
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 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 10, 14.1.1997, p. 13) (the “Seveso III Directive”), except for Articles 13 and 15, which relate to land use planning, and Article 30, which was implemented by the Heavy Fuel Oil (Amendment) Regulations 2014 (S.I. 2014/162).

The Regulations apply to establishments, as defined in regulation 2(1), where dangerous substances are present or are likely to be present in quantities equal to or exceeding the quantities specified in column 2 of Part 1 or in column 2 of Part 2 of Schedule 1. Establishments may be either a “lower tier establishment” or an “upper tier establishment”, as defined in regulation 2(1). The Regulations do not apply in the circumstances specified in regulation 3(2).

Except for a nuclear establishment, which is defined in regulation 2(1), the competent authority for the purposes of the Regulations is—

- (a) in England, the Health and Safety Executive (“the Executive”) and the Environment Agency acting jointly;
- (b) in Wales, the Executive and the Natural Resources Body for Wales acting jointly; and
- (c) in Scotland, the Executive and the Scottish Environment Protection Agency acting jointly (regulation 4(b)).

In relation to a nuclear establishment, the competent authority is—

- (a) in England, the Office for Nuclear Regulation (“the ONR”) and the Environment Agency acting jointly;
- (b) in Wales, the ONR and the Natural Resources Body for Wales acting jointly; and
- (c) in Scotland, the ONR and the Scottish Environment Protection Agency acting jointly (regulation 4(a)).

The Regulations—

- (a) impose a duty on an operator (as defined in regulation 2(1)) to take all measures necessary to prevent major accidents and to limit their consequences for human health and the environment (regulation 5(1));
- (b) impose a duty on an operator to demonstrate to the competent authority that it has taken all measures necessary as specified in the Regulations (regulation 5(2));
- (c) impose a duty on an operator to provide the competent authority with all assistance necessary to enable the competent authority to perform its functions under the Regulations (regulation 5(3));
- (d) impose a duty on an operator to provide assistance as necessary to the competent authority to enable the carrying out of inspections and investigations and to gather any necessary information to enable the competent authority to perform its functions under the Regulations (regulation 5(4));
- (e) impose a duty on an operator to send the competent authority a notification containing specified information—
 - (i) within a reasonable period of time prior to the start of construction of a new establishment (regulation 6(1))(the expression “new establishment” is defined in regulation 2(1));

- (ii) within a reasonable period of time prior to the start of operation of a new establishment (regulation 6(2)), except that this does not need to contain information already contained in a notification sent under regulation 6(1) if that information is still valid;
- (iii) by 1st June 2016 in the case of an existing establishment (regulation 6(4))(the expression “existing establishment” is defined in regulation 2(2));
- (iv) in the case of an other establishment, within one year from the date when the establishment first becomes an other establishment (regulation 6(5))(the expression “other establishment” is defined in regulation 2(1)); and
- (v) in advance, in the case of specified events (regulation 6(6));
- (f) impose a duty on an operator to prepare and retain in writing a major accident prevention policy containing specified information and to revise it in specified circumstances (regulation 7 and Schedule 2);
- (g) require the operator of an upper tier establishment to send at specified times a safety report to the competent authority (for the purposes specified in regulation 8) containing specified information, and not to start construction or operation of the establishment or to permit modifications to the establishment leading to a change in the inventory of dangerous substances, until it has received the competent authority's conclusions of its examination of the safety report (regulation 9 and Schedule 3);
- (h) require the operator of an upper tier establishment to review and revise the safety report in specified circumstances (regulation 10);
- (i) require the operator of an upper tier establishment to prepare an internal emergency plan with specified objectives (specified in regulation 11), containing specified information and to review and test the plan (regulation 12 and Schedule 4);
- (j) require a local authority (as defined in regulation 2(1)) in whose area there is an upper tier establishment to prepare an external emergency plan with specified objectives (set out in regulation 11) and containing specified information (regulation 13 and Schedule 4), subject to any exemption that may be granted by the competent authority under regulation 15;
- (k) require a local authority to review and to test the external emergency plan (regulation 14);
- (l) require an operator or local authority who has prepared an emergency plan under a duty imposed by the Regulations to put it into effect in specified circumstances (regulation 16);
- (m) require the competent authority to ensure that specified information is made available to the public, including by electronic means, in specified circumstances (regulation 17);
- (n) require the operator of an upper tier establishment to send regularly to specified persons in an area notified by the competent authority (as being an area which in the opinion of the competent authority persons are liable to be affected by a major accident occurring at the establishment) specified information in the most appropriate form without them having to request it (regulation 18);
- (o) require the competent authority to adopt a specified procedure in dealing with a request for information (regulation 19);
- (p) require the competent authority to provide a potentially affected Member State with sufficient information where an upper tier establishment presents a major accident hazard with possible trans-boundary consequences (regulation 20);
- (q) give the competent authority power to accept information in another document (regulation 21);
- (r) impose functions on the competent authority with respect to—
 - (i) its examination of the safety report sent by the operator (regulation 22);
 - (ii) prohibiting the operation of an establishment (regulation 23);

- (iii) its identification of domino groups of establishments, and impose duties on the operators of such establishments to co-operate in relation to specified matters (regulation 24);
- (iv) inspections and investigations (regulation 25);
- (s) impose specified requirements as regards action to be taken following a major accident on the operator of the establishment concerned, the competent authority and the local authority in whose administrative area the accident has occurred (regulation 26);
- (t) impose functions on the competent authority with respect to enforcement and penalties (regulation 27);
- (u) provide for fees to be payable by the operator to the competent authority for the performance of specified functions by the Executive, ONR or appropriate agency (regulation 28);
- (v) provide for fees to be payable by the operator to the local authority for the preparation, review and testing of the external emergency plan (regulation 29);
- (w) amend the legislation specified in Schedule 6 (regulation 30);
- (x) revoke the Control of Major Accident Hazards Regulations 1999, and certain other instruments which amended them (regulation 31);
- (y) contain saving and transitional provisions (regulations 32 and 33);
- (z) require the Secretary of State to carry out a review of these Regulations within five years of their commencement (regulation 34).

A full impact assessment of the effect that these Regulations would have on the costs of business and the voluntary sector is published with the Explanatory Memorandum, which is available alongside the instrument on www.legislation.gov.uk.

The transposition note in relation to the implementation of the Seveso III Directive is also published with the Explanatory Memorandum and available on that website. Copies of these documents are available in the libraries of both Houses of Parliament.

Changes to legislation:

There are currently no known outstanding effects for the The Control of Major Accident Hazards Regulations 2015.