
STATUTORY INSTRUMENTS

1990 No. 2325

HEALTH AND SAFETY

The Control of Industrial Major Accident Hazards (Amendment) Regulations 1990

<i>Made</i>	- - - -	<i>21st November 1990</i>
<i>Laid before Parliament</i>		<i>3rd December 1990</i>
<i>Coming into force</i>	- -	<i>31st December 1990</i>

The Secretary of State, being the designated Minister⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the prevention and limitation of the effects of accidents arising from industrial activities involving dangerous substances, in exercise of the powers conferred on him by the said section 2 and by sections 15(1) and (2) and 82(3)(a) of, and paragraphs 1(1)(b) and (c) and (2), 15(1) and 20 of Schedule 3 to, the Health and Safety at Work etc. Act 1974⁽³⁾ (“the 1974 Act”) and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Control of Industrial Major Accident Hazards (Amendment) Regulations 1990 and shall come into force on 31st December 1990.

Interpretation

2. In these Regulations, “the principal Regulations” means the Control of Industrial Major Accident Hazards Regulations 1984⁽⁴⁾.

(1) S.I. 1983/603.
(2) 1972 c. 68.
(3) 1974 c. 37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 6 and 16 respectively.
(4) S.I. 1984/1902, relevant amending instruments are S.I. 1986/294 and 1988/1462.

Amendments to the principal Regulations

3.—(1) The regulations in the principal Regulations shall be amended in accordance with Schedule 1 to these Regulations.

(2) Schedule 1 to the principal Regulations shall be amended in accordance with Schedule 2 to these Regulations.

(3) For Schedule 2 to the principal Regulations there shall be substituted the Schedule set out in Schedule 3 to these Regulations.

(4) After Schedule 7 to the principal Regulations there shall be inserted as Schedule 8 the Schedule set out as Schedule 4 to these Regulations.

(5) The minor and consequential amendments set out in Schedule 5 to these Regulations shall have effect.

Application of the principal Regulations

4. Where an industrial activity becomes subject to regulations 7 to 11 of the principal Regulations in consequence of an amendment made by regulation 3 above, then, in relation to that activity, the principal Regulations shall have effect subject to the modifications specified in Schedule 6 to these Regulations.

Signed by order of the Secretary of State.

21st November 1990

Eric Forth
Parliamentary Under Secretary of State,
Department of Employment

SCHEDULE 1

Regulation 3(1)

AMENDMENTS TO THE PRINCIPAL REGULATIONS

1. Regulation 2(1) of the principal Regulations shall be amended as follows—
 - (a) for sub-paragraph (b) of the definition of “dangerous substance” substitute the following sub-paragraph—
 - “(b) any substance listed in column 1 of Part I of Schedule 2 (which sets out the provisions of Annex II to the Directive) and any substance or preparation falling within any of the categories set out in column 1 of Part II of that Schedule; and”;
 - (b) after the definition of “the Executive” insert the following definition—

““further relevant information”, for the purpose of Schedule 8, means information necessary for the assessment of the potential effects of a major accident and which in the circumstance of the case—

 - (a) is reasonably required by the enquirer to assess the risks to his health and safety created by such an accident and to know and understand what action he should take in the event of an accident; and
 - (b) where the information is to be disclosed by the manufacturer, it is reasonable for him to disclose it having regard to the requirements of law and his commercial interests;”;
 - (c) for the definition of “industrial activity” substitute the following definition—

““industrial activity” means—

 - (a) an operation carried out in an industrial installation referred to in Schedule 4 (which sets out the provisions of Annex 1 to the Directive) involving, or liable to involve, one or more dangerous substances which—
 - (i) satisfy any of the criteria laid down in Schedule 1,
 - (ii) are listed in column 1 of Schedule 3, or
 - (iii) both satisfy any of the criteria and are so listed as above,and includes on-site storage and on-site transport which is associated with that operation, unless the operation is incapable of producing a major accident hazard;
 - (b) any storage to which Schedule 2 applies;”;
 - (d) delete the definition of “isolated storage”;
 - (e) after the definition of “manufacturer” insert the following definition—

““preparation” means a mixture or solution of two or more substances;”.
2. For paragraph (1) of regulation 4 of the principal Regulations substitute the following paragraph—

“4.—(1) This Regulation shall apply to—

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

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- (i) for a substance specified in column 1 of Part I of Schedule 2, a quantity of that substance which is equal to or more than the quantity specified in the entry for that substance in column 2 of that Part;
- (ii) for substances and preparations falling within a category or categories specified in an entry in column 1 of Part II of Schedule 2, a total quantity of such substances and preparations in the category or categories in that entry which is equal to or more than the quantity for that entry specified in column 2 of that Part.”.

3. For paragraph (1) of regulation 6 of the principal Regulations substitute the following paragraph—

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

- (a) an industrial activity to which sub-paragraph (a) of the definition of industrial activity in Regulation 2(1) applies and in which there is involved, or liable to be involved, a substance listed in column 1 of Schedule 3 in a quantity which is equal to or more than the quantity specified in the entry for that substance in column 2 of that Schedule; and
- (b) an industrial activity to which sub-paragraph (b) of that definition applies and in which there is involved, or liable to be involved—
 - (i) for a substance specified in column 1 of Part I of Schedule 2, a quantity of that substance which is equal to or more than the quantity specified in the entry for that substance in column 3 of that Part;
 - (ii) for substances and preparations falling within a category or categories specified in an entry in column 1 of Part II of Schedule 2, a total quantity of such substances and preparations in the category or categories in that entry which is equal to or more than the quantity for that entry specified in column 3 of that Part.”.

4. For regulation 12 of the principal Regulations substitute the following regulation—

“Information to the public

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

- (a) ensure that persons outside the site who are likely to be in an area in which, in the opinion of the Executive, they are liable to be affected by a major accident occurring at the site are supplied, in an appropriate manner, without their having to request it, with at least the information specified in Schedule 8 (which sets out the provisions of Annex VII to the Directive); and
- (b) make that information publicly available.

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

(3) Without prejudice to his duty under paragraph (1), the manufacturer shall endeavour to enter into an agreement with the local authority in whose area the industrial activity 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.

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

(5) The manufacturer shall take the steps necessary to comply with paragraphs (1) to (3) before the industrial activity is commenced, except that, in the case of an industrial activity commenced before 31st December 1991, it shall be a sufficient compliance with those paragraphs if the manufacturer takes the necessary steps by that date.”.

SCHEDULE 2

Regulation 3(2)

AMENDMENT OF SCHEDULE 1 TO THE PRINCIPAL REGULATIONS

1. After paragraph (d) of Schedule 1 to the principal Regulations insert the following paragraph as paragraph (e)–

“(e) Oxidizing substances:

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

SCHEDULE 3

Regulation 3(3)

SCHEDULE TO BE SUBSTITUTED AS SCHEDULE 2 TO THE PRINCIPAL REGULATIONS

“SCHEDULE 2

Regulations 2(1), 4(1) and 6(1)

(WHICH SETS OUT THE PROVISIONS OF ANNEX II TO THE DIRECTIVE)

STORAGE OTHER THAN OF SUBSTANCES LISTED IN SCHEDULE 3

ASSOCIATED WITH AN INSTALLATION REFERRED TO IN SCHEDULE 4

This Schedule applies to storage of dangerous substances and/or preparations at any place, installation, premises, building, or area of land, isolated or within an establishment, being a site used for the purpose of storage, except where that storage is associated with an installation covered by Schedule 4 and where the substances in question appear in Schedule 3.

The quantities set out below in Parts I and II relate to each store or group of stores belonging to the same manufacturer where the distance between the stores is not sufficient to avoid, in foreseeable circumstances, any aggravation of major accident hazards. These quantities apply in any case to each group of stores belonging to the same manufacturer where the distance between the stores is less than 500 metres.

The quantities to be considered are the maximum quantities which are, or are liable to be, in storage at any one time.

PART I

NAMED SUBSTANCES

Where a substance (or a group of substances) listed in Part I also falls within a category of Part II the quantities set out in Part I shall be used.

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Substances or groups of substances Column 1	Quantities (tonnes)	
	For application of Regulation 4 Column 2	For application of Regulations 7 to 12 Column 3
Acetylene	5	50
Acrolein (2-propenal)	20	200
Acrylonitrile	20	200
Ammonia	50	500
Ammonium nitrate ^(a)	350	2,500
Ammonium nitrate in the form of fertilizers ^(b)	1,250	10,000
Bromine	50	500
Carbon disulphide	20	200
Chlorine	10	75
Diphenyl methane di-isocyanate (MDI)	20	200
Ethylene dibromide (1,2 Dibromoethane)	5	50
Ethylene oxide	5	50
Formaldehyde (concentration $\geq 90\%$)	5	50
Hydrogen	5	50
Hydrogen chloride (liquefied gas)	25	250
Hydrogen cyanide	5	20
Hydrogen fluoride	5	50
Hydrogen sulphide	5	50
Methyl bromide (Bromomethane)	20	200
Methyl isocyanate	0.15 (150 kilograms)	0.15 (150 kilograms)
Oxygen	200	2,000
Phosgene (Carbonyl chloride)	0.75 (750 kilograms)	0.75 (750 kilograms)
Propylene oxide	5	50
Sodium chlorate	25	250
Sulphur dioxide	25	250
Sulphur trioxide	15	100

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Substances or groups of substances Column 1	Quantities (tonnes)	
	For application of Regulation 4 Column 2	For application of Regulations 7 to 12 Column 3
Tetraethyl lead or tetramethyl lead	5	50
Toluene di-isocyanate (TDI)	10	100

- (a) This applies to ammonium nitrate and mixtures of ammonium nitrate where the nitrogen content derived from the ammonium nitrate is >28% by weight and to aqueous solutions of ammonium nitrate where the concentration of ammonium nitrate is >90% by weight.
- (b) This applies to straight ammonium nitrate fertilizers which comply with Council Directive 80/876/EEC “on the approximation of laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content”(5) and to compound fertilizers where the nitrogen content derived from the ammonium nitrate is >28% by weight (a compound fertilizer contains ammonium nitrate together with phosphate and/or potash).

PART II

CATEGORIES OF SUBSTANCES AND PREPARATIONS NOT SPECIFICALLY NAMED IN PART I

The quantities of different substances and preparations of the same category are cumulative. Where there is more than one category specified in the same entry, the quantities of all substances and preparations of the specified categories in that entry shall be summed up.

Substances or groups of substances Column 1	Quantities (tonnes)	
	For application of Regulation 4 Column 2	For application of Regulations 7 to 12 Column 3
1. Substances and preparations that are classified as “very toxic”	5	20
2. Substances and preparations that are classified as “very toxic”, “toxic”(a), “oxidizing” or “explosive”	10	200
3. Gaseous substances and preparations including those in liquefied form, which are gaseous at normal pressure and which are classified as “highly flammable”(b)	50	200
4. Substances and preparations (excluding gaseous substances and	5,000	50,000

(5) OJ No L250, 23.9.80, p.7.

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Substances or groups of substances Column 1	Quantities (tonnes)	
	For application of Regulation 4 Column 2	For application of Regulations 7 to 12 Column 3
preparations covered under item 3 above) which are classified as “highly flammable” or “extremely flammable” ^(c)		

Substances and preparations shall be assigned categories in accordance with the classification provided for by regulation 5 of the Classification, Packaging and Labelling of Dangerous Substances Regulations 1984 (S.I. 1984/1244, amended by S.I. 1986/1922, 1988/766, 1989/2208 and 1990/1255) whether or not the substance or preparation is required to be classified for the purposes of those Regulations, or, in the case of a pesticide approved under the Food and Environment Protection Act 1985(c. 48), in accordance with the classification assigned to it by that approval.

- (a) Where the substances and preparations are in a state which gives them properties capable of producing a major accident hazard.
- (b) This includes flammable gases as defined in paragraph (c)(i) of Schedule 1.
- (c) This includes highly flammable liquids as defined in paragraph (c)(ii) of Schedule 1.”

SCHEDULE 4

Regulation 3(4)

SCHEDULE TO BE INSERTED AS SCHEDULE 8 TO THE PRINCIPAL REGULATIONS

“SCHEDULE 8

Regulations 2(1) and 12(1)

(WHICH SETS OUT THE PROVISIONS OF ANNEX VII TO THE DIRECTIVE) ITEMS OF INFORMATION TO BE COMMUNICATED TO THE PUBLIC IN THE APPLICATION OF REGULATION 12

- (a) Name of manufacturer and address of site.
- (b) Identification, by position held, of person giving the information.
- (c) Confirmation that the site is subject to these Regulations and that the report referred to in Regulation 7(1) or at least the information required by Regulation 7(3) has been submitted to the Executive.
- (d) An explanation in simple terms of the activity undertaken on the site.
- (e) The common names, or in the case of storage covered by Part II of Schedule 2 the generic names or the general danger classification, of the substances and preparations involved on site which could give rise to a major accident, with an indication of their principal dangerous characteristics.
- (f) General information relating to the nature of the major accident hazards, including their potential effects on the population and the environment.
- (g) Adequate information on how the population concerned will be warned and kept informed in the event of an accident.

- (h) Adequate information on the actions the population concerned should take and on the behaviour they should adopt in the event of an accident.
- (i) Confirmation that the manufacturer is required to make adequate arrangements on site, including liaison with the emergency services, to deal with accidents and to minimise their effects.
- (j) A reference to the off-site emergency plan drawn up to cope with any off-site effects from an accident. This shall include advice to co-operate with any instructions or requests from the emergency services at the time of an accident.
- (k) Details of where further relevant information can be obtained, subject to the requirements of confidentiality laid down in national legislation.”

SCHEDULE 5

Regulation 3(5)

MINOR AND CONSEQUENTIAL AMENDMENTS TO THE PRINCIPAL REGULATIONS

1. In regulation 6(2) of the principal Regulations for the figure “12” substitute the figure “11”.
2. In regulation 14(2) of the principal Regulations for the words “the Health and Safety (Enforcing Authority) Regulations 1977” substitute “the Health and Safety (Enforcing Authority) Regulations 1989 (S.I. 1989/1903)”.
3. At the end of Schedule 6 to the principal Regulations there shall be added as paragraph 6, the following paragraph—

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

SCHEDULE 6

Regulation 4

MODIFICATIONS TO THE PRINCIPAL REGULATIONS IN THEIR APPLICATION TO ADDITIONAL INDUSTRIAL ACTIVITIES

1. In regulations 6(2), 7(2) and 10(3) references to the coming into operation of the principal Regulations shall be construed as references to the coming into force of these Regulations.
2. In regulation 7(2) the words “or within such longer time as the Executive may agree in writing” shall not apply.
3. In each regulation or Schedule specified in column 1 below, the date specified opposite thereto in column 3 shall apply in substitution for the date referred to in that regulation or Schedule and specified in the corresponding entry in column 2.

Column 1 Regulation or Schedule	Column 2 Existing date	Column 3 Modified date
Regulation 7(3)	8th July 1989	1st June 1994
Regulation 7(3)	1st April 1985	31st March 1991
Regulation 10(3)(b)	1st April 1985	31st March 1991
Regulation 11(3)	1st October 1985	30th September 1991

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Column 1 Regulation or Schedule	Column 2 Existing date	Column 3 Modified date
Schedule 7, paragraph 4	7th January 1985	30th December 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Control of Industrial Major Accident Hazards Regulations 1984 (“the principal Regulations”) for the purpose of implementing in full in respect of Great Britain Council Directive No. [88/610/EEC](#) (OJ No L 336, 7.12.88, p.14) (“the Directive”) amending Council Directive No. [82/501/EEC](#) (OJ No L230, 5.8.1982, p.1) on the major accident hazards of certain industrial activities which was implemented by the principal Regulations.

2. The amendments to the principal Regulations themselves and to the Schedules to the principal Regulations are introduced through the Schedules to these Regulations.

3. Schedule 1 modifies the definitions in regulation 2(1) of the principal Regulations of “dangerous substance” and “industrial activity” to take into account the changed structure and broadened scope of Schedule 2. Schedule 1 also introduces definitions of “preparation” and “further relevant information” which are necessary to give effect to the requirements of the Directive.

4. Schedule 1 to these Regulations also modifies regulations 4 (demonstration of safe operation) and 6 (industrial activities to which regulations 7 to 12 apply) of the principal Regulations to take into account the changes to Schedule 2. It also replaces regulation 12 (information to the public) which now requires more information about an industrial activity to be given to the public in accordance with Article 1.1 of, and Annex VII to, the Directive.

5. Schedule 2 to these Regulations amends Schedule 1 to the principal Regulations (indicative criteria) by adding the criterion for “oxidizing substances”.

6. Schedule 3 to these Regulations replaces Schedule 2 to the principal Regulations with a new Schedule 2. The Schedule now applies to any storage that is either isolated storage or, with certain exceptions, to storage associated with an industrial installation (within the meaning of Schedule 4 to the principal Regulations). Part I of the Schedule contains an expanded list of named substances with threshold quantities for the application of provisions of the principal Regulations, and Part II introduces a list of categories of substances and preparations grouped into 4 entries with threshold quantities similarly specified.

7. Schedule 4 to these Regulations introduces, as Schedule 8 to the principal Regulations, a new Schedule specifying the information about a site which must be supplied to the public under regulation 12 of the principal Regulations.

8. Schedule 5 to these Regulations makes minor and consequential amendments to the principal Regulations and Schedule 6 introduces new compliance dates and transitional provisions for industrial activities which become subject to certain provisions of the principal Regulations as a consequence of the amendments made by these Regulations.