
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 152

**Dangerous Substances and Explosive
Atmospheres Regulations (Northern Ireland) 2003**

Citation and commencement

1. These Regulations may be cited as the Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2003 and shall come into operation –

- (a) as respects all regulations except for regulations 5(4)(c), 7, 11, 15(2), 16(2) and 17(1) to (3) on 25th April 2003;
- (b) as respects regulations 15(2) and 16(2) on 30th May 2003; and
- (c) as respects regulations 5(4)(c), 7, 11, and 17(1) to (3) on 30th June 2003.

Interpretation

2. In these Regulations –

“approved classification and labelling guide” means the “Approved classification and labelling guide: Chemicals (Hazard Information and Packaging for Supply) Regulations 2002” (5th edition)(1) approved by the Executive for use with the CHIP Regulations on 12th November 2002;

“the CHIP Regulations” means the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002(2);

“dangerous substance” means –

- (a) a substance or preparation which meets the criteria in the approved classification and labelling guide for classification as a substance or preparation which is explosive, oxidising, extremely flammable, highly flammable or flammable, whether or not that substance or preparation is classified under the CHIP Regulations;
- (b) a substance or preparation which because of its physico-chemical or chemical properties and the way it is used or is present at the workplace creates a risk, not being a substance or preparation falling within sub-paragraph (a); or
- (c) any dust, whether in the form of solid particles or fibrous materials or otherwise, which can form an explosive mixture with air or an explosive atmosphere, not being a substance or preparation falling within sub-paragraphs (a) or (b);

“explosive atmosphere” means a mixture, under atmospheric conditions, of air and one or more dangerous substances in the form of gases, vapours, mists or dusts in which, after ignition has occurred, combustion spreads to the entire unburned mixture;

“hazard” means the physico-chemical or chemical property of a dangerous substance which has the potential to give rise to fire, explosion, or other events which can result in harmful

(1) L131; ISBN 0-7176-2369-6

(2) S.R. 2002 No. 301

physical effects of a kind similar to those which can be caused by fire or explosion, affecting the safety of a person;

“offshore installation” has the same meaning as is given by regulation 3 of the Offshore Installations and Pipeline Works (Management and Administration) Regulations (Northern Ireland) 1995⁽³⁾ insofar as that regulation extends to mineral extracting industries within the scope of Article 2(a) of Council Directive 92/91/EEC concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling⁽⁴⁾;

“personal protective equipment” means all equipment which is intended to be worn or held by a person at work and which protects that person against one or more risks to his safety, and any addition or accessory designed to meet that objective;

“preparation” means a mixture or solution of two or more substances;

“risk” means the likelihood of a person’s safety being affected by harmful physical effects being caused to him from fire, explosion or other events arising from the hazardous properties of a dangerous substance in connection with work and also the extent of that harm;

“risk assessment” means the assessment of risks required by regulation 5(1);

“road” has the meaning assigned to it in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995⁽⁵⁾;

“safety data sheet” means a safety data sheet within the meaning of regulation 5 of the CHIP Regulations;

“substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour;

“territorial sea” means the territorial sea of the United Kingdom adjacent to Northern Ireland and “within the territorial sea” includes on, over and under it;

“workplace” means any premises or part of premises used for or in connection with work, and includes –

- (a) any place within the premises to which an employee has access while at work; and
- (b) any room, lobby, corridor, staircase, road or other place –
 - (i) used as a means of access to or egress from that place of work, or,
 - (ii) where facilities are provided for use in connection with that place of work, other than a road; and

“work processes” means all technical aspects of work involving dangerous substances and includes –

- (a) appropriate technical means of supervision,
- (b) connecting devices,
- (c) control and protection systems,
- (d) engineering controls and solutions,
- (e) equipment,
- (f) materials,
- (g) machinery,
- (h) plant,

⁽³⁾ S.R. 1995 No. 340

⁽⁴⁾ O.J. No. L348, 28.11.92, p. 9

⁽⁵⁾ S.I. 1995/2994 (N.I. 18)

- (i) protective systems, and
- (j) warning and other communication systems.

Application

3.—(1) These Regulations, apart from regulations 15, 16 and 17(4) and (5), shall not apply to the master or crew of a ship or to the employer of such persons in respect of the normal ship-board activities of a ship's crew which are carried out solely by the crew under the direction of the master and, for the purposes of this paragraph –

- (a) “ship” includes every description of vessel used in navigation, other than a ship forming part of Her Majesty's Navy or an offshore installation; and
 - (b) the reference to the normal ship-board activities of a ship's crew includes –
 - (i) the construction, reconstruction or conversion of a ship within territorial limits; and
 - (ii) the repair of a ship save repair when carried out in dry dock;
- (2) Regulations 5(4)(c), 7 and 11 shall not apply to –
- (a) areas used directly for and during the medical treatment of patients;
 - (b) the use of gas appliances burning gaseous fuel (that is to say, any fuel which is in a gaseous state at a temperature of 15°C under a pressure of 1 bar) which –
 - (i) are used for cooking, heating, hot water production, refrigeration, lighting or washing; and
 - (ii) have, where applicable, a normal water temperature not exceeding 105°C, including forced draft burners and heating bodies to be equipped with such burners but not including an appliance specifically designed for use in an industrial process carried out on industrial premises;
 - (c) gas fittings within the meaning of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 1997⁽⁶⁾ located in domestic premises, not being gas appliances falling within sub-paragraph (b);
 - (d) the manufacture, handling, use, storage and transport of explosives or chemically unstable substances;
 - (e) any activity at a mine within the meaning of section 156(1) of the Mines Act (Northern Ireland) 1969⁽⁷⁾ carried out for the purposes of the mine;
 - (f) any activity at a quarry within the meaning of Article 2(2) of the Quarries (Northern Ireland) Order 1983⁽⁸⁾ carried out for the purposes of the quarry;
 - (g) any activity at a borehole site within the meaning of regulation 2(1) of the Borehole Sites and Operations Regulations (Northern Ireland) 1995⁽⁹⁾ carried out for the purposes of the borehole site;
 - (h) any activity at an offshore installation carried out for the purposes of the offshore installation; and
 - (i) the use of means of transport by land, water or air which is regulated by international agreements and the European Community Directives giving effect to them insofar as they fall within the disapplication in Article 1.2.(e) of Council Directive 99/92/EC on minimum requirements for improving the safety and health protection of workers potentially at risk

⁽⁶⁾ S.R. 1997 No. 194

⁽⁷⁾ 1969 c. 6 (N.I.)

⁽⁸⁾ S.I. 1983/150 (N.I. 4)

⁽⁹⁾ S.R. 1995 No. 491

from explosive atmospheres(10), except for any means of transport intended for use in a potentially explosive atmosphere.

(3) Regulations 5(2)(f), (g), (h) and (i), 6(4)(d), 6(5)(b) and (e) and 8(1)(d) and (e) and the requirements of paragraphs 5 and 6 of Schedule 1 shall not apply to any activity at an offshore installation carried out for the purposes of the offshore installation.

Duties under these Regulations

4.—(1) Where a duty is placed by these Regulations on an employer in respect of his employees, he shall, so far as is reasonably practicable, be under a like duty in respect of any other person, whether at work or not, who may be affected by the work carried on by the employer, except that –

- (a) the duties of the employer under regulations 6(5)(f) and 7(5) (which relate, respectively, to the provision of suitable personal protective equipment and the provision of appropriate work clothing) shall not extend to persons who are not his employees; and
- (b) the duties of the employer under regulations 8 and 9 (which relate, respectively, to dealing with accidents and to provision of information, instruction and training) shall not extend to persons who are not his employees, unless those persons are at the workplace where the work is being carried on and subject to the following, namely, that, in relation to the application of regulation 9 to such persons, regulation 9 shall apply to the extent that is required by the nature and the degree of the risk.

(2) These Regulations shall apply to a self-employed person as they apply to an employer and an employee and as if that self-employed person were both an employer and employee.

Risk assessment

5.—(1) Where a dangerous substance is or is liable to be present at the workplace, the employer shall make a suitable and sufficient assessment of the risks to his employees which arise from that substance.

(2) The risk assessment shall include consideration of –

- (a) the hazardous properties of the substance;
- (b) information on safety provided by the supplier, including information contained in any relevant safety data sheet;
- (c) the circumstances of the work including –
 - (i) the work processes and substances used and their possible interactions;
 - (ii) the amount of the substance involved;
 - (iii) where the work will involve more than one dangerous substance, the risk presented by such substances in combination; and
 - (iv) the arrangements for the safe handling, storage and transport of dangerous substances and of waste containing dangerous substances;
- (d) activities, such as maintenance, where there is the potential for a high level of risk;
- (e) the effect of measures which have been or will be taken pursuant to these Regulations;
- (f) the likelihood that an explosive atmosphere will occur and its persistence;
- (g) the likelihood that ignition sources, including electrostatic discharges, will be present and become active and effective;
- (h) the scale of the anticipated effects of a fire or an explosion;

- (i) any places which are or can be connected via openings to places in which explosive atmospheres may occur; and
 - (j) such additional safety information as the employer may need in order to complete the risk assessment.
- (3) The risk assessment shall be reviewed by the employer regularly so as to keep it up to date and particularly if –
- (a) there is reason to suspect that the risk assessment is no longer valid; or
 - (b) there has been a significant change in the matters to which the risk assessment relates including when the workplace, work processes, or organisation of the work undergoes significant changes, extensions or conversions;
- and where, as a result of the review, changes to the risk assessment are required, those changes shall be made.
- (4) Where the employer employs five or more employees, the employer shall record the significant findings of the risk assessment as soon as is practicable after that assessment is made, including in particular –
- (a) the measures which have been or will be taken by him pursuant to these Regulations;
 - (b) sufficient information to show that the workplace and work processes are designed, operated and maintained with due regard for safety and that, in accordance with the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999(11), adequate arrangements have been made for the safe use of work equipment; and
 - (c) where an explosive atmosphere may occur at the workplace and subject to the transitional provisions in regulation 17(1) to (3), sufficient information to show –
 - (i) those places which have been classified into zones pursuant to regulation 7(1);
 - (ii) equipment which is required for, or helps to ensure, the safe operation of equipment located in places classified as hazardous pursuant to regulation 7(1);
 - (iii) that any verification of overall explosion safety required by regulation 7(4) has been carried out; and
 - (iv) the aim of any coordination required by regulation 11 and the measures and procedures for implementing it.
- (5) No new work activity involving a dangerous substance shall commence unless –
- (a) an assessment has been made; and
 - (b) the measures required by these Regulations have been implemented.

Elimination or reduction of risks from dangerous substances

6.—(1) Every employer shall ensure that risk is either eliminated or reduced so far as is reasonably practicable.

(2) In complying with his duty under paragraph (1), substitution shall by preference be undertaken, whereby the employer shall avoid, so far as is reasonably practicable, the presence or use of a dangerous substance at the workplace by replacing it with a substance or process which either eliminates or reduces the risk.

(3) Where it is not reasonably practicable to eliminate risk pursuant to paragraphs (1) and (2), the employer shall, so far as is reasonably practicable, apply measures, consistent with the risk assessment and appropriate to the nature of the activity or operation –

- (a) to control risks, including the measures specified in paragraph (4); and

- (b) to mitigate the detrimental effects of a fire or explosion or the other harmful physical effects arising from dangerous substances, including the measures specified in paragraph (5).
- (4) The following measures are, in order of priority, those specified for the purposes of paragraph (3)(a) –
 - (a) the reduction of the quantity of dangerous substances to a minimum;
 - (b) the avoidance or minimising of the release of a dangerous substance;
 - (c) the control of the release of a dangerous substance at source;
 - (d) the prevention of the formation of an explosive atmosphere, including the application of appropriate ventilation;
 - (e) ensuring that any release of a dangerous substance which may give rise to risk is suitably collected, safely contained, removed to a safe place, or otherwise rendered safe, as appropriate;
 - (f) the avoidance of –
 - (i) ignition sources including electrostatic discharges; and
 - (ii) adverse conditions which could cause dangerous substances to give rise to harmful physical effects; and
 - (g) the segregation of incompatible dangerous substances.
- (5) The following measures are those specified for the purposes of paragraph (3)(b) –
 - (a) the reduction to a minimum of the number of employees exposed;
 - (b) the avoidance of the propagation of fires or explosions;
 - (c) the provision of explosion pressure relief arrangements;
 - (d) the provision of explosion suppression equipment;
 - (e) the provision of plant which is constructed so as to withstand the pressure likely to be produced by an explosion; and
 - (f) the provision of suitable personal protective equipment.
- (6) The employer shall arrange for the safe handling, storage and transport of dangerous substances and waste containing dangerous substances.
- (7) The employer shall ensure that any conditions necessary pursuant to these Regulations for ensuring the elimination or reduction of risk are maintained.
- (8) The employer shall, so far as is reasonably practicable, take the general safety measures specified in Schedule 1, subject to those measures being consistent with the risk assessment and appropriate to the nature of the activity or operation.

Places where explosive atmospheres may occur

- 7.—(1) Every employer shall classify places at the workplace where an explosive atmosphere may occur into hazardous or non-hazardous places in accordance with paragraph 1 of Schedule 2 and shall classify those places so classified as hazardous into zones in accordance with paragraph 2 of that Schedule; and that Schedule shall have effect subject to the notes at the end of that Schedule.
- (2) The employer shall ensure that the requirements specified in Schedule 3 are applied to equipment and protective systems in the places classified as hazardous pursuant to paragraph (1).
- (3) Where necessary, places classified as hazardous pursuant to paragraph (1) shall be marked by the employer with signs at their points of entry in accordance with Schedule 4.

(4) Before a workplace containing places classified as hazardous pursuant to paragraph (1) is used for the first time, the employer shall ensure that its overall explosion safety is verified by a person who is competent in the field of explosion protection as a result of his experience or any professional training or both.

(5) The employer shall ensure that appropriate work clothing which does not give rise to electrostatic discharges is provided for use in places classified as hazardous pursuant to paragraph (1).

(6) This regulation is subject to the transitional provisions in regulation 17(1) to (3).

Arrangements to deal with accidents, incidents and emergencies

8.—(1) Subject to paragraph (4), in order to protect the safety of his employees from an accident, incident or emergency related to the presence of a dangerous substance at the workplace, the employer shall ensure that –

- (a) procedures, including the provision of appropriate first-aid facilities and relevant safety drills (which shall be tested at regular intervals), have been prepared which can be put into effect when such an event occurs;
- (b) information on emergency arrangements, including –
 - (i) details of relevant work hazards and hazard identification arrangements, and
 - (ii) specific hazards likely to arise at the time of an accident, incident or emergency, is available;
- (c) suitable warning and other communication systems are established to enable an appropriate response, including remedial actions and rescue operations, to be made immediately when such an event occurs;
- (d) where necessary, before any explosion conditions are reached, visual, or audible, warnings are given and employees withdrawn; and
- (e) where the risk assessment indicates it is necessary, escape facilities are provided and maintained to ensure that, in the event of danger, employees can leave endangered places promptly and safely.

(2) Subject to paragraph (4), the employer shall ensure that information on the matters referred to in paragraph (1)(a), (c) to (e) and the information required by paragraph 1(b) is –

- (a) made available to relevant accident and emergency services to enable those services, whether internal or external to the workplace, to prepare their own response procedures and precautionary measures; and
- (b) displayed at the workplace, unless the results of the risk assessment make this unnecessary.

(3) Subject to paragraph (4), in the event of an accident, incident or emergency related to the presence of a dangerous substance at the workplace, the employer shall ensure that –

- (a) immediate steps are taken to –
 - (i) mitigate the effects of the event;
 - (ii) restore the situation to normal; and
 - (iii) inform those of his employees who may be affected; and
- (b) only those persons who are essential for the carrying out of repairs and other necessary work are permitted in the affected area and they are provided with –
 - (i) appropriate personal protective equipment and protective clothing; and
 - (ii) any necessary specialised safety equipment and plant, which shall be used until the situation is restored to normal.

- (4) Paragraphs (1) to (3) shall not apply where –
- (a) the results of the risk assessment show that, because of the quantity of each dangerous substance at the workplace, there is only a slight risk to employees; and
 - (b) the measures taken by the employer to comply with his duty under regulation 6(1) are sufficient to control that risk.

Information, instruction and training

9.—(1) Where a dangerous substance is present at the workplace, the employer shall provide his employees with –

- (a) suitable and sufficient information, instruction and training on the appropriate precautions and actions to be taken by the employee in order to safeguard himself and other employees at the workplace;
 - (b) the details of any such substance including –
 - (i) the name of the substance and the risk which it presents;
 - (ii) access to any relevant safety data sheet; and
 - (iii) legislative provisions which concern the hazardous properties of the substance; and
 - (c) the significant findings of the risk assessment.
- (2) The information, instruction and training required by paragraph (1) shall be –
- (a) adapted to take account of significant changes in the type of work carried out or methods of work used by the employer; and
 - (b) provided in a manner appropriate to the risk assessment.

Identification of hazardous contents of containers and pipes

10. Where containers and pipes used at work for dangerous substances are not marked in accordance with relevant requirements of the legislation listed in Schedule 5, the employer shall, subject to any derogations provided for in that legislation, ensure that the contents of those containers and pipes, together with the nature of those contents and any associated hazards, are clearly identifiable.

Duty of co-ordination

11. Where two or more employers share the same workplace (whether on a temporary or a permanent basis) where an explosive atmosphere may occur, the employer responsible for the workplace shall co-ordinate the implementation of all the measures required by these Regulations to be taken to protect employees from any risk from the explosive atmosphere.

Application within the territorial sea

12. Within the territorial sea these Regulations shall apply only to and in relation to the premises and activities to which any of paragraphs 2 to 6 of Schedule 6 applies.

Exemption certificates

13.—(1) Subject to paragraph (2), the Executive may, by a certificate in writing, exempt any person or class of persons or any dangerous substance or class of dangerous substances from all or any of the requirements or prohibitions imposed by or under these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the Executive by a further certificate in writing.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to –

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any requirements imposed by or under any statutory provisions which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it and that the exemption will be compatible with the requirements of the Directives.

(3) For the purposes of paragraph (2), “the Directives” means Council Directive [98/24/EC](#) on the protection of the health and safety of workers from the risks related to chemical agents at work⁽¹²⁾ and Council Directive [99/92/EC](#) on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres⁽¹³⁾.

Exemptions for Ministry of Defence, etc.

14.—(1) In this regulation –

- (a) “Her Majesty’s Forces” means any of the naval, military or air forces of the Crown, whether raised inside or outside the United Kingdom and whether any such force is a regular, auxiliary or reserve force, and includes any civilian employed by those forces;
- (b) “visiting force” has the same meaning as it does for the purposes of any provision of Part 1 of the Visiting Forces Act 1952⁽¹⁴⁾; and
- (c) “headquarters” means a headquarters for the time being specified in Schedule 2 to the Visiting Forces and International Headquarters (Application of Law) Order 1999⁽¹⁵⁾.

(2) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing, exempt –

- (a) any of Her Majesty’s Forces;
- (b) any visiting force;
- (c) any member of a visiting force working in or attached to a headquarters; or
- (d) any person engaged in work involving dangerous substances, if that person is under the direct supervision of a representative of the Secretary of State for Defence,

from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the Secretary of State for Defence by a further certificate in writing, except that, where any such exemption is granted, suitable arrangements shall be made for the assessment of the risk to safety created by the work involving dangerous substances and for adequately controlling the risk to persons to whom the exemption relates.

Amendments

15.—(1) The statutory provisions referred to in Part I of Schedule 7 shall be amended in accordance with that Part.

(2) The statutory provisions referred to in Part II of Schedule 7 shall be amended in accordance with that Part.

⁽¹²⁾ O.J. No. L 131, 5.9.98, p. 11

⁽¹³⁾ O.J. No. L 23, 28.1.00, p. 57

⁽¹⁴⁾ 1952 c. 67 (15 & 16 Geo 6 & 1 Eliz 2)

⁽¹⁵⁾ S.I. 1999/1736

Repeals and revocations

16.—(1) The statutory provisions referred to in column 1 of Part I of Schedule 8 shall be repealed or revoked to the extent specified in the corresponding entry in column 3 of that Part.

(2) The statutory provisions referred to in column 1 of Part II of Schedule 8 shall be repealed or revoked to the extent specified in the corresponding entry in column 3 of that Part.

Transitional provisions

17.—(1) The requirements of regulation 7(2) and Schedule 3 shall not apply to equipment and protective systems for use in places where explosive atmospheres may occur which are or have been in use or made available at the workplace on or before 30th June 2003.

(2) Subject to paragraphs (1) and (3), a workplace which contains places where explosive atmospheres may occur –

- (a) which is or has been in use on or before 30th June 2003 shall comply with the requirements of regulations 7 and 11 no later than 30th June 2006 and the employer's duties under those regulations in respect of such a workplace shall apply accordingly;
- (b) which is used for the first time after 30th June 2003 shall comply with the requirements of regulations 7 and 11 from the date that it is first used and the employer's duties under those regulations in respect of such a workplace shall apply accordingly.

(3) If, after 30th June 2003, any modification, extension or restructuring is undertaken in workplaces containing places where explosive atmospheres may occur, the employer shall take the necessary steps to ensure that the modification, extension or restructuring complies with the requirements of regulations 7 and 11 and the employer's duties under those regulations and in respect of such a modification, extension or restructuring shall apply accordingly.

(4) Notwithstanding the amendment made to section 2(1) of the Petroleum (Consolidation) Act (Northern Ireland) 1929(16) (provisions as to licences) made by regulation 15(1) and paragraphs 2(1) and (2) of Schedule 7, a petroleum-spirit licence applying in any harbour which was granted by a harbour authority pursuant to section 2 of that Act and which is in force immediately before the date of the coming into operation of regulation 15(1) and paragraphs 2(1) and (2) of Schedule 7 shall continue in force in accordance with such conditions as were attached to it before that date, except that, where it makes provision for the renewal of the licence by the harbour authority, it shall have effect as if it provided for its renewal by the licensing authority under section 2(1)(a) or (c) of that Act for the area in which the harbour is situated; and any application for renewal made to the harbour authority before that date and not determined at that date shall have effect as if it had been made to that licensing authority.

(5) Notwithstanding the repeal of section 9 of the Petroleum (Consolidation) Act (Northern Ireland) 1929 (byelaws as to loading, conveyance and landing of petroleum-spirit in and upon canals) by regulation 16(1) and Part I of Schedule 8, byelaws made or having effect under that section in operation immediately before the date of the coming into operation of regulation 16(1) and Part I of Schedule 8 shall continue in operation.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 7th March 2003.

L.S.

M. Bohill
A senior officer of the
Department of Enterprise, Trade and Investment