

Statutory Rule 2000 No. 101

The Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000

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STATUTORY RULES OF NORTHERN IRELAND

2000 No. 101

PLANNING

The Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000

Made

20th March 2000

Coming into operation

24th April 2000

The Department of the Environment, being a Department designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] in relation to the prevention and limitation of the effects of accidents involving dangerous substances, in exercise of the powers conferred upon it by that section and by Articles 53(3) to (5), 54(1), 60(3), 129(1) and paragraph 4(4) of Schedule 4 to the Planning (Northern Ireland) Order 1991^[3] and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1. - (1) These Regulations may be cited as the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000 and shall come into operation on 24th April 2000.

(2) In these Regulations -

"the 1991 Order" means the Planning (Northern Ireland) Order 1991;

"the Hazardous Substances Regulations" means the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993[4].

Amendments to the 1991 Order

2. - (1) Article 53 (requirement of hazardous substances consent) of the 1991 Order shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1) -

(a) after sub-paragraph (a) insert -

" (aa) on, over or under other land which is controlled by the same person and which, in all the circumstances (including in particular the purpose for which the land and the land mentioned in sub-paragraph (a) is used) forms with the land so mentioned a single establishment;";

(b) in sub-paragraph (b) for the word "it" substitute "the land mentioned in sub-paragraph (a)"; and

(c) in sub-paragraph (c) for the word "it" substitute "the land mentioned in sub-paragraph (a)".

(3) After paragraph (1) insert -

" (1A) A quantity of a substance which falls within more than one sub-paragraph of paragraph (1) shall only be counted once."

(4) For paragraph (2) substitute -

" (2) The temporary presence of a hazardous substance while it is being transported from one place to another is not to be taken into account unless -

(a) it is unloaded; or

(b) it is present on, over or under land in respect of which there is a hazardous substances consent for any substance, or in respect of which (not taking into account the quantity of the substance being transported) there is required to be such a consent for any substance."

Amendment to the Hazardous Substances Regulations

3. - (2) The Hazardous Substances Regulations shall be amended in accordance with paragraphs (2) to (9).

(2) In regulation 2(1) (interpretation), after the definition of "deemed consent", insert -

" "the Directive" means Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances[5];"

(3) In regulation 3 (hazardous substances and controlled quantities) -

(a) for paragraph (1) substitute -

" (1) Substances, mixtures or preparations -

- (a) specified in column 1 of Part A;**
- (b) falling within a category in column 1 of Part B; or**
- (c) meeting the description in column 1 of Part C,**

of Schedule 3 and present as raw materials, products, by-products, residues or intermediates are hazardous substances for the purposes of the 1991 Order.";

(b) paragraph (2) shall be omitted.

(4) For regulation 4 (exemptions) substitute -

" 4. - (1) Hazardous substances consent is not required for the temporary presence of a hazardous substance during the period between its being unloaded from one means of transport to another while it is being transported from one place to another unless it is present on, over or under land in respect of which there is a hazardous substances consent for any substance, or in respect of which (not taking into account the quantity of the substance being transported) there is required to be such a consent for any substance.

(2) Hazardous substances consent is not required for the presence of a hazardous substance contained in an exempt pipeline or a service pipe.

(3) Subject to paragraph (4), hazardous substances consent is not required for the presence of a hazardous substance which has been unloaded from a ship or other seagoing craft in an emergency until the expiry of a period of 14 days beginning with the day on which it was so unloaded.

(4) For the purposes of paragraph (3) a substance shall be treated as having been unloaded from a craft in an emergency if it was unloaded from a craft after having been brought into a harbour or harbour area within the meaning of regulation 2 of the Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991[6], without requiring notification under regulation 6(1) of those regulations by virtue of an exemption under regulation 6(5) of those regulations.

(5) Hazardous substances consent is not required for the presence of a hazardous substance on, over or under land at a waste land-fill site.

(6) Hazardous substances consent is not required for the presence of a hazardous substance which creates a hazard from ionising radiation if present on, over or under land in respect of which a nuclear site licence has been granted or is required for the purposes of section 1 of the Nuclear Installations Act 1965[7].

(7) The presence of a quantity of a hazardous substance (other than that of a substance numbered 6, 14, 35 and 39 in column 1 of Part A of Schedule 3) -

- (a) in a location where it cannot act as an initiator of a major accident hazard elsewhere on the relevant site; and**
- (b) which is equal to or less than two per cent of the relevant controlled quantity for that**

substance,

shall not be taken into account when calculating the quantity of a hazardous substance present on, over or under land for any purpose of the 1991 Order or these regulations.

(8) The presence of a substance to which paragraphs (1) to (6) apply shall not be taken into account when calculating the quantity of a hazardous substance present on, over or under land for any purpose of the 1991 Order or these regulations.

(9) In this regulation -

(a) "exempt pipeline" means a pipeline used to convey a hazardous substance to or from a site, but does not include -

(i) that part of the pipeline on, over or under a site to which it has an outlet or inlet;

(ii) a service pipe;

(b) "service pipe" means a pipeline used by a person to whom a licence has been granted under Article 8(1) of the Gas (Northern Ireland) Order 1996[8] to supply gas to an individual customer from a main of that supplier;

(c) "major accident" means an occurrence (including in particular, a major emission, fire or explosion) resulting from uncontrolled developments in the course of any operation carried out on, over or under land in respect of which there is required to be a hazardous substances consent and leading to serious danger to human health or the environment, immediate or delayed, and involving one or more hazardous substances;

(d) the expressions "initiator", "major emission, fire or explosion", "resulting from uncontrolled developments", "leading to serious danger to human health or the environment, immediate or delayed", "waste land-fill site" and "ionising radiation" have the same meaning as in the Directive."

(5) In regulation 10 (consultations before determining applications for hazardous substances consent) in paragraph (b) for "the Department of Economic Development" substitute "the Health and Safety Executive for Northern Ireland", and add "(c) the Fire Authority for Northern Ireland."

(6) In regulation 16 (interpretation of deemed consent provisions) -

(a) for each reference to "Table C" substitute "Table B";

(b) in paragraph (2) for the words "71 in column 1 of Schedule 3" substitute "32 in column 1 of Part A of Schedule 3".

(7) In Schedule 1 (prescribed forms) for form 1 (general application for hazardous substances consent), form 2 (application for either hazardous substances consent without a condition imposed on a previous consent or application for the continuation of a hazardous substances consent following a change in control of part of the land) and form 5 (claim for deemed consent), substitute the new forms 1, 2 and 5 set out in Schedule 1 to these regulations.

(8) In Schedule 2 (deemed consent conditions) -

- (a) for each reference to "Table C" substitute "Table B";**
- (b) in paragraph 8(1) for "regulation 12(3)" substitute "regulation 14(3)"; and**
- (c) in paragraph 8(2) omit the word "twice".**

(9) For Schedule 3 (hazardous substances and controlled quantities) substitute the new Schedule 3 as set out in Schedule 2 to these regulations.

Transitional provisions

4. For the purposes of the transition to the amendments made by regulations 2 and 3 -

(1) paragraph 4 of Schedule 4 to the 1991 Order (transitional provisions) shall apply with the following modifications -

(a) in sub-paragraph (1) for the words immediately following head (b) substitute -

" if -

(i) the substance was present on, over or under land at any time within the establishment period and was not a substance or quantity of substance for which hazardous substances consent was required before the relevant date; and

(ii) the substance has not been present during the transitional period in a quantity greater in aggregate than the established quantity.";

(b) sub-paragraph (2) shall be omitted;

(c) in sub-paragraph (3), after the words "establishment period" insert "for which hazardous substances consent was not required during that period";

(d) in sub-paragraph (5), for the words "(6) to (8)" insert "(7) and (8)";

(e) sub-paragraph (6) shall be omitted;

(f) in sub-paragraph (7) for the words "If at the commencement date such a notification was not so required, hazardous" substitute "Hazardous";

(g) for sub-paragraph (10) substitute -

" (10) In this paragraph -

"establishment period" means the period of 12 months immediately preceding the relevant date;

"established quantity" means in relation to any land, the maximum quantity which was present on, over or under the land at any one time within the establishment period;

"the relevant date" means the date on which the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000 came into operation;

"the transitional period" means the period of 6 months beginning with the relevant date."; and

(2) the conditions in Schedule 2 to the Hazardous Substances Regulations shall be modified by the substitution of the following condition for condition 1 -

" 1. The maximum aggregate quantity of the substance that may be present -

(a) on, over or under the land to which the claim for the consent relates;

(b) on, over or under other land which is controlled by the same person and which, in all the circumstances (including in particular the purposes for which the land and the land mentioned in sub-paragraph (a) is used) forms with the land so mentioned a single establishment;

(c) on, over or under other land which is within 500 metres of the land mentioned in sub-paragraph (a) and controlled by the same person; or

(d) in or on a structure controlled by the same person any part of which is within 500 metres of the land mentioned in sub-paragraph (a),

at any one time shall not exceed the established quantity and in calculating whether the established quantity is exceeded, a quantity of a substance which falls within more than one sub-paragraph of this paragraph shall only be counted once."

Amendment to the Planning (Development Plans) Regulations (Northern Ireland) 1991

5. - (1) The Planning (Development Plans) Regulations (Northern Ireland) 1991[2] shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation) -

(a) after the definition of "development plan" insert ""the Directive" means Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances;"

(b) after paragraph (2) add -

" (3) The expressions used in regulation 9A have the same meaning as in the Directive."

(3) In regulation 9 (additional matters to be contained in a development plan) after paragraph (b) add -

" and

(c) such statement as the Department thinks appropriate with regard to the matters referred to in regulation 9A."

(4) After regulation 9 insert -

" Regard to be had to certain matters

9A. In formulating its policies in a development plan the Department shall have regard to -

(a) the objectives of preventing major accidents and limiting the consequence of such accidents; and

(b) the need;

(i) in the long term, to maintain appropriate distances between establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest; and

(ii) in the case of existing establishments, for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people."

Amendment to the Planning (General Development) Order (Northern Ireland) 1993

6. - (1) Article 15 of the Planning (General Development) Order (Northern Ireland) 1993[10] (consultations as to applications for planning permission) shall be renumbered as paragraph (1) of that Article and for paragraph (1)(b) there shall be substituted -

" (b) consult the Health and Safety Executive for Northern Ireland (HSENI) where -

(i) the development is within an area which has been notified to the Department by HSENI for the purposes of this provision because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances and which are present; and which involves the provision of -

(aa) residential accommodation;

(bb) more than 250 square metres of retail floorspace;

(cc) more than 500 square metres of office floor space; or

(dd) more than 500 square metres to be used for an industrial process,

or which is otherwise likely to result in a major increase in the number of persons working within or visiting the notified area; and

(ii) where the development -

(aa) involves the siting of a new establishment; or

(bb) consists of the modification of an existing establishment which could have significant repercussions on major-accident hazards; or

(cc) includes transport links, locations frequented by the public and residential areas in the vicinity of existing establishments, where the siting or development is such as to increase the risk or consequence of a major accident."

(2) At the end of Article 15(1) there shall be added -

" (2) The expressions used in paragraph (1)(b)(ii) have the same meaning as in Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances."

Sealed with the Official Seal of the Department of the Environment on 20th March 2000.

L.S.

J. McConnell

A senior officer of the Department of the Environment

SCHEDULE 1

Regulation 3(7)

" FORM 1

Planning (Northern Ireland) Order 1991, Article 54(1)

The Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 (Regulation 5)

General Application for Hazardous Substances Consent

1. Applicant (in BLOCK CAPITALS)

Address

Telephone No

Agent (if any) to whom correspondence should be sent (in BLOCK CAPITALS)

Address

Telephone No

Contact

2. Address or location of Application Site together with OS Grid Reference

3. Substance(s) covered by application

(a) List named substances falling within Part A of Schedule 3 to the 1993 Regulations*¹ first, then list any substances falling within the categories in Part B of that Schedule; finally list substances falling within the description in Part C.

(b) Substances falling within Parts B or C of Schedule 3 to the 1993 Regulations may be listed under the relevant category or description or named specifically. Where a substance falling within Part A and B list under Part A only; where a substance falls within more than one category in Part B list under the category which has the lowest controlled quantity*². Where a substance falling within Part A or B also falls within Part C list under the Part which has the lowest controlled quantity.

TABLE A

<i>Name or relevant category or</i>	<i>Part and Entry Number*³ in Schedule 3 to the</i>	<i>Do you have a current PHS consent*⁴ in respect</i>	<i>If "Yes", state state quantity for which</i>	<i>Maximum quantity proposed to</i>
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<i>description of substance</i>	<i>1993 Regulations</i>	<i>of this substance? (Yes/No)</i>	<i>consent granted</i>	<i>be present in tonnes</i>

4. Manner in which substance(s) are to be kept and used

For each substance, category or description of substance, covered by the application, provide the following information, referring to the substance location plan where appropriate.

(a) Tick one box below to show whether the substance(s) will be present for storage only or will be stored and involved in a manufacturing, treatment or other industrial process.

TABLE B

<i>Part and Entry Number in Schedule 3 to the 1993 Regulations</i>	<i>Storage only</i>	<i>Stored and involved in industrial process</i>

(b) For each vessel to be used for storing the substance(s), give the following information

-

TABLE C

<i>Vessel No*⁵</i>	<i>Part and Entry No. in Schedule 3 to the 1993 Regulations of substance(s) to be stored in vessel</i>	<i>Installed above Ground*⁶ (Yes/No)</i>	<i>Buried (Yes/No)</i>	<i>Mounded (Yes/No)</i>	<i>Maximum Capacity (cubic metres)</i>	<i>Highest vessel design temperature (°C)</i>	<i>Highest vessel design pressure (bar absolute)</i>

(c) For each substance, category or description of substance, state the largest size (*capacity in cubic metres*) of any moveable container(s) to be used for that substance, category or description of substances.

(d) Where a substance, category or description of substance is to be used in a *manufacturing, treatment or other industrial process(es)*, give a general description of the process(es), describe the major items of plant which will contain the substance(s): and state the maximum quantity (in tonnes) which is liable to be present in the major items of plant, and the maximum temperature (°C) and pressure (bar absolute) at which the substance, category or description of substance is liable to be present.

TABLE D

<i>Part and Entry No. in Schedule 3 to the 1993 Regulations</i>	<i>Description of process(es)</i>	<i>Major items of plant*7</i>	<i>Maximum quantity (tonnes)</i>	<i>Maximum temperature (°C)</i>	<i>Maximum pressure (bar absolute)</i>

5. Additional Information

(a) If you have existing PHS consent(s) as referred to in Table A, enclose a copy of each consent with this application

(b) Has any application for hazardous substances consent or planning permission relating to the application site been made which has not yet been determined? YES/NO

(c) Will any such application be submitted at the same time as this application? YES/NO

If you have answered "YES" to either of the preceding questions, give sufficient information to enable the application(s) to be identified.

(d) Plans. List the maps or plans or any explanatory scale drawings of plant/buildings submitted with this application.

(e) Give any further information which you consider to be relevant to the determination of this application.

I/We* hereby apply for hazardous substances consent in accordance with the proposals described in the application.

*delete where inappropriate

Signed

On behalf of

(insert applicant's name if signed by an agent)

Date

Notes

*¹The "1993 Regulations" are the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 as amended by the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000.

*²The "controlled quantity" means the quantity specified for that substance in column 2 of Parts A, B or C of Schedule 3 to the 1993 Regulations.

*³For Part C, state the Part only.

*⁴a hazardous substances consent

* identify by reference to substance location plan

*⁶if "yes", specify whether or not it will be provided with full secondary containment

*⁷identify by reference to substance location plan".

FORM 2

Planning (Northern Ireland) Order 1991 Articles 58 and 60

The Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 (Regulations 5(2) and (3))

Application for either: (tick appropriate box)

Hazardous Substances Consent without a condition(s) imposed on a previous consent (Article 58)

OR

Continuation of Hazardous Substances Consent following a change in control of part of the land (Article 60)

1. Applicant (IN BLOCK CAPITALS)

Address

Telephone No.

Agent (if any) to whom correspondence should be sent (IN BLOCK CAPITALS)

Address

Telephone No.

Contact

2. Address or location of Application Site together with OS Grid Reference

3. Substances covered by application

(a) In the Table below, list named substances falling within Part A of Schedule 3 to the 1993 Regulations*⁸ first, then list any substances falling within the categories in Part B of that Schedule; finally list substances falling within the description in Part C.

(b) Substances falling within Parts B or C of Schedule 3 of the 1993 Regulations may be listed under the relevant category or description or named specifically. Where a substance falls within Part A and B list under Part A only; where a substance falls within more than one category in Part B list under the category which has the lowest controlled quantity*⁹. Where a substance falling within Part A or Part B also falls within Part C list under the Part which has the lowest controlled quantity.

<i>Name or relevant category or description of substance</i>	<i>Part and Entry Number*¹⁰ in Schedule 3 to the 1993 Regulations</i>	<i>Maximum quantity proposed to be present (in tonnes)</i>

Notes

***⁸The "1993 Regulations" are the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 as amended by the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000.**

***⁹The "controlled quantity" means the quantity specified for that substance in column 2 of Parts A, B or C of Schedule 3 to the 1993 Regulations.**

***¹⁰For Part C, state the Part only.**

4. Application for removal of a condition(s) imposed on a previous consent

- (a) Identify the condition(s) previously imposed which it is intended should no longer be imposed on the consent, or which should only be imposed in a modified form. In the latter case, indicate the proposed modification -**
- (b) Give reasons why the condition(s) referred to in (a) should not be imposed or should only be imposed in a modified form -**
- (c) Describe any relevant changes in circumstances since the previous consent was granted -**

5. Application for the continuation of hazardous substances consent(s) following a change in the person in control of part of the land (Article 60)

- (a) State the date on which the change in the person in control of part of the land is to take place, where known -**
- (b) Describe the use of each area of the site identified in the accompanying change of control plan -**
- (c) Describe any relevant changes in circumstances since the existing consent was granted -**

6. Additional Information

Give any additional information which you consider to be relevant to the determination of this application -

I/We* hereby apply for hazardous substances consent/the continuation of hazardous substances consent* in accordance with this application.

*** delete where inappropriate**

Signed

On behalf of

(insert applicant's name if signed by agent)

Date

"

FORM 5**Planning (Northern Ireland) Order 1991, Schedule 4 Paragraph 4(4)****The Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 (Regulation 14)****Claim for Deemed Consent****Part 1 - Claimant and Site****1. Claimant (IN BLOCK CAPITALS)****Address****Telephone No.****Agent (if any) to whom correspondence should be sent (IN BLOCK CAPITALS)****Address****Telephone No.****Contact****2. Full postal address or location of land to which the claim relates together with O.S. grid reference****3. General description of activities carried on at the site during the establishment period****Part 2 - Substances for which consent is being claimed and established quantity****(a) Complete Table A for every hazardous substance for which you are claiming consent.****(b) List named substances falling within Part A of Schedule 3 to the 1993 Regulations*¹¹ first, then list any substances falling within the categories in Part B of that Schedule; finally list substances falling within the description in Part C.****(c) Substances falling within Parts B or C of Schedule 3 to the 1993 Regulations may be listed under the relevant category or description or named specifically. Where a substance falls within Part A and Part B list under Part A only; where a substance falls within more than one category in Part B list under the category which has the lowest controlled quantity*¹². Where a substance falling within Part A or B also falls within Part C list under the Part which has the lowest controlled quantity.****TABLE A**

<i>Hazardous Substances(s) present during establishment period*¹³ for which consent not required during that period</i>	<i>Part and Entry Number*¹⁴ in Schedule 3 to the 1993 Regulations</i>	<i>Established Quantity*¹⁵</i>

Notes to Part 2

***11**The "1993 Regulations" are the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 as amended by the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000.

***12**The "controlled quantity" means the quantity specified for that substance in column 2 of Parts A, B or C of the 1993 Regulations.

***13**The "establishment period" is the period of 12 months immediately preceding the relevant date; the "relevant date" is the date the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000 come into operation.

***14**For Part C state the Part only.

***15**The "established quantity" is the maximum quantity present during the establishment period.

Part 3 - Moveable Container Storage Areas

For each area identified in any moveable container storage area plan which accompanies this claim specify -

(a) the maximum quantity of the hazardous substance stored in the area in moveable containers at any time during the establishment period -

(b) whether the substance, category or description of substance was stored in a moveable container with a capacity in excess of 10% of the substance's controlled quantity in that area during that period, and, if so, the capacity (in tonnes) of the largest moveable container in which the substance was so stored -

Part 4 - Vessel Capacity, Temperature and Pressure

TABLE B

		<i>Below ambient temperature*17</i>		<i>At ambient temperature*18</i>				<i>Above ambient temperature*19</i>				
		<i>1*20</i>	<i>2*21</i>	<i>3*22</i>	<i>4*23</i>	<i>5*24</i>	<i>6*25</i>	<i>7*26</i>	<i>8*27</i>	<i>9*28</i>	<i>10*29</i>	<i>11*30</i>
<i>Vessel Area*16</i>	<i>Part and entry number in Schedule 3 to the 1993 Regulations</i>	<i>Largest capacity vessel</i>	<i>Highest vessel design pressure</i>	<i>Buried or mounded vessels largest capacity vessel</i>	<i>Buried or mounded vessels highest vessel design pressure</i>	<i>Non-buried or non-mounded vessels largest capacity vessel</i>	<i>Non-buried or non-mounded vessels highest vessel design pressure</i>	<i>Present at or below boiling point at 1 bar largest capacity vessel</i>	<i>Present at or below boiling point at 1 bar highest vessel design pressure</i>	<i>Highest design temperature</i>	<i>Present at or below boiling point at 1 bar largest capacity vessel</i>	<i>Present at or below boiling point at 1 bar highest vessel design pressure</i>

Notes to Part 4 Table C

***16**This table should be completed for each vessel area identified in any vessel location plan which accompanies this claim, with a separate row being completed for each hazardous substance in that vessel area.

***17**Only complete columns 1 and 2 in respect of a vessel area in which the substance was present in a

vessel at below ambient temperature at any time during the establishment period.

***18 Only complete columns 3 to 6 in respect of a vessel area in which the substance was present in a vessel at ambient temperature at any time during the establishment period.**

***19 Only complete columns 7 to 11 in respect of a vessel area in which the substance was present in a vessel at above ambient temperature at any time during the establishment period.**

***20 Column 1 Enter the capacity (in cubic metres) of the largest capacity vessel in which the substance was present in the relevant vessel area at below ambient temperature at any time during the establishment period.**

***21**

Column 2 Only complete if the substance was present in a vessel at above atmospheric pressure at below ambient temperature in the relevant vessel area at any time during the establishment period.

To complete, enter the highest vessel design pressure of any vessel in which the substance was present.

***22**

Column 3 Only complete if the substance was present at ambient temperature in a vessel which was buried or mounded in the relevant vessel area at any time during the establishment period.

To complete, enter the capacity (in cubic metres) of the largest capacity buried or mounded vessel in which the substance was present.

***23**

Column 4 Only complete if the substance was present at above atmospheric pressure at ambient temperature in a vessel which was buried or mounded in the relevant vessel area at any time during the establishment period.

To complete, enter the highest vessel design operating pressure of any buried or mounded vessel in which the substance was present.

***24**

Column 5 Only complete if the substance was present at ambient temperature in a non-buried or non-mounded vessel in the relevant vessel area at any time during the establishment period.

To complete, enter the capacity (in cubic metres) of the largest capacity non-buried or non-mounded vessel in which the substance was present.

***25**

Column 6 Only complete if the substance was present at above atmospheric pressure at ambient temperature in a non-buried or non-mounded vessel in the relevant vessel area at any time during the establishment period.

To complete, enter the highest vessel design operating pressure of any non-buried or non-

mounded vessel in which the substance was present.

***26**

Column 7 Only complete if the substance was present in a vessel at above ambient temperature at or below its boiling point at 1 bar absolute in the relevant vessel area at any time during the establishment period.

To complete, enter the capacity (in cubic metres) of the largest capacity vessel in which the substance was present.

***27**

Column 8 Only complete if the substance was present at above atmospheric pressure at above ambient temperature at or below its boiling point at 1 bar absolute in a vessel in the relevant vessel area at any time during the establishment period.

To complete, enter the highest vessel design operating pressure of any vessel in which the substance was present.

***28 Column 9 Enter the highest design operating temperature (in centigrade) of any vessel in which the substance was present at above ambient temperature in the relevant vessel area at any time during the establishment period.**

***29**

Column 10 Only complete if the substance was present in a vessel at above its boiling point at 1 bar absolute in the relevant vessel area at any time during the establishment period.

To complete, enter the capacity (in cubic metres) of the largest capacity vessel in which the substance was present.

***30 Column 11 Only complete if the substance was present at above atmospheric pressure above its boiling point at 1 bar absolute in a vessel in the relevant vessel area at any time during the establishment period.**

To complete, enter the highest vessel design operating pressure of any vessel in which the substance was present.

Part 5

I/We hereby claim hazardous substances consent in accordance with the information provided*³¹.

Signed

On behalf of

Date

Note to Part 5

***31**The Department is required to notify you within 2 weeks from receipt of the claim if, in its opinion, the claim is invalid and to give its reasons for that opinion. If the claim is valid the Department shall be deemed to have granted the hazardous substances consent claimed, subject to the conditions set out in Schedule 2 to the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 as applied or amended by the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000."

SCHEDULE 2

Regulation 3(9)

" SCHEDULE 3

Regulations 3(1) and (3)

Hazardous Substances and Controlled Quantities

Part A

Named Substances

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Hazardous Substances</i>	<i>Controlled Quantity (Q) in tonnes</i>	<i>Quantity for the purposes of Note 4 to the notes to Parts A and B (Q*)</i>
1. Ammonium nitrate to which Note 1 of the notes to Part A applies	350.00	-
2. Ammonium nitrate to which Note 2 of the notes to Part A applies	1000.00	1250.00
3. Arsenic pentoxide, arsenic (V) acid and/or salts	1.00	-
4. Arsenic trioxide, arsenious (III) acid and/or salts	0.10	-

5. Bromine	20.00	-
6. Chlorine	10.00	-
7. Nickel compounds in inhalable powder form (nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)	1.00	-
8. Ethyleneimine	10.00	-
9. Fluorine	10.00	-
10. Formaldehyde (concentration ? 90%)	5.00	-
11. Hydrogen	2.00	5.00
12. Hydrogen chloride (liquefied gas)	25.00	-
13. Lead alkyls	5.00	-
14. commercial propane and commercial butane, and any mixture thereof, when held at a pressure greater than 1.4 bar absolute	Liquefied petroleum gas, including 25.00	50.00
15. excluding pressurised LPG (entry no. 14)	Liquefied extremely flammable gases 50.00	-
16. Natural Gas	15.00	50.00
17. Acetylene	5.00	-
18. Ethylene oxide	5.00	-
19. Propylene oxide	5.00	-
20. Methanol	500.00	-
21. and/or salts, in powder form	4, 4-Methylenebis (2-chloraniline) 0.01	-
22. Methylisocyanate	0.15	-
23. Oxygen	200.00	-
24. Toluene diisocyanate	10.00	-

25. Carbonyl dichloride (phosgene)	0.30	-
26. Arsenic trihydride (arsine)	0.20	-
27. Phosphorus trihydride (phosphine)	0.20	-
28. Sulphur dichloride	1.00	-
29. trioxide dissolved in sulphuric acid to form Oleum)	Sulphur trioxide (including sulphur 15.00	-
30. polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent (see Note 3 to the notes to Part A)	Polychlorodibenzofurans and 0.001	-
31. 4-Aminobiphenyl and/or its salts; Benzidine and/or salts; Bis(chloromethyl)ether; Chloromethyl methyl ether; Dimethylcarbamoyl chloride; Dimethylnitrosamine; Hexamethylphosphoric triamide; 2-Naphthylamine and/or salts; 1, 3-Propanesultone; 4-Nitrodiphenyl	The following carcinogens - 0.001	-
32. spirits	Automotive petrol and other petroleum 5000.00	-
33. Acrylonitrile	20.00	50.00
34. Carbon disulphide	20.00	50.00
35. Hydrogen selenide	1.00	50.00
36. Nickel tetracarbonyl	1.00	5.00
37. Oxygen difluoride	1.00	5.00
38. Pentaborane	1.00	5.00
39. Selenium hexafluoride	1.00	50.00
40. Stibine (Antimony hydride)	1.00	5.00
41. Sulphur dioxide	20.00	50.00
42. Tellurium hexafluoride	1.00	5.00
43. butane (>70%)	2, 2-Bis(tert-butylperoxy) 5.00	50.00

44. (>80%)	1, 1-Bis(tert-butylperoxy) cyclohexane 5.00	50.00
45. tert-Butyl peroxyacetate (>70%)	5.00	50.00
46. tert-Butyl peroxyisobutyrate (>80%)	5.00	50.00
47. (>80%)	tert-Butyl peroxyisopropylcarbonate 5.00	50.00
48. tert-Butyl peroxy maleate (>80%)	5.00	50.00
49. tert-Butyl peroxy pivalate (>77%)	5.00	50.00
50. Cellulose Nitrate other than - (1) Cellulose nitrate to which the Explosives Act 1875[11] applies; or (2) Cellulose nitrate where the nitrogen content of the cellulose nitrate does not exceed 12.3% by weight and contains not more than 55 parts of cellulose nitrate per 100 parts by weight of solution	50.00	-
51. Dibenzyl peroxydicarbonate (>90%)	5.00	50.00
52. Diethyl peroxydicarbonate (>30%)	5.00	50.00
53. 2, 2-Dihydroperoxypropane (>30%)	5.00	50.00
54. Di-isobutyryl peroxide (>50%)	5.00	50.00
55. Di-n-propyl peroxydicarbonate (>80%)	5.00	50.00
56. Di-sec-butyl peroxydicarbonate (>80%)	5.00	50.00
57. 1, 2, 4, 5-tetroxacyclononane (>75%)	3, 3, 6, 6, 9, 9-Hexamethyl-5.00	50.00
58. Methyl ethyl ketone peroxide (>60%)	5.00	50.00
59. Methyl isobutyl ketone peroxide (>60%)	5.00	50.00
60. Peracetic acid (>60%)	5.00	50.00
61. Sodium chlorate	25.00	50.00

62. covered by entry 16) which is flammable in air, when held as a gas	Gas or any mixture of gases (not 15.00	-
63. substances which is flammable in air when held above its boiling point (measured at 1 bar absolute) as a liquid or as a mixture of liquid and gas at a pressure of more than 1.4 bar absolute (see Note 4 to the notes to Part A)	A substance or any mixture of 25.00	-

Notes to Part A

1. Ammonium Nitrate

This applies to ammonium nitrate and ammonium nitrate compounds in which the nitrogen content as a result of the ammonium nitrate is more than 28 per cent by weight (compounds other than those referred to in Note 2) and to aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 90 per cent by weight.

2. Ammonium Nitrate

This applies to simple ammonium nitrate based fertilisers which conform with the requirements of the Fertilisers Regulations (Northern Ireland) 1992[12] and to composite fertilisers in which the nitrogen content as a result of the ammonium nitrate is more than 28 per cent in weight (a composite fertiliser contains ammonium nitrate with phosphate or potash, or phosphate and potash).

3. Polychlorodibenzofurans and polychlorodibenzodioxins

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

International Toxic Equivalent Factors (ITEF) for the congeners of concern (NATO/CCMS[13])

2, 3, 7, 8-TCDD	1
1, 2, 3, 7, 8-PeDD	0.5
1, 2, 3, 4, 7, 8-HxCDD	0.1
1, 2, 3, 6, 7, 8-HxCDD	
1, 2, 3, 7, 8, 9-HxCDD	
1, 2, 3, 4, 6, 7, 8-HpCDD	0.01
OCDD	0.001
2, 3, 4, 7, 8-PeCDF	0.5
1, 2, 3, 7, 8-PeCDF	0.05
1, 2, 3, 4, 7, 8-HxCDF	0.1
1, 2, 3, 7, 8, 9-HxCDF	
1, 2, 3, 6, 7, 8-HxCDF	

2, 3, 4, 6, 7, 8-HxCDF	
1, 2, 3, 4, 6, 7, 8-HpCDF	0.01
1, 2, 3, 4, 7, 8, 9-HpCDF	

(T = Tetra, P = Penta, Hx = Hexa, Hp = Hepta, O = octa)

4. Entry Number 63

The controlled quantity of 25 tonnes in column 2 of entry 63 refers, in the case of a mixture of substances, to the quantity of substances within that mixture held above their boiling point (measured at 1 bar absolute).

Part B

Categories of substances and preparations not specifically named in Part A

<i>Column 1</i>	<i>Column 2</i>
<i>Categories of hazardous substances</i>	<i>Controlled Quantity (Q) in tonnes</i>
1. VERY TOXIC	5.00
2 TOXIC	50.00
3. OXIDISING	50.00
4. EXPLOSIVE (where the substance or preparation falls within the definition given in Note 2(a) to the notes to Part B, excluding those at a factory or magazine subject to assent procedures under section 7 of the Explosives Act 1875 or those licensed under the Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991[14])	50.00
5. EXPLOSIVE (where the substance or preparation falls within the definition given in Note 2(b) to the notes to Part B, excluding those at a factory or magazine subject to assent procedures under section 7 of the Explosives Act 1875 or those licensed under the Dangerous Substances in Harbour Area Regulations (Northern Ireland) 1991)	10.00
6. FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(a) to the notes to Part B)	5000.00
7. HIGHLY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(b)(i) to the notes in Part B)	50.00

8. HIGHLY FLAMMABLE liquids (where the substance or preparation falls within the definition given in Note 3(b)(ii) to the notes to Part B)	5000.00
9. EXTREMELY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(c) to the notes to Part B)	10.00
10. DANGEROUS FOR THE ENVIRONMENT in combination with risk phrases: (i) R50: "very toxic to aquatic organisms"	200.00
(ii) R51: "toxic to aquatic organisms"; and R53: "may cause long term adverse effects in the aquatic environment"	500.00
11. ANY CLASSIFICATION not covered by those given above in combination with risk phrases: (i) R14: "reacts violently with water" (including R14/R15)	100.00
(ii) R29: "in contact with water, liberates toxic gas"	50.00

Notes to Part B

1. Substances and preparations shall be classified for the purpose of this Schedule according to regulation 5 of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995[15] ("CHIP") whether or not the substance or preparation is required to be classified for the purposes of those Regulations, or, in the case of a pesticide approved under the Food and Environment Protection Act 1985[16] in accordance with the classification assigned to it by that approval.

2. An "explosive" means -

(a)

(i) a substance or preparation which creates the risk of an explosion by shock friction, fire or other sources of ignition (risk phrase[17] R2);

(ii) a pyrotechnic substance is a substance (or mixture of substances) designed to produce heat, light, sound, gas or smoke or a combination of such effects through non-detonating self-sustained exothermic chemical reactions; or

(iii) an explosive or pyrotechnic substance or preparation contained in objects;

(b) a substance or preparation which creates extreme risks of explosion by shock, friction, fire or other sources of ignition (risk phrase R3).

3. "Flammable", "highly flammable" and "extremely flammable" in categories 6, 7, 8 and 9 mean:

(a) flammable liquids -

substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C (risk phrase R10), supporting combustion;

(b) highly flammable liquids:

(i) substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any input of energy (risk phrase R17),

- substances which have a flash point lower than 55°C and which remain liquid under pressure, where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards;(ii) substances and preparations having a flash point lower than 21°C and which are not extremely flammable (risk phrase R11, second indent);

(c) extremely flammable gases and liquids:

(i) liquid substances and preparations which have a flash point lower than 0°C and the boiling point (or, in the case of a boiling range, the initial boiling point) of which at normal pressure is less than or equal to 35°C (risk phrase R12, first indent), and

(ii) gaseous substances and preparations which are flammable in contact with air at ambient temperature and pressure (risk phrase R12, second indent), whether or not kept in the gaseous or liquid state under pressure, excluding liquefied extremely flammable gases (including liquefied petroleum gas) and natural gas referred to in Part A; and

(iii) flammable liquid substances and preparations maintained at a temperature above their boiling point.

Notes to Parts A and B

1. Mixtures and preparations shall be treated in the same way as pure substances provided they remain within the concentration limits set according to their properties under the relevant provisions specified in CHIP, unless a percentage composition or other description is specifically given.

2. In the case of substances and preparations with properties giving rise to more than one classification the lowest thresholds shall apply.

3. Where a substance or group of substances listed in Part A also falls within a category of Part B, the controlled quantities set out in Part A must be used.

4. The addition of hazardous substances to determine the controlled quantity shall be carried out according to the following rule -

if the sum

$$q_1/Q + q_2/Q + q_3/Q + q_4/Q + q_5/Q + \dots > 1$$

(where

q_x = the quantity of hazardous substance x (or category of substance) present,

Q = the relevant controlled quantity (Q) from Part A or Part B, except for those substances for which column 3 of Part A contains a quantity Q^* , in which case the quantity Q^* shall be used in place of the controlled quantity Q in column 2)

then the controlled quantity of each of the substances which are added together in accordance with each of paragraphs 5(a) to (c) below shall be deemed to be present for the purposes of Articles 53(1), 59(2)(a), 61(2)(a) and paragraph 4(7) of Schedule 4 (as applied by the Planning

(Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000) of the 1991 Order and of Article 76 (enforcement notice to have effect against subsequent development) of the 1991 Order as modified by regulation 19(1) and Part 2 Schedule 4 of the Hazardous Substances Regulations.

5. The addition rule in paragraph 4 will apply for the following circumstances:

(a) for substances and preparations appearing in Part A at quantities less than their individual controlled quantity present with substances having the same classification from Part B, and the addition of substances and preparations with the same classification from Part B;

(b) for the addition of categories 1, 2 and 10 from Part B present together;

(c) for the addition of categories 3, 4, 5, 6, 7, 8 and 9 from Part B present together.

Part C

Substances used in an Industrial Chemical Process

<i>Column 1</i>	<i>Column 2</i>
<i>Hazardous substances</i>	<i>Controlled quantity</i>
Where it is believed that a substance, which is within Part A or Part B, may be generated during loss of control of an industrial chemical process ("HS"), any substance which is used in that process ("S").	The amount of S which it is believed may generate, on its own or in combination with other substances used in the relevant industrial chemical process, the controlled quantity of the HS in question.

Notes to Part C

1. The expression "which it is believed may be generated during loss of control of an industrial chemical process" has the same meaning as in the Directive.

2. Where a substance falling within Part A or B also falls within Part C, the classification with the lowest controlled quantity shall apply, subject to Note 3 to the notes to Part A and B."

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations are concerned with the implementation of Article 12 of Council Directive 96/82/EC (O.J. No. L10, 14.1.1997, p. 13) on the control of major-accident hazards involving dangerous substances.

The main provisions of Article 12 of the Directive are the requirement to ensure that the objectives of preventing major accidents and limiting their consequences are taken into account in land-use planning policies and that these objectives are pursued through controls. There is also a requirement to ensure that planning authorities set up appropriate consultation procedures to facilitate implementation of these and other policies established under that Article.

These Regulations amend the Planning (Northern Ireland) Order 1991 ("the 1991 Order"), the Planning (Development Plans) Regulations (Northern Ireland) 1991 and the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 ("the Hazardous Substances Regulations") and the Planning (General Development) Order (Northern Ireland) 1993.

Article 53 of the 1991 Order provides that the presence of a hazardous substance on, over or under land at or above the controlled quantity requires hazardous substances consent. The controlled quantity must be calculated by aggregating the quantity of a substance on, over or under land and certain other land or structure (together "the control zone"). Regulation 2(1) - (3) amends Article 53 by adding to the control zone any other land which forms part of a single establishment.

Regulation 2(4) amends provisions in the 1991 Order in relation to the temporary presence of hazardous substances.

Regulation 3 amends the Hazardous Substances Regulations. The main changes are amendments to the provisions for exemption from hazardous substances consent (Regulation 3(4)), the prescription of new application and claim form for hazardous substances consent (Regulation 3(7) with Schedule 1) amendment to the deemed consent conditions (Regulation 3(8)) and the prescription of a new Schedule of substances which are hazardous substances and their controlled quantities (Regulation 3(9) and Schedule 2).

Regulation 4 modifies the transitional provisions in paragraph 4 of Schedule 4 to the 1991 Order and Schedule 2 to the Hazardous Substances Regulations to make provision for deemed consent for those hazardous substances for which hazardous substances consent was not required before the commencement of these Regulations.

Regulation 5 amends the Planning (Development Plans) Regulations (Northern Ireland) 1991 to require the Department to have regard to the prevention of major-accident hazards when formulating its development plan policies.

Regulation 6 amends the Planning (General Development) Order (Northern Ireland) 1993 to require consultation with the Health and Safety Executive Northern Ireland before granting planning permission for certain categories of development.

Notes:

[1] [S.I. 1998/1750](#)**back**

[2] [1972 c. 68](#)**back**

[3] [S.I. 1991/1220 \(N.I. 11\)](#)**back**

[4] [S.R. 1993 No. 275](#)**back**

[5] [O.J. No. L10, 14.1.1997, p. 13](#)**back**

[6] [S.R. 1991 No. 509](#)**back**

[7] [1965 c. 57](#); section 1 was amended by [S.I. 1974/2056](#) and [S.I. 1990/1981](#)**back**

[8] [S.I. 1996/275 \(N.I. 2\)](#)**back**

[9] [S.R. 1991 No. 119](#) as amended by [S.R. 1994 No. 394](#)**back**

[10] [S.R. 1993 No. 278](#) as amended by [S.R. 1998 No. 222](#) and [S.R. 1999 No. 73](#)**back**

[11] [37 & 38 Vict. c. 17](#)**back**

[12] [S.R. 1992 No. 187](#) as amended by [S.R. 1995 No. 49](#)**back**

[13] North Atlantic Treaty Organisation, Committee for the Challenges of Modern Society[back](#)

[14] S.R. 1991 No. 509[back](#)

[15] S.R. 1995 No. 60; relevant amendments are made by S.R. 1997 No. 398[back](#)

[16] 1985 c. 48; relevant amendments are made by the Pesticides (Fees and Enforcement) Act 1989 (c. 27), section 1 and the Pesticides Act 1998 (c. 26) sections 1(2) to (4)[back](#)

[17] "Risk phrase" is defined in regulation 2 of S.R. 1995 No. 60[back](#)

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