
STATUTORY INSTRUMENTS

1999 No. 743

HEALTH AND SAFETY

The Control of Major Accident Hazards Regulations 1999

Made - - - - *11th March 1999*
Laid before Parliament *11th March 1999*
Coming into force - - *1st April 1999*

The Secretary of State, being the designated⁽¹⁾ Minister 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 involving dangerous substances, in exercise of the powers conferred on him by the said section 2 and by sections 15(1), (2), (3), (4)(a) and (5)(b), 43(2) and (6) and 82(3)(a) of, and paragraphs 1(1) and (2), 15(1), 16, 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 with 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 Commission of consultations in accordance with section 50(3) of that Act and after the Secretary of State consulting the Commission in respect of those modifications in accordance with section 50(2) of the Act, hereby makes the following regulations—

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;

(1) S.I. 1998/1750.

(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 to 16 respectively.

“the 1984 Regulations” means the Control of Industrial Major Accident Hazards Regulations 1984(4);

“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(5);

“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;

“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(6) or the Planning (Hazardous Substances) (Scotland) Act 1997(7);

“health authority”, in relation to England and Wales means a health authority established under section 8 of the National Health Service Act 1977(8) and in relation to Scotland, means a health board established under section 2 of the National Health Service (Scotland) Act 1978(9);

“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,

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

(5) OJ L10/13 14.1.97.

(6) 1990 c. 10.

(7) 1997 c. 10.

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

(9) 1978 c. 29.

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;

“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⁽¹⁰⁾ 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⁽¹¹⁾;
- (b) in relation to Scotland, a road within the meaning of the Roads (Scotland) Act 1984⁽¹²⁾;

“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

⁽¹⁰⁾ S.I. 1996/825.

⁽¹¹⁾ 1988 c. 52.

⁽¹²⁾ 1984 c. 54.

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—

- (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⁽¹³⁾ 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⁽¹⁴⁾;
 - (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⁽¹⁵⁾;
 - (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.

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.

⁽¹³⁾ 1964 c. 5.

⁽¹⁴⁾ 1952 c. 67.

⁽¹⁵⁾ 1965 c. 57; section 1 was amended by S.I. 1974/2056 and S.I. 1990/1918.

(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 CIMAH 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(16), 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⁽¹⁷⁾ and, in Scotland, regulation 8(4)(b) of, and Schedule 4 to the Employment Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993⁽¹⁸⁾ 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.

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

⁽¹⁷⁾ 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.

⁽¹⁸⁾ 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.

- 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⁽¹⁹⁾ 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⁽²⁰⁾ 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)).

(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.

⁽¹⁹⁾ 1995 c. 25.

⁽²⁰⁾ S.I. 1998/494.

(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⁽²¹⁾ and, in Scotland, the Employment Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993⁽²²⁾.

(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.

PART 7

AMENDMENTS, REVOCATIONS, SAVINGS AND TRANSITIONAL PROVISIONS

Amendments

23.—(1) The Petroleum (Consolidation) Act 1928⁽²³⁾ 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⁽²⁴⁾ 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—

(21) 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.

(22) 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.

(23) 1928 c. 32.

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

- (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(25) 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(26), the Control of Industrial Major Accident Hazards (Amendment) Regulations 1990(27), and the Control of Industrial Major Accident Hazards (Amendment) Regulations 1994(28), are hereby revoked.

(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.

(25) S.I. 1982/630.

(26) S.I. 1988/1462.

(27) S.I. 1990/2325.

(28) S.I. 1994/118.

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(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

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(29), 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

(29) 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>
1. VERY TOXIC	5	20
2. TOXIC	50	200
3. OXIDISING	50	200
4. EXPLOSIVE (where the substance or preparation falls within the definition given in Note 2(a))	50	200
5. EXPLOSIVE (where the substance or preparation falls within the definition given in Note 2(b))	10	50
6. FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(a))	5,000	50,000
7a. HIGHLY FLAMMABLE (where the substance or preparation falls	50	200

<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)		
7b. HIGHLY FLAMMABLE liquids (where the substance or preparation falls within the definition given in Note 3(b)(ii))	5,000	50,000
8. EXTREMELY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(c))	10	50
9. DANGEROUS FOR THE ENVIRONMENT 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
10. ANY CLASSIFICATION 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⁽³⁰⁾ whether or not the substance or preparation is required to be classified for the purposes of those

⁽³⁰⁾ 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(31), 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

(31) 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:

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- (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⁽³²⁾ 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⁽³³⁾ 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.

(32) 1990 c. 43.

(33) 1988 c. 30.

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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(34) be treated as being so for those purposes.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations impose requirements with respect to the control of major accident hazards involving dangerous substances. (The expressions “major accident” and “dangerous substances” are defined in regulation 2(1)). The Regulations implement Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances, except Article 12 (which relates to land use planning).

The Regulations apply to establishments (as defined in regulation 2(1)) where dangerous substances are present in quantities equal to or exceeding those specified in column 2 of Parts 2 or 3 of Schedule 1, except that regulations 7 to 14 apply to establishments where such substances are present in quantities equal to or exceeding those specified in column 3 of those Parts (regulation 3(1)). The Regulations do not apply in the cases specified in regulation 3(2).

The competent authority for the purposes of the Regulations is the Health and Safety Executive and the Environment Agency acting jointly, except that in Scotland it is the Health and Safety Executive and the Scottish Environment Protection Agency acting jointly.

The Regulations—

- (a) impose a duty on the operator of an establishment to take all measures necessary to prevent major accidents and limit their consequences for persons and the environment (regulation 4);
- (b) impose a duty on the operator to prepare a major accident prevention policy document containing specified information and to revise it in specified circumstances (regulation 5 and Schedule 2);
- (c) require the operator to notify the competent authority of specified matters at specified times (regulation 6 and Schedule 3);
- (d) require the operator to send at specified times a safety report to the competent authority containing specified information, to revise that report in specified circumstances, and not to start the construction or operation of the establishment until he has received from the competent authority the conclusions of its examination of the report (regulation 7 and Schedule 4);
- (e) require the operator to review and revise the safety report in specified circumstances (regulation 8);
- (f) require the operator to prepare an on-site emergency plan for specified purposes and containing specified information (regulation 9 and Schedule 5);
- (g) require, subject to any exemption that may be granted by the competent authority, the local authority to prepare an off-site emergency plan for specified purposes and

(34) S.I. 1992/3240.

- containing specified information and require the operator to supply to the local authority the information necessary to enable the plan to be prepared (regulation 10 and Schedule 5);
- (h) require on-site and off-site emergency plans to be reviewed, tested and implemented (regulations 11 and 12), and empower the local authority to charge the operator a fee for preparing, reviewing and testing the off-site emergency plan (regulation 13);
 - (i) require the operator to provide, after consulting the local authority, specified information to specified persons at specified times and to make that information publicly available (regulation 14 and Schedule 6);
 - (j) require the operator to demonstrate to the competent authority that he has taken all measures necessary to comply with the Regulations (regulation 15(1));
 - (k) require the operator to provide, when requested to do so by the competent authority, information to the authority for specified purposes (regulation 15(2));
 - (l) require the operator to notify major accidents to the competent authority (regulation 15(3) and (4));
 - (m) require the operator to provide information to, and to co-operate with, other establishments in a group designated by the competent authority (regulation 16);
 - (n) impose functions on the competent authority with respect to—
 - (i) its consideration of the safety report sent by the operator (regulation 17);
 - (ii) prohibiting the operation of an establishment (regulation 18);
 - (iii) inspections and investigations (regulation 19);
 - (iv) enforcement (regulation 20); and
 - (v) the provision of information (regulation 21 and Schedules 7 and 8);
 - (o) provide for fees to be payable by the operator to the Health and Safety Executive in relation to the performance of specified functions of the Executive or competent authority (regulation 22);
 - (p) amend the Petroleum Consolidation Act 1928, the Petroleum-Spirit (Motor Vehicles etc.) Regulations 1929 and the Petroleum-Spirit (Plastic Containers) Regulations 1982 so as to disapply those Regulations to establishments subject to these Regulations and to sites subject to the Notification of Installations Handling Hazardous Substances Regulations 1982 (regulation 23);
 - (q) revoke the Control of Industrial Major Accident Hazards Regulations 1984, and certain other instruments which amended them (regulation 24);
 - (r) contain a transitional provision (regulation 25).

A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Economic Adviser's Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy has been placed in the library of each House of Parliament.