

SCHEDULE 2 **N.I.**

HAZARDOUS SUBSTANCES AND CONTROLLED QUANTITIES

PART 4 **N.I.**

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.
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.
5. The following rule governing the addition of hazardous substances, or categories of hazardous substances, applies where appropriate.

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

These Regulations apply to establishments if the sum $q_1/Q_{L1} + q_2/Q_{L2} + q_3/Q_{L3} + q_4/Q_{L4} + q_5/Q_{L5} + \dots$ is greater than or equal to 1, where q_x = the quantity of hazardous substance x (or category of hazardous substances) falling within Part 1 or Part 2 of this Schedule; and Q_{Lx} = the relevant controlled quantity for hazardous substance x (or category of hazardous substances x) from Column 2 of Part 1 or from Column 2 of Part 2 of this Schedule (except for those substances for which column 2 contains a quantity Q^* , in which case, for Hydrogen, Q is equal to 5, and for Liquefied petroleum gas and Natural Gas (including liquefied natural gas), Q is equal to 50).

This rule must be used to assess the health hazards, physical hazards and environmental hazards. It must therefore be applied three times—

- (a) for the addition of hazardous substances listed in Part 2 that fall within acute toxicity category 1, 2, or 3 (inhalation route) or STOT SE category 1, together with hazardous substances falling within section H, entries H1 to H3 of Part 1;
- (b) for the addition of hazardous substances listed in Part 2 that are explosives, flammable gases, flammable aerosols, oxidising gases, flammable liquids, self-reactive substances and mixtures, organic peroxides, pyrophoric liquids and solids, oxidising liquids and solids, together with hazardous substances falling within section P, entries P1 to P8 of Part 1;
- (c) for the addition of hazardous substances listed in Part 2 that fall within hazardous to the aquatic environment acute category 1, chronic category 1 or chronic category 2, together with hazardous substances falling within section E, entries E1 and E2 of Part 1.

The relevant provisions of these Regulations apply where any of the sums obtained by (a), (b) or (c) is greater than or equal to 1.

Changes to legislation: There are currently no known outstanding effects for the The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015, PART 4. (See end of Document for details)

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 application of the rule in note 5, the lowest controlled quantity for each group of categories in notes 5(a), 5(b) and 5(c) corresponding to the classification concerned must be used.

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 1 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)^{M1} identifies the substance or mixture as potentially having explosive properties.

Marginal Citations

M1 More guidance on waiving of the test can be found in the A.14 method description in the Annex to Commission Regulation (EC) No. 440/2008 of 30 May 2008 laying down test methods pursuant to Regulation (EC) No. 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (O.J. L 142, 31.5.2008.p.1).

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^{M2} (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.

Marginal Citations

M2 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—

- (a) between 15.75% ^{M3} and 24.5% ^{M4} 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 ^{M5};
- (b) 15.75% by weight or less and unrestricted combustible materials.

Marginal Citations

- M3** 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate.
- M4** 24.5% nitrogen content by weight as a result of ammonium nitrate corresponds to 70% ammonium nitrate.
- M5** 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% by weight for mixtures of straight ammonium nitrate-based fertilisers with dolomite, limestone and/or calcium carbonate with a purity of at least 90%.

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 notes 15 and 16, that are being or have been returned from the final user to a manufacturer, temporary storage or reprocessing plant for reworking, recycling or treatment for safe use, because they no longer comply with the specifications of notes 15 and 16.
- (b) fertilisers referred to in note 14(a), and note 15 to this Schedule which do not fulfil the requirements of Annex III-2 to Regulation (EC) No. 2003/2003.

Changes to legislation: There are currently no known outstanding effects for the The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015, PART 4. (See end of Document for details)

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 TEF¹			
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.

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—

Changes to legislation: *There are currently no known outstanding effects for the The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015, PART 4. (See end of Document for details)*

- (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 the lowest when the controlled quantities under Part 2 and Part 3 are compared applies.

Changes to legislation:

There are currently no known outstanding effects for the The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015, PART 4.