1992 No. 71

HEALTH AND SAFETY

Dangerous Substances (Notification and Marking of Sites) Regulations (Northern Ireland) 1992

Made . . . . . *27th February 1992*
Coming into operation . . *1st September 1992*

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The Department of Agriculture, the Department of Economic Development, the Department of the Environment and the Department of Health and Social Services acting jointly as the Department concerned(**a**) in exercise of the powers conferred by Articles 17(1), (2), (3), (4) and (5) and 55(2) of, and paragraphs 1(1), 14(1) and 20(*a*) of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978(**b**) and of every other power enabling them in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to them to be appropriate, hereby make the following Regulations:—

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

Citation and commencement

1. These Regulations may be cited as the Dangerous Substances (Notification and Marking of Sites) Regulations (Northern Ireland) 1992 and shall come into operation on 1st September 1992.

Interpretation

2.—(1) In these Regulations—

"the 1985 Regulations" means the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985(**a**);

"classification" in relation to a dangerous substance (except in paragraph 1(*c*) of Schedule 1) means the classification for that substance ascertained in accordance with regulation 6 of the 1985 Regulations (whether or not the substance is required to be classified for the purposes of those Regulations);

"dangerous substance" means any substance which is dangerous for conveyance within the meaning of the 1985 Regulations, and any reference to "dangerous substances" (except in regulation 6(5)) includes a reference to one dangerous substance;

"the Department" means the Department of Economic Development;

"the Fire Authority" means the Fire Authority for Northern Ireland;

"Part I of BS 5378" means British Standard number BS 5378: Part I 1980 entitled "Safety Signs and Colours Part I. Specification for colour and design" issued by the British Standards Institution, as published on 31st July 1980;

"site" means—

(*a*) the whole of an area of land under the control of a person and includes a pier, jetty or similar structure whether floating or not; or

(*b*) a structure, whether floating or not, which is within the inland waters of Northern Ireland and which is under the control of a person.

(2) Any reference in these Regulations to the person in control of a site is a reference to the person having such control in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

(3) For the purposes of these Regulations, in determining the total quantity of dangerous substances present at a site account shall be taken of any quantity of such substances which are in any vehicle, vessel, aircraft or hovercraft under the control of the person in control of the site which is used for storage purposes at the site; but no account shall be taken of any dangerous substances which are in a vehicle, vessel, aircraft or hovercraft used for transporting them or in the fuel tank of a vehicle, vessel, aircraft or hovercraft.

(**a**) S.R. 1985 No. 81 amended by S.R. 1988 No. 288, S.R. 1989 No. 182, S.R. 1990 No. 120 and S.R. 1990 No. 303

Exceptions

3. The provisions of Schedule 1 (which sets out exceptions to the Regulations) shall have effect.

Notification

4.—(1) The person in control of a site shall, subject to regulation 10(1), ensure that there is not present at any one time a total quantity of 25 tonnes or more of dangerous substances at the site unless there has been notified in writing to the Fire Authority and the enforcing authority for this regulation the particulars specified in Part I of Schedule 2.

(2) Where a notification has been made under paragraph (1) and a change specified in Part II of Schedule 2 takes place, the person in control of the site shall forthwith notify that change in writing to the Fire Authority and the enforcing authority for this regulation.

(3) Where a change specified in paragraph 1 or 2 of Part II of Schedule 2 has been notified under paragraph (2), any resumption in the presence of a total quantity of 25 tonnes or more of dangerous substances at the site shall be subject to a fresh notification under paragraph (1).

Access marking

5.—(1) The person in control of a site shall ensure that there is not present at any one time a total quantity of 25 tonnes or more of dangerous substances at the site unless safety signs are displayed at such places as will give adequate warning to firemen before entering the site in an emergency that dangerous substances are present.

(2) The safety signs referred to in paragraph (1) shall be warning signs as defined by clause 3.6 of Part I of BS 5378 bearing the hazard warning symbol (but not the text) shown in the last entry of column 2 of Schedule 3; and all such signs shall comply with that Part with respect to colours and layout.

Location marking

6.—(1) An inspector may give directions to the person in control of a site requiring him to display, at all times when a total quantity of 25 tonnes or more of dangerous substances is present at the site, safety signs at such locations within the site as are specified in the directions.

(2) Directions under paragraph (1) may only be given where the inspector is satisfied on reasonable grounds that—

(*a*) there is or is liable to be present at any one time a total quantity of 25 tonnes or more of dangerous substances at the site, and

(*b*) the display of safety signs at the locations to be specified in the directions is necessary in order to warn firemen in an emergency that dangerous substances are present at those locations.

(3) The safety signs referred to in paragraph (1) shall be warning signs as defined by clause 3.6 of Part I of BS 5378 used in conjunction with supplementary signs as defined by clause 3.9 of that Part, and all such signs shall comply with that Part with respect to colours and layout.

(4) The warning signs and supplementary signs shall bear the hazard warning symbol and hazard warning text respectively.

(5) The hazard warning symbol and hazard warning text shall be—

(*a*) in the case where there is one dangerous substance or there are two or more dangerous substances with the same classification at the location where the signs are displayed, that specified in column 2 of Schedule 3 appropriate to the classification of such substance or substances specified opposite thereto in column 1 of that Schedule,

(*b*) in the case where there are two or more dangerous substances with different classifications at the location where the signs are displayed, that specified in the said column 2 opposite the entry for "Mixed hazards" in the said column 1.

(6) Directions may be given by an inspector under this regulation in any such reasonable manner as he may think fit, and may be withdrawn by him at any time.

(7) The person to whom directions are given under this regulation shall, subject to regulation 10(2), comply with those directions, but safety signs need not be displayed at a location specified in the directions at a time when dangerous substances are not present at that location.

(8) Any reference in this regulation to the presence of dangerous substances at a location is a reference to the presence of dangerous substances at or within the vicinity of that location.

Signs to be kept clean, etc.

7. The person in control of the site shall, so far as is reasonably practicable, ensure that any safety signs displayed at the site pursuant to regulation 5 or 6 are kept clean and free from obstruction.

Enforcing authority

8. The enforcing authority for these Regulations shall be the Fire Authority except that—

(*a*) the enforcing authority for regulation 4 shall be ascertained in accordance with the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1985(**a**); and

(*b*) the enforcing authority for regulations 5 to 7 in relation to a site occupied by a body specified in regulation 4(1) of the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1985 shall be the Department.

Exemption certificates

9.—(1) Subject to paragraph (2), the Department may, by certificate in writing, exempt any person or class of persons or any activity or class of activities to which these Regulations apply from any requirement imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(a) S.R. 1985 No. 103

(2) The Department shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

(*a*) the conditions, if any, which it proposes to attach to the exemption, and

(*b*) any other requirements imposed by or under any statutory provision which apply to the case;

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced because of it.

Transitional provisions

10.—(1) Where a total quantity of 25 tonnes or more of dangerous substances is present at a site on the coming into operation of these Regulations it shall be sufficient compliance with regulation 4(1) if the notifications referred to therein are made by 1st October 1992.

(2) Where a direction is given under regulation 6 before 1st September 1993 it shall be sufficient compliance with that direction if the safety signs are displayed in accordance therewith from that date.

Sealed with the Official Seal of the Department of Agriculture on 27th February 1992.

(L.S.) *I. C. Henderson*
Assistant Secretary

Sealed with the Official Seal of the Department of Economic Development on 27th February 1992.

(L.S.) *R. J. Minnis*
Assistant Secretary

Sealed with the Official Seal of the Department of the Environment on 27th February 1992.

(L.S.) *R. W. Rogers*
Assistant Secretary

Sealed with the Official Seal of the Department of Health and Social Services on 27th February 1992.

(L.S.) *J. Scott*
Assistant Secretary