
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 87

**The Explosives in Harbour Areas
Regulations (Northern Ireland) 1995**

PART II

ENTRY OF EXPLOSIVES INTO HARBOUR AREAS

Notice of entry of explosives

4.—(1) into Subject to paragraphs (4) and (5), explosives shall not be brought a harbour or harbour area unless—

- (a) in the case of a vessel, the master or agent, or
- (b) in the case of any other mode of transport, the operator,

has given to the harbour master and, if the explosives are to be brought to a berth, to the berth operator, notice containing the particulars referred to in paragraph (3) not less than 24 hours, or such longer time in respect of both notices as the harbour master may for operational reasons require but which shall not exceed 14 days, before the explosives are brought in or, if it is not reasonably practicable to give 24 hours notice, such shorter time in respect of both notices as the harbour master and berth operator may together agree.

(2) Where a vessel carrying explosives is to enter a harbour area not to load or unload there but on the way to loading or unloading in an overlapping harbour area or in an abutting harbour area, then the notice required under paragraph (1) shall be given to the harbour master of that harbour area and to the harbour master and, if the explosives are to be brought to a berth, to the berth operator of that overlapping or abutting harbour area.

(3) Any notice required under paragraph (1) may be given up to six months in advance and shall be in writing or in such other form as the harbour master may agree and shall contain such information as is adequate to evaluate the risk created by the explosives to the health and safety of any person and, in the case of a notice given by the master or agent of a vessel, where the International Maritime Organisation recommends that the vessel should have a certificate of fitness, shall in addition state whether it has a current certificate of fitness.

(4) Notice need not be given under paragraph (1) in respect of—

- (a) explosives carried by a vessel which is to pass through the harbour area and will not load or unload either in that harbour area or in an overlapping harbour area or in an abutting harbour area;
- (b) explosives carried by a British or foreign warship; or
- (c) without prejudice to sub-paragraph (b), explosives carried by any other vessel in the service of the Crown, where either—

- (i) the master of the vessel has informed the harbour master that the quantity of explosives carried is within the limit of any conditions to which the entry into or

the carrying or handling within the harbour or harbour area of explosives will be subject, or

- (ii) those explosives are for use at sea and no handling of the explosives takes place while the vessel is in the harbour or harbour area.

(5) Where it appears to a harbour master necessary for securing the health or safety of any person, he may exempt any person from the prohibition in paragraph (1) in so far as it relates to the giving of notice to him or to a berth operator in his harbour or harbour area and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time.

(6) A harbour master granting or revoking an exemption shall make a record thereof as soon as is reasonably practicable thereafter including any conditions and limit of time attached thereto, and a copy shall be sent as soon as practicable to the Secretary of State and the Chief Constable but, in any event, before the exemption has effect.

Harbour master's powers of prohibition, removal and regulation relating to explosives

5.—(1) Subject to paragraph (7) and without prejudice to any powers that may be given to him by byelaws made under regulation 34, a harbour master may, if in his opinion the condition of any explosives is such as to create a risk to the health or safety of any person and having regard to the matters set out in paragraph (3), give directions as set out in paragraph (5) to the person having control of those explosives or of any freight container or receptacle containing those explosives or of any vehicle or vessel carrying those explosives.

(2) Subject to paragraph (7) and without prejudice to any powers that may be given to him by byelaws made under regulation 34, a harbour master may if in his opinion the condition of—

- (a) any freight container or receptacle containing explosives;
- (b) any vehicle or vessel carrying explosives,

is such as to create a risk to the health or safety of any person from those explosives and having regard to the matters set out in paragraph (3) give directions as set out in paragraph (5) to the person having control of that freight container, receptacle, vehicle or vessel or of any explosives contained or carried therein.

(3) In determining whether to give any directions under paragraph (1) or (2) in any particular case, a harbour master shall have regard to all the circumstances of that case and, in particular, he shall have regard to the safety of any person, whether that person is within or outside the harbour or harbour area.

- (a) (4) (a) Where a harbour master has given directions under paragraph (1) or (2) or both, the Secretary of State may, for the purposes of ~securing the safety of any person, give directions to that harbour master requiring him to give such other directions under this paragraph as may be specified by the Secretary of State.
- (b) The directions given by the harbour master under this paragraph shall be given to such person having control of explosives or of a freight container or receptacle containing explosives or of a vehicle or vessel carrying explosives as may be specified by the Secretary of State and shall concern such of the matters set out in paragraph (5) as may be specified by the Secretary of State and when given shall cause the directions originally given by the harbour master under paragraph (1) or (2) or both to cease to have effect.

(5) The directions referred to in paragraphs (1), (2) and (4) may—

- (a) regulate or prohibit the entry into;
- (b) require the removal from;
- (c) regulate the handling, movement or position within;

the harbour or harbour area of those explosives, freight container, receptacle, vehicle or vessel.

(6) Where the harbour master intends to give a direction requiring explosives to be removed by land from the harbour or harbour area, he shall, before giving the direction, consult the Chief Constable.

(7) A person to whom directions are given under this regulation shall comply with those directions.

(8) Paragraphs (1) and (2) shall not apply to any vessel in the service of the Crown or to any explosives, freight container or receptacle being carried by such a vessel.

(9) A harbour master shall not by virtue of this regulation be under any duty to examine the condition of any explosives, freight container, receptacle, vehicle or vessel.

(10) Directions may be given by the harbour master under paragraphs (1) and (2) in any such reasonable manner as he may think fit.

Need for an explosives licence

6. A person shall not—

- (a) bring any explosive into a harbour or harbour area;
- (b) carry or handle any explosive within a harbour or harbour area; or
- (c) load or unload any explosive in circumstances to which this regulation applies by virtue of regulation 3(1),

unless there is in existence an explosives licence permitting that activity and the conditions attached to the licence are complied with.

Applications for explosives licences

7.—(1) An application for an explosives licence or for any alteration in the terms of an existing explosives licence shall be made to the Secretary of State and the applicant shall be—

- (a) in a case to which regulation 6(a) and (b) relates, the harbour authority or, if he informs the harbour authority of his intention, a berth operator; or
- (b) in a case to which regulation 6(c) relates, a person having an interest in the activities for which the licence is required,

and in either case the application shall be made in accordance with the procedure specified in Schedule 6 unless the Secretary of State otherwise agrees.

(2) The Secretary of State may make a charge for work carried out in connection with an application for an explosives licence or for any alteration in the terms of an existing licence of £254 plus £34 for each man-hour expended (excluding time spent in travelling and any typing, messenger or ancillary work) and that charge shall be payable by the applicant prior to the issue of the decision.

Consideration of licence applications

8.—(1) In considering an application for an explosives licence or for any alteration in the terms of an existing licence, the Secretary of State shall take account of any comments or objections received by him pursuant to paragraphs 3 and 5 of Schedule 6 and may reject the application altogether or may grant the licence or amending licence which may be subject to such conditions as he thinks fit and any such licence or amending licence may be with or without limit of time and may be varied or revoked in writing at any time.

(2) Nothing in paragraph (1) shall prevent the Secretary of State from granting a provisional explosives licence or a provisional amending licence in cases of urgency and any such licence or amending licence may have effect for a period of up to 6 months from the date on which it was granted unless revoked in writing by the Secretary of State before its date of expiry.