

**EXPLANATORY MEMORANDUM TO
THE EXPLOSIVES (AMENDMENT) REGULATIONS (NORTHERN IRELAND)
2008**

SR 2008 No. 491

1. This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument is to revoke the provisions relating to the prohibition on the storage of explosives overnight in the Explosives Regulations (Northern Ireland) 1970 and the fit and responsible person requirement in the Explosives (No. 2) Regulations (Northern Ireland) 1976.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 On the devolution of Policing and Justice, if unchanged, the law would require persons wishing to keep explosives in a store or registered premises to apply for an overnight storage exemption from the Secretary of State, as well as to the new Department for Justice for a licence or registration to keep explosives. This would result in increased bureaucracy for businesses. As the Police Service of Northern Ireland (PSNI) considers that the prohibition on the overnight storage of explosives is no longer necessary given the improvement in the security situation since 1970, regulation 10 of the Explosives Regulations (Northern Ireland) 1970 is revoked.

4.2 As part of the normalisation process, the PSNI is seeking to end its role in supervising the use of explosives at quarries. To facilitate this, it has requested that shot firers are subject to a more rigorous counter terrorist check and that the current statutory fit and responsible person assessment by the PSNI as required by the Explosives (No. 2) Regulations (Northern Ireland) 1976 is revoked.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 Regulation 10 of the Explosives Regulations (Northern Ireland) 1970 is a security measure which prohibits the holding of explosives in stores or registered premises between sunset and sunrise except under exemption by the Secretary of State. If, after the devolution of Policing and Justice, the provision remains, persons wishing to keep explosives overnight in a store or registered premises would have to apply to both the Secretary of State for a certificate of exemption (since the security of explosives will remain a reserved matter) and to the new Department of Justice for a licence or certificate of registration under the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006. This is considered to be an undesirable consequence of devolution. Given the improvement in the security situation since 1970, it is proposed to revoke the prohibition on the storage of explosives overnight in the 1970 Regulations.

7.2 At present it is PSNI policy that police officers take receipt of detonators on their delivery at quarries and retain control of them until shot firers are ready to use them in a blast. However, as part of the normalisation process, the PSNI is working towards reducing police presence at quarries as appropriate given local circumstances. As one of a number of measures to reassure the police that detonators can be entrusted to shot firers, they have requested that shot firers should be subject to the more rigorous counter terrorist check (done by way of administrative vetting) rather than the fit and responsible person test that is currently contained in the Explosives (No. 2) Regulations (Northern Ireland) 1976 (the Shot Firer Regulations). Therefore the statutory requirement that the police Area Commander is satisfied that the applicant is a fit and responsible person before the Secretary of State will grant a shot firer's licence will be revoked. At the same time as the revocation taking effect, shot firers will be subject to the administrative vetting process.

- *Consolidation*

7.3 The Northern Ireland Office is not proposing to consolidate this amendment with the principal Regulations at this time.

8. Consultation outcome

8.1 The Northern Ireland Office undertook a consultation exercise between August and October 2008 on the proposals to make Explosives (Amendment) Regulations. Invitations to comment were sent to individuals and bodies with an interest in the storage of explosives and the use of explosives at quarries. The Consultative Document was also placed on the NIO website. This consultation exercise produced 3 substantive responses. There were no objections to the proposals.

9. Guidance

9.1 Existing quarry operators and shot firers will be informed of the administrative vetting process when the Regulations have been laid before Parliament.

10. Impact

10.1 The impact on business is minimal.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The amendment to revoke the prohibition on the storage of explosives overnight in a store or registered premises unless a certificate of exemption has been granted by the Secretary of State will remove unnecessary bureaucracy on the devolution of Policing and Justice for all business, including small business.

12. Monitoring & review

12.1 The instrument will be reviewed when the Explosives Act (Northern Ireland) 1970 is reviewed.

13. Contact

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