

**2003 No. 152**

**HEALTH AND SAFETY**

**Dangerous Substances and Explosive Atmospheres  
Regulations (Northern Ireland) 2003**

*Made* - - - - - *7th March 2003*

*Coming into operation*

*All regulations except for  
regulations 5(4)(c), 7, 11, 15(2),  
16(2) and 17(1) to (3)* *25th April 2003*

*Regulations 15(2) and 16(2)* *30th May 2003*

*Regulations 5(4)(c), 7, 11,  
and 17(1) to (3)* *30th June 2003*

**ARRANGEMENT OF REGULATIONS**

1. Citation and commencement.
  2. Interpretation.
  3. Application.
  4. Duties under these Regulations.
  5. Risk assessment.
  6. Elimination or reduction of risks from dangerous substances.
  7. Places where explosive atmospheres may occur.
  8. Arrangements to deal with accidents, incidents and emergencies.
  9. Information, instruction and training.
  10. Identification of hazardous contents of containers and pipes.
  11. Duty of co-ordination.
  12. Application within the territorial sea.
  13. Exemption certificates.
  14. Exemptions for Ministry of Defence, etc.
  15. Amendments.
  16. Repeals and revocations.
  17. Transitional provisions.
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- Schedule 1. General Safety Measures.
  - Schedule 2. Classification of Places Where Explosive Atmospheres May Occur.
  - Schedule 3. Criteria for the Selection of Equipment and Protective Systems.
  - Schedule 4. Warning Sign for Places Where Explosive Atmospheres May Occur.
  - Schedule 5. Legislation Concerned with the Marking of Containers and Pipes.
  - Schedule 6. Premises and Activities Within the Territorial Sea.

- Schedule 7. Amendments.  
Schedule 8. Repeal and Revocation.

The Department of Enterprise, Trade and Investment(a), being the Department concerned(b), in exercise of the powers conferred on it by Articles 17(1), (2), (3) and (5)(c), 45(1) and (2), 54(1) and 55(2) of, and paragraphs 1(1), (2) and (4), 5, 8, 10, 13, 15, 17, 18 and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(d) and of every other power enabling it in that behalf and for the purpose of giving effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland(e) under Article 13(1A) of that Order after the carrying out by the said Executive of consultations in accordance with Article 46(3) of that Order, hereby makes the following Regulations:

### Citation and commencement

1. These Regulations may be cited as the Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2003 and shall come into operation –

- (a) as respects all regulations except for regulations 5(4)(c), 7, 11, 15(2), 16(2) and 17(1) to (3) on 25th April 2003;
- (b) as respects regulations 15(2) and 16(2) on 30th May 2003; and
- (c) as respects regulations 5(4)(c), 7, 11, and 17(1) to (3) on 30th June 2003.

### Interpretation

2. In these Regulations –

“approved classification and labelling guide” means the “Approved classification and labelling guide: Chemicals (Hazard Information and Packaging for Supply) Regulations 2002” (5th edition)(f) approved by the Executive for use with the CHIP Regulations on 12th November 2002;

“the CHIP Regulations” means the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002(g);

“dangerous substance” means –

- (a) a substance or preparation which meets the criteria in the approved classification and labelling guide for classification as a substance or preparation which is explosive, oxidising, extremely flammable, highly flammable or flammable, whether or not that substance or preparation is classified under the CHIP Regulations;
- (b) a substance or preparation which because of its physico-chemical or chemical properties and the way it is used or is present at the workplace creates a risk, not being a substance or preparation falling within sub-paragraph (a); or
- (c) any dust, whether in the form of solid particles or fibrous materials or otherwise, which can form an explosive mixture with air or an explosive atmosphere, not being a substance or preparation falling within sub-paragraphs (a) or (b);

“explosive atmosphere” means a mixture, under atmospheric conditions, of air and one or more dangerous substances in the form of gases, vapours, mists or dusts in which, after ignition has occurred, combustion spreads to the entire unburned mixture;

“hazard” means the physico-chemical or chemical property of a dangerous substance which has the potential to give rise to fire, explosion, or other events which can result in harmful

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(a) Formerly the Department of Economic Development; *see* S.I. 1999/283 (N.I. 1), Article 3(5)

(b) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)

(c) Article 17 must be read with S.I. 1992/1728 (N.I. 17), Articles 3(2) and 4(2); S.I. 1992/1728 (N.I. 17) was amended by S.I. 1996/275 (N.I. 2), Article 71(1) and Schedule 6

(d) S.I. 1978/1039 (N.I. 9); the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I. 17), Articles 3(1) and 4(1). Article 47A was inserted by Article 3, and Article 2 was amended by Articles 4 and 8, of S.I. 1997/1774 (N.I. 16)

(e) Article 46(1) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18

(f) L131; ISBN 0-7176-2369-6

(g) S.R. 2002 No. 301

physical effects of a kind similar to those which can be caused by fire or explosion, affecting the safety of a person;

“offshore installation” has the same meaning as is given by regulation 3 of the Offshore Installations and Pipeline Works (Management and Administration) Regulations (Northern Ireland) 1995<sup>(a)</sup> insofar as that regulation extends to mineral extracting industries within the scope of Article 2(a) of Council Directive 92/91/EEC concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling<sup>(b)</sup>;

“personal protective equipment” means all equipment which is intended to be worn or held by a person at work and which protects that person against one or more risks to his safety, and any addition or accessory designed to meet that objective;

“preparation” means a mixture or solution of two or more substances;

“risk” means the likelihood of a person’s safety being affected by harmful physical effects being caused to him from fire, explosion or other events arising from the hazardous properties of a dangerous substance in connection with work and also the extent of that harm;

“risk assessment” means the assessment of risks required by regulation 5(1);

“road” has the meaning assigned to it in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995<sup>(c)</sup>;

“safety data sheet” means a safety data sheet within the meaning of regulation 5 of the CHIP Regulations;

“substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour;

“territorial sea” means the territorial sea of the United Kingdom adjacent to Northern Ireland and “within the territorial sea” includes on, over and under it;

“workplace” means any premises or part of premises used for or in connection with work, and includes –

- (a) any place within the premises to which an employee has access while at work; and
  - (b) any room, lobby, corridor, staircase, road or other place –
    - (i) used as a means of access to or egress from that place of work, or,
    - (ii) where facilities are provided for use in connection with that place of work,
- other than a road; and

“work processes” means all technical aspects of work involving dangerous substances and includes –

- (a) appropriate technical means of supervision,
- (b) connecting devices,
- (c) control and protection systems,
- (d) engineering controls and solutions,
- (e) equipment,
- (f) materials,
- (g) machinery,
- (h) plant,
- (i) protective systems, and
- (j) warning and other communication systems.

## **Application**

**3.—**(1) These Regulations, apart from regulations 15, 16 and 17(4) and (5), shall not apply to the master or crew of a ship or to the employer of such persons in respect of the normal ship-

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(a) S.R. 1995 No. 340  
(b) O.J. No. L348, 28.11.92, p. 9  
(c) S.I. 1995/2994 (N.I. 18)

board activities of a ship's crew which are carried out solely by the crew under the direction of the master and, for the purposes of this paragraph –

- (a) “ship” includes every description of vessel used in navigation, other than a ship forming part of Her Majesty's Navy or an offshore installation; and
- (b) the reference to the normal ship-board activities of a ship's crew includes –
  - (i) the construction, reconstruction or conversion of a ship within territorial limits; and
  - (ii) the repair of a ship save repair when carried out in dry dock;
- (2) Regulations 5(4)(c), 7 and 11 shall not apply to –
  - (a) areas used directly for and during the medical treatment of patients;
  - (b) the use of gas appliances burning gaseous fuel (that is to say, any fuel which is in a gaseous state at a temperature of 15°C under a pressure of 1 bar) which –
    - (i) are used for cooking, heating, hot water production, refrigeration, lighting or washing; and
    - (ii) have, where applicable, a normal water temperature not exceeding 105°C, including forced draft burners and heating bodies to be equipped with such burners but not including an appliance specifically designed for use in an industrial process carried out on industrial premises;
  - (c) gas fittings within the meaning of the Gas Safety (Installation and Use) Regulations (Northern Ireland) 1997<sup>(a)</sup> located in domestic premises, not being gas appliances falling within sub-paragraph (b);
  - (d) the manufacture, handling, use, storage and transport of explosives or chemically unstable substances;
  - (e) any activity at a mine within the meaning of section 156(1) of the Mines Act (Northern Ireland) 1969<sup>(b)</sup> carried out for the purposes of the mine;
  - (f) any activity at a quarry within the meaning of Article 2(2) of the Quarries (Northern Ireland) Order 1983<sup>(c)</sup> carried out for the purposes of the quarry;
  - (g) any activity at a borehole site within the meaning of regulation 2(1) of the Borehole Sites and Operations Regulations (Northern Ireland) 1995<sup>(d)</sup> carried out for the purposes of the borehole site;
  - (h) any activity at an offshore installation carried out for the purposes of the offshore installation; and
  - (i) the use of means of transport by land, water or air which is regulated by international agreements and the European Community Directives giving effect to them insofar as they fall within the disapplication in Article 1.2.(e) of Council Directive 99/92/EC on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres<sup>(e)</sup>, except for any means of transport intended for use in a potentially explosive atmosphere.

(3) Regulations 5(2)(f), (g), (h) and (i), 6(4)(d), 6(5)(b) and (e) and 8(1)(d) and (e) and the requirements of paragraphs 5 and 6 of Schedule 1 shall not apply to any activity at an offshore installation carried out for the purposes of the offshore installation.

### **Duties under these Regulations**

**4.—**(1) Where a duty is placed by these Regulations on an employer in respect of his employees, he shall, so far as is reasonably practicable, be under a like duty in respect of any other person, whether at work or not, who may be affected by the work carried on by the employer, except that –

- (a) the duties of the employer under regulations 6(5)(f) and 7(5) (which relate, respectively, to the provision of suitable personal protective equipment and the provision of appropriate work clothing) shall not extend to persons who are not his employees; and

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(a) S.R. 1997 No. 194

(b) 1969 c. 6 (N.I.)

(c) S.I. 1983/150 (N.I. 4)

(d) S.R. 1995 No. 491

(e) O.J. No. L23, 28.1.00, p. 57

(b) the duties of the employer under regulations 8 and 9 (which relate, respectively, to dealing with accidents and to provision of information, instruction and training) shall not extend to persons who are not his employees, unless those persons are at the workplace where the work is being carried on and subject to the following, namely, that, in relation to the application of regulation 9 to such persons, regulation 9 shall apply to the extent that is required by the nature and the degree of the risk.

(2) These Regulations shall apply to a self-employed person as they apply to an employer and an employee and as if that self-employed person were both an employer and employee.

### **Risk assessment**

5.—(1) Where a dangerous substance is or is liable to be present at the workplace, the employer shall make a suitable and sufficient assessment of the risks to his employees which arise from that substance.

(2) The risk assessment shall include consideration of –

- (a) the hazardous properties of the substance;
- (b) information on safety provided by the supplier, including information contained in any relevant safety data sheet;
- (c) the circumstances of the work including –
  - (i) the work processes and substances used and their possible interactions;
  - (ii) the amount of the substance involved;
  - (iii) where the work will involve more than one dangerous substance, the risk presented by such substances in combination; and
  - (iv) the arrangements for the safe handling, storage and transport of dangerous substances and of waste containing dangerous substances;
- (d) activities, such as maintenance, where there is the potential for a high level of risk;
- (e) the effect of measures which have been or will be taken pursuant to these Regulations;
- (f) the likelihood that an explosive atmosphere will occur and its persistence;
- (g) the likelihood that ignition sources, including electrostatic discharges, will be present and become active and effective;
- (h) the scale of the anticipated effects of a fire or an explosion;
- (i) any places which are or can be connected via openings to places in which explosive atmospheres may occur; and
- (j) such additional safety information as the employer may need in order to complete the risk assessment.

(3) The risk assessment shall be reviewed by the employer regularly so as to keep it up to date and particularly if –

- (a) there is reason to suspect that the risk assessment is no longer valid; or
- (b) there has been a significant change in the matters to which the risk assessment relates including when the workplace, work processes, or organisation of the work undergoes significant changes, extensions or conversions;

and where, as a result of the review, changes to the risk assessment are required, those changes shall be made.

(4) Where the employer employs five or more employees, the employer shall record the significant findings of the risk assessment as soon as is practicable after that assessment is made, including in particular –

- (a) the measures which have been or will be taken by him pursuant to these Regulations;
- (b) sufficient information to show that the workplace and work processes are designed, operated and maintained with due regard for safety and that, in accordance with the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999(a), adequate arrangements have been made for the safe use of work equipment; and

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(a) S.R. 1999 No. 305, as amended by S.I. 1999/2001, S.R. 2000 No. 81 and S.I. 2001/1701

- (c) where an explosive atmosphere may occur at the workplace and subject to the transitional provisions in regulation 17(1) to (3), sufficient information to show –
  - (i) those places which have been classified into zones pursuant to regulation 7(1);
  - (ii) equipment which is required for, or helps to ensure, the safe operation of equipment located in places classified as hazardous pursuant to regulation 7(1);
  - (iii) that any verification of overall explosion safety required by regulation 7(4) has been carried out; and
  - (iv) the aim of any coordination required by regulation 11 and the measures and procedures for implementing it.
- (5) No new work activity involving a dangerous substance shall commence unless –
  - (a) an assessment has been made; and
  - (b) the measures required by these Regulations have been implemented.

#### **Elimination or reduction of risks from dangerous substances**

6.—(1) Every employer shall ensure that risk is either eliminated or reduced so far as is reasonably practicable.

(2) In complying with his duty under paragraph (1), substitution shall by preference be undertaken, whereby the employer shall avoid, so far as is reasonably practicable, the presence or use of a dangerous substance at the workplace by replacing it with a substance or process which either eliminates or reduces the risk.

(3) Where it is not reasonably practicable to eliminate risk pursuant to paragraphs (1) and (2), the employer shall, so far as is reasonably practicable, apply measures, consistent with the risk assessment and appropriate to the nature of the activity or operation –

- (a) to control risks, including the measures specified in paragraph (4); and
- (b) to mitigate the detrimental effects of a fire or explosion or the other harmful physical effects arising from dangerous substances, including the measures specified in paragraph (5).

(4) The following measures are, in order of priority, those specified for the purposes of paragraph (3)(a) –

- (a) the reduction of the quantity of dangerous substances to a minimum;
- (b) the avoidance or minimising of the release of a dangerous substance;
- (c) the control of the release of a dangerous substance at source;
- (d) the prevention of the formation of an explosive atmosphere, including the application of appropriate ventilation;
- (e) ensuring that any release of a dangerous substance which may give rise to risk is suitably collected, safely contained, removed to a safe place, or otherwise rendered safe, as appropriate;
- (f) the avoidance of –
  - (i) ignition sources including electrostatic discharges; and
  - (ii) adverse conditions which could cause dangerous substances to give rise to harmful physical effects; and
- (g) the segregation of incompatible dangerous substances.

(5) The following measures are those specified for the purposes of paragraph (3)(b) –

- (a) the reduction to a minimum of the number of employees exposed;
- (b) the avoidance of the propagation of fires or explosions;
- (c) the provision of explosion pressure relief arrangements;
- (d) the provision of explosion suppression equipment;
- (e) the provision of plant which is constructed so as to withstand the pressure likely to be produced by an explosion; and
- (f) the provision of suitable personal protective equipment.

(6) The employer shall arrange for the safe handling, storage and transport of dangerous substances and waste containing dangerous substances.

(7) The employer shall ensure that any conditions necessary pursuant to these Regulations for ensuring the elimination or reduction of risk are maintained.

(8) The employer shall, so far as is reasonably practicable, take the general safety measures specified in Schedule 1, subject to those measures being consistent with the risk assessment and appropriate to the nature of the activity or operation.

#### **Places where explosive atmospheres may occur**

7.—(1) Every employer shall classify places at the workplace where an explosive atmosphere may occur into hazardous or non-hazardous places in accordance with paragraph 1 of Schedule 2 and shall classify those places so classified as hazardous into zones in accordance with paragraph 2 of that Schedule; and that Schedule shall have effect subject to the notes at the end of that Schedule.

(2) The employer shall ensure that the requirements specified in Schedule 3 are applied to equipment and protective systems in the places classified as hazardous pursuant to paragraph (1).

(3) Where necessary, places classified as hazardous pursuant to paragraph (1) shall be marked by the employer with signs at their points of entry in accordance with Schedule 4.

(4) Before a workplace containing places classified as hazardous pursuant to paragraph (1) is used for the first time, the employer shall ensure that its overall explosion safety is verified by a person who is competent in the field of explosion protection as a result of his experience or any professional training or both.

(5) The employer shall ensure that appropriate work clothing which does not give rise to electrostatic discharges is provided for use in places classified as hazardous pursuant to paragraph (1).

(6) This regulation is subject to the transitional provisions in regulation 17(1) to (3).

#### **Arrangements to deal with accidents, incidents and emergencies**

8.—(1) Subject to paragraph (4), in order to protect the safety of his employees from an accident, incident or emergency related to the presence of a dangerous substance at the workplace, the employer shall ensure that –

- (a) procedures, including the provision of appropriate first-aid facilities and relevant safety drills (which shall be tested at regular intervals), have been prepared which can be put into effect when such an event occurs;
- (b) information on emergency arrangements, including –
  - (i) details of relevant work hazards and hazard identification arrangements, and
  - (ii) specific hazards likely to arise at the time of an accident, incident or emergency, is available;
- (c) suitable warning and other communication systems are established to enable an appropriate response, including remedial actions and rescue operations, to be made immediately when such an event occurs;
- (d) where necessary, before any explosion conditions are reached, visual, or audible, warnings are given and employees withdrawn; and
- (e) where the risk assessment indicates it is necessary, escape facilities are provided and maintained to ensure that, in the event of danger, employees can leave endangered places promptly and safely.

(2) Subject to paragraph (4), the employer shall ensure that information on the matters referred to in paragraph (1)(a), (c) to (e) and the information required by paragraph 1(b) is –

- (a) made available to relevant accident and emergency services to enable those services, whether internal or external to the workplace, to prepare their own response procedures and precautionary measures; and
- (b) displayed at the workplace, unless the results of the risk assessment make this unnecessary.

(3) Subject to paragraph (4), in the event of an accident, incident or emergency related to the presence of a dangerous substance at the workplace, the employer shall ensure that –

- (a) immediate steps are taken to –
  - (i) mitigate the effects of the event;
  - (ii) restore the situation to normal; and
  - (iii) inform those of his employees who may be affected; and
- (b) only those persons who are essential for the carrying out of repairs and other necessary work are permitted in the affected area and they are provided with –
  - (i) appropriate personal protective equipment and protective clothing; and
  - (ii) any necessary specialised safety equipment and plant,which shall be used until the situation is restored to normal.
- (4) Paragraphs (1) to (3) shall not apply where –
  - (a) the results of the risk assessment show that, because of the quantity of each dangerous substance at the workplace, there is only a slight risk to employees; and
  - (b) the measures taken by the employer to comply with his duty under regulation 6(1) are sufficient to control that risk.

#### **Information, instruction and training**

**9.**—(1) Where a dangerous substance is present at the workplace, the employer shall provide his employees with –

- (a) suitable and sufficient information, instruction and training on the appropriate precautions and actions to be taken by the employee in order to safeguard himself and other employees at the workplace;
  - (b) the details of any such substance including –
    - (i) the name of the substance and the risk which it presents;
    - (ii) access to any relevant safety data sheet; and
    - (iii) legislative provisions which concern the hazardous properties of the substance; and
  - (c) the significant findings of the risk assessment.
- (2) The information, instruction and training required by paragraph (1) shall be –
- (a) adapted to take account of significant changes in the type of work carried out or methods of work used by the employer; and
  - (b) provided in a manner appropriate to the risk assessment.

#### **Identification of hazardous contents of containers and pipes**

**10.** Where containers and pipes used at work for dangerous substances are not marked in accordance with relevant requirements of the legislation listed in Schedule 5, the employer shall, subject to any derogations provided for in that legislation, ensure that the contents of those containers and pipes, together with the nature of those contents and any associated hazards, are clearly identifiable.

#### **Duty of co-ordination**

**11.** Where two or more employers share the same workplace (whether on a temporary or a permanent basis) where an explosive atmosphere may occur, the employer responsible for the workplace shall co-ordinate the implementation of all the measures required by these Regulations to be taken to protect employees from any risk from the explosive atmosphere.

#### **Application within the territorial sea**

**12.** Within the territorial sea these Regulations shall apply only to and in relation to the premises and activities to which any of paragraphs 2 to 6 of Schedule 6 applies.



### **Exemption certificates**

**13.**—(1) Subject to paragraph (2), the Executive may, by a certificate in writing, exempt any person or class of persons or any dangerous substance or class of dangerous substances from all or any of the requirements or prohibitions imposed by or under these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the Executive by a further certificate in writing.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to –

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any requirements imposed by or under any statutory provisions which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it and that the exemption will be compatible with the requirements of the Directives.

(3) For the purposes of paragraph (2), “the Directives” means Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work<sup>(a)</sup> and Council Directive 99/92/EC on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres<sup>(b)</sup>.

### **Exemptions for Ministry of Defence, etc.**

**14.**—(1) In this regulation –

- (a) “Her Majesty’s Forces” means any of the naval, military or air forces of the Crown, whether raised inside or outside the United Kingdom and whether any such force is a regular, auxiliary or reserve force, and includes any civilian employed by those forces;
- (b) “visiting force” has the same meaning as it does for the purposes of any provision of Part I of the Visiting Forces Act 1952<sup>(c)</sup>; and
- (c) “headquarters” means a headquarters for the time being specified in Schedule 2 to the Visiting Forces and International Headquarters (Application of Law) Order 1999<sup>(d)</sup>.

(2) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing, exempt –

- (a) any of Her Majesty’s Forces;
- (b) any visiting force;
- (c) any member of a visiting force working in or attached to a headquarters; or
- (d) any person engaged in work involving dangerous substances, if that person is under the direct supervision of a representative of the Secretary of State for Defence,

from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the Secretary of State for Defence by a further certificate in writing, except that, where any such exemption is granted, suitable arrangements shall be made for the assessment of the risk to safety created by the work involving dangerous substances and for adequately controlling the risk to persons to whom the exemption relates.

### **Amendments**

**15.**—(1) The statutory provisions referred to in Part I of Schedule 7 shall be amended in accordance with that Part.

(2) The statutory provisions referred to in Part II of Schedule 7 shall be amended in accordance with that Part.

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(a) O.J. No. L 131, 5.9.98, p. 11  
(b) O.J. No. L 23, 28.1.00, p. 57  
(c) 1952 c. 67 (15 & 16 Geo 6 & 1 Eliz 2)  
(d) S.I. 1999/1736

## Repeals and revocations

16.—(1) The statutory provisions referred to in column 1 of Part I of Schedule 8 shall be repealed or revoked to the extent specified in the corresponding entry in column 3 of that Part.

(2) The statutory provisions referred to in column 1 of Part II of Schedule 8 shall be repealed or revoked to the extent specified in the corresponding entry in column 3 of that Part.

## Transitional provisions

17.—(1) The requirements of regulation 7(2) and Schedule 3 shall not apply to equipment and protective systems for use in places where explosive atmospheres may occur which are or have been in use or made available at the workplace on or before 30th June 2003.

(2) Subject to paragraphs (1) and (3), a workplace which contains places where explosive atmospheres may occur –

- (a) which is or has been in use on or before 30th June 2003 shall comply with the requirements of regulations 7 and 11 no later than 30th June 2006 and the employer's duties under those regulations in respect of such a workplace shall apply accordingly;
- (b) which is used for the first time after 30th June 2003 shall comply with the requirements of regulations 7 and 11 from the date that it is first used and the employer's duties under those regulations in respect of such a workplace shall apply accordingly.

(3) If, after 30th June 2003, any modification, extension or restructuring is undertaken in workplaces containing places where explosive atmospheres may occur, the employer shall take the necessary steps to ensure that the modification, extension or restructuring complies with the requirements of regulations 7 and 11 and the employer's duties under those regulations and in respect of such a modification, extension or restructuring shall apply accordingly.

(4) Notwithstanding the amendment made to section 2(1) of the Petroleum (Consolidation) Act (Northern Ireland) 1929(a) (provisions as to licences) made by regulation 15(1) and paragraphs 2(1) and (2) of Schedule 7, a petroleum-spirit licence applying in any harbour which was granted by a harbour authority pursuant to section 2 of that Act and which is in force immediately before the date of the coming into operation of regulation 15(1) and paragraphs 2(1) and (2) of Schedule 7 shall continue in force in accordance with such conditions as were attached to it before that date, except that, where it makes provision for the renewal of the licence by the harbour authority, it shall have effect as if it provided for its renewal by the licensing authority under section 2(1)(a) or (c) of that Act for the area in which the harbour is situated; and any application for renewal made to the harbour authority before that date and not determined at that date shall have effect as if it had been made to that licensing authority.

(5) Notwithstanding the repeal of section 9 of the Petroleum (Consolidation) Act (Northern Ireland) 1929 (byelaws as to loading, conveyance and landing of petroleum-spirit in and upon canals) by regulation 16(1) and Part I of Schedule 8, byelaws made or having effect under that section in operation immediately before the date of the coming into operation of regulation 16(1) and Part I of Schedule 8 shall continue in operation.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 7th March 2003.

(L.S.)

*M. Bohill*

A senior officer of the Department of Enterprise, Trade and Investment

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(a) 1929 c. 13 (N.I.)

## SCHEDULE 1

Regulation 6(8)

### GENERAL SAFETY MEASURES

1. The following measures are those specified for the purposes of regulation 6(8).

#### WORKPLACE AND WORK PROCESSES

2. Ensuring that the workplace is designed, constructed and maintained so as to reduce risk.
3. Designing, constructing, assembling, installing, providing and using suitable work processes so as to reduce risk.
4. Maintaining work processes in an efficient state, in efficient working order and in good repair.
5. Ensuring that equipment and protective systems meet the following requirements –
  - (a) where power failure can give rise to the spread of additional risk, equipment and protective systems must be able to be maintained in a safe state of operation independently of the rest of the plant in the event of power failure;
  - (b) means for manual override must be possible, operated by employees competent to do so, for shutting down equipment and protective systems incorporated within automatic processes which deviate from the intended operating conditions, provided that the provision or use of such means does not compromise safety;
  - (c) on operation of emergency shutdown, accumulated energy must be dissipated as quickly and as safely as possible or isolated so that it no longer constitutes a hazard; and
  - (d) necessary measures must be taken to prevent confusion between connecting devices.

#### ORGANISATIONAL MEASURES

6. The application of appropriate systems of work including –
  - (a) the issuing of written instructions for the carrying out of the work; and
  - (b) a system of permits to work with such permits being issued by a person with responsibility for this function prior to the commencement of the work concerned,where the work is carried out in hazardous places or involves hazardous activities.

## SCHEDULE 2

Regulation 7(1)

*(which substantially reproduces the provisions of Annex I of Council Directive 99/92/EC(a))*

### CLASSIFICATION OF PLACES WHERE EXPLOSIVE ATMOSPHERES MAY OCCUR

#### **1. Places where explosive atmospheres may occur**

A place in which an explosive atmosphere may occur in such quantities as to require special precautions to protect the health and safety of the workers concerned is deemed to be hazardous within the meaning of these Regulations.

A place in which an explosive atmosphere is not expected to occur in such quantities as to require special precautions is deemed to be non-hazardous within the meaning of these Regulations.

#### **2. Classification of hazardous places**

Hazardous places are classified in terms of zones on the basis of the frequency and duration of the occurrence of an explosive atmosphere.

##### ***Zone 0***

A place in which an explosive atmosphere consisting of a mixture with air of dangerous substances in the form of gas, vapour or mist is present continuously or for long periods or frequently.

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(a) O.J. No. L23, 28.1.00, p. 57

**Zone 1**

A place in which an explosive atmosphere consisting of a mixture with air of dangerous substances in the form of gas, vapour or mist is likely to occur in normal operation occasionally.

**Zone 2**

A place in which an explosive atmosphere consisting of a mixture with air of dangerous substances in the form of gas, vapour or mist is not likely to occur in normal operation but, if it does occur, will persist for a short period only.

**Zone 20**

A place in which an explosive atmosphere in the form of a cloud of combustible dust in air is present continuously, or for long periods or frequently.

**Zone 21**

A place in which an explosive atmosphere in the form of a cloud of combustible dust in air is likely to occur in normal operation occasionally.

**Zone 22**

A place in which an explosive atmosphere in the form of a cloud of combustible dust in air is not likely to occur in normal operation but, if it does occur, will persist for a short period only.

**Notes:**

1. Layers, deposits and heaps of combustible dust must be considered as any other source which can form an explosive atmosphere.
2. "Normal operation" means the situation when installations are used within their design parameters.

**SCHEDULE 3**

Regulation 7(2)

**CRITERIA FOR THE SELECTION OF EQUIPMENT AND PROTECTIVE SYSTEMS**

1. Equipment and protective systems for all places in which explosive atmospheres may occur must be selected on the basis of the requirements set out in the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 1996(a) unless the risk assessment finds otherwise.

2. In particular, the following categories of equipment must be used in the zones indicated, provided they are suitable for gases, vapours, mists, dusts or mists and dusts, as appropriate:

- in zone 0 or zone 20, category 1 equipment,
- in zone 1 or zone 21, category 1 or 2 equipment,
- in zone 2 or zone 22, category 1, 2 or 3 equipment.

3. For the purposes of this Schedule and regulation 7(2) and 17(1) –

“equipment” means machines, apparatus, fixed or mobile devices, control components and instrumentation thereof and detection or prevention systems which, separately or jointly, are intended for the generation, transfer, storage, measurement, control and conversion of energy and the processing of material, as the case may be, and which are capable of causing an explosion through their own potential sources of ignition;

“protective systems” means devices other than components of equipment which are intended to halt incipient explosions immediately or limit the effective range of an explosion or both, as the case may be, and which systems are separately placed on the market for use as autonomous systems;

“devices” means safety devices, controlling devices and regulating devices intended for use outside potentially explosive atmospheres but required for or contributing to the safe functioning of equipment and protective systems with respect to the risks of explosion;

“component” means any item essential to the safe functioning of equipment and protective systems but with no autonomous function; and

“potentially explosive atmosphere” means an atmosphere which could become explosive due to local and operational conditions.

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(a) S.R. 1996 No. 192, amended by S.R. 1999 No. 125

## SCHEDULE 4

Regulation 7(3)

*(which substantially reproduces the provisions of Annex III of Council Directive 99/92/EC)*

WARNING SIGN FOR PLACES WHERE EXPLOSIVE ATMOSPHERES MAY OCCUR



Distinctive features:

- (a) triangular shape;
- (b) black letters on a yellow background with black edging (the yellow part to take up at least 50% of the area of the sign).

## SCHEDULE 5

Regulation 10

LEGISLATION CONCERNED WITH THE MARKING OF CONTAINERS AND PIPES

Classification and Labelling of Explosives Regulations (Northern Ireland) 1991 (S.R. 1991 No. 516).  
Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 60).  
Health and Safety (Safety Signs and Signals) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 119).  
Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247).  
Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997 (S.R. 1997 No. 248).  
Carriage of Explosives by Road Regulations (Northern Ireland) 1997 (S.R. 1997 No. 474).  
Good Laboratory Practice Regulations 1997 (S.I. 1997/654).  
Carriage of Dangerous Goods by Rail Regulations (Northern Ireland) 1998 (S.R. 1998 No. 131).  
Packaging, Labelling and Carriage of Radioactive Material by Rail Regulations (Northern Ireland) 1998 (S.R. 1998 No. 132).

## SCHEDULE 6

Regulation 12

PREMISES AND ACTIVITIES WITHIN THE TERRITORIAL SEA

### Interpretation

1.—(1) In this Schedule –

“activity” includes a diving operation;

“designated area” means any area designated by Order under section 1(7) of the Continental Shelf Act 1964<sup>(a)</sup> and “within a designated area” includes over and under it;

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<sup>(a)</sup> 1964 c. 29; section 1 was amended by the Oil and Gas (Enterprise) Act 1982 (1982 c. 23), Schedule 3, paragraph 1

“diving operation” has the same meaning as it has in the Diving Operations at Work Regulations (Northern Ireland) 1994(a) save that it includes an activity in which a person takes part as a diver wearing an atmospheric pressure suit and without breathing in air or other gas at a pressure greater than atmospheric pressure;

“energy structure” means a fixed or floating structure, other than a vessel, for producing energy from wind or water;

“offshore installation” shall be construed in accordance with paragraph 2(2) and (3);

“supplementary unit” means a fixed or floating structure, other than a vessel, for providing energy, information or substances to an offshore installation;

“stand-by vessel” means a vessel which is ready to give assistance in the event of an emergency on or near an offshore installation;

“vessel” includes a hovercraft and any floating structure which is capable of being staffed.

(2) For the purposes of this Schedule, any structures and devices on top of a well shall be treated as forming part of the well.

(3) Any reference in this Schedule to premises and activities includes a reference to any person, article or substance on those premises or engaged in, or, as the case may be, used or for use in connection with any such activity, but does not include a reference to an aircraft which is airborne.

### **Offshore installations**

2.—(1) This paragraph shall apply to and in relation to –

- (a) any offshore installation and any activity on it;
- (b) any activity in connection with an offshore installation, or any activity which is immediately preparatory thereto, whether carried on from the installation itself, in or from a vessel or in any other manner, other than –
  - (i) transporting, towing or navigating the installation; and
  - (ii) any activity in or from a vessel being used as a stand-by vessel;
- (c) a diving operation involving –
  - (i) the survey and preparation of the sea bed for an offshore installation;
  - (ii) the survey and restoration of the sea bed consequent on the removal of an offshore installation.

(2) Subject to sub-paragraph (3), in this paragraph, “offshore installation” means a structure which is, or is to be, or has been, used while standing or stationed in water, or on the foreshore or other land intermittently covered with water –

- (a) for the exploitation, or exploration with a view to exploitation, of mineral resources by means of a well;
- (b) for the storage of gas in or under the shore or bed of any water or the recovery of gas so stored;
- (c) for the conveyance of things by means of a pipe; or
- (d) mainly for the provision of accommodation for persons who work on or from a structure falling within any of the provisions of this sub-paragraph,

together with any supplementary unit which is ordinarily connected to it, and all the connections.

(3) Any reference in sub-paragraph (2) to a structure or unit does not include –

- (a) a structure which is connected with dry land by a permanent structure providing access at all times and for all purposes;
- (b) a well;
- (c) a structure which has ceased to be used for any of the purposes specified in sub-paragraph (2) and has since been used for a purpose not so specified;
- (d) a mobile structure which has been taken out of use and is not yet being moved with a view to its being used for any of the purposes specified in sub-paragraph (2); and
- (e) any part of a pipeline.

### **Wells**

3.—(1) Subject to sub-paragraph (2), this paragraph applies to and in relation to –

- (a) a well and any activity in connection with it; and

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(a) S.R. 1994 No. 146

(b) an activity which is immediately preparatory to any activity in head (a).

(2) Sub-paragraph (1) includes keeping a vessel on station for the purpose of working on a well but otherwise does not include navigation or an activity connected with navigation.

### **Pipelines**

4.—(1) This paragraph applies to and in relation to –

- (a) any pipeline;
- (b) any pipeline works;
- (c) the following activities in connection with pipeline works –
  - (i) the loading, unloading, fuelling or provisioning of a vessel;
  - (ii) the loading, unloading, fuelling, repair and maintenance of an aircraft in a vessel,

being in either case a vessel which is engaged in pipeline works.

(2) In this paragraph –

“pipeline” means a pipe or system of pipes for the conveyance of any thing, together with –

- (a) any apparatus for inducing or facilitating the flow of any thing through, or through part of, the pipe or system;
- (b) any apparatus for treating or cooling any thing which is to flow through, or through part of, the pipe or system;
- (c) valves, valve chambers and similar works which are annexed to, or incorporated in the course of, the pipe or system;
- (d) apparatus for supplying energy for the operation of any such apparatus or works as are mentioned in heads (a) to (c);
- (e) apparatus for the transmission of information for the operation of the pipe or system;
- (f) apparatus for the cathodic protection of the pipe or system; and
- (g) a structure used or to be used solely for the support of a part of the pipe or system;

but not including a pipeline of which no initial or terminal point is situated in the United Kingdom, within the territorial sea adjacent to the United Kingdom, or within a designated area;

“pipeline works” means –

- (a) assembling or placing a pipeline or length of pipeline including the provision of internal or external protection for it;
- (b) inspecting, testing, maintaining, adjusting, repairing, altering or renewing a pipeline or length of pipeline;
- (c) changing the position of or dismantling or removing a pipeline or length of pipeline;
- (d) opening the bed of the sea for the purposes of the works mentioned in heads (a) to (c), and tunnelling or boring for those purposes;
- (e) any activities incidental to the activities described in heads (a) to (d);
- (f) a diving operation in connection with any of the works mentioned in heads (a) to (e) or for the purpose of determining whether a place is suitable as part of the site of a proposed pipeline and the carrying out of surveying operations for settling the route of a proposed pipeline.

### **Mines**

5.—(1) This paragraph applies to and in relation to a mine within the territorial sea or extending beyond it, and any activity in connection with it, while it is being worked.

(2) In this paragraph “mine” has the same meaning as in the Mines Act (Northern Ireland) 1969(a).

### **Other activities**

6.—(1) Subject to paragraph (2), this paragraph applies to and in relation to –

- (a) the construction, reconstruction, alteration, repair, maintenance, cleaning, use, operation, demolition and dismantling of any building, energy structure or other structure, not being in any case a vessel, or any preparation for any such activity;
- (b) the transfer of people or goods between a vessel or aircraft and a structure (including a building) mentioned in head (a);
- (c) the loading, unloading, fuelling or provisioning of a vessel;

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(a) 1969 c. 6 (N.I.)

- (d) a diving operation;
  - (e) the construction, reconstruction, finishing, refitting, repair, maintenance, cleaning or breaking up of a vessel except when carried out by the master or any officer or member of the crew of that vessel;
  - (f) the maintaining on a station of a vessel which would be an offshore installation were it not a structure to which paragraph 2(3)(d) applies;
  - (g) the operation of a cable for transmitting electricity from an energy structure to shore;
  - (h) the transfer of people or goods between a vessel or aircraft and a structure mentioned in head (f).
- (2) This paragraph shall not apply –
- (a) to a case where paragraph 2, 3, 4 or 5 applies; or
  - (b) to vessels which are registered outside the United Kingdom and are on passage through the territorial sea.

## SCHEDULE 7

Regulation 15

### AMENDMENTS

#### PART I

1. The Fifth Schedule to the Uniformity of Laws Act (Northern Ireland) 1922(a) (which sets out the Celluloid and Cinematograph Film Act 1922(b)) shall be amended by the insertion after paragraph (iii) of the proviso to subsection (2) of section 2 of the Celluloid and Cinematograph Film Act 1922 (purposes to which the Act applies) of the following proviso –

“and

- (iv) the provisions of this Act shall not apply to a workplace within the meaning of the Fire Precautions (Workplace) Regulations (Northern Ireland) 2001(c).”.

2.—(1) The Petroleum (Consolidation) Act (Northern Ireland) 1929(d) shall be amended in accordance with sub-paragraphs (2) to (7).

(2) In section 2 (provisions as to licences), the words from “Provided that” (special provision for harbours) to the end shall be omitted.

(3) Section 9 (byelaws as to loading, conveyance and landing of petroleum-spirit in and upon canals) and section 17 (powers of officers of local authorities as to testing petroleum-spirit) shall be omitted.

(4) In section 18 (warrants to search for and seize petroleum-spirit), for subsection (4) there shall be substituted –

“(4) This section does not apply to –

- (a) a workplace within the meaning of the Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2002 used, or intended for use, for the dispensing of petroleum-spirit, or
- (b) a carriage to which the Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997(e) apply.”.

(5) In section 23 (interpretation) –

- (a) after the definition of “Contravention” there shall be added the following definitions –

“ “the Directive” means Commission Directive 92/69 EEC(f) adapting to technical progress for the seventeenth time Council Directive 67/548/EEC(g) on the approximation of laws, regulations

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(a) 1922 c. 20 (N.I.)  
 (b) 1922 c. 35. Section 2 was amended by the Cinemas (Northern Ireland) Order 1991 (S.I. 1991/1462 (N.I. 12)), Article 19(1) and Schedule 2, paragraph 1  
 (c) S.R. 2001 No. 348  
 (d) 1929 c. 13 (N.I.). Section 2 was amended by S.R. & O. (N.I.) 1973 No. 341 and S.R. 1996 No. 512; section 18 was amended by S.R. 1988 No. 415 and S.R. 1992 No. 260; sections 19 and 21 were amended by the Northern Ireland (Modification of Enactments - No. 1) Order 1999 (S.I. 1999/663), section 23 was amended by S.R. 1992 No. 260, S.R. 1992 No. 461, S.R. 1993 No. 412 and S.R. 1995 No. 60; section 25A was inserted by S.R. 2000 No. 93  
 (e) S.R. 1997 No. 248 as amended by S.R. 1998 No. 448, S.R. 2000 No. 119 and S.R. 2002 No. 34  
 (f) O.J. No. L383, 29.12.92, p. 113  
 (g) O.J. No. 196, 16.8.67, p. 1



and administrative provisions relating to the classification, packaging and labelling of dangerous substances;

“Dispensing” means manual or electrical pumping of petroleum-spirit from a storage tank into the fuel tank for an internal combustion engine, whether for the purposes of sale or not;” and

(b) for the definition of “Petroleum-spirit” there shall be substituted the following definition –

“Petroleum-spirit” means petroleum which, when tested in accordance with Part A.9. of the Annex to the Directive, has a flash point (as defined in that Part) of less than 21°C.”.

(6) The provisions of section 24A(a) (places to which Act does not apply) shall be re-numbered section 24A(1) and at the end of that subsection as so re-numbered there shall be inserted –

“or

(c) any workplace within the meaning of the Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2002, apart from a workplace used, or intended for use, for dispensing petroleum-spirit.

(2) For the purposes of subsection (1)(c), any part of a workplace where petroleum-spirit is kept other than for dispensing is not to be regarded as used, or intended for use, for dispensing petroleum-spirit.”.

3.—(1) The Petroleum-spirit (Motor Vehicles, &c.) Regulations (Northern Ireland), 1930(b) shall be amended in accordance with paragraphs (2) to (4).

(2) For regulation 2 (keeping of petroleum-spirit), there shall be substituted the following regulation –

“2.—(1) Subject to paragraph (2), the petroleum-spirit shall not be kept otherwise than in metal vessels so constructed and maintained in such a condition as –

(a) to be reasonably secure against breakage; and

(b) to prevent the leakage of any liquid or vapour therefrom.

(2) Where the vessel in which the petroleum-spirit is to be kept is a fuel tank for an internal combustion engine, the requirement in paragraph (1) that the vessel be made of metal shall not apply.”.

(3) In regulation 7, there shall be inserted at the beginning of paragraph (1) “Subject to paragraph (3),” and after paragraph (2) there shall be inserted the following paragraph –

“(3) The disapplication from the requirements of paragraph (1) in respect of a fuel tank for an internal combustion engine shall only apply to a fuel tank which remains connected to the fuel system of the internal combustion engine it is serving in the way it would ordinarily be so connected when that engine is running.”.

(4) In regulation 15A (disapplication), “and” at the end of paragraph (a) shall be omitted and there shall be inserted after paragraph (b) –

“or

(c) any workplace within the meaning of the Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2002.”.

4. The Petroleum (Liquid Methane) Order (Northern Ireland) 1973(c) shall be amended by the insertion at the end of the Schedule (provisions of the Petroleum (Consolidation) Act (Northern Ireland) 1929 not applied to liquid methane), of “Section 24A(1)(c) and (2)”.

5.—(1) The Petroleum-Spirit (Plastic Containers) Regulations (Northern Ireland) 1983(d) shall be amended in accordance with paragraph (2).

(2) In regulation 7 (disapplication), the word “and” at the end of paragraph (a) shall be omitted and at the end of paragraph (b) there shall be inserted the following words –

“or

(c) any workplace within the meaning of the Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2002.”.

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(a) Section 24A was inserted by S.R. 2000 No. 93

(b) S.R. & O. (N.I.) 1930 No. 11 as amended by S.R. 1983 No. 43, S.R. 1992 No. 413 and S.R. 2000 No. 93; the last mentioned statutory rule inserted regulation 15A

(c) S.R. & O. (N.I.) 1973 No. 528

(d) S.R. 1983 No. 43 as amended by S.R. 2000 No. 93

6. In the Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991(a), in regulation 29 (application of Part VIII—storage of dangerous substances), the words “the Petroleum (Carbide of Calcium) Order (Northern Ireland), 1930,” shall be omitted.

7. In the Fire Precautions (Workplace) Regulations (Northern Ireland) 2001(b), in paragraph (2)(b) of regulation 9 (disapplication), after the words “the 2000 Management Regulations (as amended by Part III),” there shall be inserted the words “and regulations 1 to 6, 8, 9 and 11 of the Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2002,”.

## PART II

8.—(1) The Fire Certificates (Special Premises) Regulations (Northern Ireland) 1991(c) shall be amended in accordance with paragraph (2).

(2) In paragraph 24 of Schedule 1 (premises for which a fire certificate is required), for the definition of “highly flammable liquid” there shall be substituted the following definition –

“ “highly flammable liquid” means any liquid, liquid solution, emulsion or suspension, other than aqueous ammonia, liquefied flammable gas, and liquefied petroleum gas, which –

- (a) when tested in accordance with Part A.9. of the Annex to the Directive has a flash point (as defined in that Part) of less than 32°C except that, if the flash point determined by using one of the non-equilibrium methods referred to in that Part falls within the range 30°C to 34°C, that flash point shall be confirmed by the use of like apparatus using the appropriate equilibrium method referred to in that Part; and
- (b) when tested at 50°C (within an accuracy of – 0 + 5°C) using the procedure referred to in Appendix B to the “Approved Requirements and test methods for the classification and packaging of dangerous goods for carriage”(d) with a heating time of 60 seconds supports combustion,

and for these purposes –

- (i) “aqueous ammonia” means ammonia gas dissolved in water;
- (ii) “the Directive” means Commission Directive 92/69 EEC(e) adapting to technical progress for the seventeenth time Council Directive 67/548/EEC(f) on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances; and
- (iii) “liquefied flammable gas” means any substance which at a temperature of 20°C and a pressure of 760 millimetres of mercury would be a flammable gas, but which is in liquid form as a result of the application of pressure, refrigeration or both.”.

9. For regulation 20 (unloading of petrol at petroleum filling stations and certain other premises licensed for the keeping of petrol) of the Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997(g) there shall be substituted the following regulation –

### “Direct filling of fuel tanks with petrol from road tankers

20.—(1) Neither the fuel tank of an internal combustion engine nor a portable container shall be filled or replenished with petrol direct from a road tanker conveying petrol in such circumstances that these Regulations apply to that conveyance.

(2) Except in relation to Her Majesty’s Forces, the enforcing authority for these Regulations and for Articles 4 to 6 and Articles 8 and 9 of the 1978 Order in respect of such filling or replenishing with petrol as is referred to in paragraph (1) at any premises for which a petroleum-spirit licence authorising the keeping of petrol is required under the 1929 Act, shall be the petroleum licensing authority, even if the relevant tanker is on a road at the time of that filling or replenishing.

(3) In this regulation –

- (a) “the 1929 Act” means the Petroleum (Consolidation) Act (Northern Ireland) 1929(h);

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(a) S.R. 1991 No. 509, to which there are amendments not relevant to these Regulations

(b) S.R. 2001 No. 348

(c) S.R. 1991 No. 446

(d) ISBN 071761221 X

(e) O.J. No. L383, 29.12.92, p. 113

(f) O.J. No. 196, 16.8.67, p. 1

(g) S.R. 1997 No. 248 as amended by S.R. 2002 No. 34

(h) 1929 c.13 (N.I.)

- (b) “the Directive” means Commission Directive 92/69 EEC(a) adapting to technical progress for the seventeenth time Council Directive 67/548/EEC(b) on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances; and
- (c) “Her Majesty’s Forces” means any of the naval, military or air forces of the Crown, whether raised inside or outside the United Kingdom and whether any such force is a regular, auxiliary or reserve force, and includes any civilian employed by those forces;
- (d) “petrol” means petroleum-spirit intended for use as a fuel for an internal combustion engine;
- (e) “the petroleum licensing authority” means the district council empowered to grant petroleum-spirit licences under the 1929 Act for the premises concerned;
- (f) “petroleum-spirit” means petroleum which, when tested in accordance with Part A.9. of the Annex to the Directive has a flash point (as defined in that Part) of less than 21°C; and
- (g) “petroleum-spirit licence” means a licence authorising the keeping of petroleum-spirit granted by a district council empowered under the 1929 Act to grant such a licence or by the Secretary of State or by Executive.”.

## SCHEDULE 8

Regulation 16

### PART I

#### REPEAL AND REVOCATION

Column 1 <i>Title</i>	Column 2 <i>Reference</i>	Column 3 <i>Extent of repeal or revocation</i>
The Petroleum (Consolidation) Act (Northern Ireland) 1929	1929 c. 13 (N.I.)	Proviso (ii) to section 2(1), sections 9 and 17 and the word “and” at the end of paragraph (a) in section 24A.
The Celluloid, etc. Factories, and Workshops Regulations 1921	S.R. & O. 1921/1825	The whole Regulations.
The Manufacture of Cinematograph Film Regulations 1928	S.R. & O. 1928/82	The whole Regulations.
Petroleum (Carbide of Calcium) Order (Northern Ireland) 1930	S.R. & O. (N.I.) 1930 No. 20	The whole Order.
Petroleum (Compressed Gases) Order (Northern Ireland) 1936 (S.R. & O. (N.I.) 1936 No. 789)	S.R. & O. (N.I.) 1936 No. 789	The whole Order.
Petroleum (Carbide of Calcium) Order (Northern Ireland) 1949 (S.R. & O. (N.I.) 1949 No. 79)	S.R. & O. (N.I.) 1949 No. 79	The whole Order.

### PART II

#### REPEAL AND REVOCATION

Column 1 <i>Title</i>	Column 2 <i>Reference</i>	Column 3 <i>Extent of repeal or revocation</i>
Factories Act (Northern Ireland) 1965	1965 c. 20 (N.I.)	Section 32
Dry Cleaning Special Regulations (Northern Ireland) 1950	S.R. & O. (N.I.) 1950 No. 117	The whole Regulations.

(a) O.J. No. L383, 29.12.92, p. 113

(b) O.J. No. 196, 16.8.67, p. 1

Column 1 <i>Title</i>	Column 2 <i>Reference</i>	Column 3 <i>Extent of repeal or revocation</i>
Shipbuilding and Ship-repairing Regulations (Northern Ireland) 1971(a)	S.R. & O. (N.I.) 1971 No. 372	Regulations 47 to 51 and 53 to 65
The Highly Flammable Liquids and Liquefied Petroleum Gases Regulations 1972	S.I. 1972/917	The whole Regulations.
Dry Cleaning (Metrication) Regulations (Northern Ireland) 1987	S.R. 1987 No. 33	The whole Regulations.
Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991	S.R. 1991 No. 509	Regulation 29(a).
Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993	S.R. 1993 No. 37	Regulation 6(3)(b).
Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Transportable Pressure Receptacles Regulations (Northern Ireland) 1997	S.R. 1997 No. 247	Regulation 24(b).
Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997	S.R. 1997 No. 248	Schedule 12.

(a) Regulations 47 to 51 and 53 were revoked by S.R. 1999 No. 13, regulation 9(2) and Schedule 2, save insofar as they applied to the matters referred to in regulation 2(a) to (c) of S.R. 1999 No. 13

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

1. These Regulations impose requirements for the purpose of eliminating or reducing risks to safety from fire, explosion or other events arising from the hazardous properties of a “dangerous substance” in connection with work. “Dangerous substance” is defined by regulation 2(1) to mean –

- (a) a substance or preparation which meets the criteria in the Approved classification and labelling guide: Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 (5th Edition) (ISBN 0 7176 2369 6) for classification as a substance or preparation which is explosive, oxidising, extremely flammable, highly flammable or flammable, whether or not that substance or preparation is classified under the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 60);
- (b) a substance or preparation which because of its physico-chemical or chemical properties and the way it is used or is present at the workplace creates a risk, not being a substance or preparation falling within sub-paragraph (a); or
- (c) any dust, whether in the form of solid particles or fibrous materials or otherwise, which can form an explosive mixture with air or an explosive atmosphere, not being a substance or preparation falling within sub-paragraphs (a) or (b).

2. The Regulations implement, as regards Northern Ireland, Council Directive 98/24/EC (O.J. No. L131, 5.9.98, p.11) on the protection of the health and safety of workers from the risks related to chemical agents at work, so far as that Directive relates to safety and Council Directive 99/92/EC (O.J. No. L23, 28.1.00, p. 57) on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres. Both of these Directives are individual Directives within the meaning of Article 16(1) of Council Directive 89/391/EC.

3. The Regulations apply to United Kingdom territorial waters adjacent to Northern Ireland in the same way that sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974 apply outside Great Britain by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (*regulation 12 and Schedule 6*).

4. Regulation 3 contains disapplications in respect of certain provisions of the Regulations. Regulations 3 to 14 and 17(1) to (3) do not apply to the normal ship-board activities of a ship’s crew (*regulation 3(1)*). The duties under the Regulations on an employer in relation to his employees extend to non-employees, with certain savings (*regulation 4(1)*). The duties under the Regulations also extend to self-employed persons (*regulation 4(2)*).

5. An employer is required to carry out a suitable and sufficient assessment of the risks to his employees where a dangerous substance is or may be present at the workplace (*regulation 5*). “Risk” is defined as meaning “the likelihood of a person’s safety being affected by harmful physical effects being caused to him from fire, explosion or other events arising from the hazardous properties of a dangerous substance in connection with work and also the extent of that harm” (*regulation 2(1)*). Under regulation 3 of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 (S.R. 2000 No. 388), an employer is already required to carry out a risk assessment. However, where a dangerous substance is or may be present at the workplace, he will now additionally need to assess the risks in the light of the requirements for the assessment under regulation 5 of these Regulations.

6. Employers are required by these Regulations to eliminate or reduce risk so far as is reasonably practicable. Where risk is not eliminated, employers are required, so far as is reasonably practicable and consistent with the risk assessment, to apply measures to control risks and mitigate any detrimental effects (*regulation 6(3)*).

7. Places at the workplace where explosive atmospheres may occur must be classified as hazardous or non-hazardous and hazardous places must be classified into zones on the basis of the frequency and duration of the occurrence of an explosive atmosphere (*regulation 7(1) and Schedule 2*). Equipment and protective systems in hazardous places must comply with the requirements of Schedule 3 (*regulation 7(2)*) and, where necessary, hazardous places must be marked with signs at their points of entry in accordance with Schedule 4 (*regulation 7(3)*).

8. Employers are required to make arrangements for dealing with accidents, incidents and emergencies (*regulation 8*). Employers will also need to provide employees with precautionary information, instruction and training where a dangerous substance is present at the workplace (*regulation 9*). Containers and pipes used at work for dangerous substances must, where not already marked in accordance with the requirements of the legislation listed in Schedule 5, clearly identify their contents (*regulation 10*).

9. Where two or more employers share a workplace where an explosive atmosphere may occur, the employer responsible for the workplace is to co-ordinate the implementation of the measures required by these Regulations (*regulation 11*).

10. Regulations 13 and 14 allow for exemptions to be made from all or any of the requirements of these Regulations. Amendments are made to legislation which mainly concerns petroleum-spirit (*regulation 15 and Schedule 7*) and repeals and revocations of legislation are also made (*regulation 16 and Schedule 8*). Regulation 17 makes transitional provision.

11. In Great Britain, the corresponding Regulations are the Dangerous Substances and Explosive Atmospheres Regulations 2002 (S.I. 2002/2776). Copies of the Regulatory Impact Assessment relating to those Regulations together with a Northern Ireland Supplement are held at the offices of the Health and Safety Executive for Northern Ireland at 83 Ladas Drive, Belfast BT6 9FR from where copies may be obtained on request.

12. A person who contravenes these Regulations or any requirement or prohibition imposed thereunder, is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction, to a fine not exceeding the statutory maximum (currently £5,000) or, on conviction on indictment, to a fine.

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