
STATUTORY INSTRUMENTS

1999 No. 743

The Control of Major Accident Hazards Regulations 1999

PART 1

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Control of Major Accident Hazards Regulations 1999 and shall come into force on 1st April 1999.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the 1984 Regulations” means the Control of Industrial Major Accident Hazards Regulations 1984(1);

“the Agency” in relation to an establishment in—

(a) England and Wales, means the Environment Agency,

(b) Scotland, means the Scottish Environment Protection Agency;

“CIMAH report” means a report sent to the Executive pursuant to regulations 7 or 8 of the 1984 regulations;

“competent authority” means the Executive and the Agency acting jointly;

“control” in relation to a person means control in the course of a trade, business or other undertaking carried on by him;

“dangerous substance” means (subject to regulation 3(3)(b)) a substance, mixture or preparation—

(a) listed in column 1 of Part 2 of Schedule 1, or,

(b) within a category specified in column 1 of Part 3 of Schedule 1,

and present as a raw material, product, by-product, residue or intermediate;

“the Directive” means Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances(2);

“emergency services” means—

(a) those police, fire and ambulance services who are liable to be required to respond to an emergency at the establishment,

(b) where appropriate, Her Majesty’s Coastguard;

(1) S.I. 1984/1902; amended by S.I. 1988/1462 and S.I. 1994/118.

(2) OJ L10/13 14.1.97.

“establishment” means the whole area under the control of the same person where dangerous substances are present in one or more installations, and for this purpose two or more areas under the control of the same person and separated only by a road, railway or inland waterway shall be treated as one whole area;

“the Executive” means the Health and Safety Executive;

“existing establishment” shall be construed in accordance with paragraph (7);

“hazardous substances consent” means a hazardous substances consent granted under the Planning (Hazardous Substances) Act 1990⁽³⁾ or the Planning (Hazardous Substances) (Scotland) Act 1997⁽⁴⁾;

“health authority”, in relation to England and Wales means a health authority established under section 8 of the National Health Service Act 1977⁽⁵⁾ and in relation to Scotland, means a health board established under section 2 of the National Health Service (Scotland) Act 1978⁽⁶⁾;

“industrial activity” has the same meaning as in the 1984 Regulations;

“installation” means a unit in which dangerous substances present are, or are intended to be, produced, used, handled or stored, and it includes—

- (a) equipment, structures, pipework, machinery and tools,
 - (b) railway sidings, docks and unloading quays serving the unit, and
 - (c) jetties, warehouses or similar structures, whether floating or not,
- which are necessary for the operation of the unit;

“local authority” means—

- (a) for the purposes of regulation 14, in relation to—
 - (i) the City of London, the Common Council for the City of London;
 - (ii) an area in the rest of London, the London Borough Council for that area;
 - (iii) the Isles of Scilly, the Council of the Isles of Scilly;
 - (iv) an area in the rest of England, the district council for that area or where there is no district council for that area, the county council for that area;
 - (v) an area in Scotland, the council for the local government area, and
 - (vi) an area in Wales, the county council or the county borough council for that area;
- (b) for the purposes of other regulations, in relation to—
 - (i) London, the London Fire and Civil Defence Authority;
 - (ii) an area where there is a fire and civil defence authority, that authority;
 - (iii) the Isles of Scilly, the Council of the Isles of Scilly;
 - (iv) an area in the rest of England, the county council for that area, or where there is no county council for that area, the district council for that area;
 - (v) an area in Scotland, the council for the local government area;
 - (vi) an area in Wales, the county council or the county borough council for that area;

“major accident” means an occurrence (including in particular, a major emission, fire or explosion) resulting from uncontrolled developments in the course of the operation of any establishment and leading to serious danger to human health or the environment, immediate or delayed, inside or outside the establishment, and involving one or more dangerous substances;

(3) 1990 c. 10.

(4) 1997 c. 10.

(5) 1977 c. 49; section 8 was substituted by section 1(1) of the Health Authorities Act 1995 c. 17.

(6) 1978 c. 29.

“major accident prevention policy document” shall be construed in accordance with regulation 5(1);

“notify” means notify in writing and “notification” shall be construed accordingly;

“off-site emergency plan” shall be construed in accordance with regulation 10(1);

“on-site emergency plan” shall be construed in accordance with regulation 9(1);

“operator” shall be construed in accordance with paragraph (2);

“pipeline” means a pipeline to which the Pipelines Safety Regulations 1996(7) applies;

“road” means—

(a) in relation to England and Wales, a road within the meaning of section 192(1) of the Road Traffic Act 1988(8);

(b) in relation to Scotland, a road within the meaning of the Roads (Scotland) Act 1984(9);

“safety report” means a report sent to the competent authority pursuant to regulation 7 or a part of a report sent to the competent authority pursuant to regulation 7(10) except that where any such report or part has been revised pursuant to regulation 8, it means the report or part as so revised.

(2) Any reference in these Regulations to an operator is a reference to a person who is in control of the operation of an establishment or installation (or in relation to an establishment or installation which is to be constructed or operated, the person who proposes to control its operation or, if that person is not known, the person who in the course of a trade, business or other undertaking carried on by him has commissioned its design and construction); and any duty imposed by these Regulations on him shall extend only in relation to that establishment or installation.

(3) Any reference in these Regulations to the presence of dangerous substances includes a reference to the anticipated presence of such substances and the presence of those which it is reasonable to believe may be generated during the loss of control of an industrial chemical process.

(4) Any reference in these Regulations to the storage of dangerous substances includes a reference to the presence of dangerous substances for the purposes of warehousing, depositing in safe custody or keeping in stock.

(5) Any reference in these Regulations to the start of construction or operation of an establishment is, subject to paragraph (6), a reference to the start of construction or operation, as the case may be, of the installation in the establishment, or where there is or is to be more than one installation in the establishment, the one whose construction or operation, as the case may be, is first started, and where an installation in an establishment has been constructed, or its construction has been started, before the coming into force of these Regulations, regulations 6(1) and 7(1) shall not apply in respect of that establishment.

(6) Where after the coming into force of these Regulations an establishment becomes subject to any of these Regulations by reason of any increase in the quantity of dangerous substances present there, any reference in that regulation to the start of operation of the establishment, is a reference to the time when the establishment first becomes so subject.

(7) Any reference in a regulation to an existing establishment is a reference to an establishment whose operation commenced before the coming into force of these Regulations and which, on the coming into force of these Regulations, is an establishment to which that regulation applies.

(8) The columns in Parts 2 and 3 of Schedule 1 shall be applied in accordance with the provisions of Part 1 of that Schedule and notes set out in each of those Parts.

(9) Any reference in these Regulations to—

(7) S.I. 1996/825.

(8) 1988 c. 52.

(9) 1984 c. 54.

- (a) a numbered regulation or Schedule is a reference to the regulation in or Schedule to these Regulations so numbered, and
- (b) a numbered paragraph is a reference to the paragraph so numbered in the Regulation or Schedule in which the reference appears.

Application

3.—(1) These Regulations shall apply to an establishment where a dangerous substance listed in column 1 of Parts 2 or 3 of Schedule 1 is present in a quantity equal to or exceeding the quantity listed in the entry for that substance in column 2 of those Parts, except that regulations 7 to 14 shall apply only to an establishment where such a dangerous substance is present in a quantity equal to or exceeding the quantity listed in the entry for that substance in column 3 of those Parts.

(2) The reference in paragraph (1) to the presence of dangerous substances shall not include the presence of dangerous substances in the following activities—

- (a) the transport of those substances and their intermediate temporary storage by road, rail, inland waterways, sea or air, including their loading and unloading and transport to and from another means of transport at docks, wharves and marshalling yards; or
- (b) the transport of those substances in a pipeline or pumping station.

(3) These Regulations shall not apply to—

- (a) an establishment which is under the control of—
 - (i) the Secretary of State for the purposes of the Ministry of Defence,
 - (ii) a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964⁽¹⁰⁾ or the service authorities of a visiting force within the meaning of any of the provisions of Part 1 of the Visiting Forces Act 1952⁽¹¹⁾;
- (b) substances which create a hazard from ionising radiation if present on a site for which a nuclear site licence has been granted or is required for the purposes of section 1 of the Nuclear Installations Act 1965⁽¹²⁾;
- (c) the activities of the extractive industries concerned with exploration for, and the exploitation of, minerals in mines and quarries or by means of boreholes;
- (d) waste land-fill sites.

(4) Where, by reason of any change in—

- (a) the classification of a substance (as referred to in note 1 of Part 3 of Schedule 1), or
- (b) knowledge of what dangerous substances may be generated during the loss of control of an industrial chemical process;

the area of land on which the substance is present becomes an establishment after the coming into force of these Regulations (in this paragraph referred to as a “new entrant establishment”), any requirement imposed by these Regulations on an operator which is to be performed by him before an establishment starts to operate shall apply to the operator of the new entrant establishment as if that requirement had to be performed within 12 months after the change in classification takes effect or the change in knowledge occurs.

(5) These Regulations shall not apply in Northern Ireland.

⁽¹⁰⁾ 1964 c. 5.

⁽¹¹⁾ 1952 c. 67.

⁽¹²⁾ 1965 c. 57; section 1 was amended by S.I. 1974/2056 and S.I. 1990/1918.

PART 2

GENERAL

General duty

4. Every operator shall take all measures necessary to prevent major accidents and limit their consequences to persons and the environment.

Major accident prevention policy

5.—(1) Every operator shall prepare and keep a document setting out his policy with respect to the prevention of major accidents (in these Regulations referred to as a “major accident prevention policy document”).

(2) The policy referred to in paragraph (1) shall be designed to guarantee a high level of protection for persons and the environment by appropriate means, structures and management systems.

(3) The major accident prevention policy document shall—

- (a) take account of the principles specified in paragraphs 1 and 2 of Schedule 2; and
- (b) include sufficient particulars to demonstrate that the operator has established a safety management system which takes account of the principles specified in paragraphs 3 and 4 of that Schedule.

(4) In the event of the modification of the establishment or installation, the process carried on there, or the nature or quantity of dangerous substances present there which could (in each case) have significant repercussions with respect to the prevention of major accidents, the operator shall review and where necessary revise the major accident prevention policy document.

(5) The operator shall implement the policy set out in his major accident prevention policy document.

(6) Subject to paragraph 1 of Part 1 of Schedule 4 and paragraph 1 of Part 2 of that Schedule, this regulation shall not apply to an establishment to which regulation 7 applies.

Notifications

6.—(1) Within a reasonable period of time prior to the start of construction of an establishment the operator of the establishment shall send to the competent authority a notification containing the information specified in Schedule 3.

(2) Within a reasonable period of time prior to the start of the operation of an establishment, or in the case of an existing establishment by 3rd February 2000, the operator of the establishment shall send to the competent authority a notification containing the information specified in Schedule 3, except that this paragraph shall not require the notification to contain information already contained in a notification sent pursuant to paragraph (1) if that information is still valid.

(3) Paragraph (2) shall not apply to an existing establishment in respect of which a report has been sent to the Executive in accordance with regulation 7 of the 1984 Regulations.

(4) The operator shall notify the competent authority forthwith in the event of—

- (a) there being any significant increase in the quantity of dangerous substances notified—
 - (i) under this regulation, or
 - (ii) in the report referred to in paragraph (3);
- (b) there being any significant change in—
 - (i) the nature or physical form of the dangerous substances so notified,

- (ii) the processes employing them, or
 - (iii) any other information notified to the competent authority in respect of the establishment;
 - (c) regulation 7 ceasing to apply to the establishment by virtue of a change in the quantity of dangerous substances present there; or
 - (d) permanent closure of an installation in the establishment.
- (5) This regulation shall not require the notification of any information which has been included in a safety report.

PART 3

SAFETY REPORTS

Safety report

7.—(1) Within a reasonable period of time prior to the start of construction of an establishment, the operator of the establishment shall, subject to paragraph (12), send to the competent authority a report containing information which is sufficient for the purpose specified in paragraph 3(a) of Part 1 of Schedule 4 and comprising at least such of the information specified in Part 2 of that Schedule as is relevant for that purpose.

(2) The report referred to in paragraph (1) may comprise more than one document sent to the competent authority at different times within the period referred to in that paragraph.

(3) Nothing in paragraph (1) shall require the report to contain information which it would not be reasonable to expect the operator to have at the time of sending the report.

(4) Without prejudice to the requirements of regulation 18 (prohibition of use), an operator shall ensure that the construction of an establishment is not started until he has received from the competent authority the conclusions of its examination of the report sent pursuant to paragraph (1).

(5) Within a reasonable period of time prior to the start of the operation of an establishment, the operator of the establishment shall, subject to paragraph (12), send to the competent authority a report containing information which is sufficient for the purposes specified in Part 1 of Schedule 4 and comprising at least the information specified in Part 2 of that Schedule, except that this paragraph shall not require the report to contain information already contained in the report sent pursuant to paragraph (1) if that information is still valid.

(6) Without prejudice to the requirements of regulation 18 (prohibition of use), an operator shall ensure that the operation of an establishment is not started until he has received from the competent authority the conclusions of its examination of the report sent pursuant to paragraph (5).

(7) The operator of an existing establishment shall, subject to paragraph (12), send to the competent authority a report containing information which is sufficient for the purposes specified in Part 1 of Schedule 4 and comprising at least the information specified in Part 2 of that Schedule.

(8) The report referred to in paragraph (7) shall, subject to paragraph (10), be sent—

(a) in the case of an establishment in respect of which a CIMA report has been sent to the Executive—

- (i) within such period after the coming into force of these Regulations that a report would have been required to have been sent to the Executive pursuant to regulation 8(2) of the 1984 Regulations if those Regulations had remained in force; or

(ii) by 3 February 2001,

whichever is earlier, except that where the period referred to in head (i) above expires before the date specified in paragraph (9) the report may be sent at any time before that date;

(b) in any other case by 3 February 2002.

(9) The date referred to in paragraph (8)(a) is 3 February 2000 or such later date (no later than 3 February 2001) as may be agreed in writing by the competent authority in respect of the establishment concerned.

(10) Where, in a case referred to in paragraph (8)(a), different CIMAH reports have been sent to the Executive relating to different industrial activities undertaken at the same establishment—

(a) it shall be sufficient compliance with paragraph (7) if the report referred to in that paragraph is sent to the competent authority in parts, each part relating to an industrial activity to which a CIMAH report related and containing, in respect of that activity, the information referred to in that paragraph, and

(b) where sub-paragraph (a) of this paragraph is relied on, paragraph (8)(a) shall have effect in relation to each part as if the reference in head (i) of that paragraph to a report were a reference to the report relating to the industrial activity concerned.

(11) All or part of the information required to be included in a safety report may be so included in a safety report by reference to information contained in another report or notification sent to the competent authority, the Executive or the Agency pursuant to a requirement imposed by or under any enactment or contained in an application for a hazardous substances consent.

(12) Where it is demonstrated by the operator of the establishment to the satisfaction of the competent authority that particular dangerous substances present at an establishment, or any part thereof, are in a state incapable of creating a major accident hazard, the competent authority may in writing and in accordance with criteria established by the European Commission pursuant to Article 9.6(b) of the Directive, limit the information required to be included in the safety report for the establishment to those matters which are relevant to the prevention of residual major accident hazards and the limitation of their consequences for persons and the environment.

(13) An operator shall provide to the competent authority such further information as it may reasonably request in writing following its examination of the safety report, and the information shall be so provided within such period as the competent authority specifies in the request.

Review and revision of safety report

8.—(1) Where a safety report has been sent to the competent authority the operator shall, subject to paragraph (3), review it—

(a) at least every 5 years;

(b) whenever such a review is necessary because of new facts or to take account of new technical knowledge about safety matters; and

(c) whenever the operator makes a change to the safety management system (referred to in paragraph 1 of Part 1 of Schedule 4) which could have significant repercussions with respect to the prevention of major accidents or the limitation of consequences of major accidents to persons and the environment;

and where in consequence of that review it is necessary to revise the report, the operator shall do so forthwith and inform the competent authority of the details of such revision.

(2) Where a safety report has been reviewed pursuant to paragraph (1)(a) but not revised, the operator shall inform the competent authority of that fact.

(3) Where, pursuant to regulation 7(10), a report has been sent to the competent authority in parts, each part shall be reviewed pursuant to paragraph (1)(a) within 5 years from the time that part

was sent and at least every 5 years after that review; and every review of the last part sent shall include consideration of whether the parts together contain, in relation to the establishment, all the information referred to in regulation 7(7).

(4) Where an operator proposes to modify the establishment or installation in it, the process carried on there or the nature or quantity of dangerous substances present there and that modification could have significant repercussions with respect to the prevention of major accidents or the limitation of consequences of major accidents to persons and the environment, he shall in advance of such modification—

- (a) review, and where necessary revise, the safety report prepared in respect of the establishment, installation, process or dangerous substances as the case may be; and
- (b) inform the competent authority of the details of such revision.

PART 4

EMERGENCY PLANS

On-site emergency plan

9.—(1) Every operator of an establishment shall prepare an emergency plan (in these Regulations referred to as an “on-site emergency plan”) which shall be adequate for securing the objectives specified in Part 1 of Schedule 5 and shall contain the information specified in Part 2 of that Schedule.

(2) The on-site emergency plan shall be prepared—

- (a) in the case of an existing establishment where the industrial activity carried on there was, immediately before the coming into force of these Regulations, subject to the requirements of regulation 10 of the 1984 Regulations, by 3 February 2001;
- (b) in the case of any other existing establishment, by 3 February 2002;
- (c) in any other case, before the establishment starts to operate.

(3) The operator shall consult—

- (a) persons employed in the establishment;
- (b) the Agency;
- (c) the emergency services; and
- (d) the health authority for the area where the establishment is situated;

on the preparation of the on-site emergency plan.

(4) The operator shall consult the local authority in whose area the establishment is situated on the preparation of an on-site emergency plan, except this shall not apply where the local authority has been exempted from the requirement to prepare an off-site emergency plan in respect of the establishment pursuant to regulation 10(7).

Off-site emergency plan

10.—(1) The local authority, in whose area there is an establishment, shall prepare an emergency plan (in these Regulations referred to as an “off-site emergency plan”) in respect of that establishment, and such a plan shall be adequate for securing the objectives specified in Part 1 of Schedule 5 and shall contain the information specified in Part 3 of that Schedule.

(2) The off-site emergency plan shall be prepared no later than 6 months (or such longer period, not exceeding 9 months, as the competent authority may agree in writing) after—

- (a) the receipt by the local authority of a notice from the competent authority informing the local authority of the need to prepare an off-site emergency plan in respect of the establishment;
 - (b) the time an on-site emergency plan is required to be prepared for the establishment pursuant to regulation 9; or
 - (c) the receipt by the local authority of the information referred to in paragraphs (3) and (5);
- whichever is later.

(3) An operator shall supply to the local authority in whose area the establishment is situated the information necessary for the purpose of enabling the authority to prepare the off-site emergency plan.

(4) The information referred to in paragraph (3) shall be supplied no later than the time an on-site emergency plan is required to be prepared for the establishment pursuant to regulation 9.

(5) The operator shall supply to the local authority any additional information it may reasonably request in writing to enable the off-site emergency plan to be prepared, and the information shall be so provided within such period as the local authority specifies in the request.

(6) The local authority shall consult the operator, the competent authority, the emergency services, each health authority for the area in the vicinity of the establishment and such members of the public as it considers appropriate on the preparation of the off-site emergency plan.

(7) The competent authority may in view of the information contained in a safety report exempt a local authority from the requirement to prepare an off-site emergency plan in respect of an establishment, and any such exemption shall be in writing and state the reasons for granting it.

(8) Where an exemption has been given under paragraph (7), the local authority shall, for the purposes of these Regulations and while the exemption is in force, have no function in relation to the preparation, review, testing and putting into effect of an off-site emergency plan for the establishment concerned.

Review and testing of emergency plans

11.—(1) A person who has prepared an emergency plan pursuant to a duty imposed on him by these Regulations shall at suitable intervals not exceeding three years—

- (a) review and where necessary revise the plan; and
- (b) test the plan and take reasonable steps to arrange for the emergency services to participate in the test to such extent as is necessary,

and any such review shall take into account changes occurring in the establishment to which the plan relates and within the emergency services concerned, new technical knowledge, and knowledge concerning the response to major accidents.

(2) The local authority shall endeavour to reach agreement with the operator and the emergency services as to how the off-site emergency plan is to be tested.

Implementing emergency plans

12. A person who has prepared an emergency plan pursuant to a duty imposed on him by these Regulations shall take reasonable steps to put it into effect without delay when—

- (a) a major accident occurs; or
- (b) an uncontrolled event occurs which could reasonably be expected to lead to a major accident.

Charge for preparation, review and testing of off-site emergency plan

13.—(1) A local authority may charge the operator a fee for performing its functions under regulations 10 and 11.

(2) The fee shall not exceed the sum of the costs reasonably incurred by the local authority in performing the functions referred to in paragraph (1) in relation to the establishment concerned, including (but without prejudice to the generality of the foregoing provision of this paragraph) any costs reasonably incurred by the local authority in arranging for the emergency services to participate in the testing of the off-site emergency plan.

(3) When requiring payment the local authority shall send or give to the operator a detailed statement of the work done and costs incurred including the dates of any visits to the establishment and the period to which the statement relates; and the fee, which shall be recoverable only as a civil debt, shall become payable one month after the statement has been sent or given.

PART 5

PROVISION OF INFORMATION BY OPERATOR

Provision of information to the public

14.—(1) The operator of an establishment shall—

- (a) ensure that persons who are likely to be in an area referred to in paragraph (2) are supplied, without their having to request it, with information on safety measures at the establishment and on the requisite behaviour in the event of a major accident at the establishment;
- (b) make that information available to the public.

(2) An area referred to in paragraph (1) is an area notified to the operator by the competent authority as being an area in which, in the opinion of the competent authority, persons are liable to be affected by a major accident occurring at the establishment.

(3) The information referred to in paragraph (1) shall contain at least the information specified in Schedule 6.

(4) In preparing the information required to be supplied in accordance with paragraph (1), the operator shall consult the local authority in whose area the establishment is situated and such other persons who appear to him to be appropriate, but the operator shall remain responsible for the accuracy, completeness and form of the information so supplied.

(5) Without prejudice to his duty under paragraph (1), the operator shall endeavour to enter into an agreement with the local authority in whose area the establishment is situated for that local authority to disseminate the information required to be supplied in accordance with that paragraph to the persons mentioned in it.

(6) The operator shall review and where necessary revise the information referred to in paragraph (1)—

- (a) at intervals not exceeding 3 years; or
- (b) in the event of a modification referred to in regulations 5(4) or 8(4).

(7) The operator shall ensure that the information referred to in paragraph (1) is supplied in accordance with that paragraph within a reasonable period of time after the off-site emergency plan has been prepared for the establishment and that the information is so supplied again—

- (a) at intervals not exceeding 5 years; or
- (b) if it is revised pursuant to paragraph (6).

Provision of information to competent authority

15.—(1) Every operator of an establishment shall, when requested to do so by the competent authority provide sufficient information to the authority to demonstrate that he has taken all measures necessary to comply with these Regulations, and the information shall be so provided within such period as the competent authority specifies in the request.

(2) Without prejudice to the generality of paragraph (1), the operator shall when requested to do so by the competent authority, provide the authority with any information necessary to enable the authority—

- (a) fully to assess the possibility of a major accident and to determine the scope of possible increased probability or aggravation of a major accident;
- (b) to take substances into account which, due to their physical form, particular conditions or location, may require additional consideration; or
- (c) to perform its functions of obtaining or collecting information under regulation 19(4);

and the information shall be so provided within such period as the competent authority specifies in the request.

(3) Where a major accident has occurred at an establishment the operator shall forthwith inform the competent authority of that accident.

(4) Where the operator has notified a major accident to the Executive in accordance with the requirements of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995(13), he shall be deemed to have complied with the requirement to inform the competent authority of that accident under paragraph (3).

(5) Anything required to be sent by an operator of an establishment to the competent authority pursuant to these Regulations shall be sent to the authority at an office of the Executive.

Provision of information to other establishments

16.—(1) The competent authority shall, using the information received from operators in notifications sent pursuant to regulation 6 and in safety reports, designate groups of establishments where the likelihood or consequences of a major accident may be increased because of the location and proximity of establishments in the group and the dangerous substances present there.

(2) The competent authority shall notify each operator of an establishment in a group designated pursuant to paragraph (1) of the names and addresses of other establishments within the same group.

(3) The operator of any establishment in a group designated pursuant to paragraph (1) shall—

- (a) pass appropriate information about the establishment to other establishments in the group to enable them to take account of the nature and extent of the overall hazard of a major accident in their major accident prevention policy documents, safety reports and on-site emergency plans; and
- (b) co-operate with those other establishments to enable them to carry out any obligations they have under regulations 10(3), (5), and 14(1).

PART 6

FUNCTIONS OF COMPETENT AUTHORITY

Functions of competent authority in relation to the safety report

17.—(1) The competent authority shall within a reasonable period of time of receiving a safety report—

- (a) communicate the conclusions of its examination of the report to the operator of the establishment concerned; or
- (b) prohibit the operation or bringing into operation of the establishment or installation concerned or any part thereof in accordance with regulation 18.

(2) Where, pursuant to regulation 7(10), a report has been sent to the competent authority in parts, paragraph 17(1)(a) shall apply—

- (a) to each part of the report, as if the reference to communicating the conclusions of the examination were a reference to communicating provisional conclusions;
- (b) to all parts of the report, as if the reference to communicating the conclusions of the examination within a reasonable period of time of receiving a safety report were a reference to communicating, within a reasonable period of time of receiving the last part, the examination of the parts as a whole having regard, in particular, to the inter-relationship between different industrial activities in the establishment.

Prohibition of use

18.—(1) The competent authority shall prohibit the operation or bringing into operation of any establishment or installation or any part thereof where the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient.

(2) The competent authority may prohibit the operation or bringing into operation of any establishment or installation or any part thereof if the operator has failed to submit any notification, safety report or other information required by or under these Regulations within the time so required.

(3) Where the competent authority proposes to prohibit an operation or the bringing into operation of an establishment or installation or any part thereof pursuant to this regulation, it shall serve on the operator a notice giving reasons for the prohibition and specifying the date when it is to take effect, and any such notice may be withdrawn in writing by the competent authority.

(4) A notice served pursuant to paragraph (3) may specify measures which, if taken, would cause the competent authority to withdraw the notice.

(5) Where a notice has been served on an operator in accordance with paragraph (3) the operator shall comply with it (including any such notice as modified on appeal).

(6) Section 24 of the 1974 Act (appeal against improvement or prohibition notice) and, in England and Wales, regulation 8(4)(b) of, and Schedule 4 to, the Employment Tribunals (Constitution and Rules of Procedure) Regulations 1993⁽¹⁴⁾ and, in Scotland, regulation 8(4)(b) of, and Schedule 4 to the Employment Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993⁽¹⁵⁾ shall apply in relation to a notice served under this regulation as they apply in relation to a prohibition notice served under section 22 of that Act.

(14) S.I. 1993/2687, amended by S.I. 1994/538 and 1996/1758. The title of these Regulations, formerly the “Industrial Tribunals (Constitution and Rules of Procedure) Regulations 1993” was amended by operation of section 1 of the Employment Rights (Dispute Resolution) Act 1998 c. 8.

(15) S.I. 1993/2688, amended by S.I. 1994/538 and 1996/1758. The title of these Regulations, formerly the “Industrial Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993” was amended by operation of section 1 of the Employment Rights (Dispute Resolution) Act 1998 c. 8.

Inspections and investigations

19.—(1) The competent authority shall organise an adequate system of inspections of establishments or other measures of control appropriate to the type of establishment concerned.

(2) The inspections or control measures referred to in paragraph (1) shall not be dependent upon the receipt of any report submitted by the operator and they shall be sufficient for a planned and systematic examination of the systems being employed at the establishment, whether of a technical, organisational or managerial nature, so as to ensure in particular—

- (a) that the operator can demonstrate that he has taken appropriate measures to prevent major accidents;
 - (b) that the operator can demonstrate that he has provided appropriate means for limiting the consequences of major accidents both inside and outside the establishment;
 - (c) that the information contained in any report sent to the competent authority by the operator of the establishment adequately reflects the conditions in the establishment; and
 - (d) that information has been supplied to the public pursuant to regulation 14.
- (3) A system of inspection referred to in paragraph (1) shall meet the following conditions—
- (a) there shall be a programme of inspections for all establishments;
 - (b) unless such a programme is based upon a systematic appraisal of major accident hazards of the particular establishment concerned, the programme shall, in the case of establishments to which regulations 7 to 14 apply, entail at least one on-site inspection made on behalf of the competent authority every 12 months;
 - (c) following each inspection, a report shall be prepared by the competent authority; and
 - (d) where necessary, matters shall be pursued with the operator within a reasonable period following the inspection.

(4) Where the competent authority or the Executive has been informed of a major accident at an establishment the competent authority shall—

- (a) obtain from the operator of the establishment—
 - (i) information as respects the circumstances of the accident, the dangerous substances involved, the data available for assessing the effects of the accident on persons and the environment, the emergency measures taken and the steps envisaged to alleviate the medium and long-term effects of the accident and to prevent any recurrence of it, and
 - (ii) such other information in the operator's possession as will enable the competent authority to notify the European Commission pursuant to regulation 21(1);
- (b) ensure that any urgent, medium and long-term measures which may prove necessary are taken;
- (c) make a full analysis of the technical, organisational and managerial aspects of the major accident and collect, by inspection, investigation or other appropriate means, the information necessary for that purpose;
- (d) take appropriate action to ensure that the operator takes any necessary remedial measures; and
- (e) make recommendations on future preventive measures.

Enforcement

20.—(1) Sections—

- (a) 16 to 21 (approval of codes of practice and enforcement);

- (b) 23 (provisions supplementary to sections 21 and 22) and 24 (appeal against improvement or prohibition notice), so far as they relate to an improvement notice;
- (c) 26 (power to indemnify inspectors); and
- (d) 33 to 42 (provisions as to offences),

of the 1974 Act, shall, subject to paragraphs (2) and (3), and to the extent they would not otherwise do so, apply to these Regulations as if they were health and safety regulations for the purposes of that Act, and any function of the Health and Safety Commission under any other provision of the 1974 Act which is exercisable in relation to any function of the Executive under or in respect of health and safety regulations (including their enforcement) shall be exercisable as if these Regulations were, to the extent they would not otherwise be so, health and safety regulations for the purposes of that Act.

(2) A failure to discharge a duty placed on the competent authority by these Regulations shall not be an offence, and section 33(1)(c) of the 1974 Act shall have effect accordingly.

(3) Section 18(1) of the 1974 Act (duty to make adequate arrangements for enforcement) shall apply in relation to the enforcement of these Regulations as if the reference to the Executive included a reference to the Agency, but nothing in this paragraph shall have the effect of making the Agency an enforcing authority for the purposes of the 1974 Act.

(4) Without prejudice to the provisions of the 1974 Act referred to in paragraph (1), section 108(1) of the Environment Act 1995⁽¹⁶⁾ shall have effect in relation to a person authorised by the Agency as if the reference in that section to a pollution control enactment included a reference to these Regulations and as if the reference to a pollution control function included a reference to any function conferred or imposed on the Agency by or under these Regulations.

(5) Without prejudice to the functions of an inspector appointed under section 19 of the 1974 Act, a person referred to in paragraph (4) may, notwithstanding that he is not an inspector so appointed, serve an improvement notice under section 21 of that Act in respect of a contravention of these Regulations, and the reference to an inspector in section 23(4) of that Act shall have effect accordingly.

(6) Notwithstanding the Health and Safety (Enforcing Authority) Regulations 1998⁽¹⁷⁾ the Executive shall, for the purposes of the 1974 Act, be the enforcing authority for the relevant statutory provisions at an establishment to which any of these Regulations apply.

Provision of information by competent authority

21.—(1) The competent authority shall notify the European Commission as soon as practicable of any major accident meeting the criteria specified in Part 1 of Schedule 7.

(2) The notification referred to in paragraph (1) shall contain the information specified in Part 2 of Schedule 7.

(3) The competent authority shall notify the European Commission of any analysis and recommendations made pursuant to regulation 19(4)(c) and (e).

(4) Schedule 8 (provision of information by competent authority) shall have effect.

(5) This regulation shall apply notwithstanding the provisions of section 28 of the 1974 Act.

Fee payable by operator

22.—(1) A fee shall be payable by the operator of an establishment to the Executive for the performance by or on behalf of the competent authority of any function conferred on the authority by these Regulations (except regulations 10(2), (6) and (7)).

⁽¹⁶⁾ 1995 c. 25.

⁽¹⁷⁾ S.I. 1998/494.

(2) A fee shall be payable by the operator of an establishment to the Executive for the performance—

- (a) by or on behalf of the Executive or the Agency of any function relating to the enforcement of these Regulations conferred on the Executive or Agency by the 1974 Act or by virtue of regulation 20; and
- (b) by an inspector or authorised person of any such function conferred on him by the Act or by virtue of that regulation.

(3) The fee referred to in paragraphs (1) and (2) shall—

- (a) not exceed the sum of the costs reasonably incurred by the competent authority, the Executive or the Agency, as the case may be, for the performance of the functions in relation to the establishment concerned;
- (b) be payable within 30 days from the date of the invoice that the Executive has sent or given to the operator such invoice to include a statement of the work done and the cost incurred including the period to which the statement relates.

(4) The Executive shall pay to the Agency any such fee or part of any such fee it recovers as is attributable to work done by or on behalf of the Agency or by an authorised person in performing the functions concerned.

(5) Any fee payable under this regulation shall be recoverable only as a civil debt.

(6) Any fee payable under this regulation shall not include costs connected with—

- (a) in England and Wales, any criminal investigation or prosecution incurred (in either case) from the date any summons is obtained from a Magistrate's Court;
- (b) in Scotland, any investigation carried out with a view to it being ascertained whether the operator should be prosecuted for an offence of contravening these Regulations, or where such a prosecution has been commenced against the operator, any costs connected with that prosecution; and
- (c) any appeal pursuant to section 24 of the 1974 Act incurred from the date that a notice of appeal has been received by the Secretary of Tribunals pursuant to, in England and Wales, the Employment Tribunals (Constitution and Rules of Procedure) Regulations 1993⁽¹⁸⁾ and, in Scotland, the Employment Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993⁽¹⁹⁾.

(7) In this regulation “inspector” means a person appointed by the Executive under section 19 of the 1974 Act and “authorised person” means a person authorised by the Agency under section 108 of the Environment Act 1995.

⁽¹⁸⁾ S.I. 1993/2687, amended by S.I. 1994/538 and 1996/1758. The title of these Regulations, formerly the “Industrial Tribunals (Constitution and Rules of Procedure) Regulations 1993” was amended by operation of section 1 of the Employment Rights (Dispute Resolution) Act 1998 c. 8.

⁽¹⁹⁾ S.I. 1993/2688, amended by S.I. 1994/538 and 1996/1758. The title of these Regulations, formerly the “Industrial Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993” was amended by operation of section 1 of the Employment Rights (Dispute Resolution) Act 1998 c. 8.

PART 7

AMENDMENTS, REVOCATIONS, SAVINGS AND TRANSITIONAL PROVISIONS

Amendments

23.—(1) The Petroleum (Consolidation) Act 1928(**20**) shall be amended by the insertion, after section 25, of the following section—

“**25A.** The provisions of this Act shall not apply in respect of—

- (a) any establishment to which the Control of Major Accident Hazards Regulations 1999 [S.I.1999/743] apply by virtue of regulation 3 of those Regulations; and
- (b) any site in respect of which notification of an activity is required pursuant to regulation 3 of the Notification of Installations Handling Hazardous Substances Regulations 1982 [S.I. 1982/1357].”

(2) The Petroleum-Spirit (Motor Vehicles etc) Regulations 1929(**21**) shall be amended by the insertion, after regulation 15, of the following regulation—

“Disapplication

15A. The provisions of these Regulations shall not apply in respect of—

- (a) any establishment to which the Control of Major Accident Hazards Regulations 1999 [S.I. 1999/743] apply by virtue of regulation 3 of those Regulations; and
- (b) any site in respect of which notification of an activity is required pursuant to regulation 3 of the Notification of Installations Handling Hazardous Substances Regulations 1982 [S.I. 1982/1357].”

(3) The Petroleum-Spirit (Plastic Containers) Regulations 1982(**22**) shall be amended by the insertion, after regulation 7, of the following regulation—

“Disapplication

8. The provisions of these Regulations shall not apply in respect of—

- (a) any establishment to which the Control of Major Accident Hazards Regulations 1999 [S.I. 1999/743] apply by virtue of regulation 3 of those Regulations; and
- (b) any site in respect of which notification of an activity is required pursuant to regulation 3 of the Notification of Installations Handling Hazardous Substances Regulations 1982 [S.I. 1982/1357].”

Revocation and savings

24.—(1) The 1984 Regulations, the Control of Industrial Major Accident Hazards (Amendment) Regulations 1988(**23**), the Control of Industrial Major Accident Hazards (Amendment) Regulations 1990(**24**), and the Control of Industrial Major Accident Hazards (Amendment) Regulations 1994(**25**), are hereby revoked.

(20) 1928 c. 32.

(21) S.I. 1929/952; amended by S.I. 1979/427 and S.I. 1982/630.

(22) S.I. 1982/630.

(23) S.I. 1988/1462.

(24) S.I. 1990/2325.

(25) S.I. 1994/118.

(2) Regulations 8(1) and (3), 9, 13 and 14 of the 1984 Regulations shall apply to a CIMAH report while the industrial activity to which it relates continues and until the time referred to in paragraph (4), as if those Regulations had not been revoked.

(3) Where a CIMAH report relates to more than one industrial activity, the references in paragraph (2) to the CIMAH report are references to each part which relates to an industrial activity.

(4) The time referred to in paragraph (2) is when a safety report has been sent to the competent authority relating to the industrial activity concerned.

(5) An on-site emergency plan prepared pursuant to regulation 10 of the 1984 Regulations and an off-site emergency plan prepared pursuant to regulation 11 of those Regulations shall, while the industrial activity to which it relates continues and until the time referred to in paragraph (6), be kept up to date in accordance with the 1984 Regulations as if they had not been revoked; and during that period regulations 13 to 15 of the 1984 Regulations shall apply in relation to that emergency plan as if those regulations had not been revoked.

(6) The time referred to in paragraph (5) is when an on-site emergency plan or off-site emergency plan, as the case may be, has been prepared pursuant to regulations 9 or 10 of these Regulations relating to the establishment at which the industrial activity is carried on.

(7) Information supplied in accordance with regulation 12 of the 1984 Regulations, shall, while the industrial activity to which it relates continues and until the time referred to in paragraph (8), be updated, supplied again and made available in accordance with that regulation as if it had not been revoked.

(8) The time referred to in paragraph (7) is when information relating to the establishment at which the industrial activity is carried on has been supplied in accordance with regulation 14(1) of these Regulations.

(9) Paragraphs (2) to (8) shall only apply in relation to an industrial activity at an establishment to which regulations 7 to 14 apply.

Transitional provision

25. Where a report or off-site emergency plan referred to in regulation 24 is required to be kept up to date by virtue of that regulation, the references in paragraph 3 of Schedule 6 to the notification referred to in regulation 6 and to the safety report shall be construed as a reference to a report referred to in regulation 24, and the reference in paragraph 10 of that Schedule to the off-site emergency plan shall be construed as a reference to the off-site emergency plan so referred to.

Signed by authority of the Secretary of State

10th March 1999

Alan Meale
Parliamentary Under-Secretary of
State, Department of the Environment, Transport
and the Regions

11th March 1999

Calum MacDonald
Parliamentary Under-Secretary of State, Scottish
Office