

*This Scottish Statutory Instrument has been made in consequence of an error in S.S.I. 2009/378 and is being issued free of charge to all known recipients of that instrument.*

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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 171**

**TOWN AND COUNTRY PLANNING**

**The Town and Country Planning (Hazardous Substances) (Scotland) Amendment Regulations 2010**

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|--|---------|------------------------|
| <i>Made</i>                                | - - - - | <i>29th April 2010</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>30th April 2010</i> |
| <i>Coming into force</i>                   | - -     | <i>1st June 2010</i>   |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 3 and 39(1) of the Planning (Hazardous Substances) (Scotland) Act 1997<sup>(1)</sup>, and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Town and Country Planning (Hazardous Substances) (Scotland) Amendment Regulations 2010 and come into force on 1st June 2010.

(2) In these Regulations, “the 1993 Regulations” means the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993<sup>(2)</sup>.

**Amendment to the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993**

2.—(1) The 1993 Regulations are amended as follows.

(2) In the table in Part A (named substances) of Schedule 1 omit the entry in column 3 for the item “1. Ammonium nitrate to which Note 1 of notes to Part A applies”.

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(1) 1997 c.10; section 38(2) attracts the definition of “prescribed” from section 277(1) of the Town and Country Planning (Scotland) Act 1997 (c.8). The functions of the Secretary of State under these sections in or as regards Scotland were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) S.I. 1993/323, amended by S.I. 1994/2567, S.I. 1996/252, S.S.I. 2003/1, S.S.I. 2005/344, S.I. 2005/1082, S.S.I. 2006/270 and S.S.I. 2009/378.

### **Transitional exemptions**

3.—(1) No offence is committed under section 21 of the Planning (Hazardous Substances) (Scotland) Act 1997 before 1st December 2010 and no hazardous substances contravention notice may be issued before that date in relation to a hazardous substance which is on, over or under any land where—

- (a) the presence of the substance on, over or under that land during the period beginning on 1st June 2010 and ending on 30th November 2010 would not have required hazardous substances consent in terms of the 1993 Regulations as they were in effect immediately before the date on which these Regulations come into force; and
- (b) the substance is not present during the period beginning on 1st June 2010 and ending on 30th November 2010 in a quantity greater in aggregate than the established quantity; and
- (c) ammonium nitrate was present on, over or under that land at any time during the period beginning on 23rd November 2009 and ending on 31st May 2010 without hazardous substances consent being required.

(2) In paragraph (1) “the established quantity”, in relation to any land, means the maximum quantity which was present on, over or under the land at any one time within the period beginning on 23rd November 2009 and ending on 31st May 2010.

St Andrew’s House,  
Edinburgh  
29th April 2010

*STEWART STEVENSON*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2009 (“the 2009 Regulations”) implemented, in relation to Scotland, the land use planning provisions of Directive [96/82/EC](#) on the control of major accident hazards involving dangerous substances (O.J. No. L. 10, 14.1.1997, p.13) (“the Seveso II Directive”), as amended by Council Directive [2003/105/EC](#) (O.J. No. L. 345, 31.12.2003, p.97).

As part of the implementation of the Seveso II Directive, the 2009 Regulations substituted a new Schedule 1 to the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 (the 1993 Regulations). Regulation 2 corrects an error in the substituted Schedule 1.

Regulation 3 confers transitional immunity from prosecution and contravention proceedings for a period of six months from the day these Regulations came into force. During this time an application for consent may be made.

No impact assessment has been prepared for this instrument as its only purpose is to correct the error in the substituted Schedule 1 to the 1993 Regulations.