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STATUTORY RULES OF NORTHERN IRELAND

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**2006 No. 425**

The Manufacture and Storage of Explosives  
Regulations (Northern Ireland) 2006

PART IV

PROHIBITIONS CONCERNING CERTAIN  
EXPLOSIVES AND MISCELLANEOUS PROVISIONS

**Prohibition concerning the manufacture and storage of certain explosives**

23.—(1) Subject to paragraph (2), a pyrotechnic which consists of—

- (a) sulphur; or
- (b) phosphorus,

mixed with chlorate of potassium or other chlorates or which contains any such mixture shall not be manufactured or stored.

(2) This regulation does not apply to any pyrotechnic named in a list, approved by the Health and Safety Executive established under section 10 of the Health and Safety at Work etc Act 1974<sup>(1)</sup>, of pyrotechnics falling within the description referred to in paragraph (1).

**Prohibition concerning the acquisition and supply of fireworks**

24.—(1) A person shall not—

- (a) acquire more than 50 kilograms of fireworks unless he (“Person A”) or another person produces a valid licence or certificate of registration for the storage by Person A of those fireworks; or
- (b) sell or otherwise transfer to any person (“Person B”) more than 50 kilograms of fireworks unless Person B produces a valid licence or certificate of registration for the storage by Person B of those fireworks, to the person selling or otherwise transferring the fireworks.

(2) This regulation does not apply to a person who is transporting fireworks on behalf of another person.

**Power to grant exemptions**

25.—(1) Subject to paragraph (2), the Secretary of State may, by a certificate in writing, exempt any person or class of persons or any explosive or class of explosives from any requirement or prohibition imposed by these Regulations, and any such exemption may be granted subject to such conditions and to a time limit and may be revoked by him in writing at any time.

(2) The Secretary of State shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

(a) the conditions, if any, which he proposes to attach to the exemption; and  
 (b) any other requirements imposed by or under any enactment which apply to the case,  
 he is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

(3) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing, exempt any of Her Majesty's Forces, any visiting force, any headquarters or any civilian employee or class of civilian employees of the Ministry of Defence from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a time limit and may be revoked by him in writing at any time.

### Savings and transitional provisions

**26.**—(1) A licence, amending licence or store licence granted under section 8, 12 or 15 of the 1875 Act or a licence granted under regulation 5 of the Explosives Regulations (Northern Ireland) 1970<sup>(2)</sup> which was valid immediately before the relevant date shall be deemed to be a licence granted under regulation 11 and shall continue in operation, notwithstanding the repeal by these Regulations of those provisions, on its existing terms and conditions, subject to—

- (a) any variation under regulation 15(1);
- (b) any variation for the purpose of requiring the licensee to maintain a separation distance greater than a separation distance which was required before the variation; or
- (c) its expiry on the date it was due to expire or its revocation under regulation 16, whichever is the sooner.

(2) A registration under section 21 of the 1875 Act which was valid immediately before the relevant date shall be deemed to be a registration under regulation 13 and shall continue in operation, notwithstanding the repeal by these Regulations of the said section 21, until the date it was due to expire or it is revoked, whichever is the sooner.

(3) Where the manufacture or storage of explosives at any place—

- (a) was immediately before the relevant date exempt from—
  - (i) the provisions of the 1875 Act by virtue of section 97 of that Act<sup>(3)</sup>; or
  - (ii) the requirement for a licence in respect of such manufacture or storage under that Act by virtue of an exemption certificate granted under the Explosives Act 1875 (Exemptions) Regulations (Northern Ireland) 1983<sup>(4)</sup>; and
- (b) is not manufacture or storage to which regulation 3(4) relates,

the person carrying on such manufacture or storage shall be deemed to hold a licence granted by the Secretary of State under regulation 11 with an expiry date of 1st December 2009.

(4) In a case to which paragraph (3) applies, regulation 11(4) shall not apply in relation to an application for a licence made to, and received by, the Secretary of State before 1st December 2009.

(5) In relation to the application of these Regulations to the manufacture of ammonium nitrate blasting intermediate by virtue of regulation 2(2), where a person is manufacturing any ammonium nitrate blasting intermediate on the relevant date, regulations 9, 11 and 14 to 22 shall not apply to that manufacture by that person until 1st December 2009.

(6) The requirements of regulation 5 and Schedule 1 shall not apply until 1st December 2009 to a police force storing explosives.

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(2) [S.R. & O. \(N.I.\) 1970 No. 110](#).

(3) [1875 c. 17](#) (38 & 39 Vict.); section 97 was amended by the [Statute Law Revision \(No. 2\) Act 1893](#) (56 & 57 Vict. c.14).

(4) [S.R. 1983 No. 326](#).

(7) The requirements of regulation 5 and Schedule 1 shall not apply until 1st December 2011 to a person who stores explosives in respect of which storage there is a deemed registration in operation on the relevant date.

(8) The requirements of regulation 5 and Schedule 1 shall not apply until 1st December 2009 to a person who stores explosives in respect of which storage there is a deemed licence in operation on the relevant date.

(9) A firearms dealer who has a Mode A deemed registration in operation on the relevant date may continue to store the quantity of explosives permitted by that registration until 1st December 2011.

(10) A person who—

- (a) has a deemed licence in respect of the storage of explosives; or
- (b) had a deemed licence which had expired and been replaced by a licence granted under regulation 11 in respect of that storage,

may apply at any time to the Secretary of State for a licence in respect of that storage, to replace that existing one, which provides for different separation distances to apply in respect of that storage from any which would otherwise apply on and after 1st December 2009 under regulation 5 and Schedule 1.

(11) The Secretary of State shall not grant a licence applied for pursuant to paragraph (10) unless he is satisfied that it would not be reasonably practicable for the applicant to comply with the separation distances required by regulation 5 and Schedule 1 to which the application relates.

(12) Where, on the relevant date, a person holds more than one deemed licence, each relating to the storage of explosive at separate places within the same site and the aggregate quantity of explosives allowed to be stored at that site pursuant to those deemed licences exceeds 2000 kilograms, that person shall apply before 1st December 2009 to the Secretary of State for a licence to replace those deemed licences for the storage of any explosives that he wishes to store at that site; and, on the date that a licence is granted pursuant to such an application, any such deemed licence shall be treated as revoked under regulation 16 as from that last mentioned date.

(13) Where, before the relevant date, a person would not have been required to apply for a licence under the 1875 Act because he was manufacturing or storing explosives in a part of premises already licensed under that Act to cover that manufacture or storage but, by virtue of regulation 9(1) or 10(1) he would need to hold a licence in respect of such manufacture or storage on and after that date—

- (a) he shall be deemed to hold a licence granted under regulation 11 containing the same conditions as the existing licence until 1st December 2009 or the expiry of that existing licence, whichever is the sooner; and
- (b) he shall have until that earliest date to apply for a licence under these Regulations in respect of such manufacture or storage carried on by him after that date.

(14) Regulation 11(4) shall not apply in relation to an application for a licence to which paragraph (10), (12) or (13) relates, except where—

- (a) if the licence applied for were to be granted, it would result in an increase in the quantity, or a change in the hazard type, of any explosive presently permitted at the site under a deemed licence; or
- (b) the application is received by the Secretary of State on or after 1st January 2007.

(15) Where an application for a licence pursuant to section 6 of the 1875 Act<sup>(5)</sup> has been made to, and received by, the Secretary of State before the relevant date and the application has not been refused nor has a licence been granted by that date, the application shall be deemed to be an application for a licence under these Regulations and the provisions of these Regulations shall apply

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(5) 1875 c. 17 (38 & 39 Vict.); section 6 was amended by the Local Government (Modifications and Repeals) (No. 2) Order (Northern Ireland) 1973 (S.R. & O. (N.I.) 1973 No. 341).

to the application, subject to paragraph (16) in relation to the application of any requirements of regulations 11(4) and 12 to any such licence application.

(16) In relation to the application of the requirements of regulations 11(4) and 12 to an application to which paragraph (15) relates—

- (a) a draft licence approved by the Secretary of State pursuant to section 6 of the 1875 Act before the relevant date shall be deemed to be a draft licence for the purpose of regulation 12(1);
- (b) where notice under section 7 of the 1875 Act in respect of the application and of the time and place at which the Secretary of State will be prepared to hear the applicant has been published before the relevant date—
  - (i) the provisions of regulation 12(2) and (7) relating to notices shall not apply; and
  - (ii) if the hearing to which the notice relates would be held or continue to be held on or after the relevant date, it may continue to be so held and it shall be deemed to be a hearing for the purpose of regulation 12;
- (c) where a notice under section 7 of the 1875 Act referred to in sub-paragraph (b) has not been published before the relevant date, regulation 12(2) shall have effect as if after “paragraph (2)” there were inserted “or within 28 days of the coming into operation of these Regulations, whichever is the later,”; and
- (d) a hearing held by the Secretary of State pursuant to section 7 of the 1875 Act before the relevant date shall be deemed to be a public hearing for the purposes of regulations 11(4) and 12 and the Secretary of State shall grant a licence under regulation 11 which accords with the draft licence approved by him pursuant to section 6 of the 1875 Act, subject to any amendments approved by him following representations made at that hearing.

(17) An application for an amending licence under section 12 of the 1875 Act which is made to and received by, but not decided by, the Secretary of State before the relevant date, shall be deemed to be an application for a variation of a licence under these Regulations and the provisions of these Regulations shall apply to the application accordingly.

(18) Despite the repeal by these Regulations of section 40 of the 1875 Act—

- (a) paragraphs (4) and (8) of that section shall continue to apply; and
- (b) paragraph (9) of that section (as it had effect before the commencement of Schedule 4 to the Placing on the Market and Supervision of Transfers of Explosives Regulations (Northern Ireland) 1993(6)) shall continue to apply to acetylene as it applied before the commencement of these Regulations.

(19) Notwithstanding the repeal by these Regulations of section 50 of the 1875 Act, Order in Council (No. 9) of 27th November 1875 relating to the Sale of Explosive(7) shall continue in operation.

(20) For the purpose of this regulation—

- (a) “deemed licence” means—
  - (i) any licence, amending licence or store licence deemed by virtue of paragraph (1) to be a licence granted under regulation 11; and
  - (ii) a licence deemed to be held by a person pursuant to paragraph (3);
- (b) “deemed registration” means a registration deemed by virtue of paragraph (2) to be a registration under regulation 13;
- (c) “licence under the 1875 Act” in paragraph (13) means either—

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(6) S.R. 1993 No. 488.

(7) Rev. VII, p 39.

- (i) a licence; or
  - (ii) an amending licence,
- granted under section 8 or 12 of the 1875 Act and “licensed under that Act” and “existing licence” shall be construed accordingly; and
- (d) “relevant date” means the date when these Regulations come into operation.

### **Repeals, revocations and amendments**

**27.**—(1) The primary legislation specified in Part 1 of Schedule 6 and the secondary legislation specified in Part 2 of that Schedule shall be amended in accordance with the provisions of that Schedule.

(2) The primary legislation specified in column 1 of Part 1 of Schedule 7 shall be repealed to the extent specified in column 3 of that Schedule.

(3) The secondary legislation specified in column 1 of Part 2 of Schedule 7 shall be revoked to the extent specified in column 3 of that Schedule.