1985 No. 175

HEALTH AND SAFETY

Control of Industrial Major Accident Hazards Regulations (Northern Ireland) 1985

Made . . . . . *16th July 1985*

Coming into operation

for the purposes of regulations 6 to 10 *1st October 1985*

for all other purposes *1st January 1986*

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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 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 and acting jointly as the Department concerned(**c**) in exercise of the powers conferred by Articles 17(1), (2), (3), (5) and (6), 40(2) and (4) and 55(2) of, and paragraphs 1(1) and (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, commencement and powers

1. These Regulations may be cited as the Control of Industrial Major Accident Hazards Regulations (Northern Ireland) 1985 and shall come into operation—

(*a*) for the purposes of regulations 6 to 10, on 1st October 1985;

(*b*) for all other purposes, on 1st January 1986.

Interpretation

2.—(1) In these Regulations—

"the Order of 1978" means the Health and Safety at Work (Northern Ireland) Order 1978;

"dangerous substance" means—

(*a*) any substance which satisfies any of the criteria laid down in Schedule 1 (which sets out the provisions of Annex IV to the Directive);

(*b*) any substance listed in column 1 of Schedule 2 (which sets out the provisions of Annex II to the Directive); and

(*c*) any substance listed in column 1 of Schedule 3 (which sets out the provisions of Annex III to the Directive);

"the Department" means the Department of Economic Development;

"the Directive" means Council Directive No. 82/501/EEC "on the major-accident hazards of certain industrial activities"(**e**);

"the Health and Safety Executive" means the Health and Safety Executive established under section 10 of the Health and Safety at Work etc. Act 1974(**f**);

"industrial activity" means either—

(*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 liable to involve one or more dangerous substances and includes on-site storage and on-site transport which is associated with that

(**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**) OJ No. L230, 5.8.82, p. 1
(**f**) 1974 c. 37

operation unless the operation is incapable of producing a major accident hazard, or

(*b*) isolated storage;

"isolated storage" means storage of a dangerous substance, other than storage associated with an installation specified in Schedule 4 on the same site, where that storage involves at least the quantities of that substance set out in Schedule 2;

"major accident" means an occurrence (including in particular, a major emission, fire or explosion) resulting from uncontrolled developments in the course of an industrial activity, leading to a serious danger to persons, whether immediate or delayed, inside or outside the installation, or to the environment, and involving one or more dangerous substances;

"manufacturer" means a person having control of an industrial activity;

"site" means—

(*a*) the whole of an area of land under the control of a manufacturer 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 manufacturer.

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

Application of these Regulations

3.—(1) These Regulations shall apply to any industrial activity except an industrial activity which is carried on at—

(*a*) a nuclear installation within the meaning of Article 41(3) of the Order of 1978;

(*b*) an installation which is under the control of—

(i) the Secretary of State for Defence for the purposes of the Ministry of Defence, or

(ii) a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(**b**) or of the service authorities of a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(**c**);

(*c*) a factory, magazine or store licensed under the Explosives Act 1875(**d**);

(*d*) a mine within the meaning of section 156 of the Mines Act (Northern Ireland) 1969(**e**);

(*e*) a quarry within the meaning of Article 2 of the Quarries (Northern Ireland) Order 1983(**f**);

(*f*) a site operated by a district council in accordance with Article 13(2) of the Pollution Control and Local Government (Northern Ireland) Order 1978(**g**) or for which a licence issued in pursuance of Article 7 of that Order is in force.

(2) These Regulations shall not apply to an industrial activity involving substances to which the Explosives Acts (Northern Ireland) 1875 to 1970(**h**) or the Explosives (Northern Ireland) Order 1972(**i**) applies.

(**a**) 1954 c. 33 (N.I.)
(**b**) 1964 c. 5
(**c**) 1952 c. 67
(**d**) 1875 c. 17
(**e**) 1969 c. 6 (N.I.)
(**f**) S.I. 1983/150 (N.I. 4)
(**g**) S.I. 1978/1049 (N.I. 19)
(**h**) 1875 c. 17; 1924 c. 5 (N.I.); 1970 c. 10 (N.I.)
(**i**) S.I. 1972/730 (N.I. 3)

Demonstration of safe operation

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

(*a*) an industrial activity, other than isolated storage, in which a dangerous substance which satisfies any of the criteria laid down in Schedule 1 is or may be involved; and

(*b*) isolated storage in which there is involved a quantity of a dangerous substance listed in Schedule 2 in column 1 which is equal to or more than the quantity specified in the entry for that substance in column 2.

(2) A manufacturer who has control of an industrial activity to which this regulation applies shall at any time provide evidence including documents to show that he has—

(*a*) identified the major accident hazards; and

(*b*) taken adequate steps to—

(i) prevent such major accidents and to limit their consequences to persons and the environment, and

(ii) provide persons working on the site with the information, training and equipment necessary to ensure their safety.

Notification of major accidents

5.—(1) Where a major accident occurs on a site, the manufacturer shall forthwith notify the Department of that accident and the Department shall obtain from the manufacturer who made that notification—

(*a*) the following information relating to the accident as soon as it becomes available—

(i) the circumstances of the accident,

(ii) the dangerous substances involved,

(iii) the data available for assessing the effects of the accident on persons and the environment,

(iv) the emergency measures taken; and

(*b*) a statement of the steps envisaged—

(i) to alleviate medium or long term effects of the accident, if any, and

(ii) to prevent the recurrence of such an accident.

(2) In such a case, the Department shall—

(*a*) collect, where possible, the information necessary for a full analysis of the major accident; and

(*b*) send to the Health and Safety Executive for onward transmission to the European Commission the information specified in Schedule 5 (which sets out the provisions of Annex VI to the Directive).

(3) Where a manufacturer has notified a major accident to the Department as enforcing authority in accordance with the requirements of the Notification of Accidents and Dangerous Occurrences Regulations (Northern Ireland) 1981(**a**), he shall be deemed to have complied with the requirement to notify that accident under paragraph (1).

Industrial activities to which regulations 7 to 12 apply

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

(*a*) an industrial activity, other than isolated storage, in which there is involved a quantity of a dangerous substance listed in Schedule 3 in column 1 which is

(**a**) S.R. 1981 No. 339

equal to or more than the quantity specified in the entry for that substance in column 2; and

(*b*) isolated storage in which there is involved a quantity of a dangerous substance which is listed in Schedule 2 in column 1 which is equal to or more than the quantity specified in the entry for that substance in column 3.

(2) For the purposes of regulations 7 to 12—

(*a*) a "new industrial activity" means an industrial activity which—

(i) was commenced after the date of the coming into operation of this regulation, or

(ii) if commenced before that date, is an industrial activity in which there has been since that date a modification which would be likely to have important implications for major accident hazards, and that activity shall be deemed to have been commenced on the date on which the change was made;

(*b*) an "existing industrial activity" means an industrial activity which is not a new industrial activity.

Reports on industrial activities

7.—(1) Subject to paragraphs (2) to (4), a manufacturer shall not undertake any industrial activity to which this regulation applies, unless he has prepared a written report containing the information specified in Schedule 6 and has sent a copy of that report to the Department at least 3 months before commencing that activity or before such shorter time as the Department may agree in writing.

(2) In the case of a new industrial activity which a manufacturer commences, or by regulation 6(2)(*a*)(ii) is deemed to commence, within 6 months after the date of the coming into operation of these Regulations, it shall be a sufficient compliance with paragraph (1) if the manufacturer sends to the Department a copy of the report required in accordance with that paragraph within 3 months after the coming into operation of the Regulations or within such longer time as the Department may agree in writing.

(3) In the case of an existing industrial activity, until 8th July 1989 it shall be a sufficient compliance with paragraph (1) if the manufacturer on or before 1st January 1986 sends to the Department the information specified in Schedule 7 relating to that activity, except that nothing in this paragraph shall require a manufacturer to provide information which he has already provided by a notification made in accordance with the Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984(**a**).

(4) Where paragraph (3) applies, the Department may, by a certificate in writing (which it may revoke in writing at any time), exempt, either unconditionally or subject to conditions, any manufacturer or class of manufacturers from the requirement in paragraph (1) to send to the Department a copy of the report required under that paragraph.

Updating of reports under regulation 7

8.—(1) Where a manufacturer has made a report in accordance with regulation 7(1), he shall not make any modification to the industrial activity to which that report relates which could materially affect the particulars in that report, unless he has made a further report to take account of those changes and has sent a copy of that report to the Department at least 3 months before making those changes or before such shorter time as the Department may agree in writing.

(**a**) S.R. 1984 No. 177