***Changes to legislation:*** *The Planning (Hazardous Substances) Regulations 2015 is up to date with all changes known to be in force on or before 26 October 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

# 2015 No. 627

# TOWN AND COUNTRY PLANNING, ENGLAND INFRASTRUCTURE PLANNING

## The Planning (Hazardous Substances) Regulations 2015

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|---|---|
| *Made - - - -* | *18th March 2015* |
| *Laid before Parliament* | *24th March 2015* |
| *Coming into force - -* | *1st June 2015* |

The Secretary of State is a designated Minister for the purposes of section 2(2) of the European Communities Act 1972 [F1] ("the 1972 Act") in relation to measures relating to the prevention and limitation of the effects of accidents involving dangerous substances [F2].

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 4(4), 4(5), 5, 7, 8, 17(2), 21(2), 21(3), 21(3A), 24(4), 25, 26A, 28, 30, 40(1), and 40(4) of the Planning (Hazardous Substances) Act 1990 [F3] and section 2(2) and paragraph 1A of Schedule 2 to the 1972 Act.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Secretary of State that it is expedient for the references in these Regulations to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures [F4], to be construed as references to that instrument as amended from time to time.

**F1** 1972 c.68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

**F2** S.I. 1998/1750.

**F3** 1990 c.10. See section 39(2) for the meaning of "prescribed". Section 4 was amended by S.I. 1999/981 to which there are other amendments not relevant to these regulations. Section 7(1) was amended by section 144 of and paragraph 3 of Part 1 of Schedule 13 to the Environmental Protection Act 1990 (c.43) ("the EPA 1990"), section 21(3A) was inserted by section 197 of, and paragraph 6 of Schedule 11 to, the Planning Act 2008 (c.29) ("the 2008 Act"), section 25 has been amended by section 144 of, and paragraph 8 of Part 1 of Schedule 13 to, the EPA 1990, sections 25 and 84 of, and paragraphs 13 and 30 of Schedule 3 and Part 1 of Schedule 19 to, the Planning and Compensation Act 1991 (c.34) and section 196(4) and paragraphs 25, 28(a) and 28(b) of Schedule 10 to, the 2008 Act, section 26A was inserted by section 144 of, and paragraph 9 of Part 1 of Schedule 13 to, the EPA 1990, section 28 has been amended by sections 144 and 162 of, and paragraph 2(4) of Part 1 of Schedule 13 and Part 7 of Schedule 16 to, the EPA 1990 and section 40(4) was inserted by

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section 118(1) of and paragraph 27 of Schedule 6 to the Planning and Compulsory Purchase Act 2004 (c.5).

**F4** O.J. L 353, 31.12.2008, p. 1.

# PART 1

## General

### Citation, commencement and application

**1.**—(1) These Regulations may be cited as the Planning (Hazardous Substances) Regulations 2015 and come into force on 1st June 2015.

(2) Except as provided by paragraphs (3) to (5), these Regulations apply in relation to England only.

(3) Regulation 24 applies in relation to England and, in so far as it applies to national policy statements designated under section 5(1) of the Planning Act 2008 [F5], to Wales and Scotland.

(4) Regulation 26—

(a) applies in relation to England;

(b) applies in relation to Wales and Scotland in so far as it applies to making development consent orders under section 114(1) of the Planning Act 2008; and

(c) applies in relation to Wales in so far as it applies to a decision by the Secretary of State authorising development in Wales under—

(i) section 5(1) of the Pipe-lines Act 1962 [F6]; and

(ii) section 14(1) or section 16(1) of the Harbours Act 1964 [F7].

**F5** 2008 c.29.
**F6** 1962 c.58.
**F7** 1964 c. 40.

### Interpretation

**2.**—(1) In these Regulations—

"the 1992 Regulations" means the Planning (Hazardous Substances) Regulations 1992 [F8];

"the Act" means the Planning (Hazardous Substances) Act 1990;

"COMAH competent authority" means the control of major accident hazards competent authority which is—

(a) in relation to a nuclear site, the Office of Nuclear Regulation and the Environment Agency acting jointly,

(b) otherwise, the Health and Safety Executive and the Environment Agency acting jointly;

"commencement date" means the date these Regulations come into force;

"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 [F9]; and

"nuclear site" has the same meaning as in section 112(1) of the Energy Act 2013 [F10].

(2) In these Regulations—



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(a) a reference to a section is a reference to that section of the Act, unless there is a contrary indication; and

(b) a reference to a numbered form is a reference to the correspondingly numbered form in Schedule 3 to these Regulations.

(3) Parts 1 to 3 of Schedule 1 to these Regulations (hazardous substances and controlled quantities) are to be construed in accordance with the notes in Part 4 of that Schedule and a reference in that Schedule to a note is a reference to a note in Part 4 of that Schedule.

(4) References to sections of the principal Act [F11] mentioned in regulations 15, 17, 18 and 19 (enforcement) are, in those sections and these Regulations, to be construed as references to those sections as modified by these Regulations in relation to hazardous substances control.

(5) References in these Regulations to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures ("the CLP Regulation") are references to that Regulation as amended from time to time.

**F8** S.I. 1992/656; relevant amendments were made by section 76(7) of the Utilities Act 2000 (c.27) and by S.I. 1999/981, **S.I**. 2006/1282, S.I. 2006/1283, **S.I**. 2009/1901, S.I. 2010/1050 and S.I. 2014/162.
**F9** O.J. L 197, 24.7.2012, p. 1.
**F10** 2013 c. 32.
**F11** Section 39(1) of the Act defines "principal Act" as the Town and Country Planning Act 1990 (c.8).

# PART 2

## Hazardous substances, controlled quantities and exemptions

### Hazardous substances and controlled quantities

**3.** For the purpose of the Act—

(a) hazardous substances are substances, mixtures or preparations—

(i) falling within a category in column 1 of Part 1 of Schedule 1 to these Regulations,

(ii) specified in column 1 of Part 2 of that Schedule, or

(iii) meeting the description in column 1 of Part 3 of that Schedule,

and present as raw materials, products, by-products, residues or intermediates; and

(b) the controlled quantity of a hazardous substance is the quantity specified in column 2 of that Schedule corresponding to that substance.

### Exemptions

**4.** Schedule 2 to these Regulations has effect.

# PART 3

## Hazardous substances consent procedures

### Applications for hazardous substances consent

**5.**—(1) Subject to paragraph (2) and regulation 23 (application of the Act to hazardous substances authorities), an application for hazardous substances consent must—



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(a) be made to the hazardous substances authority;

(b) include the name and address of the applicant;

(c) include a site map and a substance location plan;

(d) include details of—

(i) the location of the land to which the application relates;

(ii) the person in control of the land to which the application relates;

(iii) each hazardous substance for which consent is sought ("relevant substance"), including the maximum quantity of each relevant substance proposed to be present;

(iv) the main activities carried out or proposed to be carried out on the land to which the application relates;

(v) how and where each relevant substance is to be kept and used;

(vi) how each relevant substance is proposed to be transported to and from the land to which the application relates;

(vii) the vicinity of the land to which the application relates, where such details are relevant to the risks or consequences of a major accident; and

(viii) the measures taken or proposed to be taken to limit the consequences of a major accident; and

(e) be accompanied by the notices and certificates required by regulations 6 and 7.

(2) Subject to regulation 23 (application of the Act to hazardous substances authorities), an application to which section 13 applies (application for hazardous substances consent without a condition subject to which a previous consent was granted) must—

(a) be made to the hazardous substances authority;

(b) include the name and address of the applicant;

(c) include a change of location plan, if the application relates to a condition restricting the location of a hazardous substance;

(d) include in relation to any relevant consent, a copy of—

(i) the consent, where the relevant consent is a consent granted on an application under the Act;

(ii) the relevant claim, where the relevant consent is a consent deemed to be granted under section 11; or

(iii) the relevant direction, where the relevant consent is a consent deemed to be granted under section 12;

(e) identify any condition previously imposed on the relevant consent which—

(i) it is proposed should no longer be imposed on the consent; or

(ii) it is proposed should only be imposed in a modified form;

(f) for any condition identified under paragraph (e)(i), give the reasons why it should not be imposed;

(g) for any condition identified under paragraph (e)(ii)—

(i) indicate the proposed modification; and

(ii) give the reasons why it should only be imposed in a modified form;

(h) describe any relevant changes in circumstances since the date of the relevant consent; and

(i) be accompanied by the notices and certificates required by regulations 6 and 7.



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(3) An application under section 17 (application for the continuation of consent following a change of control) must—

(a) be made to the hazardous substances authority;

(b) include the name and address of the applicant;

(c) include a change of control plan;

(d) include, in relation to any relevant consent, whichever of the documents listed in paragraph (2)(d) is applicable to the relevant consent;

(e) state the date on which the change in the person in control of part of the land is to take place, where known;

(f) describe the use of each area of the site identified in the change of control plan;

(g) describe any relevant changes in circumstances since the relevant consent was granted; and

(h) be accompanied by the notices and certificates required by regulations 6 and 7.

(4) Any application to which this regulation applies and anything required to accompany it must, if requested by the hazardous substances authority, be submitted in triplicate.

(5) In this regulation—

"change of control plan" is a plan of the land to which the application relates, drawn to a scale of not less than 1:2,500, which identifies each area of the site under separate control after the proposed change of control;

"change of location plan" is a plan of the land to which the application relates, drawn to a scale of not less than 1:2,500, which identifies the location of the hazardous substance at the date of the application and the proposed location requiring the application;

"relevant consent" means the existing hazardous substances consent to which the application relates;

"site map" is a map, reproduced from, or based on, an Ordnance Survey map with a scale of not less than 1:10,000, which identifies the land to which the application relates and shows National Grid lines and reference numbers; and

"substance location plan" is a plan of the land to which the application relates, drawn to a scale of not less than 1:2,500, which identifies—

(a) any area of the land intended to be used for the storage of the substance;

(b) where the substance is to be used in a manufacturing, treatment or other industrial process, the location of the major items of plant involved in that process in which the substance will be present; and

(c) access points to and from the land.

(6) Regulations 6 to 13 apply to applications made under section 17 as they apply to applications for hazardous substances consent.

**Publication of notices of applications**

**6.**—(1) Before making an application for hazardous substances consent to the hazardous substances authority, the applicant must, during the 21 day period immediately preceding the application—

(a) inform the public by notice published in a local newspaper circulating in the locality in which the land to which the application relates is situated, or by other appropriate means, including electronic media, of the following matters—

(i) a description of the proposal and the address or location of the land to which the application relates;



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(ii) where applicable, the fact that the proposal is, or is 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 the Directive;

(iii) that the hazardous substances authority (from which relevant information can be obtained) will decide whether or not to grant consent, and if to grant, will decide on what conditions to grant;

(iv) that representations (including comments or questions) may be made to the hazardous substances authority;

(v) details of how such representations should be made and the time period for making representations, which must be not less than 21 days beginning with the day after the day on which an application under regulation 5 is sent to the hazardous substances authority;

(vi) an indication of the times and places where, or means by which, relevant information will be made available; and

(b) subject to paragraphs (2) and (3), post a notice containing the information referred to in paragraph (a) on the land to which the application relates for not less than 7 days sited and displayed in such a way as to be easily legible without entering onto the land.

(2) An applicant is not required to comply with paragraph (1)(b) if—

(a) the applicant has no right of access or other rights in respect of the land which would enable the applicant to post the notice as required; and

(b) the applicant has taken all reasonable steps to acquire the rights but has failed.

(3) The applicant is not to be treated as having failed to comply with paragraph (1)(b) if the notice is, without any fault or intention of the applicant, removed, obscured or defaced before the 7 days referred to in that paragraph have elapsed, so long as the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement.

(4) An application for hazardous substances consent must not be entertained by the hazardous substances authority unless it is accompanied by—

(a) a copy of the notice referred to in paragraph (1) certified by, or on behalf of, the applicant as having been published in accordance with paragraph (1)(a);

(b) where published in a local newspaper, details of the name of the newspaper and the date of its publication;

(c) where published by other means, details of those other means; and

(d) the appropriate certificate on Form 1, signed by or on behalf of the applicant.

### Notification of applications to owners

**7.**—(1) An application for hazardous substances consent must not be entertained by the hazardous substances authority unless it is accompanied by whichever of certificates A to D set out in Form 2 is appropriate, signed by or on behalf of the applicant.

(2) The required notice referred to in certificates B and C of Form 2 must, in the case of an application for hazardous substances consent, be a notice given on Form 3 and must attach a copy of the notice required to be published under regulation 6(1)(a).

### Inspection of applications

**8.** Following receipt of an application under regulation 5, the hazardous substance authority must ensure that a copy of the application is available for inspection at the offices of the



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hazardous substances authority during the period allowed for making representations pursuant to regulation 6(1).

### Receipt of applications by hazardous substances authority

**9.**—(1) When the hazardous substances authority receive a valid application for hazardous substances consent or an application for any consent, agreement or approval required by a condition imposed on a grant of hazardous substances consent, they must, as soon as practicable—

(a) acknowledge receipt of the application in writing; and

(b) send a copy of the application to the COMAH competent authority.

(2) Where, in the opinion of the hazardous substances authority, an application received by the authority is not a valid application, the authority must, as soon as practicable, notify the applicant of their opinion, giving their reasons.

(3) For the purposes of this regulation and regulations 10 and 11—

(a) an application is valid if it complies with regulation 5 and is accompanied by any documents required by regulations 6 and 7; and

(b) a valid application for hazardous substances consent is to be taken to have been received when—

(i) it is lodged with the hazardous substances authority; and

(ii) any fee required to be paid in respect of the application has been paid to that authority.

### Consultation before the grant of hazardous substances consent

**10.**—(1) Except where the body or person concerned has notified the hazardous substances authority that they do not wish to be consulted, the authority must, before determining an application for hazardous substances consent, consult—

(a) the COMAH competent authority;

(b) the district or London borough council or county council concerned, where that council is not also the hazardous substances authority;

(c) the parish council concerned;

(d) the fire and civil defence authority concerned, where that authority is not also the hazardous substances authority;

(e) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986 (licensing of gas transporters) [F12];

(f) a person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989 (licences authorising supply, etc) [F13];

(g) where the land to which the application relates is within 2 kilometres of a royal palace, park or residence, the Secretary of State;

(h) where the land to which the application relates is in an area designated as a new town, the development corporation for the new town;

(i) where the land to which the application relates is situated within 2 kilometres of—

(i) an adjacent county, county borough, district or London borough, the council for that county, county borough, district or London borough;

(ii) the area of an adjacent fire authority and civil defence authority, that authority; or

(iii) an adjacent new town, the development corporation for the new town;

(iv) the area of a Scottish local authority, that authority;



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(j) where it appears to the hazardous substances authority dealing with the application that land in the area of any other hazardous substances authority may be affected, that authority;

(k) where the application relates to land in an area to which section 28(1) of the Wildlife and Countryside Act 1981 [F14] applies (sites of special scientific interest) or where it appears to the hazardous substances authority dealing with the application that an area of particular natural sensitivity or interest may be affected, in England, Natural England, or in Wales, the Natural Resources Body for Wales;

(l) where the application relates to land in an area of coal working notified to the hazardous substances authority by the Coal Authority, the Coal Authority; and

(m) where the application relates to land which is used for disposal or storage of controlled waste, the waste disposal authority concerned, where that authority is not also the hazardous substances authority.

(2) The hazardous substances authority must also, before determining an application for hazardous substances consent, consult any other persons, including any non-governmental organisation promoting environmental protection, who are affected or likely to be affected by, or have an interest in, the application, and who in the authority's opinion are unlikely to become aware of the application through the notices under regulation 6.

(3) When consulting under paragraph (1) or (2) of this regulation, the hazardous substance authority must within seven days of receiving an application—

(a) notify in writing the body or person concerned that they have received an application for hazardous substances consent and inform them of the following matters:

(i) a description of the proposal and the address or location of the land to which the application relates;

(ii) where applicable, the fact that the proposal is, or is 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 the Directive;

(iii) that the hazardous substances authority (from which relevant information can be obtained) will decide whether or not to grant consent, and if to grant, will decide on what conditions to grant;

(iv) that representations (including comments or questions) may be made to the hazardous substances authority;

(v) details of how such representations should be made and the time period for making representations, which must not be less than 28 days beginning with the day after the day on which the person or body is notified that a valid application has been received by the hazardous substances authority;

(vi) an indication of the times and places where, or means by which, relevant information will be made available; and

(b) ensure that a copy of the application is available for inspection at the offices of the hazardous substances authority during the period or periods allowed for making representations.

(4) Where a hazardous substances authority is required to consult a body under—

(a) paragraph (1)(a), or

(b) paragraph (1)(k), where it appears to the authority that an area of particular natural sensitivity or interest may be affected,

the exception in paragraph (1) does not apply.

(5) In this regulation—



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"area of particular natural sensitivity or interest" has the same meaning as it has for the purposes of the Directive;

"controlled waste" has the meaning given to that expression by section 75(4) of the Environmental Protection Act 1990 [F15] and "waste disposal authority" is to be construed in accordance with section 30(2) [F16] of that Act;

"county", "county borough" and "district" have the same meanings as in the Local Government Act 1972; and

"Scottish local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 [F17].

**F12** 1986 c. 44; section 7 was substituted by section 5 of the Gas Act 1995 (c. 45) and subsection (2) was amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Part 1 of Schedule 6 to, the Utilities Act 2000 and by S.I. 2011/2704.

**F13** 1989 c. 29; section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27), subsection (1)(b) was substituted by section 136(1) of the Energy Act 2004 (c. 20) and subsection (1)(c) was amended by section 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004.

**F14** 1981 c. 69. Section 28 was substituted by paragraph 1 of Schedule 9 to the Countryside and Rights of Way Act 2000 (c. 37) and amended by section 105(1) of, and paragraph 79 of Part 1 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16) and paragraph 2 of Part 2 of Schedule 13 to the Marine and Coastal Access Act 2009 (c. 23).

**F15** 1990 c. 43. Section 75(1) was amended by S.I. 2006/937. Section 75(2) was amended by S.I. 2011/988.

**F16** There are amendments to this section, none of which are relevant to these Regulations.

**F17** 1994 c.39. Section 2 was amended by paragraph 232(1) of Schedule 22 to the Environment Act 1995 (c. 25).

### Determination of applications for hazardous substances consent

**11.**—(1) A hazardous substances authority must not determine an application for hazardous substances consent before the expiry of the period or periods allowed for making representations under regulations 6(1) and 10(3).

(2) In determining an application for hazardous substances consent, the hazardous substances authority must take into account the results of consultations held in relation to that application.

(3) Subject to paragraph (1), a hazardous substances authority must, within the period specified in paragraph (4), give the applicant written notice of their decision or notice that the application has been referred to the Secretary of State for determination.

(4) The period specified for the purposes of paragraph (3) is—

(a) a period of 8 weeks from the date when the application is received by the hazardous substances authority; or

(b) except where the applicant has already given notice of appeal to the Secretary of State, such extended period as may be agreed in writing by the applicant and the hazardous substances authority.

(5) When a hazardous substances authority give notice of a decision on an application the notice must, where hazardous substances consent is refused or is granted subject to conditions—

(a) state, clearly and precisely, their full reasons for the refusal or for any condition imposed; and

(b) include a statement to the effect that if the applicant is aggrieved by the decision the applicant may appeal to the Secretary of State under section 21 within 6 months of the



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date of the notice of the decision, or such longer period as the Secretary of State may at any time allow.

(6) The hazardous substances authority must, as soon as is practicable, inform the following persons of the terms of their decision—

(a) the Health and Safety Executive;

(b) where the land to which the decision relates is, or is on, a nuclear site, the Office for Nuclear Regulation;

(c) the district or London borough council or county council concerned, where that council is not the hazardous substances authority;

(d) any other consultees who have made representations to them on the application; and

(e) any owners who have made representations to them on the application.

(7) The hazardous substances authority must make available for inspection at the offices of the hazardous substances authority—

(a) the content of the decision and the reasons on which it is based, including any subsequent updates; and

(b) the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision.

**Notice of reference of applications to the Secretary of State**

**12.** On referring any application to the Secretary of State pursuant to a direction under section 20, a hazardous substance authority must serve on the applicant a notice—

(a) informing the applicant that the application has been referred to the Secretary of State;

(b) setting out the reasons given by the Secretary of State for issuing the direction; and

(c) containing a statement that the Secretary of State will, if the applicant so desires, give the applicant an opportunity of appearing before and being heard by a person appointed by the Secretary of State for that purpose.

**Appeals**

**13.**—(1) An appeal to the Secretary of State under section 21 must be made within 6 months of—

(a) the date of the notice of the decision giving rise to the appeal, or

(b) in the case of an appeal under section 21(2), the expiry of the period specified in regulation 11(4),

or within such longer period as the Secretary of State may, at any time, allow.

(2) An appeal under section 21 must—

(a) be made to the Secretary of State on a form obtained from the Secretary of State;

(b) include the information specified in the form; and

(c) be accompanied by the documents specified in paragraph (3) and the certificate required by paragraph (4).

(3) The documents mentioned in paragraph (2)(c) are—

(a) the application made to the hazardous substances authority which has occasioned the appeal;

(b) any notices and certificates required by regulations 6 and 7 which accompanied the application;



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(c) any correspondence with the authority relating to the application; and

(d) the notice of decision, if any.

(4) An appeal under section 21 must not be entertained by the Secretary of State unless it is accompanied by whichever of certificates A to D is appropriate in Form 2, signed by or on behalf of the appellant.

(5) The required notice referred to in certificates B and C must, in the case of an appeal under section 21, be a notice given on Form 4.

(6) The appellant must send a copy of the completed notice of appeal form and accompanying certificate to the hazardous substances authority at the same time as the appeal is made to the Secretary of State.

# PART 4

## Enforcement

### Hazardous substances contravention notices

**14.**—(1) A hazardous substances contravention notice must identify the land to which the notice relates, whether by reference to a plan or otherwise.

(2) The persons prescribed pursuant to section 24(4)(c) (other persons to be given notice) are all persons having an interest in the land which in the opinion of the authority issuing the notice is materially affected by the notice.

(3) Every copy of a hazardous substances contravention notice served pursuant to section 24(4) must be accompanied by a statement setting out—

(a) the hazardous substances authority's reasons for issuing the notice; and

(b) the right of appeal to the Secretary of State against the notice, and the persons by whom, grounds upon which and time within which such an appeal may be brought under section 174 of the principal Act.

### Appeals against hazardous substances contravention notices

**15.** Sections 174, 175(3) and (6), 176 and 177 of the principal Act apply to appeals against hazardous substances contravention notices, subject to the modifications set out in Part 1 of Schedule 4.

### Appeals: supplementary

**16.**—(1) A person who appeals against a hazardous substances contravention notice must, at the same time as notice of the appeal is given or sent to the Secretary of State under section 174(3) of the principal Act, serve on the hazardous substances authority a copy of the notice of appeal and accompanying material required by section 174(4) of that Act.

(2) The hazardous substances authority must, within 28 days of being served with the notice of appeal, serve on the Secretary of State and on the appellant a statement—

(a) setting out their submissions in relation to each ground of appeal; and

(b) indicating whether they would be prepared to grant hazardous substances consent for the presence on, over or under the land of any quantity of the hazardous substance to which the hazardous substances contravention notice relates and, if so, particulars of the conditions, if any, which they would wish to impose on the consent.



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(3) The hazardous substances authority must, within the 28 day period referred to in paragraph (2), give notice of the appeal to occupiers of properties in the locality of the site to which the hazardous substances contravention notice relates.

**Effect of hazardous substances contravention notices, etc**

**17.** Sections 178 to 181 of the principal Act have effect in relation to hazardous substances contravention notices, subject to the modifications set out in Part 2 of Schedule 4.

**Enforcement register**

**18.** Section 188 of the principal Act (register of enforcement and stop notices) has effect in relation to hazardous substances contravention notices, subject to the modifications set out in Part 3 of Schedule 4.

**Validity**

**19.**—(1) Sections 285 and 289 of the principal Act apply to appeals against hazardous substances contravention notices, subject to the modifications set out in Part 4 of Schedule 4.

(2) Section 25(2) is subject to any order under section 289(4A) of the principal Act, as applied by paragraph (1).

# PART 5

## Other matters relating to hazardous substances consent and enforcement

**Consents register**

**20.**—(1) The register required by section 28(1) must be kept in 6 parts—

(a) Part 1 must contain details of every application for hazardous substances consent made to the hazardous substances authority and not finally determined;

(b) Part 2 must contain, in respect of every application for hazardous substances consent made to the hazardous substances authority—

(i) details of the application;

(ii) particulars of any direction given under section 20;

(iii) details of the decision (if any) of the authority, including the date of the decision; and

(iv) the reference number, date and effect of any decision of the Secretary of State, whether on a reference under section 20 or on an appeal under section 21;

(c) Part 3 must contain details of every order revoking or modifying hazardous substances consent made by the hazardous substance authority and the date and effect of any confirmation by the Secretary of State in accordance with section 15;

(d) Part 4 must contain, in respect of every hazardous substances consent deemed to be granted under section 11(3), details of the claim;

(e) Part 5 must contain details of every hazardous substances consent deemed to be granted by virtue of a direction given by a government department under section 12; and

(f) Part 6 must contain details of any direction under section 27 sent to the authority by the Secretary of State.



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(2) Where the Secretary of State grants hazardous substances consent under section 177 of the principal Act on the determination of an appeal against a hazardous substances contravention notice, the hazardous substances authority for the land covered by the consent must enter the date and effect of that decision in Part 2 of the register.

(3) The register must include an index to enable any person to trace an entry in the register.

(4) Every entry in the register must be made within 14 days of the relevant information being available to the hazardous substances authority.

(5) The register must be kept at the principal office of the hazardous substances authority.

(6) For the purposes of paragraph (1)(a), an application is not to be treated as finally determined unless—

(a) it has been decided by the hazardous substances authority (or the period specified in regulation 11(4) has expired without their giving a decision) and the period specified in regulation 13(1) has expired without any appeal having been made to the Secretary of State;

(b) it has been referred to the Secretary of State under section 20 or an appeal has been made to the Secretary of State under section 21, the Secretary of State's decision has been issued and the period of 6 weeks specified in section 22(1) has expired without any application having been made to the High Court under that section;

(c) an application has been made to the High Court under section 22 and the matter has been determined, either by final dismissal of the application by a Court or by the quashing of the Secretary of State's decision and the issue of a fresh decision (without a further application under section 22 being made); or

(d) it has been withdrawn by the applicant before being determined; or

(e) an appeal under section 21 or an application under section 22 has been withdrawn by the applicant before being determined.

(7) Where this regulation requires details of an application, direction, consent, claim form or notice to be provided in the register, the following must be provided—

(a) details of the person in control of the land to which the application, direction, consent, claim form or notice relates, where applicable; and

(b) the category in Column 1 of Part 1 of Schedule 1 to these Regulations in which any substance that is the subject of the application, direction, consent, claim form or notice falls.

**Fees for applications**

**21.**—(1) Subject to paragraph (3), a fee must be paid to a hazardous substances authority on an application for hazardous substances consent as follows—

(a) if section 13(1) applies (new consent without previous conditions), £200;

(b) if section 13(1) does not apply and the quantity specified in the application as the maximum quantity proposed to be present exceeds twice the controlled quantity, £400; and

(c) in all other cases, £250.

(2) Subject to paragraph (3), a fee must be paid to a hazardous substances authority on an application for the continuation of hazardous substances consent under section 17(1) of £200.

(3) Where applications relating to the same site are made to two or more hazardous substances authorities, a fee is to be paid only to the authority in whose area the largest part of the site is situated and the amount payable is the amount that would have been payable if the application had fallen to be made to one authority in relation to the whole site.



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(4) Any fee due in respect of an application must accompany the application when it is made to the hazardous substances authority.

(5) Any fee paid pursuant to this regulation must be refunded if the application is rejected as invalidly made.

**Fees for deemed applications**

**22.**—(1) Subject to paragraph (5), a fee must be paid to the Secretary of State in every case where an application for hazardous substances consent is deemed to have been made by virtue of section 177(5) of the principal Act (in consequence of an appeal under section 174 of that Act against a hazardous substances contravention notice).

(2) The fee mentioned in paragraph (1) is payable by every person who has made a valid appeal against the relevant hazardous substances contravention notice and whose appeal has not been withdrawn before the date on which the Secretary of State issues a notice under paragraph (4).

(3) Subject to paragraph (7), the fee payable is the amount which would be payable under regulation 21 if the application were an application to which that regulation applied.

(4) The fee due must be paid at such time as the Secretary of State may in the particular case specify by notice in writing to the appellant.

(5) This regulation does not apply where the appellant had—

(a) before the date when the hazardous substances contravention notice was issued, applied to the hazardous substances authority for hazardous substances consent for the presence of the quantity of the substance to which the notice relates, and had paid to the authority the fee payable in respect of that application, or

(b) before the date specified in the notice as the date on which it is to take effect, made an appeal to the Secretary of State against the refusal of the hazardous substances authority to grant consent,

and at the date when the relevant notice was issued that application or, in the case of an appeal made before that date, that appeal, had not been determined.

(6) Any fee paid in respect of the deemed application must be refunded to the appellant by the Secretary of State if—

(a) the Secretary of State declines jurisdiction on the relevant appeal on the grounds that it does not comply with one or more of the requirements of subsections (1) to (3) of section 174 of the principal Act;

(b) the Secretary of State dismisses the relevant appeal in exercise of the powers under section 176(3)(a) of the principal Act (on the grounds that the appellant has failed to comply with section 174(4) of that Act);

(c) the Secretary of State allows the relevant appeal and quashes the relevant hazardous substances contravention notice in exercise of the powers under section 176(3)(b) of the principal Act (on the grounds that the hazardous substances authority have failed to comply with regulation 16(2) of these Regulations);

(d) the relevant appeal is withdrawn with the result that there are at least 21 days between the date on which notice in writing of the withdrawal is received by the Secretary of State and—

(i) the date (or in the event of postponement, the latest date) appointed for the holding of an inquiry or hearing into that appeal; or

(ii) in the case of an appeal which is being dealt with by written representations, the date (or in the event of postponement, the latest date) appointed for the inspection of the site to which the notice relates;



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(e) the hazardous substances authority withdraws the relevant hazardous substances contravention notice before it takes effect, or the Secretary of State decides that the notice is a nullity;

(f) the Secretary of State allows the relevant appeal on any of the grounds set out in section 174(2)(b) to (e) of the principal Act; or

(g) the Secretary of State allows the relevant appeal on the ground that the relevant hazardous substances contravention notice is invalid, or that it contains a defect, error or misdescription which cannot be corrected under section 176(1)(a) of the principal Act.

(7) Where a hazardous substances contravention notice is varied under section 176(1) of the principal Act otherwise than to take account of a grant of hazardous substances consent under section 177(1), and the fee calculated in accordance with paragraph (3) would have been a lesser amount if the original notice had been in the terms of the varied notice, the fee payable is that lesser amount and any excess amount already paid must be refunded.

(8) In determining a fee under paragraph (7) no account is to be taken of any change in fees which takes effect after the making of the deemed application.

### Application of the Act to hazardous substances authorities

**23.**—(1) Any application by a hazardous substances authority for hazardous substances consent must be made to the Secretary of State.

(2) Regulations 5 to 8, 10 and 11(2) apply to the making of such an application as they apply to applications made to a hazardous substances authority.

(3) For the purpose of regulation 20, an application made to the Secretary of State by a hazardous substances authority is to be treated as an application made to the hazardous substances authority and referred to the Secretary of State under section 20.

(4) Section 9 (other than subsection (2)(e)) applies in relation to an application made to the Secretary of State by a hazardous substances authority as it applies in relation to an application made to a hazardous substances authority.

(5) For the purpose of section 22, a decision of the Secretary of State on an application made to him by a hazardous substances authority is to be treated as a decision under section 20.

## PART 6

Policies and public participation

### Policies

**24.**—(1) In formulating any relevant policy, the Secretary of State must ensure that the following matters are taken into account—

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

(b) the matters referred to in Article 13(2) of the Directive.

(2) In this regulation, "relevant policy" means—

(a) any national policy statement designated under section 5(1) of the Planning Act 2008 [F18]; and



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(b) any policy falling within section 19(2)(a) of the Planning and Compulsory Purchase Act 2004 [F19] where in the opinion of the Secretary of State that policy concerns matters affecting the risks or consequences of a major accident.

**F18** 2008 c. 29.
**F19** 2004 c. 5; section 19(1) was amended by section 5(b) of the Planning Act 2008 (c. 29). There are other amendments to section 19 which are not relevant to these Regulations.

### Plans and programmes

**25.**—(1) Subject to paragraph (3), this regulation applies where a responsible authority proposes to prepare, modify or review a relevant plan or programme.

(2) Where this regulation applies, the responsible authority must—

(a) take such measures as it considers appropriate to ensure that public consultees are given early and effective opportunities to participate in the preparation, modification or review of the relevant plan or programme; and

(b) in doing so, take such measures as it considers appropriate to ensure that—

(i) public consultees are informed of any proposals to prepare, modify or review a relevant plan or programme;

(ii) relevant information about such proposals is made available to public consultees, including information about the right to participate in decision-making and about the authority to which comments or questions may be submitted;

(iii) public consultees are entitled to express comments and opinions when all options are open before decisions on the relevant plan or programme are made; and

(iv) any periods provided for public participation under this regulation allow public consultees sufficient time to prepare and participate in decision-making in relation to the relevant plan or programme;

(c) take into account the results of the public participation in making those decisions; and

(d) take such measures as it considers appropriate to inform the public consultees about the decisions taken and the reasons and considerations on which those decisions are based, including information about the public participation process.

(3) This regulation does not apply to a relevant plan or programme in relation to which a public participation procedure is carried out under Part 3 of the Environmental Assessment of Plans and Programmes Regulations 2004 [F20].

(4) This regulation applies to a relevant plan or programme relating—

(a) solely to the whole or any part of England; or

(b) to England (whether as to the whole or part) and any other part of the United Kingdom.

(5) Any steps taken before the commencement date in relation to a relevant plan or programme may be treated as steps taken for the purposes of this regulation.

(6) In this regulation—

"public consultees" means persons of whom the responsible authority is aware, including any non-governmental organisation promoting environmental protection, who are affected or likely to be affected by, or have an interest in, the relevant plan or programme in question;

"relevant plan or programme" means a general plan or programme relating to—

(a) planning for new establishments pursuant to Article 13 of the Directive, or



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(b) new developments around establishments where the siting or developments may increase the risk or consequences of a major accident pursuant to Article 13 of the Directive; and

"responsible authority" means—

(a) the authority by which or on whose behalf a relevant plan or programme is prepared; and

(b) where, at any particular time, that authority ceases to be responsible, or solely responsible, for taking steps in relation to the plan or programme, the person who, at that time, is responsible (solely or jointly with the authority) for taking those steps.

**F20** S.I. 2004/1633, amended by S.I. 2011/1043; there are other amending instruments but none is relevant.

### Other planning approvals for projects

**26.**—(1) Subject to paragraph (4), this regulation applies where consent, permission or other authorisation for a relevant project is sought from a competent authority.

(2) A competent authority must, before deciding to give any consent, permission or other authorisation for a relevant project, take such measures as it considers appropriate to ensure that—

(a) the public is informed by public notices or other appropriate means, including electronic media where available, of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided—

(i) the subject of the relevant project;

(ii) where applicable, the fact that a project is subject to a national or transboundary environmental impact assessment or to consultations between member States in accordance with Article 14(3) of the Directive;

(iii) details of the competent authority responsible for taking the decision, from which relevant information can be obtained and to which comments or questions can be submitted;

(iv) an indication of the times and places where, or means by which, the relevant information will be made available;

(v) details of the period for transmitting comments or questions; and

(vi) the nature of possible decisions or, where there is one, the draft decision;

(b) the COMAH competent authority is consulted about the project;

(c) the main reports and advice issued to the competent authority at the time when the public concerned was informed pursuant to paragraph (2)(a) are made available to the public concerned at that time;

(d) the public concerned is entitled to express comments and opinions to the competent authority before a decision is taken; and

(e) the results of the consultations held pursuant to this regulation are taken into account in the taking of a decision.

(3) After deciding whether to give any consent, permission or other authorisation for a relevant project, the competent authority must make available to the public—

(a) the content of the decision and the reasons on which it is based, including any subsequent updates;

(b) the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision.

(4) To the extent that the competent authority is already required by any enactment to take any of the actions set out in paragraphs (2) and (3) of this regulation, those paragraphs do not apply.



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(5) In this regulation—

"competent authority" means any Minister of the Crown (as defined in section 8(1) of the Ministers of the Crown Act 1975 [F21]), government department, or local authority with responsibility for deciding whether to give a consent, permission or other authorisation referred to in paragraph (1);

"the public concerned" means persons, including any non-governmental organisation promoting environmental protection, who are affected or likely to be affected by, or have an interest in, the taking of a decision to give the consent, permission or other authorisation referred to in paragraph (1); and

"relevant project" means development falling within paragraphs (e), (f) or (zb) of the Table in Schedule 4 to the Town and Country Planning (Development Management Procedure) (England) Order 2015 [F22].

(6) In this regulation, a reference to giving consent, permission or other authorisation means—

(a) granting planning permission **[**[F23]or permission in principle**]** on an application under Part 3 of the principal Act (control over development);

(b) granting planning permission **[**[F24]or permission in principle**]** on an application under section 293A of that Act (urgent Crown development) [F25];

(c) granting planning permission **[**[F26]or permission in principle**]**, or upholding a decision of the local planning authority to grant planning permission **[**[F26]or permission in principle**]** (whether or not subject to the same conditions and limitations as those imposed by the local planning authority), on determining an appeal under section 78 of that Act (right to appeal against planning decisions) [F27] in respect of such an application;

(d) granting planning permission under—

(i) section 141(2)(a) of that Act (action in relation to purchase notice); or

(ii) section 177(1)(a) of that Act (grant or modification of planning permission on appeals against enforcement notices);

(e) directing under the following provisions that planning permission is deemed to be granted —

(i) subsection (1), (2) or (2A) of section 90 of that Act (development with government authorisation); or

(ii) section 5(1) of the Pipe-lines Act 1962 [F28] (provisions with respect to planning permission concerning pipe-lines);

(f) making—

(i) a local development order under section 61A of the principal Act [F29];

(ii) a neighbourhood development order under section 61E of that Act [F30];

(iii) a special development zone scheme under section 82 of that Act;

(iv) an order designating an enterprise zone under Schedule 32 to the Local Government, Planning and Land Act 1980 [F31];

(v) a development consent order under section 114 of the Planning Act 2008;

(vi) an order under section 102 of the principal Act (orders requiring discontinuance of use or alteration or removal of buildings or works) [F32], including an order made under that section by virtue of section 104 of that Act (powers in relation to section 102 orders) which grants planning permission, or confirming any such order under section 103 of that Act (confirmation of section 102 orders);



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(vii) an order under paragraph 1 of Schedule 9 to that Act (order requiring discontinuance of mineral working) [F33], including an order made under that paragraph by virtue of paragraph 11 of that Schedule to that Act (powers in relation to orders under Schedule 9), which grants planning permission;

(viii) an order under section 14(1) or section 16(1) of the Harbours Act 1964 [F34];

(g) directing under the following provisions that if an application is made for planning permission it must be granted—

(i) section 141(3) of the principal Act (action in relation to purchase notice); or

(ii) section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (action in relation to listed building purchase notice) [F35];

(h) directing under section 12 of the Act that hazardous substances consent is deemed to be granted;

(i) granting hazardous substances consent under section 20 of the Act; and

(j) granting hazardous substances consent under section 177(1)(a) of the principal Act (as applied to hazardous substances contravention notices, and modified, by regulation 15 and Schedule 4).

(7) In relation to any consent, permission or authorisation falling within paragraph (6) which is capable of being varied or modified, the modification or variation is to be treated as if it is a consent, permission or other authorisation for a relevant project for the purposes of this regulation where that modification or variation authorises development falling with paragraph (zb) of the Table in Schedule 4 to the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**F21** 1975 c. 26

**F22** S.I. 2015/595.

**F23** Words in reg. 26(6)(a) inserted (E.) (1.6.2018) by The Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (S.I. 2017/1309), art. 1, **Sch. 2 para. 9(2)**

**F24** Words in reg. 26(6)(b) inserted (E.) (1.6.2018) by The Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (S.I. 2017/1309), art. 1, **Sch. 2 para. 9(2)**

**F25** Section 293A was inserted by section 82(1) of the Planning and Compulsory Purchase Act 2004 (c. 5).

**F26** Words in reg. 26(6)(c) inserted (E.) (1.6.2018) by The Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (S.I. 2017/1309), art. 1, **Sch. 2 para. 9(2)**

**F27** Section 78 was amended by section 17(2) of Planning and Compensation Act 1991 (c. 34), **sections 40(2)(e)** and 43(2) of the 2004 Act and paragraphs 1 and 3 of Schedule 10 and paragraphs 1 and 2 of Schedule 11 to the Planning Act 2008 (c. 9).

**F28** 1962 c. 58.

**F29** Section 61A was inserted by section 40(1) of the 2004 Act and has been amended by sections 188 and 238 of, and Schedule 13 to, the Planning Act 2008.

**F30** Section 61E was inserted by inserted by section 116 of, and Schedule 9 to, the Localism Act 2011 (c. 20).

**F31** 1980 c. 65.

**F32** Section 102 was amended by paragraph 6 of Schedule 1 and paragraph 21 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34).

**F33** Paragraph 1 of Schedule 9 was amended by paragraph 15 of Schedule 1 to the Planning and Compensation Act 1991 (c. 34).

**F34** 1964 c. 40.

**F35** 1990 c. 9.



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### Interpretation of Part 6

**27.** Expressions appearing both in this Part and in the Directive have the same meaning for the purposes of this Part as they have for the purposes of the Directive.

## PART 7

Revocations, amendments, savings, transitional provisions, Crown application and review

### Revocations

**28.** The following enactments are revoked to the extent specified, subject to the savings and transitional provisions set out in this Part—

| *(1) Instrument revoked* | *(2) References* | *(3) Extent of revocation* |
|---|---|---|
| The Planning (Hazardous Substances) Regulations 1992 | S.I. 1992/656 | The Regulations so far as they apply to England |
| The Planning (Control of Major-Accident Hazards) Regulations 1999 | S.I. 1999/981 | The Regulations so far as they apply to England |
| The Town and Country Planning (Application of Subordinate Legislation to the Crown) Order 2006 | S.I. 2006/1282 | Article 10 so far as it applies to England |
| The Planning (Hazardous Substances) (Amendment) (England) Regulations 2009 | S.I. 2009/1901 | The whole Regulations |
| The Planning (Hazardous Substances) (Amendment) (England) Regulations 2010 | S.I. 2010/1050 | The whole Regulations |
| The Explosives Regulations 2014 | S.I. 2014/1638 | Paragraphs 14(2) and (4) of Part 2 of Schedule 13 |

### Transitional applications and appeals

**29.**—(1) If an application or appeal relating to a hazardous substances consent made in accordance with the 1992 Regulations has not been determined by the commencement date, the application or appeal is taken to be made under these Regulations.

(2) Anything done under the 1992 Regulations in relation to that application or appeal before the commencement date is taken to be done under these Regulations.

### Interpretation of existing consents

**30.**—(1) In this regulation, "relevant consent" means a hazardous substances consent granted under the 1992 Regulations or a deemed consent claimed before the commencement date under which the following are expressly authorised—

(a) the presence of a category of substance listed in column 1 of part B of Schedule 1 to the 1992 Regulations; or



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(b) the presence of a substance named in column 1 of part A of Schedule 1 to the 1992 Regulations.

(2) This regulation applies to a relevant consent where the category or substance referred to in paragraph (1) above—

(a) is not contained in Schedule 1 to these Regulations; or

(b) is differently named or defined under Schedule 1 to these Regulations.

(3) Where this regulation applies references in a relevant consent to a category or substance referred to in paragraph (1) are to be interpreted as if these Regulations had not come into force.

**Saving for deemed consent conditions**

**31.**—(1) This regulation applies to any consent that was deemed to be granted under section 11 (deemed hazardous substances consent; established presence) or 30B (Crown application: transitional) before the commencement date.

(2) In relation to any consent to which this regulation applies—

(a) the conditions set out in Schedule 3 of the 1992 Regulations continue to apply (unless any condition was removed following an application under section 13); and

(b) those conditions continue to be interpreted in accordance with regulation 15 (conditions on deemed consent) of the 1992 Regulations.

**Notification of other establishments**

**32.**—(1) This regulation applies where—

(a) hazardous substance consent would be required but for the exemption in paragraph 13 of Schedule 2 to these Regulations; and

(b) a hazardous substance authority receives from the person in control of the land to which the notice relates a notice in writing which contains—

(i) details of the location of the land to which the notice relates and the person in control of the land;

(ii) details of the hazardous substances held at the site, including the quantities; and

(iii) an explanation of why paragraph 13 of Schedule 2 to these Regulations applies.

(2) The hazardous substances authority must, as soon as practicable after receiving the notice, send the COMAH competent authority a copy of the notice.

(3) The COMAH competent authority must, within 8 weeks of receiving notification from the hazardous substances authority under paragraph (2), determine whether the notice concerns an establishment within the meaning of the Directive and, if so, notify the local planning authority for the area in which the establishment is located.

**Amendments**

**33.** Schedule 5 to these Regulations has effect.

**Application to the Crown**

**34.** These Regulations apply to the Crown as if, in Schedule 2 to these Regulations, after paragraph 2 there were inserted—



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"**2A.** Hazardous substances consent is not required for the presence of a hazardous substance in, on, over or under land at military establishments, installations or storage facilities.".

**Review**

**35.**—(1) The Secretary of State must from time to time—

(a) carry out a review of these Regulations so far as they implement the land-use aspects of the Directive in relation to England (and in relation to Wales and Scotland, to the extent that these Regulations apply in relation to Wales and Scotland);

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the land-use aspects of the Directive and by these Regulations;

(b) assess the extent to which those objectives are achieved; and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the commencement date.

(5) Reports under this regulation must afterwards be published at intervals not exceeding five years.

Signed by the authority of the Secretary of State for Communities and Local Government

Department for Communities and Local Government

*Brandon Lewis*
Minister of State



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# SCHEDULES

## SCHEDULE 1

Regulation 3

Hazardous substances and controlled quantities

## PART 1

Categories of substances

| ***Column 1Hazard categories in accordance with the CLP Regulation*** | ***Column 2Controlled quantity (tonnes)*** |
|---|---|
| **Section 'H' – HEALTH HAZARDS** | |
| H1 ACUTE TOXIC Category 1, all exposure routes | 5 |
| H2 ACUTE TOXIC<br>— Category 2, all exposure routes<br>— 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)<br>— Unstable explosives or<br>— 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 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)<br>Explosives, Division 1.4 (see note 11) | 50 |
| 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 | 50 |



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| | |
|---|---|
| Oxidising gases, Category 1 | |
| P5a FLAMMABLE LIQUIDS<br>— Flammable liquids, Category 1, or<br>— Flammable liquids Category 2 or 3 maintained at a temperature above their boiling point, or<br>— Other liquids with a flash point ≤ 60 °C, maintained at a temperature above their boiling point (see note 13) | 10 |
| P5b FLAMMABLE LIQUIDS<br>— Flammable liquids Category 2 or 3 where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards, or<br>— 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<br>Flammable liquids, Categories 2 or 3 not covered by P5a and P5b | 5,000 |
| P6a SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES<br>Self-reactive substances and mixtures, Type A or B or organic peroxides, Type A or B | 10 |
| P6b SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES<br>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<br>Pyrophoric liquids, Category 1<br>Pyrophoric solids, Category 1 | 50 |
| P8 OXIDISING LIQUIDS AND SOLIDS<br>Oxidising Liquids, Category 1, 2 or 3, or<br>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 |



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# PART 2

Named hazardous substances

| ***Column 1*** Hazardous substances | ***CAS number***[1] | ***Column 2*** Controlled quantity (tonnes) |
|---|---|---|
| **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 |
| **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 ≥ 90%) | 50-00-0 | 5 |
| **15.** Hydrogen | 1333-74-0 | 2* |

[1] The CAS number is shown only for indication



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| | | |
|---|---|---|
| **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*<br>Liquefied petroleum gas: 25[F36*]<br>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 2,6 - Toluene diisocyanate | 584-84-9<br>91-08-7 | 10 |
| **27.** Carbonyl dichloride (phosgene) | 75-44-5 | 0.3 |
| **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 |

[1] The CAS number is shown only for indication



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| | | |
|---|---|---|
| **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 |
| **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 this Schedule provided that the mixture in the absence of sodium hypochlorite would not | | 200 |

[1] The CAS number is shown only for indication



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| | | |
|---|---|---|
| be classified as Aquatic Acute Category 1 [H400]. | | |
| **42.** Propylamine (see note 22) | 107-10-8 | 500 |
| **43.** Tert-butyl acrylate (see note 22) | 1663-39-4 | 200 |
| **44.** 2-Methyl-3-butenenitrile (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

# PART 3

## Substances used in processes

| *Column 1Hazardous substances* | *Column 2Controlled quantity* |
|---|---|
| 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. |

# PART 4

## Notes to Parts 1 to 3

**1.** Substances and mixtures are classified in accordance with the CLP Regulation.

**2.** Mixtures shall 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.



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**3.** Expressions appearing both 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.

**4.** The controlled quantities set out in Parts 1 to 3 of this Schedule relate to each establishment.

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.

**[**[F37]**5.**—(1) In the case of an establishment where two or more below-threshold substances in the same hazard group are present, the rule in paragraph (3) applies to those substances.

(2) In this note—

"below-threshold substances" are substances falling within Part 1 or 2 of this Schedule which are present in quantities below the quantities corresponding to those substances specified in column 2 of those Parts;

"hazard group" means each of the following groups of substances—

(a) substances listed in Part 2 of this Schedule which fall within acute toxicity category 1, 2 or 3 (inhalation route) or STOT SE category 1 and substances which fall within section H, entries H1 to H3 of Part 1;

(b) substances listed in Part 2 of this Schedule 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 and substances which fall within section P, entries P1 to P8 of Part 1;

(c) substances listed in Part 2 of this Schedule which fall within hazardous to the aquatic environment acute category 1, chronic category 1 or chronic category 2 and substances which fall within section E, entries E1 and E2 of Part 1.

(3) Where, in relation to below-threshold substances in the same hazard group, the sum produced by the formula in paragraph (4) is greater than or equal to 1, the controlled quantity of each such substance shall be the value $q_n$ used in that formula.

(4) The formula is—

$$\frac{q1}{CQ1}+\frac{q2}{CQ2}+\frac{q3}{CQ3}+\frac{q4}{CQ4}+\frac{q5}{CQ5}+\ldots$$

where—

$q_n$ = the quantity of a below-threshold substance which is present at the establishment;

CQn = the quantity corresponding to that substance specified in column 2 of Part 1 or 2 of this Schedule (except for Hydrogen where CQ is to be 5, and for liquefied petroleum gas and natural gas (including liquefied natural gas) where CQ is to be 50).**]**

**F37** Sch. 1 Pt. 4, note 5 substituted (6.4.2017) by The Planning (Hazardous Substances) (Amendment) Regulations 2017 (S.I. 2017/365), regs. 1, **2(1)**

**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.

**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



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application of the rule in note 5, the lowest controlled quantity for **[**[F38]each hazard group under note 5**]** corresponding to the classification concerned must be used.

**F38** Words in Sch. 1 Pt. 4, note 7 replaced (6.4.2017) by The Planning (Hazardous Substances) (Amendment) Regulations 2017 (S.I. 2017/365), regs. 1, **2(2)**

**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.

**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.

**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 Dangerous Goods, Manual of Tests and Criteria (UN Manual of Tests and Criteria) [F39] identifies the substance or mixture as potentially having explosive properties.

**F39** More guidance on waiving of the test can be found in the A.14 method description in the Annex to Council 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).

**11.** If Explosives of Division 1.4 are unpacked or repacked, they shall be assigned to the entry P1a, unless the hazard is shown to still correspond to Division 1.4, in accordance with the CLP Regulation.

**12.**—(1) Flammable aerosols are classified in accordance with the Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers [F40](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.

(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.

**F40** O.J. L 147, 9.6.1975, p. 40.

**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.

**14.** Ammonium nitrate (5,000/10,000): fertilisers capable of self-sustaining decomposition

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—



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(a) between 15.75% [F41] and 24.5% [F42] 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 of 13 October 2003 relating to fertilisers [F43];

(b) 15.75% by weight or less and unrestricted combustible materials.

**F41** 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate.

**F42** 24.5% nitrogen content by weight as a result of ammonium nitrate corresponds to 70% ammonium nitrate.

**F43** O.J. L 304, 21.11.2003, p. 1.

**15.** Ammonium nitrate (1,250/5,000): fertiliser grade

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 Regulation (EC) No 2003/2003 and in which the nitrogen content as a result of ammonium nitrate is—

(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;

(c) more than 28%[F44] by weight for mixtures of straight ammonium nitrate-based fertilisers with dolomite, limestone and/or calcium carbonate with a purity of at least 90%.

**F44** 28% nitrogen content by weight as a result of ammonium nitrate corresponds to 80% ammonium nitrate.

**16.** Ammonium nitrate (350/2,500): technical grade

This applies to ammonium nitrate and mixtures of ammonium nitrate in which the nitrogen content as a result of the ammonium nitrate is—

(a) between 24.5% and 28% by weight, and which contain not more than 0.4% combustible substances;

(b) more than 28% by weight, and which contain not more than 0.2% combustible substances.

It also applies to aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 80% by weight.

**17.** Ammonium nitrate (10/50): 'off-specs' material and fertilisers not fulfilling the detonation test.

This applies to—

(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 **[**[F45]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 **[**[F45]notes 15 and 16**]**;

(b) fertilisers referred to in **[**[F46]note 14(a) and 15**]** to this Schedule which do not fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003.

**F45** Words in Sch. 1 para. 17(a) substituted (E.) (10.6.2015) by The Planning (Hazardous Substances) (Amendment) Regulations 2015 (S.I. 2015/1359), **reg. 2(3)(b)**



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**F46** Words in Sch. 1 para. 17(b) substituted (E.) (10.6.2015) by The Planning (Hazardous Substances) (Amendment) Regulations 2015 (S.I. 2015/1359), **reg. 2(3)(c)**

**18.** Potassium nitrate (5,000/10,000)

This applies to those composite potassium-nitrate based fertilisers (in prilled/granular form) which have the same hazardous properties as pure potassium nitrate.

**19.** Potassium nitrate (1,250/5,000)

This applies to those composite potassium-nitrate based fertilisers (in crystalline form) which have the same hazardous properties as pure potassium nitrate.

**20.** Upgraded biogas

For the purpose of the implementation of these Regulations, upgraded biogas may be classified under entry 18 of Part 2 of this Schedule 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.

**21.** Polychlorodibenzofurans and polychlorodibenzodioxins

The quantities of polychlorodibenzofurans and polychlorodibenzodioxins are calculated using the following factors:

| **WHO 2005 TEF**[1] | | | |
|---|---|---|---|
| 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)

[1] 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.



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**23.** Where a hazardous substance falls within both Parts 1 and 2 of this Schedule, the controlled quantity in Part 2 applies.

**24.** In relation to Part 3—

(a) where S also falls within Part 1 or Part 2, the classification with the lowest controlled quantity applies; and

(b) 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

**Loading, unloading and intermediate storage**

**1.** Subject to paragraph 2, hazardous substances consent is not required for the temporary presence of a hazardous substance during the period between its being unloaded from one means of transport and loaded onto another, including if it is in directly related intermediate temporary storage, while it is being transported from one place to another.

**2.** Paragraph 1 does not apply if the substance referred to in paragraph 1 is present on, over or under land in respect of which—

(a) there is a hazardous substances consent for any substance; or

(b) (not taking into account the quantity of the substance being transported) there is required to be such a consent for any substance.

**Pipelines**

**3.** 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 any land in respect of which —

(a) there is a hazardous substances consent for any substance, or

(b) (not taking into account the quantity of the substance in the pipeline or pumping station) there is required to be such a consent for any substance.

**Emergency unloading from ships**

**4.** 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.

**5.** For the purpose of paragraph 4, 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 [F47] (directions by Secretary of State to harbour master) applied; or

**[**[F48](b) it was unloaded from a craft after having been brought into a harbour area, within the meaning of regulation 2(1) of the Dangerous Goods in Harbour Areas Regulations 2016, without requiring notification under paragraph (1) of regulation 6 of those Regulations by virtue of an exemption under paragraph (6) of that regulation**]**



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**F47** 1985 c. 22.
**F48** Sch. 2 para. 5(b) substituted (1.10.2016) by The Dangerous Goods in Harbour Areas Regulations 2016 (S.I. 2016/721), reg. 1, **Sch. 5 para. 13(a)** (with reg. 5)

### Landfill sites

**6.** Subject to paragraph 7, hazardous substances consent is not required for the presence of a hazardous substance on, over or under land at a waste land-fill site, including underground waste storage.

**7.** Paragraph 6 does not apply to—

(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 [F49];

(b) onshore underground gas storage in natural strata, aquifers, salt cavities and disused mines;

(c) chemical and thermal processing operations and storage related to those operations; or

(d) operational tailings disposal facilities, including tailing ponds or dams, containing a hazardous substance.

**F49** O.J. L 304, 14.11.2008, p. 75.

### Nuclear sites

**8.** 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 [F50].

**F50** 1965 c. 57; section 1 was substituted by paragraphs 16 and 17 of Schedule 12 to the Energy Act 2013 (c. 32).

### Minerals

**9.** Hazardous substances consent is not required for the presence of a hazardous substance for the purposes of the exploitation, namely the exploration, extraction and processing, of minerals in mines and quarries, including by means of boreholes, except where present in connection with the matters referred to in paragraphs 7(b) to (d) of this Schedule.

**10.** Hazardous substances consent is not required for the presence of a hazardous substance for the purposes of—

(a) the offshore exploration and exploitation of minerals, including hydrocarbons; or

(b) the storage of gas at underground offshore sites including both dedicated storage sites and sites where exploration and exploitation of minerals, including hydrocarbons are also carried out.



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### Explosives

**11.** Hazardous substances consent is not required for the presence of an explosive within the meaning of regulation 2(1) of the Explosives Regulations 2014 [F51] 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.

**F51** S.I. 2014/1638.

**[**[F52]**12.** Hazardous substances consent is not required where an explosives licence within the meaning of regulation 2(1) of the Dangerous Goods in Harbour Areas Regulations 2016 has been issued.**]**

**F52** Sch. 2 para. 12 substituted (1.10.2016) by The Dangerous Goods in Harbour Areas Regulations 2016 (S.I. 2016/721), reg. 1, **Sch. 5 para. 13(b)** (with reg. 5)

### Presence of established substances

**13.** Hazardous substances consent is not required in relation to a hazardous substance which is on, over or under any 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.

**14.** Paragraph 13 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 one time during the establishment period.

### Presence of exempted substances

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

### Presence of small quantities of substances

**16.** The presence of a quantity of a hazardous substance—



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(a) in a location where it cannot act as an initiator of a major accident elsewhere on the relevant site, and

(b) which is equal to or less than two per cent of the relevant controlled quantity for that 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 Act or these Regulations.

**Minor changes to types and quantities of substances**

**17.** Where the conditions in paragraph 18 are met, hazardous substances consent is not required for a relevant minor change.

**18.** The conditions are—

(a) that before the relevant minor change occurs, the hazardous substances authority receives from the COMAH competent authority notice in writing (which has been copied to the person in control of the land to which the hazardous substances consent in question relates) confirming—

(i) details of the relevant minor change, including details about how substances are to be kept and used;

(ii) that the relevant minor change will not result in a safety hazard change; and

(iii) that the relevant minor change will not result in a lower-tier establishment becoming an upper-tier establishment or vice versa; and

(b) that any hazardous substances that are held without hazardous substances consent in reliance on this exemption are kept and used in accordance with the details set out in the notice from the COMAH competent authority.

**Interpretation of this Schedule**

**19.** In this Schedule—

"establishment period" means the period of 12 months ending on—

(a) the commencement date; or

(b) (if later) the date on which hazardous substances consent was first required for the relevant substance;

"relevant minor change" means a change to the quantity or type of hazardous substances present on, over 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 this regulation;

"safety hazard change" means a change to an area notified to a local planning authority by the Health and Safety Executive or the Office of Nuclear Regulation for the purposes of paragraphs (e) or (f) of the Table in Schedule 4 to the Town and Country Planning (Development Management Procedure) (England) Order 2015 [F53], where that change results in—

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

(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.

**F53** S.I.2015/595.

**20.** Expressions appearing both 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.



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# SCHEDULE 3

Regulations 6(4), 7, 13(4) and 13(5)

## Prescribed forms, notices and certificates

Form 1

**Posting of Notice of Application Certificate**

**The Planning (Hazardous Substances) Act 1990**

**The Planning (Hazardous Substances) Regulations 2015 (Regulation 6)**

**Certificate A**

I certify that:

I/The applicant* posted the notice required by regulation 6(1)(b) of the above Regulations on the land which is the subject of the accompanying application.

The notice was left in position for not less than 7 days during the 21 day period preceding the application.

**Certificate B**

I certify that:

I have/The applicant has* been unable to post the notice required by regulation 6(1)(b) of the above Regulations on the land which is the subject of the accompanying application because I have/the applicant has* no right of access or other rights in respect of the land that would enable me/the applicant* to do so.

I have/The applicant has* taken the following steps to acquire those rights, but have/has* been unsuccessful.

(Give description of steps taken).....

.....

**Certificate C**

I certify that:

I/The applicant* posted the notice required by regulation 6(1)(b) of the above Regulations on the land which is the subject of the accompanying application.

It was, however, left in position for less than 7 days during the 21 day period preceding the application.

This happened because it was removed/obscured/defaced* before 7 days had elapsed.

This was not my/the applicant's* fault or intention.

I/The applicant* took the following steps to protect and replace the notice:

(Give description of steps taken).....

Signed.....

*On behalf of.....

Date.....

* delete where inappropriate

Form 2

**Certificates under Regulation 7(1)* or 13(4)*[(a)]**

**The Planning (Hazardous Substances) Act 1990**

**The Planning (Hazardous Substances) Regulations 2015**

**Certificate A**

I certify that:

At the beginning of the period of 21 days ending with the date of the accompanying application/appeal* only the applicant/appellant*, was the owner(b) of any part of the land to which the application/appeal* relates.

Signed.....

*on behalf of.....

Date.....

**Certificate B**

I certify that:

I have/The applicant has/The appellant has* given the required notice[(c)] to everyone else who, at the beginning of the period of 21 days ending with the date of the accompanying application/appeal, was the owner[(b)] of any part of the land to which the application/ appeal*relates, as listed below.

Owner's name.....

Address at which notice was served.....

Date on which notice was served.....

Signed.....

*on behalf of.....

Date.....



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**Certificate C**

I certify that:

I/The applicant/The appellant* cannot issue a Certificate A or B in respect of the accompanying application/appeal*.

I have/The applicant has/The appellant has* given the required notice[(c)] to the persons specified below, being persons who at the beginning of the period of 21 days ending with the date of the application/appeal*, were owners[(b)] of any part of the land to which the application/appeal *relates.

Owner's name.....

Address at which notice was served.....

Date on which notice was served.....

I have/The applicant has/The appellant has* taken all reasonable steps open to me/him/her* to find out the names and addresses of the remaining owners[(b)] of the land, or of a part of it, but have/has* been unable to do so. These steps were as follows:—

[(d)] .....

.....

Signed.....

*On behalf of.....

Date.....

**Certificate D**

I certify that:

I/The applicant/The appellant* cannot issue a Certificate A in respect of the accompanying application/appeal*

I/The applicant/The appellant* have/has* taken all reasonable steps open to me/him/her* to find out the names and addresses of everyone else who, at the beginning of the period of 21 days ending with the date of the application/appeal*, was the owner[(b)] of any part of the land to which the application/appeal* relates, but have/has* been unable to do so. These steps were as follows:—

[(d)] .....

.....

Signed.....

*On behalf of.....

Date.....

*delete where inappropriate

---

[(a)] These Certificates are for use both with applications and appeals for hazardous substances consent. References to either regulation 7(1) or 13(4) should therefore be deleted as appropriate. One of certificates A, B, C or D must be completed.

[(b)] "Owner" means a person having a freehold interest or a tenancy the unexpired term of which is not less than 7 years.

[(c)] Form 3 (for applications) or Form 4 (for appeals).

[(d)] Insert description of steps taken.

Form 3

**Notice of Application for Hazardous Substances Consent/ Continuation of Hazardous Substances Consent***

**The Planning (Hazardous Substances) Act 1990**

**The Planning (Hazardous Substances) Regulations 2015 (Regulation 7)**

**To be served on an owner[(a)]**

I give notice that[(b)].....

is applying to the[(c)] .....

for hazardous substances consent/the continuation of hazardous substances consent*

[(d)]. .....

at[(e)] .....

Details about how you may inspect a copy of the application and make representations to

[(c)] .....

are set out in the attached public notice.

Signed: .....

*on behalf of.....

Date.....

*delete where inappropriate

---

[(a)] "Owner" means a person having a freehold interest or a tenancy the unexpired term of which is not less than 7 years.

[(b)] Insert applicant's name.

[(c)] Insert name of Council or other body to whom the application is to be made.

[(d)] Insert a description of the proposal.

[(e)] Insert address or location of the application site.

Form 4

**Notice of Appeal**
**The Planning (Hazardous Substances) Act 1990**

**The Planning (Hazardous Substances) Regulations 2015 (Regulation 13)**

**To be served on an owner[a]**

I give notice that[b] .....

having applied to the[c] ..... for hazardous substances consent/the continuation of hazardous substances consent*

for[d] .....

at[e] .....

is appealing to the Secretary of State for Communities and Local Government

against the decision of the[c] .....

on the failure of the[c] .....to give notice of a decision*

If you wish to make representations about this appeal you should write to the Planning Inspectorate, Temple Quay House, Bristol BS1 8TY within 21 days of the date of service of this notice.

Signed: .....

*on behalf of.....

Date.....

*delete where inappropriate

---

[a] "Owner" means a person having a freehold interest or a tenancy the unexpired term of which is not less than 7 years.

[b] Insert appellant's name.

[c] Insert name of Council or other body to whom the application was made.

[d] Insert a description of the proposals.

[e] Insert address or location of the application site.

SCHEDULE 4 Regulations 15, 17, 18 and 19(1)

Enforcement – application of the principal Act

# PART 1

## Appeals against hazardous substances contravention notices

**1.** Section 174 of the principal Act (appeals against enforcement notice) applies but as if—

(a) in subsection (1), for "an enforcement notice" there were substituted " a hazardous substances contravention notice ";

(b) for subsection (2) there were substituted—

"(2) An appeal may be brought on any of the following grounds-

(a) that, in respect of any contravention of hazardous substances control specified in the notice, hazardous substances consent ought to be granted for the quantity of the hazardous substance present on, over or under the land or, as the case may be, the condition concerned ought to be discharged;

(b) that the matters alleged to constitute a contravention of hazardous substances control have not occurred;

(c) that those matters (if they occurred) do not constitute a contravention of hazardous substances control;

(d) that copies of the hazardous substances contravention notice were not served as required by or under section 24(4) of the Planning (Hazardous Substances) Act 1990;

(e) that the steps required by the notice to be taken exceed what is necessary to remedy any contravention of hazardous substances control;

(f) that any period specified in the notice in accordance with section 24(5)(b) of that Act falls short of what should reasonably be allowed.";



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(c) subsections (2A), (2B) and (2C) were omitted;

(d) in subsection (3)(a), for "enforcement notice" there were substituted " hazardous substances contravention notice ";

(e) for subsection (4) there were substituted—

"(4) A notice under subsection (3) shall be accompanied by a copy of the hazardous substances contravention notice, together with a statement—

(a) specifying the grounds on which the appeal is being made against the hazardous substances contravention notice; and

(b) setting out the appellant's submissions in relation to each ground of appeal.";

(f) in subsection (5), after "does not" and "failed" there were inserted "in that statement" and "within the prescribed time" and "within that time" were omitted;

(g) in subsection (6), for "enforcement notice" there were substituted " hazardous substances contravention notice ".

**2.** Section 175 of the principal Act (appeals: supplementary provisions) applies but as if—

(a) in subsections (1), (4) and (5), for "enforcement notice" there were substituted " hazardous substances contravention notice ";

(b) in subsection (3), for "local planning authority" there were substituted " hazardous substances authority ";

(c) subsection (3A) were omitted;

(d) in subsection (6), for "any other provisions of this Act" there were substituted " section 25(1) of the Planning (Hazardous Substances) Act 1990 ".

**3.** Section 176 of the principal Act (general provisions relating to determination of appeals) applies but as if—

(a) in subsection (1)—

(i) for "enforcement notice" in both places where it occurs, there were substituted " hazardous substances contravention notice ";

(ii) for "local planning authority" there were substituted " hazardous substances authority ";

(b) in subsection (3)—

(i) in paragraph (a) "within the prescribed time" were omitted;

(ii) for paragraph (b) there were substituted—

"(b) may allow an appeal and quash the hazardous substances contravention notice if the hazardous substances authority fail to comply with regulation 16(2) of the Planning (Hazardous Substances) Regulations 2015."

(c) in subsections (4) and (5), for "enforcement notice" there were substituted " hazardous substances contravention notice ".

**4.** Section 177 of the principal Act (grant or modification of planning permission on appeal against enforcement notice) but as if—

(a) for subsection (1) there were substituted —

"(1) On the determination of an appeal under section 174, the Secretary of State may—



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(a) grant hazardous substances consent for the presence of the hazardous substance on, over or under the land to which the hazardous substances contravention notice relates or on, over or under part of that land;

(b) discharge any condition subject to which hazardous substances consent was granted.";

(b) subsections (1A) and (1B) were omitted;

(c) for subsection (2) there were substituted —

"(2) In considering whether to grant hazardous substances consent under subsection (1), the Secretary of State shall have regard to the considerations specified in section 9(2) of the Planning (Hazardous Substances) Act 1990."

(d) in subsection (3), for "planning permission" in both places where it occurs there were substituted " hazardous substances consent " and for "Part III" there were substituted " the Planning (Hazardous Substances) Act 1990 ";

(e) in subsection (4) "or limitation" were omitted in both places where it occurs;

(f) for subsection (5) there were substituted—

"(5) where an appeal against a hazardous substances contravention notice is brought under section 174, the appellant shall be deemed to have made an application for hazardous substances consent in respect of the matters specified in the hazardous substances contravention notice as constituting a contravention of hazardous substances control."

(g) in subsection (5A), for "section 303" there were substituted " section 26A of the Planning (Hazardous Substances) Act 1990 ";

(h) in subsections (6) and (7), for "planning permission" there were substituted " hazardous substances consent ";

(i) for subsection (8) there were substituted—

"(8) For the purposes of section 28 of the Planning (Hazardous Substances) Act 1990 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for hazardous substances consent made to the hazardous substances authority."

## PART 2

### Effect of hazardous substances contravention notices, etc.

**5.** Section 178 of the principal Act (execution and cost of works required by enforcement notices) has effect but as if—

(a) for "an enforcement notice" in each place where it occurs there were substituted " a hazardous substances contravention notice ";

(b) for "local planning authority" in each place where it occurs there were substituted " hazardous substances authority ";

(c) in subsection (2) for "breach of planning control" in both places where it occurs there were substituted " contravention of hazardous substances control ";

(d) in subsection (4) for "the enforcement notice" there were substituted " the hazardous substances contravention notice ";

(e) after subsection (6) there were inserted—



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"(7) Where different periods are specified for different steps under section 24(5)(b) of the Planning (Hazardous Substances) Act 1990 in relation to a hazardous substances contravention notice, references in this section and in section 179 to the period for compliance with a hazardous substances contravention notice, in relation to any step, are to the period at the end of which the step is required to have been taken."

**6.** Section 179 (offence where enforcement notice not complied with) has effect but as if—

(a) for subsection (1) there were substituted—

"(1) Where, at any time after the end of the period for compliance with a hazardous substances contravention notice, any steps required by the notice to be taken have not been taken, the person who is then the owner of the land and any person other than the owner who is in control of the land is in breach of the notice.";

(b) in subsection (2) for "the owner of the land" there were substituted " a person " and for "an enforcement notice" substitute " a hazardous substances contravention notice ";

(c) subsections (4) and (5) were omitted;

(d) in subsection (6) "or (5)" were omitted;

(e) in subsection (7)(a) for "enforcement notice" there were substituted " hazardous substance contravention notice ".

**7.** Section 180 (effect of planning permission etc. on enforcement or breach of condition notice) has effect but as if—

(a) for subsection (1) there were substituted—

"(1) Where, after the service of a copy of a hazardous substances contravention notice, hazardous substances consent is granted for the presence of a hazardous substance on, over or under the land to which the notice relates, the notice shall cease to have effect so far as inconsistent with that consent.";

(b) subsection (2) were omitted;

(c) in subsection (3), for "enforcement notice or breach of conditions notice" there were substituted " a hazardous substances contravention notice ".

**8.** Section 181 (enforcement notice to have effect against subsequent development) has effect but as if it read—

"(1) Compliance with a hazardous substances contravention notice shall not discharge the notice.

(2) Without prejudice to subsection (1), where a provision of a hazardous substances contravention notice requires a hazardous substance to be removed from the land to which the notice relates, the presence on, over or under that land of a quantity of that substance equal to or exceeding its controlled quantity, at any time after the substance has been removed in compliance with the hazardous substances contravention notice, shall be in contravention of that notice.

(3) Without prejudice to subsection (1), where a provision of a hazardous substances contravention notice requires the quantity of a hazardous substance on, over or under the land to which the notice relates to be reduced below a specified quantity (being greater than the controlled quantity), the presence on, over or under that land of a quantity of that substance equal to or in excess of the specified quantity at any time after the quantity of that substance has been reduced below the specified quantity in compliance with the hazardous substances contravention notice, shall be in contravention of that notice.

(4) Without prejudice to subsection (1), where a provision of a hazardous substances contravention notice requires steps to be taken to remedy a failure to comply with a condition



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subject to which a hazardous substances consent was granted, after those steps have been taken no further steps shall be taken which would constitute a breach of that condition, and the taking of such further steps shall be in contravention of that notice.

(5) Sections 178 and 179 shall apply to the contravention of a hazardous substances contravention notice to which this section applies as if the period for compliance with the notice had expired on the date the contravention took place, but the hazardous substances authority shall not enter the land under section 178(1) without, at least 28 days before their entry, serving on the owner or occupier of the land a notice of their intention to do so."

## PART 3

### Registers

**9.** Section 188 of the principal Act (register of enforcement and stop notices) has effect but as if—

(a) for subsections (1) and (2) there were substituted—

"(1) Every hazardous substances authority shall keep an enforcement register containing the following information in respect of each hazardous substances contravention notice issued by them—

(a) the address of the land to which the notice relates;

(b) the date of service of copies of the notice;

(c) a statement of the alleged contravention of hazardous substances control, the steps required by the notice to remedy the contravention, and the period within which such steps are to be taken;

(d) the date specified in the notice as the date on which it is to take effect;

(e) the date and effect of any variation of the notice;

(f) the date of any appeal to the Secretary of State against the notice and the date of the final determination of the appeal.

(1A) The entry relating to the hazardous substances contravention notice and everything relating to any such notice shall—

(a) include the category in Column 1 of Part 1 of Schedule 1 to the Planning (Hazardous Substances) Regulations 2015 into which any substance in the notice falls; and

(b) be removed from the register if the notice is quashed by the Secretary of State or withdrawn.

(1B) The register shall include an index to enable any person to trace an entry in the register.

(1C) Every entry in the register shall be made within 14 days of the relevant information being available to the hazardous substances authority.

(2) The register shall be kept at the principal office of the hazardous substances authority. "; and

(b) paragraph (4) were omitted.



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# PART 4

## Validity

**10.** Section 285 of the principal Act (validity of enforcement notices and similar notices) applies but as if—

(a) in subsection (1), for "an enforcement notice" there were substituted " a hazardous substances contravention notice ";

(b) in subsection (2), for "enforcement notice" in each place where it occurs there were substituted " hazardous substances contravention notice ";

(c) subsections (3) and (4) were omitted.

**11.** Section 289 of the principal Act (appeals to the High Court relating to enforcement notices etc.) applies but as if—

(a) in subsections (1), (4A) and (5A) for "an enforcement notice" in each place where it occurs there were substituted " a hazardous substances contravention notice " and in subsections (1) and (4A) for "local planning authority" in each place where it occurs there were substituted " hazardous substances authority ";

(b) subsections (2) and (4B) were omitted.

## SCHEDULE 5

Regulation 33

### Amendments

**Amendment of the Town and Country Planning (London Spatial Development Strategy) Regulations 2000**

**1.**—(1) The Town and Country Planning (London Spatial Development Strategy) Regulations 2000 [F54] are amended as follows.

(2) In regulation 6 (regard to be had to certain matters and statement of regard)—

(a) in paragraph (1), for paragraphs (b) and (c) substitute—

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

(c) the need, in the long term—

(i) to maintain appropriate safety distances between establishments 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;

(iii) in the case of existing establishments, to take additional technical measures, in accordance with Article 5 of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, so as not to increase the risks to human health and the environment."

(b) in paragraph (2), for "Council Directive 96/82/EC" substitute " Directive 2012/18/EU ".



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**F54** S.I. 2000/1491.

### Amendment of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

**2.**—(1) The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 [F55] are amended as follows.

(2) In rule 10 (documents accompanying application), in paragraph (7)—

(a) omit subparagraph (a); and

(b) in subparagraph (b), for "in such one or more of regulations 5(1)(b), 5(2)(b) and 5(3)(b) of those Regulations" substitute " regulation 5(1)(c), 5(1)(d), 5(2)(c) to (h) and 5(3)(c) to (g) of the Planning (Hazardous Substances) Regulations 2015 ".

(3) In the table in Schedule 5 (those to be served with a copy of the application and documents), after the row numbered 21, insert—

| | |
|---|---|
| **"21A. A relevant project as defined in regulation 26(5) of the Planning (Hazardous Substances) Regulations 2015.** | **21A. The COMAH competent authority as defined in regulation 2(1) of those Regulations."** |

**F55** S.I. 2006/1466.

### Amendment of the Town and Country Planning (Mayor of London) Order 2008

**3.**—(1) The Town and Country Planning (Mayor of London) Order 2008 [F56] is amended as follows.

(2) In article 6 (Mayor's power to direct refusal of a PSI application) for paragraphs (2)(h) and (2)(i), substitute—

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

(i) the need, in the long term—

(i) to maintain appropriate safety distances between establishments 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 Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, so as not to increase the risks to human health and the environment."

(3) In paragraph (3), for "Council Directive 96/82/EC" substitute " Directive 2012/18/EU ".

**F56** S.I. 2008/580.



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**Amendment of the Town and Country Planning (Local Planning) (England) Regulations 2012**

**4.**—(1) The Town and Country Planning (Local Planning) (England) Regulations 2012 [F57] are amended as follows.

(2) In regulation 10 (Local plans and supplementary planning documents: additional matters to which regard is to be had)—

(a) for paragraph (1)(b) substitute—

"(b) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment by pursuing those objectives through the controls described in Article 13 of Council Directive 2012/18/EU;"

(b) for paragraph (1)(c) substitute—

"(c) the need, in the long term—

(i) to maintain appropriate safety distances between establishments 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;

(ii) in the case of existing establishments, to take additional technical measures, in accordance with Article 5 of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, so as not to increase the risks to human health and the environment."

(c) in paragraph (2), for "Council Directive 96/82/ EC (as amended by Council Directive 2003/105/EC)" substitute " Directive 2012/18/EU ".

**F57** S.I. 2012/767.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement the land-use planning obligations (articles 13 and 15) in Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances (O.J. L 197, 24.7.2012, p.1)(the "Seveso III Directive"). These Regulations also consolidate, with amendments, existing regulations made under the Planning (Hazardous Substances) Act 1990 ("the Act") and revoke the following statutory instruments to the extent specified—

(1) The Planning (Hazardous Substances) Regulations 1992;

(2) The Planning (Control of Major-Accident Hazards) Regulations 1999;



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(3) The Town and Country Planning (Application of Subordinate Legislation to the Crown) Order 2006;

(4) The Planning (Hazardous Substances) (Amendment) (England) Regulations 2009;

(5) The Planning (Hazardous Substances) (Amendment) (England) Regulations 2010; and

(6) The Explosives Regulations 2014.

These Regulations apply to England. Certain provisions (as set out in regulation 1) also apply in relation to Scotland and Wales to the extent that they relate to non-devolved infrastructure planning matters. The devolved administrations are separately implementing the land-use planning requirements of the Seveso III Directive in relation to devolved planning matters. The non-planning aspects of the Seveso III Directive are implemented through The Control of Major Accident Hazards Regulations 2015 (S.I. 2015/483).

These Regulations set out—

(1) in Part 2 and Schedules 1 and 2, the substances which are hazardous substances for the purposes of the Act, the controlled quantities of those substances, and exemptions from the need for hazardous substances consent;

(2) in Part 3 and Schedule 3, procedures to be followed for applications for hazardous substances consent;

(3) in Part 4 and Schedule 4, procedures for the enforcement of hazardous substances control;

(4) in Part 5, the information to be held in a consents register, the fees required in connection with an application for hazardous substances consent, and how hazardous substances control applies to hazardous substances authorities;

(5) in Part 6, obligations to take certain matters in the Seveso III Directive into account in land-use planning policies and other relevant policies, and public consultation and participation obligations in relation to certain plans, programmes and projects where the presence of hazardous substances is relevant; and

(6) in Part 7, revocations, amendments, savings, transitional provisions, Crown application provisions and review obligations.

An impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Communities and Local Government, 2 Marsham Street, London SW1P 4DF, and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk. A transposition note, indicating the parts of these Regulations which implement obligations in the Seveso III Directive, is published with the Explanatory Memorandum and is also available at those places.



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**Changes to legislation:**
The Planning (Hazardous Substances) Regulations 2015 is up to date with all changes known to be in force on or before 26 October 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

**Changes and effects yet to be applied to :**

- reg. 2(1) words inserted by S.I. 2018/1234 reg. 7(a)
- reg. 2(1) words inserted by S.I. 2018/1234 reg. 7(b)
- reg. 6(1)(a)(ii) words substituted by S.I. 2018/1234 reg. 8(a)
- reg. 10(3)(a)(ii) words substituted by S.I. 2018/1234 reg. 9(a)
- reg. 24(1)(b) words added by S.I. 2018/1234 reg. 10
- reg. 25(6) words inserted by S.I. 2018/1234 reg. 11
- reg. 26(2)(a)(ii) words substituted by S.I. 2018/1234 reg. 12(a)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**
Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 6(1)(a)(iia) inserted by S.I. 2018/1234 reg. 8(b)
- reg. 10(3)(a)(iia) inserted by S.I. 2018/1234 reg. 9(b)
- reg. 26(2)(a)(iia) inserted by S.I. 2018/1234 reg. 12(b)