



STATUTORY INSTRUMENTS.

S.I. No. 209 of 2015



CHEMICALS ACT (CONTROL OF MAJOR ACCIDENT HAZARDS
INVOLVING DANGEROUS SUBSTANCES) REGULATIONS 2015

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I, RICHARD BRUTON, Minister for Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by section 5(2)(b) of the Chemicals Act 2008 (No. 13 of 2008), (as adapted by the Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 245 of 2011)), with the consent of the Minister for the Environment, Community and Local Government, the Minister for Justice and Equality, the Minister for Transport, Tourism and Sport and the Minister for Health, and for the purpose of giving effect, amongst other things, to Directive 2012/18/EU of 4 July 2012¹, hereby make the following regulations:

Part 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015.

Interpretation

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

“An Bord Pleanála” means the body referred to in Part VI of the Planning and Development Act;

“Authorised officer” means an officer appointed by a local competent authority under Regulation 16(9);

“Authority” means the Health and Safety Authority;

“Central Competent Authority” shall be construed in accordance with Regulation 4;

“Chemicals Act” means the Chemicals Act 2008 (No. 13 of 2008) as amended by the Chemicals (Amendment) Act 2010 (No. 32 of 2010);

“competent authority” shall be construed in accordance with Regulation 4;

“consultation distance” means a distance or area relating to an establishment, within which there are potentially significant consequences for human health or

¹OJ No. L 197, 24.7.2012, p. 1.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 29th May, 2015.*

the environment from a major accident at the establishment, including potentially significant consequences for developments such as residential areas, buildings and areas of public use, recreational areas and major transport routes;

“dangerous substance” means a substance or mixture—

(a) covered by Part 1 of Schedule 1, or

(b) listed in Part 2 of Schedule 1,

including in the form of a raw material, product, by-product, residue or intermediate;

“Directive” means Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC;

“domino effects” and “domino group” shall be construed in accordance with Regulation 9;

“Environmental Protection Agency” means the body established under section 19 of the Environmental Protection Agency Act 1992 (No. 7 of 1992);

“establishment” means the whole location under the control of an operator where dangerous substances are present in one or more installations, including common or related infrastructures or activities; establishments are either lower-tier establishments or upper-tier establishments;

“existing establishment” means an establishment that, on 31 May 2015, was subject to the provisions of the 2006 Regulations, and that from 1 June 2015 is an establishment falling within the scope of these Regulations without changing its classification as a lower-tier establishment or upper-tier establishment;

“European Commission” means the institution of the European Union to which reference is made in Article 13 of the Treaty on European Union;

“external emergency plan” shall be construed in accordance with Regulation 16;

“functional area” means—

(a) in relation to a planning authority, the functional area of that planning authority as defined in section 2(1) of the Planning and Development Act; and

(b) in relation to a local competent authority, the area in respect of which a public authority has been designated under Regulation 4(3) to be a local competent authority or the area in respect of which a public authority was designated under the 2006 Regulations in a designation that is continued in force under Regulation 4(5);

“functions” in relation to the Central Competent Authority, competent authorities and local competent authorities includes powers and duties and a reference to the performance of a function includes, with respect to powers, a reference to the exercise of a power;

“hazard” means the intrinsic property of a dangerous substance or physical situation, with a potential for creating damage to human health or the environment;

“Health Service Executive” means the Health Service Executive established under section 6 of the Health Act 2004 (No. 42 of 2004);

“inspection” means all actions, including—

- (a) site visits;
- (b) checks of internal measures, systems and reports and follow-up documents; and
- (c) any necessary follow-up;

undertaken by or on behalf of the Central Competent Authority to check and promote compliance of establishments with the requirements of these Regulations;

“inspectors” shall be construed in accordance with Regulation 23;

“installation” means a technical unit within an establishment and whether at or below ground level, in which dangerous substances are produced, used, handled or stored, and it includes—

- (a) all the equipment, structures, pipework, machinery and tools;
- (b) private railway sidings, docks and unloading quays serving the installation; and
- (c) jetties, warehouses or similar structures, whether floating or otherwise, which are necessary for the operation of the installation;

“internal emergency plan” shall be construed in accordance with Regulation 15;

“internal waters” has the same meaning as it has in the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006);

“land” includes any land covered with water;

“local authority” as defined in section 2(1) of the Local Government Act 2001 (No. 37 of 2001), as amended by section 5(1) of, and Part 1 of Schedule 1 to, the Local Government Reform Act 2014 (No. 1 of 2014), means—

- (a) in relation to a municipal district, the county council or the city and county council in which the municipal district is situated; and

(b) in every other case—

(i) a county council;

(ii) a city council; or

(iii) a city and county council;

“local competent authority” shall be construed in accordance with Regulation 4;

“lower-tier establishment” means an establishment where dangerous substances are present in quantities equal to or in excess of the quantities listed in Column 2 of Part 1 or in Column 2 of Part 2 of Schedule 1, but less than the quantities listed in Column 3 of Part 1 or in Column 3 of Part 2 of Schedule 1, where applicable using the summation rule laid down in note 4 to Schedule 1;

“major accident” means an occurrence such as a major emission, fire, or explosion resulting from uncontrolled developments in the course of the operation of any establishment covered by these Regulations, and leading to serious danger to human health or the environment, immediate or delayed, inside or outside the establishment, and involving one or more dangerous substances;

“MAPP” shall be construed in accordance with Regulation 10;

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

“neighbouring establishment” means an establishment that is located in such proximity to another establishment so as to increase the risk or consequences of a major accident;

“new establishment” means—

(a) an establishment that enters into operation or is constructed on or after 1 June 2015; or

(b) a site of operation that falls within the scope of these Regulations, or a lower-tier establishment that becomes an upper-tier establishment, or vice versa, on or after 1 June 2015 due to modifications to its installations or activities resulting in a change in its inventory of dangerous substances;

“notifiable incident” shall be construed in accordance with Regulation 20;

“notification” shall be construed in accordance with Regulation 8;

“operator” means any natural or legal person who operates or controls an establishment or installation, or to whom the decisive economic or decision-making power over the technical functioning of the establishment or installation has been delegated;

“other establishment” means a site of operation that falls within the scope of these Regulations, or a lower-tier establishment that becomes an upper-tier

establishment, or vice versa, on or after 1 June 2015 for reasons other than those pursuant to which an establishment becomes a new establishment as defined above;

“Planning and Development Act” means the Planning and Development Act 2000 (No. 30 of 2000), as amended, and as now referred to in the collective citation prescribed by section 1(8) of the Local Government Reform Act 2014 (No. 1 of 2014) as the Planning and Development Acts 2000 to 2014;

“planning authority” has the meaning given to it by section 2(1) of the Planning and Development Act and shall include, where appropriate for the purpose of these Regulations, An Bord Pleanála;

“presence of dangerous substances” means the actual or anticipated presence of dangerous substances in the establishment, or of dangerous substances which it is reasonable to foresee may be generated during loss of control of the processes, including storage activities, in any installation within the establishment, in quantities equal to or exceeding the qualifying quantities set out in Part 1 or Part 2 of Schedule 1;

“the public” means one or more natural or legal persons, and includes their associations, organisations or groups;

“risk” means the likelihood of a specific effect occurring within a specified period or in specified circumstances;

“safety report” shall be construed in accordance with Regulation 11;

“storage” means the presence of a quantity of dangerous substances for the purposes of warehousing, depositing in safe custody or keeping in stock;

“upper-tier establishment” means an establishment where dangerous substances are present in quantities equal to or in excess of the quantities listed in Column 3 of Part 1 or in Column 3 of Part 2 of Schedule 1, where applicable using the summation rule laid down in note 4 to Schedule 1;

“2006 Regulations” means the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006 (S.I. No. 74 of 2006), as amended by the European Union (Control of Major Accident Hazards Involving Dangerous Substances) (Amendment) Regulations 2013 (S.I. No. 571 of 2013).

(2) Any reference in these Regulations to “writing” includes writing which is communicated or kept in electronic form and can be printed.

(3) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

(4) In determining the presence of dangerous substances, the qualifying quantities in Part 1 and Part 2 of Schedule 1 shall be applied in accordance with all the provisions of that Schedule.

Application

3. (1) These Regulations lay down rules for the prevention of major accidents which involve dangerous substances, and the limitation of their consequences for human health and the environment, with a view to providing a high level of protection in a consistent and effective manner.

(2) Subject to paragraph (3), these Regulations shall apply to any establishment as defined in Regulation 2(1).

(3) These Regulations shall not apply to—

- (a) any property occupied by the Defence Forces and any land or premises referred to in section 268(1) of the Defence Act 1954 (No. 18 of 1954);
- (b) hazards created by ionising radiation originating from substances;
- (c) the transport of dangerous substances and directly related intermediate temporary storage by road, rail, internal waterways, sea or air outside establishments defined in Regulation 2(1), including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards;
- (d) the transport of dangerous substances in pipelines, including pumping stations, outside establishments defined in Regulation 2(1);
- (e) the exploitation, namely the exploration, extraction and processing, of minerals in mines and quarries, including by means of boreholes;
- (f) the offshore exploration and exploitation of minerals, including hydrocarbons;
- (g) the storage of gas at underground offshore sites including both dedicated storage sites and sites where exploration and exploitation of minerals, including hydrocarbons, are carried out;
- (h) waste land-fill sites, including underground waste storage.

(4) Notwithstanding paragraphs (3)(e) and (3)(h), these Regulations shall apply to onshore underground gas storage in natural strata, aquifers, salt cavities and disused mines and chemical and thermal processing operations and storage related to those operations which involve dangerous substances, as well as to operational tailings disposal facilities, including tailing ponds or dams, containing dangerous substances.

Establishment of the competent authorities

4. (1) For the purpose of these Regulations and Article 6 of the Directive, each of the following shall be a competent authority to the extent specified—

- (a) the Authority (in these Regulations referred to as the “Central Competent Authority”) shall be responsible, in addition to its functions under the Chemicals Act as a national authority thereunder and as the Central Competent Authority in the State for the purpose of the Directive, for carrying out the duties laid down for the competent authority in the Directive and as prescribed in these Regulations, with the exception of those reserved for a public authority under subparagraph (b), but inclusive, with regard to such reserved functions, of the role of ensuring that the procedures for carrying out the duties of any public authority designated under subparagraph (b) are fully coordinated with its own procedures;
- (b) a public authority which the appropriate Minister has designated under paragraph (3) (in these Regulations referred to as a “local competent authority”) for the purpose of carrying out their duties in relation to external emergency plans under these Regulations.

(2) Competent authorities appointed under paragraph (1)(b) shall co-operate with the Central Competent Authority to the extent that is required to allow the Authority to fulfil its functions.

(3) Without prejudice to paragraph (5), where the appropriate Minister is of the opinion that the services of a public authority are required for the implementation of any of the functions of a local competent authority under these Regulations in respect of a geographical area, then that appropriate Minister shall, in consultation with the Minister and, where required by paragraph (4), with the other Ministers therein specified, designate that public authority for the purpose of paragraph (1)(b), to be a local competent authority for that area with regard to the matters referred to in the designation.

(4) Except in the case of a designation by the Minister, the Minister for the Environment, Community and Local Government, the Minister for Health, the Minister for Justice and Equality or the Minister for Transport, Tourism and Sport, a designation of a public authority under paragraph (3) shall not be made until all of the Ministers aforesaid have been consulted by the appropriate Minister who intends to make the designation.

(5) Where a public authority was designated under the 2006 Regulations, the designation shall continue in force as if it was made under these Regulations.

(6) In this Regulation—

“appropriate Minister” means—

- (a) in relation to the exercise by a Minister of the Government of any powers, functions or duties vested in him or her by virtue of any enactment in respect of a public authority, that Minister; and

- (b) in relation to the administration and business of the public service by virtue of any enactment by a Department of State in respect of a public authority, the Minister of the Government having charge of that Department;

“public authority” means any person or body exercising powers or performing duties for the benefit of the public by virtue of any enactment or otherwise under law and includes—

- (a) An Garda Síochána;
- (b) a local authority;
- (c) the Environmental Protection Agency;
- (d) the Health Service Executive;
- (e) a company established pursuant to section 7 of the Harbours Act 1996 (No. 11 of 1996); and
- (f) a planning authority in relation to planning and development decisions under the Planning and Development Act.

Commencement

5. These Regulations shall come into operation on 1 June 2015.

Amendments

6. (1) With effect from the coming into operation of these Regulations, subsection (1) of section 2 of the Chemicals Act is amended by—

- (a) substituting the following definition for indent (e)(i) on ‘dangerous substance’ within the definition of “chemical”:

“Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC (hereinafter referred to as the “Seveso III Directive”), and”, and

- (b) substituting the following definition for the definition of “national authority”:

“ “national authority” means—

- (a) a designated national authority in the State under section 8(1),
- (b) a competent authority in the State under section 8(2), 8(3) or 8(3A),
- (c) a person prescribed in accordance with section 5(3), or,
- (d) the Authority as the Central Competent Authority within the meaning of section 8(3B);”.

(2) With effect from the coming into operation of these Regulations, the following provision is inserted into section 3 of the Chemicals Act after the existing section 8(3A) as a new section 8(3B)—

“(3B) The Authority is the Central Competent Authority in the State for the purpose of the Seveso III Directive, and Article 6 thereof.”.

Part 2

GENERAL DUTIES

General duties of operators

7. (1) Every operator shall take all necessary measures—

- (a) to prevent major accidents occurring and to limit the consequences of any such major accidents for human health and the environment; and
- (b) to comply with these Regulations.

(2) Without prejudice to the generality of paragraph (1), the matters in respect of which all necessary measures shall be taken by every operator shall include—

- (a) the identification of all major accident hazards in the establishment including an assessment of the extent and severity of the consequences of such accidents;
- (b) the provision and maintenance of installations and systems of work and of the means of entry to and exit from the establishment or any part thereof that are, so far as is reasonably practicable, without risk to human health and the environment;
- (c) the making of arrangements to ensure that the use, handling, storage and transport of dangerous substances in the establishment are, so far as is reasonably practicable, without risk to human health and the environment;
- (d) the provision of such information, instruction, equipment, training and supervision as is necessary to ensure, so far as is reasonably practicable, the safety and health of the persons working in the establishment; and
- (e) the use of the best practicable means—
 - (i) to prevent a major emission into the environment from any part of the establishment of dangerous substances resulting from uncontrolled events in that establishment; and
 - (ii) for rendering harmless and inoffensive such substances as may be so emitted.

(3) Every operator shall provide the relevant competent authority with all assistance necessary to enable it to carry out any inspection and to gather any information necessary to enable it to perform its functions under these Regulations, including in particular to allow it fully to assess the possibility of a major accident and to determine the scope of possible increased probability or aggravation of major accidents, to prepare an external emergency plan and to take into account substances which, due to their physical form, particular conditions or location, may require additional consideration.

(4) Every operator shall, whenever requested by the Central Competent Authority or by an inspector of that Authority, provide, or cause to be provided, to that Authority or to that inspector such evidence (including documents) to prove, in particular for the purpose of inspections under Regulation 22, that the operator has—

- (a) identified the major accident hazards and taken all necessary measures to prevent major accidents and to limit their consequences for human health and the environment; and
- (b) taken all necessary measures to comply with the operator's obligations under these Regulations.

Notification

8. (1) Every operator shall send to the Central Competent Authority a notification in writing, in whatever format that authority may specify, containing the following information—

- (a) the name and, where different, the trade name of the operator and the full address of the establishment concerned;
- (b) the registered place of business of the operator, with the full address;
- (c) the name and position of the person in charge of the establishment, if different from subparagraph (a);
- (d) information sufficient to identify each of the dangerous substances and category of substances involved or likely to be present;
- (e) the quantity and physical form of the dangerous substance or substances concerned;
- (f) the activity or proposed activity of the installation or storage facility;
- (g) the immediate environment of the establishment, and factors likely to cause a major accident or to aggravate the consequences thereof including, where available, details of neighbouring establishments, of sites that fall outside the scope of these Regulations, areas and developments which could be the source of or increase the risk or consequences of a major accident and of domino effects within the meaning of Regulation 9(1).

(2) The notification referred to in paragraph (1), or any update thereof, shall be sent to the Central Competent Authority within the following time-limits—

- (a) for new establishments, a reasonable period of time prior to the start of construction or operation, or prior to any modifications leading to a change in the inventory of dangerous substances and, in any event, no later than three months prior thereto;
- (b) for all other cases, one year from the date from which these Regulations apply to the establishment concerned;
- (c) notwithstanding any other notification in the interim, an operator shall, every five years following the submission of the notification referred to in paragraph (1), prepare and submit an updated notification to the Central Competent Authority.

(3) Paragraph (2)(b) shall not apply if the operator has already sent a notification to the Central Competent Authority under the 2006 Regulations before 1 June 2015, and the information contained therein complies with paragraph (1) and has remained unchanged.

(4) An operator shall inform the Central Competent Authority in writing in advance of the following events—

- (a) any significant increase or decrease in the quantity or significant change in the nature or physical form of the dangerous substance present, as indicated in the notification provided by the operator pursuant to paragraph (1), or any significant change in the processes employing it;
- (b) modification of an establishment or an installation which could have significant consequences in terms of major accident hazards;
- (c) the permanent closure of the establishment or its decommissioning; or
- (d) changes in the information referred to in paragraphs (1)(a), (1)(b) or (1)(c).

Domino effects

9. (1) The Central Competent Authority shall, using the information received from the operators in accordance with Regulations 8 and 11, or following a request for additional information made by it, or through inspection pursuant to Regulation 22, identify all lower-tier and upper-tier establishments or groups of establishments (in these Regulations referred to as “domino group”) where the risk or consequences of a major accident may be increased because of the geographical position and the proximity of such establishments, and their inventories of dangerous substances (in these Regulations referred to as “domino effects”).

(2) An operator of an establishment, on being notified in writing by the Central Competent Authority that the establishment has been identified as part of a domino group, shall—

- (a) provide suitable information in writing, or in another manner deemed appropriate by the Central Competent Authority, about the establishment to other operators within the domino group without delay, so as to enable them to take account of the nature and extent of the overall hazard of a major accident arising from the group:
 - (i) in the case of every operator, in its;
 - (I) MAPP, and
 - (II) safety management system, and
 - (ii) in the case of an operator of an upper-tier establishment, in its;
 - (I) safety report,
 - (II) internal emergency plan, and
 - (III) provision of information to persons likely to be affected by a major accident pursuant to Regulation 25;
- (b) take account in the manner outlined in subparagraph (a) of information provided to the operator by each establishment in the domino group; and
- (c) co-operate with the other operators in the domino group to facilitate them to carry out any obligations they have under these Regulations.

(3) Operators of upper-tier establishments which have been identified by a notification from the Central Competent Authority pursuant to paragraph (2) shall co-operate with each other in informing the public under Regulation 25 and neighbouring sites that fall outside the scope of these Regulations, and supplying information to the local competent authorities whose function it is to prepare external emergency plans under Regulation 16(1).

(4) Where the Central Competent Authority has additional information to that provided by an operator pursuant to Regulation 8(1)(g), it shall make this information available to that operator, if it is necessary for the proper application of these Regulations.

Part 3

MAJOR ACCIDENT PREVENTION POLICY AND SAFETY REPORT

Major Accident Prevention Policy

10. (1) Every operator shall draw up a document in writing setting out the major accident prevention policy (in these Regulations referred to as “MAPP”) for its establishment and shall send this MAPP, together with any subsequent

modification or updates to it, including those arising from periodic reviews under paragraph (2), without delay to the Central Competent Authority.

(2) Without prejudice to Regulation 12(1)(b) every operator shall periodically, and at least once every five years, review and where necessary update the MAPP.

(3) The MAPP shall—

- (a) be designed to guarantee a high level of protection of human health and the environment;
- (b) include the operator's overall aims and principles of action, including a commitment to ensure a high level of protection of human health and the environment;
- (c) include the role and responsibility of management in ensuring its proper implementation;
- (d) include a commitment towards continuously improving the control of major accident hazards; and
- (e) take account of the principles specified in Schedule 2.

(4) Operators of existing establishments shall, where necessary to comply with paragraphs (1) and (2), amend existing MAPP documents drawn up pursuant to the 2006 Regulations by no later than 1 June 2016.

(5) Paragraph (4) shall not apply where a MAPP has already been prepared and the operator has sent it to the Central Competent Authority prior to 1 June 2015, and where the information contained therein complies with paragraph (1) and remains unchanged, in which case the five-year update required by paragraph (2) shall be from the date of the earlier MAPP.

(6) Operators shall—

- (a) for new establishments, subject to subparagraph (b), prepare a MAPP without delay and, in any event, by no later than one month prior to the date on which these Regulations first apply to the establishment concerned;
- (b) for all other cases, prepare a MAPP one year from the date from which these Regulations apply to the establishment concerned.

(7) An operator shall, subject to paragraph (8), ensure that the policy set out in its MAPP is properly implemented by appropriate means, structures and a safety management system, in accordance with Schedule 2, proportionate to the major accident hazards and the complexity of the organisation or the activities of the establishment.

(8) An operator of a lower-tier establishment may implement its MAPP by other appropriate means, structures and management systems, proportionate to the major accident hazards, taking into account the principles set out in Schedule 2.

Safety report

11. (1) Every operator of an upper-tier establishment shall prepare and submit to the Central Competent Authority in writing, in whatever format that Authority may specify, a safety report for the purposes of—

- (a) demonstrating that a MAPP and a safety management system for implementing it have been put into effect in accordance with the information set out in Schedule 2;
 - (b) demonstrating that major accident hazards and possible major accident scenarios have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for human health and the environment;
 - (c) demonstrating that adequate safety and reliability have been taken into account in the design, construction, operation and maintenance of any installation, storage facility, equipment and infrastructure connected with its operation which are linked to major accident hazards inside the establishment;
 - (d) demonstrating that internal emergency plans have been drawn up and supplying information to enable the external emergency plan to be drawn up; and
 - (e) providing sufficient information to the competent authority to enable decisions to be made regarding the siting of new activities or developments in or around existing establishments.
- (2) The safety report shall—
- (a) contain at least the data and information specified in Schedule 3; and
 - (b) name the relevant organisations involved in the drawing up of the report.
- (3) The safety report shall be sent to the Central Competent Authority within the following time-limits—
- (a) for new establishments, a reasonable period of time and, in any event, no later than four months prior to the start of construction or operation, or prior to the modifications leading to a change in the inventory of dangerous substances;
 - (b) for existing upper-tier establishments, by 1 June 2016;

(c) for other establishments, two years from the date from which these Regulations apply to the establishment concerned.

(4) Paragraph (3)(b) shall not apply if the operator of an existing upper-tier establishment has already sent, before 1 June 2015, the safety report to the Central Competent Authority pursuant to the requirements of the 2006 Regulations, provided the information contained therein complies with paragraphs (1) and (2) and has remained unchanged. In order for an existing upper-tier establishment to comply with paragraphs (1) and (2), the operator shall submit any changed parts of the safety report in the format agreed by the Central Competent Authority, subject to the time-limit referred to in paragraph (3)(b), and this shall be considered by the Central Competent Authority to be an update under paragraph (8) rather than a five-year review as required by paragraph (2).

(5) An operator shall provide to the Central Competent Authority any information requested by it during or following an examination of a safety report required by this Regulation within one month from the date of the request or within such longer period as the Central Competent Authority may specify in writing.

(6) An operator shall not begin—

(a) construction;

(b) operation; or

(c) implement modifications leading to a change in the inventory of dangerous substances;

as the case may be, until it has received the conclusions and permission from the Central Competent Authority from its examination of the safety report under Regulation 21(3) to (5).

(7) An operator shall periodically, but without prejudice to where Regulation 8(4) applies, at least every five years following the submission of a previous safety report, review, and where necessary following such review, update, the report and submit it to the Central Competent Authority.

(8) An operator shall also review and where necessary update the safety report following a major accident at its establishment and, at any other time, at the initiative of the operator or at the request of the competent authority, where justified by new facts or by new technological knowledge about safety matters, including knowledge arising from analysis of accidents or, as far as possible, “near misses”, and by developments in knowledge concerning the assessment of hazards.

(9) In all cases, the updated safety report, or updated parts thereof, shall be sent to the Central Competent Authority without delay.

Modification of an installation, establishment or storage facility

12. (1) An operator shall review and where necessary update—

- (a) the notification under Regulation 8;
- (b) the MAPP and safety management system under Regulation 10; and
- (c) the safety report under Regulation 11;

prior to the modification of an installation, establishment, storage facility, or process or of the nature or physical form or quantity of dangerous substances which could have significant consequences for major accident hazards, or could result in a lower-tier establishment becoming an upper-tier establishment or vice versa.

(2) Whenever an operator carries out a review referred to in paragraph (1), the operator shall inform the Central Competent Authority of the details of any update arising thereunder in advance of any such modification and in sufficient time to allow the Central Competent Authority to carry out its functions under Regulation 24.

Part 4

EMERGENCY PLANS FOR UPPER-TIER ESTABLISHMENTS

Objectives of emergency plans

13. Every emergency plan which is established by virtue of a requirement in these Regulations shall have the objectives of—

- (a) containing and controlling incidents so as to minimise the effects, and to limit damage to human health, the environment and property;
- (b) implementing the necessary measures to protect human health and the environment from the effects of major accidents;
- (c) communicating the necessary information to the public and to the services or authorities concerned in the area; and
- (d) providing for the restoration and clean-up of the environment following a major accident;

and it shall contain the information specified in Schedule 4.

Implementation of emergency plans

14. Every emergency plan drawn up pursuant to a duty imposed by these Regulations shall be put into effect by the operator concerned and, if necessary, by the designated local competent authority, without delay when—

- (a) a major accident occurs; or
- (b) an uncontrolled event occurs which by its nature could reasonably be expected to lead to a major accident.

Internal emergency plans

15. (1) The operator of an upper-tier establishment shall prepare an emergency plan (in these Regulations referred to as an “internal emergency plan”) for the measures to be taken inside the establishment.

(2) The operator shall draw up the internal emergency plan pursuant to paragraph (1) in consultation with the personnel working inside the establishment including long-term relevant subcontracted personnel, relevant local competent authorities in whose functional area the establishment is situated and such other persons as appear to the operator to be appropriate.

(3) Operators shall—

(a) by 1 June 2016, amend existing internal emergency plans with regard to existing upper-tier establishments so as to comply with paragraph (1), unless the information contained in the existing plan notified under the 2006 Regulations complies with these Regulations and remains unchanged;

(b) comply, with regard to new establishments, with the obligations set out in paragraphs (1) and (2) within a reasonable period of time, but in any case no later than one month, prior to the start of construction or operation, or prior to the modifications leading to a change in the inventory of dangerous substances;

(c) comply, with regard to other establishments, with the obligations set out in paragraphs (1) and (2) within one year from the date from which these Regulations apply to the establishment concerned.

(4) An operator who has established an internal emergency plan pursuant to this Regulation shall periodically and as often as the circumstances require it, but in any event at intervals not exceeding three years—

(a) review and, where necessary, update the plan; and

(b) test the plan;

and any such review shall take into account changes occurring in the establishment concerned or within the emergency services concerned, new technical knowledge and knowledge concerning the response to major accidents.

(5) Where a plan referred to in paragraph (4) has been tested under the 2006 Regulations, the test interval of three years shall apply from the date of that test.

External emergency plans

16. (1) It shall be the function of every local competent authority, whether separately or collectively, upon being notified by the Central Competent Authority that—

(a) in its functional area an upper-tier establishment is in operation or is proposed to be in operation; or

- (b) outside its functional area (whether within the State and its internal waters or otherwise) an upper-tier establishment is in operation or is likely to be in operation, which, in the opinion of the notifying operator or the Central Competent Authority, could cause a major accident leading to a serious danger to human health or to the environment within its functional area;

to prepare an emergency plan (in these Regulations referred to as an “external emergency plan”) for the measures to be taken outside the establishment.

(2) The operator of an upper-tier establishment shall supply the necessary information to a local competent authority to enable the latter to draw up an external emergency plan within the following timeframes—

- (a) for new establishments, a reasonable period of time and in any case no later than one month prior to the start of operation or prior to the modifications leading to a change in the inventory of dangerous substances;
- (b) for existing establishments, by 1 June 2016 unless the internal emergency plan drawn up under the 2006 Regulations and the information contained therein remains unchanged and complies with this Regulation and Regulation 13;
- (c) for other establishments, six months from the date from which these Regulations apply to the establishment concerned;
- (d) for updates, substantial modifications or revisions of the external emergency plan, no later than one month after having been so requested, or within such longer period as the local competent authority may specify in writing.

(3) A local competent authority shall provide, when requested by the operator of an upper-tier establishment, such relevant information in relation to the external emergency plan as may be necessary to enable the operator to draw up its internal emergency plan.

(4) Where a person is responsible for, or proposes to be responsible for, an establishment outside the State or its internal waters in respect of which a notification has been given to a local competent authority by virtue of paragraph (1)(b), the local competent authority shall provide to the said person such information from the external emergency plan as it considers appropriate.

(5) A local competent authority shall in establishing, substantially modifying or revising an external emergency plan, consult with and have regard to any observations received from—

- (a) other local competent authorities in whose functional area the establishment to which the plan relates is or is to be situated or whose functional area might be affected by a major accident at the establishment;

- (b) such persons or authorities outside the State as have responsibility for the preparation and implementation of external emergency plans in respect of such establishments as are referred to in paragraph (1)(b);
- (c) the operator of the establishment to which the plan relates;
- (d) the Central Competent Authority; and
- (e) the Environmental Protection Agency in relation to possible risks of environmental pollution from a major accident.

(6) A local competent authority shall, in establishing, substantially modifying or revising an external emergency plan under paragraph (5), afford the public an early and effective opportunity to submit observations on the proposed plan, modifications or revisions thereto, in advance of the creation, modification or revision of the plan.

(7) An establishment identified by the Central Competent Authority pursuant to Regulation 9 as being part of a domino group shall—

- (a) co-operate with the other establishments in the domino group in supplying information to the local competent authority for the preparation of external emergency plans; and
- (b) provide any information requested by a local competent authority no later than one month after having been so requested, or within such longer period as the local competent authority may specify in writing.

(8) An external emergency plan shall be prepared by the relevant local competent authority, using such information as is available to it, within six months following the date for the receipt of the necessary information from the operator pursuant to paragraph (2), but in any case no later than one year following the date of notification by the Central Competent Authority under paragraph (1).

(9) A local competent authority may authorise in writing, either generally or specifically, any of its officers (in this Regulation referred to as an “authorised officer”) to—

- (a) enter at all reasonable times any establishment within its functional area; and
- (b) require and receive from the operator concerned such information as the local competent authority may reasonably require for the purpose of preparing or amending the external emergency plan.

(10) An authorised officer shall be furnished with a warrant of the officer's appointment and, when exercising any power conferred on an authorised officer under these Regulations, shall, if requested by any person affected, produce the warrant to that person.

(11) Where in preparing, modifying or revising an external emergency plan for an establishment a local competent authority is satisfied that a major accident may have an effect outside the State or its internal waters, such authority shall provide sufficient information to the persons specified in paragraph (5)(b) in the potentially affected Member State to allow the preparation of such emergency plans as may be necessary.

(12) Where the Central Competent Authority, or such persons or authorities referred to in paragraph (5), brings to the attention of a local authority, which is designated as a local competent authority by virtue of Regulation 4, that a major accident at an establishment outside the State or its internal waters may potentially affect persons within that authority's functional area, the local competent authority concerned shall—

- (a) consult with the persons and authorities laid down in paragraphs (5) and (6);
- (b) fulfil the obligations referred to in paragraph (1) and Regulation 25(12) in so far as the information required is available; and
- (c) ensure that the information provided takes into consideration any relevant provisions in the external emergency plan prepared by virtue of paragraph (1).

(13) Following a major accident, the local competent authorities shall inform the persons likely to be affected by the accident which has occurred and, where relevant, of the measures undertaken to mitigate its consequences.

(14) Where there is a possibility of a major accident with transboundary effects originating in an upper-tier establishment, the Central Competent Authority shall, having consulted relevant local competent authorities, provide sufficient information to the potentially affected Member State so that all relevant provisions of Articles 12, 13 and 14 of the Directive can be applied, where applicable, by the potentially affected Member State.

(15) Where the Central Competent Authority, having consulted relevant local competent authorities, is satisfied that an establishment close to the territory of another Member State is incapable of creating a major accident hazard beyond its boundary for the purposes of paragraph (5) and is not therefore required to produce an external emergency plan under paragraph (1), it shall inform its counterpart authority in the other Member State of its reasoned decision.

(16) Local competent authorities shall facilitate enhanced co-operation in civil protection assistance in major emergencies.

Review, testing and reporting of external emergency plans

17. (1) A local competent authority that has established an external emergency plan shall periodically, and as often as the circumstances require it, but in any event at intervals not exceeding three years—

- (a) review and, where necessary, update the plan; and

(b) test the plan;

and any such review shall take into account changes occurring in the establishment concerned or within the emergency services concerned, new technical knowledge and knowledge concerning the response to major accidents.

(2) Where a plan referred to in paragraph (1) has been tested under the 2006 Regulations, the test interval of three years shall apply from the date of that test.

(3) Where a local competent authority is of the opinion that in order to test adequately the external emergency plan the cooperation of one or more local competent authorities is necessary, it may in writing request such cooperation from those authorities.

(4) Where a local competent authority has received a request in accordance with paragraph (3), it shall cooperate with the requesting local competent authority in the testing of the external emergency plan to which the request relates.

(5) A local competent authority shall, individually or collectively with other relevant local competent authorities, submit to the Central Competent Authority, within two months of the end of each calendar year, an annual report of its activities under Regulation 16 and this Regulation during that year, in accordance with such guidelines as may be given by the Central Competent Authority.

Part 5

REPORTING OF MAJOR ACCIDENTS

Information to be supplied by the operator and actions to be taken following a major accident

18. (1) Following a major accident, the operator of the establishment where the accident occurred shall as soon as practicable and using the most appropriate means—

- (a) inform the Central Competent Authority of the accident which has occurred;
- (b) provide the Central Competent Authority with the following information as soon as it becomes available—
 - (i) the circumstances of the accident;
 - (ii) the dangerous substances involved;
 - (iii) the data available for assessing the effects of the accident on human health, the environment and property; and
 - (iv) the emergency measures taken;
- (c) inform the Central Competent Authority of the steps it envisages are required in order to—

- (i) mitigate the medium-term and long-term effects of the accident; and
- (ii) prevent any recurrence of such an accident; and
- (d) update the information provided if further investigation reveals additional facts which alter that information or the conclusions drawn.

(2) Where a major accident occurs in or about or in connection with an establishment, no person shall disturb the place where the accident occurred, or tamper with anything in that place, except with the consent of an inspector of the Central Competent Authority or for the purpose of mitigating the effects of the major accident.

Action to be taken by the Central Competent Authority following a major accident

19. (1) Following a major accident, the Central Competent Authority shall—

- (a) ensure that any urgent, medium-term and long-term measures which may prove necessary are taken;
- (b) collect, by inspection, investigation or other appropriate means, the information necessary for a full analysis of the technical, organisational and managerial aspects of the accident;
- (c) take appropriate action to ensure that the operator takes any necessary remedial measures; and
- (d) make recommendations on future preventive measures.

(2) Where the major accident meets the criteria of Schedule 6, the Central Competent Authority shall, as soon as practicable, and at the latest within one year of the date of the accident, using the European Commission database referred to in Article 21(4) of the Directive, and further to Article 18(2) of the Directive, provide the European Commission with the following information—

- (a) the Member State where the major accident occurred, the name and address of the Central Competent Authority and contact person thereat responsible for the report;
- (b) the date, time and place of the accident, including the full name of the operator and the address of the establishment involved;
- (c) a brief description of the circumstances of the accident, including the dangerous substances involved, and the immediate effects on human health and the environment;
- (d) a brief description of the emergency measures taken and of the immediate precautions necessary to prevent recurrence; and
- (e) the results of the Central Competent Authority's analysis and recommendations.

- (3) In relation to paragraph (2)(e)—
- (a) where the Central Competent Authority is able only to provide preliminary information within this time-limit for inclusion in the database, it shall provide updated information once the results of further analysis and recommendations are available;
 - (b) the provision of information to the European Commission may be delayed where, in the opinion of the Central Competent Authority, to report such information risks prejudicing the conduct and outcome of legal proceedings arising from or concerning the accident under report.

Notifiable incident

20. Whenever an incident of the type specified in Schedule 7 occurs at an establishment, the operator concerned shall immediately inform the Central Competent Authority in writing of that incident in such format as may be specified by the said Authority.

Part 6

ENFORCEMENT AND REGULATION

Functions of the Central Competent Authority

21. (1) Without prejudice to such other functions or powers assigned to it by these Regulations and, as the national authority for the Directive, by the Chemicals Act, the Central Competent Authority shall—

- (a) supply such information as is required by Article 14(4) of the Directive to the other Member State of the European Union concerned;
- (b) exchange information with the European Commission and the competent authorities of other Member States on the experience acquired with regard to the prevention of major accidents and the limitation of their consequences;
- (c) encourage competent authorities to provide mechanisms and tools for exchanging experience and consolidating knowledge and to participate in such mechanisms at Union level, where appropriate, with regard in particular to the functioning of the measures for which these Regulations provide;
- (d) cooperate with the European Commission in activities in support of the implementation of the Directive, involving competent authorities, local competent authorities, operators and other stakeholders, as appropriate;
- (e) notify the European Commission pursuant to Article 4(2) of the Directive where it considers, having regard to one or more of the characteristics listed in Article 4(1)(a) to (c) of the Directive and, on foot of receiving a detailed submission from an operator containing

information including that listed in Article 4(3) of the Directive, that a dangerous substance does not present a major accident hazard in accordance with Article 4(1) of the Directive;

(f) for establishments covered by these Regulations, supply the European Commission with at least the following information—

(i) the name and, where different, the trade name of the operator and the full address of the establishment concerned; and

(ii) the activity or activities of the establishment; and

(g) by 30 September 2019, and every four years thereafter, provide the report to the European Commission on the implementation of the Directive as required by Article 21(2) of the Directive.

(2) The Central Competent Authority shall, using the information received from an operator in a notification submitted by virtue of Regulation 8 or a safety report submitted pursuant to Regulation 11, or from other sources of information available to it, identify establishments or domino groups and, upon such identification, shall inform each operator in writing for the purpose of Regulation 9.

(3) The Central Competent Authority shall, in relation to the safety report submitted pursuant to Regulation 11, or revised details thereof submitted, examine the safety report or revised details.

(4) The Central Competent Authority, in relation to the safety report or revised details thereof submitted pursuant to Regulation 11, shall within four months of receiving a safety report or revised details—

(a) communicate its conclusions to the operator; or

(b) request the operator to supply further information, if necessary to enable the Central Competent Authority fully to assess the safety report, which request shall be set out in writing.

(5) Where information is supplied to the Central Competent Authority under paragraph (4)(b), the Central Competent Authority shall communicate the conclusions of its examination of the safety report or revised details to the operator within a reasonable period of time but in any case no later than two months from the date of the receipt of the requested information.

(6) The Central Competent Authority shall prohibit, pursuant to section 16 of the Chemicals Act, and Article 19 of the Directive, the use or bringing into use of any establishment, installation or storage facility, or any part thereof, where the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient, including where there are serious failures to take the necessary actions identified in an inspection report.

(7) The Central Competent Authority may prohibit the use or the bringing into use of any establishment, installation or storage facility, or any part thereof, by way of a prohibition notice issued pursuant to section 16 of the Chemicals Act if the operator has not submitted the notification, reports or other information required by these Regulations within the periods specified in these Regulations.

(8) The Central Competent Authority shall notify in writing the relevant local competent authorities of the Authority's conclusions in relation to a safety report submitted under Regulation 11.

(9) The Central Competent Authority may, in view of the information contained in a safety report—

- (a) decide that the requirement for a local competent authority to prepare an external emergency plan shall not apply, and, in that event, shall notify the local competent authority in writing of that decision, giving reasons for that decision when so notifying the said authority;
- (b) withdraw (such withdrawal to be in writing) an exemption given pursuant to subparagraph (a) by stating the date upon which the exemption shall end and the date by which the emergency plan must be prepared;
- (c) where a decision under subparagraph (a) or (b) is taken with regard to an establishment close to the territory of another Member State, the Central Competent Authority shall inform the central competent authority of that Member State of its reasoned decision.

(10) The Central Competent Authority shall consult as appropriate with the Environmental Protection Agency on the information contained in a safety report concerning the risks of a major accident to the environment and the Environmental Protection Agency shall advise the Central Competent Authority in writing, on the major accidents to the environment that are relevant and on the best practicable means of prevention and mitigation, within two months of receipt of such a request.

(11) The Central Competent Authority, and where applicable, local competent authorities, shall accept equivalent information submitted by operators in accordance with other relevant Union legislation, where that information fulfils any of the requirements of the Directive or these Regulations, for the purposes of the Directive or these Regulations, but in so doing shall ensure compliance with the requirements of the Directive and these Regulations.

(12) The Central Competent Authority shall inform the European Commission of the name and address of any body which might have relevant information on major accidents and which is able to advise the competent authorities of other Member States which have to intervene in the event of such an accident.

Inspections

22. (1) The Central Competent Authority shall, pursuant to its powers under Part 4 of the Chemicals Act, devise and organise a national system of inspections

of establishments, covering all establishments, and it shall ensure that this plan is kept under regular review, and, where appropriate, updated.

(2) Inspections shall be appropriate to the type of establishment concerned, not be dependent upon the receipt of the safety report or any other report submitted but shall be sufficient for a planned and systematic examination of the systems being employed at the establishment, whether of a technical, organisational or managerial nature, so as to ensure in particular that—

- (a) the operator can demonstrate that appropriate measures have been taken, in connection with the various activities of the establishment, to prevent major accidents;
- (b) the operator can demonstrate that appropriate means for limiting the consequences of major accidents, on-site and off-site, have been provided;
- (c) the data and information contained in the safety report, or any other report submitted, adequately reflects the conditions in the establishment; and
- (d) information has been supplied to the public pursuant to Regulation 25.

(3) Each inspection plan shall include the following—

- (a) a general assessment of relevant safety issues;
- (b) the geographical area covered by the inspection plan;
- (c) a list of the establishments covered by the plan;
- (d) a list of groups of establishments with possible domino effects pursuant to Regulation 9;
- (e) a list of establishments where particular external risks or hazard sources could increase the risk or consequences of a major accident;
- (f) procedures for routine inspections, including the programmes for such inspections pursuant to paragraph (4);
- (g) procedures for non-routine inspections pursuant to paragraph (6); and
- (h) where appropriate, provisions on the co-operation between different inspection authorities.

(4) The Central Competent Authority shall, based on the inspection plans referred to in paragraph (3), regularly draw up programmes for routine inspections for all establishments and such programmes shall—

- (a) include the frequency of site visits for different types of establishments; and

(b) ensure the period between two consecutive site visits shall not exceed one year for upper-tier establishments and three years for lower-tier establishments, unless the Central Competent Authority has drawn up an inspection programme based on a systematic appraisal of major accident hazards of the establishments concerned.

(5) The systematic appraisal of the hazards of the establishments concerned referred to in paragraph (4) shall be based on at least the following criteria—

(a) the potential impacts of the establishments concerned on human health and the environment; and

(b) their record of compliance with the requirements of these Regulations.

Where appropriate, the Central Competent Authority shall take into account relevant findings of inspections carried out pursuant to other European Union legislation.

(6) Non-routine inspections shall be carried out to investigate serious complaints, serious accidents and “near misses”, incidents and occurrences of non-compliance as soon as possible.

(7) The Central Competent Authority shall communicate the conclusions of the inspection and all the necessary actions identified to the operator within four months after each inspection and ensure that the operator takes all those necessary actions within a reasonable period after receipt of the communication.

(8) Where an inspection has identified an important case of non-compliance with these Regulations, an additional inspection shall be carried out within six months.

(9) Inspections shall, where possible, be coordinated with inspections under other European Union legislation and combined, where appropriate.

Inspectors

23. (1) Such of its officers, consultants, advisers or other persons as the Central Competent Authority has appointed to be inspectors pursuant to section 11 of the Chemicals Act shall, by virtue of that appointment and unless otherwise specified in writing by the Central Competent Authority, be deemed to be inspectors of the Central Competent Authority for the purposes of these Regulations.

(2) For avoidance of doubt, all of the powers and obligations of the Central Competent Authority and of its inspectors under the Chemicals Act, and in particular under Parts Four to Six thereof, shall apply with regard to the carrying out by the Central Competent Authority, and its inspectors, of their duties under these Regulations.

Part 7

LAND-USE PLANNING

Technical advice on land-use planning

24. (1) The Central Competent Authority shall, on receiving a notification under Regulation 8, advise a planning authority of a consultation distance for that establishment, if it is within the planning authority's functional area or could affect its functional area, and the Central Competent Authority shall periodically review this advice and update it as necessary.

(2) The Central Competent Authority shall provide technical advice in response to a notice sent by a planning authority under Part 11 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001), requesting technical advice on the effects of a proposed development on the risk or consequences of a major accident in relation to the following types of developments within the consultation distance notified in paragraph (1)—

- (a) the siting and development of new establishments;
- (b) modifications to establishments of the type described in Regulation 12(1);
- (c) new developments including transport routes, locations of public use and residential areas in the vicinity of establishments, where the siting, modifications or developments may be the source of, or increase the risk or consequences of, a major accident.

(3) The technical advice provided by the Central Competent Authority to a planning authority pursuant to paragraph (2) may be generic or case specific in nature and shall be so formulated that it will assist the planning authority to take into account the need, in the long term—

- (a) to maintain appropriate safety distances between establishments covered by these Regulations and residential areas, buildings and areas of public use, recreational areas, and, as far as possible, major transport routes;
- (b) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through appropriate safety distances or other relevant measures; and
- (c) for the operator to take additional technical measures, in the case of existing establishments, in accordance with Regulation 7, so as not to increase the risks to human health and the environment.

(4) In the case of existing establishments, the Central Competent Authority shall review proposed modifications of the type described in Regulation 12(1), which do not constitute development as defined in section 3 of the Planning and Development Act, to determine whether additional technical measures consistent with the operator's duties under Regulation 7 should be taken, so that such modifications will not increase the risks to human health and the environment.

(5) If, in the opinion of the Central Competent Authority, a proposed modification reviewed under paragraph (4) is considered to be a significant change it shall be referred by the Central Competent Authority, with relevant technical advice, to the relevant planning authority under section 5(1) or section 5(4) of the Planning and Development Act, for a declaration as to whether the proposed modification is or is not development or is or is not exempted development within the meaning of that Act.

(6) Where the Central Competent Authority informs the operator pursuant to paragraph (4) that the proposed modification shall not proceed until the specified additional technical measures are taken by the operator, the operator shall not carry out the modification unless the said specified measures are put in place.

(7) Where the Central Competent Authority informs the operator pursuant to paragraph (5) that the proposed modification shall be referred to the relevant planning authority, the operator shall not carry out the modification unless either a declaration is obtained that the proposed modification is not development, or is exempted development in which case paragraph (8) applies, or planning permission is obtained in respect of the proposed modification.

(8) Where the planning authority issues a declaration under section 5 of the Planning and Development Act that a proposed modification referred to it under paragraph (5) is not development, or is exempted development, then it shall be dealt with by the Central Competent Authority under paragraph (4).

(9) The Central Competent Authority shall provide the technical advice referred to in paragraph (2) within four weeks of receiving a request from a planning authority.

(10) Without prejudice to paragraph (9), where the Central Competent Authority requires additional information in order to provide the requested technical advice to the planning authority under paragraph (2), the following shall apply—

- (a) the Central Competent Authority shall request the information from the planning authority within two weeks of the receipt of the request for technical advice;
- (b) the planning authority shall provide the additional information requested by the Central Competent Authority, if necessary after requesting it from the applicant;
- (c) the Central Competent Authority shall provide technical advice to the planning authority within four weeks of receiving the requested information.

(11) Operators of establishments shall provide sufficient information to the Central Competent Authority as part of the notification in Regulation 8 or an update under Regulation 12(2), and at any time at the request of the Central Competent Authority, on the risks arising from an establishment, necessary for

the fulfilment of the Authority's functions under this Regulation, and in particular to ensure that technical advice on those risks for land-use planning purposes is available.

(12) Where the Central Competent Authority or a planning authority becomes aware, in the exercise of their functions under these Regulations or under the Planning and Development Act and the Planning and Development Regulations 2001, of the possibility of a major accident with transboundary effects originating in an upper-tier establishment, it shall provide sufficient information to the competent authorities that have responsibility for the preparation and implementation of external emergency plans in respect of such establishments in the potentially affected other Member State so as to permit the latter to ensure that all relevant provisions contained in Articles 12 and 13 of the Directive can, where applicable, be applied by those authorities.

Part 8

INFORMATION AND CONFIDENTIALITY

Provision of information to the public

25. (1) The operator of all establishments covered by these Regulations shall provide the Central Competent Authority with the information to be made permanently available to the public, including by electronic means, specified in Part 1 of Schedule 5.

(2) The operator of an upper-tier establishment shall provide the Central Competent Authority with the information to be made permanently available to the public, including by electronic means, specified in Part 2 of Schedule 5 and shall ensure that all such information is kept updated.

(3) The Central Competent Authority shall ensure that—

- (a) the information referred to in paragraph (1), and in the case of upper-tier establishments the additional information referred to in paragraph (2), becomes permanently available to the public, including by electronic means, within a reasonable period of time from when the establishment becomes subject to these Regulations;
- (b) for an upper-tier establishment, the safety report shall be made available to the public on request (subject to Regulation 26); and
- (c) for an upper-tier establishment, the inventory of dangerous substances shall be made available to the public on request (subject to Regulation 26).

(4) The operator of an upper-tier establishment shall ensure that all persons likely to be affected by a major accident originating at that establishment receive regularly and in the most appropriate form, without having to request it, clear and intelligible information on safety measures and requisite behaviour in the event of a major accident.

(5) The information in paragraph (4) shall include at least the information referred to in Schedule 5 and shall be supplied to all buildings and areas of public use, including schools and hospitals, and in the case of establishments covered by Regulation 9, to all neighbouring establishments.

(6) The information in paragraph (4) shall be supplied at least every five years and periodically reviewed and where necessary updated and supplied, including in the event of modifications covered by Regulation 12.

(7) With regard to the information that shall be provided by operators of upper-tier establishments pursuant to paragraph (4)—

(a) where the information in paragraph (4) has already been supplied under the 2006 Regulations and where the information contained therein complies with paragraph (4) and remains unchanged, then the five-year update required by paragraph (6) shall be from that earlier date;

(b) for new establishments or other establishments, the information in paragraph (4) shall be supplied within six months from the date on which these Regulations apply to the establishment concerned.

(8) The Central Competent Authority shall notify the operator of the area within which persons are likely to be affected referred to in paragraph (4) following an assessment of the safety report submitted under Regulation 11, including following any update or where justified by new facts or new technological knowledge.

(9) An operator shall consult with the relevant local competent authorities on the suitability of the information to be included under the duty imposed by paragraph (4).

(10) The operator of an establishment shall—

(a) without having to receive a request, provide the Central Competent Authority with the information specified in paragraphs (1) and (2), and subsequently update the Central Competent Authority with revised information, including relevant information subsequent to the modifications referred to in Regulation 8(4), without delay;

(b) comply with any reasonable request for information from the Central Competent Authority, within such period specified in the request, in connection with the preparation of the information referred to in paragraph (1) or, as regards an upper-tier establishment, the information specified in paragraph (2).

(11) The Central Competent Authority shall specify in advance in writing—

(a) the means by which operators shall send the information or revised information referred to in paragraphs (1) or (2); and

(b) the format in which such information or revised information is to be provided.

(12) Where pursuant to Regulation 16, it is established that a major accident may have an effect outside the State, then the operator shall provide the information referred to in paragraph (1) to the designated competent authorities for the purposes of Regulation 16(5)(b).

(13) For avoidance of doubt, information disclosed or made available to the public by the Central Competent Authority pursuant to this Regulation shall be deemed, for the purpose of the Chemicals Act, to be information disclosed by it pursuant to section 28(2)(a) thereof.

Access to information and confidentiality

26. (1) Subject to paragraph (2), any information held by a competent authority by virtue of a requirement of these Regulations shall be treated as being environmental information and subject to the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (further to the collective citation thereof provided for by Regulation 2 of European Communities (Access to Information on the Environment) (Amendment) Regulations 2014 (S.I. No. 615 of 2014) and in this Regulation subsequently referred to as the “Access to Information on the Environment Regulations”) and will be made available to any natural or legal person who requests it in accordance with those Regulations.

(2) Disclosure of any such information required under these Regulations, including the information referred to in Regulation 25, may be refused or restricted by the competent authority where the grounds for refusal laid down in the Access to Information on the Environment Regulations apply.

(3) Disclosure of the complete information referred to in Regulations 25(3)(b) and 25(3)(c) held by the competent authority, may, without prejudice to paragraph (2), be refused by the competent authority if the operator has requested in writing at the time of submission not to disclose certain specific parts of the safety report or the inventory of dangerous substances for the reasons provided for in the Access to Information on the Environment Regulations.

(4) Where a competent authority, taking account of the opinion and reasons supplied by the operator in paragraph (3), or based on its own assessment of the conditions provided for in the Access to Information on the Environment Regulations, decides that the grounds for refusal specified in the Access to Information on the Environment Regulations are applicable, amended versions of the safety report or inventory of dangerous substances excluding those parts, for instance in the form of a non-technical summary, shall be made available by the operator to the competent authority for provision to the public under paragraph (1).

(5) In the cases referred to in paragraph (4), the safety report made available shall include at least general information on major accident hazards and on

potential effects on human health and the environment in the event of a major accident.

- (6) Paragraph (1) shall not apply to information involving—
- (a) the disclosure of information by the Central Competent Authority to a competent authority or a Department of State or the Environmental Protection Agency for the purposes of these Regulations and such information shall be considered confidential unless the Central Competent Authority expressly states otherwise;
 - (b) without prejudice to subparagraph (a), the disclosure by the recipient of information referred to in subparagraph (a) to—
 - (i) any person for the purposes of any function conferred on the recipient by virtue of these Regulations;
 - (ii) an inspector of the Central Competent Authority; or
 - (iii) an officer of a local competent authority who is authorised under Regulation 16(9) to receive it.
- (7) A person to whom information is disclosed pursuant to paragraph (5) shall not use or disclose that information otherwise than in accordance with these Regulations or section 28(2) of the Chemicals Act.
- (8) Paragraph (1) shall not apply to a safety report submitted under Regulation 11 until such time as the Central Competent Authority has communicated its conclusions under Regulation 21(4) or 21(5) as the case may be.
- (9) Technical advice provided by the Central Competent Authority to a planning authority pursuant to Regulation 24 shall be considered to be public information.
- (10) For avoidance of doubt, environmental information referred to in this Regulation, which is made available by the Central Competent Authority to any natural or legal person who requests it in accordance with the Access to Information on the Environment Regulations, shall be deemed, for the purpose of the Chemicals Act, to be information disclosed by that Authority pursuant to section 28(2)(a) thereof.

Part 9

CHARGES FOR SERVICES

Charges for services

27. (1) The Central Competent Authority may charge fees in accordance with section 10 of the Chemicals Act for the provision by it of a service, or for the performance of a function imposed on it pursuant to these Regulations, including for the purposes of—

- (a) the examination of notifications, MAPPs, safety reports and any revisions of same;
- (b) the performance of inspections under Regulation 22 and investigations under Regulations 19(1) and 22;
- (c) the provision of technical land-use planning advice under Regulation 24;
- (d) provision of information to the public under Regulation 25(3)(a);
- (e) attendance at external emergency plan tests;
- (f) preparation of special reports; and
- (g) such others as may arise.

(2) A local competent authority may charge fees for the provision by it of a service, or for the performance of a function imposed on it pursuant to these Regulations, including for the purposes of—

- (a) the preparation and revision of external emergency plans;
- (b) the testing and putting into effect of external emergency plans;
- (c) such others as may arise;

and such fees shall be made only in accordance with such scale of fees as is approved by the appropriate Minister responsible under Regulation 4(3) for designating the authority concerned for the purpose of this Regulation, in consultation with the Minister and the Minister for Public Expenditure and Reform.

(3) Without prejudice to paragraphs (1) and (2), where a scale of fees was in place under the 2006 Regulations, that scale of fees shall continue in force as if it was made under these Regulations unless and until it is replaced by a scale of fees made under these Regulations.

Part 10

OFFENCES AND PENALTIES

Regulations subject to penal provisions

28. (1) For the purpose of section 29(4) of the Chemicals Act, the following Regulations of these Regulations are declared to be penal provisions with regard to the duties and obligations of operators prescribed therein—

- (a) Regulations 7 and 8;
- (b) Regulation 9(2) and 9(3);
- (c) Regulations 10 to 15 inclusive, with the exception of Regulation 10(8);

- (d) Regulation 16(2) and 16(7);
- (e) Regulation 18(1);
- (f) Regulation 20;
- (g) Regulation 24(6), 24(7), and 24(11); and
- (h) Regulation 25(1), (2), (4) to (7), (9) to (10) and (12).

(2) For the purpose of section 29(4) of the Chemicals Act, the following Regulations of these Regulations are declared to be penal provisions with regard to the duties and obligations of persons prescribed therein—

- (a) Regulation 18(2); and
- (b) Regulation 26(7).

Offences, prosecution and penalties

29. (1) An operator who fails to comply with any duties or obligations imposed by the provisions of the Regulations declared to be penal provisions by Regulation 28 shall be guilty of an offence and liable on conviction to the penalties prescribed in section 30(1) of the Chemicals Act.

(2) Section 32 of the Chemicals Act shall apply to offences committed by operators referred to in paragraph (1).

(3) Offences committed by operators and by those officers of operators referred to in paragraph (2) shall be prosecuted pursuant to section 33 of the Chemicals Act.

(4) Following a conviction for an offence referred to in paragraphs (1) and (2), the court, in deciding upon the appropriate penalty to be imposed pursuant to section 30(1) of the Chemicals Act, shall take into account the requirement, under Article 28 of the Directive, for the penalty to be effective, proportionate and dissuasive.

(5) Following a conviction for an offence referred to in paragraphs (1) and (2) in a prosecution brought by the Central Competent Authority, as national authority for the Directive under the Chemicals Act, section 30(3) of that Act shall be applicable with regard to the costs and expenses incurred by the Authority in the investigation, detection and prosecution of the offence.

SCHEDULE 1**Regulation 2****APPLICATION OF THE REGULATIONS**

Dangerous substances covered by the hazard categories listed in Column 1 of Part 1 of this Schedule are subject to the qualifying quantities set out in Columns 2 and 3 of Part 1.

Where a dangerous substance is covered by Part 1 of this Schedule and is also listed in Part 2, the qualifying quantities set out in Columns 2 and 3 of Part 2 apply.

PART 1

Categories of dangerous substances

This Part covers all dangerous substances falling under the hazard categories listed in Column 1:

Column 1	Column 2	Column 3
Hazard categories in accordance with Regulation (EC) No. 1272/2008 on the classification, labelling and packaging of substances and mixtures	Qualifying quantity (tonnes) of dangerous substances as referred to in Regulation 2 for the application of	
	Lower-tier requirements	Upper-tier requirements
Section 'H' — HEALTH HAZARDS		
H1 ACUTE TOXIC Category 1, all exposure routes	5	20
H2 ACUTE TOXIC — Category 2, all exposure routes — Category 3, inhalation exposure <i>route</i> (see note 7)	50	200
H3 STOT SPECIFIC TARGET ORGAN TOXICITY — SINGLE EXPOSURE STOT SE Category 1	50	200
Section 'P' — PHYSICAL HAZARDS		
P1a EXPLOSIVES (see note 8) — Unstable explosives or — Explosives, Division 1.1, 1.2, 1.3, 1.5 or 1.6, or — Substances or mixtures having explosive properties according to method A.14 of Regulation (EC) No. 440/2008 (see note 9) and do not belong to the hazard classes Organic peroxides or Self-reactive substances and mixtures	10	50
P1b EXPLOSIVES (see note 8) Explosives, Division 1.4 (see note 10)	50	200
P2 FLAMMABLE GASES Flammable gases, Category 1 or 2	10	50

Column 1	Column 2	Column 3
Hazard categories in accordance with Regulation (EC) No. 1272/2008 on the classification, labelling and packaging of substances and mixtures	Qualifying quantity (tonnes) of dangerous substances as referred to in Regulation 2 for the application of	
	Lower-tier requirements	Upper-tier requirements
P3a FLAMMABLE AEROSOLS (see note 11.1) 'Flammable' aerosols <i>Category 1 or 2</i> , containing flammable gases <i>Category 1 or 2</i> or flammable liquids <i>Category 1</i>	150 (<i>net</i>)	500 (<i>net</i>)
P3b FLAMMABLE AEROSOLS (see note 11.1) 'Flammable' aerosols <i>Category 1 or 2</i> , not containing flammable gases <i>Category 1 or 2</i> nor flammable liquids <i>category 1</i> (see note 11.2)	5,000 (<i>net</i>)	50,000 (<i>net</i>)
P4 OXIDISING GASES Oxidising gases, <i>Category 1</i>	50	200
P5a FLAMMABLE LIQUIDS — Flammable liquids, <i>Category 1</i> , or — Flammable liquids <i>Category 2 or 3</i> maintained at a temperature above their boiling point, or — Other liquids with a flash point ≤ 60 °C, maintained at a temperature above their boiling point (see note 12)	10	50
P5b FLAMMABLE LIQUIDS — Flammable liquids <i>Category 2 or 3</i> where particular processing conditions, such as high pressure or high temperature, may create major accident hazards, or — Other liquids with a flash point ≤ 60 °C where particular processing conditions, such as high pressure or high temperature, may create major accident hazards (see note 12)	50	200
P5c FLAMMABLE LIQUIDS Flammable liquids, <i>Categories 2 or 3</i> not covered by P5a and P5b	5,000	50,000
P6a SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and mixtures, <i>Type A or B</i> or organic peroxides, <i>Type A or B</i>	10	50
P6b SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and mixtures, <i>Type C, D, E or F</i> or organic peroxides, <i>Type C, D, E, or F</i>	50	200
P7 PYROPHORIC LIQUIDS AND SOLIDS Pyrophoric liquids, <i>Category 1</i> Pyrophoric solids, <i>Category 1</i>	50	200
P8 OXIDISING LIQUIDS AND SOLIDS Oxidising Liquids, <i>Category 1, 2 or 3</i> , or Oxidising Solids, <i>Category 1, 2 or 3</i>	50	200
Section 'E' — ENVIRONMENTAL HAZARDS		
E1 Hazardous to the Aquatic Environment in <i>Category Acute 1 or Chronic 1</i>	100	200
E2 Hazardous to the Aquatic Environment in <i>Category Chronic 2</i>	200	500

Column 1	Column 2	Column 3
Hazard categories in accordance with Regulation (EC) No. 1272/2008 on the classification, labelling and packaging of substances and mixtures	Qualifying quantity (tonnes) of dangerous substances as referred to in Regulation 2 for the application of	
	Lower-tier requirements	Upper-tier requirements
Section 'O' — OTHER HAZARDS		
O1 Substances or mixtures with hazard statement EUH014	100	500
O2 Substances and mixtures which in contact with water emit flammable gases, Category 1	100	500
O3 Substances or mixtures with hazard statement EUH029	50	200

PART 2

Named dangerous substances

Column 1	CAS number (1)	Column 2	Column 3
Dangerous substances		Qualifying quantity (tonnes) for the application of	
		Lower-tier requirements	Upper-tier requirements
1. Ammonium nitrate (see note 13)	—	5,000	10,000
2. Ammonium nitrate (see note 14)	—	1,250	5,000
3. Ammonium nitrate (see note 15)	—	350	2,500
4. Ammonium nitrate (see note 16)	—	10	50
5. Potassium nitrate (see note 17)	—	5,000	10,000
6. Potassium nitrate (see note 18)	—	1,250	5,000
7. Arsenic pentoxide, arsenic (V) acid and/or salts	1303-28-2	1	2
8. Arsenic trioxide, arsenious (III) acid and/or salts	1327-53-3		0.1
9. Bromine	7726-95-6	20	100
10. Chlorine	7782-50-5	10	25
11. Nickel compounds in inhalable powder form: nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide	—		1
12. Ethyleneimine	151-56-4	10	20
13. Fluorine	7782-41-4	10	20
14. Formaldehyde (concentration \geq 90 %)	50-00-0	5	50
15. Hydrogen	1333-74-0	5	50
16. Hydrogen chloride (liquefied gas)	7647-01-0	25	250
17. Lead alkyls	—	5	50
18. Liquefied flammable gases, Category 1 or 2 (including LPG) and natural gas (see note 19)	—	50	200

Column 1	CAS number (1)	Column 2	Column 3
Dangerous substances		Qualifying quantity (tonnes) for the application of	
		Lower-tier requirements	Upper-tier requirements
19. Acetylene	74-86-2	5	50
20. Ethylene oxide	75-21-8	5	50
21. Propylene oxide	75-56-9	5	50
22. Methanol	67-56-1	500	5,000
23. 4, 4'-Methylene bis (2-chloraniline) and/or salts, in powder form	101-14-4		0.01
24. Methylisocyanate	624-83-9		0.15
25. Oxygen	7782-44-7	200	2,000
26. 2,4 —Toluene diisocyanate 2,6 —Toluene diisocyanate	584-84-9 91-08-7	10	100
27. Carbonyl dichloride (phosgane)	75-44-5	0.3	0.75
28. Arisine (arsenic trihydride)	7784-42-1	0.2	1
29. Phosphine (phosphorus trihydride)	7803-51-2	0.2	1
30. Sulphur dichloride	10545-99-0		1
31. Sulphur trioxide	7446-11-9	15	75
32. Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent (see note 20)	—		0.001
33. The following CARCINOGENS or the mixtures containing the following carcinogens at concentrations above 5 % by weight: 4-Aminobiphenyl and/or its salts, Benzotrichloride, Benzidine and/or salts, Bis (chloromethyl) ether, Chloromethyl methyl ether, 1,2-Dibromoethane, Diethyl sulphate, Dimethyl sulphate, Dimethylcarbamoyl chloride, 1,2- Dibromo-3-chloropropane, 1,2- Dimethylhydrazine, Dimethylnitrosamine, Hexamethylphosphoric triamide, Hydrazine, 2- Naphthylamine and/or salts, 4-Nitrodiphenyl, and 1,3 Propanesultone	—	0.5	2

Column 1	CAS number (1)	Column 2	Column 3
Dangerous substances		Qualifying quantity (tonnes) for the application of	
		Lower-tier requirements	Upper-tier requirements
34. Petroleum products and alternative fuels (a) gasolines and naphthas, (b) kerosenes (including jet fuels), (c) gas oils (including diesel fuels, home heating oils and gas oil blending streams) (d) heavy fuel oils (e) alternative fuels serving the same purposes and with similar properties as regards flammability and environmental hazards as the products referred to in points (a) to (d)	—	2,500	25,000
35. Anhydrous Ammonia	7664-41-7	50	200
36. Boron trifluoride	7637-07-2	5	20
37. Hydrogen sulphide	7783-06-4	5	20
38. Piperidine	110-89-4	50	200
39. Bis(2-dimethylaminoethyl) (methyl)amin	3030-47-5	50	200
40. 3-(2-Ethylhexyloxy)propylamin	5397-31-9	50	200
41. Mixtures (*) of sodium hypochlorite classified as Aquatic Acute Category 1 [H400] containing less than 5 % active chlorine and not classified under any of the other hazard categories in Part 1 of Schedule 1. (*) Provided that the mixture in the absence of sodium hypochlorite would not be classified as Aquatic Acute Category 1 [H400].		200	500
42. Propylamine (see note 21)	107-10-8	50	2,000
43. Tert-butyl acrylate (see note 21)	1663-39-4	20	500
44. 2-Methyl-3-butenitrile (see note 21)	16529-56-9	50	2,000
45. Tetrahydro-3,5-dimethyl-1,3,5,-thiadiazine-2-thione (Dazomet) (see note 21)	533-74-4	100	200
46. Methyl acrylate (see note 21)	96-33-3	500	2,000
47. 3-Methylpyridine (see note 21)	108-99-6	500	2,000
48. 1-Bromo-3-chloropropane (see note 21)	109-70-6	500	2,000
(1) The CAS number is shown only for indication			

NOTES TO SCHEDULE 1

1. Substances and mixtures are classified in accordance with Regulation (EC) No.1272/2008.

2. Mixtures shall be treated in the same way as pure substances provided they remain within concentration limits set according to their properties under Regulation (EC) No. 1272/2008, or its latest adaptation to technical progress, unless a percentage composition or other description is specifically given.
3. The qualifying quantities set out above relate to each establishment.

The quantities to be considered for the application of the relevant Regulations of these Regulations are the maximum quantities which are present or are likely to be present at any one time. Dangerous substances present at an establishment only in quantities equal to or less than 2 % of the relevant qualifying quantity shall be ignored for the purposes of calculating the total quantity present if their location within an establishment is such that it cannot act as an initiator of a major accident elsewhere at that establishment.

4. The following rules governing the addition of dangerous substances, or categories of dangerous substances, shall apply where appropriate:

In the case of an establishment where no individual dangerous substance is present in a quantity above or equal to the relevant qualifying quantities, the following rule shall be applied to determine whether the establishment is covered by the relevant requirements of these Regulations.

These Regulations shall apply to upper-tier establishments if the sum:

$q_1/Q_{U1} + q_2/Q_{U2} + q_3/Q_{U3} + q_4/Q_{U4} + q_5/Q_{U5} + \dots$ is greater than or equal to 1,

where q_x = the quantity of dangerous substance x (or category of dangerous substances) falling within Part 1 or

Part 2 of this Schedule,

and Q_{Ux} = the relevant qualifying quantity for dangerous substance or category x from Column 3 of Part 1 or from

Column 3 of Part 2 of this Schedule.

These Regulations shall apply to lower-tier establishments if the sum:

$q_1/Q_{L1} + q_2/Q_{L2} + q_3/Q_{L3} + q_4/Q_{L4} + q_5/Q_{L5} + \dots$ is greater than or equal to 1,

where q_x = the quantity of dangerous substance x (or category of dangerous substances) falling within Part 1 or Part 2 of this Schedule,

and Q_{Lx} = the relevant qualifying quantity for dangerous substance or category x from Column 2 of Part 1 or from Column 2 of Part 2 of this Schedule.

This rule shall be used to assess the health hazards, physical hazards and environmental hazards. It must therefore be applied three times:

- (a) for the addition of dangerous substances listed in Part 2 that fall within acute toxicity category 1, 2 or 3 (inhalation route) or STOT SE category 1, together with dangerous substances falling within section H, entries H1 to H3 of Part 1;
- (b) for the addition of dangerous substances listed in Part 2 that are explosives, flammable gases, flammable aerosols, oxidising gases, flammable liquids, self-reactive substances and mixtures, organic peroxides, pyrophoric liquids and solids, oxidising liquids and solids, together with dangerous substances falling within section P, entries P1 to P8 of Part 1;
- (c) for the addition of dangerous substances listed in Part 2 that fall within hazardous to the aquatic environment acute category 1, chronic category 1 or chronic category 2, together with dangerous substances falling within section E, entries E1 and E2 of Part 1.

The relevant provisions of these Regulations apply where any of the sums obtained by (a), (b) or (c) is greater than or equal to 1.

- 5. In the case of dangerous substances which are not covered by Regulation (EC) No. 1272/2008, including waste, but which nevertheless are present, or are likely to be present, in an establishment and which possess or are likely to possess, under the conditions found at the establishment, equivalent properties in terms of major accident potential, these shall be provisionally assigned to the most analogous category or named dangerous substance falling within the scope of these Regulations.
- 6. In the case of dangerous substances with properties giving rise to more than one classification, for the purposes of these Regulations the lowest qualifying quantities shall apply. However, for the application of the rule in Note 4, the lowest qualifying quantity for each group of categories in Notes 4(a), 4(b) and 4(c) corresponding to the classification concerned shall be used.
- 7. Dangerous substances that fall within Acute Toxic Category 3 via the oral route (H 301) shall fall under entry H2 ACUTE TOXIC in those cases where neither acute inhalation toxicity classification nor acute dermal toxicity classification can be derived, for example due to lack of conclusive inhalation and dermal toxicity data.
- 8. The hazard class Explosives includes explosive articles (see section 2.1 of Annex I to Regulation (EC) No. 1272/2008). If the quantity of the explosive substance or mixture contained in the article is known, that quantity shall be considered for the purposes of these Regulations. If the quantity of the explosive substance or mixture contained in the article is not known, then, for the purposes of these Regulations, the whole article shall be treated as explosive.
- 9. Testing for explosive properties of substances and mixtures is only necessary if the screening procedure according to Appendix 6, Part 3 of the UN

Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria (UN Manual of Tests and Criteria) ⁽¹⁾ identifies the substance or mixture as potentially having explosive properties.

10. If Explosives of Division 1.4 are unpacked or repacked, they shall be assigned to the entry P1a, unless the hazard is shown to still correspond to Division 1.4, in accordance with Regulation (EC) No. 1272/2008.
- 11.1. Flammable aerosols are classified in accordance with the Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers ⁽²⁾ (Aerosol Dispensers Directive). ‘Extremely flammable’ and ‘Flammable’ aerosols of Directive 75/324/EEC correspond to Flammable Aerosols Category 1 or 2 respectively of Regulation (EC) No. 1272/2008.
- 11.2. In order to use this entry, it must be documented that the aerosol dispenser does not contain Flammable Gas Category 1 or 2 nor Flammable Liquid Category 1.
12. According to paragraph 2.6.4.5 in Annex I to Regulation (EC) No. 1272/2008, liquids with a flash point of more than 35 °C need not be classified in Category 3 if negative results have been obtained in the sustained combustibility test L.2, Part III, section 32 of the UN Manual of Tests and Criteria. This is however not valid under elevated conditions such as high temperature or pressure, and therefore such liquids are included in this entry.
13. Ammonium nitrate (5, 000 / 10,000): fertilisers capable of self-sustaining decomposition

This applies to ammonium nitrate-based compound/composite fertilisers (compound/composite fertilisers contain ammonium nitrate with phosphate and/or potash) which are capable of self-sustaining decomposition according to the UN Trough Test (see UN Manual of Tests and Criteria, Part III, subsection 38.2), and in which the nitrogen content as a result of ammonium nitrate is

— between 15.75 % ⁽³⁾ and 24.5 % ⁽⁴⁾ by weight, and either with not more than 0.4 % total combustible/organic materials or which fulfil the requirements of Annex III-2 to Regulation (EC) No. 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers ⁽⁵⁾,

⁽¹⁾ More guidance on waiving of the test can be found in the A.14 method description: see Commission Regulation (EC) No. 440/2008 of 30 May 2008 laying down test methods pursuant to Regulation (EC) No. 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ L 142, 31.5.2008, p. 1).

⁽²⁾ OJ L 147, 9.6.1975, p. 40.

⁽³⁾ 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate.

⁽⁴⁾ 24.5% nitrogen content by weight as a result of ammonium nitrate corresponds to 70% ammonium nitrate.

⁽⁵⁾ OJ L 304, 21.11.2003, p. 1.

— 15.75 % by weight or less and unrestricted combustible materials.

14. Ammonium nitrate (1,250 / 5,000): fertiliser grade

This applies to straight ammonium nitrate-based fertilisers and to ammonium nitrate-based compound/composite fertilisers which fulfil the requirements of Annex III-2 to Regulation (EC) No. 2003/2003 and in which the nitrogen content as a result of ammonium nitrate is

— more than 24.5 % by weight, except for mixtures of straight ammonium nitrate-based fertilisers with dolomite, limestone and/or calcium carbonate with a purity of at least 90 %,

— more than 15.75 % by weight for mixtures of ammonium nitrate and ammonium sulphate,

— more than 28 % ⁽⁶⁾ by weight for mixtures of straight ammonium nitrate-based fertilisers with dolomite, limestone and/or calcium carbonate with a purity of at least 90 %.

15. Ammonium nitrate (350 / 2,500): technical grade

This applies to ammonium nitrate and mixtures of ammonium nitrate in which the nitrogen content as a result of the ammonium nitrate is

— between 24.5 % and 28 % by weight, and which contain not more than 0.4 % combustible substances,

— more than 28 % by weight, and which contain not more than 0.2 % combustible substances.

It also applies to aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 80 % by weight.

16. Ammonium nitrate (10 / 50): ‘off-specs’ material and fertilisers not fulfilling the detonation test

This applies to

— material rejected during the manufacturing process and to ammonium nitrate and mixtures of ammonium nitrate, straight ammonium nitrate-based fertilisers and ammonium nitrate-based compound/composite fertilisers referred to in Notes 14 and 15, that are being or have been returned from the final user to a manufacturer, temporary storage or reprocessing plant for reworking, recycling or treatment for safe use, because they no longer comply with the specifications of Notes 14 and 15,

⁽⁶⁾ 28 % nitrogen content by weight as a result of ammonium nitrate corresponds to 80 % ammonium nitrate.

— fertilisers referred to in first indent of Note 13, and Note 14 to this Schedule which do not fulfil the requirements of Annex III-2 to Regulation (EC) No. 2003/2003.

17. Potassium nitrate (5,000 / 10,000)

This applies to those composite potassium-nitrate based fertilisers (in prilled/granular form) which have the same hazardous properties as pure potassium nitrate.

18. Potassium nitrate (1,250 / 5,000)

This applies to those composite potassium-nitrate based fertilisers (in crystalline form) which have the same hazardous properties as pure potassium nitrate.

19. Upgraded biogas

For the purpose of the implementation of these Regulations, upgraded biogas may be classified under entry 18 of Part 2 of this Schedule where it has been processed in accordance with applicable standards for purified and upgraded biogas ensuring a quality equivalent to that of natural gas, including the content of Methane, and which has a maximum of 1 % Oxygen.

20. Polychlorodibenzofurans and polychlorodibenzodioxins

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

WHO 2005 TEF			
2,3,7,8-TCDD	1	2,3,7,8-TCDF	0.1
1,2,3,7,8-PeCDD	1	2,3,4,7,8-PeCDF	0.3
		1,2,3,7,8-PeCDF	0.03
1,2,3,4,7,8-HxCDD	0.1		
1,2,3,6,7,8-HxCDD	0.1	1,2,3,4,7,8-HxCDF	0.1
1,2,3,7,8,9-HxCDD	0.1	1,2,3,7,8,9-HxCDF	0.1
		1,2,3,6,7,8-HxCDF	0.1
1,2,3,4,6,7,8-HpCDD	0.01	2,3,4,6,7,8-HxCDF	0.1
OCDD	0.0003	1,2,3,4,6,7,8-HpCDF	0.01
		1,2,3,4,7,8,9-HpCDF	0.01

WHO 2005 TEF			
		OCDF	0.0003

(T = tetra, P = penta, Hx = hexa, Hp = hepta, O = octa)

Reference — Van den Berg et al: The 2005 World Health Organisation Re-evaluation of Human and Mammalian Toxic Equivalency Factors for Dioxins and Dioxin-like Compounds

21. In cases where this dangerous substance falls within category P5a Flammable liquids or P5b Flammable liquids, then for the purposes of these Regulations the lowest qualifying quantities shall apply.

SCHEDULE 2***Regulations 10 and 11*****INFORMATION ON THE SAFETY MANAGEMENT SYSTEM AND
THE ORGANISATION OF THE ESTABLISHMENT WITH A VIEW TO
THE PREVENTION OF MAJOR ACCIDENTS REFERRED TO IN
REGULATION 10 AND REGULATION 11**

For the purpose of implementing the operator's safety management system, account shall be taken of the following elements:

- (a) the safety management system shall be proportionate to the hazards, industrial activities and complexity of the organisation in the establishment and be based on assessment of the risks; it should include the part of the general management system which includes the organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the MAPP;
- (b) the following issues shall be addressed by the safety management system:
 - (i) organisation and personnel — the roles and responsibilities of personnel involved in the management of major hazards at all levels in the organisation, together with the measures taken to raise awareness of the need for continuous improvement. The identification of training needs of such personnel and the provision of the training so identified. The involvement of employees and of subcontracted personnel working in the establishment which are important from the point of view of safety;
 - (ii) identification and evaluation of major hazards — adoption and implementation of procedures for systematically identifying major hazards arising from normal and abnormal operation including subcontracted activities where applicable and the assessment of their likelihood and severity;
 - (iii) operational control — adoption and implementation of procedures and instructions for safe operation, including maintenance, of plant, processes and equipment, and for alarm management and temporary stoppages; taking into account available information on best practices for monitoring and control, with a view to reducing the risk of system failure; management and control of the risks associated with ageing equipment installed in the establishment and corrosion; inventory of the establishment's equipment, strategy and methodology for monitoring and control of the condition of the equipment; appropriate follow-up actions and any necessary counter-measures;

- (iv) management of change — adoption and implementation of procedures for planning modifications to, or the design of new installations, processes or storage facilities;
- (v) planning for emergencies — adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis, to prepare, test and review emergency plans to respond to such emergencies and to provide specific training for the staff concerned. Such training shall be given to all personnel working in the establishment, including relevant subcontracted personnel;
- (vi) monitoring performance — adoption and implementation of procedures for the ongoing assessment of compliance with the objectives set by the operator's MAPP and safety management system, and the mechanisms for investigation and taking corrective action in case of non-compliance. The procedures shall cover the operator's system for reporting major accidents or 'near misses', particularly those involving failure of protective measures, and their investigation and follow-up on the basis of lessons learnt. The procedures shall also include performance indicators such as safety performance indicators (SPIs) and/or other relevant indicators;
- (vii) audit and review — adoption and implementation of procedures for periodic systematic assessment of the MAPP and the effectiveness and suitability of the safety management system; the documented review of performance of the policy and safety management system and its updating by senior management, including consideration and incorporation of necessary changes indicated by the audit and review.

SCHEDULE 3***Regulation 11*****MINIMUM DATA AND INFORMATION TO BE CONSIDERED IN THE SAFETY REPORT REFERRED TO IN REGULATION 11**

1. Information on the management system and on the organisation of the establishment with a view to major accident prevention.

This information shall contain the elements indicated in Schedule 2.

2. Presentation of the environment of the establishment:

- (a) description of the establishment and its environment including the geographical location, meteorological, geological, hydrographic conditions and, if necessary, its history;
- (b) identification of installations and other activities of the establishment which could present a major accident hazard;
- (c) on the basis of available information, identification of neighbouring establishments, as well as sites that fall outside the scope of these Regulations, areas and developments that could be the source of, or increase the risk or consequences of a major accident and of domino effects;
- (d) description of areas where a major accident may occur.

3. Description of the installation:

- (a) description of the main activities and products of the parts of the establishment which are important from the point of view of safety, sources of major accident risks and conditions under which such a major accident could happen, together with a description of proposed preventive measures;
- (b) description of processes, in particular the operating methods; where applicable, taking into account available information on best practices;
- (c) description of dangerous substances:
 - (i) inventory of dangerous substances including:

— the identification of dangerous substances: chemical name, CAS number, name according to IUPAC nomenclature,

— the maximum quantity of dangerous substances present or likely to be present;

- (ii) physical, chemical, toxicological characteristics and indication of the hazards, both immediate and delayed for human health and the environment;
- (iii) physical and chemical behaviour under normal conditions of use or under foreseeable accidental conditions.

4. Identification and accidental risks analysis and prevention methods:

- (a) detailed description of the possible major accident scenarios and their probability or the conditions under which they occur including a summary of the events which may play a role in triggering each of these scenarios, the causes being internal or external to the installation; including in particular:
 - (i) operational causes;
 - (ii) external causes, such as those related to domino effects, sites that fall outside the scope of these Regulations, areas and developments that could be the source of, or increase the risk or consequences of a major accident;
 - (iii) natural causes, for example earthquakes or floods;
- (b) assessment of the extent and severity of the consequences of identified major accidents including maps, images or, as appropriate, equivalent descriptions, showing areas which are likely to be affected by such accidents arising from the establishment;
- (c) review of past accidents and incidents with the same substances and processes used, consideration of lessons learned from these, and explicit reference to specific measures taken to prevent such accidents;
- (d) description of technical parameters and equipment used for the safety of installations.

5. Measures of protection and intervention to limit the consequences of a major accident:

- (a) description of the equipment installed in the plant to limit the consequences of major accidents for human health and environment, including for example detection/protection systems, technical devices for limiting the size of accidental releases, including water spray; vapour screens; emergency catch pots or collection vessels; shut-off-valves; inerting systems; fire water retention;
- (b) organisation of alert and intervention;
- (c) description of mobilisable resources, internal or external;

- (d) description of any technical and non-technical measures relevant for the reduction of the impact of a major accident.

SCHEDULE 4***Regulation 13*****DATA AND INFORMATION TO BE INCLUDED IN THE
EMERGENCY PLANS REFERRED TO IN REGULATION 13**

1. Internal emergency plans:
 - (a) Names or positions of persons authorised to set emergency procedures in motion and the person in charge of and coordinating the on-site mitigatory action;
 - (b) Name or position of the person with responsibility for liaising with the authority responsible for the external emergency plan;
 - (c) For foreseeable conditions or events which could be significant in bringing about a major accident, a description of the action which should be taken to control the conditions or events and to limit their consequences, including a description of the safety equipment and the resources available;
 - (d) Arrangements for limiting the risks to persons on site including how warnings are to be given and the actions persons are expected to take on receipt of a warning;
 - (e) Arrangements for providing early warning of the incident to the authority responsible for setting the external emergency plan in motion, the type of information which should be contained in an initial warning and the arrangements for the provision of more detailed information as it becomes available;
 - (f) Where necessary, arrangements for training staff in the duties they will be expected to perform and, as appropriate, coordinating this with off-site emergency services;
 - (g) Arrangements for providing assistance with off-site mitigatory action.
2. External emergency plans:
 - (a) Names or positions of persons authorised to set emergency procedures in motion and of persons authorised to take charge of and coordinate off-site action;
 - (b) Arrangements for receiving early warning of incidents, and alert and call-out procedures;
 - (c) Arrangements for coordinating resources necessary to implement the external emergency plan;
 - (d) Arrangements for providing assistance with on-site mitigatory action;

- (e) Arrangements for off-site mitigatory action, including responses to major accident scenarios as set out in the safety report and considering possible domino effects, including those having an impact on the environment;
- (f) Arrangements for providing the public and any neighbouring establishments or sites that fall outside the scope of these Regulations in accordance with Regulation 9 with specific information relating to the accident and the behaviour which should be adopted;
- (g) Arrangements for the provision of information to the emergency services of other Member States in the event of a major accident with possible transboundary consequences.

SCHEDULE 5*Regulation 25***ITEMS OF INFORMATION TO THE PUBLIC AS PROVIDED FOR IN
REGULATION 25****PART 1**

For all establishments covered by these Regulations:

1. Name or trade name of the operator and the full address of the establishment concerned.
2. Confirmation that the establishment is subject to these Regulations and that the notification referred to in Regulation 8(1) or the safety report referred to in Regulation 11(1) has been submitted to the competent authority.
3. An explanation in simple terms of the activity or activities undertaken at the establishment.
4. The common names or, in the case of dangerous substances covered by Part 1 of Schedule 1, the generic names or the hazard classification of the relevant dangerous substances involved at the establishment which could give rise to a major accident, with an indication of their principal dangerous characteristics in simple terms.
5. General information about how the public concerned will be warned, if necessary; adequate information about the appropriate behaviour in the event of a major accident or indication of where that information can be accessed electronically.
6. The date of the last site visit in accordance with Regulation 22(4) or reference to where that information can be accessed electronically; information on where more detailed information about the inspection and the related inspection plan can be obtained upon request, subject to the requirements of Regulation 26.
7. Details of where further relevant information can be obtained, subject to the requirements of Regulation 26.

PART 2

For upper-tier establishments, in addition to the information referred to in Part 1 of this Schedule:

1. General information relating to the nature of the major accident hazards, including their potential effects on human health and the environment and summary details of the main types of major accident scenarios and the control measures to address them.

2. Confirmation that the operator is required to make adequate arrangements on site, in particular liaison with the emergency services, to deal with major accidents and to minimise their effects.

3. Appropriate information from the external emergency plan drawn up to cope with any off-site effects from an accident. This should include advice to cooperate with any instructions or requests from the emergency services at the time of an accident.

4. Where applicable, indication whether the establishment is close to the territory of another Member State with the possibility of a major accident with transboundary effects under the Convention of the United Nations Economic Commission for Europe on the Transboundary Effects of Industrial Accidents.

SCHEDULE 6***Regulation 19(2)*****CRITERIA FOR THE NOTIFICATION OF A MAJOR ACCIDENT TO
THE EUROPEAN COMMISSION AS PROVIDED FOR IN
REGULATION 19(2)**

I. Any major accident covered by paragraph 1 or having at least one of the consequences described in paragraphs 2, 3, 4 and 5 must be notified to the European Commission.

1. Dangerous substances involved

Any fire or explosion or accidental discharge of a dangerous substance involving a quantity of at least 5 % of the qualifying quantity laid down in Column 3 of Part 1 or in Column 3 of Part 2 of Schedule 1.

2. Injury to persons and damage to real estate:

(a) a death;

(b) six persons injured within the establishment and hospitalised for at least 24 hours;

(c) one person outside the establishment hospitalised for at least 24 hours;

(d) dwelling(s) outside the establishment damaged and unusable as a result of the accident;

(e) the evacuation or confinement of persons for more than 2 hours (persons × hours): the value is at least 500;

(f) the interruption of drinking water, electricity, gas or telephone services for more than 2 hours (persons × hours): the value is at least 1,000.

3. Immediate damage to the environment:

(a) permanent or long-term damage to terrestrial habitats:

(i) 0.5 ha or more of a habitat of environmental or conservation importance protected by legislation;

(ii) 10 or more hectares of more widespread habitat, including agricultural land;

(b) significant or long-term damage to freshwater and marine habitats:

(i) 10 km or more of river or canal;

(ii) 1 ha or more of a lake or pond;

(iii) 2 ha or more of delta;

(iv) 2 ha or more of a coastline or open sea;

(c) significant damage to an aquifer or underground water:

1 ha or more.

4. Damage to property:

(a) damage to property in the establishment: at least EUR 2,000,000;

(b) damage to property outside the establishment: at least EUR 500,000.

5. Cross-border damage

Any major accident directly involving a dangerous substance giving rise to effects outside the territory of the Member State concerned.

II. Accidents or 'near misses' which Member States regard as being of particular technical interest for preventing major accidents and limiting their consequences and which do not meet the quantitative criteria above should be notified to the European Commission.

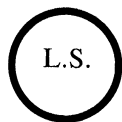
SCHEDULE 7

Regulation 20

**CRITERIA FOR THE NOTIFIABLE INCIDENT REFERRED TO IN
REGULATION 20**

1. An explosion or fire involving a dangerous substance occurring in an establishment which resulted in the stoppage of any part of the establishment or suspension of normal work in that establishment for more than 24 hours.
2. The uncontrolled or accidental release or the escape of any dangerous substance from any apparatus, equipment, pipework, pipe-line, process plant, storage vessel, tank or tanker, which, having regard to the nature of the substance and the extent and location of the release or escape, might have been liable to cause-
 - (a) serious injury consequences to human health;
 - (b) serious damage to the environment; or
 - (c) damage to property;of the type described in Schedule 6.

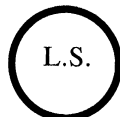
The Minister for the Environment, Community and Local Government consents to the making of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for the Environment,
Community and Local Government,
26 May 2015.

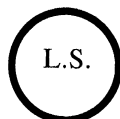
ALAN KELLY,
Minister for the Environment, Community and Local
Government.

The Minister for Justice and Equality consents to the making of the foregoing Regulations.

 L.S. GIVEN under the Official Seal of the Minister for Justice and Equality,
26 May 2015.

FRANCES FITZGERALD,
Minister for Justice and Equality.

The Minister for Transport, Tourism and Sport consents to the making of the foregoing Regulations.

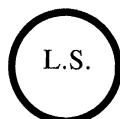
 L.S. GIVEN under the Official Seal of the Minister for Transport, Tourism and Sport,
25 May 2015.

PASCHAL DONOHOE,
Minister for Transport, Tourism and Sport.

The Minister for Health consents to the making of the foregoing Regulations.

 L.S. GIVEN under the Official Seal of the Minister for Health,
25 May 2015.

LEO VARADKAR,
Minister for Health.

 L.S. GIVEN under my Official Seal,
27 May 2015.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations, which have been made under the Chemical Acts 2008 and 2010, is to transpose “Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC” (which is known for convenience as the SEVESO III Directive). They also make a number of consequential amendments necessitated by the transposition of Directive 2012/18/EU to the Chemical Acts 2008 and 2010, which are set out in Regulation 6.

The Regulations replace with effect from 1 June 2015-

- (i) the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006 (S.I. No. 74 of 2006), and
- (ii) the European Union (Control of Major Accident Hazards Involving Dangerous Substances) (Amendment) Regulations 2013 (S.I. No. 571 of 2013).

The latter Regulations have formally been repealed by a separate statutory instrument made under the European Communities Act 1972, as amended.

The purpose of these Regulations is to lay down rules for the prevention of major accidents involving dangerous substances, and to seek to limit as far as possible the consequences for human health and the environment of such accidents when they occur, with the overall objective of providing a high level of protection in a consistent and effective manner.

This is to be achieved through tiered controls on the operators of such establishments — the larger the quantities of dangerous substances present at an establishment, the more onerous are the duties imposed on the operator. The failure by operators to comply with their key obligations under these Regulations are criminal offences that may be prosecuted either summarily or on indictment.

The hazard categories of the dangerous substances in Schedule 1 reflects the classification, labelling and packaging of chemicals (‘CLP’) system introduced by Regulation (EC) No. 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures¹, as well as some new additions to the named substances in Part 2 of Schedule 1. Furthermore, a mechanism has been introduced for the assessment of the major accident potential for a particular substance to determine whether it should be included or excluded from the scope of Directive 2012/18/EU and therefore from these Regulations.

¹OJ L 353, 31.12.2008, p. 1.

All operators who fall within the scope of these Regulations will be required to make a formal written notification to the Central Competent Authority and they will have the general duty to “take all necessary measures” to prevent major accidents and to limit the consequences of such accidents, should they occur.

A key aim of these Regulations is to improve the information provided to the public, including that provided by operators to the competent authorities, most notably to the Central Competent Authority, regarding their activities. The Health and Safety Authority, which is the Central Competent Authority for these Regulations, will ensure this information is permanently and electronically available to the public.

More particularly, these Regulations aim to ensure that the public potentially affected by a major accident will be informed of the appropriate action to take in a major accident situation as well as that which the local competent authorities will take, based on the public external emergency plans drawn up under these Regulations, which are to be tested at three year intervals.

These Regulations provide for a more integrated approach to planning decisions concerning such establishments and, in particular, for the provision of technical advice by the Health and Safety Authority to planning authorities, including, where appropriate, to An Bord Pleanála.

These Regulations require that the Central Competent Authority maintain an up-to-date inspection system that is both systematic and planned and appropriate to the different types of establishment covered by the Regulations.

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nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€12.95



Wt. (B31291). 305. 5/15. Clondalkin. Gr 30-15.