

2010 No. 143

HEALTH AND SAFETY

**The Identification and Traceability of Explosives Regulations
(Northern Ireland) 2010**

Made - - - - *31st March 2010*

Coming into operation *5th April 2012*

To be laid before Parliament

The Secretary of State makes these Regulations in exercise of the powers conferred on him by Article 17(1), (2), (3)(c), 4(b) and (5) and 55 (2) of, and paragraphs 1(1) and (4), 2, 5(1), 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978 (a) (“the 1978 Order”), as applied and modified, in relation to explosives, by Article 53 of the 1978 Order. In accordance with Article 46(1) (b) of the 1978 Order, as so applied and modified, the Secretary of State has consulted with the Health and Safety Executive for Northern Ireland and such other bodies as appear to the Secretary of State to be appropriate.

Citation and commencement

1. These Regulations may be cited as the Identification and Traceability of Explosives Regulations (Northern Ireland) 2010 and shall come into operation on 5th April 2012.

Interpretation

2.—(1) In these Regulations —

“Class 1” means Class 1 in respect of explosives or the classification of dangerous goods as set out in the UN Recommendations;

“distributor” means a person in the supply chain, other than a manufacturer or an importer, who makes an explosive available on the market and “distributes” and “distribution” shall be construed accordingly;

“explosive” means an explosive article or substance which has been classified in accordance with the UN Recommendations as falling within Class 1;

“explosive article” means an article containing one or more explosive substances;

“explosive substance” means —

(a) a solid or liquid substance, or

(b) a mixture of solid or liquid substances or both,

which is capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings or which is designed

(a) S.I. 1978/1039 (N.I.9)

(b) Article 46 (1) was amended by S.I. 1998/2795 (N.I. 18) Article 6 (1) and paragraph 18 of Schedule 1.

to produce an effect by heat, light, sound, gas or smoke or a combination of these as a result of non-detonative, self-sustaining, exothermic chemical reactions;

“manufacture” includes —

- (a) in relation to explosive articles, their repair, modification, disassembly or unmaking; and
- (b) in relation to explosive substances, their reprocessing, modification or adaptation;

“site”, in relation to the definition of “transfer” and regulation 5(2) means the whole area under the control of the same person and, for these purposes—

- (a) all places adjoining each other under the control of the same person shall be treated as a whole area; and
- (b) two or more areas under the control of the same person separated only by a road, railway or inland waterway shall be treated as a whole area;

“transfer” means any physical movement of explosives apart from movement within one site; and

“UN 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 26th April 1957))(a) as revised or reissued from time to time.

(2) In these Regulations, any reference to acquiring explosive shall mean acquiring possession of, or property in, such explosive.

(3) Where explosive is transported (including being loaded or unloaded and during breaks which are reasonably incidental to completing the journey within a reasonable length of time), the explosive shall not be treated as being kept or acquired by a person who has possession of it only by reason of being —

- (a) a carrier;
- (b) a person engaged in the work of loading or unloading; or
- (c) the occupier of a place through which it passes while on the journey.

Application

3.—(1) These Regulations apply to every explosive except the following —

- (a) ammunition the acquisition of which is regulated or prohibited by virtue of the Firearms (Northern Ireland) Order 2004(b);
- (b) an explosive which it is shown is intended for lawful use by the armed forces or the police of any country;
- (c) a pyrotechnic article;
- (d) an explosive which is transported and delivered without packaging or in a mobile explosives manufacturing unit for its direct unloading into the blast-hole; and
- (e) an explosive which is used immediately at the place of manufacture.

(2) In this regulation —

- (a) “mobile explosives manufacturing unit” means a unit, or vehicle mounted with a unit, for manufacturing and charging explosives from dangerous goods that are not explosives, with the unit consisting of various tanks, bulk containers and related equipment;

(a) Current edition (1997): ISBN 92-1-139057 5.

(b) S.I 2004 No. 702 (N.I. 3)

- (b) “pyrotechnic article” means any article containing explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustaining exothermic chemical reactions.

Unique identification

4.—(1) Subject to paragraphs (3) and (4), any person who manufactures an explosive shall as soon as is practicable after that manufacture and before transfer of the explosive —

- (a) mark each explosive item in respect of the explosive, with a unique identification in accordance with Schedule 2;
- (b) where an associated label in respect of that marking is required by that Schedule, attach the label in accordance with those requirements; and
- (c) where a passive inert electronic tag or associated tag is to be applied in respect of that marking, place that tag in accordance with the applicable provisions of that Schedule.

(2) The unique identification shall —

- (a) comprise the components described in Schedule 1; and
- (b) be marked on or firmly affixed to the explosive item concerned in a way which ensures that it is durable and clearly legible.

(3) Paragraph (1) shall not apply where the explosive is manufactured for export and is marked with an identification in accordance with the requirements of the importing country for allowing traceability of the explosive.

(4) Where an explosive is subject to a further manufacturing process after its original manufacture, the manufacturer shall mark each explosive item in respect of the explosive subjected to that further process with a new unique identification only if the original unique identification is no longer marked in the way that paragraph (2)(b) requires and any new marking so required shall be done as soon as is practicable after that further process and before transfer of the explosive.

(5) Subject to paragraph (7) a person who imports an explosive into Northern Ireland shall, as soon as is practicable after import and before acquisition of the explosives by another person —

- (a) mark each explosive item in respect of the explosive with a unique identification in accordance with Schedule 2;
- (b) where an associated label in respect of that marking is required by that Schedule , attach the label in accordance with those requirements; and
- (c) where a passive inert electronic tag or associated tag is to be applied in respect of that marking, place that tag in accordance with the applicable provisions of that Schedule.

(6) An importer who, pursuant to paragraph (5), is to mark the explosive item with a unique identification and apply any labels and tag referred to in that paragraph, shall apply measures to ensure, so far as is reasonably practicable, the security and safekeeping of those explosives while they are awaiting that marking or the application of any of those labels and tags.

(7) Paragraph (5) shall not apply where the explosive items are marked with a unique identification before importation.

(8) Where a distributor of explosives repackages the explosives, the distributor shall ensure that —

- (a) the explosive items in respect of the explosive have the unique identification marked on or affixed to them in accordance with Schedule 2;
- (b) where an associated label in respect of that marking is required by that Schedule, the label is attached in accordance with those requirements; and
- (c) where a passive inert electronic tag or associated tag is applied in respect of that marking, that tag is placed in accordance with the applicable provisions of that Schedule.

(9) In this regulation, “explosive item” means an explosive article, a container containing an explosive substance or each smallest packaging unit containing explosive.

Attribution of manufacturing site codes

5.—(1) This regulation applies for the purposes of the attribution of a three digit code (referred to in this regulation as the “code”) to a site where explosives are manufactured, which is unique to that site and is a component of the unique identification described in Schedule 1.

(2) For each site within Northern Ireland at which explosives are manufactured —

- (a) the manufacturer shall apply to the Secretary of State for him to attribute a code for the site; and
- (b) the Secretary of State shall attribute the code and inform the manufacturer accordingly.

(3) For the purposes of the attribution of a code to a site where explosives are manufactured in a country that is not a member State —

- (a) paragraph (4) applies where the manufacturer is established in a member State and the place of import of the explosive is Northern Ireland;
- (b) paragraph (5) applies where the manufacturer is not established in a member State and the place of import of the explosive is Northern Ireland; and
- (c) paragraph (6) applies where the manufacturer is established in Northern Ireland and the place of import of the explosives is either Great Britain or a member State other than the United Kingdom.

(4) Where this paragraph applies —

- (a) in the case where the manufacturer is established in Northern Ireland —
 - (i) the manufacturer shall apply to the Secretary of State for him to attribute a code for the site where the explosives are manufactured; and
 - (ii) the Secretary of State shall attribute the code and inform the manufacturer accordingly; and
- (b) in the case where the manufacturer is established in Great Britain or a member State other than the United Kingdom —
 - (i) the Secretary of State shall attribute a code for the site where the explosives are manufactured when he receives a request from the manufacturer to do so; and
 - (ii) the Secretary of State shall inform the manufacturer accordingly.

(5) Where this paragraph applies —

- (a) the importer shall apply to the Secretary of State for him to attribute a code for the site where the explosives are manufactured; and
- (b) the Secretary of State shall attribute the code and inform the importer accordingly.

(6) Where this paragraph applies, the manufacturer shall apply to—

- (a) the Health and Safety Executive, where the place of import of the explosive is Great Britain; or
- (b) the national authority of the member State of import of the explosive, for the Health and Safety Executive or that national authority, as the case may be, to attribute a code for the site where the explosives are manufactured.

Records

6.—(1) Subject to paragraph (2), a person (referred to in this regulation as “that person”) who manufactures, imports, distributes, acquires or keeps any explosive shall, in respect of explosives manufactured in, or imported into, Northern Ireland on or after 5th April 2012, keep a record in respect of that explosive containing the information referred to in paragraph (3).

(2) The duty imposed by paragraph (1) shall not apply to —

- (a) an employee of that person acting in the course of that person's business, where the manufacture, importation, distribution, acquisition or keeping of explosives concerned is that business or a part of it; or
 - (b) individuals who acquire explosives, otherwise than in connection with their work solely for their own personal use.
- (3) The information referred to in paragraph (1) is —
- (a) the means of identifying and describing the explosive, including —
 - (i) its type; and
 - (ii) the unique identification in relation to the explosive;
 - (b) the location of the explosive while it is in the possession of that person;
 - (c) the name and address of any person to whom the explosive is transferred;
 - (d) the name of any employee of that person to whom the explosive is given to use; and
 - (e) whether the explosive has been subjected to a further manufacturing process after its original manufacture, used, transferred or destroyed while in the possession of that person and the date of any such further manufacturing process, use, transfer or destruction.
- (4) The record of that information shall be kept up to date as necessary by that person.
- (5) The system applied by that person for collecting the information shall be tested by that person at regular intervals to ensure its effectiveness and the quality of the information recorded.
- (6) That person shall keep the record for a period of ten years from the date when the explosive concerned was used, transferred or destroyed.
- (7) The record shall be protected by that person against accidental or malicious damage or destruction.
- (8) That person shall provide the enforcing authority with —
- (a) information as to the origin and location of each explosive to which the record relates, where the enforcing authority requests it; and
 - (b) the name of an employee or other person who would be able to provide that authority with that information at any time and the details necessary for that authority to be able to contact that individual.
- (9) Where a business of that person which manufactures, imports, distributes, acquires or keeps explosives is to cease to trade, that person shall notify the enforcing authority of that fact and provide any record still required to be kept pursuant to paragraph (6) to that authority, who shall keep that record for the remainder of the period referred to in that paragraph.

Enforcement

7. The enforcing authority for these Regulations shall be the Secretary of State.

Northern Ireland Office
31st March 2010

Paul Goggins
Minister of State for Northern Ireland

SCHEDULE 1

Regulation 4(2)(a)

Unique identification for explosives

1. Subject to paragraph 2, the unique identification shall comprise —
 - (a) a part which can be read by a human being containing the following —
 - (i) the name of the manufacturer;
 - (ii) an alphanumeric code containing —
 - (aa) two letters identifying the member State (place of production or import onto the EU market);
 - (bb) three digits identifying the site of manufacture; and
 - (cc) the unique product code and logistical information designed by the manufacturer.
 - (b) a part which can be read electronically in barcode or matrix code format, or both, which relates directly to the alphanumeric identification code.
 - (c) For articles too small to affix the unique product code and the logistical information designed by the manufacturer, the information under sub-paragraph (a)(ii)(aa) and (ii)(bb) and (b) of paragraph 1 shall be sufficient for the purposes of the unique identification.

SCHEDULE 2

Regulation 4(1), (5) and (8)

Methods of marking or affixing the unique identification to explosives

Cartridge explosives and explosives in sacks

1. For a cartridge explosive and any explosive in sacks —
 - (a) the unique identification shall be on an adhesive label attached to or be directly printed on each cartridge or sack;
 - (b) an associated label shall be placed on each case of cartridges; and
 - (c) in addition, a passive inert electronic tag may be attached to each cartridge or sack and an associated electronic tag attached to each case of cartridges.

Packaged two-component explosives

2. For a packaged two-component explosive, the unique identification shall be on an adhesive label attached to, or be directly printed on, each smallest packaging unit containing the two components.

Plain detonators and fuses

3. For plain detonators or fuses —
 - (a) the unique identification shall be on an adhesive label attached to, or be directly printed or stamped on, the detonator shell;
 - (b) an associated label shall be placed on each case of detonators or fuses; and
 - (c) in addition, a passive inert electronic tag may be attached to each detonator and an associated tag attached to each case of detonators.

Electric, non-electric and electronic detonators

4. For electric, non-electric and electronic detonators —

- (a) the unique identification shall be on an—
 - (i) adhesive label attached to the wires or tube; or
 - (ii) adhesive label attached to, or be directly printed or stamped on, the detonator shell;
- (b) an associated label shall be placed on each case of detonators; and
- (c) in addition, a passive inert electronic tag may be attached to each detonator and an associated tag attached to each case of detonators.

Primers and boosters

5. For primers and boosters —
- (a) the unique identification shall be on an adhesive label attached to, or be directly printed on, the primer or booster;
 - (b) an associated label shall be placed on each case of primers or boosters; and
 - (c) in addition, a passive inert electronic tag may be attached to each primer or booster and an associated tag attached to each case of primers or boosters.

Detonating cords and safety fuses

6. For detonating cords and safety fuses —
- (a) the unique identification shall be on an adhesive label attached to, or be directly printed on, the bobbin;
 - (b) the unique identification shall be marked every five meters on either the external envelope of the cord or fuse or the plastic extruded inner layer immediately under the exterior fibre of the cord or fuse;
 - (c) an associated label shall be placed on each case of detonating cord or fuse; and
 - (d) in addition, a passive inert electronic tag may be inserted within the cord and an associated tag attached to each case of cord or fuse.

Cans, Boxes and drums containing explosives

7. For cans, boxes and drums containing any explosive —
- (a) the unique identification shall be on an adhesive label attached to, or be directly printed on, the can, box or drum containing the explosive; and
 - (b) in addition, a passive inert electronic tag may be attached to each can, box or drum.

General

8. Where adhesive detachable copies of the labels referred to in paragraphs 1 to 7 are attached to the explosive article, container or each smallest packaging unit concerned for use by other persons, those copies shall be clearly marked as copies of the original.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations implement, as regards Northern Ireland, Commission Directive 2008/43/EC setting up, pursuant to Council Directive 93/15/EC(a), a system for the identification and traceability of explosives for civil uses(b) (“the 2008 Directive”). The

(a) OJ L 121, 15.5.1993, p20, amended by Regulation (EC) NO. 1882/2003 of the European Parliament and the Council (OJ L284, 31.10.2003, p.1).

(b) OJ L 94, 5.4.2008, p.8.

Regulations impose requirements with respect to the marking of explosives with a unique identification and will come into force on 5th April 2012.

2. Certain explosives, such as ammunition and explosives intended for lawful use by the armed forces or the police, are excluded from the scope of the Regulations.

3. Regulation 4 imposes requirements on manufacturers, importers and distributors of explosives as to the marking of the explosives with a unique identification. The elements which form the unique identification are set out in Schedule 1. These include the name of the manufacturer, a three digit code for the site of manufacture, a unique product code and a part which can be read electronically in barcode or matrix code format. The methods of marking or affixing the unique identification to explosives are set out in Schedule 2.

4. Manufacturers of explosives are to apply to the Secretary of State for the attribution of a three digit code for their manufacturing site. Importers of explosives which are manufactured in a country which is not a member State are to apply to the Secretary of State for a three digit code for the site of manufacture (regulation 5).

5. Regulation 6 imposes record keeping requirements on persons who manufacture, import, distribute, acquire or keep any explosive, with exceptions for employees and individuals acquiring explosives for personal use. The information to be kept includes the unique identification for the explosive and its location while in the possession of the person keeping the record.

6. Regulation 7 makes provision as to the enforcement of the Regulations.

7. A full assessment of the impact that this instrument will have on the costs to business and the voluntary sector is available from the Northern Ireland Office, Firearms and Explosives Branch, Castle Buildings, Block B, Stormont Estate, Belfast, BT4 3SG and is annexed to the Explanatory Memorandum which is available alongside the instrument on the Office of Public Sector Information's website. A copy of the transposition note in relation to the implementation of the 2008 Directive can be obtained from the Northern Ireland Office, Firearms and Explosives Branch, at the same address. Copies of these documents have been placed in the Library of each House of Parliament.

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