STATUTORY RULES OF NORTHERN IRELAND

2009 No. 399

PLANNING

The Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2009

Made - - - -	*3rd December 2009*
Coming into operation	*31st December 2009*

The Department of the Environment makes the following Regulations in exercise of the powers conferred on it by Articles 10, 53(3) and (4), 54(1), 60(3) and 129(1) of the Planning (Northern Ireland) Order 1991(**1**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2009 and shall come into operation on 31st December 2009.

(2) In these Regulations—

"the 1991 Order" means the Planning (Northern Ireland) Order 1991;

"the Hazardous Substances Regulations" means the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993(**2**).

Amendment of the Planning (Development Plans) Regulations (Northern Ireland) 1991

2.—(1) The Planning (Development Plans) Regulations (Northern Ireland) 1991(**3**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) in the definition of "the Directive" after "substances" insert "as amended by Council Directive 2003/105/EC(**4**)".

(3) For regulation 9A(b) (regard to be had to certain matters) substitute—

"(b) the need:

(i) in the long term to maintain appropriate distances between establishments covered by the Directive and residential areas, buildings and areas of public use, major

(**1**) S.I. 1991/1220 (N.I. 11) as amended by S.I. 2003/430 (N.I.8) and S.I. 2006/1252 (N.I.7)
(**2**) S.R. 1993 No. 275 as amended by S.R. 2000 No.101, S.R. 2005 No. 320, S.R. 2006 No. 218 and S.R. 2006 No. 425
(**3**) S.R. 1991 No. 119, the relevant amendment is S.R. 2000 No. 101
(**4**) O.J. No. L 345, 31.12.2003, p.97

transport routes as far as possible, recreational areas 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.".

Amendment of the Hazardous Substances Regulations

3.—(1) The Hazardous Substances Regulations are amended in accordance with paragraphs (2) to (5).

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

(3) In regulation 4(7) (exemptions) for "6, 14, 35 and 39" substitute "10, 18, 39 and 43".

(4) In Schedule 1 (prescribed forms):

(a) in Form 1 (general application for hazardous substances consent) in Note (a) after "2000" insert "and the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2009";

(b) in Form 2 (application for either hazardous substances consent without a condition(s) imposed on a previous consent (article 58) or continuation of hazardous substances consent following a change in control of part of the land (article 60)) in Note (a) to number 3 after "2000" insert "and the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2009".

(5) For Schedule 3 (hazardous substances and controlled quantities) substitute Schedule 3 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, named or categorised in a hazardous substances consent granted (or deemed to be granted) before the coming into operation of these Regulations where—

(a) the name or categorisation of that substance, mixture or preparation in column 1 of Part A or Part B of Schedule 3 to the Hazardous Substances Regulations as it exists before the coming into operation of these Regulations will be renamed or re-categorised as a result of the coming into operation 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 operation 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 varied by the Department on or after 31st December 2009.

Transitional exemptions

5.—(1) No offence is committed under Article 61 of the 1991 Order (offences) before 1st July 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 31st December 2009 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 31st December 2009 and ending on 30th June 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 31st December 2009.

Sealed with the Official Seal of the Department of the Environment on 3rd December 2009

L.S.

Marianne Fleming
A senior officer of the
Department of the Environment

SCHEDULE Regulation 3(5)

Substitution of Schedule 3 to The Planning (Hazardous Substances) Regulations (Northern Ireland) 1993

"SCHEDULE 3 Regulations 3(1) and (3)

HAZARDOUS SUBSTANCES AND CONTROLLED QUANTITIES

PART A

NAMED SUBSTANCES

Column 1 Hazardous Substances	Column 2 Controlled quantity (Q) tonnes	Column 3 Quantity for the 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	10000.00
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	
14. Formaldehyde (≥90%)	5.00	
15. Hydrogen	2.00	5.00
16. Hydrogen chloride (liquefied gas)	25.00	
17. Lead alkyls	5.00	

Column 1 Hazardous Substances	Column 2 Controlled quantity (Q) tonnes	Column 3 Quantity for the purposes of Note 4 to the notes to Parts A and B (Q*)
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	
34. Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent (to which Note 7 of the Notes to this Part applies)	0.001	
35. The following CARCINOGENS at concentrations above 5% by weight: 4-Aminobiphenyl and/or its salts; Benzotrichloride; Benzidine and/or salts; Bis(chloromethyl) ether; Chloromethyl methyl ether; 1,2-Dibromoethane; Diethyl sulphate; Dimethyl sulphate; Dimethylcarbamoyl chloride; 1,2-Dibromo-3-chloropropane; 1,2-Dimethylhydrazine; Dimethylnitrosamine; Hexamethylphosphoric triamide; Hydrazine; 2- Naphthylamine and/or salts; 4-Nitrodiphenyl; and 1,3 Propanesultone	0.5	
36. Petroleum products	2500.00	