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STATUTORY INSTRUMENTS

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**1999 No. 981**

**The Planning (Control of Major-Accident Hazards) Regulations 1999**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Planning (Control of Major-Accident Hazards) Regulations 1999 and shall come into force on 20th April 1999.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Planning (Hazardous Substances) Act 1990 and references to sections are to sections of that Act;

“the Order” means the Town and Country Planning (General Development Procedure) Order 1995<sup>(1)</sup>.

**Amendment of the Act**

2.—(1) The Act shall be amended as follows.

(2) In section 4 (requirement of hazardous substances consent)—

(a) after subsection (2)(a) insert—

“(aa) on, over or under other land which is controlled by the same person and which, in all the circumstances (including in particular the purposes for which the land and the land mentioned in paragraph (a) is used) forms with the land so mentioned a single establishment.”;

(b) in subsection (2)(b) for the word “it” substitute “the land mentioned in paragraph (a)”;

(c) in subsection (2)(c) for the word “it” substitute “the land mentioned in paragraph (a)”;

(d) after subsection (2) insert—

“(2A) A quantity of a substance which falls within more than one paragraph of subsection (2) shall only be counted once.”;

(e) for subsection (3) substitute—

“(3) The temporary presence of a hazardous substance while it is being transported from one place to another is not to be taken into account unless—

(a) it is unloaded; or

(b) it is present on, over or under land in respect of which there is a hazardous substances consent for any substance, or in respect of which (not taking into account the quantity of the substance being transported) there is required to be such a consent for any substance.”.

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(1) S.I.1995/419; relevant amending instruments are S.I. 1996/1817 and S.I. 1997/858.

### **Amendment of the Planning (Hazardous Substances) Regulations 1992**

**3.—**(1) The Planning (Hazardous Substances) Regulations 1992(2) shall be amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1), after the definition of “buried or mounded vessel”, insert—

““the Directive” means Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances(3);”;

(b) in paragraph (4) for the words “Part D of that Schedule” substitute—

“the notes to that Schedule.”.

(3) In regulation 3 (hazardous substances and controlled quantities)—

(a) for paragraph (1) substitute—

“**3.—**(1) Substances, mixtures or preparations—

(a) specified in column 1 of Part A;

(b) falling within a category in column 1 of Part B; or

(c) meeting the description in column 1 of Part C,

of Schedule 1 and present as raw materials, products, by-products, residues or intermediates are hazardous substances for the purposes of the Act.”

(b) paragraph (2) shall be omitted.

(4) For regulation 4 (exemptions) substitute—

“**4.—**(1) Hazardous substances consent is not required for the temporary presence of a hazardous substance during the period between its being unloaded from one means of transport and loaded onto another while it is being transported from one place to another unless it is present on, over or under land in respect of which there is a hazardous substances consent for any substance, or in respect of which (not taking into account the quantity of the substance being transported) there is required to be such a consent for any substance.

(2) Hazardous substances consent is not required for the presence of a hazardous substance contained in an exempt pipe-line or a service pipe.

(3) Hazardous substances consent is not required for the presence of a hazardous substance which has been unloaded from a ship or other sea going craft in an emergency until the expiry of the period of 14 days beginning with the day on which it was so unloaded; and for the purpose of this paragraph a substance shall be treated as having been unloaded from a craft in an emergency if—

(a) it was unloaded from a craft to which a direction under section 3(1) of the Dangerous Vessels Act 1985(4) (directions by Secretary of State to harbour master) applied; or

(b) it was unloaded from a craft after having been brought into a harbour or harbour area, within the meaning of regulation 2 of the Dangerous Substances in Harbour Areas Regulations 1987(5), without requiring notification under paragraph (1) of regulation 6 of those regulations by virtue of an exemption under paragraph (5) of that regulation.

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(2) S.I. 1992/656; relevant amendments are made by the Environment Act 1995 (c. 25), Schedule 22, paragraph 233, S.I. 1994/2567 and S.I. 1996/252.

(3) O.J. L10, 14.1.1997, p. 13.

(4) 1985 c. 22.

(5) S.I. 1987/37; amendments to regulation 2 are made by S.I. 1990/2605, S.I. 1992/743 and S.I. 1996/2092.

(4) Hazardous substances consent is not required for the presence of a hazardous substance on, over or under land at a waste land-fill site.

(5) Hazardous substances consent is not required for the presence of a hazardous substance which creates a hazard from ionising radiation if present on, over or under land in respect of which a nuclear site licence has been granted or is required for the purposes of section 1 of the Nuclear Installations Act 1965<sup>(6)</sup>.

(6) The presence of a quantity of a hazardous substance (other than that of a substance numbered 6, 14, 35 and 39 in column 1 of Part A of Schedule 1)–

- (a) in a location where it cannot act as an initiator of a major accident elsewhere on the relevant site; and
- (b) which is equal to or less than two per cent. of the relevant controlled quantity for that substance,

shall not be taken into account when calculating the quantity of a hazardous substance present, on, over or under land for any purpose of the Act or these Regulations.

(7) The presence of a substance to which paragraphs (1) to (5) apply shall not be taken into account when calculating the quantity of a hazardous substance present on, over or under land for any purpose of the Act or these Regulations.

(8) In this regulation–

- (a) “exempt pipe-line” means a pipe-line used to convey a hazardous substance to or from a site, but does not include–
  - (i) that part of the pipe-line on, over, or under a site to which it has an outlet or inlet;
  - (ii) a service pipe;
- (b) “service pipe” means a pipe-line used by a public gas transporter (within the meaning of section 7(1) of the Gas Act 1986<sup>(7)</sup>) to convey gas to an individual consumer from a main of that transporter;
- (c) “major accident” means an occurrence (including in particular, a major emission, fire or explosion) resulting from uncontrolled developments in the course of any operation carried out on, over or under land in respect of which there is or is required to be a hazardous substances consent and leading to serious danger to human health or the environment, immediate or delayed, and involving one or more hazardous substances;
- (d) the expressions “initiator”, “major emission, fire or explosion”, “resulting from uncontrolled developments”, “leading to serious danger to human health or the environment, immediate or delayed”, “waste land-fill site” and “ionising radiation” have the same meaning as in the Directive.”.

(5) In regulation 10 (consultation before the grant of hazardous substances consent)–

- (a) in paragraph (1)(l) for the words “, in England, the Nature Conservancy Council” substitute–

“or where it appears to the hazardous substances authority dealing with the application that an area of particular natural sensitivity or interest may be affected, in England, the Nature Conservancy Council for England”;

- (b) After paragraph (3) add–

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<sup>(6)</sup> 1965 c. 57; section 1 was amended by S.I. 1974/2056 and S.I. 1990/1918.

<sup>(7)</sup> 1986 c. 44; section 7(1) was substituted by the Gas Act 1995 (c. 45), section 5.

“(4) In paragraph (1)(l) “area of particular natural sensitivity or interest” has the same meaning as in the Directive.

(5) Where a hazardous substances authority is required to consult a body under paragraph—

(a) (1)(a) or (1)(e); or

(b) (1)(l), where it appears to the authority that an area of particular natural sensitivity or interest may be affected,

the exception in paragraph (1) shall not apply.”.

(6) In regulation 16 (interpretation of deemed consent provisions)—

(a) for each reference to “Table C” substitute “Table B”;

(b) in paragraph (2) for the words “71 in column 1 of Schedule 1” substitute—

“32 in column 1 of Part A of Schedule 1”.

(7) For Schedule 1 (Hazardous Substances and Controlled Quantities), substitute the new Schedule 1 set out in Schedule 1 to these Regulations.

(8) In Schedule 2 (Prescribed Forms, Notices and Certificates) for forms 1 (general application for hazardous substances consent), 2 (application for hazardous substances consent without a condition imposed on a previous consent) and (application for continuation of hazardous substances consent following a change in control of part of the land) and 8 (claim for deemed consent) substitute the new forms 1, 2 and 8 set out in Schedule 2 to these Regulations.

(9) In Schedule 3 (Deemed Consent Conditions)—

(a) for each reference to “Table C” substitute “Table B”;

(b) in paragraph 7(2) omit the word “twice”.

### **Transitional provisions**

4.—(1) For the purposes of the transition to the amendments made by regulations 2 and 3, sections 11 (deemed hazardous substances consent: established presence) and 26 (transitional exemptions) shall apply with the following modifications.

(2) In section 11—

(a) in subsection (1), after the words “establishment period” insert—

“for which hazardous substances consent was not required during that period.”;

(b) in subsection (3), for the words “(4) to” substitute “(5) and”;

(c) subsection (4) shall be omitted;

(d) at the beginning of subsection (5) omit, “If at the relevant date such notification was not so required, hazardous” and insert “Hazardous”;

(e) in subsection (7)(a)—

(i) for sub-paragraphs (ii) and (iii) substitute—

“(ii) on, over or under other land which is controlled by the same person and which, in all the circumstances (including in particular the purposes for which the land and the land mentioned in sub-paragraph (i) is used) forms with the land so mentioned a single establishment;

(iii) on, over or under other land which is within 500 metres of the land mentioned in sub-paragraph (i) and controlled by the same person; or

(iv) in or on a structure controlled by the same person any part of which is within 500 metres of the land mentioned in sub-paragraph (i),”

- (ii) at the end of the subsection, add—
  - “and in calculating whether the established quantity is exceeded, a quantity of a substance which falls within more than one sub-paragraph of this paragraph shall only be counted once;”;
- (f) for subsection (8) substitute—
  - “(8) In this section—
    - “establishment period” means the period of 12 months immediately preceding the relevant date;
    - “established quantity” means in relation to any land, the maximum quantity which was present on, over or under the land at any one time within the establishment period;
    - “the relevant date” means the date on which the Planning (Control of Major-Accident Hazards) Regulations 1999 came into force;
    - “the transitional period” means the period of 6 months beginning with the relevant date.”.
- (3) In section 26(8)—
  - (a) in subsection (1), for paragraphs (a) to (c) substitute—
    - “(a) the substance was present on, over or under the land at any time within the establishment period and was not a substance or quantity of substance for which hazardous substances consent was required before the relevant date; and
    - (b) the substance has not been present during the transitional period in a quantity greater in aggregate than the established quantity.”.
  - (b) subsection (2) shall be omitted.

### **Amendment of the Town and Country Planning (Development Plan) Regulations 1991**

**5.—(1)** The Town and Country Planning (Development Plan) Regulations 1991(9) shall be amended as follows.

- (2) In regulation 2 (interpretation)—
  - (a) in paragraph (1), after the definition of “by local advertisement” insert—
    - ““the Directive” means Council Directive [96/82/EC](#) on the control of major-accident hazards involving dangerous substances;”;
  - (b) after paragraph (3) add—
    - “(4) the expressions used in regulation 9(1)(e) and (f) have the same meaning as in the Directive.”.
- (3) In regulation 9(1) (regard to be had to certain matters and statement of regard)—
  - (a) at the end of paragraph (c) delete “and”;
  - (b) after paragraph (d)(10) add—
    - “and;
    - (e) the objectives of preventing major accidents and limiting the consequences of such accidents; and
    - (f) the need;

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(8) Section 26 was amended by the Planning and Compensation Act 1991 (c. 34), section 25 and Schedule 3, Part I, Paragraph 14.

(9) S.I. 1991/2794, amended by S.I. 1997/531.

(10) Paragraph (1)(d) was added by S.I. 1997/531.

- (i) in the long term, to maintain appropriate distances between establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest; and
- (ii) in the case of existing establishments, for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.”.

### **Amendment of the Town and Country Planning (General Development Procedure) Order 1995**

6.—(1) The Order shall be amended as follows.

(2) In article 10 (consultations before the grant of permission)—

(a) after paragraph (1)(iii) add—

“(1A) The exception in article 10(1)(iii) shall not apply where, in the opinion of the local planning authority, development falls within paragraph (zb) of the table below.”.

(b) after paragraph (za)(11) of the table add—

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“(zb) Development—	The Health and Safety Executive and the Environment Agency, and, where it appears to the local planning authority that an area of particular natural sensitivity or interest may be affected, in England, the Nature Conservancy Council for England, or in Wales, the Countryside Council for Wales.”.
(i) involving the siting of new establishments; or	
(ii) consisting of modifications to existing establishments which could have significant repercussions on major-accident hazards; or	
(iii) including transport links, locations frequented by the public and residential areas in the vicinity of existing establishments, where the siting or development is such as to increase the risk or consequences of a major accident.	

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(3) In Article 10(2) of the Order—

(a) at the end of paragraph (k), delete “and”;

(b) after paragraph (l)(12) add—

“; and

(m) the expressions used in paragraph (zb), have the same meaning as in Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances.”.

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(11) Paragraphs (z) and (za) were added by S.I. 1996/1817 and S.I. 1997/858 respectively.

(12) Paragraph (l) was added by S.I. 1996/1817.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

23rd March 1999

*Richard Caborn*  
Minister of State,  
Department of the Environment, Transport and  
the Regions

Signed by authority of the Secretary of State for Wales

24th March 1999

*Jon Owen Jones*  
Parliamentary Under-Secretary of State, Welsh  
Office