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STATUTORY INSTRUMENTS

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**1999 No. 915**

**The Water Protection Zone (River Dee Catchment) Designation Order 1999**

**Interpretation**

2.—(1) In this Order,

“the Act” means the Water Resources Act 1991;

“the 1994 Regulations” means the Chemicals (Hazard Information and Packaging For Supply) Regulations 1994(1);

“the 1999 Regulations” means the Water Protection Zone (River Dee Catchment) (Procedural and Other Provisions) Regulations 1999(2);

“the Agency” means the Environment Agency;

“agricultural unit” has the same meaning as in the Agriculture Act 1947(3);

“catchment control site” means a site used for or in connection with—

- (a) an industrial process;
- (b) the research and development of products or processes;
- (c) storage or as a distribution centre; or
- (d) the storage or treatment of water, surface water, trade effluent or domestic sewage;

within which there is kept or used, or proposed to be kept or used, a controlled substance but excluding a construction area, retail premises, a site within an agricultural unit and a site used for carrying on a prescribed process within the meaning of Part I of the Environmental Protection Act 1990(4) being a process designated for central control under that Part;

“construction area” means an area of land on, over or under which a building or other civil engineering operation is in the course of being constructed or carried out but does not include any other land in the vicinity thereof except that which is being used to facilitate the operation;

“contravention of protection zone control” has the meaning given in article 4(2);

“controlled activity” means the keeping or use of a controlled substance within a catchment control site;

“controlled substance” means any substance which is—

- (a) a dangerous substance;
- (b) a fuel, lubricant or industrial spirit or solvent, which is a liquid under normal conditions or which is kept as a liquid within a site;
- (c) a medicinal product within the meaning of the Medicines Act 1968(5);

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(1) 1994/3247 amended by S.I. 1996/1092.

(2) S.I. 1999/916.

(3) 1947 c. 48.

(4) 1990 c. 43, as amended by the Environment Act 1995 c. 25; and *see* section 1(5) of the Environmental Protection Act for the definition of “prescribed process”.

(5) 1968 c. 67.

- (d) food which is a liquid under normal conditions;
- (e) feeding stuff which is liquid under normal conditions;
- (f) an inorganic fertiliser;
- (g) a cosmetic product within the meaning of the Cosmetic Products (Safety) Regulations 1996(6); or
- (h) a substance identified by its manufacturer as being toxic, harmful, corrosive or irritant; of which there is kept or used, or proposed to be kept or used, the relevant quantity: but does not include—
  - (i) controlled waste within the meaning of Part II of the Environmental Protection Act 1990(7) insofar as such waste is being treated, kept or disposed of in accordance with a waste management licence in force under the provisions of Part II of that Act;
  - (ii) radioactive waste, as defined in section 2 of the Radioactive Substances Act 1993(8);
  - (iii) any fuel used exclusively for the production of heat or power;
  - (iv) any substance contained in a pipe-line except in relation to a catchment control site where the pipeline has an inlet or outlet at the site;
  - (v) any substance present at a site for a period of 24 hours or less whilst it is being conveyed from one place to another; or
  - (vi) any substance which is a gas or vapour under normal conditions;

“dangerous substance” means a substance dangerous for supply within the meaning of the 1994 Regulations and to which those Regulations apply, other than any such substance which is, in accordance with those Regulations, classified only as being a substance which is explosive, flammable, highly flammable or extremely flammable; and includes any substance listed among the families and groups of substances in List I or List II to the annex to the Council Directive 76/464/EEC(9) on Pollution caused by certain Dangerous Substances discharged into the Aquatic Environment of the Community;

“establishment period” means the period of 12 months ending on the date on which this Order comes into force;

“feeding stuff” means feeding stuff within the meaning of the Agriculture Act 1970(10) and any substance used as an ingredient in its manufacture;

“food” has the same meaning as in the Food Safety Act 1990(11);

“industrial process” means a process for or incidental to any of the following purposes—

- (a) the making of any article or substance or part of any article or substance (including food);
- (b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article or substance; or
- (c) the getting, dressing or treatment of minerals;

“inorganic fertiliser” means a fertiliser used for the cultivation of crops or plants of any description, including trees, which is in the form of inorganic salts obtained by extraction, physical industrial processes, chemical industrial processes, or a combination of any or all of these, and includes calcium cyanamide, and urea and its condensation products;

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(6) S.I. 1996/2925.

(7) See section 75(4) of the Environmental Protection Act 1990 for the definition of controlled waste.

(8) 1993 c. 12.

(9) OJNo. L129, 18.5.76, p.23.

(10) 1970 c. 40.

(11) 1990 c. 16.

“minerals” has the same meaning as in the Town and Country Planning Act 1990(12);  
“the protection zone” means the water protection zone designated by article 3 of this Order;  
“protection zone consent” means consent to the carrying on of a controlled activity granted on application under the 1999 Regulations or duly claimed under article 6 of this Order;

“the relevant quantity” means—

- (a) in relation to food or feeding stuff which is not a dangerous substance, an amount comprising or in excess of 500 litres; and
- (b) in every other case, an amount equal to or in excess of—
  - (i) 50 litres when present in a single vessel; but otherwise
  - (ii) 200 litres;

“retail premises” means any premises used wholly or mainly for the sale of goods to the public;

“site” means an area of land or a structure (whether floating or not) under the control of a person;

“substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour and includes any substance which is a mixture of two or more substances;

“vessel” means any container in which a controlled substance may be kept or used whether or not the container is designed or adapted for the purpose or is affixed to the land, and includes a container which forms part of plant or machinery.

(2) In determining whether the relevant quantity of a controlled substance is kept or used or proposed to be kept or used within a site, no account shall be taken of any quantity of such a substance which is or is to be kept or used within the site in any vehicle, water-borne craft, aircraft or hovercraft for the purposes of the use of that vehicle or craft as a means of transport.

(3) Any reference in this Order to the person in control of a site is a reference to the person having control of the site in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

(4) Any reference in this article to a liquid, gas or vapour under normal conditions is a reference to that liquid, gas or vapour in an unpressurised state at 15 degrees centigrade.

(5) Where in this Order reference is made to a quantity of a substance expressed in litres, that reference shall mean—

- (a) in the case of a liquid, the volume in litres of that liquid; and
- (b) in the case of a solid, the same number of kilograms of that solid;

and for the purposes of aggregation, one litre of a liquid shall be deemed to be equivalent to one kilogram of a solid.