STATUTORY INSTRUMENTS

2015 No. 627

TOWN AND COUNTRY PLANNING, ENGLAND INFRASTRUCTURE PLANNING

The Planning (Hazardous Substances) Regulations 2015

Made - - - -	*18th March 2015*
Laid before Parliament	*24th March 2015*
Coming into force - -	*1st June 2015*

The Secretary of State is a designated Minister for the purposes of section 2(2) of the European Communities Act 1972 [F1] ("the 1972 Act") in relation to measures relating to the prevention and limitation of the effects of accidents involving dangerous substances [F2].

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 4(4), 4(5), 5, 7, 8, 17(2), 21(2), 21(3), 21(3A), 24(4), 25, 26A, 28, 30, 40(1), and 40(4) of the Planning (Hazardous Substances) Act 1990 [F3] and section 2(2) and paragraph 1A of Schedule 2 to the 1972 Act.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Secretary of State that it is expedient for the references in these Regulations to 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 [F4], to be construed as references to that instrument as amended from time to time.

F1 1972 c.68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

F2 S.I. 1998/1750.

F3 1990 c.10. See section 39(2) for the meaning of "prescribed". Section 4 was amended by S.I. 1999/981 to which there are other amendments not relevant to these regulations. Section 7(1) was amended by section 144 of and paragraph 3 of Part 1 of Schedule 13 to the Environmental Protection Act 1990 (c.43) ("the EPA 1990"), section 21(3A) was inserted by section 197 of, and paragraph 6 of Schedule 11 to, the Planning Act 2008 (c.29) ("the 2008 Act"), section 25 has been amended by section 144 of, and paragraph 8 of Part 1 of Schedule 13 to, the EPA 1990, sections 25 and 84 of, and paragraphs 13 and 30 of Schedule 3 and Part 1 of Schedule 19 to, the Planning and Compensation Act 1991 (c.34) and section 196(4) and paragraphs 25, 28(a) and 28(b) of Schedule 10 to, the 2008 Act, section 26A was inserted by section 144 of, and paragraph 9 of Part 1 of Schedule 13 to, the EPA 1990, section 28 has been amended by sections 144 and 162 of, and paragraph 2(4) of Part 1 of Schedule 13 and Part 7 of Schedule 16 to, the EPA 1990 and section 40(4) was inserted by

section 118(1) of and paragraph 27 of Schedule 6 to the Planning and Compulsory Purchase Act 2004 (c.5).

F4 O.J. L 353, 31.12.2008, p. 1.

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Planning (Hazardous Substances) Regulations 2015 and come into force on 1st June 2015.

(2) Except as provided by paragraphs (3) to (5), these Regulations apply in relation to England only.

(3) Regulation 24 applies in relation to England and, in so far as it applies to national policy statements designated under section 5(1) of the Planning Act 2008 [F5], to Wales and Scotland.

(4) Regulation 26—

(a) applies in relation to England;

(b) applies in relation to Wales and Scotland in so far as it applies to making development consent orders under section 114(1) of the Planning Act 2008; and

(c) applies in relation to Wales in so far as it applies to a decision by the Secretary of State authorising development in Wales under—

(i) section 5(1) of the Pipe-lines Act 1962 [F6]; and

(ii) section 14(1) or section 16(1) of the Harbours Act 1964 [F7].

F5 2008 c.29.
F6 1962 c.58.
F7 1964 c. 40.

Interpretation

2.—(1) In these Regulations—

"the 1992 Regulations" means the Planning (Hazardous Substances) Regulations 1992 [F8];

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

"COMAH competent authority" means the control of major accident hazards competent authority which is—

(a) in relation to a nuclear site, the Office of Nuclear Regulation and the Environment Agency acting jointly,

(b) otherwise, the Health and Safety Executive and the Environment Agency acting jointly;

"commencement date" means the date these Regulations come into force;

"the Directive" means Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances **[**[F9]as it had effect immediately before exit day**]**[F10]; and

[[F11]"the EIA Directive" means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment as it had effect immediately before exit day;**]**

[[F11]"major accident" has the meaning given in regulation 2 of the Control of Major Accident Hazards Regulations 2015;**]**

"nuclear site" has the same meaning as in section 112(1) of the Energy Act 2013 [F12].

(2) In these Regulations—

(a) a reference to a section is a reference to that section of the Act, unless there is a contrary indication; and

(b) a reference to a numbered form is a reference to the correspondingly numbered form in Schedule 3 to these Regulations.

(3) Parts 1 to 3 of Schedule 1 to these Regulations (hazardous substances and controlled quantities) are to be construed in accordance with the notes in Part 4 of that Schedule and a reference in that Schedule to a note is a reference to a note in Part 4 of that Schedule.

(4) References to sections of the principal Act [F13] mentioned in regulations 15, 17, 18 and 19 (enforcement) are, in those sections and these Regulations, to be construed as references to those sections as modified by these Regulations in relation to hazardous substances control.

(5) References in these Regulations to 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 ("the CLP Regulation") are references to that Regulation as amended from time to time.

F8 S.I. 1992/656; relevant amendments were made by section 76(7) of the Utilities Act 2000 (c.27) and by S.I. 1999/981, **S.I.** 2006/1282, S.I. 2006/1283, **S.I.** 2009/1901, S.I. 2010/1050 and S.I. 2014/162.
F9 Words in reg. 2(1) inserted (31.12.2020) by The Planning (Hazardous Substances and Miscellaneous Amendments) (EU Exit) Regulations 2018 (S.I. 2018/1234), regs. 1, **7(a)**; 2020 c. 1, Sch. 5 para. 1(1)
F10 O.J. L 197, 24.7.2012, p. 1.
F11 Words in reg. 2(1) inserted (31.12.2020) by The Planning (Hazardous Substances and Miscellaneous Amendments) (EU Exit) Regulations 2018 (S.I. 2018/1234), regs. 1, **7(b)**; 2020 c. 1, Sch. 5 para. 1(1)
F12 2013 c. 32.
F13 Section 39(1) of the Act defines "principal Act" as the Town and Country Planning Act 1990 (c.8).

PART 2

Hazardous substances, controlled quantities and exemptions

Hazardous substances and controlled quantities

3. For the purpose of the Act—

(a) hazardous substances are substances, mixtures or preparations—

(i) falling within a category in column 1 of Part 1 of Schedule 1 to these Regulations,

(ii) specified in column 1 of Part 2 of that Schedule, or

(iii) meeting the description in column 1 of Part 3 of that Schedule,

and present as raw materials, products, by-products, residues or intermediates; and

(b) the controlled quantity of a hazardous substance is the quantity specified in column 2 of that Schedule corresponding to that substance.

Exemptions

4. Schedule 2 to these Regulations has effect.

PART 3

Hazardous substances consent procedures

Applications for hazardous substances consent

5.—(1) Subject to paragraph (2) and regulation 23 (application of the Act to hazardous substances authorities), an application for hazardous substances consent must—

(a) be made to the hazardous substances authority;

(b) include the name and address of the applicant;

(c) include a site map and a substance location plan;

(d) include details of—

(i) the location of the land to which the application relates;

(ii) the person in control of the land to which the application relates;

(iii) each hazardous substance for which consent is sought ("relevant substance"), including the maximum quantity of each relevant substance proposed to be present;

(iv) the main activities carried out or proposed to be carried out on the land to which the application relates;

(v) how and where each relevant substance is to be kept and used;

(vi) how each relevant substance is proposed to be transported to and from the land to which the application relates;

(vii) the vicinity of the land to which the application relates, where such details are relevant to the risks or consequences of a major accident; and

(viii) the measures taken or proposed to be taken to limit the consequences of a major accident; and

(e) be accompanied by the notices and certificates required by regulations 6 and 7.

(2) Subject to regulation 23 (application of the Act to hazardous substances authorities), an application to which section 13 applies (application for hazardous substances consent without a condition subject to which a previous consent was granted) must—

(a) be made to the hazardous substances authority;

(b) include the name and address of the applicant;

(c) include a change of location plan, if the application relates to a condition restricting the location of a hazardous substance;

(d) include in relation to any relevant consent, a copy of—

(i) the consent, where the relevant consent is a consent granted on an application under the Act;

(ii) the relevant claim, where the relevant consent is a consent deemed to be granted under section 11; or

(iii) the relevant direction, where the relevant consent is a consent deemed to be granted under section 12;

(e) identify any condition previously imposed on the relevant consent which—

(i) it is proposed should no longer be imposed on the consent; or

(ii) it is proposed should only be imposed in a modified form;

(f) for any condition identified under paragraph (e)(i), give the reasons why it should not be imposed;

(g) for any condition identified under paragraph (e)(ii)—

(i) indicate the proposed modification; and

(ii) give the reasons why it should only be imposed in a modified form;

(h) describe any relevant changes in circumstances since the date of the relevant consent; and

(i) be accompanied by the notices and certificates required by regulations 6 and 7.

(3) An application under section 17 (application for the continuation of consent following a change of control) must—

(a) be made to the hazardous substances authority;

(b) include the name and address of the applicant;

(c) include a change of control plan;

(d) include, in relation to any relevant consent, whichever of the documents listed in paragraph (2)(d) is applicable to the relevant consent;

(e) state the date on which the change in the person in control of part of the land is to take place, where known;

(f) describe the use of each area of the site identified in the change of control plan;

(g) describe any relevant changes in circumstances since the relevant consent was granted; and

(h) be accompanied by the notices and certificates required by regulations 6 and 7.

(4) Any application to which this regulation applies and anything required to accompany it must, if requested by the hazardous substances authority, be submitted in triplicate.

(5) In this regulation—

"change of control plan" is a plan of the land to which the application relates, drawn to a scale of not less than 1:2,500, which identifies each area of the site under separate control after the proposed change of control;

"change of location plan" is a plan of the land to which the application relates, drawn to a scale of not less than 1:2,500, which identifies the location of the hazardous substance at the date of the application and the proposed location requiring the application;

"relevant consent" means the existing hazardous substances consent to which the application relates;

"site map" is a map, reproduced from, or based on, an Ordnance Survey map with a scale of not less than 1:10,000, which identifies the land to which the application relates and shows National Grid lines and reference numbers; and

"substance location plan" is a plan of the land to which the application relates, drawn to a scale of not less than 1:2,500, which identifies—

(a) any area of the land intended to be used for the storage of the substance;

(b) where the substance is to be used in a manufacturing, treatment or other industrial process, the location of the major items of plant involved in that process in which the substance will be present; and

(c) access points to and from the land.