**1993 No. 275**

# PLANNING

## The Planning (Hazardous Substances) Regulations (Northern Ireland) 1993

*Made* . . . . . *18th June 1993*

*Coming into operation* . . *1st August 1993*

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The Department of the Environment, in exercise of the powers conferred by Articles 53(3), 54(1), (2) and (4), 56(1), 57(7), 60(3), 81(4), (10) and (12), 127, 129(1) and paragraphs 4(4) and (9) of Schedule 4 to, the Planning (Northern Ireland) Order 1991(a) and of all other powers enabling it in that behalf, makes the following regulations:

## PART 1

## GENERAL

*Citation and commencement*

**1.** These regulations may be cited as The Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 and shall come into operation on 1st August 1993.

*Interpretation*

**2.**—(1) In these regulations—

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

(a) S.I. 1991 No. 1220 (N.I. 11) *see* Article 2(2) for definitions of "the Department" and "prescribed"

"buried or mounded vessel" includes a vessel which is only partially buried or mounded;

"deemed consent" means consent deemed to be granted under paragraph 4(5) to (7) of Schedule 4 to the 1991 Order;

"express consent" means consent required under Article 53 of the 1991 Order;

"moveable container" means any container, other than a vessel, designed or adapted to contain hazardous substances;

"vessel" means any container which is affixed to land and which is designed or adapted to contain hazardous substances, and includes a container which forms part of plant or machinery but does not include a pipeline.

(2) In these regulations—

(*a*) a reference to an Article is a reference to that Article of the 1991 Order;

(*b*) a reference to a numbered form is a reference to the correspondingly numbered form in Schedule 1.

(3) Part 4 (deemed consent), Form 5 (claim for deemed consent) and Schedule 2 (deemed consent conditions) shall be construed in accordance with regulation 16.

## PART 2

## HAZARDOUS SUBSTANCES, CONTROLLED QUANTITIES AND EXEMPTIONS

*Hazardous substances and controlled quantities*

**3.**—(1) Subject to paragraph (2), the substances specified in column 1 of Schedule 3 are hazardous substances for the purposes of the 1991 Order.

(2) A substance which is controlled waste, as defined in Article 36 of the Pollution Control and Local Government (Northern Ireland) Order 1978(**a**), or radioactive waste as defined in section 18(4) of the Radioactive Substances Act 1960(**b**), is not a hazardous substance for the purposes of the 1991 Order.

(3) The quantity specified in column 2 of Schedule 3 is the controlled quantity of the corresponding hazardous substance in column 1 of that Schedule for the purposes of the 1991 Order.

*Exemptions*

**4.**—(1) Hazardous substances consent is not required for the presence of a hazardous substance contained in an aerosol dispenser if—

(*a*) the capacity of the dispenser does not exceed 1000 millilitres; or

(*b*) the dispenser—

(i) does not contain a substance or mixture of substances which is classified at least as "flammable" for the purposes of paragraph 2

(a) S.I. 1978/1049 (N.I. 19)
(b) 1960 c. 34

of Part III of Schedule 1 to the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985(a); and

(ii) does not contain substances numbered 7, 8, 18, 21, 22, 24, 25, 27, 29, 30, 33, 34 or 65 in column 1 of Schedule 3 or, if it does, the aggregate quantity of that substance contained in aerosol dispensers with a capacity in excess of 1000 millilitres on the relevant site is less than the controlled quantity for that substance.

(2) Hazardous substances consent is not required for the presence of a hazardous substance contained in an exempt pipeline or a service pipe.

(3) Subject to paragraph (4) hazardous substances consent is not required for the presence of a hazardous substance which has been unloaded from a ship or other seagoing craft in an emergency until the expiry of 14 days from the day on which it was so unloaded.

(4) For the purpose of paragraph (3) a substance shall be treated as having been unloaded from a craft in an emergency if it was unloaded from a craft after having been brought into a harbour or harbour area (as those expressions are defined in regulation 2 of the Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991(b), without requiring notification under regulation 6(1) of those regulations by virtue of an exemption under regulation 6(5) of those regulations.

(5) Where there is deemed consent for the presence of substance number 40 in column 1 of Schedule 3, consent is not required for the presence of an additional quantity of that substance not exceeding one third of the established quantity provided that all the conditions set out in Schedule 2 and applying to that substance under the deemed consent are also complied with in relation to the additional quantity present.

(6) The presence of a substance for which consent is not required by virtue of paragraph (1), (2) or (3) shall not be taken into account when calculating the quantity of a hazardous substance present on, over or under land for any purpose of the 1991 Order or these regulations.

(7) In this regulation—

(*a*) "exempt pipeline" means a pipeline laid by undertakers in accordance with Article 13 of the Gas (Northern Ireland) Order 1977(c) but does not include—

(i) that part of the pipeline across a site to which it has an outlet or inlet;

(ii) a service pipe;

(*b*) "service pipe" means a pipeline used by undertakers (as defined in Article 2(2) of the said Order) to supply gas to an individual consumer from a main of those undertakers.

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(a) S.R. 1985 No. 81
(b) S.R. 1991 No. 509
(c) S.I. 1977/596 (N.I. 7)

EXPRESS CONSENT

*Application for hazardous substances consent*

**5.**—(1) Subject to paragraph (2), an application for express consent shall—

(*a*) be made to the Department on Form 1;

(*b*) subject to paragraphs (4) and (5) include the information required by the form, a site map and a substance location plan; and

(*c*) be accompanied by 3 additional copies of the form, the map, plan and certificates required by regulation 7.

(2) An application to which Article 58 applies (application for express consent without a condition subject to which a previous consent was granted) shall—

(*a*) be made to the Department on Form 2;

(*b*) subject to paragraphs (8) and (9) include the information required by the form, a change of location plan, if required by paragraph (6), and particulars of the consent; and

(*c*) be accompanied by 3 additional copies of the form, the consent, any plan submitted with it and certificates required by regulation 7.

(3) An application under Article 60(2) (application for the continuation of consent following a change of control of the land) shall—

(*a*) be made to the Department on Form 2;

(*b*) subject to paragraphs (7) to (9) include the information required by the form, a change of control plan, and particulars of the consent; and

(*c*) be accompanied by 3 additional copies of the form, the relevant consent, the change of control plan and certificates required by regulation 7.

(4) The site map required by paragraph (1)(*b*) shall be a map, reproduced from, or based upon, an ordnance map with a scale of not less than 1 to 2,500, which identifies the land to which the application relates and shows grid lines and ordnance map reference numbers.

(5) The substance location plan required by paragraph (1)(*b*) shall be a plan of the land to which the application relates, drawn to a scale of not less than 1 to 1,250, which identifies—

(*a*) any area of the site 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;

(*c*) access points to and from the land.

(6) A change of location plan shall be required in the case of an application to which Article 58 applies which relates to a condition restricting the location of a hazardous substance, and shall be a plan of the land to which the application relates, drawn to a scale of not less than 1 to 1,250, which