1991 No. 141

HEALTH AND SAFETY

Control of Industrial Major Accident Hazards (Amendment) Regulations (Northern Ireland) 1991

Made	*4th April 1991*
Coming into operation . .	*13th May 1991*

The Department of Agriculture, the Department of Economic Development, the Department of the Environment and the Department of Health and Social Services being Departments designated by the European Communities (Designation) Order 1983(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to measures relating to the prevention and limitation of the effects of accidents arising from industrial activities involving dangerous substances, acting jointly in exercise of the power conferred on them by the said section 2(2) and acting jointly as the Department concerned(**c**) in exercise of the powers conferred by Articles 17(1), (2) and 55(2) of, and paragraphs 1(1), (2), 14(1) and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**d**) 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:—

Citation and commencement

1. These Regulations may be cited as the Control of Industrial Major Accident Hazards (Amendment) Regulations (Northern Ireland) 1991 and shall come into operation on 13th May 1991.

Interpretation

2.—(1) In these Regulations "the principal Regulations" means the Control of Industrial Major Accident Hazards Regulations (Northern Ireland) 1985(**e**).

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

(**a**) S.I. 1983/603
(**b**) 1972 c. 68
(**c**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**d**) S.I. 1978/1039 (N.I. 9)
(**e**) S.R. 1985 No. 175, as amended by S.R. 1988 No. 388
(**f**) 1954 c. 33 (N.I.)

Amendments to the principal Regulations

3. The principal Regulations shall be amended as provided in regulations 4 to 13.

Interpretation

4. In regulation 2(1)—

(*a*) for sub-paragraph (*b*) of the definition of ''dangerous substance'' there shall be substituted—

''(*b*) any substance listed in Column 1 of Part I of Schedule 2 (which sets out the provisions of Annex II to the Directive) and any substance or preparation falling within any of the categories set out in Column 1 of Part II of that Schedule; and'';

(*b*) for the definition of ''the Directive'' there shall be substituted—

' ''the Directive'' means Council Directive No. 82/501/EEC on the major-accident hazards of certain industrial activities(**a**), as amended by Council Directive 87/216/EEC(**b**) and Council Directive 88/610/EEC(**c**);';

(*c*) after the definition of ''the Directive'' there shall be inserted—

' ''further relevant information'', for the purpose of Schedule 7A, means information necessary for the assessment of the potential effects of a major accident and which in the circumstance of the case—

(*a*) is reasonably required by the enquirer to assess the risks to his health and safety created by such an accident and to know and understand what action he should take in the event of an accident; and

(*b*) where the information is to be disclosed by the manufacturer, it is reasonable for him to disclose it having regard to the requirements of law and his commercial interests;';

(*d*) for the definition of ''industrial activity'' there shall be substituted—

' ''industrial activity'' means—

(*a*) an operation carried out in an industrial installation referred to in Schedule 4 (which sets out the provisions of Annex I to the Directive) involving, or which is liable to involve, one or more dangerous substances which—

(i) satisfy any of the criteria laid down in Schedule 1,

(ii) are listed in Column 1 of Schedule 3, or

(iii) both satisfy any of the said criteria and are so listed,

and includes on-site storage and on-site transport which is associated with that operation, unless the operation is incapable of producing a major accident hazard;

(**a**) O.J. No. L230, 5.8.82, p. 1
(**b**) O.J. No. L85, 28.3.87, p. 36
(**c**) O.J. No. L336, 7.12.88, p. 14

(*b*) any storage to which Schedule 2 applies;';

(*e*) the definition of ''isolated storage'' shall be deleted;

(*f*) after the definition of ''manufacturer'' there shall be inserted—

' ''preparation'' means a mixture or solution of two or more substances; and'.

Revocation of regulation 3(2) of the principal Regulations

5. Regulation 3(2) is revoked.

Demonstration of safe operation

6. For regulation 4(1) there shall be substituted—

''**4.**—(1) This regulation shall apply to—

(*a*) an industrial activity to which sub-paragraph (*a*) of the definition of industrial activity in regulation 2(1) applies and in which a substance which satisfies any of the criteria laid down in Schedule 1 is involved, or is liable to be involved; and

(*b*) an industrial activity to which sub-paragraph (*b*) of that definition applies and in which there is involved, or is liable to be involved—

(i) for a substance specified in Column 1 of Part I of Schedule 2, a quantity of that substance which is equal to or more than the quantity for that substance specified opposite thereto in Column 2;

(ii) for substances and preparations falling within a category or categories specified in an entry in Column 1 of Part II of Schedule 2, a total quantity of such substances and preparations in the category or categories in that entry which is equal to or more than the quantity for that entry specified opposite thereto in Column 2.''.

Industrial activities to which regulations 7 to 12 of the principal Regulations apply

7. In regulation 6—

(*a*) For paragraph (1) there shall be substituted—

''**6.**—(1) Regulations 7 to 12 shall apply to—

(*a*) an industrial activity to which sub-paragraph (*a*) of the definition of industrial activity in regulation 2(1) applies and in which there is involved, or is liable to be involved, a substance listed in Column 1 of Schedule 3 in a quantity which is equal to or more than the quantity for that substance specified opposite thereto in Column 2; and

(*b*) an industrial activity to which sub-paragraph (*b*) of that definition applies and in which there is involved, or is liable to be involved—

(i) for a substance specified in Column 1 of Part I of Schedule 2, a quantity of that substance which is equal to or more than the quantity for that substance specified opposite thereto in column 3;

(ii) for substances and preparations falling within a category or categories specified in an entry in Column 1 of Part II of Schedule 2, a total quantity of such substances and preparations in the category or categories in that entry which is equal to or more than the quantity for that entry specified opposite thereto in Column 3.''; and

(*b*) in paragraph (2), for ''12'' there shall be substituted ''11''.

Information to the public

8. For regulation 12 there shall be substituted—

''*Information to the public*

12.—(1) It shall be the duty of a manufacturer who has control of an industrial activity to which this regulation applies to—

(*a*) ensure that persons outside the site who are likely to be in an area in which, in the opinion of the Department, they are liable to be affected by a major accident occurring at the site are supplied, in an appropriate manner, without their having to request it, with at least the information specified in Schedule 7A (which sets out the provisions of Annex VII to the Directive); and

(*b*) make that information publicly available.

(2) In preparing the information required to be supplied in accordance with paragraph (1), the manufacturer shall consult such persons who seem to him to be appropriate, but the manufacturer shall remain responsible for the accuracy, completeness and form of the information so supplied.

(3) The manufacturer shall ensure that the information supplied in accordance with paragraph (1) is updated and supplied again in accordance with that paragraph at appropriate intervals and made publicly available.

(4) The manufacturer shall take the steps necessary to comply with paragraphs (1) and (2) before the industrial activity is commenced, except that, in the case of an industrial activity commenced before 4th April 1992, it shall be a sufficient compliance with those paragraphs if the manufacturer takes the necessary steps by that date.''.

Indicative criteria

9. In Schedule 1, after paragraph (*d*), there shall be inserted—

''(*e*) Oxidizing substances:

substances which give rise to highly exothermic reaction when in contact with other substances, particularly flammable substances.''.

Storage of certain substances

10. For Schedule 2 there shall be substituted the Schedule set out in Schedule 1 to these Regulations.

Substances to which regulations 7 to 12 of the principal Regulations apply

11. In Schedule 3—

(*a*) In Group 3, after the entry for "Acetylene (Ethyne)" there shall be inserted—

(i) in Column 1 the entry "Ammonium nitrate(*a*)" and opposite thereto in Columns 2 and 3 insert "2,500 tonnes" and "6484-52-2" respectively; and

(ii) in Column 1 the entry "Ammonium nitrate in the form of fertilizers(*b*)" and opposite thereto in Column 2 insert "5,000 tonnes";

(*b*) In Column 1 Group 3, after the entry for "Propylene oxide" there shall be inserted the entry "Sodium chlorate" and opposite thereto in Columns 2, 3 and 4 insert "250 tonnes", "7775-09-9" and "017-005-00-9" respectively;

(*c*) Before the Note below the table there shall be inserted—

"(*a*) This applies to ammonium nitrate and mixtures of ammonium nitrate where the nitrogen content derived from the ammonium nitrate is >28% by weight and to aqueous solutions of ammonium nitrate where the concentration of ammonium nitrate is >90% by weight.

(*b*) This applies to straight ammonium nitrate fertilizers which comply with Council Directive 80/876/EEC 'on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content' and to compound fertilizers where the nitrogen content derived from the ammonium nitrate is >28% by weight (a compound fertilizer contains ammonium nitrate together with phosphate and/or potash).".

Information to be included in a report under regulation 7(1) of the principal Regulations

12. In Schedule 6, after paragraph 5 there shall be inserted—

"6. In the case of the storage of substances and preparations to which Part II of Schedule 2 applies, paragraphs 2(*a*), (*b*) and (*d*) and 5(*b*) shall apply so far as is appropriate.".

Information to be communicated to the public

13. After Schedule 7 there shall be inserted as Schedule 7A the Schedule set out as Schedule 2 to these Regulations.

Application of the principal Regulations

14. Where an industrial activity becomes subject to regulations 7 to 11 of the principal Regulations in consequence of an amendment made by these Regulations, then, in relation to that activity, the principal Regulations shall have effect subject to the modifications specified in Schedule 3.