

2010 No. 1050

TOWN AND COUNTRY PLANNING, ENGLAND

**The Planning (Hazardous Substances) (Amendment) (England)
Regulations 2010**

<i>Made</i> - - - -	<i>29th March 2010</i>
<i>Laid before Parliament</i>	<i>1st April 2010</i>
<i>Coming into force</i> - -	<i>28th April 2010</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 5 and 40(1) of the Planning (Hazardous Substances) Act 1990(a):

Citation, commencement and application

1.—(1) These Regulations may be cited as the Planning (Hazardous Substances) (Amendment) (England) Regulations 2010 and shall come into force on 28th April 2010.

(2) These Regulations apply in relation to England only.

Amendment of the Planning (Hazardous Substances) Regulations 1992

2.—(1) Schedule 1 to the Planning (Hazardous Substances) Regulations 1992(b) is amended as follows.

(2) In the table in Part A (named substances) omit the entry in column 3 for the item “1. Ammonium nitrate to which Note 1 of the notes to this Part applies”.

(3) In Note 1 in the Notes to Part B, for “Chemicals (Hazard Information and Packaging for Supply) Regulations 2002” substitute “Chemicals (Hazard Information and Packaging for Supply) Regulations 2009(c)”.

Transitional exemptions

3.—(1) No offence is committed under section 23 of the Planning (Hazardous Substances) Act 1990 before 28th October 2010 and no hazardous substances contravention notice may be issued before that date in relation to a hazardous substance which is on, over or under any land, if—

(a) 1990 c.10; section 4 was amended by S.I. 1999/981; there are other amendments not relevant to these Regulations. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly of Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672): *see* the entry in Schedule 1 for the Planning (Hazardous Substances) Act 1990. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

(b) S.I. 1992/656; relevant amendments were made by S.I. 1999/981 and S.I. 2009/1901.

(c) S.I. 2009/716.

- (a) the substance was present on, over or under the land at any time within the period of 12 months ending on 28th April 2010 and was not a substance or quantity of substance for which hazardous substances consent was required before that date; and
- (b) the substance is not present during the period beginning on 28th April 2010 and ending on 27th October 2010 in a quantity greater in aggregate than the established quantity.

(2) In paragraph (1) “the established quantity”, in relation to any land, means the maximum quantity which was present on, over or under the land at any one time within the period of 12 months ending on 28th April 2010.

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

29th March 2010

Ian Austin
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Planning (Hazardous Substances) (Amendment) (England) Regulations 2009 (“the 2009 Regulations”) implemented, in relation to England, the land use planning provisions 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).

As part of the implementation of the Seveso II Directive, the 2009 Regulations substituted a new Schedule 1 to the Planning (Hazardous Substances) Regulations 1992 (the 1992 Regulations). Regulation 2 corrects two errors in the substituted Schedule 1.

Regulation 3 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.

No impact assessment has been prepared for this instrument as its only purpose is to correct the errors in the substituted Schedule 1 to the 1992 Regulations.

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