
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 93

**Control of Major Accident Hazards
Regulations (Northern Ireland) 2000**

Part VI

Functions of Competent Authority

Functions of competent authority in relation to the safety report

17.—(1) The competent authority shall within a reasonable period of time of receiving a safety report—

- (a) communicate the conclusions of its examination of the report to the operator of the establishment concerned; or
- (b) prohibit the operation or bringing into operation of the establishment or installation concerned or any part thereof in accordance with regulation 18.

(2) Where, pursuant to regulation 7(10), a report has been sent to the competent authority in parts, paragraph (1)(a) shall apply—

- (a) to each part of the report, as if the reference to communicating the conclusions of the examination were a reference to communicating provisional conclusions;
- (b) to all parts of the report, as if the reference to communicating the conclusions of the examination within a reasonable period of time of receiving a safety report were a reference to communicating, within a reasonable period of time of receiving the last part, the examination of the parts as a whole having regard, in particular, to the inter-relationship between different industrial activities in the establishment.

Prohibition of use

18.—(1) The competent authority shall prohibit the operation or bringing into operation of any establishment or installation or any part thereof where the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient.

(2) The competent authority may prohibit the operation or bringing into operation of any establishment or installation or any part thereof if the operator has failed to submit any notification, safety report or other information required by or under these Regulations within the time so required.

(3) Where the competent authority proposes to prohibit an operation or the bringing into operation of an establishment or installation or any part thereof pursuant to this regulation, it shall serve on the operator a notice giving reasons for the prohibition and specifying the date when it is to take effect, and any such notice may be withdrawn in writing by the competent authority.

(4) A notice served pursuant to paragraph (3) may specify measures which, if taken, would cause the competent authority to withdraw the notice.

(5) Where a notice has been served on an operator in accordance with paragraph 3 the operator shall comply with it (including any such notice as modified on appeal).

(6) Article 26 of the 1978 Order (appeal against improvement or prohibition notice) and regulation 6(5) of, and Schedule 4 to, the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 1996(1) shall apply in relation to a notice served under this regulation as they apply in relation to a prohibition notice served under Article 24 of that Order.

Inspections and investigations

19.—(1) The competent authority shall organise an adequate system of inspections of establishments or other measures of control appropriate to the type of establishment concerned.

(2) The inspections or control measures referred to in paragraph (1) shall not be dependent upon the receipt of any report submitted by the operator and they shall be sufficient for a planned and systematic examination of the systems being employed at the establishment, whether of a technical, organisational or managerial nature, so as to ensure in particular—

- (a) that the operator can demonstrate that he has taken appropriate measures to prevent major accidents;
 - (b) that the operator can demonstrate that he has provided appropriate means for limiting the consequences of major accidents both inside and outside the establishment;
 - (c) that the information contained in any report sent to the competent authority by the operator of the establishment adequately reflects the conditions in the establishment; and
 - (d) that information has been supplied to the public pursuant to regulation 14.
- (3) A system of inspection referred to in paragraph (1) shall meet the following conditions—
- (a) there shall be a programme of inspections for all establishments;
 - (b) unless such a programme is based upon a systematic appraisal of major accident hazards of the particular establishment concerned, the programme shall, in the case of establishments to which regulations 7 to 14 apply, entail at least one on-site inspection made on behalf of the competent authority every 12 months;
 - (c) following each inspection, a report shall be prepared by the competent authority; and
 - (d) where necessary, matters shall be pursued with the operator within a reasonable period following the inspection.

(4) Where the competent authority or the Executive has been informed of a major accident at an establishment the competent authority shall—

- (a) obtain from the operator of the establishment—
 - (i) information as respects the circumstances of the accident, the dangerous substances involved, the data available for assessing the effects of the accident on persons and the environment, the emergency measures taken and the steps envisaged to alleviate the medium and long-term effects of the accident and to prevent any recurrence of it, and
 - (ii) such other information in the operator's possession as will enable the competent authority to notify the European Commission pursuant to regulation 21(1);
- (b) ensure that any urgent, medium and long-term measures which may prove necessary are taken;
- (c) make a full analysis of the technical, organisational and managerial aspects of the major accident and collect, by inspection, investigation or other appropriate means, the information necessary for that purpose;

- (d) take appropriate action to ensure that the operator takes any necessary remedial measures; and
- (e) make recommendations on future preventive measures.

Enforcement

20.—(1) Articles—

- (a) 18 to 23 (approval of codes of practice and enforcement);
- (b) 25 (provisions supplementary to Articles 23 and 24) and 26 (appeal against improvement or prohibition notice), so far as they relate to an improvement notice;
- (c) 28 (power to indemnify inspectors); and
- (d) 31 to 39 (provisions as to offences),

of the 1978 Order, shall, subject to paragraphs (2) and (3), and to the extent they would not otherwise do so, apply to these Regulations as if they were health and safety regulations for the purposes of that Order.

(2) A failure to discharge a duty placed on the competent authority by these Regulations shall not be an offence, and Article 31(1)(c) of the 1978 Order shall have effect accordingly.

(3) Article 20(1) of the 1978 Order (duty to make adequate arrangements for enforcement) shall apply in relation to the enforcement of these Regulations as if the reference to the Department concerned and the Executive included a reference to the competent authority, but nothing in this paragraph shall have the effect of making the competent authority an enforcing authority for the purposes of the 1978 Order.

(4) Without prejudice to the provisions of the 1978 Order referred to in paragraph (1), Article 17(1) of the Industrial Pollution Control (Northern Ireland) Order 1997(2) shall have effect in relation to an inspector appointed by the Department of the Environment under Article 16 of that Order (in these Regulations referred to as “an Article 16 inspector”) as if the reference in paragraph (a) of that Article to a pollution control statutory provision included a reference to these Regulations and as if the reference in paragraph (b) of that Article to a function conferred or imposed on an enforcing authority by or under such a statutory provision included a reference to any function conferred or imposed on the Department of the Environment by or under these Regulations.

(5) Without prejudice to the functions of an inspector appointed under Article 21 of the 1978 Order, an Article 16 inspector may, notwithstanding that he is not an inspector so appointed, serve an improvement notice under Article 23 of that Order in respect of a contravention of these Regulations, and the reference to an inspector in Article 25(5) of that Order shall have effect accordingly.

(6) Notwithstanding the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999(3) the Executive shall, for the purposes of the 1978 Order, be the enforcing authority for the relevant statutory provisions at an establishment to which any of these Regulations apply.

Provision of information by the competent authority

21.—(1) The competent authority shall notify the European Commission as soon as practicable of any major accident meeting the criteria specified in Part I of Schedule 7.

(2) The notification referred to in paragraph (1) shall contain the information specified in Part II of Schedule 7.

(3) The competent authority shall notify the European Commission of any analysis and recommendations made pursuant to regulation 19(4)(c) and (e).

(2) [S.I. 1997/2777 \(N.I. 18\)](#)

(3) [S.R. 1999 No. 90](#)

- (4) Schedule 8 (provision of information by the competent authority) shall have effect.
- (5) This regulation shall apply notwithstanding the provisions of Article 30 of the 1978 Order.

Fee payable by operator

22.—(1) A fee shall be payable by the operator of an establishment to the Executive for the performance by or on behalf of the competent authority of any function conferred on the authority by these Regulations.

(2) A fee shall be payable by the operator of an establishment to the Executive for the performance—

- (a) by or on behalf of the Executive or the Department of the Environment of any function relating to the enforcement of these Regulations conferred on the Executive or the Department of the Environment by the 1978 Order or by virtue of regulation 20; and
- (b) by an inspector or Article 16 inspector of any such function conferred on him by the 1978 Order or by virtue of that regulation.

(3) The fee referred to in paragraphs (1) and (2) shall—

- (a) not exceed the sum of the costs reasonably incurred by the competent authority, the Executive or the Department of the Environment, as the case may be, for the performance of the functions in relation to the establishment concerned;
- (b) be payable within 30 days from the date of the invoice that the Executive has sent or given to the operator, such invoice to include a statement of the work done and the cost incurred including the period to which the statement relates.

(4) The Executive shall pay to the Department of the Environment any such fee or part of any such fee it recovers as is attributable to work done by or on behalf of that Department or by an Article 16 inspector in performing the functions concerned.

(5) Any fee payable under this regulation shall be recoverable only as a civil debt.

(6) Any fee payable under this regulation shall not include costs connected with—

- (a) any criminal investigation or prosecution incurred (in either case) from the date any summons is obtained from a Magistrate’s Court; and
- (b) any appeal pursuant to Article 26 of the 1978 Order incurred from the date that a notice of appeal has been received by the Secretary of the Office of the Industrial Tribunals and the Fair Employment Tribunal pursuant to the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 1996.

(7) In this regulation, “inspector” means a person appointed by the Executive under Article 21 of the 1978 Order.