

**SECOND SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**  
No. 4171 of 28 May, 2015

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LEGAL NOTICE NO. 78 OF 2015.

**INTERPRETATION AND GENERAL CLAUSES ACT**

**CONTROL OF MAJOR ACCIDENT HAZARDS (SEVESO III)  
REGULATIONS 2015**

In exercise of the powers conferred upon it by section 23(g)(ii) of the Interpretation and General Clauses Act, and in order to transpose into the law of Gibraltar 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, the Government has made the following Regulations—

**Title.**

1. These Regulations may be cited as the Control of Major Accident Hazards (Seveso III) Regulations 2015.

**Commencement.**

2. These Regulations comes into operation on 1 June 2015.

**Amendments to Public Health Act.**

3.(1) The Public Health Act is amended in accordance with the provisions of this Regulation.

(2) In section 95A(1)—

(a) for the definitions “dangerous substance” and “Directive” substitute the following definitions—

““dangerous substance” means a substance or mixture—

(a) listed in column 1 of Part 1 of Schedule 6; or

(b) listed in column 1 of Part 2 of Schedule 6,

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, on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC, as may be amended from time to time;”;

- (b) for the definitions “establishment” and “existing establishment” substitute the following definitions-

““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 falls with the scope of Directive 96/82/EC and from 1 June 2015 falls within the scope of this Part without changing its classification as a lower-tier establishment or upper-tier establishment;

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

- (c) after the definition “industrial activity” insert the following definition-

““inspection” means all actions, including site visits, checks of internal measures, systems and reports and follow-up documents, and any necessary follow-up, undertaken by or on behalf of the competent authority to check and promote compliance of establishments with this Part;”;

- (d) in the definition “installation”-

(i) for the words “area in which a dangerous substances” substitute “area in which dangerous substances”; and

(ii) in paragraph (c) substitute “not” with “otherwise”;

- (e) after the definition “installation” insert the following definition—

““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 6, but less than the quantities listed in Column 3 of Part 1 or in Column 3 of Part 2 of Schedule 6, where applicable using the summation rule laid down in note 4 to Schedule 6;”;

- (f) in the definition “major accident” substitute the words “for or explosion” with “fire or explosion”;

- (g) in the definition “major accident prevention policy document” immediately preceding the words “shall be construed” insert “or “MAPP”;

- (h) after the definition “major accident prevention policy document” insert the following definitions—

““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 this Part, 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;”;

- (i) after the definition “operator” insert the following definitions—

““other establishment” means a site of operation that falls within the scope of this Part, or a lower-tier establishment that has become an upper-tier establishment or vice versa, on or after 1 June 2015 for reasons other than those referred to in the definition of new establishment;”;

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

- (j) for the definition “safety report” substitute the following definitions—

““safety report” means a report sent to the competent authority pursuant to section 95F or a part of a report sent to the competent authority pursuant to section 95F(4) except that where any such report or part has been revised pursuant to section 95G, it means the report or part as so revised;

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

“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 6, where applicable using the summation rule laid down in note 4 to Schedule 6;”;

- (l) for section 95A(3) substitute the following subsection—

“(3) Any reference in this Part to the presence of dangerous substances includes the actual or anticipated presence of such dangerous substances and the presence of those, which it is reasonable to believe may be generated during the loss of control of an industrial chemical process, 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 6.”;

- (m) in section 95A(4) after the words “to the presence of” insert the words “a quantity of”;

(n) for section 95A(7) substitute the following subsection–

“(7) The columns in Parts 1 and 2 of Schedule 6 shall be applied in accordance with the provisions and notes set out in that Schedule.”.

(3) Section 95B is amended–

(a) by substituting the following for subsection (1)–

“95B.(1) This Part shall apply to an establishment where a dangerous substance listed in column 1 of Parts 1 or 3 of Schedule 6 is present in a quality equal to exceeding the quantity listed in the entry for that substance in columns 2 or 3 of those Parts.”;

(b) by repealing subsection (3).

(4) For section 95D substitute the following section–

**“Major accident prevention policy.**

95D.(1) Every operator shall without delay but in any event within 3 months after the establishment becomes subject to this section prepare, and thereafter keep, a document setting out his policy with respect to the prevention of major accidents (in this Part referred to as a “major accident prevention policy document” or “MAPP”).

(2) The MAPP referred to in subsection (1) shall be designed to guarantee a high level of protection for persons and the environment by appropriate means, structures and management systems.

(3) The MAPP shall–

(a) take into account the principles specified in paragraphs 1 and 2 of Schedule 7; and

(b) include sufficient particulars to demonstrate that the operator has established a safety management system which takes account of the principles specified in paragraphs 3 and 4 of Schedule 7.

- (4) In the event of the modification of the establishment or installation, the process carried on there, or the nature or quantity of dangerous substances present there which could (in each case) have significant repercussions with respect to the prevention of major accidents, the operator shall review and where necessary revise the MAPP at least every 5 years, and provide an updated copy to the competent authority.
  - (5) The operator shall implement the policy set out in his MAPP.
  - (6) Subject to paragraph 1 of Part 1 of Schedule 9 and paragraph 1 of Part 2 of that Schedule, this section shall not apply to an establishment to which section 95F applies.
  - (7) Subject to subsection (8) the MAPP shall be prepared and sent to the 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 the modifications leading to a change in the inventory of dangerous substances;
    - (b) for existing establishments by 1 June 2016;
    - (c) for all other cases, 1 year from the date from which this Part applies to the establishment concerned.
  - (8) Subsection (7) does not apply where the operator has—
    - (a) previously prepared and retains a MAPP prepared in accordance with this Part;
    - (b) the information contained in that MAPP remains substantially unchanged; and
    - (c) the MAPP complies with the requirements contained in this section.”.
- (5) After subsection 95D insert the following section—

**“Domino effects.**

95DA.(1) The competent authority shall identify and keep a record of all lower-tier and upper-tier establishments where the risk or consequences of a major accident may be increased as a result of its location and proximity to other establishments, and taking into account their inventories of dangerous substances.

(2) If the competent authority has additional information to that provided by the operator under paragraph 7 of Schedule 8, the competent authority shall make this information available to the operator, if it is necessary for the application of this Part.

(3) Operators of establishments identified under subsection (1) shall—

- (a) exchange suitable information to assess the nature and extent of the overall hazard of a major accident in its MAPP, safety management systems, safety reports and on-site emergency plans, as appropriate; and
- (b) cooperate in informing the public and neighbouring sites that fall outside the scope of this Part, and in supplying information to the competent authority.”.

(6) For sections 95E and 95F substitute the following sections—

**“Notifications.**

95E(1) Subject to subsection (3), the operator of an establishment shall send to the competent authority the information specified in Schedule 8 with 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;
- (b) for all other establishments by 1 June 2016.

(2) *Repealed.*

- (3) Subsection (1) shall not apply to an existing establishment in respect of which a report has been sent to the competent authority in accordance with section 95F of the 1994 provisions.

(3A) *Repealed.*

- (4) The operator shall notify the competent authority in advance in the event of—
- (a) there being any significant increase in the quantity of dangerous substances notified—
    - (i) under this section, or
    - (ii) in the report referred to in subsection (3),
  - (b) there being any significant change in—
    - (i) the nature or physical form of the dangerous substances so notified,
    - (ii) the process employing them, or
    - (iii) any other information notified to the competent authority under this section in respect of the establishment;
  - (ba) modification of the establishment or an installation which could have significant repercussions with respect to the prevention of major accidents;
  - (c) section 95F ceasing to apply to the establishment by virtue of a change in the quantity of dangerous substances present there;
  - (d) permanent closure of an installation in the establishment; or
  - (e) changes in the information referred to in paragraphs (a) to (c).



- (5) Subsections (1) and (4) shall not require the notification of any information which has been included in a safety report.

### **SAFETY REPORTS**

#### **Safety report.**

- 95F.(1) Every operator of an upper-tier establishment shall, subject to subsections (4) and (5) prepare and send to the competent authority a safety report containing information which is sufficient for the purpose specified in paragraph 3(a) of Part 1 of Schedule 9 and comprising at least such of the information specified in Part 2 of that Schedule as is relevant for that purpose.
- (2) The safety report shall be sent to the 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;
  - (b) for existing upper-tier establishments by 1 June 2016;
  - (c) for all other establishments 2 years from the date from which this Part applies to the establishment concerned.
- (3) Nothing in subsection (1) shall require the report to contain information, which it would not be reasonable to expect the operator to have at the time of sending the report.
- (4) A safety report is not required if the operator has already sent a previous report containing the same information and the information remains substantially unchanged since that last report.
- (5) Under subsection (4) any new information shall be submitted if changes in information have occurred and these shall be notified in accordance with the time limits in subsection (2).

- (6) The competent authority may specify in writing the format of those parts of the safety report that are to be supplied under subsection (5).
- (7) Without prejudice to the requirements of section 95Q, an operator shall ensure that the construction, operation or modification of an establishment is not commenced until the operator has received from the competent authority the conclusions of the competent authority's examination of the report provided under this section.
- (8) The reports required to be sent to the competent authority under this section shall-
  - (a) additionally name the relevant organisation involved in the drawing up of the report; and
  - (b) contain an updated inventory of the dangerous substances present in the establishment.
- (9) All or part of the information required to be included in a safety report may be so included in a safety report by reference to information contained in another report or notification sent to the competent authority pursuant to a requirement imposed by or under any enactment.
- (10) Where it is demonstrated by the operator of the establishment to the satisfaction of the competent authority that particular dangerous substances present at an establishment, or any part thereof are in a state incapable of creating a major hazard, the competent authority may in writing and in accordance with criteria established by the European Commission pursuant to the Directive, limit the information required to be included in the safety report for that establishment to those matters which are relevant to the prevention of residual major accident hazards and the limitation of their consequences for persons and the environment.
- (11) Subject to subsections (12) and (13) the operator shall periodically review and where necessary update the safety report-
  - (a) at least every 5 years;

- (b) following a major accident at its establishment; and
  - (c) at any other time where justified by new facts or by technological knowledge about safety matters, including knowledge arising from analysis of accidents, past near incidents, and by developments in knowledge concerning the assessment of hazards-
    - (i) at the initiative of the operator; or
    - (ii) at the request of the competent authority.
- (12) An operator shall provide the competent authority with an updated safety report, updated parts of the safety report or further information without delay.
- (13) In the event of 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, the operator shall review and where necessary update the notification, the MAPP, the safety management system and the safety report and inform the competent authority of the details of those updates in advance of that modification.”.
- (7) In subsection 95G(2) substitute “sections 95F(8)” with “section 95F(8)”.
- (8) For section 95H substitute the following section—

**“On-site emergency plan.**

95H.(1) Every operator of an upper-tier establishment shall prepare an on-site emergency plan which shall be adequate for securing the objectives specified in Part I of Schedule 10 and shall contain the information specified in Part 2 of that Schedule.

- (2) The operator shall supply the necessary information to the competent authority, to enable the competent authority to prepare an off-site emergency plan under section 95I.
- (2A) The submission of the on-site plan referred to in subsection (1) shall comply with the following time-limits–
- (a) for new establishments, a reasonable period of time prior to the start of operation, or prior to any modifications leading to a change in the inventory of dangerous substances;
  - (b) for existing upper-tier establishments, by 1 June 2016 unless the on-site emergency plan drawn up before that date, and the information contained therein, and the information referred to in subsection (2), complies with this section and has remained unchanged;
  - (c) for other establishments, 2 years from the date from which this Part applies to the establishment concerned.
- (3) The operator shall consult persons working in the establishment, including long-term relevant subcontracted personnel, and the emergency services on the preparation of the on-site emergency plan.
- (4) The operator shall consult the competent authority on the preparation of an on-site emergency plan, except that this shall not apply, where the competent authority has decided not to prepare an off-site emergency plan in respect of the establishments pursuant to section 95I(7).”.
- (9) Section 95I is amended–
- (a) in subsection (1)–
    - (i) by inserting after “shall prepare an” the words “off-site”;
    - (ii) by deleting the words “(in this Part referred to as the “off-site emergency plan”)”;

(b) by substituting subsection (2) with the following subsection-

“(2) The off-site emergency plan shall be prepared no later than 2 years after-

(a) the time an on-site emergency plan is required to be prepared for the establishment under section 95H, or

(b) the receipt by the competent authority of the information referred to in section 95H,

whichever is later.”.

(10) In subsection 95L(1) substitute “wit” with “with”.

(11) For section 95M substitute the following section-

**“Provision of information to the public.**

95M.(1) The competent authority shall ensure that all information submitted by the operators in accordance with schedule 10A-

(a) becomes available to the public, including by electronic means, within a reasonable period of time when the establishment becomes subject to this Part; and

(b) is kept up to date.

(2) Without prejudice to subsection (1) the operator of an upper-tier establishment shall ensure that-

(a) information is provided to-

(i) every person who is likely to be in an area in which, in the opinion of the competent authority, that person is liable to be affected by a major accident occurring at the establishment; and

(ii) every school, hospital or other building or area used by the public and any other establishment

referred to under section 95DA which is situated in such an area,

is supplied regularly and in the most appropriate form, without their having to request it, clear and intelligible information on safety measures at the establishment and on the requisite behaviour in the event of a major accident at the establishment.

- (b) the safety report is made available to the public upon request subject to subsection 95T(8) or where subsection 95T(11) applies, an amended report, which 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; and
- (c) the inventory of dangerous substances is made available to the public upon request subject to section 95T.

(2A) Pursuant to subsection (2) any modification as referred to in section 95F(13) shall also be provided to the public.

(3) In preparing the information required to be supplied in accordance with subsection (2), the operator shall consult the competent authority and such persons who appear to him to be appropriate, but the operator shall remain responsible for the accuracy, completeness and form of the information so supplied.

(4) Without prejudice to his duty under subsection (2), the operator shall endeavour to enter into an agreement with the competent authority to disseminate the information required to be supplied in accordance with that subsection to the person mentioned in it.

(5) The operator shall review and where necessary revise the information referred to in subsection (2)–

- (a) at intervals not exceeding 3 years; or

- (b) in the event of a modification referred to in sections 95D(4) or 95G(3).
  - (6) The operator shall ensure that the information referred to in subsection (2) is supplied in accordance with subsection within a reasonable period of time after the off-site emergency plan has been prepared for the establishment and that the information is supplied again—
    - (a) at intervals not exceeding 5 years; or
    - (b) if it is revised pursuant to subsection (5).
  - (7) The information in subsection (2) shall also be supplied to the competent authority of a Member State if that Member State is potentially affected by a major accident occurring in Gibraltar.”.
- (12) Section 95N is amended—
- (a) by substituting subsection (2) with the following subsection—
    - “(2) Without prejudice to the generality of subsection (1), the operator shall when requested to do so by the competent authority provide the competent authority with all necessary assistance to enable the competent authority to—
      - (a) fully assess the possibility of a major accident and to determine the scope of possible increased probability or aggravation of a major accident;
      - (b) take substances into account which, due to their physical form, particular conditions or location, may require additional consideration;
      - (c) to carry out any inspection and gather any information necessary for the performance of its duties for the purposes of this Part; or
      - (d) prepare an off-site emergency plan.”.
  - (b) after subsection (3) insert the following subsection—

“(4) The competent authority shall accept information submitted by operators that is in accordance with other relevant European Union legislation as long as it fulfils the relevant requirements of this Part.”.

(13) Section 95O is amended-

- (a) in subsection (3)(a) by substituting “their major accident prevention policy document” with “its MAPP”; and
- (b) in subsection (3)(b) by substituting “95M(1).” with “95M(2).”.

(14) Section 95R is amended-

- (a) by inserting the following subsection after subsection 95R(2)-
  - “(2A) The inspection and control measures referred to in subsection (1) shall be accompanied by an inspection plan and shall-
    - (a) contain the information specified in Schedule 10B; and
    - (b) be regularly reviewed and, where appropriate, updated.”;
- (b) by substituting the following subsections for subsections (3) and (4)-
  - “(3) A system of inspection referred to in subsection (1) shall meet the following conditions-
    - (a) there shall be a programme of inspection for all establishments;
    - (b) unless such a programme is based upon a systematic appraisal of major accident hazards of the particular establishment concerned, the programme shall entail at least one on-site inspection made on behalf of the competent authority every 12 months;



- (c) following each inspection, a report shall be prepared by the competent authority;
  - (d) where necessary, matters shall be pursued with the operator within a reasonable period following the inspection;
  - (e) where a programme is based on a systematic appraisal of the establishments concerned, it shall consist of the following criteria—
    - (i) the potential impacts of the establishments concerned on human health and the environment;
    - (ii) the record of compliance with the requirements of the Directive; and
    - (iii) where appropriate, relevant findings of inspections carried out under European Union legislation;
  - (f) inspections shall, where possible, be coordinated with inspections under European Union legislation and combined, where appropriate.
- (3A) Non-routine inspections are to be carried out as soon as possible in order to investigate—
- (a) serious complaints;
  - (b) serious accidents;
  - (c) near misses; and
  - (d) incidents and occurrences of non-compliance.
- (3B) If an inspection of any kind has identified an important case of non-compliance in accordance with the Directive, an additional inspection shall be carried out within six months.

- (4) Where the competent authority has been informed for a major accident at the establishment—
- (a) the operator of the establishment shall provide the competent authority with—
- (i) information in respect to the circumstances of the accident, the dangerous substances involved, the data available for assessing the effects of the accident on persons, the environment and property, the emergency measures taken and the steps to alleviate the medium and long term effects of the accident and to prevent any recurrence of it;
  - (ii) such other information in the operator's possession as will enable the competent authority to be able to ensure that the Commission has been notified, pursuant to section 95T(2); and
  - (iii) update any information provided under this section, if further investigation reveals additional facts which alter that information or any conclusions drawn.
- (b) the competent authority shall—
- (i) ensure that any urgent medium and long-term measures which may prove necessary are taken;
  - (ii) make a full analysis of the technical, organisational and managerial aspects of the major accident and collect by inspection, investigation, or other appropriate means, the information necessary for the purpose;
  - (iii) take appropriate action to ensure that the operator takes any necessary remedial measures;
  - (iv) make recommendations on future preventive measures;

(v) inform the persons likely to be affected, of the accident which has occurred and, where relevant, of the measures taken to mitigate its consequences; and

(vi) ensure that the information referred to in paragraph (a) is provided to the European Commission by way of a report form as may be provided by implementing acts of the European Commission from time to time.”.

(15) For section 95T substitute the following sections—

**“Provision of information by competent authority.**

95T.(1) Any information received by the competent authority pursuant to a requirement imposed under this Part shall to the extent that it is not information relating to the environment for the purposes of the Public Health (Freedom of Access to Information on the Environment) Rules 1992, be treated as being so for those purposes.

(1A) The Government shall encourage the competent authority to provide mechanisms and tools for exchanging experience and consolidating knowledge, and to participate in such mechanisms at European Union level where appropriate.

(2) Subject to subsection (2A) the competent authority shall ensure that the European Commission is notified as soon as practicable of any major accident meeting the criteria specified in Part 1 of Schedule 11.

(2A) If the competent authority considers that a dangerous substance does not present a major accident hazard under this Part, it shall ensure that the Commission is notified, together with supporting justification, of the following information—

(a) a comprehensive list of properties necessary to assess the dangerous substance’s potential for causing physical, health or environmental harm;

(b) physical and chemical properties (for instance molecular mass, saturated vapour pressure, inherent

toxicity, boiling point, reactivity, viscosity, solubility and other relevant properties);

- (c) health and physical hazard properties (for instance reactivity, flammability, toxicity together with additional factors such as mode of attack on the body, injury to fatality ratio, and long-term effects, and other properties as relevant);
- (d) environmental hazard properties (for instance ecotoxicity, persistence, bio-accumulation, potential for long-range environmental transport, and other properties as relevant);
- (e) where available, the classification of the substance or mixture;
- (f) information about substance-specific operating conditions (for instance temperature, pressure and other conditions as relevant) under which the dangerous substance is stored, used and/or may be present in the event of foreseeable abnormal operations or an accident such as fire.

(3) The notification referred to in subsection (2) shall contain the information specified in Part 2 of Schedule 11.

(3A) The information specified in Part 2 of Schedule 11 shall be provided—

- (a) as soon as practicable and at the latest within one year of the accident;
- (b) using the database referred to in Article 21(4) of the Directive.

(3B) Reporting of the information referred to in paragraph 5 of Part 2 to Schedule 11, may be delayed to allow for the completion of judicial proceedings where such reporting may affect those proceedings.

- (3C) If a delay under section (3B) occurs, the information on the database shall be updated once the results of further analysis and recommendations are available.
- (4) The competent authority shall ensure that the European Commission is notified of any analysis and recommendations made pursuant to section 95R(4)(b)(ii) and (iv).
- (5) The competent authority shall ensure that there is kept a copy of the safety report of each establishment situated within Gibraltar.
- (6) The competent authority shall—
  - (a) ensure that the copy of the safety report kept pursuant to subsection (5) is available at all reasonable times for inspection by the public free of charge, and
  - (b) afford to members of the public facilities for obtaining copies of the safety report on payment of reasonable charges.
- (7) The references in subsections (5) and (6) above to a copy of the safety report are references to a copy of such parts of the report as the operator requires by section 95M(1) to make available to the public.
- (8) The competent authority shall make any information held for the purposes of the Directive available at the request of the public.
- (9) The competent authority may restrict or refuse to provide the information requested under subsection (8), in accordance with regulation 12 and in the manner set out in regulation 14 of the Freedom of Access to Information on the Environment Regulations 2005 (“the 2005 Regulations”).
- (10) If a request for information has been refused under subsection (9), the applicant may make representations to the competent authority under regulation (11) and appeal the decision under regulation (17) of the 2005 Regulations.

- (11) Disclosure of the complete information held by the competent authority under subsections 95M(2) and (2A) may be refused by that competent authority without prejudice to subsection (8), if the operator has requested not to disclose certain parts of the safety report or the inventory of dangerous substances for the reasons provided in Part 3 of the Freedom of Access to Information on the Environment Regulations 2005.
- (12) The operator shall supply to the competent authority an amending report or inventory excluding certain parts if—
- (a) the competent authority has decided for the reasons stated in subsection (11), that certain parts of the report or the inventory shall not be disclosed; and
  - (b) the competent authority has approved the amending report or inventory exclusion.
- (13) The competent authority shall ensure that the European Commission is informed of the name and address for anybody which might have relevant information on major accidents and which is able to advise the competent authorities of a Member State which has to intervene in the event of such an accident.
- (14) Subject to subsection (15) the competent authority shall ensure that the European Commission is provided with a report on the implementation of the Directive every 4 years, the first report must be submitted by 30 September 2019.
- (15) For establishments covered by the Directive, the competent authority shall ensure that the European Commission is supplied with—
- (a) the name or trade name of the operator;
  - (b) the full address of the establishment concerned; and
  - (c) the activities being undertaken at the establishment.

**Penalties.**

95U.(1) An operator who fails to fulfill any condition or requirement under this Part, or obstructs the competent

authority from carrying out any of its duties under this Part, is guilty of an offence and shall be liable-

- (a) on summary conviction to a term of imprisonment not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or both; or
  - (b) on conviction on indictment to a term of imprisonment not exceeding 10 years or a fine not exceeding level 5 on the standard scale, or both.
- (2) If an offence under this Act is committed by a corporate body and it is proved-
- (a) to have been committed with the consent or connivance of an officer; or
  - (b) to be attributable to any neglect on the part of an officer,

the officer as well as the corporate body commits the offence and is liable to be proceeded against and punished accordingly.”.

(16) For Schedule 6 substitute the following schedule-

#### **“SCHEDULE 6**

Section 95A(1) and (7) and section 95B(1)

#### **DANGEROUS SUBSTANCES TO WHICH PART IIA APPLIES**

(This Schedule sets out the provisions of Annex 1 of the Directive, with modifications)

#### **Introduction**

1. 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.
2. 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.

3. For the purposes of this Schedule, a gas is any substance that has an absolute vapour pressure equal to or greater than 101,3 kPa at a temperature of 20°C.

4. For the purposes of this Schedule, a liquid is any substance that is not a gas and is not in the solid state at a temperature of 20° C and at a standard pressure of 101,3 kPa.

**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	Qualifying quantity (tonnes) of dangerous substances 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 route (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
P3a FLAMMABLE AEROSOLS (see note 11.1) ‘Flammable’ aerosols Category 1 or 2, containing flammable gases Category 1 or 2 or flammable liquids Category 1	150 (net)	500 (net)
P3b FLAMMABLE AEROSOLS (see note 11.1) ‘Flammable’ aerosols Category 1 or 2, not containing flammable gases Category 1 or 2 nor flammable liquids category 1 (see note 11.2)	5 000 (net)	50 000 (net)
P4 OXIDISING GASES	50	200

Oxidising gases, Category 1		
P5a FLAMMABLE LIQUIDS — Flammable liquids, Category 1, or — Flammable liquids Category 2 or 3 maintained at a temperature above their boiling point, or — Other liquids with a flash point $\leq 60$ °C, maintained at a temperature above their boiling point (see note 12)	10	50
P5b FLAMMABLE LIQUIDS — Flammable liquids Category 2 or 3 where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards, or — Other liquids with a flash point $\leq 60$ °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, Categories 2 or 3 not covered by P5a and P5b	5000	50000
P6a SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and	10	50

mixtures, Type A or B or organic peroxides, Type A or B		
P6b SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and mixtures, Type C, D, E or F or organic peroxides, Type C, D, E, or F	50	200
P7 PYROPHORIC LIQUIDS AND SOLIDS Pyrophoric liquids, Category 1 Pyrophoric solids, Category 1	50	200
P8 OXIDISING LIQUIDS AND SOLIDS Oxidising Liquids, Category 1, 2 or 3, or Oxidising Solids, Category 1, 2 or 3	50	200
Section 'E' – ENVIRONMENTAL HAZARDS		
E1 Hazardous to the Aquatic Environment in Category Acute 1 or Chronic 1	100	200
E2 Hazardous to the Aquatic Environment in Category Chronic 2	200	500
Section 'O' – OTHER HAZARDS		
O1 Substances or mixtures with hazard statement EUH014	100	500
O2 Substances and mixtures which in	100	500

contact with water emit flammable gases, Category 1		
O3 Substances or mixtures with hazard statement EUH029	50	200

**PART 2**

*Named dangerous substances*

Column 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	1	2
8. Arsenic trioxide, arsenious (III) acid and/or salts		0,1
9. Bromine	20	100
10. Chlorine	10	25
11. Nickel compounds in inhalable powder form: nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide		1

12. Ethyleneimine	10	20
13. Fluorine	10	20
14. Formaldehyde (concentration $\geq 90\%$ )	5	50
15. Hydrogen	5	50
16. Hydrogen chloride (liquefied gas)	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
19. Acetylene	5	50
20. Ethylene oxide	5	50
21. Propylene oxide	5	50
22. Methanol	500	5 000
23. 4, 4'-Methylene bis (2- chloraniline) and/or salts, in powder form		0,01
24. Methylisocyanate		0,15
25. Oxygen	200	2 000
26. 2,4 -Toluene diisocyanate	10	100
2,6 -Toluene diisocyanate		
27. Carbonyl dichloride (phosgene)	0,3	0,75
28. Arsine (arsenic trihydride)	0,2	1
29. Phosphine (phosphorus trihydride)	0,2	1
30. Sulphur dichloride		1
31. Sulphur trioxide	15	75
32. Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent (see note 20)		0,001
33. The following CARCINOGENS or the	0,5	2

<p>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</p>		
<p>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)</p>	<p>2 500</p>	<p>25 000</p>
<p>35. Anhydrous Ammonia</p>	<p>50</p>	<p>200</p>
<p>36. Boron trifluoride</p>	<p>5</p>	<p>20</p>
<p>37. Hydrogen sulphide</p>	<p>5</p>	<p>20</p>
<p>38. Piperidine</p>	<p>50</p>	<p>200</p>

39. Bis(2-dimethylaminoethyl)(methyl)amin	50	200
40. 3-(2-Ethylhexyloxy)propylamin	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 Annex I.	200	500
(*) Provided that the mixture in the absence of sodium hypochlorite would not be classified as Aquatic Acute Category 1 [H400].		
42. Propylamine (see note 21)	500	2 000
43. Tert-butyl acrylate (see note 21)	200	500
44. 2-Methyl-3-butenitrile (see note 21)	500	2 000
45. Tetrahydro-3,5-dimethyl-1,3,5-thiadiazine-2-thione (Dazomet) (see note 21)	100	200
46. Methyl acrylate (see note 21)	500	2 000
47. 3-Methylpyridine (see note 21)	500	2 000
48. 1-Bromo-3-chloropropane (see note 21)	500	2 000

#### NOTES

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 sections 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 this Directive.

This Directive 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 Annex,

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 Annex.



This Directive 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 Annex,

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 Annex.

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 this Directive 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 this Directive.
6. In the case of dangerous substances with properties giving rise to more than one classification, for the purposes of this Directive 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 this Directive. If the quantity of the explosive substance or mixture contained in the article is not known, then, for the purposes of this Directive, 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 % ( 1 ) and 24,5 % ( 2 ) 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 ( 3 ),

— 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 % ( 4 ) 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,

— fertilisers referred to in first indent of Note 13, and Note 14 to this Annex 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 this Directive, upgraded biogas may be classified under entry 18 of Part 2 of Annex I 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
		OCDF	0,0003

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

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

(17) Schedule 7 is amended-

- (a) by substituting every reference to “major accident prevention policy” or “major accident prevention policy document” with “MAPP”;

(b) in paragraph 1 by inserting the words “, industrial activities and complexity” after the words “should be proportionate to the major accident hazards”;

(c) by substituting the following paragraph for paragraph 4 –

“4. The following issues shall be addressed by the safety management system--

(a) 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 persons working in the establishment;

(b) 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;

(c) adoption and implementation of procedures and instructions for safe operation, including maintenance of plant, processes,

equipment, and for alarm management and temporary stoppages. Taking into account available information on best practices for monitoring and control, with a view to--

(i) reducing the risk of system failure; and

(ii) managing and controlling risks associated with ageing equipment installed in the establishment and corrosion;

(iii) keeping inventory of the establishment’s equipment, strategy and methodology for monitoring and control of the condition of the equipment; and

- (iv) taking appropriate follow-up actions and any necessary counter-measures;
- (d) adoption and implementation of procedures for planning modifications to, or the design of new installations, processes or storage facilities;
- (e) planning for emergencies via adoption and implementation of procedures to—
  - (i) identify foreseeable emergencies by systematic analysis;
  - (ii) prepare, test and review emergency plans to respond to such emergencies; and
  - (iii) provide specific training for all persons working in the establishment.

Such training shall be given to all personnel working in the establishment, including relevant subcontracted personnel;

- (f) adoption and implementation of procedures for the on-going 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 the case of non-compliance. The procedures should 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 could also include performance indicators such as safety performance indicators (SPIs) or other relevant indicators;
- (g) 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;

- (h) as well as the commitment towards continuously improving the control of major-accident hazards, and ensuring a high level of protection.”.

(18) Schedule 8 is amended as follows-

- (a) in the sub-heading substitute “Article 6(2)” with “Article 7”;
- (b) in paragraph 3 substitute “or” with “and”;
- (c) for paragraph 4 substitute the following paragraph-
- “4. information sufficient to identify the dangerous substances and category of substances involved or likely to be present;”;
- (d) in paragraph 6 after “installation” insert “or storage facility”;
- (e) in paragraph (7) before the full-stop insert-

“, including, where available, details of neighbouring establishments, of sites that fall outside the scope of Part IIA, areas and developments that could be the source of or increase the risk or consequences of a major accident and of domino effects.”.

(19) Schedule 9 is amended as follows-

- (a) after the main heading for “Sections 95D(5) and 95F(1), (4) and (6)” substitute “Sections 95D(5) and 95F(1), (2) and (3)”;
- (b) in the subheading to Part 1 for “Article 9(1)” substitute “Article 10”;
- (c) in paragraph 2 of Part 1, after the words “major accident hazards” insert the words “and possible major-accident scenarios”;

- (d) in paragraph 3 of Part 1 for “of any installation and equipment” substitute “of any installation, storage facility, equipment”;
- (e) after the headings to Part 2 for the words “The information referred to in section 95F(1), (4) and (6)” substitute the words “The information referred to in section 95F(1), (2) and (3)”;
- (f) in paragraph 2(c) of Part 2 substitute the full-stop with a semi-colon and add insert the following subparagraph–
  - “(d) on the basis of available information, identification of neighbouring establishments, as well as sites that fall outside the scope of this Part, areas and developments that could be the source of, or increase the risk or consequences of a major accident and of domino effects.”;
- (g) for in paragraph 3(b) of Part 2 substitute the following subparagraph–
  - “(b) description of processes, in particular the operating methods, where applicable taking into account available information on best practices;”;
- (h) for paragraph 4(a) of Part 2 substitute the following subparagraph–
  - “(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 this Part, 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;”;
  - (i) in paragraph 4(c) of Part 2 replace the full-stop with a semi-colon and insert the following subparagraph–
    - “(d) 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.”;
  - (j) in paragraph 5(d) replace the full-stop with a semi-colon and insert the following subparagraph–
    - “(e) description of any technical and non-technical measures relevant for the reduction of the impact of a major accident.”.
- (20) Schedule 10 is amended as follows–
- (a) after the main heading for “Sections 95H(1) and 95i(1)” substitute “Sections 95H(1) and 95I(1)”;
  - (b) in the subheading to Part 1 for the words “(This Part sets out the provisions of Article 11(2) of the Directive)” substitute the words “(This Part sets out the provisions of Article 12 of the Directive)”;
  - (c) after the heading to Part 3 for the words “The information referred to in section 95i(1) is as follows” substitute the words “The information referred to in section 95I(1) is as follows”;
  - (d) for paragraph 3 of Part 3 substitute the following paragraph–
    - “3. arrangements for co-ordinating resources necessary to implement the off-site emergency plan, 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;”;
  - (e) for paragraph 3 of Part 3 substitute the following paragraph–

“6. arrangements for providing the public and any neighbouring establishments or sites that fall outside the scope of this Part in accordance with section 95DA with specific information relating to the accident and the behaviour which it should adopt;”;

- (f) in paragraph 7 of Part 3 for the words “services of other” substitute the words “services of”.

(21) Schedule 10A is amended as follows—

- (a) for the headings substitute the following—

**SCHEDULE 10A**

**Part 1**

Section 95M(1)

**INFORMATION TO BE SUPPLIED TO THE PUBLIC**

(This Schedule sets out the provisions of Annex V to the Directive)

The information referred to in section 95M(1) is as follows”;

- (b) in paragraph 3 for the words “these regulations” substitute the words “this Act”;
- (c) for paragraph 5 substitute the following paragraph—

“5.” the common names or, in the case of dangerous substances covered by Schedule 6 the generic names or the hazard classification of the relevant dangerous substances and preparations involved at the establishment which could give rise to a major accident, with an indication of their principal dangerous characteristics in simple terms;”;

- (d) at the end of paragraph 7 insert the following words “or indication of where that information can be accessed electronically;”;

- (e) in paragraph 11 replace the full-stop with a semi-colon and insert the following paragraph and Part–

“12. the date of the last site visit in accordance with section 95R(3), or reference to where that information can be accessed electronically, including information on where more detailed information about the inspection and related inspection plan can be obtained upon request, subject to the requirements of section 95T.

**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 off-site 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 a Member State with the possibility of a major accident with transboundary effects.”.

- (22) After Schedule 10A insert the following schedule–

**“SCHEDULE 10B**

Section 95R(2A)(a)

## INSPECTION PLANS

### INFORMATION TO BE INCLUDED IN AN INSPECTION PLAN

The information referred to in section 95R(2A) is as follows—

1. a general assessment of relevant safety issues;
2. the geographical area covered by the inspection plan;
3. a list of the establishments covered by the plan;
4. a list of groups of establishments with possible domino effects pursuant to section 95DA;
5. a list of establishments where particular external risks or hazard sources could increase the risk or consequences of a major accident;
6. procedures for routine inspections pursuant to subsection 95R(2).
7. procedures for non-routine inspections pursuant to subsection 95R(3A);
8. provisions on the co-operation between different inspection authorities.”.

(23) Part 2 to Schedule 11 is amended as follows—

- (a) in paragraph 4 substitute “recurrence.” with “recurrence.”; and
- (b) after paragraph 4 insert the following paragraph—

“5. the results of their analysis and recommendations.”.

#### **Amendments to Town Planning Act.**

4.(1) The Town Planning Act is amended in accordance with the provisions of this regulation.

(2) Section 2 of the Town Planning Act is amended as follows—

- (a) for the definition “dangerous substance” substitute the following definition-

“dangerous substance” means a substance or mixture-

- (a) listed in column 1 of Part 1 of Schedule 6; or
- (b) listed in column 1 of Part 2 of Schedule 6,

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

- (b) for the definition “Directive” substitute the following definition-

““Directive” means Directive 2012/18/EU of the European Parliament and of the Council, on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC, as may be amended from time to time;”;

- (c) after the definition “planning scheme” insert the following definition-

““the public concerned” means the public affected or likely to be affected by, or having an interest in, the taking of a decision on any of the matters covered by Article 15(1) of the Directive; for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any applicable requirements under national law shall be deemed to have an interest;”.

- (3) Section 5 is amended as follows-

- (a) in subsection (2A)-

- (i) in paragraph (a) after the words “maintain appropriate” insert the word “safety”;
- (ii) in paragraph (b) delete the word “and” after the semi-colon;

- (iii) in paragraph (b) for the words “increase the risks to people; substitute the words “increase the risks to people and the environment; and”;
- (iv) after paragraph (b) insert the following paragraph-
  - “(c) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through safety distances or other relevant measures.”;
- (b) in subsection (2B) for the words “In subsection (2A),” substitute the words “In subsections (2A) and (4),”;
- (c) after subsection (3) insert the following subsection-
  - “(4) The Commission shall provide a reasonable opportunity for the public concerned to give its opinion on specific individual projects relating to Part IIA of the Public Health Act early on in the planning stage, relating to-
    - (a) new establishments;
    - (b) significant modifications to establishments, where such modifications are subject to obligations provided for under Part IIA of the Public Health Act;
    - (c) new developments around establishments where the siting or developments may increase the risk or consequences of a major accident.”.
- (4) After section 6(4) insert the following subsection-
  - “(5) A planning scheme referring to an establishment or development under subsection 5(4) shall include the following information-
    - (a) the subject of the specific project;



- (b) where applicable, the fact that a project is subject to a national or transboundary environmental impact assessment;
- (c) details of the competent authority responsible for taking the decision, from which relevant information can be obtained and to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
- (d) the nature of possible decisions or, where there is one, the draft decision;
- (e) an indication of the times and places where, or means by which, the relevant information will be made available; and
- (f) details of the arrangements for public participation and consultation.”.

(5) Section 22(2A) is amended as follows—

- (a) in paragraph (a) after the words “maintain appropriate” insert the word “safety” and remove the “and” after the semi-colon;
- (b) in paragraph (b) after the words “risks to people.” Insert the words “and the environment; and”;
- (c) after paragraph (b) insert the following paragraph—
  - “(c) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through safety distances or other relevant measures.”.

(6) At the end of section 22A insert the words “and meets the necessary requirements of Part IIA of the Public Health Act”.

(7) Section 22B is amended as follows—

- (a) in subsection (1) for the words “construction of an establishment” substitute the words “construction or operation of an establishment and subject to subsection (1A),”

(b) after subsection (1) insert–

“(1A) Operators of lower-tier establishments shall provide at the request of the competent authority, sufficient information on the risks arising from the establishment necessary for land-use planning purposes.”.

Dated 28thMay, 2015.

DR J CORTES,  
For the Government.

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#### **EXPLANATORY MEMORANDUM**

These Regulations transpose Directive 2012/18/EU of the European Parliament and of the Council, on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC by amending the provisions of Part IIA (Control of major accident hazards involving dangerous substances) of the Public Health Act and the Town Planning Act.

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**Printed by the Gibraltar Chronicle Printing Limited  
Unit 3, New Harbours  
Government Printers for Gibraltar,  
Copies may be purchased at 6, Convent Place, Price £2.75**