STATUTORY RULES OF NORTHERN IRELAND

2005 No. 305

HEALTH AND SAFETY

The Control of Major Accident Hazards (Amendment) Regulations (Northern Ireland) 2005

Made - - - -	*20th June 2005*
Coming into operation	*25th July 2005*

The Department of Enterprise, Trade and Investment(**1**) being a Department designated(**2**) for the purposes of section 2(2) of the European Communities Act 1972(**3**) in relation to measures relating to the prevention and limitation of the effects of accidents involving dangerous substances, in exercise of the powers conferred on it by the said section 2(2) and being the Department concerned(**4**), in exercise of the powers conferred by Articles 17(1) to (5), 40(2) and (4) and 55(2) of, and paragraphs 1(1) and (2), 14(1), 15 and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**5**) and of every other power enabling it in that behalf, and for the purpose of giving effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A) of that Order(**6**) after the carrying out by the said Executive of consultations in accordance with Article 46(3) of that Order(**7**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Control of Major Accident Hazards (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 25th July 2005.

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

(**1**) Formerly the Department of Economic Development: *see*S.I. 1982/846 (N.I. 11), Article 3 and S.I. 1999/283 (N.I. 1), Article 3(5)
(**2**) S.I. 1998/1750
(**3**) 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)
(**4**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**5**) S.I. 1978/1039 (N.I. 9); Article 17 must be read with S.I. 1992/1728 (N.I. 17), Articles 3 and 4
(**6**) Article 13(1) was substituted by S.I. 1998/2795 (N.I. 18), Article 4
(**7**) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and paragraphs 8 and 18(c) of Schedule 1
(**8**) 1954 c. 33 (N.I.)

Amendment of the Control of Major Accident Hazards Regulations (Northern Ireland) 2000

2.—(1) The Control of Major Accident Hazards Regulations (Northern Ireland) 2000(**9**) shall be amended in accordance with the following paragraphs.

(2) Paragraph (1) of regulation 2 (Interpretation) shall be amended as follows –

(a) in the definition of "the Directive", after the word "substances", add the words "as amended by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003(**10**)";

(b) for the definition of "notify" there shall be substituted –

""notify" means notify –

(a) in writing, including an email; or

(b) by such other means as the recipient may allow.".

(3) Regulation 3 (Application) shall be amended as follows –

(a) In paragraph (3), for sub-paragraphs (c) and (d) there shall be substituted –

"(c) the exploration, extraction and processing of minerals in mines, quarries or by means of boreholes, except –

(i) chemical and thermal processing operations; and

(ii) storage relating to those operations,

which involve dangerous substances; and

(d) waste land-fill sites, except tailing ponds or dams and other operational tailings disposal facilities containing dangerous substances, in particular when any such facilities are used in connection with the chemical and thermal processing of minerals.".

(b) Regulation 3(4) shall be revoked.

(4) For paragraph (1) of regulation 5 (Major accident prevention policy), there shall be substituted –

"**5.**—(1) Every operator shall without delay but at all events within 3 months after the establishment becomes subject to this regulation prepare, and thereafter keep, a document setting out his policy with respect to the prevention of major accidents (in these Regulations referred to as a "major accident prevention policy document").".

(5) Regulation 6 (Notifications) shall be amended as follows –

(a) After paragraph (3) there shall be inserted –

"(3A) Where paragraphs (1) to (3) do not apply, the operator of the establishment shall send to the competent authority a notification containing the information specified in Schedule 3 within 3 months after the establishment becomes subject to this regulation.".

(b) In paragraph (4)(b)(iii), after "authority", there shall be inserted "under this regulation".

(c) After paragraph (4)(b) there shall be inserted –

"(ba) modification of the establishment or an installation which could have significant repercussions with respect to the prevention of major accidents;".

(6) After paragraph (10) of regulation 7 (Safety report) there shall be inserted –

(**9**) S.R. 2000 No. 93
(**10**) O.J. No. L345, 31.12.2003, p. 97

"(10A) Where paragraphs (1) to (10) do not apply, the operator shall, subject to paragraph (12), without delay, but at all events within 1 year after the establishment becomes subject to this regulation, send to the competent authority a report which is sufficient for the purpose specified in Part I of Schedule 4 and comprising at least the information specified in Part II of that Schedule.".

(7) Regulation 8 (Review and revision of safety report) shall be amended as follows –

(a) For paragraph (1) there shall be substituted –

"**8.**—(1) Where a safety report has been sent to the competent authority the operator shall, subject to paragraph (3), review it –

(a) whenever the operator makes a change to the safety management system (referred to in paragraph 1 of Part I of Schedule 4) which could have significant repercussions with respect to the prevention of major accidents or the limitation of consequences of major accidents to persons and the environment;

(b) whenever such a review is necessary because of new facts or to take account of new technical knowledge about safety matters; and

(c) fully at least every 5 years,

and where in consequence of that review it is necessary to revise the report, the operator shall do so forthwith and notify the competent authority of the details of such revision.".

(b) In paragraph (2) –

(i) for "inform" there shall be substituted "notify";

(ii) for "(1)(a)" there shall be substituted "(1)(c)".

(c) In paragraph (3), for "(1)(a)" there shall be substituted "(1)(c)".

(d) In paragraph (4)(b), for "inform" there shall be substituted "notify".

(8) Regulation 9 (On-site emergency plan) shall be amended as follows –

(a) In paragraph (2), for sub-paragraph (c) there shall be substituted –

"(c) in the case of an establishment which has not started to operate, before it starts to operate;

(d) in any other case, without delay but at all events within 1 year after the establishment becomes subject to this regulation.".

(b) In paragraph (3)(a), for "employed" there shall be substituted "working".

(9) In paragraph (1) of regulation 11 (Review and testing of emergency plans), after the words "major accidents", add the words "and, in the case of a review of an off-site emergency plan, shall involve consultation by the Executive of such members of the public as it considers appropriate".

(10) For paragraph (1) of regulation 14 (Provision of information to the public) there shall be substituted –

"**14.**—(1) The operator of an establishment shall –

(a) ensure that –

(i) every person who is likely to be in an area referred to in paragraph (2); and

(ii) every school, hospital or other establishment serving the public which is situated in such area,

is supplied regularly and in the most appropriate form, without their having to request it, with information on safety measures at the establishment and on the requisite behaviour in the event of a major accident at the establishment; and

(b) make that information permanently available to the public.".

(11) For Schedule 1 (Dangerous substances to which the Regulations apply) there shall be substituted the Schedule set out in the Schedule to these Regulations.

(12) Schedule 2 (Principles to be taken into account when preparing major accident prevention policy document) shall be amended as follows –

(a) In paragraph 4(a), for "The involvement of employees and, where appropriate, sub-contractors", there shall be substituted "The involvement of persons working in the establishment".

(b) For paragraph 4(e) there shall be substituted –

"(e) planning for emergencies – adoption and implementation of procedures to –

(i) identify foreseeable emergencies by systematic analysis;

(ii) prepare, test and review emergency plans to respond to such emergencies; and

(iii) provide specific training for all persons working in the establishment;".

(13) In paragraph 5 of Schedule 3 (Information to be included in a notification), after the word "present", add the words "including, in relation to petroleum products listed in Part II of Schedule 1, the quantity falling within each of classes (a) to (c)".

(14) In Schedule 4 (Purpose and contents of safety reports) –

(a) Paragraph 2(a) of Part II shall be amended as follows –

(i) for "meterological" there shall be substituted "meteorological";

(ii) for "geographical", where it secondly occurs, there shall be substituted "geological".

(b) The following sub-paragraph shall be substituted for paragraph 4(b) of Part II –

"(b) assessment of the extent and severity of the consequences of identified major accidents including maps, images or, as appropriate, equivalent descriptions, showing areas which are liable to be affected by such accidents arising from the establishment;".

(c) The following paragraph shall be added to Part II –

"**6.** The names of the relevant organisations involved in the drawing up of the report.".

(15) In Schedule 8 (Provision of information by the competent authority) –

(a) After paragraph 1(b) there shall be inserted –

"(ba) notifications under regulation 8(2);".

(b) After paragraph 13 there shall be inserted –

"(13A) Where information in a safety report is excluded from the register, the operator shall within 3 months after being notified of its exclusion, or such longer period as the competent authority may allow, send to the competent authority a safety report which omits that information.".

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 20th June 2005.

M. Bohill
A senior officer of the
Department of Enterprise, Trade and Investment