

SCHEDULES

SCHEDULE 12

Article 10

Explosives

Explosives Act 1875

1.—(1) The Secretary of State's functions immediately before the coming into force of this Order under sections 43, 83 and 104 of the Explosives Act 1875(1) are transferred to the Department of Justice.

(2) Any power of the Department of Justice to make an order under any of those sections is to be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(3) An order made by the Department of Justice is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(4) Any function of the Secretary of State immediately before the coming into force of this Order under section 96 of the Explosives Act 1875 is transferred to the Department of Justice.

(5) In this Schedule references to the Explosives Act 1875 are to that Act in its application to Northern Ireland.

(6) The functions transferred by sub-paragraphs (1) and (4) include functions under any provision not yet in force at the time immediately before the coming into force of this Order (and a reference in those sub-paragraphs to an enactment includes a reference to the enactment as amended by any provision of an enactment or instrument passed or made before that time, but not yet in force).

Explosives Act (Northern Ireland) 1970

2.—(1) The Secretary of State's functions immediately before the coming into force of this Order under section 3 of the Explosives Act (Northern Ireland) 1970(2) (as extended by Article 3(1) of the Explosives (Northern Ireland) Order 1972(3)) are transferred to the Department of Justice.

(2) Any regulations made by the Department of Justice under section 3 of the 1970 Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(4)).

(3) Section 3(5) of the 1970 Act is omitted.

(4) The Secretary of State's function immediately before the coming into force of this Order under Article 3(2) of the 1972 Order is transferred to the Department of Justice.

(1) 1875 c. 17, as modified, in relation to functions of Her Majesty, by S.R. & O. 1922 No. 183; Schedule 1 to the [Irish Free State \(Consequential Provisions\) Act 1922](#) (Session 2 c. 2); Schedule 5 to the Northern Ireland Constitution Act 1973 (c. 36); Schedule 12 to the Northern Ireland Act 1998 (c. 47). Functions under the Act were transferred by S.I. 1973/2163. Section 43 was amended by the Customs and Excise Act 1952 (c. 44), Schedule 10; S.I. 1978/1885, Schedule 2, paragraphs 3 and 15; the Customs and Excise Management Act 1979 (c. 2), Schedule 4, paragraph 12; S.R. (N.I.) 2006 No. 425; and the Health and Safety (Offences) Act 2008 (c. 20) Schedule 3, paragraph 1. Section 83 was amended by S.R. (N.I.) 2006 No. 425. Section 96 was amended by S.I. 1974/1885. There are other amendments to the Act, but none are relevant.

(2) 1970 c.10 (N.I.) Section 3 was extended by S.I. 1972/730 (N.I. 3). Functions under section 3 were transferred by S.I. 1973/2163. Section 3 was amended by S.R. (N.I.) 2006 No. 425.

(3) S.I. 1972/730 (N.I. 3).

(4) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

Status: This is the original version (as it was originally made).

(5) The functions transferred by sub-paragraphs (1) and (4) include functions under any provision not yet in force at the time immediately before the coming into force of this Order (and a reference in those sub-paragraphs to an enactment includes a reference to the enactment as amended by any provision of an enactment or instrument passed or made before that time, but not yet in force).

Health and Safety at Work (Northern Ireland) Order 1978

3.—(1) Amend the Health and Safety at Work (Northern Ireland) Order 1978⁽⁵⁾ as follows.

(2) Omit Article 3(5).

(3) Omit Article 53.

(4) In Schedule 1 (existing statutory provisions) after paragraph 2 insert—

“3. The provisions of—

(a) the Explosives Act 1875,

(b) the Explosives Act (Northern Ireland) 1970, and

(c) the Explosives (Northern Ireland) Order 1972,

and of any regulations, orders or other instruments of a legislative character made or having effect under any of those provisions.”

Powers exercisable by the Secretary of State

4.—(1) For purposes connected with any reserved matter falling within paragraph 12 or 20 of Schedule 3 to the Northern Ireland Act 1998⁽⁶⁾ (reserved matters: firearms and explosives; import and export controls), the Secretary of State may continue to exercise the following functions (“transferred functions”)—

(a) any function that is transferred by paragraph 1(1) or 2(1) above;

(b) any power to make regulations that is transferred by virtue of paragraph 3 above.

(2) The Secretary of State may continue to exercise the function under Article 3(2) of the Explosives (Northern Ireland) Order 1972⁽⁷⁾ for the purposes of the power to make regulations under section 3 of the Explosives Act (Northern Ireland) 1970⁽⁸⁾ as exercisable by the Secretary of State by virtue of sub-paragraph (1) above.

(3) Any power of the Secretary of State by virtue of sub-paragraph (1) above to make orders or regulations is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽⁹⁾.

(4) Orders and regulations made by the Secretary of State are subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument; and section 5 of the Statutory Instruments Act 1946⁽¹⁰⁾ applies accordingly.

(5) Subject to what follows, sub-paragraphs (1) to (4) above do not affect the transfer of any function to a Northern Ireland department by or by virtue of any of paragraphs 1 to 3 above.

(6) The following regulations continue in effect as if made, by virtue of sub-paragraph (1) above, by the Secretary of State in the exercise of the relevant transferred function—

⁽⁵⁾ S.I. 1978/1039 (N.I. 9).

⁽⁶⁾ 1998 c. 47.

⁽⁷⁾ S.I. 1972/730 (N.I. 3).

⁽⁸⁾ 1970 c.10 (N.I.).

⁽⁹⁾ S.I. 1979/1573 (N.I. 12).

⁽¹⁰⁾ 1946 c. 36.

- (a) the Explosives Regulations (Northern Ireland) 1970(11);
- (b) the Explosives Regulations (Northern Ireland) 1971(12);
- (c) the Explosives Regulations (Northern Ireland) 1972(13);
- (d) the Explosives (No. 2) Regulations (Northern Ireland) 1972(14);
- (e) the Explosives (Amendment) Regulations (Northern Ireland) 1973(15);
- (f) the Explosives Regulations (Northern Ireland) 1973(16);
- (g) the Explosives (Amendment) (No. 2) Regulations (Northern Ireland) 1973(17);
- (h) the Explosives Regulations (Northern Ireland) 1974(18);
- (i) the Explosives Regulations (Northern Ireland) 1976(19);
- (j) the Explosives Regulations (Northern Ireland) 1977(20);
- (k) the Explosives Regulations (Northern Ireland) 1981(21);
- (l) regulation 21 of the Explosives in Harbour Areas Regulations (Northern Ireland) 1995(22);
- (m) the Marking of Plastic Explosive for Detection Regulations (Northern Ireland) 1996(23);
- (n) the Explosives (Amendment) Regulations (Northern Ireland) 1996(24);

and, so far as applicable to any of these regulations, the Secretary of State is treated as having exercised, by virtue of sub-paragraph (2) above, the function under Article 3(2) of the Explosives (Northern Ireland) Order 1972(25).

(7) So far as in effect immediately before the coming into force of this Order, any other order or regulations made in the exercise of a transferred function continue in effect as if made by the Department of Justice and, so far as applicable to any such regulations, the Department of Justice is treated as having exercised the function under Article 3(2) of the 1972 Order.

(8) The orders covered by sub-paragraph (7) include Orders in Council made under section 43, 83 or 104 of the Explosives Act 1875(26).

(9) The Secretary of State's functions—

- (a) under any regulations covered by sub-paragraph (6) are retained by the Secretary of State;
- (b) under any orders or regulations covered by sub-paragraph (7) are transferred to the Department of Justice.

(10) Orders and regulations made by Northern Ireland departments in the exercise of transferred functions have effect subject to orders and regulations made by the Secretary of State in the exercise of transferred functions.

(11) S.R. & O (N.I.) 1970 No. 110.

(12) S.R. & O (N.I.) 1971 No. 332.

(13) S.R. & O (N.I.) 1972 No. 118.

(14) S.R. & O (N.I.) 1972 No. 218.

(15) S.R. & O (N.I.) 1973 No. 171.

(16) S.R. & O (N.I.) 1973 No. 463.

(17) S.R. & O (N.I.) 1973 No. 474.

(18) S.R. (N.I.) 1974 No. 32.

(19) S.R. (N.I.) 1976 No. 51.

(20) S.R. (N.I.) 1977 No. 128.

(21) S.R. (N.I.) 1981 No. 31.

(22) S.R. (N.I.) 1995 No. 87.

(23) S.R. (N.I.) 1996 No. 262.

(24) S.R. (N.I.) 1996 No. 429.

(25) S.I. 1972/730 (N.I. 3).

(26) 1875 c. 17.

Status: This is the original version (as it was originally made).

(11) Further and in particular, a Northern Ireland department may not use any transferred function or the function under Article 3(2) of the 1972 Order to revoke, modify or otherwise affect the Secretary of State's functions by virtue of this paragraph (or any order or regulations made by the Secretary of State by virtue of this paragraph).

(12) In relation to orders and regulations made by the Secretary of State by virtue of this paragraph, the Health and Safety at Work (Northern Ireland) Order 1978⁽²⁷⁾ has effect as if references to the Department concerned were references to the Secretary of State.

Parliamentary procedure

5. No provision which (apart from this paragraph) would—

- (a) require to be laid before Parliament any order or regulations made by a Northern Ireland department by virtue of any of paragraphs 1 to 3 above, or
- (b) provide for any such order or regulations to be subject to annulment in pursuance of a resolution of either House of Parliament,

is to apply in relation to any such order or regulations.

⁽²⁷⁾ S.I. 1978/1039 (N.I. 9).