
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement, in relation to town and country planning in Wales, Article 12 of Directive [96/82/EC](#) on the control of major accident hazards involving dangerous substances (O.J. No. L 10, 14.1.1997, p.13) (the Seveso II Directive), as amended by Council Directive [2003/105/EC](#) (O.J. No. L 345, 31.12.2003, p.97) (the 2003 Directive).

Article 12 of the Seveso II Directive requires that the objectives of preventing major accidents and limiting the consequences of such accidents are taken into account in land-use policies; and that these objectives are achieved through controls and the requirement to ensure that planning authorities set up appropriate consultation procedures to facilitate the implementation of these and other policies established under the Article. It also requires Member States to take account of the need, in the long term, to maintain appropriate distances between establishments covered by the Directive and residential areas, areas of public use, and areas of natural sensitivity or interest. The 2003 Directive extends this requirement to include buildings in public use, major transport routes as far as possible, and recreational areas.

The amendments made by the 2003 Directive also extend the scope of the Seveso II Directive by amending Annex I to the Seveso II Directive (application of the Seveso II Directive). Annex I applies to the presence of dangerous substances (including mixtures and preparations) at any establishment. In so doing, Annex I determines the application of Article 12. The new Annex I increases the range of dangerous substances, and revises the definitions and qualifying quantities of dangerous substances that were listed in Annex I of the Seveso II Directive. Among those dangerous substances now included by virtue of the amendments made by the 2003 Directive are those associated with risks arising from certain storage and processing activities in mining.

Regulation 3 amends the Planning (Hazardous Substances) Regulations 1992 (the Hazardous Substances Regulations) by substituting a new Schedule 1 prescribing the substances which are hazardous substances and their controlled quantities, in order to implement the amendments made to Annex I of the Seveso II Directive by the 2003 Directive. Regulation 2 also makes some minor amendments to reflect the substitution of the new Schedule 1.

Regulation 4 makes transitional provision to ensure that existing hazardous substances consents are not treated as invalid because hazardous substances have been renamed or re-categorised.

Regulation 5 confers transitional immunity from prosecution and contravention proceedings for a period of six months from the day these Regulations came into force. During this time an application for consent may be made.

An impact assessment has been prepared in relation to these Regulations. It has been placed in the library of the Welsh Assembly Government and copies may be obtained from the Planning Directorate, the Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ.