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STATUTORY INSTRUMENTS

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**2005 No. 1082**

**HEALTH AND SAFETY**

**The Manufacture and Storage of Explosives Regulations 2005**

*Made - - - - 4th April 2005*

*Laid before Parliament 5th April 2005*

*Coming into force in accordance with regulation 1*

The Secretary of State, in exercise of the powers conferred upon him by sections 15(1), (2), (3)(a), (4), (5), (6)(b), 43(2), (4), (5) and (6), 80(1) and 82(3)(a) of, and paragraphs 1(1), (2) and (3), 2, 3(1), 4, 5, 7, 11, 14, 15(1), 16, 18 and 20 of Schedule 3 to, the Health and Safety at Work etc. Act 1974<sup>(1)</sup> (“the 1974 Act”) and of all other powers enabling him in that behalf —

- (a) for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, and
- (b) it appearing to him that the modifications to the Acts and other instruments mentioned in paragraphs 4 to 6, 7(2), (3), (5) and (7), 8(3) and (4), 9 to 13, 15 to 21, 26, 27, 29, 33, 35, 36, 39 and 43 of Schedule 5, and the repeals of the Acts marked with an asterisk in Schedule 6 are expedient as set out in section 80(1) of the 1974 Act and that it also appears to him not to be appropriate to consult bodies in respect of such modifications in accordance with section 80(4) of that Act,

hereby makes the following Regulations:

**PART 1**

**INTRODUCTION**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Manufacture and Storage of Explosives Regulations 2005 and, except as provided by paragraph (2), shall come into force on 26<sup>th</sup> April 2005.

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(1) 1974 c. 37; section 15 was amended by the Employment Protection Act 1975 (c. 71), section 116 and Schedule 15, paragraphs 6 and 16.

(2) The repeal by these Regulations of sections 40(8) and 103 of the 1875 Act comes into force only with the coming into force of the repeal of section 32 of that Act by the Fireworks Act 2003(2).

## Interpretation

2.—(1) In these Regulations —

“the 1875 Act” means the Explosives Act 1875(3);

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“ammonium nitrate blasting intermediate” means non-sensitised mixtures of, primarily, ammonium nitrate and other substances which are not themselves explosive, such as oxidisers and fuels, intended to produce a blasting explosive only after further processing prior to use and classified in accordance with the United Nations Recommendations as falling within Class 5.1;

“black powder” means an intimate mixture, with or without sulphur, of charcoal or other carbon with potassium nitrate or sodium nitrate, whether the mixture is in meal, granular, compressed or pelletised form, being an explosive substance allocated in accordance with the United Nations Recommendations the U.N. nos. 0027 or 0028;

“centre point”, in relation to a store or a building, means the centre point of the store or building determined as far as is reasonably possible;

“Class 1” means Class 1 in respect of explosives or the classification of dangerous goods as set out in the United Nations Recommendations;

“desensitised explosive” means —

- (a) a solid explosive substance which has been wetted with water or alcohol or diluted with one or more other substances; or
- (b) a liquid explosive substance which has been dissolved or suspended in water or one or more other substances,

to form a homogeneous mixture so as to suppress its explosive properties and which, without that treatment, would be classified in accordance with the United Nations Recommendations as falling within Class 1;

“disposes”, in relation to explosives and explosive-contaminated items, means destroying the explosives or explosive-contaminated items or otherwise rendering them harmless;

“the Executive” means the Health and Safety Executive;

“explosive” means —

- (a) any explosive article or explosive substance which would —
  - (i) if packaged for transport, be classified in accordance with the United Nations Recommendations as falling within Class 1; or
  - (ii) be classified in accordance with the United Nations Recommendations as —
    - (aa) being unduly sensitive or so reactive as to be subject to spontaneous reaction and accordingly too dangerous to transport, and
    - (bb) falling within Class 1; or
- (b) a desensitised explosive,

but it does not include an explosive substance produced as part of a manufacturing process which thereafter reprocesses it in order to produce a substance or preparation which is not an explosive substance;

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(2) 2003 c. 22.

(3) 1875 c. 17 (38 & 39 Vict.); relevant amending instruments are S.I.1974/1885 and 1987/52.

“explosive article” means an article containing one or more explosive substances;

“explosives certificate” has the same meaning as in the Control of Explosives Regulations 1991(4);

“explosive substance” means a substance or preparation, not including a substance or preparation in a solely gaseous form or in the form of vapour, which is —

- (a) capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings; or
- (b) designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these as a result of a non-detonative, self-sustaining, exothermic chemical reaction;

“firearm” has the same meaning as it is given in section 57(1) of the Firearms Act 1968(5);

“fireworks” means the explosive articles allocated in accordance with the United Nations Recommendations any of the U.N. nos. 0333 to 0337;

“harbour” means a harbour which is within the jurisdiction of a harbour authority and includes—

- (a) the areas of water within the jurisdiction of that harbour authority; and
- (b) land within the jurisdiction of, or occupied by, the harbour authority and used in connection with the loading and unloading of ships,

but does not include the areas of water which are within the jurisdiction not only of the harbour authority but also of another harbour authority and which are used primarily by ships using berths within the harbour of that other harbour authority;

“harbour authority” has the same meaning as in the Harbours Act 1964(6);

“hazard type” means any of hazard type 1 explosive, hazard type 2 explosive, hazard type 3 explosive or hazard type 4 explosive;

“hazard type 1 explosive” means an explosive which, as a result of, or as a result of any effect of, the conditions of its storage or process of manufacture, has a mass explosion hazard;

“hazard type 2 explosive” means an explosive which, as a result of, or as a result of any effect of, the conditions of its storage or process of manufacture, has a serious projectile hazard but does not have a mass explosion hazard;

“hazard type 3 explosive” means an explosive which, as a result of, or as a result of any effect of, the conditions of its storage or process of manufacture, has a fire hazard and either a minor blast hazard or a minor projectile hazard, or both, but does not have a mass explosion hazard;

“hazard type 4 explosive” means an explosive which, as a result of, or as a result of any effect of, the conditions of its storage or process of manufacture, has a fire hazard or slight explosion hazard, or both, with only local effect;

“headquarters” means a headquarters for the time being specified in Schedule 2 to the Visiting Forces and International Headquarters (Application of Law) Order 1999(7);

“Her Majesty’s Forces” means any of the naval, military or air forces of the Crown, whether raised inside or outside the United Kingdom and whether any such force is a regular, auxiliary or reserve force, and includes any civilian employee of the Ministry of Defence attached to those forces;

“licence” means a licence for the manufacture or storage of explosives granted under regulation 13 and includes a varied licence;

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(4) S.I. 1991/1531, to which there are amendments not relevant to these Regulations.

(5) 1968 c. 27.

(6) 1964 c. 40; “harbour authority” is defined in section 57(1).

(7) S.I. 1999/1736.

“licensee” means a person who has been granted a licence under regulation 13 and includes a person to whom a licence is transferred and a person treated under regulation 21 as being licensed;

“licensing authority” has the meaning assigned to it by Schedule 1;

“local authority” means in relation to —

- (a) the City of London, the Common Council for the City of London;
- (b) an area in the rest of London, the London Borough Council for that area;
- (c) an area where there is a fire and rescue authority, that authority;
- (d) the Isles of Scilly, the Council of the Isles of Scilly;
- (e) an area in the rest of England, the county council for that area or where there is no county council for that area, the district council for that area;
- (f) an area in Scotland, the council for the local government area; and
- (g) an area in Wales, the county council or the county borough council for that area;

“manufacture” includes —

- (a) in relation to explosive articles, their repair, modification, disassembly or unmaking;
- (b) in relation to explosive substances, their reprocessing, modification or adaptation;

but it does not include the packing, unpacking, re-packing, labelling or testing of explosives or the division of an amount of explosives stored in bulk into smaller amounts and the placing of those smaller amounts into containers;

“mine” means an excavation or system of excavations, including all such excavations to which a common system of ventilation is provided, made for the purpose of, or in connection with, the getting, wholly or substantially by means involving the employment of persons below ground, of minerals (whether in their natural state or in solution or suspension) or products of minerals;

“non-sensitised” means giving a negative test result when subjected to Test Series 8 of the Manual of Tests and Criteria, third edition<sup>(8)</sup>, supporting the United Nations Recommendations;

“percussion caps” means items intended for use in small arms ammunition allocated in accordance with the United Nations Recommendations the UN nos. 0044, 0377 or 0378;

“police force”, for the purposes of regulations 3(4)(d) and (6)(b), 5(3)(d) and 27(6), includes—

- (a) the police force known as the British Transport Police Force<sup>(9)</sup>;
- (b) the special constables appointed as special constables under section 3 of the Special Constables Act 1923<sup>(10)</sup> on the nomination of the United Kingdom Atomic Energy Authority<sup>(11)</sup>; and
- (c) the constabulary to be known as the Civil Nuclear Constabulary by virtue of section 52(1) of the Energy Act 2004<sup>(12)</sup>;

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<sup>(8)</sup> ISBN 92 - 1 - 1390680.

<sup>(9)</sup> Established by section 20 of the Railways and Transport Safety Act 2003 (c. 20) as of 1<sup>st</sup> July 2004, replacing the British Transport Police Force which comprised constables appointed under section 53 of [British Transport Commission Act 1949](#) (12 & 13 Geo c. xxix).

<sup>(10)</sup> 1923 c. 11.

<sup>(11)</sup> The United Kingdom Atomic Energy Authority (“UKAEA”) nominates persons to be special constables under section 3 of the Special Constables Act 1923 (c. 11) as extended by paragraph 1 of the second Schedule to the Emergency Laws (Miscellaneous Provisions) Act 1947 (c. 10), Schedule 3 to the Atomic Energy Authority Act 1954 (c. 32) and Schedule 1, paragraph 4, to the Nuclear Installations Act 1965 (c. 57). The power of this Authority so to nominate special constables is prospectively repealed by the Energy Act 2004, section 197(9) and Schedule 23; section 52(1) of that Act provides, as of 1<sup>st</sup> March 2005, for the Civil Nuclear Police Authority to secure the maintenance of an efficient and effective constabulary to be known as the Civil Nuclear Constabulary; this constabulary is to replace the special constables nominated by UKAEA.

<sup>(12)</sup> 2004 c. 20.

“preparation” means a mixture of two or more substances or a solution of any substance or substances;

“propellant” means a deflagrating explosive used as a propellant in firearms;

“public consultation zone” means the area around the store or proposed store, or the building where the manufacture of explosives takes place or is proposed to take place, which, from the centre point of the store or building, has a radius equivalent to double the greatest separation distance required by virtue of these Regulations to apply in the case of that store or building;

“pyrotechnic” means an explosive article or substance of a kind designed to produce an effect by heat, light, sound, gas or smoke, or a combination of any of these, as a result of non-detonative, self-sustaining, exothermic chemical reactions;

“quarry” has the meaning assigned to it by regulation 3 of the Quarries Regulations 1999(13);

“registered” in relation to a person, means a person registered in respect of the storage of explosives under regulation 11 and includes a person treated under regulation 21 as being registered;

“registration” save in regulation 22 and Schedule 4 means registration under regulation 11 and

“certificate of registration” means a certificate issued under regulation 11(3);

“renewal of a licence” or “renewal of a registration” means respectively the granting of a licence or registration to follow a previous licence or registration without any amendment or gap in time.

“separation distance” means the distance between the store or the building in which explosives are, or are to be, manufactured and a building, or other place in or at which people are or are likely to be present either all the time or from time to time;

“ship” includes every description of vessel used in navigation;

“shooters' powder” means —

- (a) black powder,
- (b) smokeless powder, or
- (c) any other substance or preparation based on potassium nitrate or nitro cellulose, whether in powder, pelletised or granular form, used, or to be used, as a propellant;

“site” means the whole area under the control of the same person and, for these purposes —

- (a) all places adjoining each other under the control of the same person shall be treated as a whole area; and
- (b) two or more areas under the control of the same person separated only by a road, railway or inland waterway shall be treated as a whole area;

“small arms ammunition” means the explosive articles allocated in accordance with the United Nations Recommendations the U.N. nos. 0012, 0014 or 0055 which are intended exclusively for use in small arms;

“smokeless powder” means an explosive substance allocated in accordance with the United Nations Recommendations the U.N. nos. 0160 or 0161;

“a store” means a building, enclosed area or metal structure in which explosives are, or are to be, stored;

“substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour;

“U.N. no.” means United Nations Serial Number, that is to say one of the four-digit numbers devised by the United Nations as a means of identification of types of explosives in accordance with the United Nations Recommendations;

“United Nations Recommendations” means the United Nations Recommendations on the Transport of Dangerous Goods (based on those originally prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods considered by the Economic and Social Committee of Experts at its twenty-third session (Resolution 645G (XXIII) of 26 April 1957))(14) as revised or reissued from time to time;

“visiting force” has the same meaning as it does for the purposes of any provision of the Visiting Forces Act 1952(15);

“water-based”, in relation to explosives, means explosives which are based on water and ammonium nitrate and allocated in accordance with the United Nations Recommendations the U.N . no. 0241; and

“wholly-owned subsidiary” has the same meaning as it is given by section 736(2) of the Companies Act 1985(16).

(2) For the purposes of these Regulations, and subject to regulation 3(7), the manufacture or storage of ammonium nitrate blasting intermediate shall be deemed to be the manufacture or storage of an explosive.

(3) For the purposes of measuring of any distance required to be a separation distance by virtue of these Regulations, the distance to be measured shall be the horizontal distance between the outside edge of the store or the building in which the explosives are, or are to be, manufactured and the nearest point of the building or other place which the separation distance applies to.

(4) Any reference in these Regulations to the quantity of an explosive shall be construed as a reference to the net mass of explosive substance and, in the case of any pyrotechnic article, the net mass of the explosive shall, for the purposes of these Regulations, be deemed to be one quarter of the gross mass of the pyrotechnic article or, where the manufacturer, importer or supplier specifies a different net mass amount on the pyrotechnic article, its packaging or a document accompanying the pyrotechnic article, that amount.

(5) For the purposes of these Regulations and subject to paragraph (6), “storage” in relation to explosives means their possession for any period after their manufacture, save for —

- (a) any period during which they are being prepared at any place for use at that place; and
- (b) any period during which they are being transported beyond the place where they are stored.

(6) Subject to paragraph (7), where, during any transport of any explosive beyond the place where it is stored, that explosive is, or is to be, kept at any place for more than twenty-four hours, that keeping shall be treated as storage within the meaning of these Regulations and the provisions of these Regulations shall apply to that keeping accordingly, notwithstanding any application of the provisions of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004(17) to that transporting.

(7) Paragraph (6) shall not apply to explosives in respect of which there is in existence an explosives licence granted under regulation 36(1) of the Dangerous Substances in Harbour Areas Regulations 1987(18).

(8) The performance of any function given to the chief officer of police under these Regulations may be delegated by him, to such an extent and subject to such conditions as he may specify —

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(14) Current edition (1997): ISBN 92-1-139057 5.

(15) 1952 c. 67.

(16) 1985 c. 6; section 736 is substituted by the Companies Act 1989 (c. 40), section 144(1).

(17) S.I. 2004/568.

(18) S.I. 1987/37, to which there are amendments not relevant to these Regulations.

- (a) to a member of the police force in respect of which he is the chief officer of police;
- (b) to a person employed to assist that police force as mentioned in section 15 of the Police Act 1996<sup>(19)</sup> (civilian employees); or
- (c) to a person employed or appointed in relation to that police force as mentioned in section 9 of the Police (Scotland) Act 1967<sup>(20)</sup> (civilian employees),

and any such delegation shall be made in writing by that chief officer of police.

(9) For the purposes of these Regulations, save for paragraph 45(3)(f) of Schedule 5, “chief officer of police” —

- (a) in relation to England and Wales, has the same meaning as in section 101(1) of the Police Act 1996; and
- (b) in relation to Scotland, means the person appointed to the office of chief constable pursuant to section 4 of the Police (Scotland) Act 1967<sup>(21)</sup>; and

in relation to an area, means the chief officer of police for that area and includes a member of a police force to whom the performance of any of his functions under these Regulations has been delegated pursuant to paragraph (8).

(10) Any reference in the definitions in this regulation of “desensitised explosive”, “explosive substance”, “pyrotechnic” or “substance” to liquid, gas, gaseous form or vapour, means, respectively, liquid, gas, gaseous form or vapour at normal atmospheric temperature and pressure.

## Application

3.—(1) Except as provided for in paragraph (8), these Regulations shall apply —

- (a) in Great Britain; and
- (b) outside Great Britain as sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001<sup>(22)</sup>.

(2) Regulations 4 to 25 shall not apply to —

- (a) any activity to which Part IX of the Dangerous Substances in Harbour Areas Regulations 1987 (explosives) applies;
- (b) any activity to which the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004 apply, apart from any activity which is to be treated as storage by virtue of regulation 2(6);
- (c) the master or crew of a ship or to the employer of such persons in respect of the normal shipboard activities of a ship’s crew which are carried out solely by the crew under the direction of the master and in this sub-paragraph the reference to the normal shipboard activities of a ship’s crew shall include —
  - (i) the construction, reconstruction or conversion of a ship outside, but not inside, Great Britain; and
  - (ii) the repair of a ship save repair when carried out in dry dock;
- (d) the transport of explosives by air;

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<sup>(19)</sup> 1996 c. 16; section 15 is amended by the Greater London Authority Act 1999 (c. 29) section 325 and Schedule 27, paragraph 74(1) to (4); section 101(1) is amended by the Greater London Authority Act 1999, sections 312(1)(a) and (b), (2) and (3), 423 and Schedule 34, Part VII and the Anti-terrorism, Crime and Security Act 2001, section 101, Schedule 7, paragraphs 20 and 27.

<sup>(20)</sup> 1967 c. 77; section 9 is amended by the Police and Magistrates’ Courts Act 1994 (c. 29), section 49, and by the Criminal Justice (Scotland) Act 2003 (asp7), section 76(1) to (3).

<sup>(21)</sup> 1967 c. 77; section 4(3) is repealed by the Local Government (Scotland) Act 1973, sections 146(4), 237(1) and Schedule 29.

<sup>(22)</sup> S.I. 2001/2127.

- (e) an offshore installation within the meaning of regulation 3 of the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995<sup>(23)</sup>;
  - (f) a mine which is, for the time being, solely used for, or in connection with, the getting of minerals or ensuring the safety of another mine.
- (3) Regulations 8 and 10 shall not apply to —
- (a) a constable in the execution of his duties;
  - (b) an inspector appointed under section 19 of the 1974 Act in the performance of his functions;
  - (c) a customs officer in the performance of his functions.
- (4) Regulation 10 shall not apply to —
- (a) the Executive;
  - (b) a local authority;
  - (c) the Commissioners of Customs and Excise;
  - (d) a police force; and
  - (e) a person employed as mentioned in section 15 of the Police Act 1996 (civilian employees) or section 9 of the Police (Scotland) Act 1967 (employees other than constables) who, in either case, is duly authorised in writing by the chief officer of police to store explosives.
- (5) Regulations 5 and 9 to 21 shall not apply to the manufacture or storage of explosives, at any site under the control of the Secretary of State for Defence, or held for the purposes of a visiting force or headquarters, under a scheme approved by him which —
- (a) provides for their safe manufacture and storage; and
  - (b) prescribes —
    - (i) separation distances, or
    - (ii) a combination of separation distances and other safety measures,
 which are designed to ensure a standard of safety which is equivalent to that ensured by the separation distances prescribed by regulation 5 and Schedule 2.
- (6) Regulations 5 to 21 and 24 shall not apply to explosives —
- (a) seized by a constable in the execution of his duties,
  - (b) received by a police force from a member of the public; or
  - (c) which, for reasons of public safety or protection of property, are undergoing ordnance disposal by —
    - (i) persons under the direction of a member of Her Majesty's Forces or civilian employees of the Ministry of Defence authorised in writing by the Secretary of State for Defence to carry out ordnance disposal; or
    - (ii) persons under the direction of a constable or authorised in writing by the chief officer of police to carry out ordnance disposal.
- (7) In relation to the application of these Regulations to ammonium nitrate blasting intermediate by virtue of regulation 2(2), regulations 10 and 11 shall not apply to the storage of ammonium nitrate blasting intermediate.
- (8) To the extent that these Regulations concern the importation of pyrotechnics into the United Kingdom, they shall extend to Northern Ireland<sup>(24)</sup>.

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<sup>(23)</sup> S.I. 1995/738, amended by S.I. 2002/2175.

<sup>(24)</sup> By virtue of section 84(1) of the Health and Safety at Work etc. Act 1974, Parts I and IV of the Act extend to Northern Ireland "so far as may be necessary to enable regulations under section 15 to be made and operate for the purpose mentioned in



## PART 2

### SAFETY REQUIREMENTS

#### **Fire and explosion measures**

- 4.—(1) Any person who manufactures or stores explosives shall take appropriate measures —
- (a) to prevent fire or explosion;
  - (b) to limit the extent of fire or explosion including measures to prevent the spreading of fires and the communication of explosions from one location to another; and
  - (c) to protect persons from the effects of fire or explosion.

(2) For the purposes of paragraph (1), the reference to the manufacture or storage of explosives shall be deemed to include a reference to any handling, on-site transport and testing of explosives which is associated with that manufacture or storage.

(3) In this regulation, “fire or explosion” means unplanned fire or explosion at the site of manufacture or storage.

#### **Separation distances**

5.—(1) Subject to paragraphs (2) and (3), every person who stores explosives at a site shall ensure that the relevant separation distance prescribed by Schedule 2 is maintained between a store and a building or other place not within that site to which that Schedule applies.

(2) Paragraph (1) shall not apply to desensitised explosives or explosives which are stored under a licence granted by the Executive in cases where the assent of the local authority was required pursuant to regulation 13(3).

(3) Paragraph (1) shall not apply to the storage of explosives where the total quantity of explosives stored at a site, excluding, in the case of sub-paragraph (b), any amount of small arms ammunition, does not exceed —

- (a) 100 grams;
- (b) 30 kilograms of shooters' powder and 300 grams of percussion caps;
- (c) 200 detonators and —
  - (i) 5 kilograms of water-based explosive and detonating cord; or
  - (ii) 5 kilograms of water-based explosive or detonating cord; or
- (d) in the case of explosives kept by a police force —
  - (i) 4 kilograms of explosive kept for the purpose of training dogs used for the detection of explosives; and
  - (ii) 30 kilograms of explosives kept for the purposes of ordnance disposal;

and the explosives are stored in a safe and suitable place with all due precautions for public safety.

(4) Every person to whom the duty under paragraph (1) applies shall ensure that the separation distance referred to in paragraph (5) is maintained between a store and any building on the site in which the store is situated which is used either for accommodation or for work, but not including any building used for work which is normally unoccupied by any person and is not a store.

(5) The separation distance referred to in paragraph (4) is that which is equal to half the relevant separation distance determined in accordance with Schedule 2.

(6) Every person who, in a case to which paragraph (3) of regulation 13 applies, is granted a licence to manufacture or store explosives shall ensure that the local planning authority in whose area the manufacture or storage takes place is, within 28 days of the licence being —

- (a) granted; or
- (b) varied in a way which affects the separation distances required to be maintained,

given a plan of the site and its immediate surrounding area showing the separation distances required to be maintained pursuant to the licence or varied licence.

(7) “Local planning authority” in paragraph (6), in relation to an area —

- (a) in England and Wales has the same meaning as it has in Part I of the Town and Country Planning Act 1990<sup>(25)</sup> save that, where there is more than one local planning authority, it means the district planning authority for the district;
- (b) in Scotland means the council for the local government area.

### **Disposal of explosives and decontamination of explosive-contaminated items**

6.—(1) Any person who disposes of explosives shall ensure, so far as is reasonably practicable, that they are disposed of safely.

(2) Any person who decontaminates explosive-contaminated items shall ensure, so far as is reasonably practicable, that they are decontaminated safely.

### **Employment of young persons**

7. No person who manufactures or stores explosives shall permit a person between the age of 16 years and 18 years to work in that manufacture or storage except under appropriate supervision.

### **Unauthorised access**

8.—(1) No person shall —

- (a) without the permission of the occupier, enter —
  - (i) any store in or at a site;
  - (ii) any building used for the manufacture of explosives in or at a site, or
  - (iii) any site with clearly marked boundaries at which explosives are stored or manufactured,
 operating under a licence or registration; or
- (b) having so entered, refuse to leave that site when requested to do so by a constable or the occupier, his employee or agent.

(2) Where following a request referred to in paragraph (1)(b) the person who has entered that place without permission refuses to leave that site, a constable or the occupier, his employee or agent may remove that person from the site using reasonable force, if necessary.

(3) “Enter” for the purposes of this regulation, includes entering onto a roof of a store or a building in which explosives are manufactured.

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(25) 1990 c. 8; Part I was amended by the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) section 187(1) and Schedule 21, paragraphs 28 and 29, the Local Government (Wales) Act 1994 (c. 19) sections 18(2) to (6), 19(1) and (4) and 66(8) and Schedule 18, and the Environment Act 1995 (c. 25) sections 67(1), 78 and 120(1) and (3) and Schedule 10, paragraph 32(1) and (2) and Schedule 24.

## PART 3

### LICENSING AND REGISTRATION REQUIREMENTS

#### **Explosives not to be manufactured without a licence**

**9.**—(1) Subject to paragraph (2), no person shall manufacture explosives unless he holds a licence for that manufacture and complies with the conditions of that licence.

(2) Paragraph (1) shall not apply to —

- (a) the manufacture of explosives for the purpose of laboratory analysis, testing, demonstration or experimentation (but not for practical use or sale) where the total quantity of explosives being manufactured at any time does not exceed 100 grams, but nothing in this sub-paragraph shall be taken as authorising any acquisition or keeping of explosives for which an explosives certificate is required by virtue of regulation 7 of those Regulations, without such a certificate;
- (b) the making or unmaking of small arms ammunition, or the preparation of cartridges for use with firearms which are to be used at historical re-enactment events, where the total quantity of primer and propellant used at any one time does not exceed 2 kilograms and, for these purposes, the quantity of propellant used includes propellant removed from cartridges;
- (c) the preparation of shot firing charges in connection with their use;
- (d) the preparation, assembly, disassembly and fusing of firework displays at the place of intended use;
- (e) the preparation, assembly and fusing of fireworks, in quantities of no more than 10 kilograms at a time, at a site in relation to which a person holds a licence or registration for the storage of explosives, for the purposes of a firework display to be put on by that person;
- (f) the preparation, assembly and fusing of explosives commissioned for use in theatrical, television or cinematic special effects;
- (g) the reprocessing of an explosive to form a pharmaceutical product which is not in itself an explosive;
- (h) the mixing for immediate use of —
  - (i) ammonium nitrate with fuel oil; or
  - (ii) ammonium nitrate blasting intermediate with another substance, at a mine or quarry, to produce an explosive which is not cap-sensitive;
- (i) the use of desensitised explosives in the manufacture of products which are not in themselves explosives; or
- (j) the manufacture of explosives by a company which is a wholly-owned subsidiary of another company at a site in relation to which that other company holds a licence to manufacture explosives and that manufacture by the wholly-owned subsidiary is in accordance with the terms and conditions of that licence.

(3) In this regulation —

- (a) in paragraph (2)(c), “shot firing charges” means charges used in shot firing operations; and
- (b) in paragraph (2)(h), “cap-sensitive” means an explosive which gives a positive result when tested in accordance with the Series 5(a) test of the Manual of Tests and Criteria, third edition(26) supporting the United Nations Recommendations.

### **Explosives not to be stored without a licence**

**10.**—(1) Subject to paragraph (2), no person shall store explosives unless he holds a licence for their storage and complies with the conditions of that licence.

(2) Paragraph (1) shall not apply to —

- (a) the storage of explosives by a person registered in accordance with regulation 11;
- (b) the storage of one or more of the following —
  - (i) no more than 10 kilograms of black powder;
  - (ii) no more than 5 kilograms of —
    - (aa) shooters' powder;
    - (bb) any explosive or combination of explosives listed in Schedule 1 to the Control of Explosives Regulations 1991; or
    - (cc) a combination of shooters' powder and any one or more of the explosives listed in Schedule 1 to those Regulations;
  - (iii) no more than 15 kilograms of percussion caps or small arms ammunition or a mixture of them;
- (c) the storage of no more than 7 kilograms of —
  - (i) hazard type 1 or 2 explosives, or
  - (ii) a combination of hazard type 1 or 2 explosives with explosives of another hazard type,for no longer than 24 hours;
- (d) the storage of hazard type 3 or 4 explosives for no longer than 24 hours;
- (e) the storage of no more than 100 kilograms of —
  - (i) hazard type 3 explosives consisting of fireworks;
  - (ii) shooters' powders; or
  - (iii) a combination of shooters' powders and hazard type 3 and 4 explosives consisting of fireworks,provided that the explosives are stored for no longer than 3 days in their place of intended use;
- (f) the storage of —
  - (i) no more than 250 kilograms of hazard type 4 explosives provided that the explosives are stored for no more than 3 days in their place of intended use; or
  - (ii) no more than 50 kilograms of hazard type 4 explosives consisting solely of fireworks provided that the fireworks are stored for no longer than 21 days and are not for sale or for use at work;
- (g) the storage of desensitised explosives which have been allocated in accordance with the United Nations Recommendations the U.N. nos. 2059, 2555, 2556, 2557, 1336 or 1337;
- (h) the storage of explosives by a company which is a wholly-owned subsidiary of another company at a site in relation to which that other company holds a licence to store explosives and that storage by the wholly-owned subsidiary is in accordance with the terms and conditions of that licence.

(3) For the purposes of paragraph (2) —

- (a) no more than one of the exceptions listed in subparagraphs (a) to (f) of paragraph (2) may be relied on in relation to explosives stored at the same site at the same time, irrespective of the person who is storing them; and

- (b) the quantities referred to in that paragraph are the maximum quantities of the explosives or explosive articles they respectively relate to which may be present at a site at any one time.

### **Registration in relation to storage**

**11.—(1)** Subject to paragraph (5), a person who wishes to store within one site at any one time no more than —

- (a) 30 kilograms of explosives of any hazard type;
- (b) 100 kilograms of hazard type 3 explosives;
- (c) 100 kilograms of a combination of hazard type 3 explosives with explosives of hazard type 4;
- (d) 250 kilograms of hazard type 4 explosives; or
- (e) 250 kilograms of small arms ammunition and percussion caps and 30 kilograms of shooters' powder;

may apply to the licensing authority in whose area the storage will take place to be registered in respect of that storage.

(2) The licensing authority shall register the applicant unless any of the grounds for refusing to do so referred to in regulation 15 apply.

(3) Where a licensing authority registers an applicant, it shall issue the applicant with a certificate of registration, in a form approved for the time being for the purposes of this regulation by the Executive.

(4) A registration, not being a renewal of a registration, shall remain in force for such period not exceeding two years as the licensing authority determines, save that —

- (a) subject to sub-paragraph (b), where the applicant for the registration has been granted an explosives certificate, a registration may be granted for any period not exceeding the due expiry date of that explosives certificate where that date is later than that two year period; or
- (b) where the application for registration relates, whether solely or not, to the storage of smokeless powder, a registration may be granted for any period not exceeding three years.

(5) For the purposes of paragraph (1) no more than one of the exceptions listed in sub-paragraphs (a) to (e) of paragraph (1) shall apply to explosives stored at the same site at the same time, irrespective of the person who is storing them.

(6) Where the registration relates to the storage at a site of pyrotechnic articles which are to be offered for sale at that site, the amount of those pyrotechnic articles which may be kept for any period of time in a sales area at that site shall be restricted to the amount determined in accordance with Schedule 3 and for these purposes and those of Schedule 3, “sales area” means an area where pyrotechnic articles are sold and to which any person who is not an employee of the person who is registered in respect of the storage of those pyrotechnic articles has access.

(7) No application for registration may be made in respect of the storage of explosives at a site at which the manufacture of explosives also takes place or is to take place.

(8) The quantities referred to in paragraph (1) are the maximum quantities of the explosives or explosive articles they respectively relate to which may be present at a registered site at any one time.

(9) A renewal of a registration may be granted for any period not exceeding one year, save that—

- (a) subject to sub-paragraph (b), where the applicant for the renewal has been granted an explosives certificate, a renewal of a registration may be granted for any period not exceeding the due expiry date of that explosive certificate where that date is later than that one year period; or

- (b) where the application for renewal of registration relates solely to the storage of smokeless powder, a renewal of registration may be granted for any period not exceeding three years.

### **Applications for licences and registration**

**12.** An application for a licence or registration shall be made to the licensing authority on a form approved for the time being for the purposes of this regulation by the Executive.

### **Grant of licences**

**13.—(1)** A licence, not being a renewal of a licence, may be granted for such period not exceeding two years as the licensing authority determines, save that —

- (a) subject to sub-paragraphs (b) and (c), where the applicant for the licence has been granted an explosives certificate, a licence may be granted for any period not exceeding the due expiry date of that explosives certificate if that date is later than that two year period;
- (b) subject to sub-paragraph (c), where the licence application relates, whether solely or not, to the storage of smokeless powder, a licence may be granted for such period not exceeding three years; or
- (c) in a case to which paragraph (3) applies, or the licence application relates only to the manufacture of ammonium nitrate blasting intermediate, a licence may be granted for any period or without a time limit.

(2) Subject to paragraph (3), the licensing authority shall grant a licence unless any of the grounds for refusing to do so referred to in regulation 15 apply.

(3) Subject to paragraph (4), where the Executive is the licensing authority, the procedure set out in regulation 14 for obtaining the assent of —

- (a) the local authority, or
- (b) each local authority where the proposed site which is the subject of the application for a licence is situated partly within the area of one local authority and partly within the area of another,

shall apply and the Executive shall refuse to grant a licence unless the local authority, or each local authority, as the case may be, has so assented.

(4) Paragraph (3) shall not apply —

- (a) where the Executive is the licensing authority in a case where the application is for a licence to store at a mine or within a harbour explosives of no more than 2000 kilograms to which paragraph (a)(i) or (b) of the definition of “explosive” in regulation 2(1) applies;
- (b) to an application for a licence relating to the manufacture of explosives by means of on-site mixing;
- (c) to an application for a licence relating to the manufacture of ammonium nitrate blasting intermediate; or
- (d) to an application for a licence relating to the manufacture or storage of explosives by a person who wishes to carry on such manufacture or storage within a part of a site where another person already holds a licence for the manufacture or storage of explosives; and either —
  - (i) the application relates to manufacturing or storage activities which would be permitted at that part of the site under the existing licence; or
  - (ii) in the opinion of the Executive or a local authority whose assent would otherwise be required, no significant new health and safety issues are raised by the application.

(5) Every licence shall specify —

- (a) the site and, within it, the places where the explosives may be manufactured or stored;
  - (b) the hazard type and maximum amount of explosive which may be manufactured, stored or otherwise present, as the case may be, at any one time at or in any place so specified.
- (6) In addition to the matters specified in paragraph (5), a licence which is granted by the Executive in cases where the assent of the local authority was required pursuant to paragraph (3)—
- (a) shall be granted subject to such conditions as the Executive considers appropriate which relate to separation distances;
  - (b) may be granted subject to such conditions as the Executive considers appropriate which relate to —
    - (i) the construction, siting or orientation of any building (including any protective works around the building) where the activity will be carried on; and
    - (ii) the activities which may be undertaken in specified buildings,and in this sub-paragraph —
- “activity” means the manufacture or storage of explosives and it includes any handling, on-site transport, testing and disposal of explosives and “activities” shall be construed accordingly; and
- “construction” means the materials used in, and the design of, a building; and
- (c) may, where both the manufacture and storage of explosives at the same site was applied for, cover both that manufacture and storage for the purposes of, respectively, regulations 9 and 10.
- (7) In addition to the matters specified in paragraphs (5) and (6), where a licensing authority grants a licence which relates to the storage of pyrotechnic articles at any site where those articles are to be offered for sale, the licensing authority may attach such conditions to the licence as it considers appropriate which relate to —
- (a) the storage and display of those articles in areas where they can be purchased;
  - (b) the prevention of risk of fire arising in respect of those articles; and
  - (c) the safe use of fire escapes in that area.
- (8) A licence granted pursuant to this regulation shall be in a form approved for the time being for the purposes of this regulation by the Executive.
- (9) A renewal of a licence may be granted for any period up to one year, save that —
- (a) subject to sub-paragraphs (b) and (c), where the applicant for the renewal has been granted an explosives certificate, a renewal of a licence may be granted for any period not exceeding the due expiry date of that explosives certificate where that date is later than that one year period;
  - (b) subject to sub-paragraph (c), where the licence renewal application relates solely to the storage of smokeless powder, a renewal of a licence may be granted for any period not exceeding three years; or
  - (c) where paragraph (3) applied to the application for the original licence, or the application for the original licence related only to the manufacture of ammonium nitrate blasting intermediate, and the licence was granted for a certain period, a renewal of a licence may be granted for any period or without a time limit.
- (10) In this regulation, “on-site mixing” means the mixing at any place of non-explosive substances or preparations to form an explosive for immediate use at that place.

### **Local authority assent**

14.—(1) Where this regulation applies by virtue of regulation 13(3), the Executive shall, subject to regulations 15 and 18, issue the applicant with a draft licence containing the conditions, if any, which the Executive proposes to attach to the licence.

(2) The applicant shall as soon as reasonably practicable send a copy of the application and draft licence to the local authority in whose area the manufacture or storage is proposed to take place.

(3) Within 28 days of sending to the local authority the information specified in paragraph (2), the applicant shall —

(a) cause to be published in a newspaper circulating in the locality where the manufacture or storage of explosives is proposed to take place a notice which shall —

(i) give details of the application;

(ii) invite representations on matters affecting the health and safety of persons other than the applicant's employees to be made in writing to the local authority within 28 days of the date that the notice is first published; and

(iii) give an address within the area of the local authority at which a copy of the application and draft licence may be inspected and the address of the local authority to which any representations must be sent; and

(b) take other reasonable steps to give that information to every person who resides or carries on a business or other undertaking within the public consultation zone.

(4) The local authority shall send a copy of any representations referred to in paragraph (3)(a)(ii) to the applicant as soon as reasonably practicable after receiving them.

(5) In considering whether to assent, the local authority shall have regard only to health and safety matters.

(6) Subject to paragraph (7), the local authority shall, before deciding whether to assent to the application, hold a public hearing within 4 months of the date of its receipt of the copy of the application and draft licence referred to in paragraph (2).

(7) If, after the period of 28 days referred to in paragraph (3)(a)(ii) has elapsed, the local authority has received no objection to the application, or has only received objections which in its opinion are frivolous or immaterial, it may assent to the application without holding a hearing.

(8) Not less than 28 days before the hearing referred to in paragraph (6), the local authority shall publish notice of the date, time and place fixed for the hearing in a newspaper circulating in the locality and shall send a copy of the notice to —

(a) the applicant;

(b) any person who made representations referred to in paragraph (3)(a)(ii); and

(c) the Executive,

within 7 days from its publication.

(9) The local authority shall notify the applicant and the Executive of its decision within 7 days of making it.

(10) Where the local authority fails to —

(a) send a copy of the notice referred to in paragraph (8) to the Executive within 3 months from the date that a copy of the application and draft licence was sent to it pursuant to paragraph (2); or

(b) notify the Executive of its decision in accordance with paragraph (9), within 2 months from the date of publication of the notice referred to in paragraph (8),



the Executive may make a written request to the local authority for it to state in writing whether it assents to the application.

(11) Where the local authority does not respond to the written request within 28 days from the date of the request, the local authority shall be deemed to have assented to the application.

(12) The applicant shall pay a fee to the local authority for the performance by that authority of their functions under this regulation, which fee shall not exceed the sum of the costs reasonably incurred by that authority in performing those functions.

(13) In this regulation, “applicant” means the applicant for a licence or variation of a licence and “application” means his application.

### **Refusals of licences, registration and draft licences**

**15.**—(1) Subject to regulation 18, the licensing authority shall —

- (a) refuse an application for a licence or registration; and
- (b) where regulation 14(1) applies, refuse to issue the draft licence referred to in regulation 14(1),

where paragraph (2) applies.

(2) This paragraph applies when the licensing authority is of the opinion that —

- (a) the proposed site or, within it, any place where the manufacture or storage of explosives is proposed to take place is unsuitable for that manufacture or storage; or
- (b) the applicant is not a fit person —
  - (i) to store explosives, in the case of an application for registration or a licence to store explosives; or
  - (ii) to manufacture explosives, in the case of an application for a licence to do so.

(3) A refusal by the licensing authority, pursuant to paragraph (1), to issue the draft licence referred to in regulation 14(1) shall be treated for the purposes of these Regulations as a refusal of an application for a licence and the provisions of regulation 18 shall apply to a refusal to issue a draft licence as if the references in that regulation to “refuse an application for a licence” included refusing to issue a draft licence.

### **Variation of licences**

**16.**—(1) The licensing authority which grants a licence may vary it —

- (a) where there has been a change in circumstances such that the separation distances can no longer be maintained and a consequent reduction in the maximum amount of explosive that may be stored is required;
- (b) (where the Executive is the licensing authority in cases where the assent of the local authority was required pursuant to regulation 13(3) before the grant of the licence) where there has been a material change in circumstances so that a variation is necessary to ensure safety; or
- (c) in relation to any of the matters it relates to, by agreement with the licensee.

(2) A licence may be varied on the grounds referred to in paragraph (1)(a) or (b) without the agreement of the licensee, subject to regulation 18.

(3) Where the Executive is the licensing authority in cases where the assent of the local authority—

- (a) was required under regulation 13(3) before the grant of the licence, or
- (b) would have been so required but for the operation of regulation 27(4) or (13),

the provisions of regulation 14 shall apply in respect of a proposed variation referred to in paragraph (4).

- (4) A proposed variation for the purposes of paragraph (3) is one which —
- (a) relates to changes in the permitted quantities or types of explosive as a result of which the licensee could be required to maintain a separation distance greater than the separation distance required before the variation and, in the opinion of the Executive or the local authority concerned, significant new health and safety issues are raised by that proposed variation;
  - (b) would increase the period of the licence by more than twelve months; or
  - (c) would remove the period of the licence so that it would be unlimited as to time,

and the Executive shall refuse to grant a varied licence unless the local authority, or each local authority in the case referred to in regulation 13(3), has so assented.

- (5) In this regulation any reference to varying a licence includes varying its conditions.

### **Revocation of licences and registration**

**17.**—(1) The licensing authority which grants a licence or registers a person under regulation 11 may, subject to regulation 18, revoke that licence or registration —

- (a) where there has been a change in circumstances such that the site or, within it, any place in which explosives are manufactured or stored which the licence or, as the case may be, registration relates to is no longer suitable for that manufacture or storage of explosives;
- (b) where it appears to the licensing authority on information obtained by it after the grant of the licence or registration that the licensee or registered person is not a fit person —
  - (i) to store explosives, in the case of a registered person or a person licensed to store explosives; or
  - (ii) to manufacture explosives, in the case of a person licensed to manufacture explosives;
- (c) by agreement with the licensee or registered person.

(2) A person whose licence or registration is revoked shall ensure that —

- (a) all explosives are removed from a site as soon as is practicable after revocation of a licence or registration in respect of that site;
- (b) those explosives are deposited at a site which is the subject of a licence or registration which permits any storage resulting from that depositing, or suitable arrangements are made for those explosives to be disposed of; and
- (c) the licence or certificate of registration is returned to the licensing authority within 28 days of the date that the revocation takes effect pursuant to regulation 18(4).

### **Further provisions concerning refusals, variations and revocations**

**18.**—(1) Where a licensing authority proposes to —

- (a) refuse an application for a licence or registration;
- (b) vary a licence without the agreement of the licensee; or
- (c) revoke a licence or registration,

it shall, before taking any such action, notify the applicant, licensee or registered person, as the case may be, of its proposed course of action and afford him the opportunity of making representations to the licensing authority about it, within a period of 28 days from the date of the notification.

(2) Representations made for the purpose of paragraph (1) may be made in writing, or both in writing and orally.

- (3) Where the licensing authority decides to —
- (a) refuse an application for a licence or registration;
  - (b) vary a licence without the agreement of the licensee; or
  - (c) revoke a licence or registration,

it shall provide in writing to the applicant, licensee or registered person, as the case may be, the reasons for its decision.

(4) Where the licensing authority varies a licence without the agreement of the licensee or revokes a licence or registration, that variation or revocation shall take effect from a date to be determined by the licensing authority which shall be a date after the 28 day period referred to in paragraph (1).

### **Appeal against refusal or revocation of registration**

**19.** A person may appeal to the Secretary of State against a decision of a licensing authority to refuse to register him or to revoke his registration and the provisions of section 44(2) to (6) of the 1974 Act<sup>(27)</sup> (appeals in connection with licensing provisions) shall apply in respect of any such appeal.

### **Transfer of licences and registration**

- 20.—**(1) A licence or registration may be transferred in writing by —
- (a) the licensee or person who is registered; or
  - (b) the licensing authority which issued the licence or registration following the death or incapacity of the licensee or person who is registered,

to any other person who wishes to manufacture or store explosives in place of the licensee or the person who is registered.

(2) Where the licensee or person who is registered wishes to transfer the licence or, as the case may be, the registration, he shall notify the licensing authority which issued the licence or the registration of the name and address of the proposed transferee at least 28 days before the licence or registration is transferred.

### **Death, bankruptcy or incapacity**

**21.—**(1) If a licensee or registered person dies or becomes incapacitated, a person manufacturing or storing explosives in accordance with the terms of the first-named person's licence or registration shall be treated as being licensed or registered in accordance with the first-named person's licence or registration until either —

- (a) the expiration of 28 days from such death or incapacity; or
- (b) the grant or refusal of a new licence or registration,

whichever is the earlier.

(2) If a licensee or registered person becomes bankrupt or, in the case of a company, goes into liquidation or receivership or has a receiving order made against it, any receiver, trustee in bankruptcy or liquidator shall be treated as being the licensee or registered person.

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<sup>(27)</sup> 1974 c. 37; section 44 is amended by the Employment Protection Act 1975 (c. 71), sections 116 and 125(3), Schedule 15, paragraph 13 and Schedule 18 and by the Tribunals and Inquiries Act 1992 (c. 53), section 18(1) and Schedule 3, paragraph 9.

## **Registers and retention of documents**

**22.**—(1) The licensing authority shall —

- (a) maintain a register in accordance with Schedule 4;
- (b) keep a copy of any licence granted or certificate of registration issued by it (together with a copy of the application for the licence or registration) for as long as the licence or registration remains valid; and
- (c) (except where the Executive is the licensing authority), send to the Executive on request a copy of any part of the register or other document specified in this paragraph within such time as the Executive may direct.

(2) For the purposes of this regulation and Schedule 4, in the case to which regulation 3(5) applies disapplying regulations 5 and 9 to 21, any reference to —

- (a) the licensing authority or licensee shall be construed as a reference to the Secretary of State for Defence;
- (b) any licence granted shall be construed as a reference to the scheme referred to in regulation 3(5);
- (c) separation distances shall be construed as a reference to the separation distances prescribed in the scheme approved by the Secretary of State for Defence.

## **Defences**

**23.**—(1) In proceedings against a person for a contravention of regulation 9(1) which involves using a building or part of a building licensed for the manufacture of explosives, for another manufacturing process not specified in the licence, it shall be a defence for that person to prove that —

- (a) that use was temporary;
- (b) that other process of manufacture involved explosive of the same, or a lower, hazard type than the explosives which the conditions of the licence permit in, as the case may be, that building or part of a building;
- (c) the maximum quantity of explosives in that building or part of a building at any one time permitted under the conditions of the licence was not exceeded; and
- (d) he informed the Executive as soon as was reasonably practicable after the start of that use.

(2) In proceedings against a person for a contravention of regulation 10(1), it shall be a defence for that person to prove that the storage of explosives without a licence or in breach of a condition of a licence was caused by an emergency being an emergency which that person took all reasonable precautions and exercised all due diligence to avoid.

(3) In proceedings against a person for a contravention of regulation 10(1) where it is alleged against that person that the storage concerned was for a period longer than a period (“the permitted period”) referred to in regulation 10(2)(c), (d), (e) or (f)(i) or (ii), it shall be for that person to prove that the storage concerned was for no longer than the permitted period.

## PART 4

### PROHIBITIONS CONCERNING CERTAIN EXPLOSIVES AND MISCELLANEOUS PROVISIONS

#### **Prohibition concerning the manufacture, storage and importation of certain explosives**

24.—(1) Subject to paragraph (2), no pyrotechnic which consists of —

- (a) sulphur; or
- (b) phosphorus,

mixed with chlorate of potassium or other chlorates or which contains any such mixture shall be manufactured, stored or imported.

(2) This regulation does not apply to any pyrotechnic named in a list, approved by the Executive, of pyrotechnics falling within the description referred to in paragraph (1).

(3) A contravention of paragraph (1) concerning importation shall be punishable only under the 1974 Act(28).

#### **Prohibition concerning the acquisition and supply of fireworks**

25.—(1) No person shall —

- (a) acquire more than 50 kilograms of fireworks unless he (“Person A”) or another person holds a valid licence or certificate of registration for the storage by Person A of those fireworks; or
- (b) sell or otherwise transfer to any person (“Person B”) more than 50 kilograms of fireworks unless Person B shows a valid licence or certificate of registration for the storage by Person B of those fireworks, to the person selling or otherwise transferring the fireworks.

(2) This regulation does not apply to a person who is transporting fireworks on behalf of another person.

#### **Power to grant exemptions**

26.—(1) Subject to paragraph (2), the Executive may, by a certificate in writing, exempt any person or class of persons or any explosive or class of explosives from any requirement or prohibition imposed by these Regulations, and any such exemption may be granted subject to such conditions and to a limit of time and may be revoked in writing at any time.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to —

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactment which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

(3) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing, exempt any of Her Majesty’s Forces, any visiting force, any headquarters or any civilian employee or class of civilian employees of the Ministry of Defence from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted

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(28) By virtue of section 15 of, and paragraph 2(1) of Schedule 3 to, the 1974 Act, Regulations under section 15 can specify, in a case where an act or omission in relation to importation of articles or substances of any specified description constitutes an offence under the 1974 Act and the Customs and Excise Acts 1979, the Act under which the offence is to be punished.

subject to conditions and to a limit of time and may be revoked by the said Secretary of State by a further certificate in writing at any time.

### Savings and transitional provisions

27.—(1) A licence, amending licence, continuing certificate or store licence granted or issued under, as the case may be, section 8, 12, 14 or 15 of the 1875 Act or a licence granted under article 3 of the Ammonium Nitrate Mixtures Exemption Order 1967(29) which was valid immediately before the relevant date shall be deemed to be a licence granted under regulation 13 and shall continue in force, notwithstanding the repeal by these Regulations of those provisions, on its existing terms and conditions, subject to —

- (a) any variation under regulation 16(1)(a) to (c);
- (b) any variation for the purpose of requiring the licensee to maintain a separation distance greater than a separation distance which is required before the variation; or
- (c) its expiry on the date it was due to expire or its revocation under regulation 17, whichever is the sooner.

(2) A registration effected under section 21 of the 1875 Act which was valid immediately before the relevant date shall be deemed to be a registration under regulation 11 and shall continue in force, notwithstanding the repeal by these Regulations of the said section 21, until the date it was due to expire or it is revoked, whichever is the sooner.

(3) Where the manufacture or storage of explosives at any place —

- (a) was immediately before the relevant date exempt from—
  - (i) the provisions of the 1875 Act by virtue of section 97 of that Act(30); or
  - (ii) the requirement for a licence in respect of such manufacture or storage under that Act by virtue of an exemption certificate granted under the Explosives Act 1875 (Exemptions) Regulations 1979(31); and
- (b) is not manufacture or storage which regulation 3(5) relates to,

the person carrying on such manufacture and storage shall be deemed to hold a licence granted by the Executive under regulation 13 with an expiry date of 6<sup>th</sup> April 2008.

(4) In a case to which paragraph (3) applies, regulation 13(3) shall not apply in relation to an application for a licence made to, and received by, the Executive before 6<sup>th</sup> April 2008.

(5) In relation to the application of these Regulations to the manufacture of any ammonium nitrate blasting intermediate by virtue of regulation 2(2), where a person is manufacturing any ammonium nitrate blasting intermediate on the relevant date, regulations 9, 12, 13, and 15 to 23 shall not apply to that manufacture by that person until 6<sup>th</sup> April 2008.

(6) The requirements of regulation 5 and Schedule 2 shall not apply until 6<sup>th</sup> April 2008 to a police force storing explosives.

(7) The requirements of regulation 5 and Schedule 2 shall not apply until 6<sup>th</sup> April 2010 to a person who stores explosives in respect of which storage there is a deemed registration in force on the relevant date.

(8) The requirements of regulation 5 and Schedule 2 shall not apply until 6<sup>th</sup> April 2008 to a person who stores explosives in respect of which storage there is a deemed licence in force on the relevant date.

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(29) S.I. 1967/1485.

(30) 1875 c. 17 (38 & 39 Vict. ); section 97 was amended by the Statute Law Revision (No. 2) Act 1893 (56 & 57 Vict. c.14), the Statute Law Revision Act 1966 (c. 5), S.I 1964/488 and 1989/615.

(31) S.I. 1979/1378.

(9) A person who —

- (a) has a deemed licence in respect of the storage of explosives, or
- (b) has a deemed licence which has expired and been replaced by a licence granted under regulation 13 in respect of that storage,

may apply at any time to the Executive, which shall be the licensing authority, for a licence in respect of that storage, to replace that existing one, which provides for different separation distances to apply in respect of that storage to any which would otherwise apply on and after 6<sup>th</sup> April 2008 under regulation 5 and Schedule 2.

(10) A licence applied for pursuant to paragraph (9) shall not be granted by the Executive unless the Executive is satisfied that it would not be reasonably practicable for the applicant to comply with the separation distances required by regulation 5 and Schedule 2 to which the application relates.

(11) Where, on the relevant date, a person holds more than one deemed licence, each relating to the storage of explosives at separate places within the same site and the aggregate total of explosives allowed to be stored at that site pursuant to those deemed licences exceeds 2 tonnes, that person shall apply before 6<sup>th</sup> April 2008 to the Executive, which shall be the licensing authority, for a licence to replace those deemed licences for the storage of any explosives that he wishes to store at that site; and, on the date that a licence is granted pursuant to such an application, any such deemed licence shall be treated as revoked under regulation 17 as from that last mentioned date.

(12) Where, before the relevant date, a person would not have been required to apply for a licence under the 1875 Act because he was manufacturing or storing explosives in a part of premises already licensed under that Act to cover that manufacture or storage but, by virtue of regulation 9(1) or 10(1) he would need to hold a licence in respect of such manufacture or storage on and after that date —

- (a) he shall be deemed to hold a licence granted under regulation 13 containing the same terms and conditions as the existing licence until 6<sup>th</sup> April 2008 or the expiry of that existing licence, whichever is the sooner; and
- (b) he shall have until that earliest date to apply for a licence under these Regulations in respect of such manufacture or storage carried on by him thereafter.

(13) Regulation 13(3) shall not apply in relation to an application for a licence which paragraph (9), (11) or (12) relates to, save where —

- (a) if the licence applied for were to be granted, it would result in an increase in the quantity, or a change in the hazard type, of any explosive presently permitted at the site under a deemed licence; or
- (b) the application is received by the Executive after 6<sup>th</sup> April 2006; or
- (c) the application is for a licence to replace a deemed licence which was, before the relevant date, a store licence granted by a local authority under section 15 of the 1875 Act on or after 6<sup>th</sup> May 2005.

(14) Where an application for a licence pursuant to section 6 of the 1875 Act<sup>(32)</sup> has been made to, and received by, the Executive before the relevant date and the application has not been refused nor a licence granted by that date, the application shall be deemed to be an application for a licence under these Regulations and the provisions of these Regulations shall apply to the application, subject to the paragraph (15) in relation to the application of any requirements of regulations 13(3) and 14 to any such licence application.

(15) In relation to the application of the requirements of regulations 13(3) and 14 to an application which paragraph (14) relates to —

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<sup>(32)</sup> Section 6 was amended by the Explosives Acts 1875 and 1923 etc (Repeals and Modifications) Regulations 1974 (S.I. 1974/1885).

- (a) a draft licence approved by the Executive pursuant to section 6 of the 1875 Act before the relevant date shall be deemed to be a draft licence for the purposes of regulation 14(1);
  - (b) where notice under section 7 of the 1875 Act in respect of the application and of the time and place at which the local authority will be prepared to hear the applicant has been published before the relevant date —
    - (i) the provisions of regulation 14(3) and (8) relating to notices shall not apply, and
    - (ii) if the hearing to which the notice relates would be held or continue to be held on or after the relevant date, it may continue to be so held and it shall be deemed to be a hearing for the purposes of regulation 14;
  - (c) where a notice under section 7 of the 1875 Act referred to in sub-paragraph (b) has not been published before the relevant date, regulation 14(3) shall have effect as if after “paragraph (2)” there were inserted “or within 28 days of the coming into force of these Regulations, whichever is the later.”;
  - (d) the assent to the application by the local authority pursuant to section 7 of the 1875 Act, or the assent by both local authorities to the application where the assent of both is required under that section, given before the relevant date shall be deemed to be assent for the purposes of regulations 13(3) and 14 and the Executive shall grant a licence under regulation 13 which accords with the draft licence approved by the Executive pursuant to section 6 of the 1875 Act, with the addition, if the assent was on conditions submitted to by the applicant, of the additional restrictions and precautions required by those conditions.
- (16) An application for an amending licence under section 12 of the 1875 Act which is made to and received by, but not decided by, the Executive before the relevant date, shall be deemed to be an application for a variation of a licence under these Regulations and the provisions of these Regulations shall apply to the application accordingly.
- (17) Despite the repeal by these Regulations of section 40 of the 1875 Act, paragraph (9) of that section (as it had effect before the commencement of Schedule 4 to the Placing on the Market and Supervision of Transfers of Explosives Regulations 1993<sup>(33)</sup>) shall continue to apply to acetylene as it applied before the commencement of these Regulations.
- (18) Notwithstanding the repeal by these Regulations of sections 40(4) and 50 of the 1875 Act, Order in Council (No. 9) of 27th November 1875 relating to the Sale of Explosive<sup>(34)</sup> shall continue in force.
- (19) For the purposes of this regulation —
- (a) “deemed licence” means —
    - (i) any licence, amending licence, continuing certificate or store licence deemed by virtue of, as the case may be, paragraph (1) or (12) to be a licence granted under regulation 13; and
    - (ii) a licence deemed to be held by a person pursuant to paragraph (3);
 and “deemed licensee” shall be construed accordingly;
  - (b) “deemed registration” means a registration deemed by virtue of paragraph (2) to be a registration under regulation 11;
  - (c) “licence under the 1875 Act” in paragraph (12) means any of —
    - (i) a licence;
    - (ii) an amending licence; or
    - (iii) a continuing certificate,

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<sup>(33)</sup> S.I. 1993/2714.

<sup>(34)</sup> Rev. VII, p 39.



granted or issued, as the case may be, under section 8, 12 or 14 of the 1875 Act and “licensed under that Act” and “existing licence” shall be construed accordingly; and

(d) “relevant date” means the date when these Regulations come into force.

### **Repeals, revocations and amendments**

**28.**—(1) The primary legislation specified in Part 1 of Schedule 5 and the secondary legislation specified in Part 2 of that Schedule shall be amended in accordance with the provisions of that Schedule.

(2) The primary legislation specified in column 1 of Part 1 of Schedule 6 shall be repealed to the extent specified in column 3 of that Schedule.

(3) The secondary legislation specified in column 1 of Part 2 of Schedule 6 shall be revoked to the extent specified in column 3 of that Schedule.

Signed by authority of the Secretary of State

4th April 2005

*Chris Pond*  
Parliamentary Under-Secretary of State  
Department for Work and Pensions

## SCHEDULE 1

Regulation 2(1)

### MEANING OF LICENSING AUTHORITY

1. Subject to regulation 27(9) and (11) and paragraphs 2 and 3, “licensing authority” means —
  - (a) in relation to an application for registration, or for a licence for the storage within one site of no more than 2000 kilograms of explosives to which paragraph (a)(i) or (b) of the definition of “explosive” in regulation 2(1) applies —
    - (i) the chief officer of police for the area in which the storage is to take place where any of the explosives are of a type not listed in Schedule 1 to the Control of Explosives Regulations 1991<sup>(35)</sup>;
    - (ii) the local authority for the area in which the storage is to take place where all the explosives are of a type listed in Schedule 1 to the Control of Explosives Regulations 1991; or
    - (iii) the Executive where the explosives are to be stored at a mine or within a harbour;
  - (b) where the application for a licence relates to the manufacture of any ammonium nitrate blasting intermediate, the Executive;
  - (c) in relation to an application for a licence in any other case, the Executive.
2. In any case falling within paragraph 1(a)(i) or (ii), the applicant may apply instead to the Executive for a licence, in which case the Executive shall be the licensing authority in place of the chief officer of police or local authority.
3. Where a person wishes to manufacture and store explosives at the same site, the Executive shall be the licensing authority in respect of any application for a licence relating to that site and the reference to “an application” in paragraph 1(c) includes any such application.

## SCHEDULE 2

Regulation 5(1)

### SEPARATION DISTANCES

- 1.—(1) In this Schedule —
  - “brick-built” means having an outer structure which is wholly or mainly of brick, concrete, stone or other similar material;
  - “bridleway” has the same meaning as in the Highways Act 1980<sup>(36)</sup>;
  - “distance”, save in the definition of “reference zone”, means the minimum distance;
  - “footpath” has the same meaning as in the Highways Act 1980;
  - “footway” has the same meaning as in the Highways Act 1980;
  - “lightly-used road” means a road used ordinarily by more than 20 and no more than 500 vehicles every 24 hours;
  - “major road” means a road used ordinarily by more than 10,000 vehicles every 24 hours;
  - “metal-built” means built wholly or mainly of steel or other metal;
  - “minor road” means a road used ordinarily by more than 500 vehicles every 24 hours, other than a major road;

<sup>(35)</sup> S.I. 1991/1531; amended by S.I. 1993/2714.

<sup>(36)</sup> 1980 c. 66.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“mounded” means surrounded by suitable mounds;

“place of public resort” means a place where more than one hundred persons are present, or are likely to be present, at any one time on a weekly or more frequent basis;

“reference zone” means the area around a store having the radius from the centre point of the store specified in column 5 of the relevant Table;

“road” means any thoroughfare on which the movement of vehicles is allowed ; and

“vulnerable building” means a building of four storeys or more above ground with a curtain-wall construction, that is to say where the masonry, glass or other cladding is suspended from the structural framework of the building.

(2) Any reference in this Schedule to a thoroughfare (however described), waterway or railway line does not include any part of a thoroughfare, waterway or railway line within the site —

(a) in which the store is situated; and

(b) which are occupied by the person storing the explosives.

(3) Any reference in this Schedule to a quantity of explosives shown in column 1 of a Table is to a quantity stored which is more than the lower figure but not more than the higher figure in column 1 in the same row of the Table.

(4) Any reference in this Schedule to a building is to a building in or at which people are, or are likely to be, present either all the time or from time to time.

(5) For the purposes of this Schedule, where explosives of different hazard types are in one store, the explosives shall be treated as belonging to the hazard type which would require the greatest separation distance for the total quantity of those explosives and the separation distance shall be determined in relation to that total quantity.

(6) For the purposes of this Schedule, the radius for a reference zone applying in a particular case is the number in the entry in column 5 of the relevant Table corresponding to the quantity of explosives shown in column 1 of the Table.

(7) For the purposes of this Schedule, any reference to “bridleway”, “footpath”, “footway” or “waterway” does not include, respectively, a bridleway, footpath, footway used, or waterway navigated, by no more than, ordinarily, 20 persons in any 24 hour period.

2. Where the storage is —

(a) of hazard type 1 explosive in a brick-built mounded store, Table 1;

(b) of hazard type 1 explosive in a brick-built unmounded store, Table 2;

(c) of hazard type 1 explosive in a metal-built mounded store, Table 3;

(d) of hazard type 1 explosive in a metal-built unmounded store with no detonator annex attached, Table 4;

(e) of hazard type 1 explosive in a metal-built unmounded store with a detonator annex attached, Table 5;

(f) of hazard type 2 explosive, some or all items being of more than 0.7 kg net mass, Table 6;

(g) of hazard type 2 explosive, every item being of 0.7 kg net mass or less, Table 7;

(h) of hazard type 3 explosive, Table 8;

(i) of hazard type 4 explosive, Table 9,

shall apply, and any reference in this Schedule to a relevant Table is a reference to the Table which applies by virtue of this paragraph.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

3. Subject to paragraphs 4 and 5, the distance between a store and any building, place of public resort or major road shall be the distance specified in the entry in column 2 of the relevant Table corresponding to the quantity of explosives shown in column 1 of the Table.

4. Subject to paragraph 5, where —

- (a) Table 1, 3, 4 or 5 applies; and
- (b) the number of dwellings in the reference zone is greater than the number specified in the entry in column 6 of the Table corresponding to the quantity of explosives shown in column 1 of the Table,

the distance between the store and any dwelling shall be the distance (if any) specified in the corresponding entry in column 3 of the Table.

5. The distance between a store and any vulnerable building shall be the distance (if any) specified in the column headed “Vulnerable building distance” corresponding to the quantity of explosives shown in column 1 of the relevant Table.

6. The distance between a store and —

- (a) any minor road or any railway line shall be half; and
- (b) any bridleway, footpath, footway, waterway or lightly-used road shall be one-third,

the distance shown in column 2 of the Table corresponding to the quantity of explosives shown in column 1 of the Table.

**TABLE 1**

**HAZARD TYPE 1 EXPLOSIVE IN A BRICK-BUILT MOUNDED STORE**

<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>High density distance (m)</i>	<i>4</i> <i>Vulnerable building distance (m)</i>	<i>5</i> <i>Reference zone radius (m)</i>	<i>6</i> <i>Maximum number of dwellings in reference zone</i>
0.1 – 25	101		101		
25 – 50	107		107		
50 – 75	112		112		
75 – 100	118		118		
100 – 150	128	142	128	257	81
150 – 200	139	156	139	278	96
200 – 300	161	180	161	322	128
300 – 400	183		183		
400 – 450	193		193		
450 – 500	204		204		
500 – 600	204		216		
600 – 700	204	231	238	408	206
700 – 800	204	238	260	408	206
800 – 900	204	245	280	408	206

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<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>High density distance (m)</i>	<i>4</i> <i>Vulnerable building distance (m)</i>	<i>5</i> <i>Reference zone radius (m)</i>	<i>6</i> <i>Maximum number of dwellings in reference zone</i>
900 – 1000	204	250	300	408	206
1000 – 1100	204	255	319	408	206
1100 – 1200	204	259	337	408	206
1200 – 1300	204	263	354	408	206
1300 – 1400	204	266	370	408	206
1400 – 1500	204	269	386	408	206
1500 – 1600	204	272	402	408	206
1600 – 1700	208	274	416	416	214
1700 – 1800	215	277	431	431	229
1800 – 1900	222	279	444	444	244
1900 - 2000	229	281	458	458	259

**TABLE 2**

HAZARD TYPE 1 EXPLOSIVE IN A BRICK-BUILT UNMOUNDED STORE

<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>Vulnerable building distance (m)</i>
0.1 – 25	141	141
25 – 50	160	160
50 – 75	180	180
75 – 100	199	199
100 – 150	230	230
150 – 200	256	256
200 – 300	293	293
300 – 400	320	320
400 – 450	331	331
450 – 500	340	340
500 – 600	355	355
600 – 700	367	367
700 – 800	377	377
800 – 900	385	385
900 – 1000	392	392

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<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>Vulnerable building distance (m)</i>
1000 – 1100	398	398
1100 – 1200	403	403
1200 – 1300	408	408
1300 – 1400	412	412
1400 – 1500	415	415
1500 – 1600	418	418
1600 – 1700	421	421
1700 – 1800	424	431
1800 – 1900	426	444
1900 – 2000	428	458

**TABLE 3**

HAZARD TYPE 1 EXPLOSIVE IN A METAL-BUILT MOUNDED STORE

<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>High density distance (m)</i>	<i>4</i> <i>Vulnerable building distance (m)</i>	<i>5</i> <i>Reference zone radius (m)</i>	<i>6</i> <i>Maximum number of dwellings in reference zone</i>
0.1 – 25	34	45	40	68	6
25 – 50	37	45	48	74	7
50 – 75	40	45	54	80	8
75 – 100	43	48	66	86	9
100 – 150	49	55	86	97	12
150 – 200	54	62	104	109	15
200 – 300	68	76	136	136	23
300 – 400	83		165		
400 – 450	89		178		
450 – 500	96		191		
500 – 600	108		216		
600 – 700	119		238		
700 – 800	130		260		
800 – 900	140		280		
900 – 1000	150		300		
1000 – 1100	159		319		

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<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>High density distance (m)</i>	<i>4</i> <i>Vulnerable building distance (m)</i>	<i>5</i> <i>Reference zone radius (m)</i>	<i>6</i> <i>Maximum number of dwellings in reference zone</i>
1100 – 1200	168		337		
1200 – 1300	177		354		
1300 – 1400	185		370		
1400 – 1500	193		386		
1500 – 1600	201		402		
1600 – 1700	208		416		
1700 – 1800	215		431		
1800 – 1900	222		444		
1900 - 2000	229		458		

**TABLE 4**

HAZARD TYPE 1 EXPLOSIVE IN A METAL-BUILT UNMOUNDED STORE WITH NO DETONATOR ANNEX ATTACHED

<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>High density distance (m)</i>	<i>4</i> <i>Vulnerable building distance (m)</i>	<i>5</i> <i>Reference zone radius</i>	<i>6</i> <i>Maximum number of dwellings in reference zone</i>
0.1 – 10	23	30	40	46	3
10 – 20	29	35	42	57	4
20 – 30	33	39	44	65	5
30 – 40	36	42	46	71	6
40 – 50	38	44	48	76	7
50 – 60	40	46	48	80	8
60 – 70	42	48	52	84	9
70 – 80	43	50	57	87	9
80 – 90	44	52	61	89	10
90 – 100	45	55	66	91	10
100 – 110	46	57	70	93	11
110 – 120	47	59	74	95	11
120 – 130	48	62	78	97	12
130 – 140	49	64	82	98	12

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<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>High density distance (m)</i>	<i>4</i> <i>Vulnerable building distance (m)</i>	<i>5</i> <i>Reference zone radius</i>	<i>6</i> <i>Maximum number of dwellings in reference zone</i>
140 – 150	50	66	86	100	12
150 – 160	51	68	90	102	13
160 – 170	52	71	93	104	13
170 – 180	53	73	97	106	14
180 – 190	54	75	101	108	14
190 – 200	55	78	104	110	15
200 – 300	68	101	136	136	23
300 – 400	83	124	165	165	34
400 – 450	89	135	178	178	39
450 – 500	96	138	191	191	45
500 – 600	108	144	216	216	57
600 – 700	119	150	238	238	70
700 – 800	130	156	260	260	83
800 – 900	140	162	280	280	97
900 – 1000	150	168	300	300	111
1000 – 1100	159	168	319	318	111
1100 – 1200	168		337		
1200 – 1300	177		354		
1300 – 1400	185		370		
1400 – 1500	193		386		
1500 – 1600	201		402		
1600 – 1700	208		416		
1700 – 1800	215		431		
1800 – 1900	222		444		
1900 – 2000	229		458		

**TABLE 5**

HAZARD TYPE 1 EXPLOSIVE IN A METAL-BUILT UNMOUNDED STORE WITH A DETONATOR ANNEX ATTACHED



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>High density distance (m)</i>	<i>4</i> <i>Vulnerable building distance (m)</i>	<i>5</i> <i>Reference zone radius (m)</i>	<i>6</i> <i>Maximum number of dwellings in reference zone</i>
0.1 – 25	38	53	54	74	11
25 – 50	43	53	54	86	11
50 – 75	48	60	54	96	11
75 – 100	53	77	66	106	14
100 – 150	63	110	86	127	20
150 – 200	74	143	104	147	27
200 – 300	94	209	136	188	44
300 – 400	115	275	165	229	65
400 – 450	125	308	178	250	77
450 – 500	128	309	191	257	81
500 – 600	135	311	216	270	90
600 – 700	142	312	238	283	99
700 – 800	148	314	260	297	109
800 – 900	155	316	280	310	119
900 – 1000	162	318	300	324	129
1000 – 1100	169	319	319	337	140
1100 – 1200	175	321	337	350	152
1200 – 1300	182	323	354	364	163
1300 – 1400	189	325	370	377	176
1400 - 1500	195	326	386	391	188
1500 – 1600	202	328	402	404	202
1600 – 1700	209	330	416	417	215
1700 – 1800	215	332	431	431	229
1800 – 1900	222	333	444	444	244
1900 – 2000	229	335	458	458	259

**TABLE 6**

HAZARD TYPE 2 EXPLOSIVE, SOME OR ALL ITEMS BEING OF MORE THAN 0.7 KG NET MASS

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>Vulnerable building distance (m)</i>
0.1 – 25	45	90
25 – 50	88	176
50 – 75	108	216
75 – 100	129	238
100 – 150	148	296
150 – 200	168	336
200 – 300	191	382
300 – 400	207	414
400 – 450	213	426
450 – 500	219	438
500 – 600	226	452
600 – 700	233	466
700 – 800	240	480
800 – 900	248	496
900 – 1000	256	512
1000 – 1100	259	518
1100 – 1200	262	524
1200 – 1300	266	532
1300 – 1400	270	540
1400 – 1500	274	548
1500 – 1600	278	556
1600 – 1700	282	564
1700 – 1800	286	572
1800 – 1900	288	576
1900 – 2000	292	592

**TABLE 7**

**HAZARD TYPE 2 EXPLOSIVE, EVERY ITEM BEING OF 0.7 KG NET MASS OR LESS**

<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>Vulnerable building distance (m)</i>
0.1 – 25	37	76
25 – 50	43	86
50 – 75	47	94

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>	<i>3</i> <i>Vulnerable building distance (m)</i>
75 – 100	51	102
100 – 150	56	112
150 – 200	60	120
200 – 300	66	132
300 – 400	71	142
400 – 450	73	146
450 – 500	74	148
500 – 600	76	152
600 – 700	78	158
700 – 800	81	162
800 – 900	84	164
900 – 1000	87	174
1000 – 1100	88	176
1100 – 1200	89	178
1200 – 1300	90	180
1300 – 1400	91	182
1400 – 1500	92	184
1500 – 1600	94	188
1600 – 1700	95	190
1700 – 1800	97	194
1800 – 1900	99	198
1900 – 2000	101	202

**TABLE 8**

HAZARD TYPE 3 EXPLOSIVE

<i>1</i> <i>Quantity of explosives (kg)</i>	<i>2</i> <i>Low density distance (m)</i>
0.1 – 25	
25 – 50	23
50 – 75	25
75 – 100	29
100 – 150	33
150 – 200	37
200 – 300	42

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>I</i>	<i>2</i>
<i>Quantity of explosives (kg)</i>	<i>Low density distance (m)</i>
300 – 400	47
400 – 450	47
450 – 500	50
500 – 600	51
600 – 700	53
700 – 800	54
800 – 900	55
900 – 1000	63
1000 – 1100	70
1100 – 1200	71
1200 – 1300	72
1300 – 1400	73
1400 – 1500	74
1500 – 1600	75
1600 – 1700	76
1700 – 1800	78
1800 – 1900	79
1900 – 2000	80

**TABLE 9**

HAZARD TYPE 4 EXPLOSIVE

<i>I</i>	<i>2</i>
<i>Quantity of explosives (kg)</i>	<i>Low density distance (m)</i>
0.1 – 250	0
250 – 300	1
300 – 340	2
340 – 370	3
370 – 400	4
400 – 450	5
450 – 500	6
500 – 550	7
550 – 600	8
600 – 650	9
650 – 700	10

<i>1</i>	<i>2</i>
<i>Quantity of explosives (kg)</i>	<i>Low density distance (m)</i>
700 – 750	11
750 – 800	12
800 – 900	13
900 – 950	14
950 – 1000	15
1000 – 1100	16
1100 – 1150	17
1150 – 1200	18
1200 – 1300	19
1300 – 1350	20
1350 – 1400	21
1400 – 1450	22
1450 – 1550	23
1550 – 1600	24
1600 – 1650	25
1650 – 1700	26
1700 – 1800	27
1800 – 1850	28
1850 – 1900	29
1900 – 2000	30

## SCHEDULE 3

Regulation 11(6)

## AMOUNT OF PYROTECHNIC ARTICLES WHICH MAY BE KEPT IN SALES AREAS IN RELATION TO REGISTRATION

1. The maximum quantity of pyrotechnic articles which may be kept for any period of time in a sales area at a site in relation to which a person is registered for the storage of explosives shall be the amount specified in column 2 of the Table below corresponding to the floor area of the sales area shown in column 1 of the Table.

<i>1</i>	<i>2</i>
<i>Floor area of sales area (square metres)</i>	<i>Quantity of explosives (kg)</i>
not exceeding 20	12.5
not exceeding 40	15
not exceeding 60	20

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<i>1</i> <i>Floor area of sales area</i> <i>(square metres)</i>	<i>2</i> <i>Quantity of explosives</i> <i>(kg)</i>
not exceeding 80	25
not exceeding 100	30
not exceeding 150	35
not exceeding 200	40
not exceeding 250	45
not exceeding 300	50
not exceeding 350	55
not exceeding 400	60
not exceeding 450	65
not exceeding 499	70
equal to or exceeding 500	75

#### SCHEDULE 4

Regulation 22

#### REGISTERS

1. The licensing authority shall maintain a register (“the register”) containing the information listed in paragraph 2 which relates to licences and registrations granted or made by it.
2. The following information shall be included in the register —
  - (a) the name of the licensee or, as the case may be, the person registered under regulation 11;
  - (b) his permanent address, unless his home address is his only permanent address;
  - (c) the address of the site where the explosives are manufactured or stored (where that differs from any address included pursuant to sub-paragraph (b));
  - (d) the hazard type and maximum amount of explosive which may be stored at any one time;
  - (e) the nature of the business of the licensee or the person registered under regulation 11 and the intended use of the explosives;
  - (f) the kind of explosives manufactured or stored;
  - (g) a plan in a suitable scale sufficient to show the separation distances required by regulation 5 or a condition of the licence to be maintained around the store or the building where explosives are manufactured;
  - (h) a map in a suitable scale sufficient to show the location of any stores; and
  - (i) the kind of store concerned, including the material out of which it is constructed.
3. Subject to paragraph 7, where the licence or registration relates to explosives which do not require an explosives certificate under the Control of Explosives Regulations 1991(37), the licensing authority shall —

(37) S.I. 19911531, to which there are amendments not relevant to these Regulations.

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- (a) ensure that the information referred to in paragraph 2(a) to (d) in respect of that licence or registration is available for inspection at an office of the licensing authority, at all reasonable times and free of charge, by members of the public; and
  - (b) provide a copy of the entry in the register relating to the information referred to in paragraph 2(a) to (d) in respect of that licence or registration to a member of the public who requests a copy and pays a charge which shall not exceed the reasonable cost of providing the copy.
4. Subject to paragraph 7, where the licence or registration relates to explosives which require an explosives certificate under the Control of Explosives Regulations 1991, the licensing authority shall —
  - (a) ensure that the information referred to in paragraph 2(a) to (d) in respect of that licence or registration is available for inspection at an office of the licensing authority, at all reasonable times and free of charge, only by a person who resides or, in the case of an undertaking, is situated within a public consultation zone concerned in relation to the licence or registration; and
  - (b) provide a copy of the entry in the register relating to the information referred to in sub-paragraph 2(a) to (d) in respect of that licence or registration only to such a person as is referred to in sub-paragraph (a) who requests a copy and pays a charge which shall not exceed the reasonable cost of providing the copy.
5. The register may be kept in any form, including electronically.
6. The licensee or the person registered under regulation 11 in relation to any site in which explosives are manufactured or stored, shall, where requested in writing to do so by the owner or, if not the same person, the occupier, of any premises falling within any separation distance applying in relation to that site, provide to the requesting person within twenty-eight days of the request a scale plan of the area of land falling within that separation distance.
7. The requirements of paragraphs 3 and 4 shall not apply where the information referred to in paragraph 2 is in respect of any site to which a licence or registration relates which is used only for the storage of —
  - (a) less than 500 kilograms of hazard type 1 explosive or hazard type 2 explosive;
  - (b) less than 2 tonnes of hazard type 3 explosive or hazard type 4 explosive; or
  - (c) any explosives for a period of less than four weeks.
8. Where the licensing authority is a local authority, that licensing authority shall notify the Executive in writing, within twenty-eight days of receipt of a written request by the Executive to do so, as to such information as is contained in the register it maintains relating to the information referred to in paragraph 2 as the Executive may require.
9. Nothing in this Schedule shall prevent a licensing authority from disclosing any of the information included in the register it maintains to a local planning authority or a joint planning board for the purposes of the exercise of their respective functions.
10. For the purposes of paragraph 9, “local planning authority” and “joint planning board” have the meanings they are given in, respectively, sections 1 and 2 of the Town and Country Planning Act 1990<sup>(38)</sup>.

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<sup>(38)</sup> 1990 c. 8. Section 1 is amended by the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), section 187(1) and Schedule 21, paragraph 28, the Local Government Wales Act 1994 (c. 19) sections 18(2) – (6), 66(8) and Schedule 18 and the Environment Act 1995 (c. 25), sections 78 and 120(3) and Schedule 10, paragraph 32(1) and Schedule 24. Section 2 is amended by the Local Government (Wales) Act 1994, sections 19(1), (4) and 66(8) and Schedule 18 and the Environment Act 1995, sections 78, 120(1) and (3) and Schedule 10, paragraph 32(2) and Schedule 22, paragraph 42, and Schedule 24.

SCHEDULE 5

Regulation 28(1)

AMENDMENTS

PART 1

AMENDMENTS TO PRIMARY LEGISLATION

**Explosives Act 1875**

1.—(1) The 1875 Act is amended as follows.

(2) Omit sections 4 to 22 and for section 23 (precautions against fire or explosion to be taken by occupier) substitute —

**“Precautions against unauthorised access**

23.—(1) The occupier of every premises at which gunpowder is manufactured or stored shall take all due precaution for preventing unauthorised persons having access to the premises or to the gunpowder therein.

(2) In the event of any breach (by any act or default) of subsection (1), the occupier shall be guilty of an offence.

(3) In this section, “premises” has the meaning given in section 53 of the Health and Safety at Work etc. Act 1974.”.

(3) Omit sections 24, 26 to 29, 35, 36, 38, 40 and 41.

(4) In section 43 (power to prohibit, manufacture, importation, storage and carriage of specially dangerous explosives) —

(a) omit “, either absolutely, or except in pursuance of a license of the Health and Safety Executive under this Act”; and

(b) for the words from “Provided that” to “conveyance of explosives” substitute “A person who manufactures, keeps or conveys any explosive in contravention of any such Order shall 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.”.

(5) Omit sections 44 to 51, 58, 60, 63 and 64.

(6) In section 67 (definition of local authority) —

(a) in paragraph (1), omit “except as hereafter in this section mentioned.”;

(b) after paragraph (1), insert —

“(1A) In a London borough, the council of the borough; and”;

(c) omit paragraph (4) and the word “and” preceding it.

(7) Omit sections 70 to 72, 77, 78 and 82.

(8) In section 83 (provisions as to Orders in Council and orders of the Secretary of State), omit—

(a) “, and a Secretary of State may by order.”;

(b) “or orders of the Secretary of State, as the case may be.”; and

(c) the words from “The provisions of section 50” to the end of the section.

(9) Omit sections 84 and 86.



- (10) In section 91 (prosecution of offences either summarily or on indictment), omit the words from “Provided that” to “exceed one month”.
- (11) In section 97 (exemption of Government factories, etc, from the Act), omit paragraphs (3) and (4) and the words from “Provided that” to the end of the section.
- (12) Omit sections 98 and 101.
- (13) In section 102 (saving clause as to liability), omit the words from “A continuing certificate” to the end of the section.
- (14) Omit sections 103, 105 and 106.
- (15) In section 108 (general definitions) —
  - (a) in the definition of “this Act”, omit “certificate, byelaw, regulation, rule,”;
  - (b) in the definition of “store”, omit “an existing gunpowder store as defined by this Act, or” and “licensed by a license granted by a local authority under this Act”; and
  - (c) omit the definitions of “existing”, “factory magazine”, “harbour authority”, “canal company”, “railway company”, “safety cartridges” and “Gunpowder Act 1860”.
- (16) In section 109 (definitions in relation to application of Act to Scotland), omit paragraph (11).
- (17) In section 110 (local authority), omit paragraph 2 and the word “and” preceding it.
- (18) In section 111 (expenses of local authority), omit paragraph (b) and the word “and” preceding it.
- (19) Omit section 113.
- (20) In section 114 (provision for making and enforcing byelaws, &c in relation to Scotland), omit paragraph (a).
- (21) Omit Schedule 1.

### **Celluloid and Cinematograph Film Act 1922**

2. In section 9 of the Celluloid and Cinematograph Film Act 1922<sup>(39)</sup> (definitions), in the definition of “celluloid”, for “Explosives Act 1875” substitute “Manufacture and Storage of Explosives Regulations 2005”.

### **Explosives Act 1923**

3. The Explosives Act 1923<sup>(40)</sup> is repealed.

### **London Building Act 1930**

4. In section 143(4)(a) of the London Building Act 1930<sup>(41)</sup> (regulations for building near dangerous business), for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

### **Acquisition of Land (Authorisation Procedure) Act 1946**

5. In Schedule 4 to the Acquisition of Land (Authorisation Procedure) Act 1946<sup>(42)</sup> (minor and consequential amendments), omit the entry relating to the Explosives Act 1875.

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<sup>(39)</sup> 1922 c. 35.

<sup>(40)</sup> 1923 c. 17.

<sup>(41)</sup> 1930 c. clviii.

<sup>(42)</sup> 1946 c. 49 (9 & 10 Geo. 6.).

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## **National Parks and Access to the Countryside Act 1949**

6. In section 80 of the National Parks and Access to the Countryside Act 1949<sup>(43)</sup> (provisions as to danger areas), omit subsections (5) and (6).

## **Fireworks Act 1951**

7.—(1) The Fireworks Act 1951<sup>(44)</sup> is amended as follows.

(2) In section 1 (destruction of dangerous fireworks), in subsections (1) and (2), omit “, magazine” in each place where it occurs.

(3) In section 2 (determination or amendment of licence for a factory where dangerous fireworks are made) —

(a) in subsection (2), for “the principal Act” substitute “the 2005 Regulations”;

(b) in subsection (3) —

(i) for “the principal Act” where these words first appear, substitute “the 2005 Regulations” and where they appear for the second time, substitute “those Regulations”;

(ii) for “that Act”, substitute “those Regulations”; and

(iii) for the proviso, substitute “Despite the determination of the licence, no proceedings shall be taken for breach of regulation 10 of the 2005 Regulations in respect of fireworks kept at the factory in question in pursuance of a requirement of an inspector under section 1 of this Act.”;

(c) in subsection (4), for “the principal Act” in each place substitute “the 2005 Regulations”; and

(d) omit subsection (6).

(4) Omit section 4 (determination or amendment of licences for factory where there is negligent manufacture).

(5) In section 5 (marking of fireworks) —

(a) omit subsection (5); and

(b) in subsection (8), for “a government inspector for the purposes of the principal Act” substitute “an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974”.

(6) Omit section 7 (small firework factory licences).

(7) For section 9 (interpretation) substitute —

### **“Interpretation**

9. In this Act —

“the 2005 Regulations” means the Manufacture and Storage of Explosives Regulations 2005;

“explosives” has the same meaning as in the Explosives Act 1875;

“factory” means any place at which explosives are manufactured under a licence granted under regulation 13 of the 2005 Regulations;

<sup>(43)</sup> 1949 c. 97.

<sup>(44)</sup> 1951 c. 58 (14 & 15 Geo.6); amended by the Criminal Justice Act 1982 (c. 48), sections 38, 40 and 46, and S.I.1974/1885. Sections 1, 2, 5 and 9 are modified by virtue of section 80(1) of the 1974 Act. Sections 4 and 7 are “existing statutory provisions” within the meaning of section 53 of the 1974 Act and are repealed by virtue of section 15(3)(a) of that Act.

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“occupier”, in the case of any manufacture, includes any person carrying on such manufacture; and

“store” means any place at which explosives are stored —

- (a) by a person registered under regulation 11 of the 2005 Regulations 2005, or
- (b) under a licence granted under regulation 13 of those Regulations.”.

### **Emergency Laws (Miscellaneous Provisions) Act 1953**

**8.**—(1) The Emergency Laws (Miscellaneous Provisions) Act 1953(**45**) is amended as follows.

(2) Section 3 (extension of control of certain explosives) is omitted.

(3) In section 12(3) (provisions as to orders), omit “three or”.

(4) In section 13 (application to Northern Ireland), omit “three”.

### **London Government Act 1963**

**9.** In section 50 of the London Government Act 1963(**46**) (explosives and petroleum spirit), omit subsections (1) and (3).

### **Public Expenditure and Receipts Act 1968**

**10.** In Schedule 3 to the Public Expenditure and Receipts Act 1968(**47**) (variation of fees, etc.), omit entry number 4 (relating to the Explosives Act 1875).

### **Trade Descriptions Act 1968**

**11.** In section 32(2) of the Trade Descriptions Act 1968(**48**) (power to exempt goods sold for export, etc), for “Explosives Acts 1875 and 1923” substitute “Manufacture and Storage of Explosives Regulations 2005”.

### **Port of London Act 1968**

**12.** In the Port of London Act 1968(**49**), omit section 166 (dangerous goods byelaws).

### **Fire Precautions Act 1971**

**13.** In Schedule 2 to the Fire Precautions Act 1971(**50**) (which modifies the Act in relation to certain premises), in paragraph 7, for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

### **Health and Safety at Work etc Act 1974**

**14.** In Schedule 1 to the Health and Safety at Work etc Act 1974(**51**) (existing enactments which are relevant statutory provisions), omit the entries relating to the Explosives Act 1923, the Fireworks Act 1951 and the Emergency Laws (Miscellaneous Provisions) Act 1953.

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(45) 1953 c. 47. Section 12 is modified by virtue of section 80(1) of the 1974 Act. Section 3 is an “existing statutory provision” within the meaning of section 53 of the 1974 Act and is modified by virtue of section 15(3)(a) of that Act.

(46) 1963 c. 33.

(47) 1968 c. 14.

(48) 1968 c. 29; subsection (2) was inserted by the Weights and Measures Act 1985 (c. 72), section 97, Schedule 12, paragraph 4(2).

(49) 1968 c. 32; section 166 was partially repealed by S.I. 1987/37, regulation 47(5) and Part II of Schedule 8.

(50) 1971 c. 40. Schedule 2 was inserted by section 16(2) of and Schedule 1 to the Fire Safety and Safety of Places of Sport Act 1987 c. 27.

(51) 1974 c. 37.

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### **Control of Pollution Act 1974**

15. Until the coming into force of its repeal by the Environmental Protection Act 1990<sup>(52)</sup> the definition of “waste” in section 30 of the Control of Pollution Act 1974<sup>(53)</sup> has effect as if the reference to the Explosives Act 1875 were a reference to these Regulations.

### **Customs and Excise Management Act 1979**

16. In section 75(1) of the Customs and Excise Management Act 1979<sup>(54)</sup> (meaning of “explosive”), for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

### **Isle of Man Act 1979**

17.—(1) Section 8(2) of the Isle of Man Act 1979<sup>(55)</sup> (removal of goods to the United Kingdom) is amended as follows.

- (2) In sub-paragraph (b), omit the final “or”;
- (3) At the end of sub-paragraph (c), insert “or”; and
- (4) After sub-paragraph (c) insert —

“(d) any explosives the importation of which into the United Kingdom is prohibited by regulation 24 of the Manufacture and Storage of Explosives Regulations 2005.”.

### **Roads (Scotland) Act 1984**

18. In paragraph 7 of Schedule 9 to the Roads (Scotland) Act 1984<sup>(56)</sup> (minor and consequential amendments), omit sub-paragraph (2).

### **Environmental Protection Act 1990**

19.—(1) The Environmental Protection Act 1990<sup>(57)</sup> shall be amended as follows.

(2) In section 75(2) (meaning of waste) as enacted, for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

(3) In section 142(7) (powers to obtain information), for “the Explosive Substances Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

### **Merchant Shipping Act 1995**

20. In Schedule 13 to the Merchant Shipping Act 1995<sup>(58)</sup> (consequential amendments), omit paragraph 5.

### **Criminal Procedure (Scotland) Act 1995**

21. In Schedule 5 to the Criminal Procedure (Scotland) Act 1995<sup>(59)</sup>, omit the entries for the forms of complaint relating to —

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<sup>(52)</sup> 1990 c. 43. Section 30 of the Control of Pollution Act 1974 is prospectively repealed by Schedule 16 of the Environmental Protection Act 1990.

<sup>(53)</sup> 1974 c. 40.

<sup>(54)</sup> 1979 c. 2.

<sup>(55)</sup> 1979 c. 58.

<sup>(56)</sup> 1984 c. 54.

<sup>(57)</sup> 1990 c. 43.

<sup>(58)</sup> 1995 c. 21.

<sup>(59)</sup> 1995 c. 46.

- (a) the Explosives Act 1875, section 5; and
- (b) the Explosives Act 1875, section 22 and section 3, subsection (1), Mode B, of the Order in Council dated 26th October 1896.

## PART 2

### AMENDMENTS TO SECONDARY LEGISLATION

#### **The Factory and Workshop Act 1901, use of locomotives and wagons on lines and sidings, Regulations 1906**

**22.** In the Factory and Workshop Act 1901, use of locomotives and wagons on lines and sidings, Regulations 1906**(60)** —

- (a) in the provisions on Application which begin with the words “Nothing in these Regulations shall apply to”, for sub-paragraph (i) substitute “(i) Any site for the manufacture of explosives which is specified in a licence granted under the Manufacture and Storage of Explosives Regulations 2005”.

#### **Order in Council No. 30 dated 2nd February 1937**

**23.** After the proviso in Order in Council No. 30 dated 2nd February 1937**(61)**, insert —

“For the purposes of paragraph (1) of the proviso, all buildings and places adjoining each other and occupied together shall be deemed to be the same premises.”.

#### **The Stratified Ironstone, Shale and Fireclay Mines (Explosives) Regulations 1956**

**24.** In regulation 5 of Part III of the Stratified Ironstone, Shale and Fireclay Mines (Explosives) Regulations 1956**(62)** (storage, issue and conveyance of explosives and detonators), for the words from “workshop” to the end, substitute “suitable place appointed for that purpose by the manager of the mine”.

#### **The Miscellaneous Mines (Explosives) Regulations 1959**

**25.** In regulation 34 of Part VII of Miscellaneous Mines (Explosives) Regulations 1959**(63)** (shot firing – additional provisions for shafts, winzes and raises), for the words from “workshop used” to the end substitute “suitable place for that purpose appointed by the manager of the mine”.

#### **The Clean Air (Emission of Dark Smoke)(Exemption) Regulations 1969**

**26.** In paragraph 2 of Schedule 1 to the Clean Air (Emission of Dark Smoke)(Exemption) Regulations 1969**(64)** (exempted matter), for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

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**(60)** S.R. & O. 1906/679.

**(61)** S.R. & O. 1937/54, amended by S.R. & O. 1947/805 and S.I. 1978/1723.

**(62)** S.I. 1956/1943, to which there are amendments not relevant to these Regulations.

**(63)** S.I. 1959/2258, to which there are amendments not relevant to these Regulations.

**(64)** S.I. 1969/1263.

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### **The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**

27.—(1) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(65) is amended as follows.

(2) In paragraph 8 of Part III of Schedule 1 (excepted professions, offices, employments, work and occupations), for the words from “by any Order in Council” to the end substitute “pursuant to regulations 4 and 7 of the Control of Explosives Regulations 1991 to obtain from the chief officer of police a valid explosives certificate certifying him to be a fit person to acquire or acquire and keep explosives”.

(3) For paragraph 3 of Schedule 2 (excepted licences, certificates and permits), substitute —

“3. Explosives certificates issued by a chief officer of police pursuant to regulations 4 and 7 of the Control of Explosives Regulations 1991 as to the fitness of a person to acquire or acquire and keep explosives”.

(4) In paragraph 13 of Schedule 3 (excepted proceedings), for the words from “police or” to the end substitute “chief officer of police for an explosives certificate pursuant to regulations 4 and 7 of the Control of Explosives Regulations 1991 as to the fitness of the applicant to acquire or acquire and keep explosives”.

### **The Fire Certificates (Special Premises) Regulations 1976**

28. For paragraph 10 of Part I of Schedule 1 to the Fire Certificates (Special Premises) Regulations 1976(66) (designation of certain premises), substitute —

“10. Any site where explosives are stored under a licence granted by the Health and Safety Executive under the Manufacture and Storage of Explosives Regulations 2005 where that body is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to those Regulations.”.

### **The Isle of Scilly (Functions) Order 1979**

29. In article 3(e) of the Isles of Scilly (Functions) Order 1979(67) (functions), for “the Explosives Act 1923” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

### **The Notification of Installations Handling Hazardous Substances Regulations 1982**

30. In the entry for cellulose nitrate in column 1 of Part I of Schedule 1 to the Notification of Installations Handling Hazardous Substances Regulations 1982(68) (named substances), for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

### **The Classification and Labelling of Explosives Regulations 1983**

31.—(1) The Classification and Labelling of Explosives Regulations 1983(69) are amended as follows.

(2) In paragraph (3) of regulation 3 (classification and labelling of explosive articles and explosive substances and of combinations and unit loads thereof), omit “Subject to regulation 11,”.

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(65) S.I. 1975/1023, to which there are amendments not relevant to these Regulations.

(66) S.I. 1976/2003, to which there are amendments not relevant to these Regulations.

(67) S.I. 1979/72, to which there are amendments not relevant to these regulations.

(68) S.I. 1982/1357, amended by S.I. 2002/2979; there are other amending instruments but none is relevant.

(69) S.I. 1983/1140, to which there are amendments not relevant to these Regulations.

## **The Dangerous Substances in Harbour Areas Regulations 1987**

**32.** In Part IX of the Dangerous Substances in Harbour Areas Regulations 1987(**70**) (explosives)

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- (a) in regulation 33(1)(b), for the words from “article 7” to the end substitute “article 8 of the Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order 2001”; and
  - (b) for regulation 33(2)(e), substitute —
    - “(e) a berth which forms part of a site —
      - (i) licensed under the Manufacture and Storage of Explosives Regulations 2005 in cases where, in relation to the application for that licence, the assent of the local authority was required pursuant to regulation 13(3) of those Regulations; or
      - (ii) which is deemed to be licensed under those Regulations by virtue of regulation 27 of those Regulations in cases where, in relation to that deemed licence, the assent of the local authority would have been required pursuant to regulation 13(3) of those Regulations had the licence been applied for under those Regulations;”.

## **The Building Standards (Scotland) Regulations 1990**

**33.** In Schedule 1 to the Building Standards (Scotland) Regulations 1990(**71**) (exempted classes of building), in relation to class 1, for the description in column (2), substitute —

“A building the construction of which is subject to the Manufacture and Storage of Explosives Regulations 2005”.

## **The Control of Explosives Regulations 1991**

**34.—**(1) The Control of Explosives Regulations 1991(**72**) are amended as follows.

(2) In regulation 2 (interpretation) —

- (a) after the definition of “the 1983 Regulations”, insert —

““the 2005 Regulations” means the Manufacture and Storage of Explosives Regulations 2005;”;
- (b) after the definition of “chief officer of police”, insert —

““Class 1” means Class 1 in respect of explosives or the classification of dangerous goods as set out in the United Nations Recommendations;

“desensitised explosive” means —

  - (a) a solid explosive substance which has been wetted with water, alcohol or dissolved with one or more other substances; or
  - (b) a liquid explosive substance which has been dissolved or suspended in water or one or more other substances,

to form a homogeneous mixture so as to suppress its explosive properties and which, without that treatment, would be classified in accordance with the United Nations Recommendations as falling within Class 1;”;
- (c) for the definition of “explosive”, substitute —

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(70) S.I. 1987/37, to which there are amendments not relevant to these Regulations.

(71) S.I. 1990/2179, amended by S.I. 1999/173; there are other amending instruments but none is relevant.

(72) S.I. 1991/1531, to which there are amendments not relevant to these Regulations.

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““explosive” means —

- (a) any explosive article or explosive substance which would —
  - (i) if packaged for transport, be classified in accordance with the United Nations Recommendations as falling within Class 1; or
  - (ii) be classified in accordance with the United Nations Recommendations as —
    - (aa) being unduly sensitive or so reactive as to be subject to spontaneous reaction and accordingly too dangerous to transport, and
    - (bb) falling within Class 1; or
- (b) a desensitised explosive,

but it does not include an explosive substance produced as part of a manufacturing process which thereafter reprocesses it in order to produce a substance or preparation which is not an explosive substance;”;

- (d) after the definition of “explosive”, insert —

““explosive article” means an article containing one or more explosive substances;”;

- (e) after the definition of “explosives certificate”, insert —

““explosive substance” means a substance or preparation, not including a substance or preparation in a solely gaseous form or in the form of vapour, which is —

- (a) capable by chemical reaction in itself of producing a gas at such a temperature and pressure and at such speed as could cause damage to surroundings; or
- (b) designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as a result of a non-detonative self-sustaining exothermic chemical reaction;”;

- (f) in the definitions of “fireworks” and “fog signals”, for “on classification under the 1983 Regulations” substitute “in accordance with the United Nations Recommendations”;

- (g) omit the definition of “for private use”;

- (h) in the definition of “gunpowder”, for “on classification under the 1983 Regulations” substitute “in accordance with the United Nations Recommendations”;

- (i) for the definition of “license”, substitute —

““licence” means a licence for the manufacture or storage of explosives granted under regulation 13 of the 2005 Regulations;”;

- (j) omit the definitions of “licensed factory” and “licensed magazine”;

- (k) omit the definition of “percussion caps”;

- (l) after the definition of “occupier”, insert —

““preparation” means a mixture or a solution of two or more substances;”;

- (m) for the definition of “registered premises” substitute —

““registered”, in relation to a person, means a person registered in respect of the storage of explosives under regulation 11 of the 2005 Regulations and “registration” shall be construed accordingly;”;

- (n) omit paragraph (a) in the definition of “restricted substance”;

- (o) in the definitions of “small arms ammunition” and “smokeless powder”, for “on classification under the 1983 Regulations” substitute “in accordance with the United Nations Recommendations”;



- (p) after the definition of “smokeless powder”, insert —
  - ““substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour;”;
- (q) omit the definition of “store”;
- (r) in the definition of “U.N. no.”, for “and allocated by the Health and Safety Executive or the Secretary of State to an explosive article or substance as a means of identification” substitute “as a means of identification of types of explosives in accordance with the United Nations Recommendations”; and
- (s) after the definition of “U.N. no.”, insert at the end —
  - “and
  - “United Nations Recommendations” means the United Nations Recommendations on the Transport of Dangerous Goods (based on those originally prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods considered by the Economic and Social Committee of Experts at its twenty-third session (Resolution 645G (XXIII) of 26 April 1957)) as revised or reissued from time to time.”.
- (3) In paragraphs (3) and (4) of regulation 3 (application), for “Regulations 7 and 10”, substitute “Regulation 7”.
- (4) In regulation 4 (explosives certificate) —
  - (a) in paragraph 6(b) and (c), omit “subject to paragraph (7)”;
  - (b) for paragraph 6(f) and (g), substitute —
    - “(f) where the application is for a certificate relating only to acquisition of explosives—
      - (i) it is not reasonably practicable for the applicant to be an occupier of a site for the storage of explosives for which he would be required under the 2005 Regulations to have a licence or be registered in respect of that storage, and
      - (ii) the explosives either will not be kept, or, if kept, the applicant will ensure that they are kept at a site where such storage is permitted pursuant to a licence or registration or at a site occupied by the Secretary of State for Defence; and
    - (g) where the application is for a certificate relating to the keeping of explosives, either —
      - (i) the applicant is or is to be the occupier of a site for the storage of explosives in respect of which storage there is or will be a licence or registration in force; or
      - (ii) the explosives will be kept at a site occupied on behalf of the Crown, or
      - (iii) in the case where the applicant does not hold a licence in respect of the storage of the explosives, no licence is required to be held by the applicant in respect of that storage by virtue of regulation 10(2) of the 2005 Regulations.”;
  - (c) paragraph (7) is revoked;
  - (d) after paragraph (9) insert —
    - “(10) Any reference in the definitions in this regulation of “desensitised explosive”, “explosive substance” or “substance” to, as the case may be, liquid, gas, gaseous form, or vapour means, respectively, liquid, gas, gaseous form or vapour at normal atmospheric temperature and pressure.”.

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- (5) In regulation 8(e), after “regulation 3(3) or (4)” insert —  
 “and that, where those provisions apply to a specified person only in particular circumstances or for particular purposes, those circumstances or purposes are satisfied in the case of the person concerned.”.
- (6) In regulation 9 (restrictions on prohibited persons) —
- (a) at the beginning of paragraph (1), insert “subject to paragraph (4),”;
  - (b) for paragraph (2), substitute —  
 “(2) Subject to paragraph (4), no prohibited person, whether or not he satisfies any relevant conditions of regulation 7, shall acquire, handle or have control of any explosive or any restricted substance.”; and
  - (c) after paragraph (3), add —  
 “(4) This regulation does not apply to a desensitised explosive which is a medicinal product as defined in section 130 of the Medicines Act 1968(73) nor a substance specified in an order made under section 104 or 105 of that Act which is for the time being in force and which directs that specified provisions of that Act shall have effect in relation to that substance as such provisions have effect in relation to medicinal products within the meaning of that Act.”.
- (7) Regulation 10 (keeping explosives for private use) is revoked.
- (8) For regulation 11 (occupier of licensed factory or licensed magazine to appoint person responsible for explosives), substitute —

**“Licensed occupier to appoint person responsible for security of explosives**

**11.—(1)** An person who occupies a site and who has —

- (a) a licence for the manufacture or storage of explosives at that site which was granted by the Executive in a case where the assent of the local authority was required pursuant to regulation 13(3) of the 2005 Regulations; or
- (b) a deemed licence which, if an application for a licence would have been made under the 2005 Regulations in respect of the manufacture or storage of explosives to which the deemed licence relates, that application would have required the assent of the local authority pursuant to regulation 13(3) of those Regulations,

shall appoint one individual to be responsible to him for ensuring that adequate precautions are taken at that site to secure explosives against loss.

(2) For the purposes of paragraph (1) —

“deemed licence” means —

- (a) a licence, amending licence, continuing certificate or store licence granted or issued under sections 8, 12, 14 or 15 of the Explosives Act 1875 which is deemed by virtue of regulation 27(1) or (12) of the 2005 Regulations to be a licence granted under regulation 13 of those Regulations; and
- (b) a licence deemed to be held by a person pursuant to regulation 27(3).”.

(9) In regulation 12 (making, preservation and production of records) —

- (a) in paragraph (4)(a), omit “for private use”; and

(73) 1968 c. 67; subsections (3A) to (3C) were inserted by the Animal Health and Welfare Act 1984 (c. 40), section 13(2); subsections (4), (6), and (9) were amended by that Act, Schedule 1, paragraph 3 and Schedule 2; subsection (7) was repealed by that Act, Schedule 1, paragraph 3 and Schedule 2; Subsection (5) was amended, and subsection (5A) was inserted, by S.I. 1994/3119; the meaning of “medicinal product” was modified by S.I. 1994/3144. Sections 104(1) and 105(1) were amended by S.I. 1994/1031.

(b) for paragraph (4)(c), substitute —

“(c) an explosive which is produced by mixing at any place non-explosive substances or preparations to form an explosive for immediate use at that place.”.

(10) In paragraph (8) of regulation 13 (reporting loss), for “licensed factory or licensed magazine” substitute “site in relation to which the Executive is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to the 2005 Regulations,”.

(11) Regulations 16 (power to revoke or amend licences) and 18 (transitional provisions) and paragraphs (5) and (6) of regulation 19 (modifications, revocations and savings) are revoked.

(12) For Schedule 1 (exceptions) substitute —

“SCHEDULE 1

Regulation 3

EXCEPTIONS

<i>Explosives</i>	<i>U.N. no.</i>
AIR-BAG INFLATORS, AIR-BAG MODULES, SEAT-BELT PRETENSIONERS	0503
2 AMINO – 4, 6 – DINITROPHENOL, WETTED with not less than 20% water by mass	3317
AMMONIUM PICRATE, WETTED with not less than 10% water, by mass	1310
ARTICLES, PYROTECHNIC for technical purposes	0428
ARTICLES, PYROTECHNIC for technical purposes	0429
ARTICLES, PYROTECHNIC for technical purposes	0430
ARTICLES, PYROTECHNIC for technical purposes	0431
ARTICLES, PYROTECHNIC for technical purposes	0432
BARIUM AZIDE, WETTED with not less than 50% water, by mass	1571
CARTRIDGES, OIL WELL	0277
CARTRIDGES, OIL WELL	0278
CARTRIDGES, POWER DEVICE	0275
CARTRIDGES, POWER DEVICE	0276
CARTRIDGES, POWER DEVICE	0323
CARTRIDGES, POWER DEVICE	0381
CARTRIDGES, SIGNAL	0054
CARTRIDGES, SIGNAL	0312
CARTRIDGES, SIGNAL	0405
CARTRIDGES, SMALL ARMS	0012
CARTRIDGES, SMALL ARMS	0328

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<i>Explosives</i>	<i>U.N. no.</i>
CARTRIDGES, SMALL ARMS	0339
CARTRIDGES, SMALL ARMS, BLANK	0014
CARTRIDGES, SMALL ARMS, BLANK	0327
CARTRIDGES, SMALL ARMS, BLANK	0338
CARTRIDGES, EMPTY, WITH PRIMER	0055
CARTRIDGES, EMPTY, WITH PRIMER	0379
CASES, COMBUSTIBLE, EMPTY, WITHOUT PRIMER	0446
CASES, COMBUSTIBLE, EMPTY, WITHOUT PRIMER	0447
CORD, IGNITER	0066
CUTTERS, CABLE, EXPLOSIVE	0070
DINITROBENZENE	0406
DINITROPHENOL, WETTED with not less than 15% water,	1320
by mass	
DINITROPHENOLATES, WETTED with not less than 15% water, by mass	1321
DINITRORESORCINOL, WETTED with not less than 15% water, by mass	1322
DIPICRYL SULPHIDE, WETTED with not less than 10% water,	2852
by mass	
FIREWORKS	0333
FIREWORKS	0334
FIREWORKS	0335
FIREWORKS	0336
FIREWORKS	0337
FLARES, AERIAL	0093
FLARES, AERIAL	0403
FLARES, AERIAL	0404
FLARES, SURFACE	0092
FLASH POWDER	0094
FLASH POWDER	0305
FUSE, INSTANTANEOUS, NON-DETONATING (QUICKMATCH)	0101

<i>Explosives</i>	<i>U.N. no.</i>
FUSE, SAFETY	0105
IGNITERS	0121
IGNITERS	0314
IGNITERS	0315
IGNITERS	0325
IGNITERS	0454
ISOSORBIDE DINITRATE MIXTURE with not less than 60% lactose, mannose, starch or calcium hydrogen phosphate	2907
LIGHTERS, FUSE	0131
5-MERCAPTO-TETRAZOL-1-ACETIC ACID	0448
NITROCELLULOSE SOLUTION, FLAMMABLE with not more than 12.6% nitrogen, by dry mass, and not more than 55% nitrocellulose	2059
NITROCELLULOSE WITH WATER (not less than 25% water, by mass)	2555
NITROCELLULOSE WITH ALCOHOL (not less than 25% alcohol, by mass, and not more than 12.6% nitrogen, by dry mass)	2556
NITROCELLULOSE with not more than 12.6% nitrogen, by dry mass, MIXTURE WITH or WITHOUT PLASTICIZER, WITH or WITHOUT PIGMENT	2557
NITROGLYCERINE SOLUTION IN ALCOHOL with not more than 1% nitroglycerine	1204
NITROGLYCERINE SOLUTION IN ALCOHOL with more than 1% but not more than 5% nitroglycerine	3064
NITROGUANIDINE (PICRITE) with not less than 20% water, by mass	1336
4 NITROPHENYLHYDRAZINE	3376
NITROSTARCH, WETTED with not less than 20% water, by mass	1337
POTASSIUM SALTS OF AROMATIC NITRO-DERIVATIVES, explosive	0158
PRIMERS, CAP TYPE	0044
PRIMERS, CAP TYPE	0377
PRIMERS, CAP TYPE	0378
ROCKETS, LINE-THROWING	0238
ROCKETS, LINE-THROWING	0240

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<i>Explosives</i>	<i>U.N. no.</i>
ROCKETS, LINE-THROWING	0453
SIGNAL DEVICES, HAND	0373
SIGNAL DEVICES, HAND	0191
SIGNALS, DISTRESS, ship	0194
SIGNALS, DISTRESS, ship	0195
SIGNALS, RAILWAY TRACK, EXPLOSIVE	0192
SIGNALS, RAILWAY TRACK, EXPLOSIVE	0193
SIGNALS, SMOKE, with explosive sound unit	0196
SIGNALS, SMOKE, without explosive sound unit	0197
SILVER PICRATE, WETTED with not less than 30% water,	1347
by mass	
SODIUM DINITRO-o-CRESOLATE, dry or wetted with less than 15% water, by mass	0234
SODIUM DINITRO-o-CRESOLATE, WETTED with not less than 15% water, by mass	1348
SODIUM DINITRO-o-CRESOLATE, WETTED, with not less than 10% water, by mass	3369
SODIUM PICRAMATE, dry or wetted with less than 20% water by mass	0235
SODIUM PICRAMATE, WETTED with not less than 20% water, by mass	1349
TETRAZOL-1-ACETIC ACID	0407
TRINITROBENZENE, WETTED with not less than 30% water,	1354
by mass	
TRINITROBENZOIC ACID, WETTED with not less than 30% water, by mass	1355
TRINITROPHENOL, WETTED with not less than 30% water, by mass	1344
TRINITROTOLUENE, WETTED with not less than 30% water, by mass	1356
UREA NITRATE, WETTED with not less than 20% water by mass	1357
ZIRCONIUM PICRAMATE, WETTED with not less than 20% water, by mass	1517
ZIRCONIUM PICRAMATE, dry or wetted with less than 20% water, by mass	0236''

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(13) For Schedule 2 (form of explosives certificate) substitute —

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“SCHEDULE 2

Regulation 4

FORM OF EXPLOSIVES CERTIFICATE

HEALTH AND SAFETY AT WORK ETC ACT 1974  
CONTROL OF EXPLOSIVES REGULATIONS 1991  
CERTIFICATE TO \*ACQUIRE/ACQUIRE AND KEEP EXPLOSIVES

1. I the undersigned \*being/being duly authorised by the chief officer of police for ..... police force, do hereby certify that (name)..... of (address)..... (post code)..... is a fit person to \*acquire/acquire and keep explosives in accordance with this certificate.

Signature of certifying officer: ..... Date ..... Rank or designation, or both .....

2. This certificate shall be valid from (date)..... until ..... (date), unless notice of revocation by or on behalf of the chief officer of police has been served on the certificate holder at an earlier date.

Alternative A – acquisition only

3. The maximum amount of explosives acquired on any one occasion shall not exceed .....

4. The only explosives which may be acquired are those of the following descriptions, namely: .....

5. Explosives may only be acquired for the purpose(s) of .....

Alternative B – acquisition and keeping

3. The explosives may only be kept at the following address .....

4. The only explosives which may be acquired or kept are those of the following descriptions, namely .....

(Notes.

Alternative A:

(a) If this certificate relates to acquisition only, this section must be completed in accordance with these Notes and “Alternative B” deleted.

(b) In paragraph 2, the maximum period that may be entered for this alternative A certificate is one year.

(c) Each of paragraphs 3 and 4 must be completed.

(d) Paragraph 5 may be completed or deleted.

Alternative B:

(a) If this certificate relates to acquisition and keeping, this section must be completed in accordance with these Notes and “Alternative A” deleted

(b) In paragraph 2, the maximum period that may be entered for this certificate is three years.

(c) Paragraphs 3 and 4 must be completed

(d) In paragraph 3, the type of storage place must be entered. This will be one of the following: HSE licensed storage place or place of manufacture, police licensed or registered storage place; local authority registered storage place, or other legal place of storage.)

\*Delete as applicable

(14) Part I of Schedule 4 (modifications of the Explosives Act 1875) is revoked.



### **The Planning (Hazardous Substances) Regulations 1992**

**35.**—(1) Schedule 1 to the Planning (Hazardous Substances) Regulations 1992<sup>(74)</sup> (hazardous substances and controlled quantities) is amended as follows.

(2) For paragraph 50(1) of Part A (named substances), substitute —

“(2) cellulose nitrate for which a licence, granted by the Health and Safety Executive under the Manufacture and Storage of Explosives Regulations 2005 (where the Health and Safety Executive is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to those Regulations), is required; or.”

(3) In paragraphs 4 and 5 of Part B (categories of substances and preparations not specifically named in Part A), for the words from “at a factory” to “Explosives Act 1875” in each paragraph substitute —

“for which a licence, granted by the Health and Safety Executive under the Manufacture and Storage of Explosives Regulations 2005 (where the Health and Safety Executive is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to those Regulations), is required”.

### **The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993**

**36.**—(1) Schedule 1 to the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993<sup>(75)</sup> (hazardous substances and controlled quantities) is amended as follows.

(2) For paragraph 50(1) of Part A (named substances), substitute —

“(1) cellulose nitrate for which a licence, granted by the Health and Safety Executive under the Manufacture and Storage of Explosives Regulations 2005 (where the Health and Safety Executive is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to those Regulations), is required; or”.

(3) In paragraphs 4 and 5 of Part B (categories of substances and preparations not specifically named in Part A), for the words from “at a factory” to “Explosives Act 1875” in each paragraph substitute —

“for which a licence, granted by the Health and Safety Executive under the Manufacture and Storage of Explosives Regulations 2005 (where the Health and Safety Executive is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to those Regulations), is required”.

### **The Coal and Other Safety Lamp Mines (Explosives) Regulations 1993**

**37.** For the definition of “explosives store” in regulation 2(1) of the Coal and Other Safety-Lamp Mines (Explosives) Regulations 1993<sup>(76)</sup> (interpretation etc of Part 1), substitute —

““explosives store” means a building, enclosed area or metal structure where explosives are stored under a licence granted or registration made under the Manufacture and Storage of Explosives Regulations 2005;”.

### **The Placing on the Market and Transfer of Explosives Regulations 1993**

**38.** Regulation 12(1) and Part I of Schedule 4 to the Placing on the Market and Supervision of Transfers of Explosives Regulations 1993<sup>(77)</sup> (modifications to the Explosives Act 1875) are revoked.

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<sup>(74)</sup> S.I. 1992/656, amended by S.I. 1999/981; there are other amending instruments but none is relevant.

<sup>(75)</sup> S.I. 1993/323, amended by S.S.I. 2000/179; there are other amending instruments but none is relevant.

<sup>(76)</sup> S.I. 1993/208, to which there are amendments not relevant to these Regulations.

<sup>(77)</sup> S.I. 1993/2714.

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### **The Toys (Safety) Regulations 1995**

**39.** In Schedule 3 to the Toys (Safety) Regulations 1995(**78**), in the note at the end marked with an asterisk, for “Explosives Act 1875” substitute “Manufacture and Storage of Explosives Regulations 2005”.

### **The Reporting of Injuries and Dangerous Occurrences Regulations 1995**

**40.**—(1) The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995(**79**) shall be amended as follows.

(2) In Schedule 2 (dangerous occurrences) —

(a) in Part I (general) —

(i) for sub-paragraph (1)(a) of paragraph 6, substitute —

“(a) any unintentional fire, explosion or ignition at a site —

(i) where explosives are manufactured by a person who holds a licence, or who does not hold a licence but is required to, in respect of that manufacture under the Manufacture and Storage of Explosives Regulations 2005; or

(ii) where explosives are stored by a person who holds a licence or is registered, or who is not licensed but is required to be in the absence of any registration, in respect of that storage under those Regulations;

(aa) the unintentional explosion or ignition of explosives at a place other than a site described in sub-paragraph (1)(a), not being one —

(i) caused by the unintentional discharge of a weapon where, apart from that unintentional discharge, the weapon and explosives functioned as they were designed to do; or

(ii) where a fail-safe device or safe system of work functioned so as to prevent any person from being injured in consequence of the explosion or ignition;”;

(ii) at the end of paragraph 6(1)(e), insert “or from any intentional fire or ignition”; and

(iii) for paragraph 6(2), substitute —

“(2) In this paragraph —

“danger zone” means the area from which persons have been excluded or forbidden to enter to avoid being endangered by any explosion or ignition of explosives; and

“explosives” has the same meaning as in the Manufacture and Storage of Explosives Regulations 2005.”.

(3) In Schedule 7 (enactments or instruments requiring the notification of events which are not required to be notified or reported under the Regulations), omit the entry relating to the Explosives Act 1875.

(78) S.I. 1995/204, to which there are amendments not relevant to these Regulations.

(79) S.I. 1995/3163, amended by S.I. 1996/2092; there are other amending instruments but none is relevant.

## **The Health and Safety (Enforcing Authority) Regulations 1998**

**41.** For regulation 4(7) of the Health and Safety (Enforcing Authority) Regulations 1998**(80)** (exceptions), substitute —

“(7) Notwithstanding the preceding provisions of this regulation and subject to paragraphs (8) to (10), a licensing authority shall be the enforcing authority for the Manufacture and Storage of Explosives Regulations 2005 (“the 2005 Regulations”) and section 23 of the Explosives Act 1875 —

- (a) for a site in relation to which it has granted a person a licence for the manufacture or storage of explosives at that site under regulation 13 of the 2005 Regulations or registered a person in respect of such storage at that site under regulation 11 of those Regulations;
- (b) where, in relation to a deemed licence or deemed registration, it would have been the licensing authority by virtue of paragraph 1 of Schedule 1 to the 2005 Regulations if an application for a licence or registration had been made under those Regulations; and
- (c) where, in any other case than those referred to in sub-paragraphs (a) and (b)—
  - (i) it would be the licensing authority by virtue of paragraph 1 of Schedule 1 to those Regulations if an application for a licence or registration is, or should have been, made under those Regulations, or
  - (ii) it would have been the licensing authority had not the requirements of regulation 9(1) or, as the case may be, 10(1) been disapplied by virtue of any of the provisions of, respectively, regulation 9(2) or 10(2) applying in the case concerned.

(8) The Executive shall be the enforcing authority for the 2005 Regulations in respect of the manufacture of ammonium nitrate blasting intermediate.

(9) A licensing authority which is a local authority shall be the enforcing authority for regulation 25 of the 2005 Regulations in the area of that local authority.

(10) The enforcing authority for regulation 6 of the 2005 Regulations where a person disposes of explosives or decontaminates explosive-contaminated items at a place other than at a site in relation to which a person has a licence to manufacture or store explosives under regulation 13 of the 2005 Regulations or is registered in respect of such storage under regulation 11 of those Regulations, shall be —

- (a) where the disposal or decontamination is carried out by, or on behalf of, a person who holds a licence granted by the Executive under those Regulations in a case in which the assent of the local authority was required under regulation 13(3) of those Regulations before the licence was granted, the Executive;
- (b) subject to sub-paragraph (a), where the local authority is by virtue of the Health and Safety (Enforcing Authority) Regulations 1998 the enforcing authority for the premises or part of premises at which the disposal or decontamination is carried out, the local authority; or
- (c) in any other case, the Executive.

(11) For the purposes of paragraphs (7) to (10), “ammonium nitrate blasting intermediate”, “disposes”, “licence”, “licensing authority”, “registered” and “site” have the same meanings as they are given by regulation 2(1) of the 2005 Regulations and “deemed licence” and “deemed registration” have the same meanings as they are given by regulation 27(19) of those Regulations.”.

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**(80)** [S.I. 1998/494](#), to which there are amendments not relevant to these regulations.

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### **The Quarries Regulations 1999**

**42.** For the definition of “explosives store” in regulation 2(1) of the Quarries Regulations 1999<sup>(81)</sup> (interpretation), substitute —

““explosives store” means a building, enclosed area or metal structure where explosives are stored under a licence granted or registration made under the Manufacture and Storage of Explosives Regulations 2005;”.

### **The Building Regulations 2000**

**43.** For paragraph 1 of Class 1 of Schedule 2 to the Building Regulations 2000<sup>(82)</sup> (exempt buildings and works), substitute —

“**1.** Any building in which explosives are manufactured or stored under a licence granted under the Manufacture and Storage of Explosives Regulations 2005.”.

### **The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004**

**44.**—(1) The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004<sup>(83)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation), for the definition of “safe and secure place” substitute —

““safe and secure place” means a safe and secure place within a site —

- (a) in relation to which a person is licensed to manufacture or store explosives under regulation 13 of the Manufacture and Storage of Explosives Regulations 2005 or is registered in respect of such storage under regulation 11 of those Regulations, or
- (b) in respect of which a certificate of exemption has been granted under the Explosives Act 1875 (Exemption) Regulations 1979<sup>(84)</sup>;”.

(3) Paragraph 5 of Schedule 13 (consequential amendments) is omitted.

### **The Health and Safety (Fees) Regulations 2005**

**45.**—(1) The Health and Safety (Fees) Regulations 2005<sup>(85)</sup> are amended as follows.

(2) In paragraph (2) of regulation 1 (citation, commencement and interpretation), for the definition of “renewal of approval” and “renewal of licence” substitute —

““renewal of approval”, “renewal of explosives certificate”, “renewal of licence” or “renewal of registration” means respectively the granting of an approval, explosives certificate, licence or registration to follow a previous approval, explosives certificate, licence or registration without any amendment or gap in time; and”.

(3) In regulation 9 (fees payable under the Explosives Act 1875<sup>(86)</sup> and instruments made thereunder, under the Petroleum (Consolidation) Act 1928<sup>(87)</sup>, the Petroleum (Transfer of Licences) Act 1936<sup>(88)</sup> and the Classification and Labelling of Explosives Regulations 1983<sup>(89)</sup>), substitute —

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<sup>(81)</sup> S.I. 1999/2024, to which there are amendments not relevant to these Regulations.

<sup>(82)</sup> S.I. 2000/2531, to which there are amendments not relevant to these Regulations.

<sup>(83)</sup> S.I. 2004/568.

<sup>(84)</sup> S.I. 1979/1378.

<sup>(85)</sup> S.I. 2005/676.

<sup>(86)</sup> 1875 c. 17.

<sup>(87)</sup> 1928 c. 32.

<sup>(88)</sup> 1936 c. 27.

<sup>(89)</sup> S.I. 1983/1140, to which there are amendments not relevant to these Regulations.

- (a) after paragraph (1), insert —

“(1A) Where any application in relation to a provision specified in column 1 of Part 1A of Schedule 8 is made to the Executive, where it is the licensing authority by virtue of paragraphs 1(b) or (c) or 2 of Schedule 1 to the 2005 Regulations, for a purpose specified in column 2 of that Part, the fee specified in the corresponding entry in column 3 of that Part shall be payable by the applicant to the Executive, save that —

- (a) in the case of an application referred to in column 2 of that Part for a licence to manufacture ammonium nitrate blasting intermediate, or to vary any such licence, the fee —

(i) referred to in column 3 of that Part as an amount per hour, shall be adjusted pro rata for a period worked of less than one hour; and

(ii) shall be payable prior to notification of the result of the application.

(1B) Where any application under a provision specified in column 1 of Part 1B of Schedule 8 is made to a licensing authority, which is the licensing authority by virtue of paragraph 1(a) of Schedule 1 to the 2005 Regulations, for a purpose specified in column 2 of that Part, the fee specified in the corresponding entry in column 3 of that Part shall be payable by the applicant to that licensing authority.”.

- (b) for paragraph (3), substitute —

“(3) A fee shall be payable to the Executive where the Executive requires any work to be carried out by its specialist inspectors in connection with any application in respect of which a fee is payable by virtue of paragraphs (1) or (1A) for any purpose specified in column 2 of each of Parts 1 and 1A of Schedule 8 for which there is a corresponding entry in column 4 of the respective Part, and the fee for work in connection with each such purpose shall be that specified in the corresponding entry in column 4 of that Part for each hour worked, adjusted pro rata for a period worked of less than one hour, and such fee shall be payable prior to the notification of the result of the application.”;

- (c) in paragraph (4), for “entry (a)” substitute “the entry”;

- (d) in paragraph (6), for “Parts 3, 4 and 5” substitute “Parts 3 and 4”;

- (e) in paragraph (8) —

(i) for “Part 2” substitute “Parts 1B and 2”; and

(ii) for “the Notes to that Part” substitute “, respectively, the Notes to Parts 1B and 2”;

- (f) after paragraph (8), insert —

“(9) Where any application in relation to the provision specified in column 1 of Part 7 of Schedule 8 is made for a purpose specified in column 2 of that Part, the fee specified in the corresponding entry in column 3 of that Part shall be payable by the applicant to the chief officer of police.

(10) Where, in relation to an application for an explosives certificate under the Control of Explosives Regulations 1991<sup>(90)</sup>, a check is carried out for the purposes of regulation 4(6)(d) of those Regulations to ascertain whether the applicant is a prohibited person or not, a fee shall be payable by the applicant to the chief officer of police and the fee, which shall be payable prior to that check being carried out, shall be that specified in Table 2 to Part 7 of Schedule 8.

- (11) For the purposes of this regulation and Schedule 8 —

(a) “the 2005 Regulations” means the Manufacture and Storage of Explosives Regulations 2005;

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<sup>(90)</sup> S.I. 1991/1531, to which there are amendments not relevant to these Regulations.

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- (b) “ammonium nitrate blasting intermediate”, “licence”, “licensing authority”, “on-site mixing”, “registered” and “registration” have the same meanings as in the 2005 Regulations; and
- (c) “chief officer of police”, “explosives certificate” and “prohibited person” have the same meanings respectively as in the Control of Explosives Regulations 1991.”.

(4) In Schedule 8 (fees payable under the Explosives Act 1875 and instruments made thereunder, under the Petroleum (Consolidation) Act 1928, the Petroleum (Transfer of Licences) Act 1936 and the Classification and Labelling of Explosives Regulations 1983) —

- (a) in Part 1 (applications for factory licences, magazine licences, acetylene importation licences and amending licences under sections 6, 12 and 40(9) of the Explosives Act 1875 and replacement of such licences), omit the entries relating to sections 6 and 12 of the Explosives Act 1875; and
- (b) after Part 1, insert the following Parts —

“PART 1A

APPLICATIONS FOR LICENCES, OR VARIATIONS OF LICENCES, TO MANUFACTURE OR STORE EXPLOSIVES MADE TO THE EXECUTIVE WHERE IT IS THE LICENSING AUTHORITY BY VIRTUE OF PARAGRAPHS 1(b) OR (c) OR 2 OF SCHEDULE 1 TO THE MANUFACTURE AND STORAGE OF EXPLOSIVES REGULATIONS 2005

<i>1</i> <i>Provision in relation to which the application is made</i>	<i>2</i> <i>Purpose of application</i>	<i>3</i> <i>Fee</i>	<i>4</i> <i>Fee for work by Specialist Inspector</i>
<b>The Manufacture and Storage of Explosives Regulations 2005</b>			
Regulation 9, as extended by regulation 2(2) of those Regulations to the manufacture of ammonium nitrate blasting intermediate	Licence to manufacture explosives not being ammonium nitrate blasting intermediate nor relating to on-site mixing	£557	£ 115 per hour worked
	Licence to manufacture ammonium nitrate blasting intermediate	£137 per hour worked	
	Licence to manufacture explosives by means of on-site mixing	£205	£115 per hour worked

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<i>1</i> <i>Provision in relation to which the application is made</i>	<i>2</i> <i>Purpose of application</i>	<i>3</i> <i>Fee</i>	<i>4</i> <i>Fee for work by Specialist Inspector</i>
	Renewal of any of the above licences	£73	£115 per hour worked
Regulation 10	Licence to store explosives	£557	£115 per hour worked
	Renewal of licence	£73	£115 per hour worked
Regulation 16	Varying a licence — (a) to manufacture explosives not being ammonium nitrate blasting intermediate, or (b) to store explosives	£381	£115 per hour worked
	Varying a licence to manufacture ammonium nitrate blasting intermediate	£137 per hour worked	
Regulation 20	Transfer of licence	£47	
	Replacement of any of the licences referred to in this Part if lost	£47	

## PART 1B

### APPLICATIONS FOR LICENCES TO STORE EXPLOSIVES AND FOR REGISTRATION IN RELATION TO THE STORAGE OF EXPLOSIVES MADE TO LICENSING AUTHORITIES WHICH ARE LICENSING AUTHORITIES BY VIRTUE OF PARAGRAPH 1(a) OF SCHEDULE 1 TO THE MANUFACTURE AND STORAGE OF EXPLOSIVES REGULATIONS 2005

<i>1</i> <i>Provision under which application made</i>	<i>2</i> <i>Purpose of application</i>	<i>3</i> <i>Fee</i>
<b>The Manufacture and Storage of Explosives Regulations 2005</b>		
Regulation 10 (see Notes 1 to 3)	Licence to store explosives: (a) one year's duration (b) two years' duration	£100 £150

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<i>1</i> <i>Provision under which application made</i>	<i>2</i> <i>Purpose of application</i>	<i>3</i> <i>Fee</i>
	(c) three years' duration	£200
	Renewal of a licence:	
	(a) one year's duration	£75
	(b) two years' duration	£125
	(c) three years' duration	£175
Regulation 11 (see Notes 1 to 3 )	Registration in relation to the storage of explosives:	
	(a) one year's duration	£60
	(b) two years' duration	£90
	(c) three years' duration	£120
	Renewal of registration:	
	(a) one year's duration	£30
	(b) two years' duration	£60
	(c) three years' duration	£90
Regulation 16	Varying a licence:	
	(a) varying name of licensee or address of site	£30
	(b) any other kind of variation	the reasonable cost to the licensing authority of having the work carried out
Regulation 20	Transfer of licence or registration	£30
	Replacement of licence or registration referred to above if lost	£30

Notes:

1. The fee payable for —
  - (a) a licence,
  - (b) registration, or
  - (c) renewal of a licence or registration, of less than one year's duration shall be, respectively, the fee set out above for a licence, registration or a renewal of a licence or registration, of one year's duration decreased proportionately according to the duration of the period for which the licence, registration or renewal of either is granted.
2. The fee payable for—
  - (a) a licence,



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- (b) registration, or
- (c) renewal of a licence or registration, of more than one but less than two years' duration shall be, respectively, the fee set out above for a licence, registration or a renewal of a licence or registration of one year's duration increased proportionately according to the duration of the period for which the licence, registration or a renewal of either is granted.

**3. The fee payable for —**

- (a) a licence,
- (b) registration, or
- (c) renewal of a licence or registration,

of more than two but less than three years' duration shall be, respectively, the fee set above for a licence, registration or renewal of a licence or registration of two years increased proportionately according to the duration of the period for which the licence, registration, or renewal of either is granted.”;

- (c) in Part 2 (fee or maximum fee payable in respect of applications for the granting and renewal of an explosives store licence, the registration or renewal of registration of premises used for keeping explosives and the granting and transfer of petroleum-spirit licences), omit the entries relating to the Explosives Act 1875;
- (d) in Part 5 (miscellaneous applications), omit entry (b);
- (e) in Part 6 (further fees payable in respect of certain testing required by the Health and Safety Executive), omit entry (e);
- (f) after Part 6, insert —

**“PART 7**

**FEES FOR EXPLOSIVES CERTIFICATES UNDER THE CONTROL OF EXPLOSIVES REGULATIONS 1991**

**Table 1**

<i>1</i>	<i>2</i>	<i>3</i>
<i>Provision under which a fee is payable</i>	<i>Purpose of application</i>	<i>Fee</i>
Regulation 4 of the Control of Explosives Regulations 1991	Explosives certificate for acquiring and keeping explosives at a site in relation to which a person holds a registration	£165
	Renewal of the above certificate	£135
	Explosives certificate for acquiring and keeping explosives at a site in relation to which a person holds a licence for the storage of no	£175

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<i>1</i> <i>Provision under which a fee is payable</i>	<i>2</i> <i>Purpose of application</i>	<i>3</i> <i>Fee</i>
	more than 2000 kilograms of explosives	
	Renewal of the above certificate	£160
	Explosives certificate for acquiring and keeping explosives at a site in relation to which a person holds a licence for the storage of more than 2000 kilograms of explosives	£225
	Renewal of the above certificate	£200
	Replacement of any of the above certificates if lost	£30

**Table 2**

The fee for a check carried out for the purposes of regulation 4(6)(d) of the Control of Explosives Regulations 1991 shall be £5”

## SCHEDULE 6

Regulation 28(2) and (3)

### REPEALS AND REVOCATIONS

#### PART 1

#### REPEALS

<i>1</i> <i>Title</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of repeal</i>
Explosives Act 1875.	<a href="#">c.17.</a>	Sections 4 to 22, 24, 26 to 29, 35, 36, 38, 40 and 41.  In section 43, “, either absolutely, or except in pursuance of a license of the Health and Safety Executive under this Act”.  Sections 44 to 51, 58, 60, 63 and 64.

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<i>1</i> <i>Title</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of repeal</i>
		<p>In section 67, “except as hereafter in this section mentioned,” in paragraph (1), paragraph (4) and the word “and” preceding it.</p> <p>Sections 70 to 72, 77, 78 and 82.</p> <p>In section 83, the words “, and a Secretary of State may by order”, “or orders of the Secretary of State, as the case may be,” and the words from “The provisions of section 50” to the end.</p> <p>Sections 84 and 86.</p> <p>In section 91, the words from “Provided that” to “exceed one month”.</p> <p>In section 97, paragraphs (3) and (4) and the words from “Provided that” to the end.</p> <p>Sections 98 and 101.</p> <p>In section 102, the words from “A continuing certificate” to the end.</p> <p>Sections 103, 105 and 106.</p> <p>In section 108 —</p> <ul style="list-style-type: none"><li>(a) in the definition of “this Act”, the words “certificate, byelaw, regulation, rule,”;</li><li>(b) in the definition of “store”, the words “an existing gunpowder store as defined by this Act, or” and “licensed by a license granted by a local authority under this Act”;</li><li>and</li><li>(c) the definitions of “existing”, “factory magazine”, “harbour</li></ul>

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<i>1</i> <i>Title</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of repeal</i>
		authority”, “canal company”, “railway company”, “safety cartridges” and “Gunpowder Act 1860”.
		Section 109(11).
		In section 110, paragraph 2 and the word “and” preceding it.
		In section 111, paragraph (b) and the word “and” preceding it.
		Section 113.
		In section 114, paragraph (a).
		Schedule 1.
Explosives Act 1923.	<a href="#">c.17.</a>	The whole Act.
Acquisition of Land (Authorisation Procedure) Act 1946*.	<a href="#">c.49.</a>	In Schedule 4, the entry relating to the Explosives Act 1875.
National Parks and Access to the Countryside Act 1949*.	<a href="#">c.97.</a>	Section 80(5) and (6).
Fireworks Act 1951(91)*.	<a href="#">c.58.</a>	In section 1(1) and (2),  “, magazine” in each place where it occurs.  Sections 2(6), 4, 5(5) and 7. Section 3. In section 12(3), the words “three or”.  In section 13, the word “three”. Section 50(1) and (3).
Emergency Laws (Miscellaneous Provisions) Act 1953(92)*.	<a href="#">c.47.</a>	
London Government Act 1963*.	<a href="#">c.33.</a>	
Public Expenditure and Receipts Act 1968*.	<a href="#">c.14.</a>	In Schedule 3, entry number 4.

(91) The repeal of the provisions in sections 2 and 5 is effected under section 80(1) of the 1974 Act. Sections 4 and 7 are “existing statutory provisions” within the meaning of section 53 of the 1974 Act and are repealed by virtue of section 15(3)(a) of that Act.

(92) The repeal of the provisions in sections 12 and 13 is effected under section 80(1) of the 1974 Act. Section 3 is an “existing statutory provision” within the meaning of section 53 and is repealed by virtue of section 15(3)(a) of that Act.

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<i>1</i> <i>Title</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of repeal</i>
Port of London Act 1968*.	c.32.	Section 166.
Health and Safety at Work etc. Act 1974.	c.37.	In Schedule 1, the entries relating to the Explosives Act 1923, the Fireworks Act 1951 and the Emergency Laws (Miscellaneous Provisions) Act 1953.
Isle of Man Act 1979*	c.58.	In section 8(2)(b), the final “or”.
Roads (Scotland) Act 1984*.	c.54.	In Schedule 9, paragraph 7(2).
Merchant Shipping Act 1995*.	c. 21.	In Schedule 13, paragraph 5.
Criminal Procedure (Scotland) Act 1995*.	c.46.	In Schedule 5, the entries for the forms of complaint relating to — (a) the Explosives Act 1875, section 5; and (b) the Explosives Act 1875, section 22 and section 3, subsection (1), Mode B, of the Order in Council dated 26th October 1896.

## PART 2 REVOCATIONS

<i>1</i> <i>Title</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of revocation</i>
Order in Council (No. 1) Classifying Explosives.	5th August 1875 (Rev. VII, p.1).	The whole Order.
Order in Council (No. 2) Making General Rules for Factories for Explosives other than Gunpowder.	27th November 1875 (Rev. VII, p.10).	The whole Order.
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).	The whole Order.
Order in Council (No. 4) Relating to Small Firework Factories.	27th November 1875 (Rev. VII, p.14).	The whole Order.

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<i>1</i> <i>Title</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of revocation</i>
Order in Council (No. 5) Relating to Stores for Gunpowder Exclusively.	27th November 1875 (Rev. VII, p.22).	The whole Order.
Order in Council (No. 6) Relating to Stores for Mixed Explosives.	27th November 1875 (Rev. VII, p.26).	The whole Order.
Order in Council (No. 9) Relating to the Sale of Explosive.	27th November 1875 (Rev. VII, p.39).	The whole Order.
Order in Council (No. 11) Respecting Notice to be Given of Accidents Connected with the Conveyance of Explosives other than Gunpowder.	27th November 1875 (Rev. VII, p. 42).	The whole Order.
Order of Secretary of State (No. 1) Applying General Rules to Floating Magazines for Gunpowder.	27th November 1875 (Rev. VII, p. 68).	The whole Order.
Order of Secretary of State (No. 2) Applying General Rules to Floating Magazines for Explosives other than Gunpowder, whether with or without Gunpowder.	27th November 1875 (Rev. VII, p. 70).	The whole Order.
Order of Secretary of State as to Notice by Applicant for Factory or Magazine Licence.	20th May 1876 (Rev. VII, p. 85).	The whole Order.
Order in Council (No. 6A)  Amending Order in Council (No.6) of the 27th November 1875 Relating to Stores Licensed for Mixed Explosives.	20th April 1883  (Rev.VII p. 34).	The whole Order.
Order in Council (No. 1A) Substituting New Provisions for those of Class 7 in the Order in Council of August 5, 1875, as to the Classification of Explosives.	12th December 1891  (noted Rev. VII, p.1).	The whole Order.
Order in Council (No. 15) Prohibiting Fireworks Consisting of or Containing Sulphur in Admixture with Chlorate of Potassium or other Chlorate.	S.R. & O. 1894/517.	The whole Order.

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<i>1</i> <i>Title</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of revocation</i>
Order in Council (No. 16) Repealing and Consolidating the Previous Orders Relating to Premises Registered for Mixed Explosives.	S.R. & O. 1896/964.	The whole Order.
Order in Council (No. 19) Relating to the Importation, Keeping, Conveyance, or Sale of Fireworks.	S.R. & O. 1905/8.	The whole Order.
Order in Council (No. 16A)  Varying the Order in Council (No.16) of October 26, 1896 Relating to Premises Registered for Mixed Explosives.	S.R. & O. 1906/380.	The whole Order.
Order in Council (No. 16B)  Amending Order in Council of October 26, 1896 (No. 16)  Relating to the Keeping of Mixed Explosives on Registered Premises.	S.R. & O. 1912/1861.	The whole Order.
Order in Council (No. 1B) Amending Order in Council of August 5, 1875 (No. 1) Relating to the Classification of Explosives.	S.R. & O. 1913/481.	The whole Order.
Order of Secretary of State (No. 2A) Amending Order of Secretary of State (No. 2) of November 1875 Applying General Rules to Floating Magazines for Explosives Other than Gunpowder.	S.R. & O. 1923/926.	The whole Order.
Order in Council (No. 2A) Amending the Order in Council of November 27, 1875 (No. 2), making General Rules for Factories for Explosives other than Gunpowder.	S.R. & O. 1923/1297.	The whole Order.
Order in Council (No. 3A) Amending the Order in Council of November 27, 1875 (No. 3) , as to Magazines for Explosives Other than	S.R. & O. 1923/1298.	The whole Order.

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<i>1</i> <i>Title</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of revocation</i>
Gunpowder, whether with or without Gunpowder.		
Order in Council (No. 4A) Amending the Order in Council of November 27, 1875 (No. 4) as to Small Firework Factories.	S.R. & O. 1923/1299.	The whole Order.
Order in Council (No. 6D) Amending the Order in Council of November 27, 1875 (No. 6), as to Stores Licensed for Mixed Explosives.	S.R. & O. 1923/1300.	The whole Order.
Order of the Secretary of State (No. 10), Dated January 18, 1924, Relating to the Processes in which Young Persons May Be Employed in Danger Buildings.	S.R. & O. <a href="#">1924/55</a> .	The whole Order.
Order of the Secretary of State (No. 11), Dated September 20, 1924, Making Byelaws as to the Conveyance of Explosives on Roads, and in Certain Special Cases.	S.R. & O. <a href="#">1924/1129</a> .	The whole Order except paragraph 3 and the second paragraph of paragraph 5.
Order in Council (No. 27) (the Explosives (Di-Nitro-Phenol and Di-Nitro-Phenolate) Order, 1927.	S.R. & O. 1927/594.	The whole Order.
Order in Council (No. 29) (The Liquid Oxygen Explosives Order, 1928).	S.R. & O. 1928/1045.	The whole Order.
Order of Secretary of State (No. 11A), Dated December 11, 1939, Relating to the Conveyance of Detonators and Electric Detonators with other Explosive.	S.R. & O. 1939/1787.	The whole Order.
Order of Secretary of State (No. 11C), Dated August 24, 1943, Making a Byelaw Relating to the Conveyance of Explosives in a Carriage or Boat whilst Carrying or Plying for Public Passengers.	S.R. & O. 1943/1252.	The whole Order.
Order of Secretary of State (No. 11D), Dated February 7,	S.R. & O. 1944/139.	The whole Order.



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<i>1</i> <i>Title</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of revocation</i>
1944, Altering the Byelaws Relating to the Conveyance of Detonators and Electric Detonators with other Explosive and to the Quantity of Explosive which may be Conveyed in any one Carriage.		
The Conveyance of Explosives Byelaws 1951.	<a href="#">S.I. 1951/869.</a>	The whole Byelaws.
The Stores for Explosives Order 1951.	<a href="#">S.I. 1951/1163.</a>	The whole Order.
The Magazines for Explosives Order 1951.	<a href="#">S.I. 1951/1164.</a>	The whole Order.
The Stores for Explosives Order 1953.	<a href="#">S.I. 1953/1197.</a>	The whole Order.
The Conveyance of Explosives Byelaws 1958.	<a href="#">S.I. 1958/230.</a>	The whole Order.
The Keeping of Fireworks Order 1959.	<a href="#">S.I. 1959/1311.</a>	The whole Order.
The Ammonium Nitrate Mixtures Exemption Order 1967.	<a href="#">S.I. 1967/1485.</a>	The whole Order.
The Classification and Labelling of Explosives Regulations 1983.	<a href="#">S.I. 1983/1140.</a>	Regulation 11.
The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004.	<a href="#">S.I. 2004/568.</a>	Paragraph 5 of Schedule 13.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations make new provision for licensing the manufacture and storage of explosives and for registration in respect of the storage of explosives. As such, they repeal a large number of provisions contained in the Explosives Act 1875 (“the 1875 Act”) and instruments made under it, which provided the framework for the regulatory regime in relation to the manufacture and storage of explosives before these Regulations.

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2. As before, a person wishing to manufacture or store explosives requires a licence to do so (regulations 9 and 10). This requirement is subject to the disapplications included in regulations 9 and 10. An application for a licence should be made to a licensing authority on a form approved by the Health and Safety Executive (“the Executive”) (regulation 12).

3. Where only a certain amount of explosives is to be stored, a person can apply to a licensing authority for registration in respect of that storage, instead of seeking a licence for it (regulation 11).

4. “Licensing authority” is defined by regulation 2(1) and Schedule 1; it means, in relation to registration or the storage of no more than 2000 kilograms of certain explosives, the chief officer of police or, where the explosives to be stored are of a type listed in Schedule 1 to the Control of Explosives Regulations 1991 (S.I. 1991/1531), the local authority for the area where the storage is to take place, or the Executive when the explosives are to be stored at a mine or a harbour. The Executive is the licensing authority in any other case.

5. The definition of explosive in regulation 2(1) does not include acetylene, which continues to be regulated as before under provisions of the 1875 Act and instruments made under it. The document called the United Nations Recommendations, which the definition of “explosive” refers to, and the Manual of Tests and Criteria, third edition, which supports those Recommendations, can be obtained from the Stationery Office Ltd., Books Sales and Service, P.O. Box 276, 51, Nine Elms Lane, London, SW8 5DR.

6. Subject to certain disapplications, a person wishing to store explosives must maintain the relevant separation distance prescribed by Schedule 2 between a store and buildings and other places not on the site where the storage takes place (regulation 5). “Separation distance” is defined in regulation 2(1).

7. In certain cases where the Executive is the licensing authority, the assent of the local authority is required before a licence is granted (regulations 13(3) and (4) and 14).

8. Grounds for refusing or varying a licence or registration are set out in, respectively, regulations 15 and 16. The grounds for revoking a licence or registration are set out in regulation 17. A person may appeal against a refusal or revocation of registration (regulation 19). Licences and registration may be transferred (regulation 20).

9. A licensing authority is required to maintain a register on certain information relating to licences or registrations granted or made by it (regulation 22 and Schedule 4).

10. Prohibitions concerning explosives are contained in regulations 24 and 25. Power to grant exemptions from the requirements or prohibitions imposed by the Regulations is included under regulation 26. Regulation 27 contains savings and transitional provisions so that, for example, licences granted under the Explosives Act 1875 which are valid immediately before the coming into force of these Regulations continue in force on their existing terms subject to any variation, revocation or expiry on their expiry date.

11. Amendments to legislation are made by regulation 28(1) and Schedule 5. Repeals and revocations of legislation are made by regulation 28(2) and (3) and Schedule 6.

12. The Regulations also amend the Health and Safety (Fees) Regulations 2005 (S.I. 2005/676), so as to include fee provisions in those Regulations for the new licensing and registration provision made by these Regulations. The amendments also add fees in relation to the issue of explosives certificates under the Control of Explosives Regulations 1991 (regulation 28(1) and Schedule 5, paragraph 45).

13. A copy of the regulatory impact assessment in respect of these Regulations can be obtained from the Health and Safety Executive, Rose Court, 2 Southwark Bridge, London, SE1 9HS. A copy has been placed in the Library of each House of Parliament.

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