

SCHEDULE 5

AMENDMENTS

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(1) —

- (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(2), 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(3) (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(4) (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(5) (exempted matter), for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

(1) S.R. & O. 1906/679.

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

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

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

(5) 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(6) 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(7) (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(8) (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(9) (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(10) 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,”.

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

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

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

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

(10) 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(11) (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(12) (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(13) 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 —

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

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

(13) 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(14) 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

(14) 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⁽¹⁵⁾ (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⁽¹⁶⁾ (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⁽¹⁷⁾ (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⁽¹⁸⁾ (modifications to the Explosives Act 1875) are revoked.

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

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

(17) S.I. 1993/208, to which there are amendments not relevant to these Regulations.

(18) S.I. 1993/2714.

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The Toys (Safety) Regulations 1995

39. In Schedule 3 to the Toys (Safety) Regulations 1995(**19**), 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(**20**) 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.

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

(20) 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(21) (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.”.

(21) [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(22) (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(23) (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(24) 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(25);”.

(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(26) 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(27) and instruments made thereunder, under the Petroleum (Consolidation) Act 1928(28), the Petroleum (Transfer of Licences) Act 1936(29) and the Classification and Labelling of Explosives Regulations 1983(30)), substitute —

(22) [S.I. 1999/2024](#), to which there are amendments not relevant to these Regulations.

(23) [S.I. 2000/2531](#), to which there are amendments not relevant to these Regulations.

(24) [S.I. 2004/568](#).

(25) [S.I. 1979/1378](#).

(26) [S.I. 2005/676](#).

(27) 1875 c. 17.

(28) 1928 c. 32.

(29) 1936 c. 27.

(30) [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⁽³¹⁾, 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;

(31) 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>
The Manufacture and Storage of Explosives Regulations 2005			
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>
The Manufacture and Storage of Explosives Regulations 2005		
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”