SCOTTISH STATUTORY INSTRUMENTS

2000 No. 179

EUROPEAN COMMUNITIES
TOWN AND COUNTRY PLANNING

The Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000

Made - - - -	*13th June 2000*
Laid before the Scottish Parliament - - - -	*15th June 2000*
Coming into force - -	*6th July 2000*

The Scottish Ministers, in exercise of the powers conferred upon them by section 2(2) of the European Communities Act 1972[F1] in relation to the prevention and limitation of the effects of accidents involving dangerous substances, by that section and by sections 3, 5(1), 15(2), 30(2) and 39(1) of the Planning (Hazardous Substances) (Scotland) Act 1997[F2] and of all other powers enabling them in that behalf, hereby make the following Regulations:

F1 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), **Schedule 8**, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

F2 1997 c.10; section 38(2) attracts the definition of "prescribed" from section 277(1) of the Town and Country Planning (Scotland) Act 1997 (c.8). The functions of the Secretary of State under these sections were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Planning (Control of Major-Accident Hazards) (Scotland) Regulations2000 and shall come into force on 6th July 2000.

(2) In these Regulations, unless the context otherwise requires "the Act" means the Planning (Hazardous Substances) (Scotland) Act 1997 and references to sections are to sections of that Act.

(3) These Regulations extend to Scotland only.

Amendment of the Act

2.—(1) The Act shall be

(2) In section 2 (requirement of hazardous substances consent)–

(a) after subsection (2)(a) insert–

"(aa) on, over or under other land controlled by the same person and which, in all the circumstances (including in particular the purposes for which the land and the land mentioned in paragraph (a) is used) forms with the land so mentioned a single establishment;";

(b) in subsection (2)(b) for the word "it" substitute " the land mentioned in paragraph (a) ";

(c) in subsection (2)(c) for the word "it" substitute " the land mentioned in paragraph (a) ";

(d) after subsection (2) insert–

"(2A) A quantity of a substance which falls within more than one paragraph of subsection (2) shall only be counted once.";

and

(e) for subsection (3) substitute–

"(3) The temporary presence of a hazardous substance while it is being transported from one place to another is not to be taken into account unless–

(a) it is unloaded; or

(b) it is present on, over or under land in respect of which there is a hazardous substances consent for any substance, or in respect of which (not taking into account the quantity of the substance being transported) there is required to be such a consent for any substance.".

Transitional provisions

3.—(1) For the purposes of the transition to the provisions of these Regulations, the Act shall be amended as follows.

(2) In section 4(1)(b) (hazardous substances consent: general), for "or 10" substitute " , 10 or 10A ".

(3) After section 10, insert–

"**10A. Deemed hazardous substances consent: established presence**

(1) Where a hazardous substance was present on, over or under any land at any time within the establishment period, for which hazardous substances consent was not required during that period, hazardous substances consent may be claimed in respect of its presence.

(2) A claim shall be made on Form 12 (as set out in Schedule 2 to the Regulations) before the end of the transitional period and shall contain the information specified in regulation 15 of the Regulations.

(3) Subject to subsections (4) and (5), the planning authority shall be deemed to have granted any hazardous substances consent which is claimed under subsection (1).

(4) Hazardous substances consent is only to be deemed to be granted under this section if an aggregate quantity of the substance not less than the controlled quantity was present at any one time within the establishment period.

(5) If it appears to the planning authority that a claim for hazardous substances consent does not comply with subsection (2), it shall be their duty, before the end of the period of two weeks from their receipt of the claim–

(a) to notify the claimant that in their opinion the claim is invalid; and

(b) to give their reasons for that opinion.

(6) Hazardous substances consent which is deemed to be granted under this section is subject–

(a) to the condition that the maximum aggregate quantity of the substance that may be present–

(i) on, over or under the land to which the claim for the consent relates;

(ii) on, over or under other land controlled by the same person and which, in all the circumstances (including in particular the purposes for which the land and the land mentioned in sub-paragraph (i) is used), forms with the land so mentioned a single establishment;

(iii) on, over or under other land which is within 500 metres of the land mentioned in sub-paragraph (i) and controlled by the same person; or

(iv) in or on a structure controlled by the same person any part of which is within 500 metres of the land mentioned in sub-paragraph (i),

at any one time shall not exceed the established quantity and in calculating the established quantity a quantity of a substance which is present under more than one sub-paragraph in this subsection shall be counted only once; and

(b) to the conditions set out in Schedule 3 to the Regulations.

(7) In this section and in section 10B–

"establishment period" means the period of 12 months immediately preceding the relevant date;

"established quantity" means, in relation to any land, the maximum quantity which was present on, over or under the land at any one time within the establishment period;

"the Regulations" means the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 [F3];

"the relevant date" means the date on which the Planning (Control of Major -Accident Hazards) (Scotland) Regulations 2000 came into force;

"the transitional period" means the period of 6 months beginning with the relevant date.

10B. Transitional exemptions

(1) No offence is committed under section 21, and no hazardous substances contravention notice may be issued in relation to a hazardous substance which is on, over or under any land, if–

(a) the substance was present on, over or under the land at any time within the establishment period and was not a substance or quantity of substance for which hazardous substances consent was required before the relevant date; and

(b) the substance has not been present during the transitional period in a quantity greater in aggregate than the established quantity.

(2) This section shall have effect until the end of the transitional period.".

(4) In section 27(1)(c) (registers etc.), for "or 10" substitute " , 10 or 10A ".

F3 S.I. 1993/323, amended by S.I. 1994/2567 and 1996/252.

Amendment of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993

[F4]4. . . . . . .

F4 Reg. 4 revoked (1.6.2015) by The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015 (S.S.I. 2015/181), reg. 1, **sch. 9**

Amendment of the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983

5.—(1) The Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983 [F5] shall be amended as follows.

(2) In regulation 2 (interpretation), after paragraph (2) add–

"(3) In regulations 7(3) and 25(3)–

(a) "the Directive" means Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances; and

(b) expressions which are also used in the Directive shall have the same meaning as in the Directive.".

(3) In regulation 7 (matters to be contained in a structure plan), after paragraph (2) add–

"(3) In preparing a structure plan, a planning authority shall, in addition to any other matters which they are required to have regard to, have regard to–

(a) the objectives of preventing major accidents and limiting the consequences of such accidents; and

(b) the need–

(i) in the long term, to maintain appropriate distances between establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest; and

(ii) in the case of existing establishments, for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.".

(4) In regulation 25 (matters to be contained in a local plan), after paragraph (2) add–

"(3) In preparing a local plan, a planning authority shall, in addition to any other matters which they are required to have regard to, have regard to–

(a) the objectives of preventing major accidents and limiting the consequences of such accidents; and

(b) the need–

(i) in the long term, to maintain appropriate distances between establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest; and

(ii) in the case of existing establishments, for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.".

F5 S.I. 1983/1590, to which there are amendments not relevant to these Regulations.