2000 No. 179

EUROPEAN COMMUNITIES

TOWN AND COUNTRY PLANNING

The Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000

Made	*13th June 2000*
Laid before the Scottish Parliament	*15th June 2000*
Coming into force	*6th July 2000*

The Scottish Ministers, in exercise of the powers conferred upon them by section 2(2) of the European Communities Act 1972(**a**) in relation to the prevention and limitation of the effects of accidents involving dangerous substances, by that section and by sections 3, 5(1), 15(2), 30(2) and 39(1) of the Planning (Hazardous Substances) (Scotland) Act 1997(**b**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000 and shall come into force on 6th July 2000.

(2) In these Regulations, unless the context otherwise requires "the Act" means the Planning (Hazardous Substances) (Scotland) Act 1997 and references to sections are to sections of that Act.

(3) These Regulations extend to Scotland only.

Amendment of the Act

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

(2) In section 2 (requirement of hazardous substances consent)–

(a) after subsection (2)(a) insert–

"(aa) on, over or under other land 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."; and

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(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) 1997 c.10; section 38(2) attracts the definition of "prescribed" from section 277(1) of the Town and Country Planning (Scotland) Act 1997 (c.8). The functions of the Secretary of State under these sections were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(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.".

Transitional provisions

3.—(1) For the purposes of the transition to the provisions of these Regulations, the Act shall be amended as follows.

(2) In section 4(1)(b) (hazardous substances consent: general), for "or 10" substitute ", 10 or 10A".

(3) After section 10, insert–

Deemed hazardous substances consent: established presence

"10A.—(1) Where a hazardous substance was present on, over or under any land at any time within the establishment period, for which hazardous substances consent was not required during that period, hazardous substances consent may be claimed in respect of its presence.

(2) A claim shall be made on Form 12 (as set out in Schedule 2 to the Regulations) before the end of the transitional period and shall contain the information specified in regulation 15 of the Regulations.

(3) Subject to subsections (4) and (5), the planning authority shall be deemed to have granted any hazardous substances consent which is claimed under subsection (1).

(4) Hazardous substances consent is only to be deemed to be granted under this section if an aggregate quantity of the substance not less than the controlled quantity was present at any one time within the establishment period.

(5) If it appears to the planning authority that a claim for hazardous substances consent does not comply with subsection (2), it shall be their duty, before the end of the period of two weeks from their receipt of the claim–

(a) to notify the claimant that in their opinion the claim is invalid; and

(b) to give their reasons for that opinion.

(6) Hazardous substances consent which is deemed to be granted under this section is subject–

(a) to the condition that the maximum aggregate quantity of the substance that may be present–

(i) on, over or under the land to which the claim for the consent relates;

(ii) on, over or under other land 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),

at any one time shall not exceed the established quantity and in calculating the established quantity a quantity of a substance which is present under more than one sub-paragraph in this subsection shall be counted only once; and

(b) to the conditions set out in Schedule 3 to the Regulations.

(7) In this section and in section 10B–

"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 Regulations" means the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993(**a**);

"the relevant date" means the date on which the Planning (Control of Major - Accident Hazards) (Scotland) Regulations 2000 came into force;

"the transitional period" means the period of 6 months beginning with the relevant date.

Transitional exemptions

10B.—(1) No offence is committed under section 21, and no hazardous substances contravention notice may be issued in relation to a hazardous substance which is on, over or under any land, if–

(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.

(2) This section shall have effect until the end of the transitional period.".

(4) In section 27(1)(c) (registers etc.), for "or 10" substitute ", 10 or 10A".

Amendment of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993

4.—(1) The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 shall be amended as follows.

(2) In regulation 2 (interpretation)–

(a) in paragraph (1)–

(i) after the definition of "controlled quantity", insert–

""the Directive" means Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances(**b**);"; and

(ii) in the definitions of "established quantity" and "establishment period", for "38(10) of the 1986 Act" substitute "10A(7) of the Planning (Hazardous Substances) (Scotland) Act 1997";

(b) in paragraph (6) 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–

"(1) Substances, mixtures or preparations–

(a) specified in column 1 of Part A; or

(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 it 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.

(a) S.I. 1993/323, amended by S.I. 1994/2567 and 1996/252.
(b) O.J. L10, 14.1.1997, p.13.

(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(**a**) (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(**b**), without requiring notification under paragraph (1) of regulation 6 of those Regulations by virtue of an exemption under paragraph (5) of that regulation.

(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(**c**).

(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(**d**)) 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" shall have the same meaning as in the Directive.".

(5) In regulation 11 (consultation before the grant of hazardous substances consent)–

(a) in paragraph (1)(a) for "Regional or District council" substitute "local and civil defence authority" and for "council" substitute "authority";

(b) in paragraph (1)(e) omit the words "and civil defence";

(c) in paragraph (1)(f) for "river purification authority for the area concerned" substitute "Scottish Environment Protection Agency";

(d) for paragraph (1)(k)(i) substitute "the area of an adjacent local and civil defence authority, that authority";

(e) for paragraph (1)(k)(ii) substitute "the area of an adjacent fire authority, that authority";

(a) 1985 c.22.
(b) S.I. 1987/37; amendments to regulation 2 are made by S.I. 1990/2605, S.I. 1992/743 and S.I. 1996/2092.
(c) 1965 c.57, section 1 was amended by S.I. 1974/2056 and S.I. 1990/1918.
(d) 1986 c.44; section 7(1) was substituted by the Gas Act 1995 (c.45), section 5.

(f) in paragraph 3 the definition of "river purification authority" shall be omitted;

(g) after paragraph 3 add–

"(4) The exception in paragraph (1) shall not apply in respect of consultation with the bodies referred to in sub-paragraphs (a), (c) and (f) of that paragraph.".

(6) In regulation 15(1) (claim for deemed consent), for "38 of the 1986 Act" substitute "10A of the Planning (Hazardous Substances) (Scotland) Act 1997".

(7) In regulation 16 (conditions on deemed consent), for the words from "prescribed" to the end substitute "conditions referred to in section 10A(6)(b) of the Planning (Hazardous Substances) (Scotland) Act 1997".

(8) In regulation 17 (interpretation of deemed consent provisions)–

(a) for references to "Table C" substitute "Table B"; and

(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".

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

(10) In Schedule 2 (Prescribed Forms, Notices and Certificates) for forms 1 (application for hazardous substances consent), 2 (application for hazardous substances consent without a condition imposed on a previous consent and continuation of hazardous substances consent following a change of control of part of the land) and 12 (claim for deemed consent), substitute the new forms 1, 2 and 12 set out in Schedule 2 to these Regulations.

(11) In Schedule 3 (Deemed Consent Conditions)–

(a) for references to "Table C" substitute "Table B"; and

(b) in paragraph 7(2) after the words "not exceed" omit the word "twice".

Amendment of the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983

5.—(1) The Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983(**a**) shall be amended as follows.

(2) In regulation 2 (interpretation), after paragraph (2) add–

"(3) In regulations 7(3) and 25(3)–

(a) "the Directive" means Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances; and

(b) expressions which are also used in the Directive shall have the same meaning as in the Directive.".

(3) In regulation 7 (matters to be contained in a structure plan), after paragraph (2) add–

"(3) In preparing a structure plan, a planning authority shall, in addition to any other matters which they are required to have regard to, have regard to–

(a) the objectives of preventing major accidents and limiting the consequences of such accidents; and

(b) the need–

(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.".

(4) In regulation 25 (matters to be contained in a local plan), after paragraph (2) add–

"(3) In preparing a local plan, a planning authority shall, in addition to any other matters which they are required to have regard to, have regard to–

(a) the objectives of preventing major accidents and limiting the consequences of such accidents; and

(a) S.I. 1983/1590, to which there are amendments not relevant to these Regulations.

(b) the need–

(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) (Scotland) Order 1992

6.—(1) The Town and Country Planning (General Development Procedure) (Scotland) Order 1992(**a**) shall be amended as follows.

(2) In article 15 (consultations before grant of planning permission), after paragraph (1)(o) insert–

"(p) Scottish Natural Heritage, the Health and Safety Executive and SEPA where the development–

(i) involves the siting of new establishments;

(ii) consists of modifications to existing establishments which could have significant repercussions on major accident hazards; or

(iii) includes 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.".

(3) After article 15(1), insert–

"(1A) Expressions which are used in sub-paragraph (p) of paragraph (1) and in Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances shall, in that sub-paragraph, have the same meaning as in that Directive.".

(4) In article 15(4), after "article" insert "(except under paragraph (1)(p))".

SARAH BOYACK
A member of the Scottish Executive

St Andrew's House,
Edinburgh
13th June 2000

(a) S.I. 1992/224; relevant amending instruments are S.I. 1994/2585 and 3293, 1996/467 and 1997/749.

Regulation 3(a) and 4(9)

"SCHEDULE 1

NEW SCHEDULE 1 TO THE TOWN AND COUNTRY PLANNING

(HAZARDOUS SUBSTANCES) (SCOTLAND)

REGULATIONS 1993

HAZARDOUS SUBSTANCES AND CONTROLLED QUANTITIES

PART A

NAMED SUBSTANCES

Column 1	*Column 2*	*Column 3*
Hazardous substances	Controlled quantity (Q) in tonnes	Quantity (Q*) in tonnes for purposes of note 4 to Notes to Parts A and B
1. Ammonium nitrate to which Note 1 of the notes to Part A applies	350.00	-
2. Ammonium nitrate to which Note 2 of the notes to Part A applies	1000.00	1250.00
3. Arsenic pentoxide, arsenic (V) acid and/or salts	1.00	-
4. Arsenic trioxide, arsenious (III) acid and/or salts	0.10	-
5. Bromine	20.00	-
6. Chlorine	10.00	-
7. Nickel compounds in inhalable powder form (nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)	1.00	-
8. Ethyleneimine	10.00	-
9. Fluorine	10.00	-
10. Formaldelyde (concentration ≧ 90%)	5.00	-
11. Hydrogen	2.00	5.00
12. Hydrogen chloride (liquefied gas)	25.00	-
13. Lead alkyls	5.00	-
14. Liquefied petroleum gas, including commercial propane and commercial butane, and any mixture thereof, when held at a pressure greater than 1.4 bar absolute	25.00	50.00
15. Liquefied extremely flammable gases excluding pressurised LPG (entry no.14)	50.00	-
16. Natural gas	15.00	50.00
17. Acetylene	5.00	-
18. Ethylene oxide	5.00	-
19. Propylene oxide	5.00	-
20. Methanol	500.00	-
21. 4,4-Methylenebis (2-chloraniline) and/or salts, in powder form	0.01	-
22. Methylisocyanate	0.15	-
23. Oxygen	200.00	-
24. Toluene diisocyanate	10.00	-
25. Carbonyl dichloride (phosgene)	0.30	-
26. Arsenic trihydride (arsine)	0.20	-
27. Phosphorus trihydride (phosphine)	0.20	-
28. Sulphur dichloride	1.00	-
29. Sulphur trioxide (including sulphur trioxide dissolved in sulphuric acid to form Oleum)	15.00	-

Column 1	*Column 2*	*Column 3*
30. Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent (see note 3 to Notes to Part A)	0.001	-
31. The following carcinogens:- 4-Aminobiphenyl and/or its salts; Benzidine and/or salts; Bis(chloromethyl)ether; Chloromethyl methyl ether; Dimethylcarbamoyl chloride; Dimethylnitrosomine; Hexamethylphosphoric triamide; 2-Napthylamine and/or salts; 1,3-Propanesultone; 4-Nitrodiphenyl	0.001	-
32. Automative petrol and other petroleum spirits	5000.00	-
33. Acrylonitrile	20.00	50.00
34. Carbon disulphide	20.00	50.00
35. Hydrogen selenide	1.00	50.00
36. Nickel tetracarbonyl	1.00	5.00
37. Oxygen difluoride	1.00	5.00
38. Pentaborane	1.00	5.00
39. Selenium hexafluoride	1.00	50.00
40. Stibine (Antimony hydride)	1.00	5.00
41. Sulphur dioxide	20.00	50.00
42. Tellurium hexafluoride	1.00	5.00
43. 2,2-Bis(tert-butylperoxy) butane (>70%)	5.00	50.00
44. 1,1-Bis(tert-butylperoxy) cycohexane (>80%)	5.00	50.00
45. tert-Butyl peroxyacetate (>70%)	5.00	50.00
46. tert-Butyl peroxyisobutyrate (>80%)	5.00	50.00
47. tert-Butyl peroxyispropylcarbonate (>80%)	5.00	50.00
48. tert-Butyl peroxymaleate (>80%)	5.00	50.00
49. tert-Butyl peroxypivalate (>77%)	5.00	50.00
50. Cellulose Nitrate other than— (1) cellulose nitrate to which the Explosives Act 1875(**a**) applies; or (2) cellulose nitrate where the nitrogen content of the cellulose nitrate does not exceed 12.3% by weight and contains not more than 55 parts of cellulose nitrate per 100 parts by weight of solution	50	-
51. Dibenzyl peroxydicarbonate (>90%)	5.00	50.00
52. Diethyl peroxydicarbonate (>30%)	5.00	50.00
53. 2,2-Dihydroperoxypropane (>30%)	5.00	50.00
54. Di-isobutyryl peroxide (>50%)	5.00	50.00
55. Di-n-propyl peroxydicarbonate (>80%)	5.00	50.00
56. Di-sec-butyl peroxydicarbonate (>80%)	5.00	50.00
57. 3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxacyclononane (>75%)	5.00	50.00
58. Methyl ethyl ketone peroxide (>60%)	5.00	50.00
59. Methyl isobutyl ketone peroxide (>60%)	5.00	50.00
60. Peracetic acid (>60%)	5.00	50.00
61. Sodium chlorate	25.00	50.00
62. Gas or any mixture of gases (not covered by entry 16) which is flammable in air, when held as a gas	15.00	-
63. A substance or any mixture of substances which is flammable in air when held above its boiling point (measured at 1 bar absolute) as a liquid or as a mixture of liquid and gas at a pressure of more than 1.4 bar absolute (see Note 4 to Notes to Part A)	25.00	-

(**a**) 37 and 38 Vict c.17.

NOTES TO PART A

1. Ammonium Nitrate

This applies to ammonium nitrate and ammonium nitrate compounds in which the nitrogen content as a result of the ammonium nitrate is more than 28 per cent. by weight (compounds other than those referred to in Note 2) and to aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 90 per cent. by weight.

2. Ammonium Nitrate

This applies to simple ammonium-nitrate based fertilisers which conform with the requirements of the Fertilisers Regulations 1991(**a**) and to composite fertilisers in which the nitrogen content as a result of the ammonium nitrate is more than 28 per cent. in weight (a composite fertiliser contains ammonium nitrate with phosphate or potash or phosphate and potash).

3. Polychlorodibenzofurans and polychlorodibenzodioxins

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

International Toxic Equivalent Factors (ITEF) for the congeners of concern *(NATO/CCMS*(b))			
2,3,7,8-TCDD	1	2,3,7,8-TCDF	0.1
1,2,3,7,8-PeDD	0.5	2,3,4,7,8-PeCDF	0.5
		1,2,3,7,8-PeCDF	0.05
1,2,3,4,7,8-HxCDD 1,2,3,6,7,8-HxCDD 1,2,3,7,8,9-HxCDD	0.1		
		1,2,3,4,7,8-HxCDF 1,2,3,7,8,9-HxCDF 1,2,3,6,7,8-HxCDF 2,3,4,6,7,8-HxCDF	0.1
1,2,3,4,6,7,8-HpCDD	0.01		
OCDD	0.001	1,2,3,4,6,7,8-HpCDF 1,2,3,4,7,8,9-HpCDF	0.01
		OCDF	0.001

T=Tetra; P = Penta; Hx = Hexa; Hp = Hepta; 0 = Octa

4. Entry Number 63

The controlled quantity of 25 tonnes in column 2 of entry 63 refers in the case of a mixture of substances to the quantity of substances within that mixture held above their boiling point (measured at 1 bar absolute).

(a) S.I. 1991/2197, as amended by S.I. 1995/16.
(**b**) North Atlantic Treaty Organisation Committee for the Challenges of Modern Society.

PART B: CATEGORIES OF SUBSTANCES AND PREPARATIONS NOT SPECIFICALLY NAMED IN PART A

Column 1 *Categories of hazardous substances*	*Column 2* *Controlled quantity (Q) in tonnes*
1. VERY TOXIC	5.00
2. TOXIC	50.00
3. OXIDISING	50.00
4. EXPLOSIVE (where the substance or preparation falls within the definition given in Note 2(a) to the Notes to Part B excluding those at a factory or magazine subject to assent procedures under section 7 of the Explosives Act 1875 or those licensed under the Dangerous Substances in Harbour Areas Regulations 1987(**a**))	50.00
5. EXPLOSIVE (where the substance or preparation falls within the definition given in Note 2(b) to the Notes to Part B excluding those at a factory or magazine subject to assent procedures under section 7 of the Explosives Act 1875 or those licensed under the Dangerous Substances in Harbour Areas Regulations 1987)	10.00
6. FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(a) to the Notes to Part B)	5000.00
7. HIGHLY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(b)(i) to the Notes to Part B)	50.00
8. HIGHLY FLAMMABLE liquids (where the substance or preparation falls within the definition given in Note 3(b)(ii) to Notes to Part B)	5000.00
9. EXTREMELY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(b)(ii) to the Notes to Part B)	10.00
10. DANGEROUS FOR THE ENVIRONMENT in combination with risk phrases	
(i) R50: "very toxic to aquatic organisms"	200.00
(ii) R51: "toxic to aquatic organisms"; and R53: "may cause long term adverse effects in the aquatic environment".	500.00
11. ANY CLASSIFICATION not covered by those given above in combination with risk phrases:	
(i) R14: "reacts violently with water" (including R14/R15)	100.00
(ii) R29: "in contact with water, liberates toxic gas"	50.00

NOTES TO PART B

1. Substances and preparations shall be classified for the purpose of this Schedule according to regulation 5 of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994(**b**) ("CHIP") whether or not the substance or preparation is required to be classified for the purposes of those Regulations, or, in the case of a pesticide approved under the Food and Environment Protection Act 1985(**c**), in accordance with the classification assigned to it by that approval.

2. An "explosive" means:

(a) (i) a substance or preparation which creates the risk of an explosion by shock, friction, fire or other sources of ignition (risk phrase (**d**) R2);

(ii) a pyrotechnic substance is a substance (or mixture of substances) designed to produce heat, light, sound, gas or smoke or a combination of such effects through non-detonating self-sustained exothermic chemical reactions; or

(iii) an explosive or pyrotechnic substance or preparation contained in objects;

(b) a substance or preparation which creates extreme risks of explosion by shock, friction, fire or other sources of ignition (risk phrase R3).

(**a**) S.I. 1987/37.
(**b**) S.I. 1994/3247; relevant amendments are made by S.I. 1997/1460.
(**c**) 1985 c.48; relevant amendments are made by the Pesticides (Fees and Enforcement) Act 1989 (c.27), section 1, and the Pesticides Act 1998 (c.26), section 1(2) to (4).
(**d**) "Risk phrase" is defined in regulation 2 of S.I. 1994/3427

3. "Flammable", "highly flammable", and "extremely flammable" in categories 6, 7, 8 and 9 mean:

(a) flammable liquids:-
substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C (risk phrase R10), supporting combustion;

(b) highly flammable liquids:–

(i) substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any input of energy (risk phrase R17),
substances which have a flash point lower than 55°C and which remain liquid under pressure, where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards; and

(ii) substances and preparations having a flash point lower than 21°C and which are not extremely flammable (risk phrase R11, second indent);

(c) extremely flammable gases and liquids:–

(i) liquid substances and preparations which have a flash point lower than 0°C and the boiling point (or, in the case of a boiling range, the initial boiling point) of which at normal pressure is less than or equal to 35°C (risk phrase R12, first indent);

(ii) gaseous substances and preparations which are flammable in contact with air at ambient temperature and pressure (risk phrase R12, second indent), whether or not kept in the gaseous or liquid state under pressure, excluding liquefied extremely flammable gases (including liquefied petroleum gas) and natural gas referred to in Part A; and

(iii) flammable liquid substances and preparations maintained at a temperature above their boiling point.

NOTES TO PARTS A AND B

1. Mixtures and preparations shall be treated in the same way as pure substances provided they remain within the concentration limits set according to their properties under the relevant provisions specified in CHIP, unless a percentage composition or other description is specifically given.

2. In the case of substances and preparations with properties giving rise to more than one classification the lowest thresholds shall apply.

3. Where a substance or group of substances listed in Part A also falls within a category of Part B, the controlled quantities set out in Part A must be used.

4. The addition of hazardous substances to determine the quantity present shall be carried out according to the following rule:
if the sum

$$q_1/Q + q_2/Q + q_3/Q + q_4/Q + q_5/Q \ldots > 1$$

(where q_x = the quantity of hazardous substance x (or category of substance) present and

Q = the relevant controlled quantity (Q) from Part A or Part B, except for those substances for which column 3 of Part A contains a quantity Q* in which case the value Q* shall be used in place of the controlled quantity Q in column 2 for the purpose of applying this rule)

then the controlled quantity of each of the substances which are added together in accordance with each of paragraphs 5(a) to (c) below shall be deemed to be present for the purposes of sections 2(2), 12(2)(c), 21(2)(a) and of section 10A(4) (as applied by the Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000) of the Act and of section 138 (enforcement notice to have effect against subsequent development) of the Town and Country Planning (Scotland) Act 1997 as substituted by paragraph 2 of Schedule 4.

5. The addition rule in paragraph 4 will apply for the following circumstances:–

(a) for substances and preparations appearing in Part A at quantities less than their individual controlled quantity present with substances having the same classification from Part B, and the addition of substances and preparations with the same classification from Part B;

(b) for the addition of categories 1, 2 and 10 from Part B present together; and

(c) for the addition of categories 3, 4, 5, 6, 7, 8 and 9 from Part B present together.

PART C

SUBSTANCES USED IN AN INDUSTRIAL CHEMICAL PROCESS

Column 1 *Hazardous substances*	*Column 2* *Controlled quantities*
Where it is believed that a substance, which is within Part A or Part B, may be generated during loss of control of an industrial chemical process ("HS"), any substance which is used in that process ("S").	The amount of S which it is believed may generate, on its own or in combination with other substances used in the relevant industrial chemical process, the controlled quantity of the HS in question.

NOTES TO PART C

1. The expression "which it is believed may be generated during loss of control of an industrial chemical process" shall have the same meaning as in the Directive.

2. Where a substance falling within Part A or B also falls within Part C, the classification with the lowest controlled quantity shall apply, subject to note 3 to the notes to Part A and B.".

Regulation 4(10)

SCHEDULE 2

PRESCRIBED FORMS

FORM 1

The Planning (Hazardous Substances) (Scotland) Act 1997 - section 5(1)

The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 (Regulation 5(1))

General Application for Hazardous Substances Consent

1. **Name and Address of Applicant** (IN BLOCK CAPITALS)

Telephone No.

Name and Address of Agent (IN BLOCK CAPITALS) (if any) to whom correspondence should be sent

Telephone No.

Contact

2. **Address or location of application site**. Please provide the O.S. grid reference.
3. **Substance(s) covered by the application**
   (a) Please list named substances falling within Part A of Schedule 1 to the 1993 Regulations(*a*) first, then list any substances falling within the categories in Part B of that Schedule; finally list substances falling within the description in Part C.
   (b) Substances falling within Parts B or C of Schedule 1 to the 1993 Regulations may be listed under the relevant category or description or named specifically. Where a substance falls within Part A and B please list under Part A only; where a substance falls within more than one category in Part B please list under the category which has the lowest controlled quantity(*b*). Where a substance falling within Part A or B also falls within Part C please list under the Part which has the lowest controlled quantity.

Table A

Name or relevant Category or Description of Substance	Part and Entry Number(c) in Schedule 1 to the 1993 Regulations	Do you have a current PHS* consent in respect of this substance? (Yes/No)	If "yes", state quantity for which consent granted	Maximum quantity proposed to be present in tonnes

* a hazardous substances consent

4. Manner in which substance(s) are to be kept and used

For each substance, category or description of substance, covered by the application, please provide the following information, referring to the substance location plan where appropriate.

(a) Tick one box to show whether the substance(s) will be present for storage only **or** will be stored and involved in a manufacturing, treatment or other industrial process:

Table B

Part and entry number in Schedule 1 to the 1993 Regulations	Storage only	Stored **and** involved in an industrial process

(b) For each vessel to be used for **storing** the substance(s) please give the following information:

Table C: details of storage vessels

*Vessel No.**	*Part and entry number in Schedule 1 to the 1993 Regulations of substance(s) to be stored in vessel*	*Installed above ground + (Yes/No)*	*Buried (Yes/No)*	*Mounded (Yes/No)*	*Maximum capacity (cubic metres)*	*Highest vessel design temperature ℃*	*Highest vessel design pressure (bar absolute)*

* Identify by reference to substance location plan
+ If “Yes”, please specify whether or not it will be provided with full secondary containment

(c) For each substance, category or description of substance, please state the largest size (capacity in cubic metres) of any **moveable** container(s) to be used for that substance, category or description of substances:

(d) Where a substance, category or description of substance is to be used in a **manufacturing, treatment or other industrial process(es)**, please give a general description of the process(es), describe the major items of plant which will contain the substance(s); and state the maximum quantity (in tonnes) which is liable to be present in the major items of the plant, and the maximum temperature (°C) and pressure (bar absolute) at which the substance, category or description of substance is liable to be present:

Table D

Part and entry number in Schedule 1 to the 1993 Regulations	Description of process(es)	Major items of plant*	Maximum quantity (tonnes)	Maximum temperature (°C)	Maximum pressure (bar absolute)

* identify by reference to the substance location plan

5. Additional Information

(a) If you have an existing PHS consent(s) as referred to in Table A, please enclose a copy of each consent with this application.

(b) Has any application for hazardous substances consent or planning permission relating to the application site been made which has not yet been determined? **YES/NO**

(c) Will any such application be submitted at the same time as this application? **YES/NO**
If you have answered **"YES"** to either of these preceding questions, please provide sufficient details to enable the application(s) to be identified.

(d) **Plans**. Please list the maps or plans or any explanatory scale drawings of plant/buildings submitted with this application.

(e) Give any further information which you consider to be relevant to the determination of this application.

I/We hereby apply for hazardous substances consent in accordance with the proposals described in the application.

Signed .....
on behalf of .....
(insert applicant's name if signed by agent)

Date .....

Notes

(a) The "1993 Regulations" are the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993, as amended by the Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000.

(b) The "controlled quantity" means the quantity specified for that substance in column 2 of Parts A, B or C of Schedule 1 to the 1993 Regulations, calculated in accordance with the Notes to that Schedule.

(c) For Part C, state the Part only.

FORM 2

The Planning (Hazardous Substances) (Scotland) Act 1997 - sections 11 and 15

The Planning (Hazardous Substances) Regulations 1993 (Regulation 5(2) or (3))

Application for either: (tick relevant box)

☐ **Hazardous Substances Consent without a condition(s) imposed on a previous consent (section 11)**

☐ **OR Continuation of a Hazardous Substances Consent following a change in control of part of the land (section 15)**

---

1. **Name and Address of Applicant (IN BLOCK CAPITALS)**

Telephone no.

Name and address of Agent (if any) (IN BLOCK CAPITALS) to whom correspondence should be sent:

Telephone No.

Contact

2. **Address or location of Application Site** (please provide the O.S. grid reference)
3. **Substances covered by the application**
   (a) In the Table below, please list named substances falling within Part A of Schedule 1 to the 1993 Regulations(*a*) first, then list any substances falling within the categories in Part B of that Schedule; finally list substances falling within the description in Part C.
   (b) Substances falling within Parts B or C of Schedule 1 to the 1993 Regulations may be listed under the relevant category or description or named specifically. Where a substance falls within Part A and B please list under Part A only; where a substance falls within more than one category in Part B please list under the category which has the lowest controlled quantity(*b*). Where a substance falling within Part A or B also falls within Part C please list under the Part which has the lowest controlled quantity.
   (c) Please refer to the **Notes** below.

Name or relevant category or description of substance	*Part and entry number(c) in Schedule 1 to the 1993 Regulations*	*Maximum quantity proposed to be present (in tonnes)*

Notes

(a) The "1993 Regulations" are the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993, as amended by the Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000.

(b) The "controlled quantity" means the quantity specified for that substance in column 2 of Parts A, B or C of Schedule 1 to the 1993 Regulations, calculated in accordance with the notes to that Schedule.

(c) For Part C, state the Part only.

4. Application for removal of a condition(s) imposed on a previous consent (Section 11)

(a) Identify the condition(s) previously imposed which it is intended should no longer be imposed on the consent, or which should only be imposed in a modified form. In the latter case, please indicate the proposed modification.

(b) Give the reasons why the condition(s) referred to in (a) should not be imposed, or should only be imposed in a modified form.

(c) Describe any relevant changes in circumstances since the previous consent was granted.

5. Application for the continuation of a hazardous substances consent following a change in the person in control of part of the land (Section 15)

(a) State the date on which the change in the person in control of part of the land is to take place, where known.

(b) Describe the use of each area of the site identified in the accompanying change of control plan.

(c) Describe any relevant changes in circumstances since the existing consent was granted.

6. Additional Information

Please give any additional information which you consider to be relevant to the determination of this application.

I/We hereby apply for hazardous substances consent/continuation of hazardous substances consent in accordance with this application.

Signed .....
on behalf of .....
(insert applicant's name if signed by agent)

Date .....

FORM 12

The Planning (Hazardous Substances) (Scotland) Act 1999 - section 10A

The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 (Regulation 15)

Claim for Deemed Consent

Part 1: Details of claimant and site

1. **Full name and Address of claimant (IN BLOCK CAPITALS)**

Telephone No.:

Name and address of Agent (if any) (IN BLOCK CAPITALS) to whom correspondence should be sent:

Telephone No.:

Contact

2. **Address or location of land to which the claim relates** (please provide the O.S. grid reference)

3. **General description of the activities carried out at the site during the establishment period.**

Part 2: Substances for which consent is being claimed and established quantity

(a) Please complete the Table A for ***every*** hazardous substance for which you are claiming a consent. Please refer to the notes below.

(b) Please list named substances falling within Part A of Schedule 1 to the 1993 Regulations (a) first, then any substances falling within the categories in Part B of that Schedule; finally list substances falling within the description in Part C.

(c) Substances falling within Parts B or C of Schedule 1 to the 1993 Regulations may be listed under the relevant category or description or named specifically. Where a substance falls within Part A or B please list under Part A only; where a substance falls within more than one category in Part B please list under the category which has the lowest controlled quantity (b). Where a substance falling within Part A or B also falls within Part C please list under the Part which has the lowest controlled quantity.

TABLE A

*Hazardous Substances present during establishment period**(c)** for which consent not required during that period*	*Part and entry number**(d)** in Schedule 1 to the 1993 Regulations*	*Established Quantity**(e)***

Notes to Part 2

(a) the "1993 Regulations" are the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993, as amended by the Planning (Control of Major-Accident Hazards (Scotland) Regulations 2000.

(b) The "controlled quality" means the quantity specified for that substance in column 2 of Parts A, B or C of Schedule 1 to the 1993 Regulations, calculated in accordance with the notes to that Schedule.

(c) The "establishment period" is the period of 12 months immediately preceding the relevant date. The "relevant date" is 6th July 2000.

(d) For Part C, state the Part only.

(e) The "established quantity" is the maximum quantity present during the establishment period.

Part 3: Moveable Container Storage Areas

For each area identified in any moveable container storage area plan which accompanies this claim, please specify:

(a) the maximum quantity of the hazardous substance stored in the area in moveable containers at any time during the establishment period–

(b) whether the substance, category or description of substance was stored in a moveable container with a capacity in excess of 10% of the substance's controlled quantity in that area during that period, and, if so, the capacity (in tonnes) of the largest moveable container in which the substance was so stored–

Part 4: Vessel Capacity, Temperature and Pressure - Table B

		Below ambient temperature(**a**)			*At ambient temperature*(**b**)			*Above ambient temperature*(**c**)				
		1(**d**)	2(**e**)	3(**f**)	4(**g**)	5(**h**)	6(**i**)	7(**j**)	8(**k**)	9(**l**)	10(**m**)	11(**n**)
Vessel Area(**o**)	*Part and entry in number in Schedule 1 to the 1993 Regulations*	*Largest Vessel capacity*	*Highest Vessel design pressure*	*Buried or mounded vessels largest capacity vessel*	*Buried or mounded vessels highest vessel design pressure*	*Non buried or non mounded vessels largest capacity vessel*	*Non buried or non mounded vessels highest vessel design pressure*	*Present at or below boiling point at 1 bar largest capacity vessel*	*Present at or below boiling point at 1 bar highest vessel design pressure*	*Highest design temperature*	*Present at above boiling point at 1 bar largest capacity vessel*	*Present at above boiling point at 1 bar highest vessel design pressure*
i												

(a) Only complete columns 1 and 2 in respect of a vessel area in which the substance was present in a vessel at below ambient temperature at any time during the establishment period.
(b) Only complete columns 3 to 6 in respect of a vessel area in which the substance was present in a vessel at ambient temperature at any time during the establishment period.
(c) Only complete columns 7 to 11 in respect of a vessel area in which the substance was present in a vessel at above ambient temperature at any time during the establishment period.
(d) **Column 1**: enter the capacity in cubic metres of the largest capacity vessel in which the substance was present in the relevant vessel area at below ambient temperature at any time during the establishment period.
(e) **Column 2**: only complete if the substance was present in a vessel at above atmospheric pressure at below ambient temperature in the relevant vessel area at any time during the establishment period. To complete, *enter the highest vessel design pressure of any vessel in which the substance was present*.
(f) **Column 3**: Only complete if the substance was present at ambient temperature in a vessel which was buried or mounded in the relevant vessel area at any time during the establishment period. To complete, *enter the capacity in cubic metres of the largest capacity buried or mounded vessel in which the substance was present*..
(g) **Column 4**: Only complete if the substance was present at above atmospheric pressure at ambient temperature in a vessel which was buried or mounded in the relevant vessel area at any time during the establishment period. To complete, *enter the highest vessel design operating pressure of any vessel in which the substance was present*.
(h) **Column 5**: Only complete if the substance was present at ambient temperature in a non-buried or non-mounded vessel in the relevant vessel area at any time during the establishment period. To complete, *enter the capacity in cubic metres of the largest capacity non-buried or non-mounded vessel in which the substance was present*.
(i) **Column 6**: Only complete if the substance was present at above atmospheric pressure at ambient temperature in a non-buried or non-mounded vessel in the relevant vessel area at any time during the established period. To complete, *enter the highest vessel design operating pressure of any non-buried or non-mounded vessel in which the substance was present*.
(j) **Column 7**: Only complete if the substance was present in a vessel and at above ambient temperature at or below its boiling point at 1 bar absolute in the relevant vessel area at any time during the establishment period. To complete, *enter the capacity in cubic metres of the largest capacity vessel in which the substance was present*.
(k) **Column 8**: Only complete if the substance was present at above atmospheric pressure at above ambient temperature and at or below its boiling point at 1 bar absolute in a vessel in the relevant vessel area at any time during the establishment period. To complete, *enter the highest vessel design operating pressure of any vessel in which the substance was present*.
(l) **Column 9**: Enter the highest design operating temperature (in degrees centigrade) of any vessel in which the substance was present at above ambient temperature in the relevant vessel area at any time during the established period.
(m) **Column 10**: Only complete if the substance was present in a vessel at above its boiling point at 1 bar absolute in the relevant vessel area at any time during the establishment period. To complete, *enter the capacity (in cubic metres) of the largest capacity vessel in which the substance was present*.
(n) **Column 11**: Only complete if the substance was present at above atmospheric pressure and above its boiling point at 1 bar absolute in a vessel in the relevant vessel area at any time during the established period. To complete, *enter the highest vessel design operating pressure of any vessel in which the substance was present*.
(o) This table should be completed for each vessel area identified in any vessel location plan which accompanies this claim, with a separate row being completed for each hazardous substance in that vessel area.

Part 5

I/We hereby claim hazardous substances consent in accordance with the information provided(**a**).

Signed. .....
on behalf of.....

Date.....

(a) The planning authority is required to notify you within 2 weeks from the date of receipt of the claim if, in their opinion, the claim is invalid and to give their reasons for that opinion. If the claim is valid that authority shall be deemed to have granted the hazardous substances consent claimed, subject to the conditions set out in section 10A(6)(a) of the Planning (Hazardous Substances) (Scotland) Act 1997 and Schedule 3 to the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 as applied or amended by the Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000. (S.S.I.).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement, in relation to town and country planning in Scotland, Article 12 of Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances.

The main requirements of Article 12 of the Directive, which these Regulations implement in relation to town and country planning in Scotland, are as follows. To ensure that the objectives of preventing major accidents and limiting their consequences are taken into account in land-use planning policies and that these objectives are pursued through controls. To ensure that planning authorities set up appropriate consultation procedures to facilitate implementation of these and other policies established under the Article.

The Regulations amend the Planning (Hazardous Substances) (Scotland) Act 1997 ("the Act"), the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993, the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983 and the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.

The Act provides that the presence of a hazardous substance on, over or under land at or above the controlled quantity requires hazardous substance consent. The controlled quantity must be calculated by aggregating the quantity of a substance on, over or under land and certain other land or structures (together "the control zone"). Regulation 2 amends section 2 of the Act by adding to the control zone any other land which forms part of a single establishment.

Regulation 4 amends the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993. The main change is that it provides a new Schedule 1 prescribing the substances which are hazardous substances and their controlled quantities. Regulation 4(4) and regulation 2(2) amend provisions relating to exemptions from hazardous substances consent. Regulation 4(5) adds to the requirements on hazardous substances authorities to consult before granting hazardous substances consent. Regulation 4(10) and Schedule 2 prescribe new application and claim forms for hazardous substances consent.

Regulation 3 makes provision for deemed consents for hazardous substances for which a hazardous substances consent was not required before these Regulations came into force.

Regulation 5 amends the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983 to add to the matters that planning authorities shall have regard to when formulating their policies in a structure or local plan.

Regulation 6 amends the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 to add to the categories of development in relation to which planning authorities are required to consult before granting planning permission.

A Regulatory Impact Appraisal has been prepared in relation to these Regulations. It has been placed in the Scottish Parliament Information Centre and copies may be obtained from Planning Division, Scottish Executive Development Department, Area 2-H, Victoria Quay, Edinburgh EH6 6QQ (Telephone 0131 244 7065).

S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2000 No. 179

EUROPEAN COMMUNITIES

TOWN AND COUNTRY PLANNING

The Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000

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