
STATUTORY INSTRUMENTS

1974 No. 1885

HEALTH AND SAFETY EXPLOSIVES

**The Explosives Acts 1875 and 1923 Etc. (Repeals
and Modifications) Regulations 1974**

<i>Made</i>	- - - -	<i>12th November 1974</i>
<i>Laid before Parliament</i>		<i>21st November 1974</i>
<i>Coming into Operation</i>		<i>1st January 1975</i>

The Secretary of State in exercise of the powers conferred on him by sections 15(1) and (3)(a), 80(1) and 82(3)(a) of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”) and of all other powers enabling him in that behalf, and after consultation with the Health and Safety Commission and such other bodies as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Explosives Acts 1875 and 1923 etc. (Repeals and Modifications) Regulations 1974 and shall come into operation on 1st January 1975.

(2) The Interpretation Act 1889 shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Repeals and modifications—the Explosives Act 1875

2. In the Explosives Act 1875 (“the 1875 Act”)—

- (a) the provisions mentioned in column 1 of Schedule 1 to these Regulations are hereby repealed to the extent specified in column 2 of that Schedule; and
- (b) the provisions mentioned in Schedule 2 to these Regulations shall have effect subject to the modifications specified in that Schedule.

Modifications—instruments under the Explosives Act 1875

3.—(1) The Orders in Council and Orders of the Secretary of State made under the 1875 Act shall have effect as if for any reference therein to a government inspector or to Her Majesty's Inspectors of Explosives there were substituted a reference to an inspector appointed by the Health and Safety Executive under section 19 of the 1974 Act.

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(2) The provisions specified in column 3 of Schedule 3 to these Regulations of the instruments mentioned in column 1 of that Schedule shall have effect as if for any reference therein to the Secretary of State there were substituted a reference to the Health and Safety Executive.

(3) The Order of the Secretary of State (No. 9) dated 23rd June 1919 relating to compressed acetylene contained in a porous substance⁽¹⁾ shall have effect as if the references to the Home Office in Conditions 1 and 5 were omitted.

Repeal—the Explosives Act 1923

4. Section 3 of the Explosives Act 1923 is hereby repealed.

Repeal—the Revenue Act 1909

5. Section 11 of the Revenue Act 1909 is hereby repealed.

Repeal and modification—the Fireworks Act 1951

6. In the Fireworks Act 1951—

- (a) in section 1(1), for the words “a government inspector for the purposes of the Explosives Act 1875 (hereinafter referred to as “the principal Act”)” there shall be substituted the words “an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974”;
- (b) in section 2(3), for the words “a government inspector” there shall be substituted the words “an inspector”; and
- (c) in section 4—
 - (i) for the references in subsections (1) and (3) and the first two references in subsection (2) to the Secretary of State there shall be substituted references to the Health and Safety Executive; and
 - (ii) for the words in subsection (2) “any such notice as he might serve” there shall be substituted the words “any such notice as the Secretary of State might serve”.

Modification—the Emergency Laws (Miscellaneous Provisions) Act 1953 etc

7.—(1) In section 3 of the Emergency Laws (Miscellaneous Provisions) Act 1953—

- (a) in subsection (4), for the words from “liable” to the end of the subsection there shall be substituted the words “guilty of an offence”; and
- (b) at the end, there shall be added the following subsection:—

“(6) The provisions of section 50 of the Health and Safety at Work etc. Act 1974 shall apply to the power to make an order under this section as they apply to a power to make regulations.”

(2) In the Control of Explosives Order 1953⁽²⁾, for the references in paragraphs 2(3) and 4(2) to a government inspector there shall be substituted references to an inspector appointed by the Health and Safety Executive under section 19 of the 1974 Act.

Supplemental

8.—(1) These Regulations shall not affect the validity of anything done under the provisions of enactments or instruments repealed or modified by the Regulations before the coming into operation

(1) S.R. & O. 1919/809 (Rev. VII, p. 75: 1919 I, p. 702).

(2) (1953 I, p. 716).

of the Regulations; and anything which at the coming into operation of the Regulations is in process of being done for the purposes of those provisions—

- (a) by or in relation to a government inspector for the purposes of the Explosives Act 1875; or
- (b) by or in relation to the Secretary of State,

may be continued, so far as may be necessary for the purposes of or in consequence of the provisions of the Regulations, in the case mentioned in paragraph (a) above, by or in relation to an inspector appointed by the Health and Safety Executive under section 19 of the 1974 Act and, in the case mentioned in paragraph (b) above, by or in relation to the said Executive.

(2) Any application made or notice, licence or exemption given or granted or any other thing done by or in relation to a government inspector or the Secretary of State before the date of the coming into operation of these Regulations which after that date would fall to be made, given, granted or done by or in relation to an inspector appointed by the Health and Safety Executive under section 19 of the 1974 Act or the Health and Safety Executive, shall continue in effect as if made, given or done by or in relation to such an inspector or the said Executive.

(3) Where any of the provisions repealed or modified by these Regulations prescribes a penalty for an offence of any kind, that penalty shall, notwithstanding these Regulations, continue to apply to offences of that kind committed before 1st January 1975.

(4) Orders in Council, orders, rules and other instruments of a legislative character made or having effect under any provision repealed by these Regulations and in force immediately before the coming into operation of these Regulations shall continue in force notwithstanding the repeal of that provision.

Northern Ireland

- 9. These Regulations shall not apply to Northern Ireland.

Signed by order of the Secretary of State.

12th November 1974

Harold Walker
Joint Parliamentary Under Secretary of State
Department of Employment

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SCHEDULE 1

Regulation 2(a)

THE EXPLOSIVES ACT 1875

Repeals

<i>Provision</i>	<i>Extent of Repeal</i>
Section 8.	The words from “If the local authority assent” to “the reasons (if any) so stated by the local authority” .
Section 11.	The words from “If the occupier feel aggrieved” to the end of the section.
Section 24.	The words from “The occupier, if he feel aggrieved” to “provided by this Act”.
Section 25.	The whole section.
Section 26.	The words from “The Secretary of State may also require” to “the grant of such license”.
Section 28.	The words from “A ratepayer” to the end of the section.
Section 29.	The words “or forfeiture under this Act”.
Section 37.	The whole section.
Sections 53 to 57.	The whole section in each case.
Section 59.	The whole section.
Section 62.	The whole section.
Section 63.	The words from “A notice of any accident” to “inspector of mines” .
Sections 65 and 66.	The whole section in each case.
Section 69.	The whole section except the first paragraph.
Section 73.	The whole section.
Sections 75 and 76.	The whole section in each case.
Section 79.	The whole section.
Section 81.	The whole section.
Section 85.	The whole section.
Sections 87 and 88.	The whole section in each case.
Section 89.	The whole section except for the purposes of sections 30 and 32.
Section 91.	The whole section except as aforesaid.
Section 92.	The whole section.
Sections 93 and 94.	The whole section except as aforesaid.
Section 96.	The first paragraph.
Schedule 2.	The whole Schedule.

SCHEDULE 2

Regulation 2(b)

THE EXPLOSIVES ACT 1875

Modifications

1. In section 4, for the words from “Where gunpowder is manufactured” to the end of the section there shall be substituted the words “Where gunpowder is manufactured at an unauthorised place, the person so manufacturing shall be guilty of an offence.”

2. In section 5, for the words from “Where any gunpowder is kept” to the end of the section there shall be substituted the words “Where any gunpowder is kept in an unauthorised place, the occupier of such place, and also the owner of, or other person guilty of keeping the gunpowder, shall each be guilty of an offence.”

3. In sections 6, 8, 10(3) and (6), 11 to 13, 18, 19, 28, 40(1) and (9), 43, 45 to 47, 49 (as amended by the Fireworks Act 1951), 63, 64 and 72, for the references to the Secretary of State there shall be substituted references to the Health and Safety Executive.

4. In section 9, for the words from “In the event of any breach” to the end of sub-paragraph (b) there shall be substituted the words “In the event of any breach (by any act or default) of this section in any factory or magazine, the occupier shall be guilty of an offence.”

5. In sections 9, 24, 60, 61, 64, 74 and 86 for the references to a government inspector there shall be substituted references to an inspector appointed by the Health and Safety Executive under section 19 of the 1974 Act.

6. In section 10, for the words from “In the event of any breach” to “during which such breach continues” there shall be substituted the words “In the event of any breach (by any act or default) of the general rules in any factory or magazine, the occupier shall be guilty of an offence.”

7. In section 11, for the words from “There may be annexed” to “deemed just” there shall be substituted the words “A person who contravenes any special rule made under this section shall be guilty of an offence.”

8. In section 13, for the words from “liable” to “continues” there shall be substituted the words “guilty of an offence” .

9. In section 17, for the words from “In the event of any breach” to “such breach continues” there shall be substituted the words “In the event of any breach (by any act or default) of the general rules in any store, the occupier shall be guilty of an offence.”

10. In section 19 , for the words from “There may be annexed” to the end of the section there shall be substituted the words “A person who contravenes any special rule made under this section shall be guilty of an offence.”

11. In section 22 , for the words from “In the event of any breach” to the end of the section there shall be substituted the words “In the event of any breach (by any act or default) of such general rules in any registered premises, the occupier shall be guilty of an offence.”

12. Section 26, except for paragraph 2, shall apply in the case of licences granted by the Health and Safety Executive as it applies in the case of licences granted by the Secretary of State.

13. In section 33 , for the words from “In the event of any breach” to “£100” there shall be substituted the words “In the event of any breach (by any act or default) of any general rule in this section, the person guilty of such breach shall be guilty of an offence.”

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14. In section 40(9)(d) for the words from “liable” to the end of the sub-paragraph there shall be substituted the words “guilty of an offence and liable to the penalties specified in section 33(3) of the Health and Safety at Work etc. Act 1974”.

15. In section 43 , for the words from “If any explosive is imported” to “found in his possession” there shall be substituted the words “If any explosive is imported or sold in contravention of any such Order, the owner or master of the ship in which it was imported, the person to whom it was delivered and the person selling the same shall each be guilty of an offence and liable to the penalties specified in section 33(3) of the Health and Safety at Work etc. Act 1974.”

16. In section 58 , for the words “the powers and authorities of a Government inspector under this Act” there shall be substituted the words “the powers conferred on inspectors by the Health and Safety at Work etc. Act 1974 ”.

17. In section 60 , after the words “the Secretary of State” there shall be inserted the words “or the Health and Safety Executive”.

18. In section 63 , for the words from “liable” to the end of the section there shall be substituted the words “guilty of an offence”.

19. In section 77 —

- (a) for the words from “shall for every such offence” to “five pounds” and for the words from “shall be liable” to “fifty pounds” there shall be substituted in each case the words “shall be guilty of an offence”; and
- (b) after the words “penalties” and “penalty” in paragraph 3 there shall be inserted in each case the words “for an offence”.

20. In section 78 , for the words “for which he is liable to a penalty” there shall be substituted the words “which is an offence”.

21. In section 82 , for the words from “shall be liable” to the end of the section there shall be substituted the words “shall be guilty of an offence”.

22. In section 83 , at the end there shall be added the following paragraph:—

“The provisions of section 50 of the Health and Safety at Work etc. Act 1974 shall apply to any power of the Secretary of State to recommend the making of an Order in Council, to make orders or rules or to make or require the making of byelaws as they apply to a power to make regulations.”

23. In section 103 , after the words “the Secretary of State may on the application of” there shall be inserted the words “the Health and Safety Commission or of” and after the words “after notice to” there shall be added the words “the said Commission or to”.

SCHEDULE 3

Regulation 3(2)

INSTRUMENTS UNDER THE EXPLOSIVES ACT 1875

Modifications

<i>Title of Instrument</i>	<i>Reference</i>	<i>Provision</i>
Order in Council (No. 2) Making General Rules for Factories for Explosives other than Gunpowder.	27th November 1875 (Rev.VII, p. 7).	Rules 3 and 6.

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<i>Title of Instrument</i>	<i>Reference</i>	<i>Provision</i>
Order in Council (No. 3) Relating to Magazines for Explosives other than Gunpowder, whether with or without Gunpowder.	27th November 1875 (Rev. VII, p. 10).	Rules 3 and 6.
Order in Council (No. 4) Relating to Small Firework Factories.	27th November 1875 (Rev. VII, p. 14).	Rule 4.
Order in Council (No. 5) Relating to Stores for Gunpowder Exclusively.	27th November 1875 (Rev. VII, p. 22).	Rule 5(2) .
Order in Council (No. 6) Relating to Stores Licensed for Mixed Explosives.	27th November 1875 (Rev. VII, p. 26).	Rule 11 .
Order in Council (No. 19) Relating to the Importation, Keeping, Conveyance or Sale of Fireworks.	S.R. & O. 1905/8 (Rev. VII, p. 58: 1905 I, p. 83).	Article 1.
The Liquid Oxygen Explosives Order 1928.	S.R. & O. 1928/1045 (Rev. VII, p. 65: 1928, p. 521).	Article 1.
Order in Council (No. 30) Prohibiting the Manufacture, Importation, Keeping, Conveyance or Sale of Acetylene as amended by the Compressed Acetylene Order 1947.	S.R. & O. 1937/54 (Rev. VII, p. 66: 1937, p. 729) and S.R.&O.1947/805 (1947 I, p. 717).	Proviso 1.
Order of Secretary of State (No. 1) dated November 1875 Applying General Rules to Floating Magazine for Gunpowder.	27th November 1875 (Rev. VII, p. 68).	Rules 4 and 7.
Order of Secretary of State (No. 2) dated November 1875 Applying General Rules to Floating Magazines for Explosives other than Gunpowder, whether with or without Gunpowder.	27th November 1875 (Rev. VII, p. 70).	Rule 7.

EXPLANATORY NOTE

These Regulations contain repeals and modifications of provisions of the following enactments and certain instruments thereunder:—

- (a) the Explosives Acts 1875 and 1923;
- (b) the Revenue Act 1909;
- (c) the Fireworks Act 1951; and
- (d) the Emergency Laws (Miscellaneous Provisions) Act 1953.

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They are made in consequence of the establishment on 1st January 1975 of the Health and Safety Executive and the coming into operation on that date of provisions of the Health and Safety at Work etc. Act 1974 which supersede or affect the said provisions.

The Regulations therefore:—

- (a) transfer certain functions under the said Acts connected with licensing and the execution of the Acts from the Secretary of State to the Health and Safety Executive;
- (b) transfer the functions of government inspectors under the Explosives Acts from such inspectors to inspectors of the Health and Safety Executive;
- (c) apply with certain exceptions to offences under the said Acts committed on or after 1st January 1975 the penalties prescribed in the 1974 Act;
- (d) repeal provisions relating to inquiries, powers of inspectors, the forfeiture of explosives and legal proceedings, which are superseded by provisions contained in the 1974 Act.