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STATUTORY INSTRUMENTS

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**2014 No. 1638**

**The Explosives Regulations 2014**

**PART 13**

**PLACING ON THE MARKET OF CIVIL EXPLOSIVES**

**Placing on the market of civil explosives**

- 39.**—(1) No person may place any civil explosives on the market unless—
- (a) the civil explosives satisfy such of the essential safety requirements as apply to those civil explosives; and
  - (b) the conformity of the civil explosives to the requirements of this Part has been attested in accordance with regulation 40; and
  - (c) the CE marking has been affixed to the civil explosives in accordance with regulation 42.
- (2) For the purposes of paragraph (1), civil explosives are to be treated as satisfying the essential safety requirements if they conform to any relevant national standard.
- (3) For the purposes of this regulation, “national standard” means a standard of a member State—
- (a) which transposes a relevant harmonised standard; and
  - (b) the reference number of which has been published by that member State pursuant to Article 4.1 of the Civil Uses Directive.
- (4) For the purpose of this regulation, civil explosives are placed on the market when they are first supplied or made available to any person with a view to their distribution or use within an EEA state<sup>(1)</sup> or are imported, except with a view to re-export, from outside the area of the EEA states, and “place on the market” is to be construed accordingly.
- (5) In this regulation, “the essential safety requirements” means the requirements listed in Schedule 9.

**Conformity attestation**

- 40.**—(1) For the purposes of regulation 39(1)(b), the procedure for attesting conformity of civil explosives to the requirements of this Part must be—
- (a) EC type examination (Module B) referred to in Annex II(1) together with—
    - (i) type conformity (Module C) referred to in Annex II(2), or
    - (ii) production quality assurance (Module D) referred to in Annex II(3), or
    - (iii) product quality assurance (Module E) referred to in Annex II(4), or
    - (iv) product verification (Module F) referred to in Annex II(5); or

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(1) Council Directive 93/15/EEC of 5th April 1993 applies in relation to the EEA by virtue of Decision No. 7/94 of 21st March 1994 of the EEA Joint Committee amending Protocol 47 and certain Annexes to the EEA Agreement (OJ No. L160, 28.6.1994, p.1).

(b) unit verification (Module G) referred to in Annex II(6).

(2) In paragraph (1), a reference to a numbered Annex is a reference to the Annex to the Civil Uses Directive so numbered as amended from time to time.

### **Notified bodies**

**41.**—(1) The Secretary of State may from time to time appoint in writing such qualified bodies as the Secretary of State thinks fit to be notified bodies for the purposes of this Part.

(2) An appointment under this regulation may relate to all or any description or class of civil explosives, may be subject to conditions or to limit of time, and may be revoked in writing at any time.

(3) For the purposes of this regulation a body is qualified if it meets the criteria set out in Annex III (minimum criteria to be taken into account by member States for the notification of bodies) or if it meets the assessment criteria laid down by a relevant harmonised standard.

(4) The Secretary of State must—

- (a) notify the Commission and the other EEA States of any body appointed under this regulation;
- (b) revoke the appointment of any such body if it appears to the Secretary of State that that body is no longer qualified; and
- (c) notify the Commission and the other EEA States of the revocation of any such appointment.

(5) A body appointed by the Secretary of State under this regulation, after agreeing with the applicant any fee in respect of the work to be undertaken by it, is to perform the functions of a notified body under the Civil Uses Directive.

(6) For the purposes of this regulation—

- (a) “notified body” means a body notified to the Commission by a member State pursuant to Article 6.2 of the Civil Uses Directive; and
- (b) the reference to a numbered Annex has the same meaning as in regulation 40(2).

### **CE marking**

**42.**—(1) For the purposes of regulation 39(1)(c), the CE marking is properly affixed if—

- (a) it is visible, easily legible and indelible; and
- (b) it is of a durable nature such that it will remain visible, easily legible and indelible during normal transport or storage; and
- (c) it is affixed either—
  - (i) to the civil explosives themselves, or, where that is not practicable,
  - (ii) to an identification plate which is attached to the civil explosives and which is so designed as to make its re-use impossible, or,
  - (iii) where neither of the above is practicable, to the packaging of the civil explosives; and
- (d) in the case of civil explosives which are subject to any EU Directive other than the Civil Uses Directive, the requirements imposed by virtue of that other Directive have also been complied with in respect of those civil explosives.

(2) No person may affix to any civil explosives the CE marking or any marking or inscription which is liable to be confused with the CE marking except by properly affixing the CE marking to civil explosives which satisfy the requirements of sub-paragraphs (a) and (b) of paragraph (1) of regulation 39.

- (3) The CE marking must be in the form shown in Schedule 10.