

SCHEDULE 1

Regulations 2(1)(8) and 3(1)

DANGEROUS SUBSTANCES TO WHICH THE REGULATIONS APPLY

*(This Schedule sets out the provisions of Annex I of the Directive)*

PART 1

INTRODUCTION

1. This Schedule applies to the presence of dangerous substances at any establishment and determines the application of the relevant regulations in accordance with regulation 3(1).

2. Mixtures and preparations shall be treated in the same way as pure substances provided they remain within the concentration limits set according to their properties under the relevant provisions specified in Part 3, Note 1, unless a percentage composition or other description is specifically given.

3. The qualifying quantities set out in Parts 2 and 3 relate to each establishment.

4. The quantities to be considered for the application of the relevant regulations are the maximum quantities which are present at any one time. Dangerous substances present at an establishment only in quantities equal to or less than 2 per cent of the relevant qualifying quantity shall be ignored for the purposes of calculating the total quantity present if their location within an establishment is such that it cannot act as an initiator of a major accident elsewhere on site.

5. The rules given in Part 3, Note 4 governing the addition of dangerous substances, or categories of dangerous substances, shall apply where appropriate.

PART 2

NAMED SUBSTANCES

Where a substance or group of substances listed in this Part also falls within a category of Part 3, the qualifying quantities set out in this Part must be used.

<i>Column 1</i> <i>Dangerous substances</i>	<i>Column 2</i> <i>Quantity in tonnes</i>	<i>Column 3</i>
Ammonium nitrate (as described in Note 1 of this Part)	350	2,500
Ammonium nitrate (as described in Note 2 of this Part)	1,250	5,000
Arsenic pentoxide, arsenic (V) acid and/or salts	1	2
Arsenic trioxide, arsenious (III) acid and/or salts	0.1	0.1
Bromine	20	100
Chlorine	10	25
Nickel compounds in inhalable powder form (nickel	1	1

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Dangerous substances</i>	<i>Quantity in tonnes</i>	
monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)		
Ethyleneimine	10	20
Fluorine	10	20
Formaldehyde (concentration =>90%)	5	50
Hydrogen	5	50
Hydrogen chloride (liquefied gas)	25	250
Lead alkyls	5	50
Liquefied extremely flammable gases (including LPG) and natural gas (whether liquefied or not)	50	200
Acetylene	5	50
Ethylene oxide	5	50
Propylene oxide	5	50
Methanol	500	5,000
4, 4-Methylenebis (2-chloraniline) and/or salts, in powder form	0.01	0.01
Methylisocyanate	0.15	0.15
Oxygen	200	2,000
Toluene diisocyanate	10	100
Carbonyl dichloride (phosgene)	0.3	0.75
Arsenic trihydride (arsine)	0.2	1
Phosphorus trihydride (phosphine)	0.2	1
Sulphur dichloride	1	1
Sulphur trioxide	15	75
Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent	0.001	0.001
The following CARCINOGENS:		

<i>Column 1</i> <i>Dangerous substances</i>	<i>Column 2</i> <i>Quantity in tonnes</i>	<i>Column 3</i>
4-Aminobiphenyl and/or its salts, Benzidine and/or salts, Bis(chloromethyl) ether, Chloromethyl methyl ether, Dimethylcarbamoyl chloride, Dimethylnitrosamine, Hexamethylphosphoric triamide, 2-Naphthylamine and/or salts, 1,3 Propanesultone and 4-nitrodiphenyl	0.001	0.001
Automotive petrol and other petroleum spirits	5,000	50,000

## NOTES

**Ammonium nitrate (350/2500)**

1. This applies to ammonium nitrate and ammonium nitrate compounds in which the nitrogen content as a result of the ammonium nitrate is more than 28 per cent by weight (compounds other than those referred to in Note 2) and to aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 90 per cent by weight.

**Ammonium nitrate (1250/5000)**

2. This applies to simple ammonium-nitrate based fertilisers which conform with the requirements of the Fertilisers Regulations 1991(1), and to composite fertilisers in which the nitrogen content as a result of the ammonium nitrate is more than 28 per cent in weight (a composite fertiliser contains ammonium nitrate with phosphate or potash, or phosphate and potash).

**Polychlorodibenzofurans and polychlorodibenzodioxins**

3. The quantities of polychlorodibenzofurans and polychlorodibenzodioxins are calculated using the following factors:

**International Toxic Equivalent Factors (ITEF) for the congeners of concern (NATO/CCMS)**

2, 3, 7, 8-TCDD	1
1, 2, 3, 7, 8-PeDD	0.5
1,2,3,4,7,8-HxCDD	0.1
1,2,3,6,7,8-HxCDD	
1,2,3,7,8,9-HxCDD	
1, 2, 3, 4, 6, 7, 8-HpCDD	0.01

(1) S.I.1991/2197; amended by S.I. 1995/16.

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OCDD	0.001
2, 3, 7, 8-TCDF	0.1
2, 3, 4, 7, 8-PeCDF	0.5
1, 2, 3, 7, 8-PeCDF	0.05
1, 2, 3, 4, 7, 8-HxCDF	0.1
1, 2, 3, 7, 8, 9-HxCDF	
1, 2, 3, 6, 7, 8-HxCDF	
2, 3, 4, 6, 7, 8-HxCDF	
1, 2, 3, 4, 6, 7, 8-HpCDF	0.01
1, 2, 3, 4, 7, 8, 9-HpCDF	
OCDF	0.001

(T=tetra, Pe=penta, Hx=hexa, Hp=hepta, O=octa)

### PART 3

#### CATEGORIES OF SUBSTANCES AND PREPARATIONS NOT SPECIFICALLY NAMED IN PART 2

<i>Column 1</i> <i>Categories of dangerous substances</i>	<i>Column 2</i> <i>Quantity in tonnes</i>	<i>Column 3</i>
<b>1. VERY TOXIC</b>	5	20
<b>2. TOXIC</b>	50	200
<b>3. OXIDISING</b>	50	200
<b>4. EXPLOSIVE</b> (where the substance or preparation falls within the definition given in Note 2(a))	50	200
<b>5. EXPLOSIVE</b> (where the substance or preparation falls within the definition given in Note 2(b))	10	50
<b>6. FLAMMABLE</b> (where the substance or preparation falls within the definition given in Note 3(a))	5,000	50,000
<b>7a. HIGHLY FLAMMABLE</b> (where the substance or preparation falls	50	200

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<i>Column 1</i> <i>Categories of dangerous substances</i>	<i>Column 2</i> <i>Quantity in tonnes</i>	<i>Column 3</i>
within the definition given in Note 3(b)(i)		
<b>7b. HIGHLY FLAMMABLE</b> liquids (where the substance or preparation falls within the definition given in Note 3(b)(ii))	5,000	50,000
<b>8. EXTREMELY FLAMMABLE</b> (where the substance or preparation falls within the definition given in Note 3(c))	10	50
<b>9. DANGEROUS FOR THE ENVIRONMENT</b> in combination with risk phrases:	200	500
(i) R50: “Very toxic to aquatic organisms”		
(ii) R51: “Toxic to aquatic organisms”; and  R53: “May cause long-term adverse effects in the aquatic environment”	500	2,000
<b>10. ANY CLASSIFICATION</b> not covered by those given above in combination with risk phrases:	100	500
(i) R14: “Reacts violently with water” (including R14/15)		
(ii) R29: “in contact with water, liberates toxic gas”	50	200

## NOTES

**1.** Substances and preparations shall be classified for the purposes of this Schedule according to regulation 5 of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994<sup>(2)</sup> whether or not the substance or preparation is required to be classified for the purposes of those

(2) S.I. 1994/3247.

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Regulations, or, in the case of a pesticide approved under the Food and Environment Protection Act 1985(3), in accordance with the classification assigned to it by that approval.

In the case of substances and preparations with properties giving rise to more than one classification, for the purposes of these Regulations the lowest thresholds shall apply.

2. An “explosive” means:

- (a) (i) a substance or preparation which creates the risk of an explosion by shock, friction, fire or other sources of ignition (risk phrase R 2),
- (ii) a pyrotechnic substance is a substance (or mixture of substances) designed to produce heat, light, sound, gas or smoke or a combination of such effects through non-detonating self-sustained exothermic chemical reactions, or
- (iii) an explosive or pyrotechnic substance or preparation contained in objects;
- (b) a substance or preparation which creates extreme risks of explosion by shock, friction, fire or other sources of ignition (risk phrase R 3).

3. “Flammable”, “highly flammable”, and “extremely flammable” in categories 6, 7 and 8 mean:

- (a) flammable liquids—
  - substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C (risk phrase R 10), supporting combustion;
- (b) highly flammable liquids—
  - (i) — substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any input of energy (risk phrase R 17),
  - substances which have a flash point lower than 55°C and which remain liquid under pressure, where particular processing conditions, such as high pressure or high temperature, may create major accident hazards;
  - (ii) substances and preparations having a flash point lower than 21°C and which are not extremely flammable (risk phrase R 11, second indent);
- (c) extremely flammable gases and liquids—
  - (i) liquid substances and preparations which have a flash point lower than 0°C and the boiling point (or, in the case of a boiling range, the initial boiling point) of which at normal pressure is less than or equal to 35°C (risk phrase R 12, first indent), and
  - (ii) gaseous substances and preparations which are flammable in contact with air at ambient temperature and pressure (risk phrase R 12, second indent), whether or not kept in the gaseous or liquid state under pressure, excluding liquefied extremely flammable gases (including liquefied petroleum gas) and natural gas referred to in Part 2, and
  - (iii) flammable liquid substances and preparations maintained at a temperature above their boiling point.

4. The addition of dangerous substances to determine the quantity present at an establishment shall be carried out according to the following rule:—

if the sum

$$q_1/Q + q_2/Q + q_3/Q + q_4/Q + q_5/Q + \dots > 1$$

where

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(3) c. 48.

- $q_x$  = the quantity of dangerous substances x (or category of dangerous substances) falling within Parts 2 or 3 of this Schedule,  
 $Q$  = the relevant threshold quantity from Parts 2 or 3,

then the establishment is covered by the relevant requirements of these Regulations.

This rule will apply for the following circumstances—

- (a) for substances and preparations appearing in Part 2 at quantities less than their individual qualifying quantity present with substances having the same classification from Part 3, and the addition of substances and preparations with the same classification from Part 3;
- (b) for the addition of categories 1, 2 and 9 present at an establishment together;
- (c) for the addition of categories 3, 4, 5, 6, 7a, 7b and 8, present at an establishment together.

## SCHEDULE 2

Regulation 5(3)

### PRINCIPLES TO BE TAKEN INTO ACCOUNT WHEN PREPARING MAJOR ACCIDENT PREVENTION POLICY DOCUMENT *(This schedule sets out the provisions of Annex III to the Directive)*

1. For the purpose of implementing the operator's major accident prevention policy and safety management system account shall be taken of the following elements. The requirements laid down in the major accident prevention policy document should be proportionate to the major accident hazards presented by the establishment.
2. The major accident prevention policy should be established in writing and should include the operator's overall aims and principles of action with respect to the control of major accident hazards.
3. The safety management system should include the part of the general management system which includes the organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the major accident prevention policy.
4. The following issues shall be addressed by the safety management system—
  - (a) organisation and personnel—the roles and responsibilities of personnel involved in the management of major hazards at all levels in the organisation. The identification of training needs of such personnel and the provision of the training so identified. The involvement of employees and, where appropriate, sub-contractors;
  - (b) identification and evaluation of major hazards—adoption and implementation of procedures for systematically identifying major hazards arising from normal and abnormal operation and the assessment of their likelihood and severity;
  - (c) operational control—adoption and implementation of procedures and instructions for safe operation, including maintenance of plant, processes, equipment and temporary stoppages;
  - (d) management of change—adoption and implementation of procedures for planning modifications to, or the design of new installations, processes or storage facilities;
  - (e) planning for emergencies—adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis and to prepare, test and review emergency plans to respond to such emergencies;
  - (f) monitoring performance—adoption and implementation of procedures for the on-going assessment of compliance with the objectives set by the operator's major accident prevention policy and safety management system, and the mechanisms for investigation and taking corrective action in the case of non-compliance. The procedures should cover the operator's system for reporting major accidents or near misses, particularly those

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involving failure of protective measures, and their investigation and follow-up on the basis of lessons learnt;

- (g) audit and review—adoption and implementation of procedures for periodic systematic assessment of the major accident prevention policy and the effectiveness and suitability of the safety management system; the documented review of performance of the policy and safety management system and its updating by senior management.

### SCHEDULE 3

Regulation 6(1)

#### INFORMATION TO BE INCLUDED IN A NOTIFICATION (This Schedule sets out the provisions of Article 6(2) of the Directive)

The information referred to in regulation 6(1) is as follows—

1. the name and address of the operator;
2. the address of the establishment concerned;
3. the name or position of the person in charge of the establishment;
4. information sufficient to identify the dangerous substances or category of dangerous substances present;
5. the quantity and physical form of the dangerous substances present;
6. a description of the activity or proposed activity of the installation concerned;
7. details of the elements of the immediate environment liable to cause a major accident or to aggravate the consequences thereof.

### SCHEDULE 4

Regulations 5(6), 7(1),(5) and (7) and 8(1)

#### PURPOSE AND CONTENTS OF SAFETY REPORTS

### PART 1

#### PURPOSE OF SAFETY REPORTS

*(This Part sets out the provisions of Article 9(1) of the Directive)*

The purposes referred to in regulation 7 are as follows—

1. demonstrating that a major accident prevention policy and a safety management system for implementing it have been put into effect in accordance with the information set out in Schedule 2;
2. demonstrating that major accident hazards have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for persons and the environment;
3. demonstrating that adequate safety and reliability have been incorporated into the —
  - (a) design and construction, and
  - (b) operation and maintenance,



of any installation and equipment and infrastructure connected with its operation which are linked to major accident hazards within the establishment;

4. demonstrating that on-site emergency plans have been drawn up and supplying information to enable the off-site plan to be drawn up in order to take the necessary measures in the event of a major accident;

5. providing sufficient information to the competent authority to enable decisions to be made in terms of the siting of new activities or developments around establishments.

## PART 2

### MINIMUM INFORMATION TO BE INCLUDED IN SAFETY REPORT

*(This Part sets out the provisions of Annex II to the Directive)*

The information referred to in regulation 7(1), (5) and (7) is as follows—

1. Information on the management system and on the organisation of the establishment with a view to major accident prevention.

This information shall contain the elements set out in Schedule 2.

2. Presentation of the environment of the establishment:

- (a) description of the site and its environment including the geographical location, meteorological, geographical, hydrographic conditions and, if necessary, its history;
- (b) identification of installations and other activities of the establishment which could present a major accident hazard;
- (c) description of areas where a major accident may occur.

3. Description of installation:

- (a) a description of the main activities and products of the parts of the establishment which are important from the point of view of safety, sources of major accident risks and conditions under which such a major accident could happen, together with a description of proposed preventive measures;
- (b) description of processes, in particular the operating methods;
- (c) description of dangerous substances:
  - (i) inventory of dangerous substances including—
    - the identification of dangerous substances: chemical name, the number allocated to the substance by the Chemicals Abstract Service, name according to International Union of Pure and Applied Chemistry nomenclature;
    - the maximum quantity of dangerous substances present;
  - (ii) physical, chemical, toxicological characteristics and indication of the hazards, both immediate and delayed for people and the environment;
  - (iii) physical and chemical behaviour under normal conditions of use or under foreseeable accidental conditions.

4. Identification and accidental risks analysis and prevention methods:

- (a) detailed description of the possible major accident scenarios and their probability or the conditions under which they occur including a summary of the events which may play a role in triggering each of these scenarios, the causes being internal or external to the installation;

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- (b) assessment of the extent and severity of the consequences of identified major accidents;
  - (c) description of technical parameters and equipment used for the safety of installations.
5. Measures of protection and intervention to limit the consequences of an accident:
- (a) description of the equipment installed in the plant to limit the consequences of major accidents;
  - (b) organisation of alert and intervention;
  - (c) description of mobilisable resources, internal or external;
  - (d) summary of elements described in sub-paragraphs (a), (b) and (c) necessary for drawing up the on-site emergency plan.

## SCHEDULE 5

Regulations 9(1) and 10(1)

### EMERGENCY PLANS

#### PART 1

##### OBJECTIVES OF ON-SITE AND OFF-SITE EMERGENCY PLANS

*(This Part sets out the provisions of Article 11(2) of the Directive)*

The objectives referred to in regulations 9(1) and 10(1) are—

1. containing and controlling incidents so as to minimise the effects, and to limit damage to persons, the environment and property;
2. implementing the measures necessary to protect persons and the environment from the effects of major accidents;
3. communicating the necessary information to the public and to the emergency services and authorities concerned in the area;
4. providing for the restoration and clean-up of the environment following a major accident.

#### PART 2

##### INFORMATION TO BE INCLUDED IN ON-SITE EMERGENCY PLAN

*(This Part sets out the provision of paragraph 1 of Annex IV to the Directive)*

The information referred to in regulation 9(1) is as follows—

1. names or positions of persons authorised to set emergency procedures in motion and the person in charge of and co-ordinating the on-site mitigatory action;
2. name or position of the person with responsibility for liaison with the local authority responsible for preparing the off-site emergency plan;
3. for foreseeable conditions or events which could be significant in bringing about a major accident, a description of the action which should be taken to control the conditions or events and to limit their consequences, including a description of the safety equipment and the resources available;

4. arrangements for limiting the risks to persons on site including how warnings are to be given and the actions persons are expected to take on receipt of a warning;
5. arrangements for providing early warning of the incident to the local authority responsible for setting the off-site emergency plan in motion, the type of information which should be contained in an initial warning and the arrangements for the provision of more detailed information as it becomes available;
6. arrangements for training staff in the duties they will be expected to perform, and where necessary co-ordinating this with the emergency services;
7. arrangements for providing assistance with off-site mitigatory action.

## PART 3

### INFORMATION TO BE INCLUDED IN OFF-SITE EMERGENCY PLAN

*(This Part sets out the provisions of paragraph 2 of Annex IV to the Directive)*

The information referred to in regulation 10(1) is as follows—

1. names or positions of persons authorised to set emergency procedures in motion and of persons authorised to take charge of and co-ordinate off-site action;
2. arrangements for receiving early warning of incidents, and alert and call-out procedures;
3. arrangements for co-ordinating resources necessary to implement the off-site emergency plan;
4. arrangements for providing assistance with on-site mitigatory action;
5. arrangements for off-site mitigatory action;
6. arrangements for providing the public with specific information relating to the accident and the behaviour which it should adopt;
7. arrangements for the provision of information to the emergency services of other Member States in the event of a major accident with possible transboundary consequences.

### SCHEDULE 6

Regulation 14(3) and 25

### INFORMATION TO BE SUPPLIED TO THE PUBLIC

*(This Schedule sets out the provisions of Annex V to the Directive)*

The information referred to in regulation 14(3) is as follows—

1. name of operator and address of the establishment;
2. identification, by position held, of the person giving the information;
3. confirmation that the establishment is subject to these regulations and that the notification referred to in regulation 6 or the safety report has been submitted to the competent authority;
4. an explanation in simple terms of the activity or activities undertaken at the establishment;
5. the common names or, in the case of dangerous substances covered by Part 3 of Schedule 1, the generic names or the general danger classification of the substances and preparations involved at the establishment which could give rise to a major accident, with an indication of their principal dangerous characteristics;

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6. general information relating to the nature of the major accident hazards, including their potential effects on the population and the environment;
7. adequate information on how the population concerned will be warned and kept informed in the event of a major accident;
8. adequate information on the actions the population concerned should take, and on the behaviour they should adopt, in the event of a major accident;
9. confirmation that the operator is required to make adequate arrangements on site, in particular liaison with the emergency services, to deal with major accidents and to minimise their effects;
10. a reference to the off-site emergency plan for the establishment. This should include advice to co-operate with any instructions or requests from the emergency services at the time of an accident;
11. details of where further relevant information can be obtained, unless making that information available would be contrary to the interests of national security or personal confidentiality or would prejudice to an unreasonable degree the commercial interests of any person.

## SCHEDULE 7

Regulation 21(1) and (2)

### CRITERIA FOR NOTIFICATION OF A MAJOR ACCIDENT TO THE EUROPEAN COMMISSION AND INFORMATION TO BE NOTIFIED

#### PART 1

##### CRITERIA

*(This Part sets out the provisions of Annex VI to the Directive)*

The criteria referred to in regulation 21(1) are as follows—

1. Any accident covered in sub-paragraph (a) or having at least one of the consequences described in paragraphs (b), (c), (d) and (e) must be notified to the Commission—

(a) substances involved:

any fire or explosion or accidental discharge of a dangerous substance involving a quantity of at least 5 per cent of the qualifying quantity laid down in column 3 of Parts 2 or 3 of Schedule 1;

(b) injury to persons and damage to property:

an accident directly involving a dangerous substance and giving rise to one of the following events:—

(i) a death,

(ii) six persons injured within the establishment and kept in hospital for at least 24 hours,

(iii) one person outside the establishment kept in hospital for at least 24 hours,

(iv) dwellings outside the establishment damaged and unusable as a result of the accident,

(v) the evacuation or confinement of persons for more than two hours (person x hours): the value is at least 500,

(vi) the interruption of drinking water, electricity, gas or telephone services for more than two hours (person x hours): the value is at least 1,000;

(c) immediate damage to the environment:

- (i) permanent or long-term damage to terrestrial habitats:—
  - 0.5 ha or more of a habitat of environmental or conservation importance protected by legislation,
  - 10 or more hectares of more widespread habitat, including agricultural land;
- (ii) significant or long-term damage to freshwater and marine habitats:
  - 10 km or more of river or canal,
  - 1 ha or more of a lake or pond,
  - 2 ha or more of delta,
  - 2 ha or more of a coastline or open sea;
- (iii) significant damage to an aquifer or underground water:
  - 1 ha or more;
- (d) damage to property:
  - (i) damage to property in the establishment of at least ECU 2 million,
  - (ii) damage to property outside the establishment of at least ECU 0.5 million;
- (e) cross-border damage:
  - any accident directly involving a dangerous substance giving rise to effects outside the territory of the Member State concerned;

2. Accidents or 'near misses' which Member States regard as being of particular technical interest for preventing major accidents and limiting their consequences and which do not meet the quantitative criteria above should be notified to the Commission.

## PART 2

### INFORMATION

The information referred to in regulation 21(2) is as follows—

1. The Member State and the name and address of the competent authority;
2. The date, time and place of the major accident, including the full name of the operator and the address of the establishment involved;
3. A brief description of the circumstances of the accident, including the dangerous substances involved, and the immediate effects on persons and the environment;
4. A brief description of the emergency measures taken and of the immediate precautions necessary to prevent a recurrence.

### SCHEDULE 8

Regulation 21(4)

#### PROVISION OF INFORMATION BY COMPETENT AUTHORITY

1. The competent authority shall maintain a register containing the information comprised in—
  - (a) notifications to the competent authority under regulation 6;
  - (b) safety reports;
  - (c) notifications under regulation 16(2);

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(d) communications under regulation 17(1)(a);

and such a register is in this Schedule referred to as “the register”.

**2.** The competent authority may remove from the register information relating to an establishment—

- (a) after the expiration of five years from the time the establishment ceases to be subject to these Regulations; or
- (b) if it is of the opinion that for the past five years the information has not related to current major accident hazards at the establishment.

**3.** Where information of any description is excluded from the register by virtue of paragraphs 10 to 18 below, a statement shall be entered in the register indicating the existence of information of that description.

**4.** It shall be the duty of the competent authority—

- (a) to secure that the register is available, at all reasonable times, for inspection by the public free of charge; and
- (b) to afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.

**5.** The register may be kept in any form.

**6.** No information shall be included in the register if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or information of that description, would be contrary to the interests of national security.

**7.** The Secretary of State may, for the purpose of securing the exclusion from the register of information to which paragraph 6 applies, give to the competent authority directions—

- (a) specifying information, or descriptions of information, to be excluded from the register; or
- (b) specifying descriptions of information to be referred to the Secretary of State for his determination;

and no information referred to the Secretary of State in pursuance of subparagraph (b) above shall be included in the register until the Secretary of State determines that it should be so included.

**8.** The competent authority shall notify the Secretary of State of any information it excludes from the register in pursuance of directions under paragraph 7.

**9.** A person may, as respects any information which appears to him to be information to which paragraph 6 may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—

- (a) he shall notify the competent authority that he has done so; and
- (b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.

**10.** No information relating to the affairs of any individual or business shall be included in the register without the consent of that individual or the person for the time being carrying on that business, if and so long as the information—

- (a) is, in relation to him, commercially or personally confidential; and
- (b) is not required to be included in the register in pursuance of directions under paragraph 15;

but information is not commercially or personally confidential for the purposes of this paragraph unless it is determined under this Schedule to be so by the competent authority or, on appeal, by the Secretary of State.

**11.** Where information is provided to the competent authority pursuant to a requirement imposed by or under these Regulations then, if the person providing it applies to the competent authority to have the information excluded from the register on the ground that it is commercially or personally confidential (as regards himself or another person), the competent authority shall determine whether the information is or is not commercially or personally confidential.

**12.** A determination under paragraph 11 must be made within the period of twenty eight days beginning with the date of the application and if the competent authority fails to make a determination within that period it shall be treated as having determined that the information is commercially or personally confidential.

**13.** Where, under paragraph 11 above, the competent authority determines that information is not commercially or personally confidential—

- (a) the information shall not be entered in the register until the end of the period of twenty one days beginning with the date on which the determination is notified to the person concerned;
- (b) that person may appeal to the Secretary of State against the decision;

and, where an appeal is brought in respect of any information, the information shall not be entered in the register until the end of the period of seven days following the day on which the appeal is finally determined or withdrawn.

**14.** Subsections (5) and (10) of section 15 of the Environmental Protection Act 1990<sup>(4)</sup> as applied by section 22(6) of that Act and regulations made under subsection (10) of section 15 of that Act as so applied shall have effect in relation to an appeal under paragraph 13 as they have effect in relation to an appeal under section 22 of that Act, but as if any reference to an enforcing authority were a reference to the competent authority.

**15.** The Secretary of State may give to the competent authority directions as to specified information, or descriptions of information, which the public interest requires to be included in the register.

**16.** Information excluded from the register shall be treated as ceasing to be commercially confidential for the purposes of this Schedule at the expiry of the period of five years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it may apply to the competent authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the competent authority shall determine whether or not that is the case.

**17.** Paragraphs 13 and 14 above shall apply in relation to a determination under paragraph 16 as they apply in relation to a determination under paragraph 11.

**18.** Information is, for the purposes of any determination under this Schedule commercially confidential, in relation to any individual or person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or person.

**19.** The Environment and Safety Information Act 1988<sup>(5)</sup> shall apply to a notice served under—

- (a) regulation 18(3) as it applies to a notice served under section 22 of the 1974 Act; or
- (b) section 21 of the 1974 Act in respect of a contravention of these Regulations,

as if the reference in the third column of the Schedule to the 1988 Act to an enforcing authority as defined in section 18(7)(a) of the 1974 Act were a reference to the competent authority.

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(4) 1990 c. 43.

(5) 1988 c. 30.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**20.** Any information other than that referred to in paragraph 1 and which has been received by the competent authority pursuant to a requirement imposed by or under these Regulations shall, to the extent that it is not information relating to the environment for the purposes of the Environmental Information Regulations 1992(6) be treated as being so for those purposes.

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(6) S.I. 1992/3240.