

# S.I. No. 21/1992 - European Communities (Major Accident Hazards of Certain Industrial Activities) (Amendment) Regulations, 1992.

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S.I. No. 21 of 1992.

EUROPEAN COMMUNITIES (MAJOR ACCIDENT HAZARDS OF CERTAIN INDUSTRIAL ACTIVITIES) (AMENDMENT) REGULATIONS, 1992.

I, MICHAEL O'KENNEDY, Minister for Labour, in exercise of the powers conferred on me by Section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving further effect to Council Directive 82/501/EEC of 24 June 1982 <sup>(1)</sup>, and giving effect to Council Directive 88/610/EEC of 24th November, 1988 <sup>(2)</sup>, hereby make the following Regulations:

<sup>(1)</sup> O.J. No. L230 of 5.8.1982, pp. 1-18.

<sup>(2)</sup> O.J. No. L336 of 7. 12. 1988, p.p. 14 -18.

1. (1) These Regulations may be cited as the European Communities (Major Accident Hazards of Certain Industrial Activities) (Amendment) Regulations, 1992.

(2) The European Communities (Major Accident Hazards of Certain Industrial Activities) Regulations, 1986 and 1989, and these Regulations may be cited together as the European Communities (Major Accident Hazards of Certain Industrial Activities) Regulations, 1986 to 1992.

2. (1) In these Regulations "the Principal Regulations" means the European Communities (Major Accident Hazards of Certain Industrial Activities) Regulations, 1986 ( S.I. No. 292 of 1986 ).

(2) ( a ) The Safety, Health and Welfare at Work Act, 1989 (No. 7 of 1989) shall be construed and have effect as if these Regulations were an existing enactment within the meaning of "existing enactments" contained in section 2 (1) of that Act and set out in Part II of the Second Schedule to that Act.

( b ) Nothing in subparagraph (a) of this paragraph shall be construed as creating an indictable offence in respect of these Regulations.

3. In Regulation 3 (1) of the Principal Regulations, the definition of "the Directive" shall be construed and have effect as if the reference therein to Council Directive

82/501/EEC of 24th June, 1982<sup>(1)</sup> were a reference to that Directive as amended by Council Directive 87/216/EEC of 19th March, 1987<sup>(3)</sup> and Council Directive 88/610/EEC of 24th November, 1988<sup>(2)</sup>.

<sup>(1)</sup> O.J. No. L230 of 5.8.1982, pp. 1-18.

<sup>(2)</sup> O.J. No. L336 of 7. 12. 1988, p.p. 14 -18.

<sup>(3)</sup> O.J. No. L85 of 28.3.1987, pp. 36 -39.

4. Regulation 12 of the Principal Regulations is hereby amended by the substitution of the following for paragraph (1):

"(1) ( a ) Subject to the following paragraphs of this Regulation, a manufacturer shall not undertake any industrial activity unless he has prepared, in such form as the Central Competent Authority may specify, a written notification comprising details of the matters specified in Part I of the Fifth Schedule and has submitted it in duplicate to the Authority at least 6 months before beginning that activity or before such shorter period as the Authority may agree in writing.

( b ) The Central Competent Authority may request additional copies of the notification referred to in paragraph (a) and the manufacturer concerned shall submit to the Authority, within one month of the receipt of the request, the number of additional copies so requested."

5. The Principal Regulations are hereby amended by the substitution of the following for Regulation 16:

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

( a ) in its functional area an industrial activity is being carried on or is proposed to be carried on, or

( b ) outside its functional area (whether within the State and its internal waters or otherwise) an industrial activity is being carried on or is likely to be carried on which, in the opinion of the Central Competent Authority, could cause a major accident leading to a serious danger within the functional area of the local competent authority to man or to the environment,

to prepare, subject to paragraph (3) (a), in accordance with Regulation 17 an emergency plan (in these Regulations referred to as an 'off-site emergency plan') for action outside the establishment in relation to possible major accidents at the establishment.

(2) A local competent authority shall provide such information from the off-site emergency plan to the manufacturer concerned as will enable him to perform his duties under Regulations 15 and 18.

(3) Where a person is responsible for, or proposes to be responsible for, an industrial activity outside the State or its internal waters and in respect of which a notification has been given to a local competent authority by virtue of paragraph (1) (b), then—

( a ) in preparing the off-site emergency plan, Regulation 17 shall be construed as if it did not include paragraphs (2) (c) and (3), and

( b ) the local competent authority may provide to the said person such information from the off-site emergency plan as it considers appropriate."

6. Regulation 18 of the Principal regulations is hereby amended—

( a ) by the insertion, in Regulation 18, of the following after paragraph (2):

"(2A) The information prepared for the purposes of this Regulation shall—

( a ) in addition to containing information for the purposes of paragraph (1), also contain the information laid down in Annex VII (inserted by Council Directive 88/610/EEC of 24 November 1988\*) of the Directive (which is set out in the Ninth Schedule),

\*O.J. No. L336, 7.12.1988, pp 14-18.

( b ) be supplied to the persons concerned in an appropriate manner without any of them having to request it and be repeated at appropriate intervals,

( c ) be updated at appropriate intervals, and

( d ) be made available to any person on request."

( b ) in paragraph (5), by the substitution of "paragraphs (1), (2) and (2A)" for "paragraph (1)".

7. The Principal Regulations are hereby amended—

( a ) by the substitution for the Second Schedule thereto (which sets out Annex II to Council Directive 82/501/EEC of the provisions set out in Schedule A to these Regulations (which sets out the said Annex as replaced by Council Directive 88/610/EEC),

( *b* ) in the Fourth Schedule thereto, by the addition of the following:

"(e) Oxidising substances:

Substances which give rise to highly exothermic reaction when in contact with other substances, particularly flammable substances.",

and

( *c* ) by the addition, after the Eighth Schedule thereto, as the Ninth Schedule, of the provisions set out in Schedule B to these Regulations (which sets out Annex VII, as added by Council Directive 88/610/EEC, to Council Directive 82/501/EEC).

8. In respect of those industrial activities to which the provisions of Regulations 12 to 18 of the Principal Regulations would not apply prior to the commencement of these Regulations but to which they would apply after such commencement by virtue of Regulations 7 and 8 of these Regulations, the Principal Regulations shall, in their application to those industrial activities, be construed as if—

( *a* ) in Regulation 3 thereof, the references in paragraph (*a*) of the definition of "new industrial activity" to the commencement of the Principal Regulations were references to the commencement of these Regulations;

( *b* ) in Regulation 12 (2) thereof, the reference to a new industrial activity begun within six months of the commencement of the Principal Regulations were a reference to a new industrial activity begun within six months of the commencement of these Regulations;

( *c* ) in Regulation 12 (3) thereof, the reference to the 8th day of July, 1989, were a reference to the 1st day of June, 1994, and the reference to within three months of the commencement of the Principal Regulations were a reference to within three months of the commencement of these Regulations;

( *d* ) in Regulation 15 (2) thereof, the reference to within the period of three months after the commencement of the Principal Regulations were a reference to within the period of three months after the commencement of these Regulations;

( e ) in Regulation 17 (4) (a) (i) thereof, the reference to within the period of nine months after the commencement of the Principal Regulations were a reference to within the period of nine months after the commencement of these Regulations; and

(f) in Regulation 18 (5) (a) thereof, the reference to within the period of 12 months after the commencement of the Principal Regulations were a reference to within the period of 12 months after the commencement of these Regulations.

## SCHEDULE A

### "SECOND SCHEDULE

#### ANNEX II TO COUNCIL DIRECTIVE 82/501/EEC

##### STORAGE OTHER THAN OF SUBSTANCES LISTED IN ANNEX III ASSOCIATED WITH AN INSTALLATION REFERRED TO IN ANNEX I

This Annex applies to storage of dangerous substances and/or preparations at any place, installation, premises, building or area of land, isolated or within an establishment, being a site used for the purpose of storage, except where that storage is associated with an installation covered by Annex I and where the substances in question appear in Annex III.

The quantities set out below in Parts I and II relate to each store or group of stores belonging to the same manufacturer where the distance between the stores is not sufficient to avoid, in foreseeable circumstances, any aggravation of major-accident hazards. These quantities apply in any case to each group of stores belonging to the same manufacturer where the distance between the stores is less than 500 m.

The quantities to be considered are the maximum quantities which are, or are liable to be, in storage at any one time.

#### PART I

##### NAMED SUBSTANCES.

Where a substance (or a group of substances) listed in Part I also falls within a category of Part II, the quantities set out in Part I must be used.