

EXPLANATORY MEMORANDUM TO
THE MAKING AVAILABLE ON THE MARKET AND SUPERVISION OF
TRANSFERS OF EXPLOSIVES REGULATIONS (NORTHERN IRELAND)
2016

S.R. 2016 No. 366

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice (DOJ) to accompany the Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and Articles 17(1) to (6) and 55(2) of, and paragraphs 1(1) and (4), 5 and 14(1) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The purpose of the Statutory Rule is to transpose in Northern Ireland European Directive 2014/28/EU on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of transfers of explosives for civil uses (the recast Directive).
- 2.2 The intended effects of implementing the recast Directive are to improve the safety of civil explosives made available on the market by (i) ensuring that the obligations of all of the economic operators in the supply chain are clearer (and in particular, those of importers and distributors); (ii) adding to provisions on the traceability of civil explosives; and (iii) providing a more structured market surveillance regime.

3. Legislative Context

New Legislative Framework

- 3.1. The recast Directive on civil use explosives is one of 9 Directives that have been updated or recast as part of a European work package known as the New Legislative Framework (NLF). The NLF aims to improve market surveillance requirements across a range of products on the single market.
- 3.2. The approach taken to implement the recast Directive is to copy-out the obligations in the Directive where possible. A Transposition Note has been prepared and is attached as an Annex to this Memorandum.

4. Policy Background

- 4.1 The recast Directive, as with the other Directives being recast, applies the NLF's approach to the civil use explosives sector. The framework is a set of general principles and rules which aims to make legislation on the single market for goods clearer, more consistent and more effective. That is the main purpose of the recasting of various Directives. It is not intended to change the technical essential requirements of EU product legislation, but instead build on the existing systems to reinforce the

application and enforcement of legislation. The key changes under the recast Directive relate to a strengthening of the legal obligations on manufacturers, importers and distributors involved in placing civil use explosives on the single market. There is also a strengthening of the legal obligations on notified bodies who conformity assess products so that a CE mark can be applied. CE marking confirms that a notified body has tested that the explosive conforms to the relevant European standard and meets essential safety requirements. The UK currently has one Explosives Notified Body, the Health and Safety Laboratory (HSL).

- 4.2 The transposition means that some amendments to the existing regime for anyone who places an explosive within scope of the EU market for the first time; and for ongoing market surveillance thereafter. The civil use explosives within the scope of the directive are used in activities such as blasting at mines and quarries, or in offshore work.

5. Consultation

- 5.1 The DOJ carried out a targeted consultation on the proposals and no responses were received from consultees. This was reported to the Justice Committee on 22 September 2016.

6. Equality Impact

- 6.1 An Equality Impact Assessment (EQIA) was carried out in respect of the proposals. As no significant adverse impact on those listed under section 75 of the Northern Ireland Act 1998 was identified a full Equality Impact Assessment is not considered necessary.

7. Regulatory Impact and Financial Implications

- 7.1 An impact assessment was completed based on information taken from one undertaken on a UK wide basis by the Health and Safety Executive in Great Britain.
- 7.2 The impact on UK business is around £481k (ten-year present value). Manufacturers bear around 85% of the total monetised costs to business, mainly because of changes in requirements for notified bodies who test that the explosive conforms to the relevant European standard and meets essential safety requirements. This includes the one-off costs of conformity attestation for 'own-use' explosives mixed on-site, which will affect around 28 quarries and mines, and the ongoing costs of accreditation to the notified body that will be passed on to manufacturers in the form of an increase in the charge per approval, costed together at around £327k. The other monetised costs to business are one-off familiarisation costs for manufacturers, importers, and distributors, estimated at around £154k.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 There are no section 24 implications.

9. EU Implications

- 9.1 The Statutory Rule is essential to transpose the recast Directive.

10. Parity or Replicatory Measure

- 10.1. This is stand-alone legislation for Northern Ireland. In Great Britain the corresponding Statutory Instrument is the Explosives Regulations 2014 (Amendment) Regulations 2016 (S.I. 2016 No. 315).

11. Additional Information

- 11.1. This Statutory Rule will come into operation on 21 October 2016.

12. Contact Details

- 12.1. Any queries should be directed to DOJ, Firearms and Explosives Branch, Block B, Castle Buildings, Stormont Estate, Belfast, BT4 3SG.

Department of Justice
29 September 2016