WELSH STATUTORY INSTRUMENTS

2010 No. 450 (W.48)

TOWN AND COUNTRY PLANNING, WALES

The Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2010

Made - - - -	*24 February 2010*
Laid before the National Assembly for Wales - -	*26 February 2010*
Coming into force - -	*19 March 2010*

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 4, 5 and 40(1) of the Planning (Hazardous Substances) Act 1990(**1**).

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2010 and they come into force on 19 March 2010.

(2) These Regulations apply in relation to Wales.

2. In these Regulations—

"the Hazardous Substances Act" means the Planning (Hazardous Substances) Act 1990; and

"the Hazardous Substances Regulations" means the Planning (Hazardous Substances) Regulations 1992(**2**)

(**1**) 1990 c. 10 ; section 4 was amended by S.I. 1999/981 ; there are other amendments not relevant to these Regulations. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were transferred to the National Assembly for Wales by Article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and thereafter transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32) .

(**2**) S.I. 1992/656 ; relevant amendments were made by paragraph 233 of Schedule 22 to the Environment Act 1995 (c. 25) , section 76(7) of the Utilities Act 2000 (c. 27) , S.I. 1994/2567

Amendment of the Planning (Hazardous Substances) Regulations 1992

3.—(1) The Hazardous Substances Regulations are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of "the Directive", after "substances" insert "(as amended by Directive 2003/105/EC of the European Parliament and of the Council(**3**))".

(3) In regulation 4(6) (exemptions) for "6, 14, 35 and 39" substitute "10, 18, 39 and 43."

(4) For Schedule 1 (hazardous substances and controlled quantities) substitute Schedule 1 set out in the Schedule to these Regulations.

Transitional provision: existing consents

4.—(1) This regulation applies to a substance, mixture or preparation within the meaning of regulation 3 of the Hazardous Substances Regulations, described in a hazardous substances consent granted (or deemed to be granted) before the coming into force of these Regulations where—

(a) the description of that substance, mixture or preparation in column 1 of Part A or Part B of Schedule 1 to the Hazardous Substances Regulations as it exists before the coming into force of these Regulations will be amended as a result of the coming into force of these Regulations; and

(b) the hazardous substances consent is extant in relation to the substance, mixture or preparation concerned immediately before the coming into force of these Regulations.

(2) As regards a substance, mixture or preparation to which this regulation applies, the amendments made by these Regulations may be disregarded in construing the hazardous substances consent in so far as it relates to that substance, mixture or preparation or its controlled quantity.

(3) Paragraph (2) ceases to apply where the hazardous substances consent in relation to that substance, mixture or preparation or its controlled quantity is modified by the hazardous substances authority on or after the 19 March 2010.

Transitional exemptions

5.—(1) No offence is committed under section 23 of the Hazardous Substances Act before 19 August 2010 and no hazardous substances contravention notice may be issued before that date 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 period of 12 months ending on 19 March 2010 and was not a substance or quantity of substance for which hazardous substances consent was required before that date; and

(b) the substance is not present during the period beginning on 19 March 2010 and ending on 18 August 2010 in a quantity greater in aggregate than the established quantity.

(2) In paragraph (1) "the established quantity", in relation to any land, means the maximum quantity which was present on, over or under the land at any one time within the period of 12 months ending on 19 March 2010.

, S.I. 1996/252, , S.I. 1999/981 and S.I. 2005/1082 .

(**3**) O.J. L345, 31.12.2003, p.97.

Jane Davidson
Minister for Environment, Sustainability and Housing, one of the Welsh Ministers.

24 February 2010

SCHEDULE Regulation 3

"SCHEDULE 1 Regulation 3

HAZARDOUS SUBSTANCES AND CONTROLLED QUANTITIES

PART A

NAMED SUBSTANCES

Column 1 Hazardous substances	*Column 2* Controlled quantity (Q) in tonnes	*Column 3* Quantity for purposes of note 4 to the notes to Parts A and B (Q*)
1. Ammonium nitrate to which Note 1 of the notes to this Part applies	5000.00	
2. Ammonium nitrate to which Note 2 of the notes to this Part applies	1000.00	1250.00
3. Ammonium nitrate to which Note 3 of the notes to this Part applies	350.00	
4. Ammonium nitrate to which Note 4 of the notes to this Part applies	10.00	
5. Potassium nitrate to which Note 5 of the notes to this Part applies	5000.00	
6. Potassium nitrate to which Note 6 of the notes to this Part applies	1250.00	
7. Arsenic pentoxide, arsenic (V) acid and/or salts	1.00	
8. Arsenic trioxide, arsenious (III) acid and/or salts	0.10	
9. Bromine	20.00	
10.Chlorine	10.00	
11. Nickel compounds in inhalable powder form (nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)	1.00	
12. Ethyleneimine	10.00	
13. Fluorine	10.00	

Column 1 Hazardous substances	*Column 2* Controlled quantity (Q) in tonnes	*Column 3* Quantity for purposes of note 4 to the notes to Parts A and B (Q*)
14. Formaldehyde (concentration greater than or equal to 90%)	5.00	
15. Hydrogen	2.00	5.00
16. Hydrogen chloride (liquefied gas)	25.00	
17. Lead alkyls	5.00	
18. Liquefied petroleum gas, including commercial propane and commercial butane, and any mixture thereof, when held at a pressure greater than 1.4 bar absolute.	25.00	50.00
19. Liquefied extremely flammable gases excluding pressurised LPG (entry no.18)	50.00	
20. Natural gas	15.00	50.00
21. Acetylene	5.00	
22. Ethylene oxide	5.00	
23. Propylene oxide	5.00	
24. Methanol	500.00	
25. 4, 4-Methylenebis (2-Chloraniline) and/or salts, in powder form	0.01	
26. Methylisocyanate	0.15	
27. Oxygen	200.00	
28. Toluene diisocyanate	10.00	
29. Carbonyl dichloride (phosgene)	0.30	
30. Arsenic trihydride (arsine)	0.20	
31. Phosphorus trihydride (phosphine)	0.20	
32. Sulphur dichloride	1.00	
33. Sulphur trioxide (including sulphur trioxide dissolved in sulphuric acid to form Oleum)	15.00	