

SCHEDULE 1

Regulation 3

Hazardous substances and controlled quantities

Where a hazardous substance is covered by Part 1 of this Schedule and is also listed in Part 2, the qualifying quantities set out in column 2 of Part 2 apply.

PART 1

Categories of substances

This Part covers all hazardous substances falling under the hazard categories listed in column 1:

<i>Column 1</i>	<i>Column 2</i>
<i>Hazard categories in accordance with the CLP Regulation</i>	<i>Controlled quantity in tonnes of hazardous substances</i>
Section 'H' – HEALTH HAZARDS	
H1 ACUTE TOXIC Category 1, all exposure routes	5
H2 ACUTE TOXIC — Category 2, all exposure routes — Category 3, inhalation exposure route (see note 8)	50
H3 STOT SPECIFIC TARGET ORGAN TOXICITY – SINGLE EXPOSURE STOT SE Category 1	50
Section 'P' – PHYSICAL HAZARDS	
P1a EXPLOSIVES (see note 9) — Unstable explosives, or — Explosives, Division 1.1, 1.2, 1.3, 1.5 or 1.6, or — Substances or mixtures having explosive properties according to method A.14 of Council Regulation (EC) No 440/2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (see note 10) and do not belong to the hazard classes Organic peroxides or Self-reactive substances and mixtures	10
P1b EXPLOSIVES (see note 9) Explosives, Division 1.4 (see note 11)	50

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<i>Column 1</i>	<i>Column 2</i>
<i>Hazard categories in accordance with the CLP Regulation</i>	<i>Controlled quantity in tonnes of hazardous substances</i>
P2 FLAMMABLE GASES Flammable gases, Category 1 or 2	10
P3a FLAMMABLE AEROSOLS (see note 12(1)) 'Flammable' aerosols Category 1 or 2, containing flammable gases Category 1 or 2 or flammable liquids Category 1	150 (net)
P3b FLAMMABLE AEROSOLS (see note 12(1)) 'Flammable' aerosols Category 1 or 2, not containing flammable gases Category 1 or 2 nor flammable liquids category 1 (see note 12(2))	5,000 (net)
P4 OXIDISING GASES Oxidising gases, Category 1	50
P5a FLAMMABLE LIQUIDS — Flammable liquids, Category 1, or — Flammable liquids Category 2 or 3 maintained at a temperature above their boiling point, or — Other liquids with a flash point ≤ 60 °C, maintained at a temperature above their boiling point (see note 13)	10
P5b FLAMMABLE LIQUIDS — Flammable liquids Category 2 or 3 where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards, or — Other liquids with a flash point ≤ 60 °C where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards (see note 13)	50
P5c FLAMMABLE LIQUIDS Flammable liquids, Categories 2 or 3 not covered by P5a and P5b	5,000
P6a SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and mixtures, Type A or B or organic peroxides, Type A or B	10

<i>Column 1</i>	<i>Column 2</i>
<i>Hazard categories in accordance with the CLP Regulation</i>	<i>Controlled quantity in tonnes of hazardous substances</i>
P6b SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and mixtures, Type C, D, E or F or organic peroxides, Type C, D, E, or F	50
P7 PYROPHORIC LIQUIDS AND SOLIDS Pyrophoric liquids, Category 1 Pyrophoric solids, Category 1	50
P8 OXIDISING LIQUIDS AND SOLIDS Oxidising Liquids, Category 1, 2 or 3, or Oxidising Solids, Category 1, 2 or 3	50
Section 'E' – ENVIRONMENTAL HAZARDS	
E1 Hazardous to the Aquatic Environment in Category Acute 1 or Chronic 1	100
E2 Hazardous to the Aquatic Environment in Category Chronic 2	200
Section 'O' – OTHER HAZARDS	
O1 Substances or mixtures with hazard statement EUH014	100
O2 Substances and mixtures which in contact with water emit flammable gases, Category 1	100
O3 Substances or mixtures with hazard statement EUH029	50

PART 2

Named hazardous substances

<i>Column 1</i>	<i>CAS number⁽¹⁾</i>	<i>Column 2</i>
<i>Hazardous substances</i>		<i>Controlled quantity (tonnes)</i>
1. Ammonium nitrate (see note 14)		5,000
2. Ammonium nitrate (see note 15)		1,250
3. Ammonium nitrate (see note 16)		350
4. Ammonium nitrate (see note 17)		10
5. Potassium nitrate (see note 18)		5,000

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<i>Column 1</i>	<i>CAS number⁽¹⁾</i>	<i>Column 2</i>
<i>Hazardous substances</i>		<i>Controlled quantity (tonnes)</i>
6. Potassium nitrate (see note 19)		1,250
7. Arsenic pentoxide, arsenic (V) acid and/or salts	1303-28-2	1
8. Arsenic trioxide, arsenious (III) acid and/or salts	1327-53-3	0.1
9. Bromine	7726-95-6	20
10. Chlorine	7782-50-5	10
11. Nickel compounds in inhalable powder form: nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide		1
12. Ethyleneimine	151-56-4	10
13. Fluorine	7782-41-4	10
14. Formaldehyde (concentration \geq 90%)	50-00-0	5
15. Hydrogen	1333-74-0	2*
16. Hydrogen chloride (liquefied gas)	7647-01-0	25
17. Lead alkyls		5
18. Liquefied flammable gases, Category 1 or 2 (including LPG) and natural gas (see note 20)		Natural Gas (including liquefied natural gas): 15* Liquefied Petroleum Gas (LPG): 25* Any other liquefied flammable gases: 50
19. Acetylene	74-86-2	5
20. Ethylene oxide	75-21-8	5
21. Propylene oxide	75-56-9	5
22. Methanol	67-56-1	500
23. 4, 4'-Methylene bis (2-chloraniline) and/or salts, in powder form	101-14-4	0.01
24. Methylisocyanate	624-83-9	0.15
25. Oxygen	7782-44-7	200
26. 2,4 -Toluene diisocyanate	584-84-9	10
2,6 -Toluene diisocyanate	91-08-7	
27. Carbonyl dichloride (phosgene)	75-44-5	0.3

<i>Column 1</i>	<i>CAS number⁽¹⁾</i>	<i>Column 2</i>
<i>Hazardous substances</i>		<i>Controlled quantity (tonnes)</i>
28. Arsine (arsenic trihydride)	7784-42-1	0.2
29. Phosphine (phosphorus trihydride)	7803-51-2	0.2
30. Sulphur dichloride	10545-99-0	1
31. Sulphur trioxide	7446-11-9	15
32. Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent (see note 21)		0.001
33. The following CARCINOGENS or the mixtures containing the following carcinogens at concentrations above 5% by weight: 4-Aminobiphenyl and/or its salts, Benzotrichloride, Benzidine and/or salts, Bis (chloromethyl) ether, Chloromethyl methyl ether, 1,2-Dibromoethane, Diethyl sulphate, Dimethyl sulphate, Dimethylcarbamoyl chloride, 1,2-Dibromo-3-chloropropane, 1,2-Dimethylhydrazine, Dimethylnitrosamine, Hexamethylphosphoric triamide, Hydrazine, 2- Naphthylamine and/or salts, 4-Nitrodiphenyl, and 1,3 Propanesultone		0.5
34. Petroleum products and alternative fuels (a) gasolines and naphthas, (b) kerosenes (including jet fuels), (c) gas oils (including diesel fuels, home heating oils and gas oil blending streams) (d) heavy fuel oils (e) alternative fuels serving the same purposes and with similar properties as regards flammability and environmental hazards as the products referred to in points (a) to (d)		2,500
35. Anhydrous Ammonia	7664-41-7	50
36. Boron trifluoride	7637-07-2	5
37. Hydrogen sulphide	7783-06-4	5
38. Piperidine	110-89-4	50
39. Bis(2-dimethylaminoethyl) (methyl)amin	3030-47-5	50
40. 3-(2-Ethylhexyloxy)propylamin	5397-31-9	50

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<i>Column 1</i>	<i>CAS number⁽¹⁾</i>	<i>Column 2</i>
<i>Hazardous substances</i>		<i>Controlled quantity (tonnes)</i>
41. Mixtures (*) of sodium hypochlorite classified as Aquatic Acute Category 1 [H400] containing less than 5 % active chlorine and not classified under any of the other hazard categories in Part 1 of Schedule 1. (*) Provided that the mixture in the absence of sodium hypochlorite would not be classified as Aquatic Acute Category 1 [H400].		200
42. Propylamine (see note 22)	107-10-8	500
43. Tert-butyl acrylate (see note 22)	1663-39-4	200
44. 2-Methyl-3-butenitrile (see note 22)	16529-56-9	500
45. Tetrahydro-3,5-dimethyl-1,3,5-thiadiazine-2-thione (Dazomet) (see note 22)	533-74-4	100
46. Methyl acrylate (see note 22)	96-33-3	500
47. 3-Methylpyridine (see note 22)	108-99-6	500
48. 1-Bromo-3-chloropropane (see note 22)	109-70-6	500

⁽¹⁾ The CAS number is shown only for indication.

NOTES TO PARTS 1 AND 2

- Substances and mixtures are classified in accordance with the CLP Regulation.
- Mixtures are to be treated in the same way as pure substances provided they remain within concentration limits set according to their properties under the CLP Regulation, or its latest adaptation to technical progress, unless a percentage composition or other description is specifically given.
- Expressions appearing in this Schedule and the Directive have the same meaning for the purposes of this Schedule as they have for the purposes of the Directive.
- (1) The controlled quantities set out above relate to each establishment.
(2) The quantities to be considered for the application of these Regulations are the maximum quantities which are present or are likely to be present at any one time.
- The following rule governing the addition of hazardous substances, or categories of hazardous substances, applies where appropriate.

In the case of an establishment where no individual hazardous substance is present in a quantity above or equal to the relevant controlled quantity, the following rule must be applied to determine whether the establishment is covered by the relevant requirements of these Regulations.

Column 1	CAS number ⁽¹⁾	Column 2
<i>Hazardous substances</i>		<i>Controlled quantity (tonnes)</i>
<p>These Regulations apply to establishments if the sum $q1/QL1 + q2/QL2 + q3/QL3 + q4/QL4 + q5/QL5 + \dots$ is greater than or equal to 1,</p> <p>where q_x = the quantity of hazardous substance x (or category of hazardous substances x) falling within Part 1 or Part 2 of this Schedule; and</p> <p>QLX = the relevant controlled quantity for hazardous substance x (or category of hazardous substances x) from column 2 of Part 1 or from column 2 of Part 2 of this Schedule (except for those substances for which column 2 contains a quantity Q^*, in which case, for Hydrogen, Q is equal to 5, and for Natural Gas (including liquefied natural gas) and Liquefied Petroleum Gas, Q is equal to 50.</p> <p>This rule must be used to assess the health hazards, physical hazards and environmental hazards. It must therefore be applied 3 times—</p> <p>(a) for the addition of hazardous substances listed in Part 2 that fall within acute toxicity category 1, 2 or 3 (inhalation route) or STOT SE category 1, together with hazardous substances falling within section H, entries H1 to H3 of Part 1;</p> <p>(b) for the addition of hazardous substances listed in Part 2 that are explosives, flammable gases, flammable aerosols, oxidising gases, flammable liquids, self-reactive substances and mixtures, organic peroxides, pyrophoric liquids and solids, oxidising liquids and solids, together with hazardous substances falling within section P, entries P1 to P8 of Part 1;</p> <p>(c) for the addition of hazardous substances listed in Part 2 that fall within hazardous to the aquatic environment acute category 1, chronic category 1 or chronic category 2, together with hazardous substances falling within section E, entries E1 and E2 of Part 1.</p> <p>The relevant provisions of these Regulations apply where any of the sums obtained by (a), (b) or (c) is greater than or equal to 1.</p> <p>6. In the case of hazardous substances which are not covered by the CLP Regulation, including waste, but which nevertheless are present, or are likely to be present, in an establishment and which possess or are likely to possess, under the conditions found at the establishment, equivalent properties in terms of major accident potential, these must be provisionally assigned to the most analogous category or named hazardous substance falling within the scope of these Regulations.</p> <p>7. In the case of hazardous substances with properties giving rise to more than one classification, for the purposes of these Regulations the lowest controlled quantities apply. However, for the application of the rule in Note 5, the lowest controlled quantity for each group of categories in Note 5(a), (b) and (c) corresponding to the classification concerned must be used.</p> <p>8. Hazardous substances that fall within Acute Toxic Category 3 via the oral route (H 301) fall under entry H2 ACUTE TOXIC in those cases where neither acute inhalation toxicity classification nor acute dermal toxicity classification can be derived, for example due to lack of conclusive inhalation and dermal toxicity data.</p> <p>9. The hazard class Explosives includes explosive articles (see Section 2.1 of Annex I to the CLP Regulation). If the quantity of the explosive substance or mixture contained in the article is known, that quantity must be considered for the purposes of these Regulations. If the quantity of the explosive substance or mixture contained in the article is not known, then, for the purposes of these Regulations, the whole article must be treated as explosive.</p> <p>10. Testing for explosive properties of substances and mixtures is only necessary if the screening procedure according to Appendix 6, Part 3 of the UN Recommendations on the Transport of</p>		

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Column 1	CAS number ⁽¹⁾	Column 2
<i>Hazardous substances</i>		<i>Controlled quantity (tonnes)</i>
<p>Dangerous Goods, Manual of Tests and Criteria (UN Manual of Tests and Criteria)(1) identifies the substance or mixture as potentially having explosive properties.</p> <p>11. If Explosives of Division 1.4 are unpacked or repacked, they must be assigned to the entry P1a, unless the hazard is shown to still correspond to Division 1.4, in accordance with the CLP Regulation.</p> <p>12.—(1). Flammable aerosols are classified in accordance with Council Directive 75/324/EEC on the approximation of the laws of the Member States relating to aerosol dispensers(2) (Aerosol Dispensers Directive). “Extremely flammable” and “Flammable” aerosols of Directive 75/324/EEC correspond to Flammable Aerosols Category 1 or 2 respectively of the CLP Regulation.</p> <p>(2). In order to use this entry, it must be documented that the aerosol dispenser does not contain Flammable Gas Category 1 or 2 nor Flammable Liquid Category 1.</p> <p>13. According to paragraph 2.6.4.5 in Annex I to the CLP Regulation, liquids with a flash point of more than 35 °C need not be classified in Category 3 if negative results have been obtained in the sustained combustibility test L.2, Part III, section 32 of the UN Manual of Tests and Criteria. This is, however, not valid under elevated conditions such as high temperature or pressure, and therefore such liquids are included in this entry.</p> <p>14. Ammonium nitrate (5,000/10,000): fertilisers capable of self-sustaining decomposition</p> <p>This applies to ammonium nitrate-based compound/composite fertilisers (compound/composite fertilisers contain ammonium nitrate with phosphate and/or potash) which are capable of self-sustaining decomposition according to the UN Trough Test (see UN Manual of Tests and Criteria, Part III, subsection 38.2), and in which the nitrogen content as a result of ammonium nitrate is—</p> <ul style="list-style-type: none"> (a) between 15.75%(3) and 24.5%(4) by weight, and either with not more than 0.4% total combustible/organic materials or which fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003 of the European Parliament and of the Council relating to fertilisers(5); (b) 15.75% by weight or less and unrestricted combustible materials. <p>15. Ammonium nitrate (1,250/5,000): fertiliser grade</p> <p>This applies to straight ammonium nitrate-based fertilisers and to ammonium nitrate-based compound/composite fertilisers which fulfil the requirements of Annex III-2 to said Regulation (EC) No 2003/2003 and in which the nitrogen content as a result of ammonium nitrate is—</p> <ul style="list-style-type: none"> (a) more than 24.5% by weight, except for mixtures of straight ammonium nitrate based fertilisers with dolomite, limestone and/or calcium carbonate with a purity of at least 90%; (b) more than 15.75% by weight for mixtures of ammonium nitrate and ammonium sulphate; 		

(1) More guidance on waiving of the test can be found in the A.14 method description, see [Commission Regulation \(EC\) No 440/2008](#) of 30 May 2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration Evaluation, Authorisation and Restriction of Chemicals (REACH) (O.J. L 142, 31.5.2008, p.1)

(2) O.J. L 147, 9.6.1975, p.40.

(3) 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate.

(4) 24.5% nitrogen content by weight as a result of ammonium nitrate corresponds to 70% ammonium nitrate.

(5) O.J. L 304, 21.11.2003, p.1.

<i>Column 1</i>	<i>CAS number⁽¹⁾</i>	<i>Column 2</i>
<i>Hazardous substances</i>		<i>Controlled quantity (tonnes)</i>
<p>(c) more than 28%(6) by weight for mixtures of straight ammonium nitrate-based fertilisers with dolomite, limestone and/or calcium carbonate with a purity of at least 90%.</p> <p>16. Ammonium nitrate (350/2,500): technical grade</p> <p>This applies to ammonium nitrate and mixtures of ammonium nitrate in which the nitrogen content as a result of the ammonium nitrate is—</p> <p>(a) between 24.5% and 28% by weight, and which contain not more than 0.4% combustible substances;</p> <p>(b) more than 28% by weight, and which contain not more than 0.2% combustible substances.</p> <p>It also applies to aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 80% by weight.</p> <p>17. Ammonium nitrate (10/50): ‘off-specs’ material and fertilisers not fulfilling the detonation test.</p> <p>This applies to—</p> <p>(a) material rejected during the manufacturing process and to ammonium nitrate and mixtures of ammonium nitrate, straight ammonium nitrate-based fertilisers and ammonium nitrate-based compound/composite fertilisers referred to in Notes 15 and 16, that are being or have been returned from the final user to a manufacturer, temporary storage or reprocessing plant for reworking, recycling or treatment for safe use, because they no longer comply with the specifications of Notes 15 and 16;</p> <p>(b) fertilisers referred to in Notes 14(a) and 15 to this Schedule which do not fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003.</p> <p>18. Potassium nitrate (5,000/10,000)</p> <p>This applies to those composite potassium-nitrate based fertilisers (in prilled/granular form) which have the same hazardous properties as pure potassium nitrate.</p> <p>19. Potassium nitrate (1,250/5,000)</p> <p>This applies to those composite potassium-nitrate based fertilisers (in crystalline form) which have the same hazardous properties as pure potassium nitrate.</p> <p>20. Upgraded biogas</p> <p>For the purpose of the implementation of these Regulations, upgraded biogas may be classified under entry 18 of Part 2 of Schedule 1 where it has been processed in accordance with applicable standards for purified and upgraded biogas ensuring a quality equivalent to that of natural gas, including the content of Methane, and which has a maximum of 1% Oxygen.</p> <p>21. Polychlorodibenzofurans and polychlorodibenzodioxins</p> <p>The quantities of polychlorodibenzofurans and polychlorodibenzodioxins are calculated using the factors in Table 1—</p> <p>Table 1</p> <p>WHO 2005 TEF(*)</p>		

(6) 28% nitrogen content by weight as a result of ammonium nitrate corresponds to 80% ammonium nitrate.

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<i>Column 1</i>		<i>CAS number⁽¹⁾</i>	<i>Column 2</i>	
<i>Hazardous substances</i>			<i>Controlled quantity (tonnes)</i>	
2,3,7,8-TCDD	1	2,3,7,8-TCDF	0.1	
1,2,3,7,8-PeCDD	1	2,3,4,7,8-PeCDF	0.3	
		1,2,3,7,8-PeCDF	0.03	
1,2,3,4,7,8-HxCDD	0.1			
1,2,3,6,7,8-HxCDD	0.1	1,2,3,4,7,8-HxCDF	0.1	
1,2,3,7,8,9-HxCDD	0.1	1,2,3,7,8,9-HxCDF	0.1	
		1,2,3,6,7,8-HxCDF	0.1	
1,2,3,4,6,7,8-HpCDD	0.01	2,3,4,6,7,8-HxCDF	0.1	
OCDD	0.0003	1,2,3,4,6,7,8-HpCDF	0.01	
		1,2,3,4,7,8,9-HpCDF	0.01	
		OCDF	0.0003	
(T = tetra, P = penta, Hx = hexa, Hp = hepta, O = octa)				
*Van den Berg et al: The 2005 World Health Organisation Re-evaluation of Human and Mammalian Toxic Equivalency Factors for Dioxins and Dioxin-like Compounds.				
22. In cases where this hazardous substance falls within category P5a Flammable liquids or P5b Flammable liquids, then for the purposes of these Regulations the lower controlled quantity applies.				

PART 3

Substances used in processes

<i>Column 1 Hazardous Substances</i>	<i>Column 2 Controlled quantity</i>
Where it is reasonable to foresee that a substance falling within Part 1 or Part 2 (“HS”) may be generated during loss of control of the processes, including storage activities in any installation within an establishment, any substance which is used in that process (“S”).	The amount of S which it is believed may generate (on its own or in combination with other substances used in the relevant process) an amount equal to or exceeding the controlled quantity of the HS in question.

NOTES TO PART 3

- Expressions used in this Part and in the Directive have the same meaning as in the Directive.
- The controlled quantity referred to in column 2 relates to each establishment.
- Where S also falls within Part 1 or 2, the classification with the lowest controlled quantity applies. Where S also falls within Part 1 and Part 2, the controlled quantity which is lowest when the controlled quantities under Part 2 and Part 3 are compared applies.

SCHEDULE 2

Regulation 4

Exemptions

Military establishments

1. Hazardous substances consent is not required for the presence of a hazardous substance on, over or under land at military establishments, installations or storage facilities.

Nuclear sites

2. Hazardous substances consent is not required for the presence of a hazardous substance which creates a hazard from ionising radiation if present on, over or under land in respect of which a nuclear site licence has been granted or is required for the purposes of section 1 of the Nuclear Installations Act 1965(7).

Intermediate presence related to the transport of hazardous substances

3. Hazardous substances consent is not required for the intermediate temporary presence of a hazardous substance on, over or under land where that presence is directly related to the transport of hazardous substances by road, rail, internal waterways, sea or air, outside establishments covered by these Regulations, including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards.

Pipelines

4. Hazardous substances consent is not required for the presence of a hazardous substance where it is being transported in a pipeline, including a pumping station, outside establishments.

Minerals

5. Hazardous substances consent is not required for the presence of a hazardous substance in the exploitation, namely the exploration, extraction and processing, of minerals in mines and quarries, including by means of boreholes.

6. Paragraph 5 does not apply to a hazardous substance present in connection with the matters referred to in paragraph 8(b) to (d).

Land-fill sites

7. Hazardous substances consent is not required for the presence of a hazardous substance at a waste land-fill site, including underground waste storage.

8. Paragraph 7 does not apply to a hazardous substance present in—

- (a) a site used for the storage of metallic mercury pursuant to Article 3(1)(b) of Regulation (EC) No 1102/2008 of the European Parliament and of the Council on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury(8);
- (b) onshore underground gas storage in natural strata, aquifers, salt cavities and disused mines;
- (c) chemical and thermal processing operations and storage related to the those operations; or
- (d) operational tailings disposal facilities, including tailing ponds or dams.

(7) 1965 c.57. Section 1 was substituted by paragraph 17 of Schedule 12 to the Energy Act 2013 (c.32).

(8) OJ No L 304, 14.11.2008, p.75.

Emergency unloading from ships

9. Hazardous substances consent is not required for the presence of a hazardous substance which has been unloaded from a ship or other sea going craft in an emergency until the expiry of the period of 14 days beginning with the day it was unloaded, and a substance is to be treated as having been unloaded from a craft in an emergency if—

- (a) it was unloaded from a craft to which a direction under section 3(1) of the Dangerous Vessels Act 1985⁽⁹⁾ (directions by Scottish Ministers to harbour master) applied; or
- (b) it was unloaded from a craft after having been brought into a harbour or harbour area, within the meaning of regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations 1987⁽¹⁰⁾ without requiring notification under regulation 6(1) of those regulations by virtue of an exemption under regulation 6(5).

Explosives

10. Hazardous substances consent is not required for the presence of an explosive within the meaning of regulation 2(1) of the Explosives Regulations 2014⁽¹¹⁾ in relation to which—

- (a) a licence is required and has been granted under those Regulations by the Health and Safety Executive where it is the licensing authority by virtue of—
 - (i) paragraph 1(b) of Schedule 1 to those Regulations in cases where the assent of the local authority was required pursuant to regulation 13(3) of those Regulations or would have been required but for regulation 13(4)(b), (c), (d), (e), (f) or (g) of those Regulations; or
 - (ii) paragraph 1(d) of Schedule 1 to those Regulations; or
- (b) a licence is required and has been granted under those Regulations by the Office for Nuclear Regulation in cases where the assent of the local authority was required pursuant to regulation 13(3) of those Regulations or would have been required but for regulation 13(4)(b), (c), (d), (e), (f) or (g) of those Regulations.

11. Hazardous substance consent is not required where an explosives licence within the meaning of regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations 1987⁽¹²⁾ has been issued.

Presence of established substances

12. Hazardous substances consent is not required for the presence of a hazardous substance on, over or under land (“the relevant substance”) if—

- (a) the relevant substance was present on, over or under the land at any time during the establishment period;
- (b) hazardous substances consent was not required for the presence of the relevant substance at the time it was present during the establishment period; and
- (c) hazardous substances consent would have been required for the presence of the relevant substance had these Regulations been in force at that time.

13. Paragraph 12 does not apply where the quantity of the relevant substance exceeds the maximum quantity of the relevant substance which was present on, over or under the land at any time during the establishment period.

⁽⁹⁾ 1985 c.22.

⁽¹⁰⁾ S.I. 1987/37, to which there are amendments not relevant to this instrument.

⁽¹¹⁾ S.I. 2014/1638.

⁽¹²⁾ The definition of “explosives licence” was amended by S.I. 2014/469.

Presence of exempted substances

14. The presence of a substance for which an exemption is provided under paragraphs 1 to 13 is not to be taken into account when calculating the quantity of a hazardous substance present on, over or under land for any purpose of the principal Act or these Regulations.

Presence of small quantities of substances

15. The presence of a quantity of a hazardous substance is not to be taken into account when calculating the quantity of a hazardous substance present on, over or under land for any purpose of the principal Act or these Regulations if it is present—

- (a) in a location where it cannot act as an initiator of a major accident elsewhere on the relevant site; and
- (b) in a quantity which is equal to or less than 2% of the relevant controlled quantity for that substance.

Minor changes to types and quantities of substances

16. Where the conditions in paragraph 17 are met, hazardous substances consent is not required for a relevant minor change.

17. The conditions are that—

- (a) before the relevant minor change occurs the planning authority receives from, in relation to a nuclear site, the Office for Nuclear Regulation and the Scottish Environment Protection Agency and, in any other case, the Health and Safety Executive and the Scottish Environment Protection Agency, notice in writing (a copy of which has been sent to the person in control of the land to which the hazardous substances consent in question relates) with—
 - (i) details of the relevant minor change, including details of how hazardous substances are to be kept and used in consequence of that change;
 - (ii) confirmation that the relevant minor change will not result in a safety hazard change; and
 - (iii) confirmation that the relevant minor change will not result in a lower-tier establishment becoming an upper-tier establishment or vice versa; and
- (b) any hazardous substance that is held without hazardous substances consent in reliance on this exemption is kept and used in accordance with the details referred to in subparagraph (a)(i).

Interpretation

18. In this Schedule—

“establishment period” means the period of 12 months ending on 31st May 2015;

“relevant minor change” means a change to the quantity or type of hazardous substances present in, on or under land in relation to which there is a hazardous substances consent, where hazardous substances consent would be required for that change but for paragraph 16;

“safety hazard change” means a change to an area notified to a planning authority by the Health and Safety Executive or the Office for Nuclear Regulation for the purposes of paragraphs 3 or 3A of Schedule 5 to the 2013 Regulations where that change results in—

- (a) that area encompassing an area which it did not previously encompass; or

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- (b) where the notification of that area included the identification of zones within that area corresponding to levels of risk, the expansion of any such zone.

19. Expressions appearing in this Schedule and in the Directive have the same meaning for the purposes of this Schedule as they have for the purposes of the Directive.

SCHEDULE 3

Regulation 5(1)

Notice to owner by applicant

**The Town and Country Planning (Hazardous Substances)
(Scotland) Regulations 2015**

Notice under regulation 5 to owner of land to which an application under
regulation 6, 7 or 8 relates

An application for hazardous substances consent/hazardous substances consent without
a condition which was attached to a previous consent/continuation of hazardous
substances consent where there has been a change in the person in control of part of
the land*

has been made by [note 1]

for [note 2]

at [note 3]

[note 4]

is being made to [note 5]

If you wish to obtain further information on the application or to make representations
(including comments or questions) you should contact the planning authority at [note
6]

The application may be granted (either unconditionally or subject to conditions) or
refused.

Signed

On behalf of* [note 7]

Date

Note 1: insert the name of the applicant and, where an agent is acting on behalf of the
applicant, the name of that agent.

Note 2: insert a description of the proposal to which the application relates.

Note 3: insert the postal address of the land to which the application relates, or if the
land in question has no postal address, a description of the location of the land.

Note 4: If the proposal is a project, or part of a project, that is subject to a national or
transboundary environmental impact assessment or to consultations between Member
States in accordance with Article 14(3) of Directive 2012/18/EU of the European
Parliament and of the Council on the control of major-accident hazards involving
dangerous substances, amending and subsequently repealing Council Directive
96/82/EC (OJ L 197, 24.7.2012, p.1), state that fact.

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SCHEDULE 4

Regulation 10

Notice for publication in newspaper

Town and Country Planning (Hazardous Substances) (Scotland)
Regulations 2015

Notice of application under regulation 6, 7 or 8

An application for hazardous substances consent/hazardous substances consent without a condition which was attached to a relevant consent/continuation of hazardous substances consent where there has been a change in the person in control of part of the land*, together with plans and other documents

has been submitted by [note 1]

for [note 2]

at [note 3]

[note 4]

may be inspected at [note 5]

between the hours of [note 6] on [note 7]

Written representations (including comments or questions) may be submitted to [note 8] by [note 9]

The application may be granted (either unconditionally or subject to conditions) or refused.

Note 1: insert the name of the applicant and, where an agent is acting on behalf of the applicant, the name of that agent.

Note 2: insert a description of the proposal to which the application relates.

Note 3: insert the postal address or, if there is no postal address, a description of the location of the land to which the application relates.

»

SCHEDULE 5

Regulation 18(5)(a)

Notice to be attached to decision notice given under regulation 18

“
**Town and Country Planning (Hazardous Substances) (Scotland)
Regulations 2015**

Notification to be sent to applicant on an application under regulation 6, 7
or 8 of the Regulations being refused or granted subject to conditions

If the applicant is aggrieved by the decision of the planning authority—

- (a) to refuse hazardous substances consent for any substance for which consent is sought;
- (b) to refuse to continue hazardous substances consent for any substance for which a continuation is sought;
- (c) to grant hazardous substances consent subject to a condition or conditions,

the applicant may appeal to the Scottish Ministers under section 19 of the Planning (Hazardous Substances) (Scotland) Act 1997 within 3 months beginning with the date of this notice (and may, if they wish, have an opportunity of appearing before and being heard by a person appointed for that purpose).

The notice of appeal should be addressed to [note 1].

Note 1: Insert the address to which the notice of appeal should be sent.

”

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SCHEDULE 6

Regulation 19(3)(a)

Notice to be attached to notice of decision on an application for approval, consent or agreement required by a condition imposed on a grant of hazardous substances consent

Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015

Notification to be sent to applicant on refusal of an application for approval, consent or agreement required by a condition imposed on a grant of hazardous substances consent

If the applicant is aggrieved by the decision of the planning authority—

- (a) to refuse an application for approval, consent or agreement required by a condition imposed on a grant of hazardous substances consent; or
- (b) to grant approval, consent or agreement subject to conditions,

the applicant may appeal to the Scottish Ministers under section 19 of the Planning (Hazardous Substances) (Scotland) Act 1997 within 3 months beginning with the date of this notice (and may, if they wish, have an opportunity of appearing before and being heard by a person appointed for that purpose).

The notice of appeal should be addressed to [note 1].

Note 1: Insert the address to which the notice of appeal should be sent.

SCHEDULE 7

Regulation 2(1)

Hearing Session Rules

Notice of hearing session and specified matters

1.—(1) Where the appointed person has determined that a hearing session should be held the appointed person is to give written notice to that effect to—

- (a) the appellant;
- (b) the planning authority;
- (c) any interested party who made representations in relation to specified matters; and
- (d) any person who the appointed person wishes to make further representations or to provide further information on specified matters at the hearing session.

(2) The notice given under paragraph (1) is to specify the matters to be considered at the hearing session.

(3) Only specified matters are to be considered at the hearing session.

(4) A person given notice under paragraph (1) and who intends to appear at the hearing session must within 14 days of the date of such notice inform the appointed person in writing of that intention.

Appearances at hearing session

2. The persons entitled to appear at a hearing session are—

- (a) the appellant;
- (b) the planning authority; and

any other person who, in response to a procedure notice, has informed the appointed person of their intention to appear at the hearing session in accordance with rule 1(4).

Date and notification of hearing session

3.—(1) The date, time and place at which the hearing session is to be held is to be determined (and may subsequently be varied) by the appointed person.

(2) The appointed person is to give to those persons entitled to appear at the hearing session such notice of the date, time and place fixed for the holding of a hearing session (and any subsequent variation thereof) as may appear to the appointed person to be reasonable in the circumstances.

Service of hearing statements and documents

4.—(1) Where required to do so by notice given by the appointed person, a person entitled to appear at the hearing session must, by such date as is specified in the notice, send to—

- (a) the appointed person—
 - (i) a hearing statement; and
 - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list of such documents comprised in that hearing statement; and
- (b) the appellant and the planning authority and to such other persons entitled to appear at the hearing session as the appointed person may specify in such notice—
 - (i) a hearing statement; and
 - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list comprised in that hearing statement which is not already available for inspection under regulation 27 (publication of appeal documents), 35(2) (further copies of documents etc.) or 44(4) (intimation of appeal to planning authority and planning authority's response) or paragraph (2) of this rule.

(2) The planning authority are, until such time as the appeal is determined, to afford to any person who so requests a reasonable opportunity to inspect any hearing statement or other document (or any part thereof) which, or a copy of which, has been sent to them in accordance with this rule.

(3) Any person who has served a hearing statement in accordance with this rule must—

- (a) when required by notice in writing from the appointed person provide such further information about the matters contained in the statement as the appointed person may specify; and
- (b) at the same time send a copy of such further information to any other person on whom the hearing statement has been served.

(4) Different dates and different persons may be specified for the purposes of paragraph (1).

(5) In this rule, "hearing statement" means, and is comprised of—

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- (a) a written statement which fully sets out the case relating to the specified matters which a person proposes to put forward to a hearing session;
- (b) a list of documents (if any) which the person putting forward such case intends to refer to or rely on; and
- (c) a list of any other persons who are to speak at the hearing session in respect of such case, any matters which such persons are particularly to address and any relevant qualifications of such persons to do so.

Procedure at hearing

5.—(1) Except as otherwise provided in these Hearing Session Rules, the procedure at a hearing session is to be as the appointed person determines.

(2) The appointed person is, having considered any submission by the persons entitled to appear at the hearing session, to state at the commencement of the hearing session the procedure the appointed person proposes to adopt.

(3) Any person entitled to appear may do so on that person's own behalf or be represented by another person.

(4) Where there are 2 or more persons having a similar interest in the issues being considered at the hearing session, the appointed person may allow one or more persons to appear on behalf of some or all of any persons so interested.

(5) A hearing is to take the form of a discussion led by the appointed person and cross-examination is not permitted.

(6) The appointed person may proceed with a hearing session in the absence of any person entitled to appear at the hearing session.

(7) The appointed person may from time to time adjourn the hearing session and, if the date, time and place of the adjourned hearing session are announced before the adjournment, no further notice is required otherwise rule 3 applies as it applies to the variation of the date, time or place at which a hearing session is to be held.

SCHEDULE 8

Regulation 67

Consequential amendments

Amendment of the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007

1.—(1) The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007(13) is amended in accordance with this paragraph.

(2) In rule 8(7) (documents accompanying application), for sub-paragraphs (a) and (b) substitute—

“(a) an application for hazardous substances consent under regulation 6(1), 7(1) or 8(1), as the case may, of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015; and

(b) the information and documentation specified in regulations 6(3)(a) and (b), 7(3)(a) and (b) (if required) or 8(3)(a) and (b), as the case may be, of those Regulations.”.

(13) S.S.I. 2007/570.

- (3) In Schedule 3 (those to be served with a copy of the application and documents)—
(a) in entry 22, for the text in in column 2 substitute—

“**22.** the relevant planning authority;
the Scottish Environment Protection Agency;
where the operation is to take place on a nuclear site (within the meaning of section 112(1) of the Energy Act 2013(**14**)) (“a nuclear site”), the Office for Nuclear Regulation and, in any other case, the Health and Safety Executive;
where the operation is to take place on land in the area of the Cairngorms National Park Authority, that Authority;
the Scottish Fire and Rescue Service.”;

- (b) after entry 22 insert—

22A. A relevant project as defined in regulation 23(5) of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015.	22A. the Scottish Environment Protection Agency; where the relevant project is to take place on a nuclear site, the Office for Nuclear Regulation and, in any other case, the Health and Safety Executive; Scottish Natural Heritage.
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- (4) In Schedule 5 (proposals for orders by virtue of section 6), in paragraph 16(l), for “Form 1” to the end substitute—

“an application referred to in regulation 6, 7 or 8 of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015, as the case may require, duly completed by or on behalf of the Scottish Ministers, together with a copy of the documents referred to in regulation 6(3)(a) and (b), 7(3)(a) and (b) (if required) or 8(3)(a) and (b) of those Regulations, as the case may require.”.

Amendment of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008

2.—(1) The Town and Country Planning (Development Planning) (Scotland) Regulations 2008(**15**) are amended in accordance with this paragraph.

(2) In regulation 1(2) (citation, commencement and interpretation), for the definition of “Directive” substitute—

““the Directive” means Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC(**16**);”.

(3) In regulation 3(2) (strategic development plans: information and considerations), for sub-paragraphs (a) to (c)(**17**) substitute—

“(a) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment; and

(14) 2013 c.32.

(15) S.S.I. 2008/426.

(16) OJ L 197, 24.7.2012, p.1.

(17) Sub-paragraph (b) was substituted by S.S.I. 2009/378.

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- (b) the need in the long term—
 - (i) to maintain appropriate safety distances between establishments covered by the Directive and residential areas, buildings and areas of public use, recreational areas and, as far as possible, major transport routes;
 - (ii) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through appropriate safety distances or other relevant measures; and
 - (iii) in the case of existing establishments, to take additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to human health and the environment.”.
- (4) In regulation 10(2) (local development plans: information and considerations), for sub-paragraphs (a) to (c)(18) substitute—
 - “(a) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment; and
 - (b) the need in the long term—
 - (i) to maintain appropriate safety distances between establishments covered by the Directive and residential areas, buildings and areas of public use, recreational areas and, as far as possible, major transport routes;
 - (ii) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through appropriate safety distances or other relevant measures; and
 - (iii) in the case of existing establishments, to take additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to human health and the environment.”.
- (5) In regulation 27 (supplementary guidance), at the beginning insert—
 - “(A1) In preparing any supplementary guidance for the purpose of section 22(1) of the Act—
 - (a) a strategic development planning authority must have regard to the matters referred to in regulation 3(2); and
 - (b) a planning authority must to have regard to the matters referred to in regulation 10(2).”.

Amendment of the 2013 Regulations

- 3.—(1) The 2013 Regulations(19) are amended in accordance with this paragraph.
- (2) In regulation 20—
 - (a) in paragraph (1), for “(5)” substitute “(6) and regulation 20A”;
 - (b) after paragraph (2)(d) insert—
 - “(e) the application is made under regulation 9, 10 or 11 and relates to development falling within paragraphs 3, 3A or 4 of Schedule 5.”;
 - (c) after paragraph (5) insert—
 - “(6) Where any of paragraph (2)(a) to (d) apply the planning authority need not publish a notice if they must publish a notice by virtue of paragraph (2)(e).
 - (7) Where paragraph (2)(e) applies paragraph (4) does not apply.”.

(18) Sub-paragraph (b) was substituted by [S.S.I. 2009/378](#).

(19) [S.S.I. 2013/155](#).

(3) After regulation 20 insert—

“20A.—(1) A notice published by virtue of regulation 20(1) and (2)(e) must be published with the following modifications—

(a) for “Written comments may be made to” substitute “Written comments or questions may be submitted to”;

(b) after “[Note 7]” insert—

“[Note 8]

An application may be granted (either unconditionally or subject to conditions) or refused.”;

(c) after Note 7 insert—

“Note 8 – If the proposal is a project, or part of a project, that is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 14(3) of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council [Directive 96/82/EC](#) (OJ L 197, 24.7.2012, p.1), state that fact.””

(4) For paragraph 4 of Schedule 5 (consultation by the planning authority) substitute—

“4. Scottish Natural Heritage, the Health and Safety Executive and SEPA where the development—

(a) involves the siting of new establishments;

(b) consists of modifications to establishments covered by Article 11 of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council [Directive 96/82/EC](#) (OJ L 197, 24.7.2012, p.1); or

(c) includes transport routes, locations of public use and residential areas in the vicinity of an establishment, where the siting or development may be the source of or increase the risk or consequences of a major accident,

and, in relation to development falling within paragraph (c), any person who is, according to the register held by the planning authority under regulation 41 of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015, the person who is in control of the land on which the establishment is located.”.

SCHEDULE 9

Regulation 68

Revocations

<i>Instrument</i>	<i>Citation</i>	<i>Extent of revocation</i>
The Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014	S.I. 2014/469	Schedule 3, paragraphs 183 to 186

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<i>Instrument</i>	<i>Citation</i>	<i>Extent of revocation</i>
The Town and Country Planning (Hazardous Substances) (Scotland) Amendment Regulations 2014	S.S.I. 2014/51	The whole instrument
The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013	S.S.I. 2013/119	Schedule 2, paragraph 11
The Town and Country Planning (Hazardous Substances) (Scotland) Amendment Regulations 2010	S.S.I. 2010/171	The whole instrument
The Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2009	S.S.I. 2009/378	Regulations 1(2) and 3 to 5
The Town and Country Planning (Application of Subordinate Legislation to the Crown) (Scotland) Order 2006	S.S.I. 2006/270	Article 14
The Fire (Scotland) Act 2005 (Consequential Modifications and Amendments) (No. 2) Order 2005	S.S.I. 2005/344	Schedule 1, paragraph 14
The Cairngorm National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003	S.S.I. 2003/1	Article 7(13) and (14)
Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000	S.S.I. 2000/179	Regulation 4, Schedule 1 and forms 1, 2 and 12 in Schedule 2
The Gas Act 1995 (Consequential Modifications of Subordinate Legislation) Order 1996	S.I. 196/252	The entry for the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993
The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993	S.I. 1993/323	The whole instrument