

**SEVESO III DIRECTIVE:  
IMPLEMENTATION UPDATE**

**Engineers Ireland  
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**ARTHUR COX**

**IMPLEMENTATION OF SEVESO III  
IN PRACTICE**

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# Introduction

- Directive 2012/18 EU (“Seveso III”) was published on 4 July 2012. It replaces Directive 96/82/EU (“Seveso II”) and was transposed into national law by 1 June 2015 under:

Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (S.I. No. 209 of 2015) (the “COMAH Regulations”), which commenced on 1 June 2015

## S.I. No. 209 of 2015 Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (the “2015 COMAH Regulations”)

- Implements the Seveso III Directive (2012/18/EU), commencing on 1 June 2015.
- 39 Pages: 10 parts and 7 schedules:
  - **Part 1:** Preliminary and General
  - **Part 2:** General Duties
  - **Part 3:** Major Accident Prevention Policy and Safety Report
  - **Part 4:** Emergency Plans
  - **Part 5:** Reporting of Major Accidents
  - **Part 6:** Enforcement and Regulation

## S.I. No. 209 of 2015 Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (the “2015 COMAH Regulations”) (Cont'd)

- **Part 7:** Land-Use Planning
- **Part 8:** Information and Confidentiality
- **Part 9:** Charges for services
- **Part 10:** Offences and Penalties
  
- **Schedule 1:** Application of the Regulations
- **Schedule 2:** 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 1
- **Schedule 3:** Minimum data and information to be considered in the safety report referred to in Regulation 11

## S.I. No. 209 of 2015 Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (the “2015 COMAH Regulations”) (Cont'd)

- **Schedule 4:** Data and information to be included in the emergency plans referred to in Regulation 13
- **Schedule 5:** Items of information to the public as provided for in Regulation 25
- **Schedule 6:** Criteria for the notification of a major accident to the European Commission as provided for in Regulation 19(2)
- **Schedule 7:** Criteria for the notifiable incident referred to in Regulation 20

## S.I. No. 209 of 2015 Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (the “2015 COMAH Regulations”) (Cont'd)

- Lays down the rules to prevent major accidents involving dangerous substances and to limit the consequences of such accidents on human health and the environment.
- Aims to achieve protection through tiered controls on operators of the establishments subject to the COMAH regulations
  - 48 Upper-tier establishments (as of 27 May 2015);
  - 46 lower-tier establishments (as of 27 May 2015).
- 2006 (& 2013 amending) regulations implementing the Seveso II Directive have been revoked in their entirety.

# Classification under the 2015 COMAH Regulations

- Seveso II chemicals were classified under the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009 (“CHIP”).
- Dangerous substances are classified by adopting the European Regulation (EC) No. 1272/2008 on the classification, labelling and packaging of substances and mixtures (the “CLP Regulation”).
- The CLP Regulation is amended to account for technical and scientific development. The amendments, known as “Adaptations to Technical Progress” (ATPs), are published annually.
- The CLP Regulation applies directly in each Member State. The Chemicals Act 2008, as amended, was introduced in Ireland, among other regulations, to facilitate the enforcement of the EU CLP Regulation.
- The aim of this change is to re-align chemical classification with the United Nation’s Globally Harmonised System (“GHS”).



# New Definitions added under the 2015 COMAH Regulations

- New definitions:
  - Lower tier establishments
  - Upper tier establishments
  - Existing establishment
  - Domino Group and Domino Effect
  - Other establishment
  - The public
  - Consultation distance
  - Inspection

## New Definitions added under the 2015 COMAH Regulations (Cont'd)

- Some old defined terms have been excluded, e.g.
  - Specified area
    - The 2006 Regulations defined “*specified area*” as “*that area which is liable to be affected by a major accident at the establishment*”.
- Revoked regulation 18(10) provided that the specified area was to be determined by the operator concerned in agreement with the Central Competent Authority, or by the Central Competent Authority where the operator concerned in agreement with the Central Competent Authority are not in agreement.

## General Duties of Operators – 2015 COMAH Regulation 7

- An “operator” is defined as any natural or legal person who operates or controls an establishment or installation or has decision-making power over the technical functioning of the establishment or installation.
- An operator is obliged to:
  - Take all necessary measures to prevent major accidents and limit their consequences for human health and the environment;
  - Provide the relevant competent authority with the necessary assistance to enable that authority to conduct its functions under the 2015 COMAH regulations;
  - Assist the relevant competent authority to assess the likelihood of a major accident and determine any increase in probability;

## General Duties of Operators – 2015 COMAH Regulation 7 (Cont'd)

- Provide appropriate evidence at the request of the HSA demonstrating that major accident hazards have been identified and all necessary measures have been taken to prevent major accidents and limit their consequences;
  
- Submit a notification to the HSA through the HSA's electronic notification form specifying the following:
  - The name of the operator and registered place of business of the operator;
  - Name and position of the person in charge;
  - Information on dangerous substances and the category of substances involved / likely present (including the chemical name, CAS number, name according to the IUPAC nomenclature);
  - Quantity and form of the substances;
  - Activity or proposed activity;
  - Immediate environment of the establishment, or factors likely to cause an accident.

## Alternative Chemical Name Option

- There is an option to submit a request for use of an alternative chemical name under the Regulation on classification, labelling and packaging of substances and mixtures (the “CPL Regulation”) in order to protect the confidentiality of the substance. This reflects the earlier provisions of the Dangerous Preparations Directive (the “DPD”), which was transposed into Irish law by the European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations 2004. These Regulations are superseded by the CLP Regulation since 1 June 2015 following a transitional period, during which both the DPD and CLP rules remained in place. If the alternative name was approved by the Competent Authority before 1 June 2015 under the DPD, it can be used in the mixtures specified in the approval also after 1 June 2015.

## Domino Effects – 2015 COMAH Regulation 9 (1)

- Domino effects and domino group are addressed in Regulation 9.
- A “domino group” and “domino effects” are required to be construed in accordance with Regulation 9 as a group of establishments where the risk or consequences of a major accident may be increased because of their geographical position, their proximity and their inventories of dangerous substances to each other, the effects of which are referred to as “domino effects”.
- Regulation 9 states:

*“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”).”*

## Domino Effects – 2015 COMAH Regulation 9 (Cont'd)

- Domino effects are not a new addition to the COMAH Regulations. The 2006 COMAH Regulations provided that the Central Competent Authority did not have to rely solely on information from notifications/Safety Reports to determine the presence of a group of establishments where there was likely to be a “domino effect” but it was not a defined term.
- The COMAH Regulations apply to upper and lower tier establishments and a domino group may consist of a mix of types of establishments.
- The HSA will identify domino groups based on notifications, safety reports and inspections.
- An operator within a domino group must cooperate with and provide information to other members of the domino group to enable them to assess the nature and extent of the hazard for their safety reports and emergency plans.
- Upper-tier operators within a domino group must co-operate with each other in informing the public and the local competent authorities for preparing external emergency plans.
- Explanatory Note of the 2006 COMAH Regulations, available: <http://www.irishstatutebook.ie/2006/en/si/0074.html>

# Public Information and Access to Justice

- Seveso III introduces specific provisions in order to ensure compliance with **Directive 2003/4/EC (the Aarhus Convention)**. This is reflected in Article 14 on the provision of information to the public which mandates that information be provided **permanently** and **in electronic format**.
- The scope of the obligation to provide information has increased under Seveso III. Under Seveso II the obligations in relation to the provision of information to the public i.e. Articles 9, 11 and 13, applied solely to upper tier establishments.
- Under Schedule V Part I of Seveso III the provision of information to the public, permanently and in electronic form, **applies also to lower tier establishments**.



# Public Information and Access to Justice (Cont'd)

- Under Article 14 upper tier establishments must ensure that:
  - all persons likely to be affected by a major accident 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;
  - the safety report is made available to the public upon request subject to Article 22(3) [confidentiality provisions]; where Article 22(3) applies, an amended report, for instance in the form of a non-technical summary, 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, shall be made available;
  - the inventory of dangerous substances is made available to the public upon request subject to Article 22(3).
  - Further information is set out under Schedule V Part II.

# Public Information and Access to Justice (Cont'd)

- Regulation 26 COMAH Regulations:
  - Disclosure of the information may be refused or restricted by the competent authority under Regulation 9 of the Irish Access to Information on the Environment Regulations to protect:
    - confidential or commercially sensitive information;
    - Protection of IP rights.
  - Information is treated as confidential where provided for by national or Community law and the public authority must satisfy itself that real and substantial commercial interests are threatened.

## Public Information and Access to Justice (Cont'd)

- Under Regulation 21(10) of the COMAH Regulations, the HSA shall consult as appropriate with:
  - the Environmental Protection Agency (EPA) on the information contained in the Safety Report and risks of an accident;
  - the competent authorities shall also accept equivalent information submitted by operators

## Public Consultation and Participation – Article 15 of Seveso III Directive

Under Article 15 of the Seveso III Directive, the public concerned needs to be informed by public notice and entitled to express comments and opinions to the competent authority before a decision is taken on specific individual projects relating to:

- Planning for new establishments pursuant to Art 13;
- Significant modifications to the establishments under Art 11 where subject to the obligations in Art 13;
- New developments around establishments where the siting or developments may increase the risk or consequences of a major accident pursuant to Art 13.

# Confidentiality under Seveso III

- Under Seveso II the phrase “calls into question” was used in relation to obtaining confidentiality. However, Seveso III is based on Article 4 of the Aarhus Convention in relation to confidentiality.
- Under Seveso III Member States may provide for a request for environmental information to be refused if disclosure of the information would **adversely affect**:
  - the confidentiality of the proceedings of public authorities, where such confidentiality is provided for by law;
  - international relations, public security or national defence;

## Confidentiality under Seveso III (Cont'd)

- the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;
- the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;
- intellectual property rights;
- the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law;

## Confidentiality under Seveso III (Cont'd)

- the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so, unless that person has consented to the release of the information concerned;
- the protection of the environment to which such information relates, such as the location of rare species.

## Confidentiality under Seveso III (Cont'd)

Under Seveso II commercial and industrial secrets came within the confidentiality protection. However under Seveso III there has been a change in this regard as it relies on the Aarhus Convention which provides for confidentiality to apply where:

- such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;



## Information and Confidentiality – Regulations 25 & 26

- The HSA must make certain information on each establishment permanently and electronically available to the public within a reasonable amount of time.
- The nature of the information is outlined in Schedule 5:
  - Part 1 deals with the nature of information for all establishments;
  - Part 2 deals with the nature of information for upper-tier establishments.
- Information on safety reports and the inventory of dangerous substances are available on request subject to Regulation 26.
- Operators of upper-tier establishments must provide information under Regulation 25 to all “persons likely to be affected”, including all buildings and areas of public use and, in the case of domino groups, all neighbouring establishments, by a major accident originating at the establishment. This information includes:

## Information and Confidentiality – Regulations 25 & 26 (Cont'd)

- Name and trade name of the operator and full address of the establishment;
- An explanation in simple terms of the activities undertaken at the establishment;
- The common or generic names or hazard classification of the relevant dangerous substances involved at the establishment;
- General information on how the public will be warned;
- Details of where further relevant information can be obtained.

## Information and Confidentiality – Regulations 25 & 26 (Cont'd)

- The HSA will notify the operator of the area within which the information is to be supplied.
- Where information has been supplied under the 2006 Regulations and it meets the requirements of these regulations, the 5 year review and update timeframe remains in place.
- The operator must consult with the local competent authorities responsible for the external emergency plan aspects of the COMAH Regulations.
- Regulation 4 provides the procedure for the designation of the local competent authorities; where a public authority was designated under the 2006 Regulations, that designation shall continue in force.

## Information and Confidentiality under Seveso III

- Article 22 of Seveso Directive III addresses access to information and confidentiality. It provides that the competent authority is obliged to make any information it is holding in pursuance of the Directive available to any member of the public who requests it, in accordance with Directive 2003/4/EC of 28 January 2003 on public access to environmental information (requiring consistency with the “Aarhus Convention”).
- Article 22 further prescribes that the disclosure of any information required under the Directive, including under Article 14, may be refused or restricted by the CA where the conditions laid down in Article 4 of the Aarhus Convention are fulfilled.

## Information and Confidentiality – Regulations 25 & 26 (Cont'd)

- The information received by the HSA under Regulation 25 of the COMAH Regulations comes within the scope of the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007) and it will be made available to any person requesting it, subject to Regulation 26.
- Regulation 26 provides that disclosure of the information may be refused or restricted by the competent authority under Regulation 26 (2) where the grounds for refusal under Regulation 4 of the **Access to Information on the Environment Regulations** apply.
- Regulation 4(2) states:

*“Member States may provide for a request for environmental information to be refused if disclosure of the information would adversely affect:*

## Information and Confidentiality – Access to Information on the Environment Regulations

- *(a) the confidentiality of the proceedings of public authorities, where such confidentiality is provided for by law;*
- *(b) international relations, public security or national defence;*
- *(c) the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;*
- ***(d) the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;***

## Information and Confidentiality – Access to Information on the Environment Regulations (Cont'd)

- *(e) intellectual property rights;*
- *(f) the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law;*
- *(g) the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so, unless that person has consented to the release of the information concerned;*
- *(h) the protection of the environment to which such information relates, such as the location of rare species.”*

## Information and Confidentiality – Regulations 25 & 26 (Cont'd)

- The grounds for refusal are to be interpreted in a restrictive way, taking into account, in each particular case, the public interest served by disclosure. In every particular case, the public interest served by disclosure shall be weighed against the interest served by the refusal. Member States may not, by virtue of paragraph 4(2)(a), (d), (f), (g) and (h) above, **provide for a request to be refused where the request relates to information on emissions into the environment.**
- While disclosure of information obtained by the competent authorities under the Seveso II Directive could be refused if it “calls into question” confidentiality, the Seveso III Directive provides that disclosure of information may be refused where the information would “adversely affect” confidentiality.
- The fact that a person or company asks for information to be treated as confidential does not of itself establish it as such for the purpose of the Regulations, and the public authority must satisfy itself that real and substantial commercial interests are threatened.
- An operator of an upper-tier establishment may request that specific information in the Safety Report or inventory of dangerous substances should not be disclosed for reasons provided for in the Access to Information on the Environment Regulations.



## Information and Confidentiality – Regulations 25 & 26 (Cont'd)

- The competent authority can decide that restricting conditions in Regulation 4(2) of the Access to Information on the Environment Regulations do apply to the information and an amended version of the Safety Report or Inventory of Dangerous Substances can be made available by the operator to the competent authority for supply in response to public requests.
- Information supplied to other competent authorities or public bodies for the purposes of the COMAH Regulations must be treated as confidential by the recipients. Requests for information under the Access to Information on the Environment Regulations are made to the originating competent authority.
- A Safety Report is only treated as confidential until the HSA has communicated its conclusions to the operator.

## Information and Confidentiality – Regulations 25 & 26 (Cont'd)

### Internal Review of Refusal

- Regulation 7(1) of the Access to Information on the Environment Regulations states that a public authority shall, notwithstanding any other statutory provision and subject only to these Regulations, make available to the applicant any environmental information, the subject of the request, held by, or for, the public authority.
- Under Regulation 7(4), where a decision is made to refuse, in whole or in part, a request for environmental information, the public authority concerned shall notify the applicant no later than one month following receipt of the request, specifying the reasons for refusal and inform the applicant of his or her rights of internal review.
- Regulation 11 (1) states that where the applicant's request has been refused under article 7, in whole or in part, the applicant may, not later than one month following receipt of the decision of the public authority concerned, request the public authority to review the decision, in whole or in part.

## Information and Confidentiality – Regulations 25 & 26 (Cont'd)

- The European Communities (Access to Information on the Environment) Regulations 2007 provide an appeal to the Commissioner for Environmental Information and an appeal therefrom on a point of law only to the High Court.
- **Loss of confidentiality / protection of information**
- The operator may seek to ensure that confidential or commercially sensitive information is protected in the following ways:
  - While the operator is required to submit a Safety Report to the HSA providing, amongst other things, information about the chemicals of a hazardous character under the COMAH Regulations, the EU CPL Regulation allows an option to submit a request for use of an alternative chemical name in order to protect the confidentiality of the substance;

## Information and Confidentiality – Regulations 25 & 26 (Cont'd)

- While certain information on establishments is made available to the public by the competent authority, the information on Safety Reports and the Inventory of Dangerous Substances are available on request subject to Regulation 26.
- The Safety Report is only treated as confidential until the HSA communicates its conclusions to the operator;
- The competent authority may refuse access by the public to information if access would adversely affect commercially sensitive information and IP rights;
- The operator may submit an amended version of the Safety Report with the Safety Report containing sensitive information to the HSA for access by the public, only if the HSA allows.

## Consultation with the EPA – Regulation 21

- Under Regulation 21 of the COMAH Regulations, the HSA “shall consult as appropriate” with the Environmental Protection Agency (EPA) on the information contained in the Safety Report and risks of an accident. The competent authorities shall accept equivalent information submitted by operators.

## Land-Use Planning – Regulation 24

- The HSA shall, upon receipt of 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.
- A “consultation distance” is very broadly defined under Regulation 2 as “a distance or area relating to an establishment, within which there are potentially significant consequences for human health or the environment from a major accident at the establishment...”

## Land-Use Planning – Regulation 24 (Cont'd)

- The consolidated unofficial Planning and Development Regulations 2001 (as amended) at Schedule 8 Table 2 appear to give some guidance as to how the consultation distance is calculated. The consultation distance for some types of COMAH facility ranges from 300m for establishments where the risk is from flammable non-pressurised materials, to 1 km for establishments where chemical processing involving flammable or toxic substances takes place, to 2km establishments with bulk storage of pressurised or toxic substances, triggering an obligation on the Planning Authority to notify the HSA.
- The HSA shall provide either generic or case specific technical advice to the planning authority upon receipt of a notice from the planning authority under Part 11 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

# Land Use Planning and Safety Distances

- Land Use Planning is covered under Article 13 of Seveso III. It should be noted that land use planning considerations must take account of the increased requirements for public consultation and participation outlined in Article 15.
- While Seveso II refers to “appropriate” distances Seveso III introduces the concept of “**safety distances**” in relation to land use planning. Notably this is not a defined term.
- Article 14 states that the Member States must develop policies in order to ensure that appropriate “safety distances” are maintained.
- Under Article 24 of Seveso III the Commission may now provide guidance in relation to “safety distances.”



## Land Use Planning and Safety Distances (Cont'd)

- Previously the Health and Safety Authority (HSA) set “consultation distances” in relation to Seveso sites. All establishments falling within the “consultation distance” of the Seveso site were referred by the planning authority to the HSA for technical advice.
- With the introduction of “safety distances” under Seveso III the HSA appears to have a greater influence in the determination of the buffer zone set which is set by the HSA, whilst the use of the phrase “safety distance” as opposed to “consultation distance” suggests a more focused assessment, in fact it may have a wider implication beyond the traditional Seveso realm of threat or danger.

## Land Use Planning (Cont'd)

- Article 13 makes specific reference to the Environmental Impact Assessment Directive (2011/92/EU) and Strategic Environmental Assessment Directive, (2001/42/EC) to allow Member States to take a co-ordinated response to fulfilling the requirements of Seveso III in conjunction with these directives.
- The Irish COMAH Regulations provide that the HSA shall, upon receipt of a notification from the operator containing the information specified under Regulation 8 of the COMAH Regulations, advise a planning authority of a consultation distance for that establishment if it is / could be within the planning authority's functional area.

## Land Use Planning (Cont'd)

- A consultation distance is very broadly defined under Regulation 2 as “a distance or area relating to an establishment, within which there are potentially significant consequences for human health or the environment from a major accident at the establishment...”
- The HSA shall provide either generic or case specific technical advice to the planning authority upon receipt of a notice from the planning authority under Part 11 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

## Offences & Penalties – Regulations 28 & 29

- Penalties and offences are dealt with in Regulation 28 in Part 10 of the COMAH Regulations. An operator who contravenes any of the following provisions, deemed to be penal provisions with regard to the duties and obligations of operators, shall be guilty of an offence:
  - Regulations 7 and 8 – general duties of operators, and notifications;
  - Regulation 9(2) and 9(3) – domino groups and upper-tier notifications;
  - Regulations 10 to 15 inclusive, with the exception of Regulation 10(8) – major accident prevention policy and emergency plans;
  - Regulation 16(2) and 16(7) – upper-tier information to be supplied to a local competent authority; and cooperation of domino groups;
  - 
  - Regulation 18(1) – information supplied by the operator following a major accident;
  - Regulation 20 – notifiable incidents;
  - 
  - Regulation 24(6), 24(7), and 24(11)- modifications to be carried out by the operator, and updates; and
  - Regulation 25(1), (2), (4) to (7), (9) to (10) and (12) – provision of information to the public.

## Offences & Penalties – Regulations 28 & 29 (Cont'd)

- A person who contravenes any of the following provisions, deemed to be penal provisions with regard to the duties and obligations of persons, shall be guilty of an offence:
  - Regulation 18(2); and
  - Regulation 26(7).
- Failure to comply with any of the provisions of the COMAH Regulations declared by Regulation 28 to be penal provisions shall be guilty of an offence and liable on conviction to the penalties prescribed in section 30(1) of the Chemicals Act 2008 as amended.
- The HSA will be entitled to seek costs and expenses for the investigation, detection and prosecution, including the costs of taking samples, the carrying out of tests, examinations and analyses, of the offence under Section 30(3) of the Chemicals Act 2008 as amended.

# Penalties for Breach of Seveso III

- Article 28 mandates the adoption of penalties by Member States in relation to a breach of Seveso III that are “effective, proportionate and dissuasive.” Notably Seveso II was silent on the concept of penalties.
- In Ireland, failure to comply with any of the provisions of the COMAH Regulations declared by Regulation 28 to be penal provisions shall be guilty of an offence and liable on conviction to the penalties prescribed in section 30(1) of the Chemicals Act.
- **Penalties under Section 30(1) of the Chemicals Act 2008**

**30(1)** A person guilty of an offence under [section 29](#) (other than *subsection (16)*) shall be liable—

  - (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, or
  - (b) on conviction on indictment, to a fine not exceeding €3,000,000 or imprisonment for a term not exceeding 2 years or both.
- The HSA will be entitled to seek its costs and expenses of the investigation, detection and prosecution, including the costs of taking samples, the carrying out of tests, examinations and analyses, of the offence under Section 30(3) of the Chemicals Act.

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Thank you for your time.