STATUTORY RULES OF NORTHERN IRELAND

2015 No. 325

HEALTH AND SAFETY

The Control of Major Accident Hazards Regulations (Northern Ireland) 2015

Made - - - -	*26th August 2015*
Coming into operation	*28th September 2015*

The Department of Enterprise, Trade and Investment [F1], being the Department concerned [F2], makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 ("the 1972 Act") [F3] and Articles 17(1) to (6) [F4], 40(2) to (4), 54(1) and 55(2) of, and paragraphs 1(1) and (2), 14, 15 and 19 of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978 [F5] ("the 1978 Order").

The Department was designated [F6] for the purposes of section 2(2) of the 1972 Act in relation to measures relating to the prevention and limitation of the effects of accidents involving dangerous substances.

The Regulations give effect to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A) [F7] of the 1978 Order after the Executive had carried out consultations in accordance with Article 46(3) [F8].
It appears to the Department that—

(a) the modifications to the subordinate legislation referred to in Schedule 6; and

(b) the revocations in relation to the instruments referred to in Schedule 7,

are expedient for the purposes of Article 54(1) of the 1978 Order.

It also appears to the Department not to be appropriate to consult bodies in respect of those revocations and modifications for the purposes of Article 54(5) of the 1978 Order.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Department 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 [F9] on classification, labelling and packaging of substances and mixtures amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No. 1907/2006, to be construed as including references to Annex I, Part 1.0, 1.1, Parts 2 to 4 and, Annex VI, Part 3 Table 3.1 of that instrument as those provisions are amended from time to time.

F1 Formerly the Department of Economic Development; *see*S.I. 1999/283 (N.I. 1), **Article 3(5)**; that Department was formerly the Department of Manpower Services, *see*S.I. 1982/846 (N.I. 11), **Article 3**

F2 *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)

F3 1972 c. 68; the enabling powers conferred by section 2(2) were extended by virtue of section 1 of the European Economic Area Act 1993 (c. 51). Section 2(2) was further amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7)
F4 Article 17 shall be read with S.I. 1992/1728 (N.I. 17), **Articles 3(2)** and 4(2)
F5 S.I. 1978/1039 (N.I. 9): the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I. 17), **Articles 3(1)** and 4(1). Article 55(2) was amended by S.I. 1998/2795 (N.I. 18), **Article 6(1)** and Schedule 1, paragraph 19
F6 S.I. 1998/1750
F7 Article 13(1) was substituted by S.I. 1998/2795 (N.I. 18), **Article 4**
F8 Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), **Article 6(1)** and Schedule 1, paragraphs 8 and 18
F9 O.J. No L353, 31.12.08, p.1

PART 1

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Control of Major Accident Hazards Regulations (Northern Ireland) 2015 and shall come into operation on 28th September 2015.

Interpretation

2.—(1) In these Regulations—

"the 1978 Order" means the Health and Safety at Work (Northern Ireland) Order 1978;

" the 2000 Regulations" means the Control of Major Accident Hazards Regulations (Northern Ireland) 2000 [F10];

"CAS number" is the number assigned to a substance by the Chemical Abstracts Service [F11];

"the CLP Regulation" means 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 amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No. 1907/2006, of which Annex I, Part 1.0 and 1.1, Parts 2 to 4 and, Annex VI, Part 3 Table 3.1 are to be read as amended from time to time [F12];

"competent authority" has the meaning given in regulation 4;

"dangerous substance" means (subject to regulation 3(2)(b) and (c)) a substance or mixture—

(a) listed in column 1 of Part 2 of Schedule 1; or

(b) in a category listed in column 1 of Part 1 of Schedule 1,

including in the form of a raw material, product, by-product, residue or intermediate;

"the Department" means the Department of Enterprise, Trade and Investment;

"designated authorities" means—

(a) a Northern Ireland department;

(b) a district council established under the Local Government Act (Northern Ireland) 1972 [F13];

(c) the emergency services;

(d) a Health and Social Care Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 [F14];

(e) the Regional Health and Social Care Board;

(f) the Public Health Agency established under section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 [F15];

"the Directive" means Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC[F16];

"domino effects" is to be construed in accordance with regulation 24(2);

"domino groups" is to be construed in accordance with regulation 24(1) and a reference to "domino group" is to be read accordingly;

"emergency services" means—

(a) those police, fire and rescue and ambulance services who are liable to be required to respond to an emergency at an establishment; and

(b) where appropriate, Her Majesty's Coastguard;

"establishment" means the whole location under the control of an operator where a dangerous substance is present in one or more installations, including common or related infrastructures or activities, in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 2 of Part 1 or in column 2 of Part 2 of Schedule 1, where applicable using the rule laid down in note 4 in Part 3 of that Schedule;

"the Executive" means the Health and Safety Executive for Northern Ireland;

"existing establishment" has the meaning given in paragraph (2);

"external emergency plan" is to be construed in accordance with regulation 13(1);

"full address" means the full postal address (including postcode) and an address for contact by electronic means;

"hazard" means the intrinsic property of a dangerous substance or physical situation, with a potential for creating damage to human health or the environment;

"inspection" means all actions, including—

(a) site visits;

(b) checks of internal measures, systems and reports and follow up documents; and

(c) any necessary follow up,

undertaken by or on behalf of the competent authority to check and promote compliance of establishments with the requirements of these Regulations;

"inspector" means a person appointed under Article 21 of the 1978 Order by the Executive;

"installation" means a technical unit within an establishment, whether at or below ground level, in which dangerous substances are produced, used, handled or stored and includes all the equipment, structures, pipelines, pipework, machinery, tools, private railway sidings, docks, unloading quays serving the installation, jetties, warehouses or similar structures, floating or otherwise, necessary for the operation of that installation;

"internal emergency plan" is to be construed in accordance with regulation 12(1);

"lower tier establishment" means an establishment where a dangerous substance is present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 2 of Part 1 or in column 2 of Part 2 of Schedule 1, but less than that listed in the entry for that

substance in column 3 of Part 1 or in column 3 of Part 2 of Schedule 1, where applicable using the rule laid down in note 4 of Part 3 of that Schedule;

"major accident" means an occurrence such as a major emission, fire, or explosion resulting from uncontrolled developments in the course of the operation of any establishment to which these Regulations apply, and leading to serious danger to human health or the environment (whether immediate or delayed) inside or outside the establishment, and involving one or more dangerous substances;

"major accident prevention policy" is to be construed in accordance with regulation 7;

"mixture" means a mixture or solution composed of two or more substances;

"neighbouring establishment" means an establishment that is located in such proximity to another establishment so as to increase the risk or consequences of a major accident;

"new establishment" means—

(a) an establishment that is constructed or enters into operation on or after 28th September 2015;

(b) a site of operation which becomes an establishment to which these Regulations apply on or after 28th September 2015 due to an increase or other change in its inventory of dangerous substances;

(c) a lower tier establishment that becomes an upper tier establishment, or vice versa, on or after that date due to any modification to any of its installations or activities which results in a change in its inventory of dangerous substances;

"operator" means the person who is in control of the operation of an establishment, or in relation to an establishment which is to be constructed or operated the person who proposes to control its operation, or if that person is not known, the person who in the course of a trade, business or other undertaking carried on by that person has commissioned its design and construction;

"other establishment" means—

(a) a site of operation that becomes an establishment to which these Regulations apply on or after 28th September 2015; or

(b) a lower tier establishment that becomes an upper tier establishment, or vice versa, on or after that date,

for reasons other than those mentioned in paragraph (b) or (c) (as the case may be) of the definition of "new establishment";

"pipelines" means pipelines to which the Pipelines Safety Regulations (Northern Ireland) 1997 [F17] apply;

"the public" means one or more persons and, includes their associations, organisations or groups;

"presence of a dangerous substance" means the actual or anticipated presence of a dangerous substance in the establishment, or of a dangerous substance which it is reasonable to foresee may be generated during loss of control of the processes, including storage activities, in any installation within the establishment, in a quantity equal to or in excess of the qualifying quantity listed in the entry for that substance in column 2 of Part 1 or column 2 of Part 2 of Schedule 1, and "where a dangerous substance is present" is to be construed accordingly;

"Regional Health and Social Care Board" means the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

"risk" means the likelihood of a specific effect occurring within a specified period or in specified circumstances;

"safety report" is to be construed in accordance with regulation 8;

"storage" includes warehousing, depositing in safe custody or keeping in stock;

"upper tier establishment" means an establishment where a dangerous substance is present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 3 of Part 1 or in column 3 of Part 2 of Schedule 1, where applicable using the rule laid down in note 4 of Part 3 of that Schedule.

(2) For the purposes of these Regulations "existing establishment" means an establishment—

(a) where on 27th September 2015 a dangerous substance or category of substance listed in column 1 of Parts 2 or 3 of Schedule 1 to the 2000 Regulations was present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 2 of those Parts, but less than that listed in the entry for that substance in column 3 of those Parts, where applicable using the rule laid down in note 4 to Part 3 of that Schedule, and which on 28th September 2015 was a lower tier establishment; or

(b) where on 27th September 2015 a dangerous substance or category of substance listed in column 1 of Parts 2 or 3 of Schedule 1 to the 2000 Regulations was present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 3 of those Parts, where applicable using the rule laid down in note 4 to Part 3 of that Schedule, and which on 28th September 2015 was an upper tier establishment,

other than one which has ceased to be an existing establishment.

(3) For the purposes of paragraph (2) an establishment ceases to be an existing establishment—

(a) within paragraph (a) of the definition of that term if, on or after 28th September 2015, the establishment becomes an upper tier establishment;

(b) within paragraph (b) of the definition of that term if, on or after 28th September 2015, the establishment becomes a lower tier establishment.

(4) Where a new establishment becomes subject to these Regulations due to an increase, decrease or other change in its inventory of dangerous substances, any reference in these Regulations to the start of operation of the establishment, is a reference to the time when the establishment first becomes subject to the Regulations by reason of that increase, decrease or change.

(5) The columns in Parts 1 and 2 of Schedule 1 are to be applied subject to the notes in Part 3 of that Schedule.

(6) Where a substance listed in column 1 of Part 2 of Schedule 1 is also covered by a category in column 1 of Part 1 of that Schedule, the quantities set out in columns 2 and 3 of Part 2 shall be used.

(7) Any reference in these Regulations to "writing" includes writing which is communicated or kept in electronic form and which can be printed.

(8) The Interpretation Act (Northern Ireland) 1954 [F18] shall apply to these Regulations as it applies to an Act of the Assembly.

F10 S.R. 2000 No. 93, as amended by S.R. 2005 No. 305, S.R. 2008 No. 424, S.R. 2009 No. 132, S.R. 2013 No. 161 and S.R. 2014 No. 74
F11 Chemical Abstracts Service (www.cas.org), is a division of the American Chemical Society
F12 O.J. No L353, 31.12.08, p.1
F13 1972 c. 9
F14 S.I. 1991/194 (N.I. 1)
F15 2009 c. 1
F16 O.J. No. L 197, 24.7.2012, p. 1
F17 S.R. 1997 No. 193, as amended by S.R. 1999 No. 150 and S.R. 2009 No. 238
F18 1954 c.33 (N.I.), as amended by S.I. 1999/663