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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 224**

**The Control of Explosives Precursors  
etc. Regulations (Northern Ireland) 2014**

**PART 2**

**Control of tier 1 substances and tier 2 substances**

**Control of tier 1 substances**

**3.—**(1) A person must not deal with a tier 1 substance except under, and in accordance with, a licence granted by the Secretary of State under regulation 5.

(2) A “tier 1 substance” means a substance mentioned in column 1 of the table in Schedule 1 or any mixture containing that substance, but does not include a mixture falling within the exception in column 2 of that table.

(3) A person deals with a tier 1 substance if that person—

- (a) supplies the substance;
- (b) acquires the substance;
- (c) imports the substance into Northern Ireland<sup>(1)</sup>;
- (d) possesses the substance; or
- (e) uses the substance.

(4) But a person (“P”) is not to be regarded as possessing or acquiring a tier 1 substance if—

- (a) the substance is being transported (including being loaded or unloaded and during breaks which are reasonably incidental to completing the journey within a reasonable length of time);
- (b) P is in possession of the substance only by reason of being—
  - (i) a carrier,
  - (ii) a person engaged in the work of loading or unloading, or
  - (iii) the occupier of a place it passes through while on the journey;
- (c) P is acting for purposes connected with P’s trade, business or profession; and
- (d) the substance is under the direction and control of the licence holder.

(5) Paragraph (1) does not apply to—

- (a) any department under the control of a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975<sup>(2)</sup>);
- (b) the armed forces of the Crown;

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<sup>(1)</sup> Under the Health and Safety at Work (Northern Ireland) Order 1978, and these Regulations, “Northern Ireland” includes the territorial sea adjacent to Northern Ireland.

<sup>(2)</sup> 1975 c. 26; there are no relevant amendments.

- (c) an inspector appointed under Article 21 of the 1978 Order, acting as such;
- (d) a police officer, acting as such; or
- (e) an authorised officer, acting as such.

### **Control of tier 2 substances**

4.—(1) Notwithstanding the prohibition in Article 4(1) of the Precursors Regulation, a member of the general public may deal with a tier 2 substance under, and in accordance with, the terms of—

- (a) a licence granted by the Secretary of State under regulation 5; or
- (b) a recognised non-NI licence.

(2) A “tier 2 substance” means a “restricted explosives precursor”<sup>(3)</sup> within the meaning of Article 3 of the Precursors Regulation, but in each case only if the substance or mixture is not a tier 1 substance.

(3) A member of the general public deals with a tier 2 substance if that person—

- (a) acquires the substance;
- (b) imports the substance into Northern Ireland;
- (c) possesses the substance; or
- (d) uses the substance.

### **Grant of licences**

5.—(1) The Secretary of State may grant a licence to—

- (a) any person to deal with a tier 1 substance;
- (b) a member of the general public to deal with a tier 2 substance.

(2) The Secretary of State may restrict the licence to one or more of the activities mentioned in regulation 3(3) or 4(3), as the case may be.

(3) The term for which a licence is granted must not exceed 3 years, but this does not affect—

- (a) a person’s right to apply for a further licence to take effect on expiry of that term; or
- (b) any power of the Secretary of State to amend, vary, suspend or revoke that licence before expiry of that term.

(4) A licence may be granted subject to such terms and conditions as may be specified in the licence.

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(3) Under Article 3(10) of the Precursors Regulation, a “restricted explosives precursor” means a substance listed in Annex I to the Precursors Regulation in a concentration higher than the corresponding limit value set out for that substance in that Annex, and includes a mixture or another substance in which the substance listed in that Annex is present in a concentration higher than the corresponding limit value, but in each case only if the substance or mixture is not excluded by Article 2(2) of the Precursors Regulation. Article 2(2) excludes: (a) any article, defined as an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition; (b) an article containing explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions, including (i) pyrotechnic equipment falling within the scope of Council Directive 96/98/EC (OJ L 46, 17/02/1997, p. 25–56) on marine equipment, and (ii) percussion caps intended specifically for toys falling within the scope of Council Directive 88/378/EEC (OJ L 187, 16/07/1988, p. 1–13) concerning the safety of toys; and (c) medicinal products, which in Northern Ireland will mean: (i) a medicinal product within the meaning of regulation 2 of the Human Medicines Regulations 2012 (S.I. 2012/1916), (ii) an investigational medicinal product within the meaning of regulation 2 of the Medicines for Human Use (Clinical Trials) Regulations 2004 (S.I. 2004/1031), (iii) a substance to which Part 12 of the Human Medicines Regulations 2012 or Part 6 of the Medicines for Human Use (Clinical Trials) Regulations 2004 applies by virtue of an order under section 104 or 105 of the Medicines Act 1968 (c. 67) (whether applying subject to exceptions or notifications or not and, in the case of an order under section 104, whether the substance is referred to in the order as a substance or an article), or (iv) a veterinary medicinal product within the meaning of regulation 2 of the Veterinary Medicines Regulations 2013 (S.I. 2013/2033).

(5) Before granting or amending a licence, the Secretary of State must consult the Chief Constable.

(6) In deciding whether to grant or amend a licence, the Secretary of State must have regard to all the circumstances of the case, including in particular—

- (a) the intended use of the substance;
- (b) the availability of alternative substances that would achieve the same purpose;
- (c) the proposed arrangements to ensure that the substance is kept securely;
- (d) any danger to public safety or public order that may be caused by the applicant dealing with the substance; and
- (e) whether the applicant is a fit and proper person to deal with the substance (and, in the case of an application by an organisation, whether the responsible person is a fit and proper person to be responsible for the substance).

(7) But if there are reasonable grounds for doubting the legitimacy of the intended use of a substance or the intentions of the user to use it for a legitimate purpose, the Secretary of State must refuse the application so far as it relates to that substance.

(8) A licence must—

- (a) be in a form approved by the Secretary of State; and
- (b) include a record of transactions for completion in accordance with regulations 12(7) and 13(3).

(9) The Secretary of State may amend, vary, suspend or revoke any licence.

(10) Where the Secretary of State makes a relevant decision, the Secretary of State must, as soon as reasonably practicable after the decision is made, send a notice to the affected person—

- (a) giving a brief description of the reason for the decision, unless it is not in the public interest to do so; and
- (b) informing the affected person of the right under regulation 7 to ask the Secretary of State to reconsider the decision.

(11) In this regulation—

“affected person” means the applicant or, for a decision to vary, suspend or revoke a licence, the licence holder; and

“relevant decision” means a decision to—

- (a) refuse an application for a licence;
- (b) grant an application for a licence subject to any terms or conditions;
- (c) refuse an application to amend a licence;
- (d) grant an application to amend a licence subject to any terms or conditions; or
- (e) vary, suspend or revoke a licence.

## **Applications**

**6.—**(1) An application for a licence or for the amendment of a licence is valid only if it complies with paragraphs (2) to (7).

(2) An application by an organisation in respect of a tier 1 substance must include details of a person who will be responsible for the substance under the licence (the “responsible person”).

(3) An application must—

- (a) be made on a form approved for that purpose by the Secretary of State;

- (b) contain the information required by that form;
  - (c) be made in a manner approved for that purpose by the Secretary of State (which may include a requirement that applications and accompanying documentation be submitted by electronic means);
  - (d) include the signature of the applicant;
  - (e) in the case of an application by an organisation, include the signature of the responsible person; and
  - (f) in the case of an application by an individual who is under the age of 18, include the signature of the applicant's parent or guardian.
- (4) An application must be accompanied by—
- (a) one of the documents specified in paragraph (5) which relates to—
    - (i) in the case of an application by an individual, the applicant,
    - (ii) in the case of an application by an individual who is under the age of 18, the applicant's parent or guardian, or
    - (iii) in the case of an application by an organisation, the responsible person;
  - (b) such further information or documentation as the Secretary of State may require; and
  - (c) the appropriate fee.
- (5) The documents are—
- (a) a valid United Kingdom passport, within the meaning of section 33(1) of the Immigration Act 1971<sup>(4)</sup>;
  - (b) a valid passport or national identity card issued by an EEA State;
  - (c) a valid passport issued by or on behalf of the authorities of any other country or territory outside the United Kingdom;
  - (d) a valid Great Britain or Northern Ireland photo-card driving licence;
  - (e) a valid UK biometric immigration document, issued in accordance with regulations made under section 5 of the UK Borders Act 2007<sup>(5)</sup>; or
  - (f) a valid electoral identity card issued in accordance with section 13C of the Representation of the People Act 1983<sup>(6)</sup>.
- (6) The appropriate fee is—
- (a) £100 where the application is for the grant of a licence in respect of one or more tier 1 substances, including where the application also relates to one or more tier 2 substances (but see sub-paragraph (b));
  - (b) £35 where—
    - (i) the application is for the grant of a licence in respect of one or more tier 1 substances, including where the application also relates to one or more tier 2 substances,
    - (ii) the applicant previously held a licence in respect of the tier 1 substance,
    - (iii) that previous licence was valid not more than 3 months before the day on which the application is made, and

(4) [1971 c. 77](#); this definition was inserted by paragraph 7 of Schedule 4 to the British Nationality Act [1981 \(c. 61\)](#) and amended by section 1(2) of the British Overseas Territories Act [2002 \(c. 8\)](#).

(5) [2007 c. 30](#). Section 5 of the UK Borders Act 2007 gives the Secretary of State power to make regulations concerning biometric immigration documents. The Secretary of State has the power to issue a biometric immigration document under regulation 13 of the Immigration (Biometric Registration) Regulations 2008 ([S.I. 2008/3048](#)). Regulation 13 has been amended by [S.I. 2009/819](#) and [S.I. 2012/594](#).

(6) [1983 c. 2](#); section 13C was inserted by section 4 of the Electoral Fraud (Northern Ireland) Act [2002 \(c. 13\)](#) and amended by section 17 of the Northern Ireland (Miscellaneous Provisions) Act [2014 \(c. 13\)](#).

- (iv) the arrangements relating to the storage or security of the tier 1 substance have not changed.
- (c) £35 where the application is for—
  - (i) the grant of a licence in respect of one or more tier 2 substances only, or
  - (ii) the amendment of any condition of the licence relating to the storage or security of a tier 1 substance;
- (d) £15 where the application is for—
  - (i) the amendment of a licence in respect of any tier 1 substances or tier 2 substances (other than the amendment mentioned in sub-paragraph (c)(ii));
  - (ii) the replacement of any lost, damaged or stolen licence.
- (7) The Secretary of State may require the applicant to provide additional information or documentation to—
  - (a) the Secretary of State; or
  - (b) an authorised officer.
- (8) The Secretary of State may carry out such investigations or checks as the Secretary of State thinks appropriate, including investigations and checks about—
  - (a) the applicant’s physical or mental health;
  - (b) the commission or alleged commission by the applicant of any offence (including cautions or convictions that are spent), whether in the United Kingdom or elsewhere.
- (9) In making the application, the applicant is deemed to have consented to—
  - (a) the carrying out of any investigations or checks that the Secretary of State thinks appropriate in order to decide the application; and
  - (b) the processing by any person of information about the applicant (including sensitive personal data) that needs to be processed by that person for or in connection with those investigations or checks.
- (10) The Secretary of State may provide in guidance under regulation 24 that the requirement for a signature under paragraph (3)(d), (e) or (f) may be satisfied by an electronic signature, subject to such terms and conditions as may be specified.
- (11) In this regulation—
  - “electronic signature” has the same meaning as in section 7(2) of the Electronic Communications Act 2000(7);
  - “parent or guardian” means a person who has who has parental responsibility for a child, within the meaning of Part 2 of the Children (Northern Ireland) Order 1995(8); and
  - “processing” and “sensitive personal data” have the same meaning as in the Data Protection Act 1998(9).

### **Internal review of decisions with regard to a licence**

- 7.—(1) This regulation applies if—
  - (a) the Secretary of State makes a relevant decision; and

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(7) 2000 c. 7.

(8) S.I. 1995/755; Part 2 was amended by section 1 of the Family Law Act (Northern Ireland) 2001 (c. 12); section 199 of the Civil Partnership Act 2004 (c. 33); paragraph 94 of Schedule 5 to the Constitutional Reform Act 2005 (c. 4); paragraphs 71 and 72 of Schedule 6, and paragraph 1 of Schedule 8, to the Human Fertilisation and Embryology Act 2008 (c. 22); and paragraph 24 of Schedule 6 to the Welfare Reform Act 2009 (c. 24) (not yet in force).

(9) 1998 c. 29.

- (b) within 28 days beginning on the day on which the affected person is notified of the decision, the affected person asks the Secretary of State to reconsider the decision.
- (2) The Secretary of State must carry out a review of the decision.
- (3) The provisions of regulation 6 (other than paragraphs (4) to (6)) apply to a request under this regulation as to an application under that regulation.
- (4) On conclusion of the review, the Secretary of State must either—
  - (a) confirm the relevant decision (whether on the same or different grounds);
  - (b) make such changes to the relevant decision as the Secretary of State thinks fit; or
  - (c) revoke the relevant decision.
- (5) Paragraphs (4) to (7) of regulation 5 apply to a decision under paragraph (4) as to a decision under that regulation.
- (6) The Secretary of State must send a notice to the affected person giving a brief description of the reason for the decision in paragraph (4), unless it is not in the public interest to do so.
- (7) “Relevant decision” and “affected person” have the meaning given in regulation 5.