

STATUTORY INSTRUMENTS

S.I. No. 476 of 2000

**European Communities (Control of Major Accident Hazards Involving
Dangerous Substances) Regulations, 2000**

(Pn 9416)

S.I. No. 476 of 2000
**European Communities (Control of Major Accident Hazards Involving
Dangerous Substances) Regulations, 2000.**

ARRANGEMENT OF REGULATIONS

Preliminary and General

Regulation

1. Citation.
2. Construction of Enactment.
3. Interpretation.
4. Application.
5. Competent authorities.
6. Immunity of competent authorities.
7. Revocations and savings.

Major Accident Hazards

8. Demonstration of safe operation.
9. General duties of operators.
10. Major accident prevention policy.
11. Notification of establishments.
12. Safety reports.
13. Review and revision of safety reports.
14. Investigation of details of a safety report.
15. Internal emergency plans.
16. External emergency plans.
17. Supplementary provisions to Regulation 16.
18. Review and testing of emergency plans.
19. Information for the safety of the public.
20. Notice for information.

Major Accidents

21. Scene of major accident.
22. Notification of major accidents.
23. Examination and tests of plant, process or procedure.
24. Special reports on major accidents by inspector.
25. Power of Minister to direct formal investigation.
26. Inquest in case of death by major accident.
27. Notifiable incidents and register.

Enforcement and Regulation

28. Functions of Central Competent Authority.
29. Advice to Planning Authorities.
30. Inspectors.
31. Warrant of appointment as inspector.
32. General powers of inspectors.
33. Powers of inspectors for purpose of safeguarding persons and the environment.
34. Application to High Court by Central Competent Authority.
35. Service of Documents.

Disclosure of Information, Translations of Reports

36. Restrictions on disclosure of information.
37. Translations of reports.

Offences and Penalties

38. Offences.
39. Onus of proof.
40. Liability of operators.
41. Liability of directors and officers of bodies corporate.
42. Forgery of documents.
43. Personation.
44. Obstruction of inspector or authorised officer.
45. Penalties.
46. Prosecution of offences.
47. Cost of prosecutions.

Charges for Services

48. Charges for services

FIRST SCHEDULE

Annex I to Council Directive 96/82/EC

(Application of the Directive)

SECOND SCHEDULE

Annex III to Council Directive 96/82/EC

(Major Accident prevention policy and safety management systems)

THIRD SCHEDULE

Information to be included in a notification under Regulation 11(1)

FOURTH SCHEDULE

Part I

Purpose of Safety Reports

Part 2

Annex II to Council Directive 96/82/EC

(Data and information in a safety report)

FIFTH SCHEDULE

Part I

Objectives of an Emergency Plan

Part 2

Annex IV to Council Directive 96/82/EC

(Data and information in emergency plans)

SIXTH SCHEDULE

Annex V to Council Directive 96/82/EC

(Public Communication)

SEVENTH SCHEDULE

Annex VI to Council Directive 96/82/EC

(Major accidents and near misses)

EIGHTH SCHEDULE

Notifiable incidents

NINTH SCHEDULE

Annex to Commission Decision of 26 June, 1998 on Harmonised Criteria for Dispensations according to Article 9 of Council Directive 96/82/EC

I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by Section 3 of the European Communities Act, 1972 (No. 27 of 1972) as amended by Section 5 of the European Communities (Amendment) Act, 1993 (No. 25 of 1993), and for the purpose of giving effect to Council Directive 96/82/EC of 9th December, 1996⁽¹⁾, hereby make the following regulations:

Preliminary and General

Citation.

1. These Regulations may be cited as the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations, 2000.

Construction of Enactment.

2. The Safety, Health and Welfare at Work Act, 1989 (No. 7 of 1989) shall be construed and have effect as if these Regulations were an existing enactment within the meaning of “existing enactments” contained in Section 2(1) of that Act and set out in Part II of the Second Schedule to that Act.

Interpretation.

3. (1) In these Regulations, unless the context otherwise requires -

“An Bord Pleanála” means the body referred to in section 102 of the Planning and Development Act, 2000 (No. 30 of 2000);

“Authority” means the Central Competent Authority;

“Central Competent Authority” has the meaning assigned to it by Regulation 5;

“competent authority” means an authority referred to in Regulation 5 and to which Article 16 of the Directive relates;

“dangerous substance” means a substance, mixture or preparation -

- (a) specified in Part 1 of Annex I to the Directive (which Annex is set out in the First Schedule), or

⁽¹⁾ O.J. No. L10, 14.1.1997. pp. 13-33

- (b) generally considered to fulfil any of the categories laid down in Part 2 of Annex 1 to the Directive (which Annex is set out in the First Schedule),

and present in the quantities to which Annex 1 (which is set out in the First Schedule) relates for the purpose of the application of Articles 6 and 7 and Article 9 of the Directive;

“Directive” means Council Directive 96/82/EC of 9 December, 1996⁽¹⁾, on the control of major accident hazards involving dangerous substances;

“establishment” means the whole area under the control of an operator where dangerous substances are present in one or more installations, including common or related infrastructures or activities and includes new, existing and other establishments;

“existing establishment” means an establishment which, prior to the commencement of these Regulations, was subject to the provisions of the 1986 to 1992 Regulations;

“external emergency plan” has the meaning assigned to it by Regulation 16;

“functional area” means -

- (a) in relation to a planning authority, the functional area of that planning authority as defined by the Planning and Development Act, 2000,

and

- (b) in relation to a local competent authority, the area in respect of which a public authority has been designated to be a local competent authority;

⁽¹⁾ O.J. No. L10, 14.1.1997. pp. 13-33

“functions”, in relation to competent authorities, includes powers and duties and a reference to the performance of a function includes, with respect to powers, a reference to the exercise of a power;

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

“health board” means a health board established under the Health Act, 1970 (No. 1 of 1970), or an Area Health Board established under the Health (Eastern Regional Health Authority) Act, 1999 (No. 13 of 1999);

“inspector”, in relation to a Central Competent Authority, means an officer of the Authority appointed under Regulation 30 to act as an inspector for the purpose of these Regulations;

“installation” means a unit within an establishment in which dangerous substances are, or are intended to be, produced, used, handled or stored, and includes -

- (a) equipment, structures, pipework, machinery and tools,
- (b) private railway sidings, docks and unloading quays serving the installation, and
- (c) jetties, warehouses or similar structures, whether floating or not,

which are necessary for the operation of the installation;

“internal emergency plan” has the meaning assigned it by Regulation 15;

“internal waters” has the same meaning as it has in the Maritime Jurisdiction Act, 1959 (No. 22 of 1959);

“land” includes any land covered with water;

“local authority” means -

(a) in the case of a county borough, the corporation of the county borough,

and

(b) in the case of any other administrative county, the council of the county;

“local competent authority” shall be construed in accordance with Regulation 5;

“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, leading to a serious danger -

(a) to human health, or

(b) to the environment,

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

“Minister” means the Minister for Enterprise, Trade and Employment;

“new establishment” means an establishment -

(a) which began construction or operation after the commencement of these Regulations, or

- (b) in respect of which there has been a modification after the commencement of these Regulations which makes it subject to Regulations 12 to 19 of these Regulations; or
- (c) which becomes an establishment to which these Regulations apply by virtue of a modification taking place after the commencement date of these Regulations;

“notifiable incident” has the meaning assigned to it by Regulation 27;

“notification” has the meaning assigned to it by Regulation 11;

“operator” means any person who operates or holds an establishment or installation or has been given, by or under any enactment, decisive economic power in the technical operation thereof and where the context requires includes any person who proposes to have any such responsibility;

“other establishment” means an establishment which, prior to the commencement of these Regulations, was not subject to the provisions of the 1986 to 1992 Regulations;

“planning authority” has the meaning assigned to it by the Planning and Development Act, 2000 (No. 30 of 2000);

“presence of dangerous substances” includes those substances present as a raw material, product, by-product, residue or intermediate and the anticipated presence of such substances and the presence of those which it is reasonable to believe may be generated during the loss of control of an industrial chemical process and the word ‘present’ shall be construed accordingly;

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

“safety report” has the meaning assigned to it by Regulation 12;

“storage” includes the presence of dangerous substances for the purpose of warehousing, depositing in safe custody or keeping in stock;

“the 1986 to 1992 Regulations” means the European Communities (Major Accident Hazards of Certain Industrial Activities) Regulations, 1986 to 1992.

(2) In these Regulations any reference to Annex I, II, III, IV, V and VI to the Directive is a reference to the relevant Annex to the Directive and which Annexes are set out in the First, Fourth, Second, Fifth, Sixth and Seventh Schedule respectively, to these Regulations.

(3) In determining the presence of dangerous substances the columns in Parts 1 and 2 of the First Schedule shall be applied in accordance with the provisions of the introduction to that Schedule and the notes set out in each of the respective parts.

(4) In these Regulations any reference to the beginning of construction or operation of an establishment shall be construed, subject to paragraph (5), as a reference to the beginning of construction or operation, as the case may be, of an installation in the establishment, or where there is or is to be more than one installation in the establishment, the one whose construction or operation, as the case may be, is first begun.

(5) Where after the commencement date of these Regulations an establishment becomes subject to the provisions of any of the Regulations by virtue of any change in the quantity, nature or physical form of the dangerous substances present there or a modification of the type referred to in Regulation 12(6), any reference in these Regulations to the beginning of operation shall be a reference to the time the establishment first becomes so subject.

(6) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

(7) (a) A reference in these Regulations to a Regulation or a Schedule is to a Regulation of or a Schedule to these Regulations unless it is indicated that a reference to some other enactment is intended.

(b) A reference in these Regulations to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(8) In these Regulations a reference to any enactment shall be construed as a reference to that enactment as amended or adapted by any subsequent enactment.

Application.

4. (1) Subject to paragraph (2) of this Regulation, these Regulations shall apply to an establishment where a dangerous substance listed in column 1 of Parts 1 or 2 of Annex I to the Directive (which is set out in the First Schedule) is present in a quantity equal to or exceeding the quantity listed in the entry for that substance in column 2 of those parts, except that Regulations 12 to 19 shall apply to an establishment where such a dangerous substance is present in a quantity equal to or exceeding the quantity listed in the entry for that substance in column 3 of those parts.

(2) These Regulations shall not apply to -

(a) any property occupied by the Defence Forces and any land or premises referred to in section 268(1) of the Defence Act, 1954 (No. 7 of 1954);

(b) hazards created by ionising radiation;

- (c) the occurrence outside an establishment of -
 - (i) the transport of dangerous substances by road, rail, internal waterways, sea or air,
 - (ii) intermediate temporary storage associated with a subparagraph (i) activity,
 - (iii) the loading or unloading of dangerous substances at docks, wharves or marshalling yards,
 - (iv) the transport to and from another means of transport at docks, wharves or marshalling yards, and
 - (v) the transport of dangerous substances in pipelines and pumping stations.
- (d) the activities of extractive industries concerned with exploration for, and the exploitation of, minerals in mines and quarries or by means of boreholes;
- (e) waste land-fill sites.

Competent authorities.

5. (1) For the purpose of these Regulations and Article 16 of the Directive, each of the following shall be a competent authority to the extent specified -

- (a) the National Authority for Occupational Safety and Health (in these Regulations referred to as the Central Competent Authority) which shall have responsibility for ensuring compliance with these Regulations and shall fulfil the functions assigned to it by these Regulations,

- (b) a public authority which the appropriate Minister has designated under paragraph (2) as a local competent authority for the purposes of these Regulations,
 - (c) a tribunal appointed by the Minister under Regulation 25.
- (2) (a) Where the appropriate Minister is of the opinion that the services of a public authority are required for the implementation of any of the functions of a local competent authority under these Regulations in respect of an area, then that Minister shall, subject to subparagraph (b), designate that public authority to be a local competent authority for that area as respects the matters referred to in the designation,
- (b) Except in the case of a designation by the Minister, the Minister for the Environment and Local Government, the Minister for Health and Children, the Minister for Justice, Equality and Law Reform or the Minister for the Marine and Natural Resources, a designation of a public authority under this paragraph shall not be made until all of the Ministers aforesaid have been consulted by the appropriate Minister who intends to make the designation.

(3) In this Regulation -

“appropriate Minister” means -

- (a) in relation to the exercise by a Minister of the Government of any powers, functions or duties vested in him by virtue of any enactment in respect of a public authority, that Minister, and
- (b) in relation to the administration and business of the public service by virtue of any enactment by a Department of State in respect of a public

authority, the Minister of the Government having charge of that Department;

“public authority” means any person or body exercising powers or performing duties for the benefit of the public by virtue of any enactment or otherwise under law and includes -

- (a) the Garda Síochána,
- (b) a local authority,
- (c) a health board ,
- (d) a harbour authority within the meaning of the Harbours Act, 1946 (No. 9 of 1946),
- (e) a company established pursuant to Section 7 of the Harbours Act, 1996 (No. 11 of 1996).

Immunity of competent authorities.

6. No action or other proceedings shall lie or be maintainable against any competent authority or any officer (including, in the case of the Central Competent Authority, an inspector of that Authority and, in the case of a local competent authority, an authorised officer of the authority) or servant of, or a person engaged by, any such authority for the recovery of damages in respect of any injury to persons or property alleged to have been caused or contributed to by a failure to perform or to comply with any functions provided for by these Regulations.

Revocations and savings.

7. (1) Subject to paragraph (2):
- (a) the European Communities (Major Accident Hazards of Certain Industrial Activities) Regulations, 1986 (S.I. No. 292 of 1986),

- (b) the European Communities (Major Accident Hazards of Certain Industrial Activities) (Amendment) Regulations, 1989 (S.I. No. 194 of 1989), and
- (c) the European Communities (Major Accident Hazards of Certain Industrial Activities) (Amendment) Regulations, 1992 (S.I. No. 21 of 1992),

are hereby revoked.

(2) A notification prepared pursuant to Regulations 12 or 13 of the 1986 to 1992 Regulations, an internal emergency plan prepared pursuant to Regulation 15 of those Regulations, an external emergency plan prepared pursuant to Regulation 16 of those Regulations and the information to be provided pursuant to Regulation 18 of those Regulations shall, while the establishment to which it relates continues and until the time referred to in paragraph (3), be kept up to date in accordance with those Regulations as if they had not been revoked.

(3) The time referred to in paragraph (2) in relation to an establishment is -

- (a) in the case of a notification, when a safety report has been sent to the Central Competent Authority pursuant to Regulations 12 or 13 of these Regulations,
- (b) in the case of an internal emergency plan or external emergency plan, when an internal emergency plan or external emergency plan, as the case may be, has been prepared pursuant to Regulations 15 or 16 of these Regulations, and
- (c) in the case of information to be provided, when information has been provided pursuant to Regulation 19 of these Regulations.

(4) The provisions of these Regulations are, except where otherwise provided, in addition to and not in substitution for any other enactment, including -

- (a) the Environmental Protection Agency Act, 1992 (No. 7 of 1992),
- (b) the Explosives Act, 1875 (No. 18 of 1875)
- (c) the Dangerous Substances Acts, 1972 and 1979,
- (d) the Safety, Health and Welfare at Work Act, 1989 (No. 7 of 1989).

Major Accident Hazards

Demonstration of safe operation.

8. (1) This Regulation and Regulations 9 to 11 shall apply to all establishments.

(2) In respect of an establishment to which this Regulation applies, the operator shall, whenever requested by the Central Competent Authority or by an inspector of that Authority, provide or cause to be provided to the Authority or to that person such evidence (including documents) to prove that he has -

- (a) identified the major accident hazards, and
- (b) taken all necessary measures to comply with these Regulations.

General duties of operators.

9. (1) In respect of every establishment it shall be the duty of the operator concerned to take all necessary measures -

- (a) to prevent major accidents occurring, and
- (b) to limit the consequences of any such major accidents for man and the environment.

(2) Without prejudice to the generality of paragraph (1), the matters in respect of which the necessary measures are to be taken by the operator shall include -

- (a) the identification of all major accident hazards in the establishment including an assessment of the extent and severity of the consequences of such accidents;
- (b) the provision and maintenance of installations and systems of work and of the means of entry to and exit from the establishment or any part thereof that are, so far as is reasonably practicable, without risk for man and the environment;
- (c) the making of arrangements to ensure that the use, handling, storage and transport of dangerous substances in the establishment are, so far as is reasonably practicable, without risk for man and the environment;
- (d) the provision of such information, instruction, equipment, training and supervision as is necessary to ensure, so far as is reasonably practicable, the occupational safety and health of the persons working in the establishment;
- (e) the use of the best practicable means -
 - (i) to prevent a major emission into the environment from any part of the establishment of dangerous substances resulting from uncontrolled developments in that establishment, and
 - (ii) for rendering harmless and inoffensive such substances as may be so emitted.

(3) An operator of an establishment on being notified in writing by the Central Competent Authority, that the establishment has been identified by the Authority as part of a group of establishments where the likelihood and the possibility or consequences of a major accident may be increased because of the location and the proximity of such establishments, and their inventories of dangerous substances, shall -

- (a) provide suitable information in an appropriate manner about the establishment to each other establishment in the group to enable them to take account of the nature and extent of the overall hazard of a major accident in their major accident prevention policy documents, safety reports and internal emergency plans,
- (b) take account in the manner as outlined in sub-paragraph (3)(a) of information provided to him by each establishment in the group, and
- (c) co-operate with those establishments to enable them to carry out any obligations they have under Regulations 15(1), 17(3) and 19(1).

Major accident prevention policy.

10. (1) It shall be the duty of every operator to prepare, or cause to be prepared, a statement in writing which shall set out the manner in which major accidents are to be prevented, which statement shall be known and is hereinafter referred to as a “major accident prevention policy document”.

(2) The major accident prevention policy document shall -

- (a) be designed to guarantee a high level of protection for man and the environment by appropriate means, structures and management systems, and

- (b) take account of the principles specified in Annex III to the Directive (which is set out in the Second Schedule).

(3) In the event of a modification of the establishment or any part thereof which shall include any modification to an installation, storage facility, process or nature or quantity of dangerous substances, which could have significant repercussions on major accident hazards, the operator shall review and, where necessary revise, the major accident prevention policy document pursuant to compliance with paragraph (2).

(4) An operator shall implement the policy set out in his major accident prevention policy document.

Notification of establishments.

11. (1) Save as otherwise provided in this Regulation, an operator shall at least 6 months, or such shorter period as the Central Competent Authority may agree in writing, before -

- (a) the start of construction of an establishment,
- (b) the start of operation of an establishment,

send to the Authority a notification containing the information specified in the Third Schedule.

(2) Notwithstanding paragraph (1) it shall be sufficient compliance with that paragraph if the operator of an existing or other establishment sends the notification required by paragraph (1) to the Central Competent Authority not later than 3 months after the coming into operation of these Regulations.

(3) Paragraph (1)(b) shall not require the notification to contain information already contained in the notification sent pursuant to paragraph (1)(a) if that information is still valid and accurate.

(4) An operator shall immediately inform the Central Competent Authority in writing in the event of -

- (a) any significant increase in the quantity, or a significant change in the nature or physical form, of a dangerous substance present, as indicated in the notification provided pursuant to paragraphs (1) or (2), or any change in the processes employing it, or
- (b) permanent closure of the installation.

(5) Paragraphs (1), (2) and (4) shall not require the notification of any information which has been included in a safety report already submitted to the Central Competent Authority.

(6) An operator shall as soon as practicable after the coming into operation of these Regulations, but in any event not later than 3 months after such date, submit in writing to the planning authority in whose functional area the establishment is situated and to any other planning authority whose functional area may be affected by a major accident at the establishment -

- (a) confirmation that the establishment is subject to these Regulations, and
- (b) the details outlined in paragraphs (a), (d), (e), (g) and (i) of the Third Schedule.

Safety reports.

12. (1) Subject to the provisions of this Regulation, an operator shall not construct or begin the operation of an establishment unless he has prepared, in such form as is acceptable to the Central Competent Authority, a written safety report for the purposes laid down in Part 1 of the Fourth Schedule and which includes details of

the matters specified in Annex II to the Directive (which are set out in Part 2 of the Fourth Schedule) and has submitted it in triplicate to the Authority at least 6 months before beginning such construction and operation respectively or such shorter period as the Authority, in each case, may agree in writing.

(2) Where an operator wishes to construct an establishment he shall include in the safety report required by paragraph (1) information which is sufficient for the purposes laid down in paragraphs 2 and 3(a) of Part 1 of the Fourth Schedule and such of the information laid down in Part 2 of that Schedule as is relevant for that purpose and shall not begin such construction until he has received from the Central Competent Authority the conclusions of its examination of said safety report.

(3) Where an operator wishes to begin operation of an establishment he shall include in the safety report required by paragraph (1) information which is sufficient for the purposes laid down in Part 1 of the Fourth Schedule and the information laid down in Part 2 of the Fourth Schedule and shall not begin such operation until he has received from the Central Competent Authority its conclusions of its examination of said safety report.

(4) A safety report submitted to the Central Competent Authority in pursuance of paragraph (3) shall not be required to contain information already contained in the safety report sent in pursuance of paragraph (2) if that information is still valid and accurate.

(5) In the case of existing or other establishments an operator shall prepare, in such form as is acceptable to the Central Competent Authority, a written safety report comprising at least details to meet the requirements of Part 1 and Part 2 of the Fourth Schedule and submit it in triplicate to the Authority -

(a) in the case of an other establishment not later than the 3rd day of February 2002, and

(b) in the case of an existing establishment not later than the 3rd day of February 2001.

(6) In the case of an establishment becoming a new establishment by virtue of a modification occurring due to a change in the classification of a substance or as a result of a change in the provisional classification in accordance with, or an amendment to, or a current adaptation to technical progress of, the Directives laid down in Note 1 of Part 2 of the First Schedule to these Regulations it shall be sufficient compliance with paragraph (1) if the operator sends the safety report required by that paragraph to the Central Competent Authority not later than one year after such modification occurs.

(7) Where it is demonstrated by an operator of an establishment to the satisfaction of the Central Competent Authority that particular substances to which these Regulations apply which are present at the establishment, or any part thereof, are in a state incapable of creating a major accident hazard, then the Authority may, in writing and in accordance with the harmonised criteria specified in the Annex to Commission Decision 98/433/EC of 26th June 1998⁽²⁾ (which are set out in the Ninth Schedule), limit the information required in a safety report to those matters which are relevant to the prevention of residual major accident hazards and the limitation of their consequences for man and the environment.

(8) A safety report prepared by an operator by virtue of the provisions of this Regulation or Regulation 13 shall include the major accident prevention policy document required by Regulation 10 as an integral part thereof.

(9) The Central Competent Authority may request additional copies of the safety report referred to in this Regulation and the operator concerned shall submit to the Authority, within one month of the receipt of the request, the number of additional copies so requested.

⁽²⁾ O.J. No. L192, 8.7.1998, pp. 19-20

(10) It shall be the duty of every operator to provide to the Central Competent Authority any information requested by it following its examination of a safety report required by these Regulations.

(11) Nothing in this Regulation shall limit or restrict the exercise of the powers vested in the Central Competent Authority and its inspectors under Regulation 33.

(12) Where the construction, but not the operation, of an establishment has begun before the coming into operation of these Regulations, and such an establishment was not subject to the provisions of the 1986 to 1992 Regulations, then such an establishment shall be deemed to be an other establishment.

Review and revision of safety reports.

13. (1) In respect of an establishment which is continuing in operation, the operator concerned shall -

- (a) where no previous safety report has been submitted in accordance with this paragraph, within the period of five years of submitting the safety report for the purpose of Regulation 12, or
- (b) where a previous report has been submitted in accordance with sub-paragraph (a), within the period of five years of such report having been so submitted, or
- (c) where a modification is proposed to an establishment or an installation thereat, a process or procedure carried on there or the nature or quantity of dangerous substances present and that modification could have significant repercussions for the prevention of major accidents, or

- (d) where justified by new facts or circumstances or in order to take account of any new technical knowledge about safety matters or any developments in knowledge concerning the assessment of hazards -
 - (i) on the initiative of the operator, or
 - (ii) at the request of the Central Competent Authority,

review and where necessary revise, the most recent safety report prepared and submitted in respect of the establishment and submit the revised details without delay to the Central Competent Authority in a manner which, in the opinion of the Authority, can be easily integrated into such report or alternatively shall submit a revised report.

(2) Notwithstanding paragraph (1) where any review under subparagraphs (1)(a) or (1)(b) does not result in a revision of the safety report being required the operator shall so inform the Central Competent Authority in writing forthwith.

(3) Every submission by an operator of an establishment to the Central Competent Authority in respect of paragraph (1)(c) shall be submitted by him before the modification is implemented.

(4) For the purposes of this Regulation an establishment shall be deemed to be continuing in operation if at the date concerned dangerous substances are or are intended to be produced, used, handled or stored in one or more installations within the establishment.

Investigation of details of a safety report.

14. (1) Where an operator has -

- (a) submitted to the Central Competent Authority a safety report or revised details or a submission for the purpose of Regulations 12 or 13, or
- (b) provided the Central Competent Authority with information for the purpose of Regulation 19,

and where the Authority considers that the safety report, revised details or submission or the information so provided is inadequate in content, detail or method of assessment, then the Authority shall, by notice in writing, require the operator at his own expense -

- (i) to have the basis of the safety report, details so submitted and of any information so provided examined forthwith by a competent person or organisation,
- (ii) to have the report of the examination prepared and submitted to him by the competent person or organisation as soon as possible, and
- (iii) to furnish the Authority with a copy of that report within seven days of its submission to him.

(2) The report of the examination carried out for the purpose of paragraph (1) shall include details of -

- (a) the scope, thoroughness or otherwise and conclusions of the examination, and
- (b) such other matters as the Central Competent Authority may specify in the notice under paragraph (1).

(3) If the Central Competent Authority is not satisfied as to the adequacy of an examination or report under paragraph (2) or with the competence of the person

or organisation who undertook the examination, the Authority may, by notice in writing, require the operator at his own expense to have the matter re-examined in accordance with the notice by a person or organisation nominated by the Authority and the operator shall make available any necessary facilities for such re-examination, and the Authority shall consider any representations made by the operator concerning matters of confidentiality in relation to the application of this paragraph.

(4) It shall be a good defence for a person prosecuted for contravening this Regulation to prove that such person took all steps which were reasonably practicable to comply with the requirements of the relevant notice.

Internal emergency plans.

15. (1) It shall be the duty of every operator, after consulting persons employed in the establishment, each local competent authority in whose functional area the establishment is situated and such other persons as appear to him to be appropriate, to prepare an adequate emergency plan (in these Regulations referred to as an “internal emergency plan”) in respect of each establishment which he is in control of, and every internal emergency plan shall fulfil the objectives laid down in Part 1 of the Fifth Schedule and include the data and information laid down in paragraph 1 of Annex IV to the Directive (which is set out in paragraph 1 of Part 2 of the Fifth Schedule).

(2) An operator shall prepare the internal emergency plan required by virtue of paragraph (1) -

- (a) in the case of new establishments, prior to the commencement of operation,
- (b) in the case of an other establishment, not later than the 3rd day of February, 2002,
- (c) in the case of an existing establishment, not later than the 3rd day of February, 2001.

External emergency plans.

16. (1) It shall be the function of every local competent authority, upon being notified by the Central Competent Authority that -

- (a) in its functional area an establishment is in operation or is proposed to be in operation, or
- (b) outside its functional area (whether within the State and its internal waters or otherwise) an establishment is in operation or is likely to be in operation which, in the opinion of the Central Competent Authority, could cause a major accident leading to a serious danger within the functional area of the local competent authority to man or to the environment,

to prepare, subject to paragraph (3)(a), in accordance with Regulation 17 an emergency plan (in these Regulations referred to as an ‘external emergency plan’) for action outside the establishment in relation to possible major accidents at the establishment and which shall include arrangements for co-ordinating off-site action and resources.

(2) A local competent authority shall provide such information from the external emergency plan to the operator concerned as is relevant to the performance of the duties of that operator under Regulations 15 and 19.

(3) Where a person is responsible for, or proposes to be responsible for, an establishment outside the State or its internal waters and in respect of which a notification has been given to a local competent authority by virtue of paragraph (1)(b), then -

- (a) in preparing the external emergency plan, Regulation 17 shall be construed as if it did not include paragraphs (2)(c) and (3), and

- (b) the local competent authority shall provide to the said person such information from the external emergency plan as it considers appropriate.

Supplementary provisions to Regulation 16.

17. (1) An external emergency plan prepared by a local competent authority in respect of an establishment shall -

- (a) fulfil the objectives specified in Article 11(2) of the Directive which are set out in Part 1 of the Fifth Schedule, and
- (b) include the data and information laid down in paragraph 2 of Annex IV to the Directive (which is set out in paragraph 2 of Part 2 of the Fifth Schedule).

(2) A local competent authority shall, in preparing an external emergency plan, consult with -

- (a) other local competent authorities in whose functional area the establishment to which the plan relates is or is to be situated or whose functional area might be affected by a major accident at the establishment,
- (b) such persons or authorities outside the State as have responsibility for the preparation and implementation of external emergency plans in respect of such establishments as are referred to in Regulation 16(3),
- (c) the operator in respect of whose establishment the plan relates,
- (d) the Central Competent Authority, and

(e) such other persons, including the public, as appear to the local competent authority to be appropriate to consult with in the circumstances.

(3) (a) For the purpose of enabling any local competent authority to prepare or amend an external emergency plan in relation to an establishment, the operator shall provide such local competent authority with such information as may reasonably be required for that purpose including the nature, extent and likely effects inside and outside the relevant establishment of possible major accidents and the information shall be supplied in sufficient time and in such form as may be requested to allow the local competent authority to meet its obligations pursuant to paragraph (4).

(b) Any information requested by a local competent authority from an operator pursuant to subparagraph (a) shall be supplied not later than one month after having been so requested or within such longer period as the local competent authority may agree to allow.

(4) An external emergency plan shall be prepared by the relevant local competent authority using such information as is available to it -

(a) (i) in the case of new establishments prior to commencement of operation,

(ii) in the case of an other establishment not later than the 3rd day of February 2002,

(iii) in the case of an existing establishment not later than 3rd February 2001,

or

- (b) not later than four months after being notified by the Central Competent Authority of the operation of an establishment or the proposed operation of an establishment,

whichever is the later.

(5) Whenever a local competent authority informs the Central Competent Authority that an operator has not complied with a request made by it under paragraph (3), the Central Competent Authority shall, if of the opinion after consulting with the local competent authority that the request was reasonable, take such measures as are necessary to have the information provided.

- (6) (a) A local competent authority may authorise in writing, either generally or specifically, any of its officers (hereinafter referred to as an “authorised officer”) to do either or both of the following, that is to say -
 - (i) enter at all reasonable times any establishment within its functional area, and
 - (ii) require and receive from the operator concerned such information as the local competent authority may reasonably require for the purpose of preparing or amending the external emergency plan.
- (b) An authorised officer shall be furnished with a warrant of the officer’s appointment and, when exercising any power conferred on an authorised officer under these Regulations, shall, if requested by any person affected, produce the warrant to that person.

(7) Where in preparing an external emergency plan for an establishment a local competent authority is satisfied that a major accident may have an effect outside the State or its internal waters then such authority shall provide sufficient information to the persons specified in Regulation 17(2)(b) in the potentially affected State to allow the preparation of such emergency plans as may be necessary.

(8) The Central Competent Authority may decide, by virtue of the information contained in a safety report that the requirement for a local competent authority to prepare an external emergency plan shall not apply and in that event shall notify the local competent authority in writing of that decision, giving reasons for that decision when so notifying the local competent authority.

Review and testing of emergency plans.

18. (1) An operator who has prepared an emergency plan pursuant to Regulation 15 shall periodically and as often as the circumstances require it but in any event at intervals not exceeding 3 years -

- (a) review and, where necessary, revise and update the plan, and
- (b) ensure that the plan is tested,

and any such review shall take into account changes occurring in the establishment concerned or within the emergency services concerned, new technical knowledge and knowledge concerning the response to major accidents.

(2) A local competent authority who has prepared an emergency plan pursuant to Regulation 16 shall periodically and as often as the circumstances require it but in any event at intervals not exceeding 3 years -

- (a) review and, where necessary, revise and update the plan, and
- (b) ensure that the plan is tested,

and any such review shall take into account changes occurring in the establishment concerned or within the emergency services concerned, new technical knowledge and knowledge concerning the response to major accidents.

(3) An operator who has prepared an emergency plan pursuant to Regulation 15 shall put it into effect without delay when -

- (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.

(4) A local competent authority who has prepared an emergency plan pursuant to Regulation 16 shall put it into effect without delay when -

- (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.

Information for the safety of the public.

19. (1) An operator of an establishment shall-

- (a) inform persons (other than persons working at an establishment) who are likely to be habitually in the specified area of the safety measures and of the correct behaviour which should be adopted in the event of a major accident, and
- (b) make the information referred to in paragraph (a) and the safety report referred to in Regulations 12 and 13 available to any member of the public who requests it.

(2) In preparing the information referred to in paragraph 1(a) the operator shall ensure that -

- (a) it includes the information specified in Annex V of the Directive (which is set out in the Sixth Schedule), and
- (b) that consideration is given to any relevant provisions in the external emergency plan.

(3) The operator shall ensure that the information referred to in paragraph (1)(a) is supplied to the persons referred to in paragraph (1)(a) without any such person having to request it, and the operator shall ensure that the supply of the information is repeated at least every five years.

(4) The information referred to in paragraph (1)(a) shall be reviewed by the operator at least every three years and in any event whenever a modification of an establishment to which Regulation 13(1)(c) refers occurs, and if as a result of such review the information requires to be revised the operator shall make such revisions and arrange for the supply of the revised information to the persons referred to in paragraph 1(a).

(5) The operator shall ensure that the information referred to in paragraph (1)(a) is supplied to the persons referred to in that paragraph-

- (a) in the case of a new establishment, before it commences operation, and
 - (b) in the case of an existing or other establishment, not later than the time specified in Regulation 12(5) for the submission of a safety report.
- (6) (a) The operator of an establishment may request any local competent authority in whose functional area the establishment

is situated to enter into an agreement with the operator whereby such authority would arrange for -

- (i) the supply of the information referred to in paragraph (1)(a) to the persons referred to in that paragraph, and
 - (ii) the making available of the information referred to in paragraph (1)(a) and the safety report prepared pursuant to Regulations 12 and 13 to members of the public who request it.
- (b) In the absence of such an agreement the operator shall remain responsible for ensuring that it complies with this Regulation.
- (c) A local competent authority shall not enter into an agreement referred to in subparagraph (a) unless the agreement specifies the information to be provided for the purpose of paragraph (1) and, where an agreement is so entered into, the authority concerned shall take the measures necessary for the application of paragraph (1) in respect of that information.
- (d) A local competent authority may charge the operator a fee in respect of the performance of its obligations under the agreement and any such fee shall be recoverable by the local competent authority from the operator as a simple contract debt.

(7) In this Regulation “the specified area” means that area which is likely to be affected by a major accident at the establishment.

- (8) (a) The specified area shall be determined -
- (i) by the operator concerned with the agreement of the Central Competent Authority, or

(ii) where the operator concerned and the Central Competent Authority are not in agreement, by the Authority.

(b) Where the Central Competent Authority has been obliged, by reason of failure to co-operate, delay or other unreasonable behaviour on the part of the operator concerned, to determine the specified area under subparagraph (a)(ii), then the reasonable expenses incurred by the Authority (or such portion thereof as may be attributable to such failure, delay or other unreasonable behaviour) in determining that area shall be recoverable by the Authority from that operator as a simple contract debt.

(9) Where the Central Competent Authority or such persons or authorities referred to in Regulation 17(2)(b) brings to the attention of a local authority, which is designated as a local competent authority by virtue of Regulation 5(2), that a major accident at an establishment outside the State or its internal waters may potentially affect persons in the specified area within its functional area, the local authority shall -

- (a) consult with the persons and authorities laid down in Regulation 17(2)(b),
- (b) fulfil the obligations referred to in Regulation 19(1)(a) and 19(2)(a) in so far as the information required is available, and
- (c) ensure that the information provided takes into consideration any relevant provisions in the external emergency plan prepared by virtue of Regulation 16(1)(b).

(10) Notwithstanding the provisions of this Regulation, an operator need not make available such parts of a safety report as the Central Competent Authority

agrees in writing may be omitted for the purposes of this Regulation, and which parts relate to matters of industrial, commercial or personal confidentiality, public security or national defence, and in such event the report as so amended shall be furnished to the Central Competent Authority, and such amended report shall be made available to the public in lieu of the safety report prepared pursuant to Regulations 12 and 13.

(11) Where pursuant to paragraph (8) it is established that a major accident may have an effect outside the State then the operator shall provide the information referred to in paragraph (1), in such reasonable quantities as may be requested, to the persons specified in Regulation 17(2)(b).

Notice for information.

20. (1) The Central Competent Authority may, for the purpose of obtaining information which the Authority requires for the discharge of its functions, by a notice in writing (in this Regulation referred to as “a notice for information”) served on any person, require such person to furnish to the Authority such information about such matters as may be specified in the notice and in such form and manner and within such period of time as may be specified therein.

(2) The Central Competent Authority shall not serve a notice for information unless, having regard to all the circumstances of the particular case, that information is in the opinion of the Authority reasonably required for the evaluation of any major accident hazard created by, or which in the opinion of the Authority might be created by, an establishment.

(3) (a) Where a person is aggrieved by a notice for information served on him, he or she may, within the period of 21 days beginning on the day on which the notice is so served, appeal to a Judge of the District Court against the notice and in determining the appeal the Judge may -

- (i) if he or she is satisfied that in the circumstances of the case it is reasonable so to do, confirm the notice, with or without modification, or
 - (ii) cancel the notice.
- (b) Where on the hearing of an appeal under this paragraph a notice for information is confirmed the Judge may, on the application of the appellant, suspend the operation of the notice for such period as in the circumstances of the case he or she considers appropriate.
- (c) An appeal by a person under this paragraph shall be brought before and heard and determined by a Judge of the District Court for the time being assigned to the district where -
 - (i) the establishment, or any part thereof, to which the notice for information relates is situated, or
 - (ii) the person to whom the notice for information was addressed ordinarily resides or carries on any profession, business or occupation.
- (d) The Judge determining an appeal under this paragraph may make such order as to the payment of costs in respect of the appeal as he or she considers appropriate.

(4) Where no appeal is brought against the notice a person to whom a notice for information is addressed shall provide the information requested in that notice -

- (a) on the expiration of the period during which such an appeal may be taken, or

- (b) within the period of time specified in the notice for the purpose of the furnishing of the information, or
- (c) prior to the expiry of such extended period for so doing as the Central Competent Authority may agree in writing,

whichever is the later.

(5) Where an appeal is brought in accordance with the provisions of this Regulation and the notice is confirmed on appeal (with or without modification) or the appeal is withdrawn, a person to whom a notice for information is addressed shall provide the information requested in that notice -

- (a) on the day following the day on which the notice is so confirmed or the appeal is withdrawn, or
- (b) within the period of time specified in the notice for the purpose of the furnishing of the information, or
- (c) in case the operation of the notice has been suspended in accordance with paragraph (3)(b), on the expiration of the period that the Judge of the District Court considered appropriate for the purpose of that paragraph,

whichever is the later.

(6) Where any opinion of the Central Competent Authority to which paragraph (2) relates purports to be contained in any document which -

- (a) purports to have been made by or at the direction of the Authority, and

- (b) is produced in evidence by an officer of the Authority in any proceedings,

such document shall be admissible in evidence and shall be evidence of any such opinion in such proceedings without further proof.

- (7) Information sought pursuant to paragraph (1) may include information

-

- (a) to fully assess the possibility of a major accident,
- (b) to determine the scope of possible increased probability, aggravation or consequences of major accidents,
- (c) to permit the preparation of an external emergency plan,
- (d) to allow substances to be taken into account which, due to their physical form, particular conditions or location, may require additional consideration.

Major Accidents

Scene of major accident.

21. (1) Subject to paragraph (2), where a major accident occurs in or about or in connection with an establishment, no person shall, except with the consent of an inspector of the Central Competent Authority or for the purpose of administering medical aid to persons injured in the accident or the extinguishing of fires, disturb the place where the accident occurred, or tamper with anything in that place.

(2) Where the operator concerned informs the Central Competent Authority of the occurrence of a major accident in accordance with Regulation 22(1)(a) and no action has been taken by the Central Competent Authority or an inspector thereof within the period of three clear working days from the receipt of

such information, then paragraph (1) shall cease to have effect on the expiration of that period.

(3) In any proceedings taken in respect of a contravention of this Regulation consisting of the doing of any act, it shall be a defence to prove that the doing of such act was necessary -

- (a) to secure the safety or health of any person, or
- (b) to secure the safety of the place where the accident occurred, or
- (c) to prevent damage to the environment.

(4) In this Regulation “working day” means a day other than a public holiday within the meaning of the Organisation of Working Time Act, 1997 (No. 20 of 1997), a Saturday or a Sunday.

Notification of major accidents.

22. (1) Where a major accident occurs, the operator shall -

- (a) immediately inform the Central Competent Authority of that occurrence,
- (b) provide the Central 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 effects of the accident on man and the environment, and

- (iv) the emergency measures taken,
- (c) inform the Central Competent Authority of the steps envisaged to alleviate any medium-term or long-term effects of the accident and to prevent any recurrence of such an accident.
- (d) update the information provided if further investigation reveals additional facts which alter that information or the conclusions drawn.

(2) The Central Competent Authority shall supply each of the local competent authorities with such information relating to major accidents as each of those authorities may reasonably require for the purpose of reviewing their external emergency plans which have been prepared under Regulation 16.

(3) It shall be the duty of any person having any information relevant to the occurrence or analysis of a major accident to provide such information to the Central Competent Authority when requested to do so.

(4) Where the occurrence of a major accident has been notified to the Central Competent Authority which accident involves the death of one or more persons, the Central Competent Authority shall, as soon as practicable, notify each coroner in whose district a person has died whose death may be linked to the accident concerned of the application of these Regulations to the establishment concerned, and the duties placed on a coroner by Regulation 26.

(5) Nothing in paragraph (4) shall remove any obligation otherwise imposed by law on a person to notify a coroner of the death of a person.

Examination and tests of plant, process or procedure.

23. (1) Where a major accident occurs at an establishment and the Central Competent Authority is of the opinion that the accident may have been caused

(whether in whole or in part) by any installation or part thereof, process or procedure carried on there, the Authority, if it considers it necessary for the proper investigation of the accident by the Authority, shall by notice in writing require the operator at his or her own expense -

- (a) to have that installation, or in case the accident is believed to have been so caused by a part thereof, that part, examined and tested forthwith by a competent person,
- (b) to have that process or procedure investigated thoroughly forthwith, including any necessary analysis and tests, by a competent person, and
- (c) to have a report of the results of the examination, tests and investigation prepared and submitted to the operator by the person by whom the examination, tests or investigation (as the case may be) was carried out as soon as practicable but in any event not later than 28 days after the completion of the examination, tests or investigation or such longer period as the Central Competent Authority may agree to in writing, and
- (d) to furnish a copy of the report to the Authority within seven days of its being submitted in accordance with subparagraph (c).

(2) A report required by virtue of paragraph (1) shall include particulars of

-

- (a) the name and qualifications of the person or persons conducting the relevant examination, test or investigation,
- (b) the manner in which the relevant examination, test or investigation was carried out,

- (c) the method used when making any tests or analysis,
- (d) any structural or other weakness or defect which in the opinion of the person carrying out the examination would affect the ultimate strength of, or account for any failure in, the installation or the part thereof examined, and
- (e) such other matters as the Central Competent Authority may specify when making the requirement.

(3) If the Central Competent Authority is not satisfied as to the adequacy of a report submitted for the purpose of this Regulation, the competence of a person conducting the examination or any test or investigation for the purpose of the report, or the adequacy of the examination or of any test or investigation the Authority may require the operator to have a further examination, test or investigation carried out at his or her own expense by a person nominated by the Authority and, where the Authority so requires, the operator shall provide the necessary facilities for such further examination, test or investigation.

(4) An operator shall comply with a notice issued in accordance with paragraph (1).

(5) It shall be a good defence for a person prosecuted for contravening this Regulation to prove that he or she used every reasonable effort to comply with the requirements of the relevant notice.

(6) The Central Competent Authority shall consider any representations made by the operator on matters of confidentiality in relation to the application of this Regulation.

Special reports on major accidents by inspector.

24. (1) Whenever a major accident occurs, the Central Competent Authority may cause an inspector of the Authority to prepare a special report on that accident or on any aspect thereof to the Authority.

(2) The Central Competent Authority may make available the whole or any part of a special report made by virtue of paragraph (1) to any local competent authority for the purpose of enabling or assisting any such authority to perform its functions.

(3) The Central Competent Authority may cause the whole or any part of a special report prepared by virtue of paragraph (1) to be made available to the public at such time and in such manner as the Minister considers appropriate.

(4) The Central Competent Authority shall consider any representations made by the operator on matters of confidentiality in relation to the application of this Regulation.

(5) Nothing in this Regulation shall be construed as giving to an operator or any other person the right to see or to be shown a special report or any part thereof, prior to the special report or any part thereof being made available to the public or to a local competent authority.

Power of Minister to direct formal investigation.,

25. (1) The Minister may, where he or she considers it appropriate so to do, direct a formal investigation to be held into -

- (a) the causes and circumstances of any major accident or notifiable incident, or
- (b) an alleged failure of a local competent authority to perform its functions under these Regulations,

but the Minister shall not make such a direction until after he or she has obtained the consent to the holding of the investigation of every other Minister of the Government who has appointed a local competent authority whose functional area has been affected by such major accident or notifiable incident or which allegedly has failed to perform its functions, as the case may be.

(2) The provisions of this Regulation shall have effect in relation to the investigation.

(3) The Minister may appoint a competent person or persons to hold the investigation, and may appoint any person possessing legal or special knowledge to act as assessor in relation to the investigation.

(4) The person or persons so appointed (in these Regulations referred to as “the tribunal”) shall hold the investigation in such manner and under such conditions as the tribunal may think most effective for ascertaining the causes and circumstances of the major accident or notifiable incident or for investigating the alleged failure of a local competent authority to perform its functions, as the case may be, and for enabling the tribunal to make its report.

(5) The tribunal shall have for the purposes of the investigation all the powers of a Judge of the District Court when hearing a prosecution for an offence under these Regulations and in addition, shall have the power -

- (a) to enter and inspect any place or building the entry or inspection whereof appears to the tribunal requisite for the said purposes;
- (b) by summons signed by a member of the tribunal to require the attendance of all such persons as it thinks fit to call before it and examine on oath for the said purposes, and to require answers or returns to such inquiries as it thinks fit to make;

- (c) to require the production in legible form of, and to inspect and copy, any information kept or capable of being reproduced, in a legible form;
- (d) to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by that person in the course of the examination.

(6) Persons attending as witnesses before the tribunal shall be allowed such expenses as would be allowed to witnesses attending before a court of record and, in case of dispute as to the amount to be allowed, the dispute shall be referred by the tribunal to a taxing master of the High Court who, on request signed by the tribunal, shall ascertain and certify the proper amount of the expenses.

(7) The tribunal shall make a report to the Minister stating its findings as to the causes and circumstances of the major accident or notifiable incident, or its conclusions on the alleged failure of the local competent authority in question to perform its functions, as the case may be, and adding any observations which the tribunal thinks right to make.

(8) The tribunal may direct that the expenses or any part thereof incurred in and about an investigation under this Regulation (including the remuneration of any persons appointed to act as assessors) be paid in whole or part by any person summoned before it who appears to the tribunal to be, by reason of any act or default on his part or on the part of any servant or agent of his, responsible in any degree for the matter under investigation by the tribunal but any such expenses not directed to be so paid shall be deemed to be part of the expenses of the Minister in the administration of these Regulations, and in the case of a dispute as to the amount of such expenses or any part thereof, the dispute shall be referred by the tribunal to a taxing master of the High Court who, on request signed by the tribunal, shall ascertain and certify the proper amount of the expenses.

(9) A person shall not without reasonable excuse (proof whereof shall lie with him or her) -

(a) refuse, after having had the expenses (if any) to which he or she is entitled tendered to him or her, to comply with any summons or requisition of the tribunal, or

(b) prevent or impede the tribunal in the execution of its duty.

(10) The Minister may cause the whole or any part of the report of the tribunal made by virtue of paragraph (7) to be made available to the public at such time and in such manner as the Minister considers appropriate.

(11) The Minister may cause the report of the tribunal or any part of the report to be made available to the relevant local competent authorities as necessary in relation to their functions under these Regulations.

(12) The Minister, prior to making available the report or any part thereof to the public pursuant to paragraph (10), or a relevant local competent authority pursuant to paragraph (11), shall consider any representations made by the operator to the tribunal regarding matters of confidentiality.

(13) Nothing in this Regulation shall be construed as giving to an operator or any other person the right to see or be shown the report of the tribunal or any part thereof, prior to such report, or part thereof, being made available to the public or to a relevant local competent authority.

Inquest in case of death by major accident.

26. (1) Notwithstanding the provisions of the Coroners Act, 1962 (No. 9 of 1962), where a coroner holds an inquest on the body of any person whose death may have been caused by a major accident or other occurrence of which notice is required by these Regulations to be given to the Central Competent Authority, the provisions of this Regulation shall have effect.

- (2) The coroner shall adjourn the inquest unless -
- (a) an inspector of the Central Competent Authority or some other person appearing on behalf of the Authority is present to watch the proceedings, or
 - (b) in case the inquest relates to the death of not more than one person and the coroner has sent to the Central Competent Authority notice of the time and place of holding the inquest at such time as to reach the Authority not less than 24 hours before the time of holding the inquest, the majority of the jury think it unnecessary to adjourn the inquest.

- (3) If the coroner adjourns the inquest -
- (a) he may, before the adjournment, take evidence to identify the body and may order the interment of the body,
 - (b) he shall, at least four days before holding the adjourned inquest, send to the Central Competent Authority notice in writing of the time and place of holding the adjourned inquest.

(4) No person having a personal interest in or employed in or about or in the management of the establishment concerned shall be qualified to serve on the jury.

(5) It shall be the duty of the person summoning the jury not to summon any person disqualified under paragraph (4) and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury.

(6) The following persons shall, subject to the power of the coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question, be entitled to examine any witness either in person or by counsel or solicitor

or a visiting lawyer appearing pursuant to the European Communities (Freedom to Provide Services) (Lawyers) Regulations, 1979 to 1999:

- (a) an inspector of the Central Competent Authority or any other person appearing on behalf of the Authority,
- (b) any person appearing on behalf of a local competent authority,
- (c) any relative or friend of the person in respect of whose death the inquest is being held,
- (d) the operator concerned,
- (e) any person appointed in writing by the majority of the persons employed at the establishment concerned,
- (f) any person appointed in writing by any trade union, friendly society or other association of persons to which the deceased at the time of his death belonged or to which any person employed at the establishment belongs,
- (g) any person appointed in writing by any association of employers of which the operator concerned is a member.

(7) Where an inspector of the Central Competent Authority or any other person on behalf of the Authority is not present at the inquest and evidence is given of any neglect having caused or contributed to the accident, or of any defect in or about the establishment appearing to the coroner or jury to require a remedy, the coroner shall send to the Central Competent Authority notice in writing of the evidence of the neglect or defect.

(8) The Central Competent Authority shall, when notified of an inquest to which this Regulation applies, inform each relevant competent authority of such notification as soon as possible.

Notifiable incidents and register.

27. (1) Whenever an incident (in these Regulations referred to as a “notifiable incident”) of the type specified in Annex VI to the Directive (which is set out in the Seventh Schedule) or of the type specified in the Eighth Schedule occurs at an establishment the operator concerned shall immediately inform the Central Competent Authority of that incident.

(2) There shall be kept by every operator a register which shall contain the following information on every notifiable incident that occurs -

- (a) in case the notifiable incident is a major accident, the information set out in Regulation 22(1)(b), and
- (b) in any other case -
 - (i) the circumstances of the incident,
 - (ii) the dangerous substances involved (if any), and
 - (iii) the emergency measures taken.

(3) Any information required to be kept under paragraph (2) shall be included in the register as soon as possible after the occurrence of the notifiable incident to which it relates and shall be kept on that register for at least ten years after that occurrence.

Enforcement and Regulation

Functions of Central Competent Authority.

28. (1) Without prejudice to such other functions or powers assigned to the Central Competent Authority by these Regulations the Authority shall -

- (a) supply such information to the Commission of the European Union as is required by paragraph 6(c) of Article 9 of the Directive,
- (b) supply such information as is required by paragraph 3 of Article 13 of the Directive,
- (c) fulfil the requirements laid down in paragraph 2 of Article 14 of the Directive in relation to major accidents,
- (d) supply such information to the Commission of the European Union as is required by Article 15 of the Directive in respect of major accidents,
- (e) fulfil the inspection requirements laid down in paragraphs 1 and 2 of Article 18 of the Directive,
- (f) exchange information as required by paragraph 1 of Article 19 of the Directive, and
- (g) provide the report to the Commission as required by paragraph 4 of Article 19 of the Directive.

(2) The Competent Authority shall, using the information received from an operator in a notification sent by virtue of Regulation 11 or a safety report, identify establishments or groups of establishments where the likelihood and the possibility or consequences of a major accident may be increased because of the location and proximity of such establishments, and their inventories of dangerous substances and on such identification shall inform each operator in writing for the purpose of Regulation 9(3).

(3) The Central Competent Authority shall advise the Commission of any establishments to which Regulation 12 (7) has been applied and supply the reasons for such application.

(4) The Central Competent Authority within a reasonable period of time after receiving a safety report or revised details required by Regulations 12 and 13 shall -

- (a) examine the safety report or revised details, and
- (b) communicate the conclusions of its examination of the safety report or revised details to the operator, if necessary after requesting further information, or
- (c) prohibit the bringing into use, or the continued use of an establishment, or any part thereof, in accordance with the powers and procedures laid down in Regulation 33,
- (d) notify in writing the relevant Local Competent Authorities for the purpose of Regulation 16(1).

Advice on Land Use Planning

29. (1) For the purpose of ensuring that technical advice on the risks arising from an establishment is available to a planning authority or An Bord Pleanála, either on a case by case basis or on a generic basis, when decisions are taken relating to -

- (a) the siting of new establishments,
- (b) the modification of an existing establishment to which Article 10 of the Directive applies, or

- (c) proposed development in the vicinity of an existing establishment,

the Authority may, and shall when requested to do so by a planning authority or An Bord Pleanála, give technical advice to a planning authority or An Bord Pleanála (as the case may be) on the basis of the information available to the Authority.

(2) Where, pursuant to paragraph (1), a planning authority or An Bord Pleanála requests technical advice in relation to a planning application or appeal or reference under section 5 of the Local Government (Planning and Development) Act, 1963 concerning a proposed development in the vicinity of an establishment such advice shall be furnished by the Authority to the requesting body within 5 weeks of the receipt of the request, unless the body which requested such advice extends, in writing, such period.

(3) Where, pursuant to paragraph (1), a planning authority or An Bord Pleanála requests technical advice in relation to a planning application or appeal or reference under section 5 of the Local Government (Planning and Development) Act, 1963 concerning a proposed establishment or a modification to an existing establishment to which Article 10 of the Directive applies, such advice shall be furnished by the Authority to the requesting body -

- (a) within 5 weeks of the receipt of the request, or
- (b) where the Authority, within three weeks of the receipt of the request, seeks further information in writing from the applicant for permission, within 5 weeks of receipt of such information by the Authority.

(4) In any other case of a request by a planning authority or An Bord Pleanála for technical advice, such advice shall be furnished by the Authority to the requesting body within 6 weeks of the receipt of the request or such longer period as may be specified in the request.

(5) Where, by virtue of paragraph (3)(b), the Authority seeks further information from the applicant for permission, it shall so advise the body which requested the advice.

(6) For the purpose of ensuring that technical advice on the risks arising from an establishment are available to a decision making body when decisions are made in relation to the development of a transport link in the vicinity of an establishment, the Authority shall, where requested to do so by such body, give technical advice to that body on the risks arising from the establishment.

(7) In paragraph (6) -

“decision making body” means a Minister of the Government or a public body authorised or required by law to make a decision, order, recommendation or report.

Inspectors.

30. A Central Competent Authority may appoint any of its officers, consultants, advisors or other persons as it deems appropriate to be inspectors of the Authority for the purposes of these Regulations.

Warrant of appointment as inspector.

31. Every inspector of the Central Competent Authority shall be furnished with a warrant of his or her appointment and, when exercising any power conferred on an inspector under these Regulations, shall, if so requested by any person affected, produce the said warrant to that person.

General powers of inspectors.

32. (1) An inspector of the Central Competent Authority shall, for the purpose of the execution of these Regulations, have power to do all or any of the following things -

- (a) enter, inspect, examine and search at all times any place which he or she has reasonable cause to believe to be an establishment;
- (b) take with him or her a member of the Garda Síochána if he or she has reasonable cause to anticipate any serious obstruction in the execution of his or her duty;
- (c) require the production in a legible form of and inspect and take a copy of any information kept or capable of being reproduced in a legible form which is in the possession or under the control of an operator and is required to be kept by virtue of the provisions of these Regulations or is required for the purpose of any examination or inquiry under these Regulations;
- (d) make such examination and inquiry (including examination and inquiry in relation to external emergency plans) as may be necessary to ascertain whether the provisions of these Regulations are being complied with;
- (e) require any person whom he or she finds at an establishment to give such information as it is in the power of such person to give as to who is the operator or the person in control of any part of the establishment;
- (f) require the operator or person in charge of the establishment or any part thereof, or any person at the establishment and any person employed there at the time of the request or at any time in the six months preceding such request to give to him or her such assistance and information and to produce to him or her such books, documents or other records in that person's power or procurement as he or she may reasonably require for the purposes of his or her functions under these Regulations;

- (g) take a sample of the water, air or soil from any part of an establishment;
- (h) as regards any article or substance he or she finds at an establishment, require the operator or any person he or she finds on the establishment or a person appearing to him or her to be in possession of the article or substance, to supply without payment, for test, examination or analysis, a sample thereof;
- (i) take any measurement or photograph or make any tape or other electrical or electronic recording which he or she considers necessary for the purpose of any examination or inquiry under these Regulations;
- (j) collect the information necessary for the full analysis of any major accident;
- (k) enter at all times and inspect any land or building (other than a dwelling) and to take a sample of the water, air or soil from any part of such land or building for the purpose of investigating any major accident;
- (l) exercise such other powers as may be necessary for carrying these Regulations into effect.

(2) No one shall be required by virtue of paragraph (1)(f) to answer any question or to give evidence tending to incriminate himself or herself.

(3) Any operator or person in control of an establishment or other place and his agents and servants shall furnish the means required by an inspector of the Central Competent Authority as necessary for any entry, inspection, examination,

inquiry, taking of samples or for the exercise of any other power under these Regulations.

Powers of inspectors for purpose of safeguarding persons and the environment.

33. (1) If an inspector of the Central Competent Authority is of the opinion that an establishment or any part thereof or any things or practices at the establishment or connected with the control or management thereof (including the existence or otherwise of an internal emergency plan) involve or as the case may be, are likely to involve -

- (a) a serious deficiency in the measures taken by the operator for the prevention and mitigation of major accidents, or
- (b) a risk of serious danger to persons or the environment, or
- (c) a failure to submit any notification, safety report or other information required to be submitted by these Regulations, or
- (d) a contravention of these Regulations,

he or she may serve on the operator a notice in writing stating that he or she holds that opinion and giving particulars of the reason why he or she holds that opinion, and imposing upon that operator such prohibitions or restrictions or requirements as appear to the inspector to be necessary for the purpose of safeguarding persons or the environment from any major accident hazard or the consequences of a major accident and the operator shall comply with such prohibition, restriction or requirement, as the case may be.

(2) Where the provisions of paragraph (1)(a) apply the inspector shall serve a notice on the operator prohibiting the operator from operating the establishment or such parts of the establishment as are specified in the notice.

(3) An operator shall comply with the requirements of a notice issued in accordance with paragraphs (1) or (2) -

(a) where an inspector of the Central Competent Authority states in the notice that he or she is of the opinion that -

(i) the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient, or

(ii) the risk of serious danger to persons or the environment is or, as the case may be, will be imminent,

on receipt of the notice,

(b) where subparagraph (a) does not apply and no appeal is taken against the notice -

(i) on the expiration of the period during which such an appeal may be taken, or

(ii) on the day specified in the notice as the day on which it is to come into effect,

whichever is the later,

(c) where subparagraph (a) does not apply and an appeal is taken and the notice is confirmed on appeal or the appeal is withdrawn -

(i) on the day next following the day on which the notice is so confirmed or the appeal is withdrawn, or

(ii) on the day specified in the notice as that on which it is to come into effect, or

(iii) in case the operation of the notice has been suspended in accordance with paragraph (4)(b), on the expiration of the period that the Judge of the District Court considered appropriate for the purpose of that paragraph,

whichever is the later.

(4) (a) Where an operator is aggrieved by a notice served on him under this Regulation he may, within the period of seven days beginning on the day on which the notice is so served, appeal to a Judge of the District Court against the notice and in determining the appeal the Judge may -

(i) if he is satisfied that in the circumstances of the case it is reasonable so to do, confirm the notice, with or without modification, or

(ii) cancel the notice.

(b) Where on the hearing of an appeal under this paragraph the notice is confirmed, the Judge by whom the appeal is heard may, notwithstanding paragraph (3), on the application of the appellant, suspend the operation of the notice for such period as in the circumstances of the case he considers appropriate.

(c) An appeal by an operator under this paragraph shall be brought before and heard and determined by a Judge of the District Court for the time being assigned to the district where the establishment, or any part thereof, to which the notice served under this Regulation relates is situated.

(d) The Judge determining an appeal under this paragraph may make such order as to the payment of costs in respect of the appeal as he considers appropriate.

(5) An inspector may at any time revoke a notice served on an operator under this Regulation.

(6) (a) Where a notice has been served under this Regulation and activities are carried on in contravention of the notice, the High Court may on the application of the Central Competent Authority by order prohibit the continuance of the activities.

(b) An application to the High Court for an order under this paragraph shall be in a summary manner and the Court may, on the application of the Central Competent Authority, grant such interlocutory orders as it considers appropriate.

Application to High Court by Central Competent Authority.

34. (1) If, on an application made in a summary manner by the Central Competent Authority, the High Court is satisfied that either -

(a) the whole or any part of an establishment or an installation thereat, is in such condition or is so constructed or is so placed that it cannot be used without serious risk of a major accident,
or

(b) any process or work is carried on or anything is or has been done in an establishment in such a manner as to cause serious risk of a major accident,

the Court shall, as the case may require, order -

(i) the prohibition of the use by the operator of the whole or such part, as may be appropriate, of the establishment or installation

thereat, a process or procedure carried on there or, if it is capable of repair or alteration, the prohibition of its use until it is duly repaired or altered, or

- (ii) the operator to take such steps as may be specified in the order for remedying the risk of the major accident hazard complained of.

(2) Where an application has been made under paragraph (1) in relation to the whole or any part of an establishment or installation thereat or any process or work which is carried on or anything which is or has been done in an establishment, the Court may, on the application of the Central Competent Authority and on receiving evidence that the use of such part or, as the case may be, the carrying on of such process or work or the doing of such thing involves imminent risk of a major accident, grant such interlocutory orders as it considers appropriate.

(3) The provisions of this Regulation are without prejudice to the provisions of sections 37 and 39 of the Safety, Health and Welfare at Work Act, 1989 (No. 7 of 1989).

Service of documents.

35. (1) Any document (including any summons, notice or order) required or authorised to be served, sent or given under these Regulations on or to any person may be served or sent in one of the following ways -

- (a) where it is addressed to him or her by name, by delivering it to such person, or in the case of a partnership by delivery to any of the partners;
- (b) by leaving it at the address at which the person ordinarily resides;

- (c) by sending it by post in a prepaid registered letter addressed to the person at the address at which he or she ordinarily resides, or in a case in which an address for service has been furnished, at that address;
- (d) where the address at which such person ordinarily resides cannot be ascertained by reasonable inquiry and the subject matter of the notice relates to a place of work at which the person is ordinarily engaged , by delivering it to a person over the age of sixteen years of age resident in or employed at that place of work or by affixing it in a conspicuous position on or near the place of work concerned.

(2) Any document (including any summons, notice or order) required or authorised to be served or sent under these Regulations may be served on or sent to a body, whether corporate or unincorporated -

- (a) by leaving it at, or sending it by post in a prepaid registered letter to, the registered office (if any) of the body;
- (b) by leaving it at, or sending it by post in a prepaid registered letter to, any place at which the body conducts business; or
- (c) by sending it by post in a prepaid registered letter to any person who is a director, manager, secretary or other officer of the body or who is purporting to act in any such capacity at the place where he or she ordinarily resides or by leaving it at that place.

Disclosure of information, translations of reports

Restrictions on disclosure of information.

36. (1) Subject to paragraph (2) any information received by a competent authority by virtue of a requirement of these Regulations shall, to the extent that it is

not information relating to the environment for the purposes of the Access to Information on the Environment Regulations, 1996 (S.I. No. 185 of 1996), be treated as being so for those purposes.

- (2) Paragraph (1) shall not apply to information involving -
- (a) the confidentiality of the deliberations of the competent authorities and the Commission of the European Union, or
 - (b) the confidentiality of international relations and national defence, or
 - (c) public security, or
 - (d) the confidentiality of preliminary investigation proceedings or of current legal proceedings, or
 - (e) commercial and industrial secrets, including intellectual property, or
 - (f) personal data or files, or
 - (g) data supplied by a third party if that party asks for them to be kept confidential,

and subject to paragraph (3) and Regulations 24(3) and 25(10), no such information shall be disclosed without the consent of the person by or on behalf of whom it was originally furnished.

- (3) Paragraph (2) shall not apply to -
- (a) the disclosure of information to a competent authority or a Department of State for the purposes of these Regulations,

- (b) without prejudice to subparagraph (a), the disclosure by the recipient of information to -
 - (i) any person for the purposes of any function conferred on the recipient by virtue of these Regulations,
 - (ii) an inspector of the Central Competent Authority,
 - (iii) an officer of a local competent authority who is authorised under Regulation 17(6) to receive it,
- (c) the disclosure of information for the purpose of any investigation or inquiry held by virtue of the provisions of these Regulations or for the purpose of a report of any such investigation or inquiry made by virtue of the provisions of these Regulations,
- (d) the disclosure of information for the purpose of the enforcement of the provision of these Regulations,
- (e) the disclosure of information for the purpose of any legal proceedings instituted by or on behalf of a competent authority,
- (f) the disclosure of information by the Central Competent Authority or the Government in a form calculated to prevent it from being identified as relating to a particular person or case,
- (g) the supplying to the Commission of the European Union, pursuant to Article 15 of the Directive, of the information specified in Annex VI to the Directive (which is set out in the Seventh Schedule) relating to a major accident,

- (h) the exchanging with the other Member States of the European Union and with the Commission of the European Union, pursuant to Article 19 of the Directive, of information on the experience acquired with regard to the prevention of major accidents and the limitation of their consequences.

(4) A person to whom information is disclosed pursuant to paragraph (3) shall not use or disclose that information otherwise than in accordance with these Regulations.

(5) Where a person discloses information to another person for the purposes of these Regulations, the person disclosing the information shall ensure that the other person is aware of the obligations imposed by this Regulation.

(6) In this Regulation information to which paragraph (2) relates means information obtained by a person or furnished to any person in pursuance of any requirement imposed by these Regulations which, in the case of information furnished by an operator in pursuance of such requirements, is clearly identified by him as being information so furnished.

Translations of reports.

37. Every report, notification or other document which is supplied to a competent authority for the purposes of these Regulations in a language other than English shall, except where so supplied in Irish, be accompanied by a translation into English.

Offences and penalties

Offences.

38. (1) A person who contravenes any of the preceding provisions of these Regulations shall be guilty of an offence.

- (2) (a) Except in so far as it relates to the application of Regulation 25(9), paragraph (1) shall not apply to a competent authority.

- (b) Except in so far as it relates to Regulations 25(9) and 36, paragraph (1) shall not apply to an inspector of the Central Competent Authority or to an officer of a local competent authority authorised under Regulation 17(6).

Onus of proof.

39. Where, in any prosecution for an offence under these Regulations, it is alleged that there has been a failure to comply with a duty or requirement to do something so far as is practicable, reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove that (as the case may be) it was not practicable or not reasonably practicable to do more than was in fact done to comply with the duty or requirement, or that there was no better practicable means than was in fact used to comply with the duty or requirement.

Liability of operators.

40. (1) In the event of a contravention in or in connection with or in relation to an establishment of any provision of these Regulations, the operator shall, subject to paragraph (2) and without prejudice to the liability of any other person, be guilty of an offence.

(2) Subject to Regulation 6 in the event of a contravention by any person (other than an operator) of any provision of these Regulations which expressly imposes any duty upon him, that person shall be guilty of an offence under this Regulation:

Provided that -

- (a) the operator shall not be guilty of an offence by reason only of such contravention if he proves that he took all practicable steps to prevent the contravention;

- (b) this paragraph shall not be taken as affecting any liability of the operator in respect of the same matters by virtue of any other enactment.

Liability of directors and officers of bodies corporate.

41. Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other officer of the body corporate, the director, manager, secretary or other officer or any person purporting to act in such capacity shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

Forgery of documents.

42. A person who, in relation to any document required for the purposes of these Regulations -

- (a) forges or counterfeits any such document,
- (b) gives or signs a document knowing it to be false in any material particular,
- (c) knowingly utters or uses a document so forged or counterfeited, or which is false as aforesaid,
- (d) knowingly utters or uses as applying to any person a document which does not so apply,
- (e) wilfully connives at any such forging, counterfeiting, giving, signing, uttering or using,

- (f) wilfully makes a false entry in any such document which is so required to be kept, served or sent, or
- (g) knowingly uses any such false entry,

shall be guilty of an offence.

Personation.

43. A person who -

- (a) personates any person named in any document required for the purposes of these Regulations,
- (b) falsely pretends to be an inspector of the Central Competent Authority or an officer of a local competent authority authorised under Regulation 17(6), or
- (c) wilfully connives at any such personation or pretence,

shall be guilty of an offence.

Obstruction of inspector or authorised officer.

44. A person who without reasonable excuse (proof of which shall lie with that person) fails or refuses to comply with a request of, or to answer a question asked by, or who obstructs or interferes with -

- (a) an inspector of the Central Competent Authority, or
- (b) an officer of a local competent authority authorised under Regulation 17(6), in the course of exercising a power conferred by these Regulations,

shall be guilty of an offence.

Penalties.

45. A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months, or to both.

Prosecution of offences.

46. (1) A prosecution for an offence under these Regulations may be brought by the Central Competent Authority.

(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, proceedings for an offence under these Regulations may be instituted -

(a) at any time within two years from the date on which the offence was committed, or

(b) where such proceedings relate to the subject matter of a report made -

(i) to the Central Competent Authority by an inspector pursuant to Regulation 24(1), or

(ii) to the Minister by a tribunal pursuant to Regulation 25(7),

at any time within 12 months from the date on which the report was so made,

whichever is the later.

Cost of prosecutions.

47. Where a person is convicted of an offence under these Regulations, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Central Competent Authority the costs and expenses, measured by the court, incurred by the Central Competent Authority in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees or persons engaged by the Authority.

Charges for services

Charges for services.

48. (1) A competent authority may charge and shall be entitled to be paid for the provision by that competent authority of a service or the performance of a duty imposed on any such authority pursuant to these Regulations, including -

- (a) the examination of notifications or safety reports and any revisions of same,
- (b) the preparation and revision of external emergency plans,
- (c) the testing and putting into effect of emergency plans, and
- (d) the provision of information pursuant to Regulation 36(1).

(2) A charge made by a competent authority to which paragraph (1) refers shall be made only in accordance with such scale of charges as may be specified by the appropriate Minister as respects that competent authority, which scale of charges may include particulars of the person by whom the fee is payable.

(3) A competent authority may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable, any amount due and owing to it under this Regulation.

(4) An operator who makes available to a member of the public, other than a person referred to in Regulation 19(1)(a), the information referred to in Regulation 19(1)(a) or a safety report referred to in Regulation 12 or 13 shall be entitled to charge such person a sum of money in respect of the making available of such information or safety report provided that the amount of such sum of money does not exceed an amount which is reasonable having regard to the cost of making available the information or safety report concerned.

(5) For the purposes of paragraph (4) the cost of preparing the information or safety report concerned shall be deemed not to be part of the cost of making available such information or safety report.

(6) Nothing in this Regulation shall entitle an operator to charge a person to whom Regulation 19(1)(a) refers for the provision or making available of the information referred to in Regulation 19(1)(a).

FIRST SCHEDULE Regulation 3(3), 4(1) and 5(1)

Annex I to Council Directive 96/82/EC

APPLICATION OF THE DIRECTIVE

INTRODUCTION

1. This Annex applies to the presence of dangerous substances at any establishment within the meaning of Article 3 of this Directive and determines the application of the relevant Articles thereof.
2. Mixtures and preparations shall be treated in the same way as pure substances provided they remain within concentration limits set according to their properties under the relevant Directives given in Part 2, Note 1, or their latest adaptation to technical progress, unless a percentage composition or other description is specifically given.
3. The qualifying quantities set out below relate to each establishment.
4. The quantities to be considered for the application of the relevant Articles are the maximum quantities which are present or are likely to be present at any one time. Dangerous substances present at an establishment only in quantities equal to or less than 2 % of the relevant qualifying quantity shall be ignored for the purposes of calculating the total quantity present if their location within an establishment is such that it cannot act as an initiator of a major accident elsewhere on the site.
5. The rules given in Part 2, Note 4 governing the addition of dangerous substances, or categories of dangerous substances, shall apply where appropriate.

PART 1

Named substances

Where a substance or group of substances listed in Part 1 also falls within a category of Part 2, the qualifying quantities set out in Part 1 must be used.

Column 1	Column 2	Column 3
Dangerous substances	Qualifying quantity (tonnes) for the application of	
	Articles 6 and 7	Article 9
Ammonium nitrate	350	2500
Ammonium nitrate	1250	5000
Arsenic pentoxide, arsenic (V) acid and/or salts	1	2
Arsenic trioxide, arsenious (III) acid and/or salts		0,1
Bromine	20	100
Chlorine	10	25
Nickel compounds in inhalable powder form (nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)		1
Ethyleneimine	10	20
Fluorine	10	20
Formaldehyde (concentration ≥ 90 %)	5	50
Hydrogen	5	50

Hydrogen chloride (liquefied gas)	25	250
Lead alkyls	5	50
Liquefied extremely flammable gases (including LPG) and natural gas	50	200
Acetylene	5	50
Ethylene oxide	5	50
Propylene oxide	5	50
Methanol	500	5000
4, 4-Methylenebis (2-chloraniline) and/or salts, in powder form		0,01
Methylisocyanate		0,15
Oxygen	200	2000
Toluene diisocyanate	10	100
Carbonyl dichloride (phosgene)	0,3	0,75
Arsenic trihydride (arsine)	0,2	1
Phosphorus trihydride (phosphine)	0,2	1
Sulphur dichloride	1	1
Sulphur trioxide	15	75
Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent		0,001
The following CARCINOGENS:		
4-Aminobiphenyl and/or its salts, Benzidine and/or salts, Bis(chloromethyl) ether, Chloromethyl methyl ether,	0,001	0,001

Dimethylcarbamoyl chloride, Dimethylnitrosamine, Hexamethylphosphoric triamide, 2- Naphthylamine and/or salts, and 1,3 Propanesultone and 4-nitrodiphenyl		
Automotive petrol and other petroleum spirits	5000	50000

NOTES

1. Ammonium nitrate (350 / 2500)

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 % 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 % by weight.

2. Ammonium nitrate (1250/5000)

This applies to simple ammonium-nitrate based fertilizers which comply with Directive 80/876/EEC and to composite fertilizers in which the nitrogen content as a result of the ammonium nitrate is more than 28 % in weight (a composite fertilizer contains ammonium nitrate with phosphate and/or potash).

3. Polychlorodibenzofurans and polychlorodibenzodioxins

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

Intentional Toxic Equivalent Factors (ITEF) for the congeners of concern (NATO/CCMS)			
2,3,7,8-TCDD	1	2,3,7,8-TCDF	0,1
1,2,3,7,8-PeDD	0,5	2,3,4,7,8-PeCDF	0,5
		1,2,3,7,8-PeCDF	0,05

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	0,001	1,2,3,4,6,7,8-HpCDF	0,01
		1,2,3,4,7,8,9-HpCDF	0,01
		OCDF	0,001

(T = tetra, P = penta, Hx = hexa, HP = hepta, O = octa)

PART 2

Categories of substances and preparations not specifically named in Part 1

Column 1	Column 2	Column 3
Categories of dangerous substances	Qualifying quantity (tonnes) of dangerous substances as delivered in Article 3 (4), for the application of	
	Articles 6 and 7	Article 9
1. VERY TOXIC	5	20
2. TOXIC	50	200
3. OXIDIZING	50	200
4. EXPLOSIVE (where the substance or preparation falls within the definition given in Note 2 (a))	50	200
5. EXPLOSIVE (where the substance or preparation falls within the definition given in Note 2 (b))	10	50
6. FLAMMABLE (where the substance or preparation falls within the definition given in Note 3 (a))	5000	50000
7 a. HIGHLY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3 (b) (1))	50	200
7 b. HIGHLY FLAMMABLE liquids (where the substance or preparation falls within the definition given in Note 3 (b) (2))	5000	50000

8. EXTREMELY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3 (c))	10	50
9. DANGEROUS FOR THE ENVIRONMENT in combination with risk phrases:	200	500
(i) R50: 'Very toxic to aquatic organisms'		
(ii) R51: 'Toxic to aquatic organisms'; and	500	2000
R53: 'May cause long term adverse effects in the aquatic environment'		
10. ANY CLASSIFICATION not covered by those given above in combination with risk phrases:	100	500
(i) R14: 'Reacts violently with water' (including R14/15)	50	200
(ii) R29: 'in contact with water, liberates toxic gas'		

NOTES

1. Substances and preparations are classified according to the following Directives (as amended) and their current adaptation to technical progress:

— Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances⁽¹⁾,

⁽¹⁾, OJ No 196, 16.8.1967, p.1. Directive as last amended by Directive 93/105/EC

(OJ No L 294, 30.11.1993, p.21)

— Council Directive 88/379/EEC of 7 June 1988 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations ⁽²⁾,

— Council Directive 78/631/EEC of 26 June 1978 on the approximation of the laws of the Member States relating to the classification, packaging and labelling of dangerous preparations (pesticides) ⁽¹⁾.

In the case of substances and preparations which are not classified as dangerous according to any of the above Directives 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, the procedures for provisional classification shall be followed according to the relevant Article of the appropriate Directive.

In the case of substances and preparations with properties giving rise to more than one classification, for the purposes of this Directive the lowest thresholds shall apply.

For the purposes of this Directive, a list providing information on substances and preparations shall be established, kept up to date and approved by the procedure set up under Article 22.

⁽²⁾ OJ No L 187, 16. 7. 1988, p. 14.

⁽¹⁾ OJ No L 206, 29.7.1978, p. 13. Directive as last amended by Directive 92/32/EEC

(OJ No L 154, 5. 6. 1992, p. 1).

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 R 2),

(ii) a pyrotechnic substance is a substance (or mixture of substances) designated 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 R 3).

3. 'Flammable', 'highly flammable', and 'extremely flammable' in categories 6, 7 and 8 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 R 10), supporting combustion;

(b) highly flammable liquids:

1. — 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 R 17),

— 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;

2. substances and preparations having a flash point lower than 21 °C and which are not extremely flammable (risk phrase R 11, second indent);

(c) extremely flammable gases and liquids:

1. 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 R 12, first indent), and

2. gaseous substances and preparations which are flammable in contact with air at ambient temperature and pressure (risk phrase R 12, second indent), whether or not kept in the gaseous or liquid state under pressure, excluding liquefied extremely flammable gases (including LPG) and natural gas referred to in Part 1, and
3. liquid substances and preparations maintained at a temperature above their boiling point.
4. The addition of dangerous substances to determine the quantity present at an establishment 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 dangerous substances x (or category of dangerous substances) falling within Parts 1 or 2 of this Annex,

Q = the relevant threshold quantity from Parts 1 or 2,

then the establishment is covered by the relevant requirements of this Directive.

This rule will apply for the following circumstances:

- (a) for substances and preparations appearing in Part 1 at quantities less than their individual qualifying quantity present with substances having the same classification from Part 2, and the addition of substances and preparations with the same classification from Part 2;
 - (b) for the addition of categories 1, 2 and 9 present at an establishment together;
 - (c) for the addition of categories 3, 4, 5, 6, 7a, 7b and 8, present at an establishment together.
-

SECOND SCHEDULE Regulation 10(2)

ANNEX III to Council Directive 96/82/EC

PRINCIPLES REFERRED TO IN ARTICLE 7 AND INFORMATION REFERRED
TO IN ARTICLE 9 ON THE MANAGEMENT SYSTEM AND THE
ORGANIZATION OF THE ESTABLISHMENT WITH A VIEW TO THE
PREVENTION OF MAJOR ACCIDENTS

For the purpose of implementing the operator's major-accident prevention policy and safety management system account shall be taken of the following elements. The requirements laid down in the document referred to in Article 7 should be proportionate to the major-accident hazards presented by the establishment:

- (a) the major accident prevention policy should be established in writing and should include the operator's overall aims and principles of action with respect to the control of major-accident hazards;
- (b) the safety management system should include the part of the general management system which includes the organizational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the major-accident prevention policy;
- (c) the following issues shall be addressed by the safety management system:
 - (i) organization and personnel — the roles and responsibilities of personnel involved in the management of major hazards at all levels in the organization. The identification of training needs of such personnel and the provision of the training so identified. The involvement of employees and, where appropriate, subcontractors;
 - (ii) identification and evaluation of major hazards — adoption and implementation of procedures for systematically identifying major hazards arising from normal and abnormal operation and the assessment of their likelihood and severity;
 - (iii) operational control — adoption and implementation of procedures and instructions for safe operation, including maintenance, of plant, processes, equipment and temporary stoppages;

- (iv) management of change — adoption and implementation of procedures for planning modifications to, or the design of new installations, processes or storage facilities;
- (v) planning for emergencies — adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis and to prepare, test and review emergency plans to respond to such emergencies;
- (vi) monitoring performance — adoption and implementation of procedures for the ongoing assessment of compliance with the objectives set by the operator's major-accident prevention policy and safety management system, and the mechanisms for investigation and taking corrective action in case of non-compliance. The procedures should cover the operator's system for reporting major accidents or near misses, particularly those involving failure of protective measures, and their investigation and follow-up on the basis of lessons learnt;
- (vii) audit and review — adoption and implementation of procedures for periodic systematic assessment of the major-accident prevention policy and the effectiveness and suitability of the safety management system; the documented review of performance of the policy and safety management system and its updating by senior management.

THIRD SCHEDULE Regulation 11(1)

NOTIFICATION

The notification required by Regulation 11(1) shall contain the following details -

- (a) the name or trade name of the operator and the full address of the establishment concerned;
- (b) the registered place of business of the operator, with the full address;
- (c) the name or position of the person in charge of the establishment, if different from (a);
- (d) information sufficient to identify the dangerous substances or category of substances involved;
- (e) the quantity and physical form of the dangerous substance or substances involved;
- (f) the activity or proposed activity of the installation or storage facility;
- (g) the immediate environment of the establishment (elements liable to cause a major accident or to aggravate the consequences thereof);
- (h) the name of any establishment in proximity where the likelihood and the possibility or consequences of a major accident may be increased because of its location and inventory of dangerous substances.
- (i) a map at a scale of not less than 1:5000 and clearly showing the location and boundary and the immediate environment as set out in paragraph (g) of this Schedule.

FOURTH SCHEDULE Regulation 12(1) and 12(5)

PART I

PURPOSE OF SAFETY REPORTS

A safety report shall be produced for the purposes of -

1. 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 the Second Schedule;
2. demonstrating that major accident hazards have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for man and the environment;
3. demonstrating that adequate safety and reliability have been incorporated into the -
 - (a) design and construction, and
 - (b) operation and maintenance,of any installation, storage facility, equipment and infrastructure connected with its operation which are linked to major accident hazards inside the establishment;
4. demonstrating that internal emergency plans have been drawn up and supplying information to enable the external plan to be drawn up in order to take the necessary measures in the event of a major accident;
5. providing sufficient information to the competent authorities and planning authorities to enable decisions to be made in terms of the

siting of new activities or developments around existing establishments;

6. containing an updated inventory of the dangerous substances present in an establishment.

FOURTH SCHEDULE Regulation 12(1) and 12(5)

PART 2

ANNEX II to Directive 96/82/EC

MINIMUM DATA AND INFORMATION TO BE CONSIDERED IN THE SAFETY
REPORT SPECIFIED IN ARTICLE 9

- I. Information on the management system and on the organization of the establishment with a view to major accident prevention

This information shall contain the elements given in Annex III.

- II. Presentation of the environment of the establishment
- A. description of the site and its environment including the geographical location, meteorological, geological, hydrographic conditions and, if necessary, its history;
- B. identification of installations and other activities of the establishment which could present a major-accident hazard;
- C. description of areas where a major accident may occur.
- III. Description of the installation
- A. description of the main activities and products of the parts of the establishment which are important from the point of view of safety, sources of major-accident risks and conditions under which such a major accident could happen, together with a description of proposed preventive measures;
- B. description of processes, in particular the operating methods;
- C. description of dangerous substances:
1. inventory of dangerous substances including
 - the identification of dangerous substances: chemical name, CAS number, name according to IUPAC nomenclature,
 - the maximum quantity of dangerous substances present or likely to be present;
 2. physical, chemical, toxicological characteristics and indication of the hazards, both immediate and delayed for man and the environment;

3. physical and chemical behaviour under normal conditions of use or under foreseeable accidental conditions.
- IV. Identification and accidental risks analysis and prevention methods
 - A. detailed description of the possible major-accident scenarios and their probability or the conditions under which they occur including a summary of the events which may play a role in triggering each of these scenarios, the causes being internal or external to the installation;
 - B. assessment of the extent and severity of the consequences of identified major accidents;
 - C. description of technical parameters and equipment used for the safety of installations.
- V. Measures of protection and intervention to limit the consequences of an accident
 - A. description of the equipment installed in the plant to limit the consequences of major accidents;
 - B. organization of alert and intervention;
 - C. description of mobilizable resources, internal or external;
 - D. summary of elements described in A, B, and C above necessary for drawing up the internal emergency plan prepared in compliance with Article 11.

FIFTH SCHEDULE Regulations 15(1) and 16(1)

PART 1

OBJECTIVES OF EMERGENCY PLANS

Emergency plans must be prepared with the objectives of -

- (a) containing and controlling incidents so as to minimize the effects, and to limit damage to man, the environment and property, and
- (b) implementing the measures necessary to protect man and the environment from the effects of major accidents, and
- (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.

PART 2

ANNEX IV to Council Directive 96/82/EC

DATA AND INFORMATION TO BE INCLUDED IN THE EMERGENCY PLANS
SPECIFIED UNDER ARTICLE 11

1. Internal emergency plans
 - (a) Names or positions of persons authorized to set emergency procedures in motion and the person in charge of and coordinating the on-site mitigatory action.
 - (b) Name or position of the person with responsibility for liaising with the authority responsible for the external emergency plan.
 - (c) For foreseeable conditions or events which could be significant in bringing about a major accident, a description of the action which should be taken to control the conditions or events and to limit their consequences, including a description of the safety equipment and the resources available.

- (d) Arrangements for limiting the risks to persons on site including how warnings are to be given and the actions persons are expected to take on receipt of a warning.
- (e) Arrangements for providing early warning of the incident to the authority responsible for setting the external emergency plan in motion, the type of information which should be contained in an initial warning and the arrangements for the provision of more detailed information as it becomes available.
- (f) Arrangements for training staff in the duties they will be expected to perform, and where necessary coordinating this with off-site emergency services.
- (g) Arrangements for providing assistance with off-site mitigatory action.

2. External emergency plans

- (a) Names or positions of persons authorized to set emergency procedures in motion and of persons authorized to take charge of and coordinate off-site action.
- (b) Arrangements for receiving early warning of incidents, and alert and call-out procedures.
- (c) Arrangements for coordinating resources necessary to implement the external emergency plan.
- (d) Arrangements for providing assistance with on-site mitigatory action.
- (e) Arrangements for off-site mitigatory action.
- (f) Arrangements for providing the public with specific information relating to the accident and the behaviour which it should adopt.
- (g) Arrangements for the provision of information to the emergency services of other Member States in the event of a major accident with possible transboundary consequences.

SIXTH SCHEDULE Regulation 19(2)

ANNEX V to Council Directive 96/82/EC

ITEMS OF INFORMATION TO BE COMMUNICATED TO THE PUBLIC AS
PROVIDED FOR IN ARTICLE 13 (1)

1. Name of operator and address of the establishment.
2. Identification, by position held, of the person giving the information.
3. Confirmation that the establishment is subject to the regulations and/or administrative provisions implementing this Directive and that the notification referred to in Article 6 (3) or the safety report referred to in Article 9 (1) has been submitted to the competent authority.
4. An explanation in simple terms of the activity or activities undertaken at the establishment.
5. The common names or, in the case of dangerous substances covered by Part 2 of Annex 1, the generic names or the general danger classification of the substances and preparations involved at the establishment which could give rise to a major accident, with an indication of their principal dangerous characteristics.
6. General information relating to the nature of the major-accident hazards, including their potential effects on the population and the environment.
7. Adequate information on how the population concerned will be warned and kept informed in the event of a major accident.
8. Adequate information on the actions the population concerned should take, and on the behaviour they should adopt, in the event of a major accident.
9. Confirmation that the operator is required to make adequate arrangements on site, in particular liaison with the emergency services, to deal with major accidents and to minimize their effects.

10. A reference to the external emergency plan drawn up to cope with any off-site effects from an accident. This should include advice to cooperate with any instructions or requests from the emergency services at the time of an accident.
11. Details of where further relevant information can be obtained, subject to the requirements of confidentiality laid down in national legislation.

SEVENTH SCHEDULE Regulations 27(1) and 28(1)

ANNEX VI to Council Directive 96/82/EC

CRITERIA FOR THE NOTIFICATION OF AN ACCIDENT TO THE
COMMISSION AS PROVIDED FOR IN ARTICLE 15 (1)

I. Any accident covered by paragraph 1 or having at least one of the consequences described in paragraphs 2, 3, 4 and 5 must be notified to the Commission.

1 Substances involved

Any fire or explosion or accidental discharge of a dangerous substance involving, a quantity of at least 5 % of the qualifying quantity laid down in column 3 of Annex 1.

2. Injury to persons and damage to real estate

An accident directly involving a dangerous substance and giving rise to one of the following events:

- a death,
- six persons injured within the establishment and hospitalized for at least 24 hours,
- one person outside the establishment hospitalized for at least 24 hours,
- dwelling(s) outside the establishment damaged and unusable as a result of the accident,
- the evacuation or confinement of persons for more than 2 hours (persons x hours): the value is at least 500,
- the interruption of drinking water, electricity, gas or telephone services for more than 2 hours (persons x hours): the value is at least 1 000.

3. Immediate damage to the environment

- permanent or long-term damage to terrestrial habitats:
- 0,5 ha or more of a habitat of environmental or conservation importance protected by legislation,
- 10 or more hectares of more widespread habitat, including agricultural land,
- significant or long-term damage to freshwater and marine habitats(*)

- 10 km or more of river or canal,
 - 1 ha or more of a lake or pond,
 - 2 ha or more of delta,
 - 2 ha or more of a coastline or open sea,
 - significant damage to an aquifer or underground water(*)
 - 1 ha or more.
4. Damage to property
- damage to property in the establishment at least ECU 2 million,
 - damage to property outside the establishment; at least ECU 0,5 million.
5. Cross-border damage

(*) In assessing damage, reference could be made where appropriate to Directives 75/440/EEC, 76/464/EEC and Directives adopted for its application in relation to certain substances, namely, Directives 76/160/EEC, 78/659/EEC, 79/923/EEC, or to the Lethal Concentration (LC) for 50 % of the species representative of the environment affected as defined by Directive 92/32/EEC for the criterion 'dangerous for the environment'

Any accident directly involving a dangerous substance giving rise to effects outside the territory of the Member State concerned.

II. Accidents or 'near misses' which Member States regard as being of particular technical interest for preventing major accidents and limiting their consequences and which do not meet the quantitative criteria above should be notified to the Commission.

EIGHTH SCHEDULE Regulation 27(1)

NOTIFIABLE INCIDENTS

1. The explosion, collapse or bursting of any closed vessel, including a boiler or boiler tube, in which the internal pressure was above or below atmospheric pressure.
2. An explosion or fire occurring in any installation or place which resulted in the stoppage of any part of the installation or suspension of normal work in that place for more than 24 hours, where such explosion or fire was due to the ignition of process materials, their by-products (including waste) or finished products.
3. The uncontrolled or accidental release or the escape of any dangerous substance from any apparatus, equipment, pipework, pipe-line, process plant, storage vessel, tank or in-works conveyance tanker, which, having regard to the nature of the substance and the extent and location of the release or escape, might have been liable to cause serious injury to any person or serious damage to the environment.
4. Any unintentional ignition or explosion of explosives.
5. Either of the following incidents in relation to a pipe-line containing a dangerous substance:-
 - (a) the bursting, explosion or collapse of a pipe-line or any part thereof;
 - (b) the unintentional ignition of anything in a pipe-line, or of anything which immediately before it was ignited was in a pipeline.

NINTH SCHEDULE Regulation 12(7)
Annex to Commission Decision of 26 June, 1998

HARMONISED CRITERIA FOR DISPENSATIONS ACCORDING TO
ARTICLE 9 OF COUNCIL DIRECTIVE 96/82/EC ON THE CONTROL OF
MAJOR ACCIDENT HAZARDS INVOLVING DANGEROUS SUBSTANCES

A dispensation according to Article 9(6) may be granted if at least one of the following generic criteria is fulfilled:

Physical form of substance

Substances in solid form, such that, under both normal conditions and any abnormal conditions which can reasonably be foreseen, a release, of matter or of energy, which could create a major accident hazard, is not possible.

Containment and quantities

Substances packaged or contained in such a fashion and in such quantities that the maximum release possible under any circumstances cannot create a major accident hazard.

Location and quantities

Substances present in such quantities and at such distances from other dangerous substances (at the establishment or elsewhere) that they can neither create a major accident hazard by themselves nor initiate a major accident involving other dangerous substances.

Classification

Substances which are defined as dangerous substances by virtue of their generic classification in Annex I, Part 2 to Directive 96/82/EC, but which cannot create a major accident hazard, and for which therefore the generic classification is inappropriate for this purpose.

GIVEN under my Official Seal,
this 21th day of December, 2000.

Mary Harney, T.D.,
Minister for Enterprise, Trade and Employment.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

The purpose of these Regulations is to implement Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances.

The Regulations apply to establishments where dangerous substances are present in amounts equal to or exceeding the application thresholds.

Operators of establishments are required to take all necessary measures to prevent the occurrence of major accidents and to limit the consequences of accidents for people and the environment.

The Regulations impose duties in respect of safety management systems, preparation of safety reports and emergency preparedness.

The Regulations also deal with provision of advice on major hazards in the context of land-use planning decisions.

The Regulations set out the arrangements for the appointment of competent authorities, enforcement and the provision of information.

The Regulations provide for the levying of charges by competent authorities for duties performed pursuant to these Regulations.

Sevesoregs2k – 5th January, 2001