

2014 No. 375 (W. 43)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Planning (Hazardous
Substances) (Amendment) (Wales)
Regulations 2014**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contribute towards the implementation, in relation to Wales, of Article 30 of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances (OJ No L 197, 24.7.2012, pp.1-37) (the “Seveso III Directive”).

Article 30 of the Seveso III Directive deals with uncertainty in relation to the classification of heavy fuel oils, by adding heavy fuel oils to the table in Part 2 of Annex 1 to Council Directive 96/82 (OJ No L 10, 14.1.1997, p.13) as amended by Directive 2003/105 of the European Parliament and of the Council (OJ No L 345, 31.12.2003, p.97) (the “Seveso II Directive”) under the heading Petroleum Products with qualifying quantities of 2,500 tonnes for column 2 and 25,000 tonnes for column 3.

The Planning (Hazardous Substances) Regulations 1992 (the “1992 Regulations”) implement the Seveso II Directive in relation to land use planning.

Regulation 2 of these Regulations amends the 1992 Regulations by adding heavy fuel oils to the list of named substances in Part A of Schedule 1 to the 1992 Regulations. The effect of this is that an establishment where heavy fuel oils are present in a quantity equal to, or exceeding the controlled quantity (2,500 tonnes) becomes subject to the 1992 Regulations.

Regulation 3 makes transitional provision to ensure that existing hazardous substances consents and other specified matters are not affected by the amendment.

The remainder of Article 30 of the Seveso III Directive is implemented in relation to Wales by the

Heavy Fuel Oil (Amendment) (Regulations) 2014 (S.I. 2014/162) which amends the Control of Major Accident Hazards Regulations 1999 (S.I. 1999/743) (the “1999 Regulations”) by adding heavy fuel oils to the list of named substances in Part 2 of Schedule 1 to the 1999 Regulations.

An impact assessment has been prepared in relation to these Regulations. Copies are available from the Welsh Government at Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government’s website at www.wales.gov.uk

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**The Planning (Hazardous
Substances) (Amendment) (Wales)
Regulations 2014**

Made 20 February 2014

Laid before the National Assembly for Wales
21 February 2014

Coming into force 14 March 2014

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 5 and 40 of the Planning (Hazardous Substances) Act 1990⁽¹⁾.

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2014 and they come into force on 14 March 2014.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

(1) 1990 c.10; section 21 was amended by section 197, Schedule 11, paragraph 6 of the Planning Act 2008 and section 162, Schedule 16, Part VII of the Environmental Protection Act 1990; section 23 was amended by the Planning and Compensation Act 1991, section 25, Schedule 3, paragraph 10 (a) and (b). There are other amendments not relevant to these Regulations. The powers under sections 5 and 40 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and subsequently transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32) by virtue of being “relevant Assembly functions” as defined in paragraph 30(2).

- (a) “the 1992 Regulations” (“*Rheoliadau 1992*”) means the Planning (Hazardous Substances) Regulations 1992(1); and
- (b) “the 1990 Act” (“*Deddf 1990*”) means the Planning (Hazardous Substances) Act 1990.

Amendment of the 1992 Regulations

2. In Part A of Schedule 1 to the 1992 Regulations, in column 1 of the table under entry 36 relating to petroleum products, after “(c) gas oils (including diesel fuels, home heating oils and gas oil blending streams)”, insert —

- (d) heavy fuel oils□.

Transitional provision

3.—(1) The 1992 Regulations continue to have effect as they did immediately before the relevant date in relation to —

- (a) any hazardous substances consent granted or deemed to have been granted before the relevant date;
- (b) any application for hazardous substances consent made before the relevant date;
- (c) any hazardous substances consent granted in respect of an application of the type mentioned in sub-paragraph (3)(b);
- (d) any appeal under section 21 of the 1990 Act to which an application of the type mentioned in sub-paragraph (3)(b) relates;
- (e) any proceedings in relation to an offence under section 23 of the 1990 Act committed before the relevant date;
- (f) any hazardous substances contravention notice issued by a hazardous substances authority before the relevant date;
- (g) any action started or anything done in relation to any matter mentioned in sub-paragraphs 3(a) to 3(f) before the relevant date.

(2) In paragraph (1), “the relevant date” means the day on which this regulation comes into force.

Carl Sargeant

Minister, for Housing and Regeneration, one of the Welsh Ministers

20 February 2014

(1) S.I. 1992/656. Relevant amendments were made by S.I. 1999/981 and S.I. 2010/450 (W.48).