2005]