
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the land-use planning obligations (articles 13 and 15) in Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances (O.J. 197, 24.7.2012, p.1) (“the Seveso III Directive”). They also revoke and replace the Planning (Hazardous Substances) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 61).

Section 108 of the Planning Act (Northern Ireland) 2011 (the “2011 Act”) provides that the presence on, over or under land, of a hazardous substance equal to or in excess of the controlled quantity (as specified by regulations) requires the consent of the council.

These regulations specify the substances which are hazardous substances for the purposes of the 2011 Act and the controlled quantities of those substances. They also lay down the procedure for applications for consent and the determination of applications.

In addition they make provision for hazardous substances contravention notices, specify matters to be included in such notices and apply certain provisions of the 2011 Act with modifications to appeals against such notices, penalties for non-compliance, works required by and the effect of such notices.

The contents of the regulations are as follows—

Regulation 3 with Schedule 2 specifies the substances which are hazardous substances and the controlled quantities of those substances.

Regulation 4 specifies certain exemptions from the need for hazardous substances consent.

Regulations 5-9 deal with applications for consent, advertisement of notices of such applications, certificates to accompany applications, inspection of applications and representations to be taken into account.

Regulation 10 deals with persons who are to be treated as in actual possession of land.

Regulations 11-13 deal with consultations in respect of application for consent, determination of such application and notification of decisions.

Regulation 14 deals with applications to the Department for hazardous substances consent to execute works without compliance with conditions previously attached.

Regulation 15 deals with the notice to be served on the applicant where the council considers that section 114 of the 2011 Act (call in of certain applications for hazardous substances consent to the Department) applies.

Regulations 16 deals with applications by councils for hazardous substances consent.

Regulations 17-19 deal with obligations to take certain matters in the Seveso III Directive into account in land-use planning policies and other relevant policies, and public consultation and participation obligations in relation to certain plans, programmes and projects where the presence of hazardous substances is relevant.

Regulations 20-22 deal with enforcement of the hazardous substances provisions, i.e., hazardous substances contravention notices and apply, with modifications, certain provisions of the 2011 Act to appeals against, and to the effect of, such notices.

Regulation 23 sets out how electronic communications should be dealt with.

Regulations 24 -28 deal with revocations, amendments, savings and transitional provisions.

Schedule 1 prescribes the form and certificates required in connection with applications.

Schedule 2 lists the substances which are to be regarded as hazardous substances for the purposes of the 2011 Act and the quantities of those substances which are to be the controlled quantities.

Schedule 3 Parts 1 and 2 list provisions of the 2011 Act and modifications of those provisions which are applied for the purposes of hazardous substances control. Part 3 sets out those provisions as modified. Under section 147 of the 2011 Act (as applied and modified) where

Changes to legislation: There are currently no known outstanding effects for the *The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015*. (See end of Document for details)

a person is in breach of a hazardous substances contravention notice he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100,000, or on conviction on indictment to a fine.

A regulatory impact assessment has been prepared in relation to these Regulations. A copy may be obtained from the Department of the Environment, Causeway Exchange, 1-7 Bedford Street, Town Parks, Belfast, BT2 7EG or accessed at www.doeni.gov.uk.

The Explanatory Memorandum, which includes a transposition note indicating the parts of these Regulations which implement obligations in the Seveso III Directive, is available alongside the Regulations on the government's website www.legislation.gov.uk

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There are currently no known outstanding effects for the The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015.