
STATUTORY INSTRUMENTS

2014 No. 1638

The Explosives Regulations 2014

PART 4

APPLICATIONS FOR AND GRANT OF AUTHORISATIONS

Application for and issuing of an explosives certificate to acquire or acquire and keep any relevant explosive

11.—(1) Subject to paragraphs (4) to (6), an application for an explosives certificate must be made to the chief officer of police for the relevant police force.

(2) An application for an explosives certificate must be in a form approved for the time being for the purposes of this regulation by the Executive.

(3) A chief officer of police must issue an explosives certificate to an applicant if satisfied that the applicant is a fit person to hold an explosives certificate in accordance with any terms of that certificate.

(4) This paragraph applies with respect to an explosives certificate which would, if granted, certify only that the holder is a fit person to acquire explosives and where the person who would be the holder is not resident in Great Britain or, in the case of a body corporate, does not have a registered office or any other office in Great Britain.

(5) Where paragraph (4) applies, the application for an explosives certificate may be made by a person resident in Great Britain who has knowledge of and control over any occasion when the person to whom the certificate would relate would acquire or use explosives.

(6) An application pursuant to paragraphs (4) and (5) must be made to the chief officer of police for the police area in which the person who makes the application resides or, in the case of a body corporate, has its registered office or, if it has no registered office, its principal office.

(7) The holder of an explosives certificate must inform the chief officer of police who issued it of any change in the holder's address or, where the holder is a body corporate or partnership, of its proper address for the purposes of section 46(4) of the 1974 Act, either before or immediately after any such change occurs.

Applications for licences to manufacture or store explosives

12. An application for a licence must be made to the licensing authority on a form approved for the time being for the purposes of this regulation by the Executive.

Grant of licences

13.—(1) A licence or a renewal of a licence may be granted—

- (a) where the licensing authority is a local authority, for such period not exceeding five years as the licensing authority determines;

- (b) where the licensing authority is the chief officer of police, the Executive or the ONR, for such period not exceeding five years as that licensing authority determines, save that, where the applicant for the licence or renewal of a licence has been granted an explosives certificate, the licence or renewal, as the case may be, may only be granted for any period not exceeding the due expiry date of that explosives certificate; or
- (c) for any period or without a time limit in a case—
 - (i) to which paragraph (3) applies; or
 - (ii) to which paragraph (3) does not apply by virtue of paragraph (4)(d), (e), (f), or (g); or
 - (iii) where the application is for a licence, or a renewal of a licence, relating only to the manufacture or storage of ammonium nitrate blasting intermediate.

(2) Subject to paragraph (3), the licensing authority must grant a licence or renewal of a licence unless any of the grounds for refusing to do so referred to in regulation 20 apply.

(3) Subject to paragraph (4), where the Executive or the ONR is the licensing authority in respect of an application for a licence the procedure set out in regulation 14 applies for obtaining the assent of—

- (a) the local authority, or
- (b) each local authority where the proposed site which is the subject of the application for a licence is situated partly within the area of one local authority and partly within the area of another,

and the Executive or the ONR, as the case may be, must refuse to grant the licence unless the local authority, or each local authority, as the case may be, has so assented.

(4) Paragraph (3) does not apply—

- (a) where—
 - (i) the application is for a licence to store no more than 2000 kilograms to which paragraph (a)(i) or (b) of the definition of “explosive” in regulation 2(1) applies; and
 - (ii) the applicant has not notified the relevant licensing authority that the separation distances which would be required by regulation 27 and Schedule 5 could not be complied with;
- (b) to an application for a licence relating to the manufacture of explosives by means of on-site mixing;
- (c) to an application for a licence relating to the manufacture or storage of ammonium nitrate blasting intermediate;
- (d) to an application for a licence relating to the manufacture or storage of explosives by a person who wishes to carry on such manufacture or storage within a part of a site where another person already holds a licence for the manufacture or storage of explosives; and either —
 - (i) the application relates to manufacturing or storage activities which would be permitted at that part of the site under the existing licence; or
 - (ii) in the opinion of the relevant licensing authority or a local authority whose assent would otherwise be required, no significant new health and safety issues are raised by the application;
- (e) to an application for a licence relating to the manufacture of explosives by a police force maintained pursuant to section 2 of the Police Act 1996⁽¹⁾ or sections 2 and 3 of the Police

(1) 1996 c.16; section 2 was amended by the Police Reform and Social Responsibility Act 2011 (c.13), Schedule 16, paragraph 4.

and Fire Reform (Scotland) Act 2012(2) for their operational purposes or the training of members of that police force in relation to those purposes;

- (f) to an application for a licence for the manufacture or storage of explosives at a site which, immediately before any grant of that application, is one which the disapplication in regulation 3(9) applies to and, in the opinion of the relevant licensing authority, no significant new health and safety issues are raised by the application; or
- (g) to an application for a licence to follow, without a gap in time, a licence in respect of which paragraph (3) did not apply by virtue of sub-paragraph (e) or (f) and, in the opinion of the relevant licensing authority, no significant new health and safety issues are raised by the application.

(5) Every licence must include conditions which specify—

- (a) the site and, within it, the places where the explosives may be stored, or, in the case of a licence to manufacture explosives, where they may be manufactured;
- (b) the hazard type, if any, the description and maximum amount of explosives which may be—
 - (i) stored or otherwise present, or
 - (ii) in the case of licence to manufacture explosives, manufactured,at any one time at any place so specified.

(6) In addition to the matters specified in paragraph (5), a licence which is granted by the relevant licensing authority in cases where the assent of the local authority was required pursuant to paragraph (3) or in cases where that assent was not required by virtue of paragraph (4)(b), (c), (d), (e), (f) or (g)—

- (a) must be granted subject to such conditions as the relevant licensing authority considers appropriate which relate to separation distances;
- (b) may be granted subject to such conditions as the relevant licensing authority considers appropriate which relate to—
 - (i) the construction, siting or orientation of any building (including any protective works around the building) where the activity will be carried on;
 - (ii) the activities which may be undertaken in specified buildings, rooms within those buildings, other structures or other places within the site; and
 - (iii) the manufacture and storage of the ingredients of explosives or articles or substances which are liable to ignite spontaneously or are flammable or otherwise dangerous in ways which could initiate or aggravate a fire or explosion,

and in this sub-paragraph—

“activity” means the manufacture or storage of explosives and includes any handling, on-site transport, testing, use and disposal of explosives and “activities” is to be construed accordingly; and

“construction” means the materials used in, and the design of, a building; and

- (c) may, where both the manufacture and storage of explosives at the same site was applied for, cover both that manufacture and storage for the purposes of, respectively, regulations 6 and 7.

(7) In addition to the matters specified in paragraphs (5) and (6), where a licensing authority grants a licence which relates to the storage of pyrotechnic articles at any site where those articles are to be offered for sale, the licensing authority may attach such conditions to the licence as it considers appropriate which relate to—

- (a) the storage and display of those articles in areas where they can be purchased;
- (b) the prevention of risk of fire arising in respect of those articles; and
- (c) the safe use of fire escapes in that area.

(8) Every person who, in a case to which paragraph (3) applies or a case to which that paragraph does not apply by virtue of paragraph (4)(c), (d), (e), (f) or (g) is granted a licence to manufacture or store explosives must ensure that the relevant licensing authority and the local planning authority in whose area the manufacture or storage takes place is, within 28 days of the licence being—

- (a) granted; or
- (b) varied in a way which affects the separation distances required to be maintained,

given a plan of the site and its immediate surrounding area showing the separation distances required to be maintained pursuant to the licence or varied licence.

(9) A licence granted pursuant to this regulation must be in a form approved for the time being for the purposes of this regulation by the Executive.

(10) In this regulation—

- (a) “local planning authority”, in relation to an area—
 - (i) in England and Wales has the same meaning as it has in Part I of the Town and Country Planning Act 1990⁽³⁾ save that, where there is more than one local planning authority, it means the district planning authority for the district; and
 - (ii) in Scotland means the council for the local government area;
- (b) “on-site mixing” means the mixing at any place of non-explosive substances or preparations to form an explosive for immediate use at that place; and
- (c) “relevant licensing authority” means the Executive or the ONR (as the case may be).

Local authority assent procedure in relation to licence applications

14.—(1) Where this regulation applies by virtue of regulation 13(3), the relevant licensing authority must, subject to regulation 20, issue the applicant with a draft licence containing the conditions which that licensing authority proposes to attach to the licence.

(2) The applicant must as soon as reasonably practicable send a copy of the application and draft licence to the local authority in whose area the manufacture or storage is proposed to take place.

(3) Within 28 days of sending to the local authority the information specified in paragraph (2), the applicant must—

- (a) cause to be published in a newspaper circulating in the locality where the manufacture or storage of explosives is proposed to take place a notice which must—
 - (i) give details of the application;

(3) 1990 c.8. Part 1 of the Town and Country Planning Act 1990 has been amended by the Planning and Compensation Act 1991 (c. 34), Schedule 7, paragraph 9, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), Schedule 21, paragraphs 28 and 29, the Local Government (Wales) Act 1994 (c.19), sections 18 and 19 and Schedule 18, the Environment Act 1995 (c.25), section 67 and Schedule 10, paragraph 32, Schedule 22, paragraph 42, and Schedule 24, the Greater London Authority Act 1999 (c.29), Schedule 34, the Public Audit (Wales) Act 2004 (c.23), Schedule 2, paragraph 13, the Greater London Authority Act 2007 (c.24), sections 31, 32 and 35, the Local Government and Public Involvement in Health Act 2007 (c.28), Schedule 28, the Housing and Regeneration Act 2008 (c.17), Schedule 8, paragraph 52, and Schedule 16, the Planning Act 2008 (c.29), section 190, the Localism Act 2011 (c.20), Schedule 9, paragraph 3, and Schedule 22, paragraphs 30 to 32, the Growth and Infrastructure Act 2013 (c.27), section 28, Schedule 1, paragraphs 1 and 2, and Schedule 2, paragraph 2. The amendments made by the Greater London Authority Act 1999, the Leasehold Reform, Housing and Urban Development Act 1993 and Schedule 22 to the Localism Act 2011 are not yet in force. Functions of the Secretary of State, so far as exercisable in relation to Wales, have been transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

- (ii) invite representations on matters affecting the health and safety of persons other than the applicant's employees to be made in writing to the local authority within 28 days of the date that the notice is first published; and
 - (iii) give an address within the area of the local authority at which a copy of the application and draft licence may be inspected and the address of the local authority to which any representations must be sent; and
- (b) take other reasonable steps to give that information to every person who resides or carries on a business or other undertaking within the public consultation zone.
- (4) The local authority must send a copy of any representations referred to in paragraph (3)(a)(ii) to the applicant as soon as reasonably practicable after receiving them.
- (5) In considering whether to assent, the local authority must have regard only to health and safety matters.
- (6) Subject to paragraph (7), the local authority must, before deciding whether to assent to the application, hold a public hearing within 4 months of the date of its receipt of the copy of the application and draft licence referred to in paragraph (2).
- (7) If, after the period of 28 days referred to in paragraph (3)(a)(ii) has elapsed, the local authority has received no objection to the application, or has only received objections which in its opinion are frivolous or immaterial, it may assent to the application without holding a hearing.
- (8) Not less than 28 days before the hearing referred to in paragraph (6), the local authority must publish notice of the date, time and place fixed for the hearing in a newspaper circulating in the locality and send a copy of the notice to—
 - (a) the applicant;
 - (b) any person who made representations referred to in paragraph (3)(a)(ii); and
 - (c) the relevant licensing authority,within 7 days from its publication.
- (9) The local authority must notify the applicant and the relevant licensing authority of its decision within 7 days of making it.
- (10) If the local authority fails to—
 - (a) send a copy of the notice referred to in paragraph (8) to the relevant licensing authority within 3 months from the date that a copy of the application and draft licence was sent to it pursuant to paragraph (2); or
 - (b) notify the relevant licensing authority of its decision in accordance with paragraph (9), within 2 months from the date of publication of the notice referred to in paragraph (8),that licensing authority may make a written request to the local authority for it to state in writing whether it assents to the application.
- (11) If the local authority does not respond to the written request within 28 days from the date of the request, the local authority is deemed to have assented to the application.
- (12) The applicant must pay a fee to the local authority for the performance by that authority of their functions under this regulation, which fee must not exceed the sum of the costs reasonably incurred by that authority in performing those functions.
- (13) In this regulation—
 - (a) “applicant” means the applicant for a licence or variation of a licence, as the case may be, and “application” means that person’s application; and
 - (b) “relevant licensing authority” has the meaning given in regulation 13(10)(c).

Registers and retention of documents

15.—(1) The licensing authority must—

- (a) maintain a register in accordance with Schedule 4;
- (b) keep a copy of any licence granted by it (together with a copy of the application for the licence) for as long as the licence remains valid; and
- (c) (except where the Executive is the licensing authority), send to the Executive on request a copy of any part of the register or other document specified in this paragraph within such time as the Executive may direct.

(2) For the purposes of this regulation and Schedule 4, in the case to which regulation 3(9) applies disapplying regulations 6, 7, 12 to 14, 16 to 18, 20, 23 and 27, any reference to—

- (a) the licensing authority or licensee is to be construed as a reference to the Secretary of State having responsibility for defence;
- (b) any licence granted is to be construed as a reference to the scheme referred to in regulation 3(9);
- (c) separation distances is to be construed as a reference to the separation distances prescribed in the scheme approved by the Secretary of State having responsibility for defence.