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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 325**

The Control of Major Accident Hazards  
Regulations (Northern Ireland) 2015

**PART 1 N.I.**

INTRODUCTION

**Citation and commencement N.I.**

1. These Regulations may be cited as the Control of Major Accident Hazards Regulations (Northern Ireland) 2015 and shall come into operation on 28th September 2015.

**Interpretation N.I.**

2.—(1) In these Regulations—

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978;

“the 2000 Regulations” means the Control of Major Accident Hazards Regulations (Northern Ireland) 2000<sup>M1</sup>;

“CAS number” is the number assigned to a substance by the Chemical Abstracts Service<sup>M2</sup>;

“the CLP Regulation” means 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 amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No. 1907/2006, of which Annex I, Part 1.0 and 1.1, Parts 2 to 4 and, Annex VI, Part 3 Table 3.1 are to be read as amended from time to time<sup>M3</sup>;

“competent authority” has the meaning given in regulation 4;

“dangerous substance” means (subject to regulation 3(2)(b) and (c)) a substance or mixture—

(a) listed in column 1 of Part 2 of Schedule 1; or

(b) in a category listed in column 1 of Part 1 of Schedule 1,

including in the form of a raw material, product, by-product, residue or intermediate;

“the Department” means the Department of Enterprise, Trade and Investment;

“designated authorities” means—

(a) a Northern Ireland department;

(b) a district council established under the Local Government Act (Northern Ireland) 1972<sup>M4</sup>;

(c) the emergency services;

(d) a Health and Social Care Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991<sup>M5</sup>;

(e) the Regional Health and Social Care Board;

(f) the Public Health Agency established under section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009<sup>M6</sup>;

“the Directive” means Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC<sup>M7</sup>;

“domino effects” is to be construed in accordance with regulation 24(2);

“domino groups” is to be construed in accordance with regulation 24(1) and a reference to “domino group” is to be read accordingly;

“emergency services” means—

(a) those police, fire and rescue and ambulance services who are liable to be required to respond to an emergency at an establishment; and

(b) where appropriate, Her Majesty's Coastguard;

“establishment” means the whole location under the control of an operator where a dangerous substance is present in one or more installations, including common or related infrastructures or activities, in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 2 of Part 1 or in column 2 of Part 2 of Schedule 1, where applicable using the rule laid down in note 4 in Part 3 of that Schedule;

“the Executive” means the Health and Safety Executive for Northern Ireland;

“existing establishment” has the meaning given in paragraph (2);

“external emergency plan” is to be construed in accordance with regulation 13(1);

“full address” means the full postal address (including postcode) and an address for contact by electronic means;

“hazard” means the intrinsic property of a dangerous substance or physical situation, with a potential for creating damage to human health or the environment;

“inspection” means all actions, including—

(a) site visits;

(b) checks of internal measures, systems and reports and follow up documents; and

(c) any necessary follow up,

undertaken by or on behalf of the competent authority to check and promote compliance of establishments with the requirements of these Regulations;

“inspector” means a person appointed under Article 21 of the 1978 Order by the Executive;

“installation” means a technical unit within an establishment, whether at or below ground level, in which dangerous substances are produced, used, handled or stored and includes all the equipment, structures, pipelines, pipework, machinery, tools, private railway sidings, docks, unloading quays serving the installation, jetties, warehouses or similar structures, floating or otherwise, necessary for the operation of that installation;

“internal emergency plan” is to be construed in accordance with regulation 12(1);

“lower tier establishment” means an establishment where a dangerous substance is present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 2 of Part 1 or in column 2 of Part 2 of Schedule 1, but less than that listed in the entry for that substance in column 3 of Part 1 or in column 3 of Part 2 of Schedule 1, where applicable using the rule laid down in note 4 of Part 3 of that Schedule;

“major accident” means an occurrence such as a major emission, fire, or explosion resulting from uncontrolled developments in the course of the operation of any establishment to which these Regulations apply, and leading to serious danger to human health or the environment

(whether immediate or delayed) inside or outside the establishment, and involving one or more dangerous substances;

“major accident prevention policy” is to be construed in accordance with regulation 7;

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

“neighbouring establishment” means an establishment that is located in such proximity to another establishment so as to increase the risk or consequences of a major accident;

“new establishment” means—

- (a) an establishment that is constructed or enters into operation on or after 28th September 2015;
- (b) a site of operation which becomes an establishment to which these Regulations apply on or after 28th September 2015 due to an increase or other change in its inventory of dangerous substances;
- (c) a lower tier establishment that becomes an upper tier establishment, or vice versa, on or after that date due to any modification to any of its installations or activities which results in a change in its inventory of dangerous substances;

“operator” means the person who is in control of the operation of an establishment, or in relation to an establishment which is to be constructed or operated the person who proposes to control its operation, or if that person is not known, the person who in the course of a trade, business or other undertaking carried on by that person has commissioned its design and construction;

“other establishment” means—

- (a) a site of operation that becomes an establishment to which these Regulations apply on or after 28th September 2015; or
- (b) a lower tier establishment that becomes an upper tier establishment, or vice versa, on or after that date,

for reasons other than those mentioned in paragraph (b) or (c) (as the case may be) of the definition of “new establishment”;

“pipelines” means pipelines to which the Pipelines Safety Regulations (Northern Ireland) 1997<sup>M8</sup> apply;

“the public” means one or more persons and, includes their associations, organisations or groups;

“presence of a dangerous substance” means the actual or anticipated presence of a dangerous substance in the establishment, or of a dangerous substance which it is reasonable to foresee may be generated during loss of control of the processes, including storage activities, in any installation within the establishment, in a quantity equal to or in excess of the qualifying quantity listed in the entry for that substance in column 2 of Part 1 or column 2 of Part 2 of Schedule 1, and “where a dangerous substance is present” is to be construed accordingly;

“Regional Health and Social Care Board” means the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

“risk” means the likelihood of a specific effect occurring within a specified period or in specified circumstances;

“safety report” is to be construed in accordance with regulation 8;

“storage” includes warehousing, depositing in safe custody or keeping in stock;

“upper tier establishment” means an establishment where a dangerous substance is present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column

3 of Part 1 or in column 3 of Part 2 of Schedule 1, where applicable using the rule laid down in note 4 of Part 3 of that Schedule.

- (2) For the purposes of these Regulations “existing establishment” means an establishment—
- (a) where on 27th September 2015 a dangerous substance or category of substance listed in column 1 of Parts 2 or 3 of Schedule 1 to the 2000 Regulations was present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 2 of those Parts, but less than that listed in the entry for that substance in column 3 of those Parts, where applicable using the rule laid down in note 4 to Part 3 of that Schedule, and which on 28th September 2015 was a lower tier establishment; or
  - (b) where on 27th September 2015 a dangerous substance or category of substance listed in column 1 of Parts 2 or 3 of Schedule 1 to the 2000 Regulations was present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 3 of those Parts, where applicable using the rule laid down in note 4 to Part 3 of that Schedule, and which on 28th September 2015 was an upper tier establishment,

other than one which has ceased to be an existing establishment.

- (3) For the purposes of paragraph (2) an establishment ceases to be an existing establishment—
- (a) within paragraph (a) of the definition of that term if, on or after 28th September 2015, the establishment becomes an upper tier establishment;
  - (b) within paragraph (b) of the definition of that term if, on or after 28th September 2015, the establishment becomes a lower tier establishment.

(4) Where a new establishment becomes subject to these Regulations due to an increase, decrease or other change in its inventory of dangerous substances, any reference in these Regulations to the start of operation of the establishment, is a reference to the time when the establishment first becomes subject to the Regulations by reason of that increase, decrease or change.

(5) The columns in Parts 1 and 2 of Schedule 1 are to be applied subject to the notes in Part 3 of that Schedule.

(6) Where a substance listed in column 1 of Part 2 of Schedule 1 is also covered by a category in column 1 of Part 1 of that Schedule, the quantities set out in columns 2 and 3 of Part 2 shall be used.

(7) Any reference in these Regulations to “writing” includes writing which is communicated or kept in electronic form and which can be printed.

(8) The Interpretation Act (Northern Ireland) 1954<sup>M9</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

#### Marginal Citations

- M1** S.R. 2000 No. 93, as amended by S.R. 2005 No. 305, S.R. 2008 No. 424, S.R. 2009 No. 132, S.R. 2013 No. 161 and S.R. 2014 No. 74
- M2** Chemical Abstracts Service (www.cas.org), is a division of the American Chemical Society
- M3** O.J. No L353, 31.12.08, p.1
- M4** 1972 c. 9
- M5** S.I. 1991/194 (N.I. 1)
- M6** 2009 c. 1
- M7** O.J. No. L 197, 24.7.2012, p. 1
- M8** S.R. 1997 No. 193, as amended by S.R. 1999 No. 150 and S.R. 2009 No. 238
- M9** 1954 c.33 (N.I.), as amended by S.I. 1999/663

### Application and exceptions **N.I.**

3.—(1) These Regulations apply to any establishment which is either a lower tier establishment or an upper tier establishment.

(2) These Regulations do not apply to any of the following—

- (a) an establishment which is under the control of—
  - (i) the Secretary of State for the purposes of the Ministry of Defence;
  - (ii) a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964 <sup>M10</sup> or the service authorities of a visiting force within the meaning of any of the provisions of Part 1 of the Visiting Forces Act 1952 <sup>M11</sup>;
- (b) hazards created by ionising radiation originating from substances;
- (c) substances which create a hazard from ionising radiation if present on a nuclear establishment;
- (d) the exploitation, namely the exploration, extraction and processing, of minerals in mines and quarries, including by means of boreholes, except any of the following which involve dangerous substances—
  - (i) onshore underground gas storage in natural strata, aquifers, salt cavities and disused mines;
  - (ii) chemical and thermal processing operations and storage related to those operations;
  - (iii) operational tailings disposal facilities, including tailing ponds or dams;
- (e) the offshore exploration and exploitation of minerals, including hydrocarbons;
- (f) the storage of gas at underground offshore sites including dedicated storage sites and sites where exploration and exploitation of minerals, including hydrocarbons, are also carried out;
- (g) waste landfill sites, including underground waste storage, except—
  - (i) any of the following that involve dangerous substances—
    - (aa) chemical and thermal processing operations and storage related to those operations; or
    - (bb) operational tailings disposal facilities, including tailing ponds or dams;
  - (ii) sites used for the storage of metallic mercury in accordance with a permit issued under Part 2 of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 <sup>M12</sup>.

#### Marginal Citations

**M10** 1964 c. 5

**M11** 1952 c. 67

**M12** S.R. 2013 No. 160, as amended by S.R. 2014 No. 304

### The competent authority **N.I.**

4. For the purposes of these Regulations the competent authority is the Executive and the Department of the Environment acting jointly.

## PART 2 **N.I.**

### GENERAL DUTIES OF OPERATORS OF ALL ESTABLISHMENTS

#### General duties of operators **N.I.**

5.—(1) Every operator shall take all measures necessary to prevent major accidents and to limit their consequences for human health and the environment.

(2) Every operator shall demonstrate to the competent authority that it has taken all measures necessary as specified in these Regulations.

(3) Every operator shall provide the competent authority with such assistance as is necessary to enable the competent authority to perform its functions under these Regulations.

(4) Without prejudice to the generality of paragraph (3), every operator shall in particular provide such assistance as is necessary to the competent authority to enable it to—

- (a) carry out inspections and investigations; and
- (b) gather any necessary information,

in connection with the performance of its functions under these Regulations.

#### Notifications **N.I.**

6.—(1) Within a reasonable period of time prior to the start of construction of a new establishment the operator shall send to the competent authority a notification containing the following information—

- (a) the name of the operator and the full address of the establishment;
- (b) the registered place of business of the operator, with the full address;
- (c) the name and position of the person in charge of the establishment;
- (d) sufficient information to identify the dangerous substances and category of substances involved or likely to be present;
- (e) the quantity and physical form of the dangerous substance or substances referred to in subparagraph (d);
- (f) the activities or proposed activities of the installations or storage facilities;
- (g) a description of the immediate environment of the establishment, and factors likely to cause a major accident or to aggravate the consequences of a major accident including, where available, details of—
  - (i) neighbouring establishments;
  - (ii) sites of operation that fall outside the scope of these Regulations; and
  - (iii) areas and developments that could be the source of or increase the risk or consequences of a major accident and of domino effects.

(2) Subject to paragraph (3), within a reasonable period of time prior to the start of operation of a new establishment the operator shall send to the competent authority a notification containing the information specified in paragraph (1).

(3) The operator is not required to include in a notification under paragraph (2) any information included in a notification sent under paragraph (1), if that information is still valid.

(4) The operator of an existing establishment shall send to the competent authority a notification containing the information specified in paragraph (1) by 1 June 2016.

(5) The operator of an other establishment shall send to the competent authority a notification containing the information specified in paragraph (1) within one year beginning on the date on which the establishment, or site of operation, first becomes an other establishment.

(6) The operator of any establishment to which these Regulations apply shall notify the competent authority in advance of—

- (a) a significant increase or decrease in the quantity of dangerous substances notified under this regulation;
  - (b) a significant change in—
    - (i) the nature or physical form of the dangerous substances notified under this regulation; or
    - (ii) the processes employing them;
  - (c) any modification of the establishment or an installation which could have significant consequences in terms of major accident hazards;
  - (d) permanent closure of the establishment or its decommissioning; or
  - (e) any change in the information referred to in paragraph (1)(a) to (c).
- (7) The competent authority shall specify, in writing—
- (a) the form of notification under this regulation; and
  - (b) the means by which operators shall send them to the competent authority.

#### **Major accident prevention policies** **N.I.**

7.—(1) Subject to paragraph (4), every operator shall prepare and retain a written major accident prevention policy.

- (2) A major accident prevention policy shall—
  - (a) be designed to ensure a high level of protection of human health and the environment;
  - (b) be proportionate to the major accident hazards;
  - (c) set out the operator's overall aims and principles of action; and
  - (d) set out the role and responsibility of management, and its commitment towards continuously improving the control of major accident hazards.
- (3) A major accident prevention policy shall be prepared by the operator—
  - (a) of a new establishment, within—
    - (i) a reasonable period of time prior to construction or operation of the establishment; or
    - (ii) a reasonable period of time period prior to modifications leading to a change in the inventory of dangerous substances at the establishment;
  - (b) of an existing establishment, by 1st June 2016;
  - (c) of an other establishment, within one year beginning on the date on which the establishment, or site of operation, first becomes an other establishment.
- (4) Where—
  - (a) the operator of an existing establishment had, immediately before 28th September 2015, prepared and retained a major accident prevention policy under regulation 5 of the 2000 Regulations;
  - (b) the information contained within that policy remains materially unchanged; and
  - (c) that policy complies with the requirements of these Regulations,

the operator is not required to prepare a further major accident prevention policy under paragraph (1).

- (5) Where an operator of an existing establishment is not required to prepare a major accident prevention policy by virtue of paragraph (4)—
- (a) the major accident prevention policy prepared by that operator under regulation 5 of the 2000 Regulations is to be treated as a major accident prevention policy prepared under this regulation; and
  - (b) the policy shall be retained by the operator in accordance with this regulation.
- (6) An operator shall review its major accident prevention policy—
- (a) in the event of—
    - (i) a significant increase or decrease in the quantity of dangerous substances notified under regulation 6; or
    - (ii) a significant change in—
      - (aa) the nature or physical form of the dangerous substances notified under regulation 6; or
      - (bb) the processes employing them,which could have significant consequences in terms of major accident hazards; and
  - (b) in any event no later than five years after the date on which the policy was last reviewed, and where necessary it shall revise and retain the revised policy.
- (7) An operator shall implement its major accident prevention policy by a safety management system.
- (8) A safety management system shall—
- (a) satisfy the requirements in paragraph 1 of Schedule 2; and
  - (b) address the matters specified in paragraph 2 of that Schedule.

## **PART 3** **N.I.**

### **SAFETY REPORTS FOR UPPER TIER ESTABLISHMENTS**

#### **Purposes of safety reports** **N.I.**

8. Every operator of an upper tier establishment shall prepare a safety report for the purposes of—
- (a) demonstrating that a major accident prevention policy and a safety management system for implementing it have been put into effect in accordance with the information set out in Schedule 3;
  - (b) demonstrating that the major accident hazards and possible major accident scenarios in relation to the establishment have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for human health and the environment;
  - (c) demonstrating that adequate safety and reliability have been taken into account in the design, construction, operation and maintenance of any installation, storage facility, equipment and infrastructure connected with the establishment's operation which are linked to major accident hazards inside the establishment;
  - (d) demonstrating that an internal emergency plan has been prepared in accordance with regulation 12, which includes sufficient information to enable an external emergency plan to be prepared;

- (e) providing sufficient information to the competent authority to enable decisions to be made regarding the siting of new activities or developments around establishments.

### Requirements relating to the preparation of safety reports **N.I.**

- 9.—(1) A safety report prepared by an operator shall—
- (a) contain as a minimum the data and information specified in Schedule 3; and
  - (b) identify the organisations involved in preparing it.
- (2) The operator shall send the safety report to the competent authority—
- (a) where the establishment is a new establishment, within a reasonable period of time prior to—
    - (i) the start of construction of the establishment;
    - (ii) the start of operation of the establishment; or
    - (iii) any modifications leading to a change in the inventory of dangerous substances at the establishment;
  - (b) where the establishment is a existing establishment—
    - (i) in any case where a review of the safety report (within the meaning of regulation 2(1) of the 2000 Regulations) would, had those Regulations not been revoked by these Regulations, have been required to be carried out by the operator before 1st June 2016, no later than five years after the relevant date;
    - (ii) in any other case, on or before 1st June 2016; or
  - (c) where the establishment is an other establishment, within two years beginning on the date on which the establishment, or site of operation, first becomes an other establishment.
- (3) An operator is not required to include in a safety report any information previously sent to the competent authority under paragraph (2), if that information remains valid.
- (4) Where an operator had, immediately before 28th September 2015, sent to the competent authority a safety report in relation to an establishment under regulation 7 or 8 of the 2000 Regulations (“the original report”), that operator may comply with paragraph (2)(b) by sending to the competent authority only those parts of the original report that are revised to ensure compliance with regulation 8, this regulation and Schedule 3, and the original report (and its revised parts) is to be treated as a safety report sent under paragraph (2)(b).
- (5) The competent authority may specify in writing the format of revisions to be provided under paragraph (4).
- (6) Where—
- (a) an operator had, immediately before 28th September 2015, sent to the competent authority a safety report in relation to an establishment under regulation 7 or 8 of the 2000 Regulations;
  - (b) the information contained within that report remains materially unchanged; and
  - (c) it complies with the requirements of regulation 8, this regulation and Schedule 3,
- the operator is not required to send to the competent authority a further safety report under paragraph (2)(b).
- (7) Subject to regulation 23 (prohibition of operation), an operator shall not—
- (a) where paragraph (2)(a)(i) applies, start construction of an establishment;
  - (b) where paragraph (2)(a)(ii) applies, start operation of an establishment;

(c) where paragraph (2)(a)(iii) applies, make any modifications leading to a change in the inventory of dangerous substances at an establishment, until it has received from the competent authority the conclusions of the competent authority's examination of the safety report under regulation 22.

(8) For the purposes of paragraph (2)(b) “relevant date”, in relation to a safety report within the meaning of regulation 2(1) of the 2000 Regulations, means—

- (a) the date on which the safety report was last sent to the competent authority under regulation 7 or 8(1) of those Regulations, or
- (b) the date on which it was last notified under regulation 8(2) or (4) of those Regulations, whichever is later.

### Review of safety reports **N.I.**

**10.**—(1) A safety report shall be reviewed and, where it is necessary, revised by the operator—

- (a) in any case where regulation 9(6) does not apply, no later than five years after the date on which—
  - (i) it was last sent to the competent authority; or
  - (ii) where it was not required to be sent to the competent authority, it was last reviewed by the operator; or
- (b) in any case where regulation 9(6) applies, no later than five years after the date on which the safety report was last sent to the competent authority under regulation 7 or 8 of the 2000 Regulations.

(2) Despite paragraph (1), a safety report shall be reviewed and, where necessary, revised by the operator—

- (a) following a major accident at the establishment;
- (b) where a review is justified by new facts or by technological knowledge about safety matters, including knowledge arising from analysis of accidents or near misses;
- (c) where a review is justified by developments in knowledge concerning the assessment of hazards;
- (d) before making any modifications to the establishment, process or the nature or physical form or quantity of dangerous substances which could have significant consequences for major accident hazards;
- (e) following any change to the safety management system (referred to in paragraph 2 of Schedule 3) which could have significant consequences for the prevention of major accidents or the limitation of the consequences of major accidents to human health and the environment.

(3) In carrying out a review of a safety report the operator shall take into account the purposes specified in regulation 8 and the data and information specified in Schedule 3.

(4) Except where paragraph (5) applies, a revised safety report, or revised parts of a report, shall be sent by the operator to the competent authority without delay.

(5) Where paragraph (2)(d) applies, a revised safety report, or revised parts of it, shall be sent by the operator to the competent authority in advance of the proposed modification.

(6) Where a safety report has been reviewed under this regulation, but not revised, the operator shall inform the competent authority in writing without delay.

## PART 4 **N.I.**

### EMERGENCY PLANS FOR UPPER TIER ESTABLISHMENTS

#### Objectives of emergency plans **N.I.**

11. Every internal emergency plan and external emergency plan prepared for the purposes of these Regulations shall have the following objectives—

- (a) containing and controlling incidents so as to minimise the consequences, and to limit damage to human health, the environment and property;
- (b) implementing the necessary measures to protect human health and the environment from the consequences of major accidents;
- (c) communicating the necessary information to the public and to the services or authorities concerned in the area; and
- (d) providing for the restoration and clean up of the environment following a major accident.

#### Preparation, review and testing of internal emergency plans **N.I.**

12.—(1) Every operator of an upper tier establishment shall prepare an internal emergency plan, specifying the measures to be taken inside the establishment.

(2) An internal emergency plan shall be prepared by the operator—

- (a) where the establishment is a new establishment, within a reasonable period of time prior to the start of operation of the establishment or any the modifications leading to a change in the inventory of dangerous substances at the establishment;
- (b) where the establishment is an existing establishment, by 1st June 2016; or
- (c) where the establishment is an other establishment, within two years beginning on the date on which the establishment, or site of operation, first becomes an other establishment.

(3) Despite paragraph (1), the operator of an existing establishment is not required to prepare an internal emergency plan if—

- (a) the on-site emergency plan prepared under regulation 9 of the 2000 Regulations, immediately before 28th September 2015, remains materially unchanged; and
- (b) it complies with the requirements of regulation 11 and this regulation,

in which case it is to be treated as an internal emergency plan prepared under this regulation.

(4) An internal emergency plan shall contain the information specified in Part 1 of Schedule 4.

(5) In preparing an internal emergency plan the operator shall consult—

- (a) persons working in the establishment;
- (b) the Department of the Environment;
- (c) the emergency services;
- (d) the Health and Social Care Trust for the area where the establishment is situated; and
- (e) the Executive, unless the Executive has been exempted under regulation 15 from the requirement to arrange for the preparation of an external emergency plan in respect of the establishment.

(6) An operator shall at suitable intervals not exceeding three years—

- (a) review and, where necessary revise the internal emergency plan; and
- (b) test the plan.

(7) Where paragraph (3) applies, the operator shall first comply with paragraph (6) before the expiry of three years after the on-site emergency plan was prepared or last reviewed under the 2000 Regulations.

- (8) In carrying out a review of an internal emergency plan, the operator shall take into account—
- (a) any changes at the establishment or within the emergency services concerned;
  - (b) any relevant new technical knowledge; and
  - (c) any relevant new knowledge concerning the response to major accidents.

### **Preparation of external emergency plans** **N.I.**

**13.**—(1) Subject to regulation 15, the Executive shall arrange for the preparation of an external emergency plan, specifying the measures to be taken outside each upper tier establishment.

(2) An external emergency plan shall be prepared no later than six months (or such longer period not exceeding nine months agreed by the Department in writing) after the receipt of the necessary information from the operator.

(3) The operator shall provide the Executive with the information necessary to enable it to arrange for the preparation of an external emergency plan.

(4) The information in paragraph (3) shall be provided to the Executive before the date on which the internal emergency plan is required to be prepared for the establishment under regulation 12(2).

(5) Despite paragraph (1), the Executive is not required to arrange for the preparation of an external emergency plan if—

- (a) the off-site emergency plan prepared under regulation 10 of the 2000 Regulations, immediately before 28th September 2015, remains materially unchanged; and
- (b) it complies with the requirements of regulation 11 and this regulation,

in which case it is to be treated as an external emergency plan prepared under this regulation.

(6) An external emergency plan shall contain the information specified in Part 2 of Schedule 4.

(7) In arranging for the preparation of an external emergency plan the Executive shall consult—

- (a) the operator;
- (b) the Department of the Environment;
- (c) the designated authorities who are liable to be required to respond to an emergency at the establishment; and
- (d) such members of the public and other persons as it considers appropriate.

### **Review and testing of external emergency plans** **N.I.**

**14.**—(1) The Executive shall at suitable intervals not exceeding three years—

- (a) review and where necessary revise the external emergency plan; and
- (b) test the plan.

(2) Where regulation 13(5) applies, the Executive shall first comply with paragraph (1) before the expiry of three years after the off-site emergency plan was prepared or last reviewed under the 2000 Regulations.

(3) In carrying out a review of an external emergency plan, the Executive shall take into account—

- (a) any changes at the establishment or within the designated authorities concerned;
- (b) any relevant new technical knowledge; and
- (c) any relevant new knowledge concerning the response to major accidents.

(4) Where the Executive is of the opinion that an external emergency plan requires substantial revision, it shall consult the persons referred to in regulation 13(7) before making those revisions.

(5) Where the Executive is of the opinion that in order to test adequately an external emergency plan the co-operation of one or more designated authorities is necessary, it may in writing request such co-operation from those authorities.

(6) Where a designated authority has received a request in accordance with paragraph (5), it shall co-operate in the testing of the external emergency plan.

### **Exemption of Executive from arranging preparation of an external emergency plan** **N.I.**

**15.**—(1) The Department may, with the agreement of the Department of the Environment, exempt the Executive from the requirement to arrange for the preparation of an external emergency plan under regulation 13(1) where, taking into account the information contained in the safety report for the relevant establishment, the Department is of the opinion that the establishment is incapable of creating a major accident hazard outside the establishment.

(2) An exemption granted by the Department under paragraph (1) shall be in writing and state the reasons for granting it.

(3) The Department may, with the agreement of the Department of the Environment, withdraw an exemption granted under paragraph (1) by specifying, in writing, the date on which the exemption will cease to apply and the date by which an external emergency plan shall be prepared.

### **Implementing emergency plans** **N.I.**

**16.** An operator who has prepared an internal emergency plan or the Executive which has arranged for the preparation of an external emergency plan shall take reasonable steps to ensure that it is put into effect without delay if—

- (a) a major accident occurs; or
- (b) an uncontrolled event occurs which by its nature could reasonably be expected to lead to a major accident.

## **PART 5** **N.I.**

### **INFORMATION**

#### **Provision of information to the public** **N.I.**

**17.**—(1) The competent authority shall make the following information available to the public, including by electronic means, in relation to every establishment—

- (a) the name of the operator and the address of the establishment;
- (b) confirmation that these Regulations apply to the establishment and that the notification required by regulation 6, and the safety report required by regulation 9, has been sent to the competent authority;
- (c) an explanation in simple terms of the activity or activities undertaken at the establishment;
- (d) the hazard classification of the relevant dangerous substances involved at the establishment which could give rise to a major accident, with an indication of their principal dangerous characteristics in simple terms;
- (e) general information about how the public will be warned, if necessary, and adequate information about the appropriate behaviour in the event of a major accident or an indication of where that information can be accessed electronically;

- (f) the date of the last site visit carried out further to a programme for routine inspections under regulation 25(5), and where more detailed information about the inspection and the related inspection plan can be obtained upon request;
  - (g) details of where further relevant information can be obtained.
- (2) In addition to the information in paragraph (1), the competent authority shall make the following information available to the public, including by electronic means, in relation to every upper tier establishment—
- (a) general information relating to the nature of the major accident hazards, including their potential consequences on human health and the environment, summary details of the main types of major accident scenarios and the control measures to address them;
  - (b) confirmation that the operator is required to make adequate arrangements within the establishment, in particular liaison with the emergency services, to deal with major accidents and to minimise their consequences;
  - (c) appropriate information from the external emergency plan in relation to dealing with any consequences outside the establishment from a major accident, which shall include advice about co-operating with any instructions or requests from the emergency services at the time of an accident;
  - (d) where applicable, an indication as to whether the establishment is close to the territory of another [F<sup>1</sup>country] with the possibility of a major accident with trans-boundary consequences under the Convention on the Transboundary Effects of Industrial Accidents <sup>M13</sup>.
- (3) The competent authority shall ensure that the information in paragraph (1)—
- (a) is made available to the public within a reasonable period of time from the date on which the establishment becomes subject to these Regulations; and
  - (b) is kept updated.
- (4) The competent authority shall ensure that the information in paragraph (2)—
- (a) is made available to the public within a reasonable period of time from the date on which the establishment becomes an upper tier establishment; and
  - (b) is kept updated.
- (5) The operator of an establishment shall—
- (a) provide the competent authority with—
    - (i) the information specified at paragraph (1)(a) to (e) and, in the case of an upper tier establishment, the information specified at paragraph (2); and
    - (ii) revisions to that information when it becomes necessary to update it;
  - (b) comply with any reasonable request for information from the competent authority, within such period specified in the request, in connection with the preparation of information by the competent authority under paragraph (1) or (2).
- (6) The competent authority shall specify in advance in writing—
- (a) the means by which operators shall provide information under paragraph (5); and
  - (b) the format in which it shall be provided.
- (7) The Environment and Safety Information (Northern Ireland) Order 1993 <sup>M14</sup> applies to a notice served under—
- (a) regulation 23 (Prohibition of operation) as it applies to a notice served under Article 24 of the 1978 Order; or
  - (b) Article 23 of the 1978 Order in respect of a contravention of these Regulations,

as if the reference in the second column of the Schedule to the 1993 Order to an enforcing authority as defined in Article 2(2) of the 1978 Order were a reference to the competent authority.

#### Textual Amendments

- F1** Word in reg. 17(2)(d) substituted (31.12.2020) by [The Health and Safety \(Amendments and Revocation\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/330\)](#), regs. 1(2), **9(2)**

#### Marginal Citations

- M13** O.J. No. L326, 3.12.1998, p. 1  
**M14** S.I. 1993/3159 (N.I. 14)

### Provision of information to persons likely to be affected by a major accident at an upper tier establishment **N.I.**

**18.**—(1) An operator of an upper tier establishment shall ensure that—

- (a) every person who is likely to be in the area referred to in paragraph (2); and
- (b) every school, hospital or other area of public use which is in the area referred to in paragraph (2),

is sent in the most appropriate form, without having to request it, clear and intelligible information on safety measures and requisite behaviour in the event of a major accident at the establishment.

(2) The area referred to in paragraph (1), is the area notified to the operator by the competent authority as being the area within which, in the opinion of the competent authority, persons are liable to be affected by a major accident occurring at the establishment.

(3) The information sent under paragraph (1) shall include at least the information required to be made available to the public under regulation 17(1) and (2).

(4) In preparing the information under paragraph (1), the operator shall consult with the Executive.

(5) The operator shall review and, where necessary revise, the information sent under paragraph (1)—

- (a) at intervals not exceeding 3 years; or
- (b) in the event of any modification of the establishment or an installation which could have significant consequences in terms of major accident hazards.

(6) The information required under paragraph (1) shall be sent to every person and every school, hospital or other area of public use referred to in that paragraph—

- (a) if it is revised following a review under paragraph (5); or
- (b) otherwise, at intervals not exceeding 5 years.

### Provision of information pursuant to a request **N.I.**

**19.**—(1) Where an operator is of the opinion that environmental information which it sends to the competent authority under these Regulations should not be made available on request by reason of an exception in regulation 12 or 13 of the 2004 Regulations, the operator shall, when it sends that information to the competent authority, inform the competent authority in writing of its opinion and the reasons for it.

(2) Where it receives a request for environmental information under the 2004 Regulations the competent authority shall, in dealing with that request, take into account any opinion and reasons provided by the operator in accordance with paragraph (1) in relation to that information.

(3) In this regulation—

- (a) “the 2004 Regulations” means the Environmental Information Regulations 2004 <sup>M15</sup>; and
- (b) “environmental information” has the meaning, in the case of information sent to the Executive or the Department of the Environment, given by regulation 2(1) of the 2004 Regulations.

**Marginal Citations**

**M15** [S.I. 2004/3391](#), to which there are amendments not relevant to these Regulations

**Trans-boundary consequences** **N.I.**

**20.**—(1) Where an upper tier establishment presents a major accident hazard with possible trans-boundary consequences the competent authority shall provide sufficient information to the potentially affected [<sup>F2</sup>country] so that the [<sup>F2</sup>country] can take this into account in preparing emergency plans and in preparing land use planning policies, or in making land use planning decisions in respect of applications.

<sup>F3</sup>(2) .....

**Textual Amendments**

- F2** Word in [reg. 20\(1\)](#) substituted (31.12.2020) by [The Health and Safety \(Amendments and Revocation\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/330\)](#), regs. 1(2), **9(3)(a)**
- F3** [Reg. 20\(2\)](#) omitted (31.12.2020) by virtue of [The Health and Safety \(Amendments and Revocation\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/330\)](#), regs. 1(2), **9(3)(b)**

**Power of the competent authority to accept information in another document** **N.I.**

**21.**—(1) Where the competent authority considers it to be expedient, it may permit an operator to provide all or part of the information that the operator is required to include in—

- (a) a notification under regulation 6;
- (b) a major accident prevention policy;
- (c) a safety report;
- (d) an internal emergency plan; or
- (e) details of action to be taken following a major accident provided under regulation 26(1),

by reference to information contained in another document sent to the Department of the Environment pursuant to a requirement imposed under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 <sup>M16</sup> (“the relevant document”).

(2) Where the competent authority grants permission under paragraph (1), an operator shall, at the time of sending the information contained in the relevant document inform the competent authority in writing, if it is seeking to rely on paragraph (1) and the extent of that reliance by reference to the relevant sub-paragraphs of that paragraph.

(3) The competent authority shall assess whether the information contained in the relevant document satisfies the requirements of the relevant provisions of these Regulations and inform the operator of its decision in writing.

(4) If the competent authority is of the opinion that the information contained in the relevant document does not satisfy the requirements of the relevant provisions of these Regulations, the operator may not rely on that document as satisfying the requirements of those provisions.

**Marginal Citations**

**M16** S.R. 2013 No. 160

## **PART 6** **N.I.**

### FUNCTIONS OF THE COMPETENT AUTHORITY

#### **Examination of safety reports by the competent authority** **N.I.**

**22.** The competent authority shall within a reasonable period of time following receipt of a safety report—

- (a) communicate the conclusions of its examination of that safety report to the operator of the establishment; or
- (b) if necessary prohibit the bringing into operation, or continued operation, of the establishment, or any part of it, in accordance with regulation 23.

#### **Prohibition of operation** **N.I.**

**23.—**(1) The competent authority shall prohibit, by serving a notice on the operator, the operation or bringing into operation of any establishment, installation or storage facility, or any part of any establishment, installation or storage facility where the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient.

(2) The competent authority may prohibit, by serving a notice on the operator, the operation or bringing into operation of any establishment, installation or storage facility, or any part of any establishment, installation or storage facility if the operator has not submitted any notification, report or other information required by these Regulations within the specified time.

(3) A notice served under paragraph (1) or (2)—

- (a) shall give reasons;
- (b) shall specify the date when it is to take effect; and
- (c) may be withdrawn in writing by the competent authority.

(4) In considering whether, under paragraph (1), the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient, the competent authority shall, amongst other matters, take into account any serious failures by the operator to take the necessary actions identified by the competent authority in a communication sent to the operator under regulation 25(9)(a).

(5) The operator shall comply with any notice served under paragraph (1) or (2).

(6) Article 26 of the 1978 Order (Appeal against improvement or prohibition notice) and, [F4rule 102 of Schedule 1 to the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020] apply in relation to a notice served under this regulation as they apply in relation to a prohibition notice served under Article 24 of that Order.

### Textual Amendments

- F4** Words in [reg. 23\(6\)](#) substituted (27.1.2020) by [The Industrial Tribunals and Fair Employment Tribunal \(Constitution and Rules of Procedure\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/3\)](#), [reg. 1\(2\)](#), [Sch. 4 Pt. 2 para. 12\(a\)](#) (with [reg. 18](#))

### Domino effects and domino groups **N.I.**

**24.—(1)** The competent authority shall identify groups of establishments (“domino groups”) where the risk or consequences of a major accident may be increased because of the—

- (a) geographical position of establishments;
- (b) proximity of establishments to each other; or
- (c) inventories of dangerous substances held by the establishments.

(2) In these Regulations “domino effects” means the increase in risk or consequence of a major accident because of one or more of the factors referred to in paragraph (1)(a) to (c).

(3) In identifying domino groups the competent authority may use the following sources of information—

- (a) notifications sent under regulation 6;
- (b) safety reports;
- (c) information it holds pursuant to any of its functions under the Planning (Hazardous Substances) Regulations (Northern Ireland) 2015<sup>M17</sup>;
- (d) information from inspections and investigations at establishments.

(4) The competent authority may request such additional information from any operator as is necessary for the purposes of this regulation.

(5) Where the competent authority has information in addition to that provided by any operator of an establishment which is part of a domino group about the immediate environment of the establishment, or factors which are likely to cause a major accident or to aggravate the consequences of a major accident, including—

- (a) details of neighbouring establishments;
- (b) sites of operation that fall outside the scope of these Regulations; or
- (c) areas and developments that could be the source of or increase the risk or consequences of a major accident and of domino effects,

the competent authority shall provide that information to each operator of an establishment in that group.

(6) Where the competent authority identifies a domino group, it shall notify each operator of an establishment in that group of the name of the operator and full address of each of the establishments within the group.

(7) Where an operator is notified under paragraph (6), it shall, using any information received under paragraph (5), co-operate with the operators of each establishment within the domino group in—

- (a) putting in place arrangements for the exchange of suitable information with each other so as to enable them to take into account the nature and extent of the major accident hazards in the case of—
  - (i) each operator, in its—
    - (aa) major accident prevention policy; and

- (bb) safety management system; and
  - (ii) each operator of an upper tier establishment, in—
    - (aa) its safety report;
    - (bb) its internal emergency plan; and
    - (cc) the provision of information to persons likely to be affected by a major accident under regulation 18;
  - (b) informing neighbouring sites to which these Regulations do not apply of their proximity to a domino group and in appropriate cases to provide suitable information to those sites;
  - (c) preparing information for the purposes of regulation 17(1)(e); and
  - (d) supplying the Executive with information relevant for the purposes of arranging for the preparation of an external emergency plan, where one is required under regulation 13.
- (8) The Executive and the Department of the Environment shall, in appropriate cases, co-operate in—
- (a) identifying domino groups under paragraph (1);
  - (b) providing information to an operator under paragraph (5); and
  - (c) notifying each operator in a domino group under paragraph (6).

**Marginal Citations**

M17 S.R. 2015 No. 61

**Inspections and investigations** **N.I.**

25.—(1) The competent authority shall organise a system of inspections of establishments appropriate to the type of establishment concerned.

(2) An inspection—

- (a) shall not be dependent on the receipt of any report submitted by an operator;
- (b) shall be sufficient for a planned and systematic examination of the technical, organisational and management systems being employed at an establishment so as to ensure, in particular, that—
  - (i) the operator can demonstrate that it has taken appropriate measures, in connection with the various activities of the establishment, to prevent major accidents;
  - (ii) the operator can demonstrate that it has provided appropriate means for limiting the consequences of major accidents;
  - (iii) the data and information contained in the safety report, or any other report submitted by the operator adequately reflects the conditions in the establishment; and
  - (iv) information is supplied to the public in accordance with regulations 17 and 18.

(3) The system of inspections shall ensure that all establishments are covered by an inspection plan that includes—

- (a) a general assessment of relevant safety issues;
- (b) the geographical area covered by the inspection plan;
- (c) a list of the establishments covered by the plan;
- (d) a list of groups of establishments with possible domino effects;

- (e) a list of establishments where particular external risks or hazard sources could increase the risk or consequences of a major accident;
  - (f) procedures for routine inspections, including the programmes for such inspections under paragraph (5);
  - (g) procedures for non-routine investigations under paragraph (8); and
  - (h) provisions on co-operation between the Executive and the Department of the Environment.
- (4) The inspection plan shall be regularly reviewed and revised as appropriate.
- (5) Based on the inspection plan the competent authority shall prepare programmes for routine inspections of all establishments.
- (6) In preparing programmes for routine inspections of establishments the competent authority shall ensure in particular that—
- (a) it has prepared a systematic appraisal of major accident hazards of establishments;
  - (b) the programmes are regularly reviewed and revised where necessary; and
  - (c) the programmes provide for the frequency of site visits for different types of establishment.
- (7) In carrying out a systematic appraisal referred to in paragraph (6)(a) the competent authority shall take into account—
- (a) the potential impacts of the establishments on human health and the environment;
  - (b) the record of the operators of the establishments in complying with the requirements of these Regulations; and
  - (c) the relevant findings, if any, of inspections carried out by the Department of Environment under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 <sup>M18</sup>.
- (8) The competent authority shall investigate, as soon as possible, when it comes to its attention in relation to any establishment that there have been—
- (a) serious complaints;
  - (b) serious accidents or near misses; or
  - (c) occurrences of significant non-compliance with these Regulations.
- (9) Following the conclusion of an inspection or investigation under this regulation, the competent authority shall—
- (a) within 4 months after the date of the inspection or investigation communicate its conclusions and all the necessary actions it requires to be taken to the operator; and
  - (b) take reasonable steps to ensure that the operator takes all the necessary actions within a reasonable time after receipt of the communication containing the conclusions.
- (10) Where, following the conclusion of an inspection or investigation under this regulation, the competent authority has identified an important case of non-compliance with these Regulations it shall carry out an additional inspection within 6 months.
- (11) Where the competent authority considers it to be expedient, inspections and investigations under this regulation may be co-ordinated with inspections and investigations carried out by the enforcing authority under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013.

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**Marginal Citations**

**M18** S.R. 2013 No. 160, as amended by S.R. 2014 No. 304

## PART 7 **N.I.**

### ACTION TO BE TAKEN FOLLOWING A MAJOR ACCIDENT

#### Action to be taken following a major accident **N.I.**

26.—(1) Following a major accident, the operator of the establishment where the accident occurred shall, as soon as practicable—

- (a) inform the competent authority of the occurrence of the accident;
- (b) provide the competent authority with the following information as soon as it becomes available—
  - (i) the circumstances of the accident;
  - (ii) the dangerous substances involved;
  - (iii) the data available for assessing the consequences of the accident on human health, the environment and property; and
  - (iv) the emergency measures taken;
- (c) inform the competent authority of the steps it is envisaged are required in order to—
  - (i) mitigate the medium term and long term consequences of the accident; and
  - (ii) prevent any recurrence of such an accident;
- (d) update the information provided under sub-paragraphs (b) and (c), if further investigation reveals additional facts which alter that information or the conclusions drawn.

(2) Following a major accident the competent authority shall—

- (a) ensure that any urgent, medium term and long term measures which may prove necessary, are taken;
- (b) collect by inspection, investigation or other appropriate means the information necessary for a full analysis of the technical, organisational and managerial aspects of the accident;
- (c) take appropriate action to ensure that the operator takes any necessary remedial measures; and
- (d) make recommendations on future preventive measures.

(3) [<sup>F5</sup>Following a major accident, the competent authority may, where appropriate, provide international organisations with some, or all, of the following information] —

- (a) confirmation that the accident occurred in Northern Ireland and the name and address of the competent authority;
- (b) the date, time and place of the accident, including the full name of the operator and the address of the establishment concerned;
- (c) a brief description of the circumstances of the accident, including the dangerous substances involved and the immediate consequences on human health and the environment;
- (d) a brief description of the emergency measures taken and immediate precautions necessary to prevent recurrence; and
- (e) the results of the competent authority's analysis and recommendations.

<sup>F6</sup>(4) .....

(5) Following a major accident the Executive shall inform the persons likely to be affected of—

- (a) the accident which has occurred; and
- (b) where relevant, of the measures undertaken to mitigate its consequences.

[<sup>F7</sup>(6) For the purposes of paragraph (3), an organisation is an international organisation if it, and its subordinate bodies, are governed by international law or it is set up by, or on the basis of, an agreement between two or more countries.]

#### Textual Amendments

- F5** Words in reg. 26(3) substituted (31.12.2020) by The Health and Safety (Amendments and Revocation) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/330), regs. 1(2), **9(4)(a)**
- F6** Reg. 26(4) omitted (31.12.2020) by virtue of The Health and Safety (Amendments and Revocation) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/330), regs. 1(2), **9(4)(b)**
- F7** Reg. 26(6) inserted (31.12.2020) by The Health and Safety (Amendments and Revocation) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/330), regs. 1(2), **9(4)(c)**

## PART 8 **N.I.**

### ENFORCEMENT AND PENALTIES

#### Enforcement and penalties **N.I.**

27.—(1) Subject to paragraph (2), to the extent they would not otherwise do so, the following provisions of the 1978 Order apply to these Regulations as if they were health and safety regulations for the purposes of that Order and any function of the Executive under any other provision of the 1978 Order under or in respect of health and safety regulations (including their enforcement) is exercisable as if these Regulations were, to the extent they would not otherwise be so, health and safety regulations for the purposes of that Order—

- (a) Articles 18 to 23 (approval of codes of practice and enforcement);
- (b) Article 25 (provisions supplementary to Articles 23 and 24) and Article 26 (appeal against improvement or prohibition notice), so far as they relate to an improvement notice;
- (c) Article 28 (power to indemnify inspectors); and
- (d) subject to paragraph (6), Articles 31 to 39 (provisions as to offences).

(2) Article 20(1) of the 1978 Order (duty to make adequate arrangements for enforcement) applies in relation to the enforcement of these Regulations as if the reference to the Department concerned and the Executive included a reference to the Department of the Environment, but nothing in this paragraph has the effect of making the Department of the Environment an enforcing authority for the purposes of the 1978 Order.

(3) Without prejudice to the—

- (a) provisions of the 1978 Order referred to in paragraph (1), Article 17(1) of the Industrial Pollution Control (Northern Ireland) Order 1997 <sup>M19</sup> shall have effect in relation to an inspector appointed by the Department of the Environment under Article 16 of that Order (in these Regulations referred to as an “Article 16 inspector”) as if the reference in paragraph (1)(a) of that Article to a pollution control statutory provision included a reference to these Regulations and as if the reference in paragraph (1)(b) of that Article to a function conferred or imposed on an enforcing authority by or under such a statutory provision included a reference to any function conferred or imposed on the Department of the Environment by or under these Regulations; and
- (b) functions of an inspector appointed under Article 21 of the 1978 Order, an Article 16 inspector may, despite the person not being an inspector so appointed, serve an improvement notice under Article 23 of that Order in respect of a contravention of these

Regulations, and the reference to an inspector in Article 25(5) of that Order shall have effect accordingly.

(4) A failure to discharge a function placed on the competent authority by these Regulations is not an offence, and Article 31(1)(c) of the 1978 Order shall have effect accordingly.

(5) Despite the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999<sup>M20</sup>, the enforcing authority for the relevant statutory provisions at an establishment, is the Executive.

(6) The maximum penalty for an offence consisting of a contravention of a requirement or prohibition imposed by or under these Regulations is—

- (a) on summary conviction, imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both; and
- (b) on conviction on indictment, imprisonment for a term not exceeding two years, or a fine or both.

#### Marginal Citations

**M19** [S.I. 1997/2777 \(N.I. 18\)](#)

**M20** [S.R. 1999 No. 90](#) as amended by, [S.R. 2000 No. 375](#), [S.R. 2003 No. 33](#), [S.R. 2006 No. 205](#), [S.R. 2006 No. 425](#), [S.R. 2007 No. 31](#), [S.R. 2007 No. 291](#), [S.R. 2009 No. 238](#) and [S.R. 2012 No. 179](#)

## PART 9 **N.I.**

### FEES

#### Fees payable by operators to the competent authority **N.I.**

**28.**—(1) A fee is payable by the operator of an establishment to the competent authority for the performance by, or on behalf of, the competent authority of any function conferred on the competent authority by these Regulations.

(2) A fee is payable by the operator of an upper tier establishment to the competent authority for the performance by or on behalf of the Executive or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1978 Order which relates to the enforcement of any of the relevant statutory provisions against one or more of the following—

- (a) the operator of the establishment; or
- (b) a contractor in relation to any work carried out by the contractor on or in connection with that establishment,

except in the case of an establishment where the presence of the dangerous substance at the establishment is, in the opinion of the competent authority, for a purpose ancillary to the main activity at the establishment.

(3) A fee under this regulation shall not exceed the sum of the costs reasonably incurred by the competent authority or the Executive in the performance of their functions in relation to the establishment concerned.

(4) A fee is payable within 30 days from the date of the invoice sent by or on behalf of the competent authority to the operator.

(5) An invoice shall include a statement of the work done and the costs incurred by or on behalf of the competent authority or the Executive, including the period to which the statement relates.

(6) Where a fee has been paid under paragraph (1) to the Executive, it shall pay to the Department of the Environment any fee or part of any fee it recovers as is attributable to work done by or on behalf of that Department or by an Article 16 inspector in performing that Department's functions.

(7) Where a fee has been paid under paragraph (1) or (2) to the Department of the Environment, it shall pay to the Executive any fee or part of any fee it recovers as is attributable to work done by or on behalf of the Executive or by an inspector in performing the Executive's functions.

(8) A fee payable under this regulation is recoverable only as a civil debt.

(9) A fee payable under this regulation shall not include any costs connected with—

- (a) any criminal investigation or prosecution incurred, in either case, from the date any summons is obtained from a Magistrates Court;
- (b) any appeal under Article 26 of the 1978 Order incurred from the date a claim is presented pursuant to [<sup>F8</sup>the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020];
- (c) functions of the Department related to regulation 13.

(10) In this regulation any reference to work carried out by a contractor is a reference to work carried out by the contractor or by the contractor's employees for the benefit of the person by whom the fees are payable under this regulation, whether under an agreement or an arrangement made with that person or with another person.

#### Textual Amendments

- F8** Words in [reg. 28\(9\)\(b\)](#) substituted (27.1.2020) by [The Industrial Tribunals and Fair Employment Tribunal \(Constitution and Rules of Procedure\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/3\)](#), [reg. 1\(2\)](#), [Sch. 4 Pt. 2 para. 12\(b\)](#) (with [reg. 18](#))

#### Fees payable to Executive for arranging for the preparation, review and testing of external emergency plans **N.I.**

**29.**—(1) The Executive may charge the operator a fee for the performance of the functions under regulation 13 or 14.

(2) A fee under paragraph (1) may not exceed the sum of the costs reasonably incurred by the Executive in the performance of the functions referred to in that paragraph in relation to the establishment concerned.

(3) A fee may include any costs reasonably incurred by the Executive in arranging for the designated authorities to participate in the testing of the external emergency plan.

(4) A fee is payable within 30 days from the date of the invoice sent by or on behalf of the Executive to the operator.

(5) An invoice shall include a statement of the work done and the costs incurred by or on behalf of the Executive, including the period to which the statement relates.

(6) A fee payable under this regulation is recoverable only as a civil debt.

## PART 10 **N.I.**

### CONSEQUENTIAL AMENDMENTS, REVOCATIONS, SAVING AND TRANSITIONAL PROVISIONS

#### Amendments **N.I.**

**30.** The statutory provisions referred to in column 1 of Parts 1 and 2 of Schedule 6 shall be amended to the extent specified in column 3 of those Parts.

#### Revocations **N.I.**

**31.** The statutory provisions referred to in column 1 of Schedule 7 shall be revoked to the extent specified in column 3 of that Schedule.

#### Saving provisions **N.I.**

**32.—(1)** A notification sent by an operator to the competent authority under regulation 6 of the 2000 Regulations (including where regulation 6(3) of the 2000 Regulations applied and a report was sent to the Executive under regulation 7 of the Control of Industrial Major Accident Hazards Regulations (Northern Ireland) 1985 <sup>M21</sup>) having effect immediately before 28th September 2015 continues to have effect during the relevant period as a notification sent under regulation 6 of these Regulations.

(2) For the purposes of paragraph (1) “relevant period” means the period beginning on 28th September 2015 and ending on the date on which the operator sends a notification to the competent authority under regulation 6 of these Regulations.

(3) In relation to an existing establishment, except where regulation 7(5) applies, regulation 5 of the 2000 Regulations continues to apply in relation to a major accident prevention policy prepared under regulation 5 of those Regulations immediately before 28th September 2015 as if the 2000 Regulations had not been revoked until such time as the operator has prepared a major accident prevention policy under regulation 7 of these Regulations.

(4) In relation to an upper tier establishment—

- (a) except where regulation 9(4) applies, regulation 8 of the 2000 Regulations continues to apply in relation to a safety report prepared under regulation 7 or 8 of those Regulations before 28th September 2015 as if the 2000 Regulations has not been revoked until such time as a safety report is sent by the operator to the competent authority under regulation 9(2)(b) of these Regulations;
- (b) except where regulation 12(3) applies, an on-site emergency plan prepared under regulation 9 of the 2000 Regulations shall be reviewed, tested and put into effect in accordance with regulations 11 and 12 of the 2000 Regulations as if those Regulations had not been revoked until such time as an internal emergency plan is prepared by the operator under regulation 12 of these Regulations;
- (c) except where regulation 13(5) applies, an off-site emergency plan prepared under regulation 10 of the 2000 Regulations shall be reviewed, tested and put into effect in accordance with regulations 11 and 12 of the 2000 Regulations as if those Regulations had not been revoked until such time as an external emergency plan is prepared under regulation 13 of these Regulations;
- (d) where immediately before the revocation of the 2000 Regulations by these Regulations regulation 14 of the 2000 Regulations applied to the operator of an establishment—

- (i) information supplied by the operator under regulation 14(1) of the 2000 Regulations having effect immediately before 28th September 2015 continues to have effect during the relevant period as information sent under regulation 18(1) of these Regulations;
- (ii) where an area was notified to the operator by the competent authority under regulation 14(2) of the 2000 Regulations before 28th September 2015 and that notification remained in effect immediately before that date, the notification continues to have effect as a notification under regulation 18(2) of these Regulations;
- (iii) regulation 18(5)(a) of these Regulations, in relation to information sent under regulation 14(1) of the 2000 Regulations, has effect as if the first interval at which the operator of the establishment shall review and, where necessary revise, the information started on the date that information—
  - (aa) was supplied by the operator under regulation 14(1) of the 2000 Regulations; or
  - (bb) was last reviewed and, where necessary revised, by the operator under regulation 14(6) of those Regulations,whichever is later;
- (iv) regulation 18(6)(b) of these Regulations has effect, in relation to information sent under regulation 14(1) of the 2000 Regulations, as if the first interval at which information shall be sent under regulation 18(6) started on the date that information—
  - (aa) was supplied by the operator under regulation 14(1) of the 2000 Regulations; or
  - (bb) was last supplied by the operator under regulation 14(7) of those Regulations,whichever is later.

(5) Nothing in paragraph (4)(d)(iii) or (iv) affects the obligations of an operator to review and, where necessary, revise the information mentioned in those paragraphs in accordance with regulation 18(5)(b) or 18(6)(a) (as the case may be).

(6) For the purposes of paragraph (4)(d)(i) “relevant period” means the period beginning with 28th September 2015 and ending on the date on which the operator sends information under regulation 18(1) of these Regulations.

(7) Where the competent authority had designated a group of establishments under regulation 16 of the 2000 Regulations immediately before 28th September 2015 and that designation remained in effect immediately before that date, the designation continues to have effect as an identification of a domino group for the purposes of regulation 24.

(8) A notice served under regulation 18(1) of the 2000 Regulations which is in force or effective immediately before 28th September 2015 continues to have effect as a notice served under regulation 23(1) of these Regulations.

(9) A notice served under regulation 18(2) of the 2000 Regulations which is in force or effective immediately before 28th September 2015 continues to have effect as a notice served under regulation 23(2) of these Regulations.

(10) A fee payable to the competent authority under regulation 22 of the 2000 Regulations immediately before 28th September 2015 remains payable to the competent authority under regulation 28 of these Regulations.

(11) A fee payable to the Executive under regulation 13 of the 2000 Regulations immediately before 28th September 2015 remains payable to the Executive under regulation 29 of these Regulations.

**Marginal Citations**

**M21** S.R. 1985 No. 175

**Transitional provisions** **N.I.**

**33.**—(1) Where regulation 32(1) applies, the reference in regulation 17(1)(b), to a notification required by regulation 6, shall be construed accordingly.

(2) Where regulation 32(4)(a) applies, the reference in regulation 17(1)(b), to a safety report required by regulation 9, shall be construed accordingly.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 26th August 2015.

L.S.

*Eugene Rooney*  
A senior officer of the  
Department of Enterprise, Trade and Investment

**Changes to legislation:**

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