
STATUTORY INSTRUMENTS

1987 No. 37

The Dangerous Substances in Harbour Areas Regulations 1987

**PART IX
EXPLOSIVES**

Application of this Part

33.—(1) Subject to paragraph (2), regulations 34 to 36 shall, in addition to their application in every harbour and harbour area under regulation 5, apply to—

- (a) the loading on board or unloading from a vessel (other than a vessel which is an offshore installation within the meaning of section 1(4) of the Mineral Workings (Offshore Installations) Act 1971⁽¹⁾) of any explosive on any part of the coast of Great Britain or in any tidal water; and
 - (b) the loading on board or unloading from a vessel of any explosive within territorial waters to which sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974 are applied by article 7 of the Health and Safety and Work etc. Act 1974 (Application outside Great Britain) Order 1977.
- (2) Regulations 34 to 36 shall not apply in relation to—
- (a) explosives—
 - (i) in Division 1.4; or
 - (ii) in any other division (except explosives in Compatibility Group L), where the total quantity of explosive involved does not exceed 10 kilograms;
 - (b) explosives that are to be used immediately by a vessel at sea;
 - (c) explosives to be dumped at sea in accordance with the terms of a licence granted under Part II of the Food and Environment Protection Act 1985⁽²⁾ or, in the case of a military explosive, with the consent of the Secretary of State;
 - (d) explosive of less than 1 tonne in quantity intended for immediate use in connection with harbour works or for wreck dispersal in the harbour or harbour area, if—
 - (i) the consent in writing of the harbour master has been obtained, and
 - (ii) the explosives are carried and used in accordance with any conditions attached to that consent;
 - (e) a berth which forms part of a factory or magazine either licensed under the Explosives Act 1875 or lawfully existing whether under that Act or by virtue of a certificate of exemption granted pursuant to the Explosives Act 1875 (Exemptions) Regulations 1979⁽³⁾;
 - (f) explosives carried by a British or foreign warship;

⁽¹⁾ 1971 c. 61; section 1 was substituted by section 24 of the Oil and Gas Enterprise Act 1982 (c. 23).

⁽²⁾ 1985 c. 48.

⁽³⁾ S.I. 1979/1378.

- (g) without prejudice to sub-paragraph (f) above, explosives carried by any other vessel in the service of the Crown, where those explosives are for use at sea and no handling of the explosives takes place while the vessel is in the harbour or harbour area;
- (h) explosives within the limits of any dockyard port defined by an Order in Council made under the Dockyard Ports Regulation Act 1865(4) or within the limits of the Marchwood berth and anchorage at Southampton.

Need for an explosives licence

34.—(1) Subject to paragraph (2), a person shall not—

- (a) bring any explosive into a harbour or harbour area;
- (b) carry or handle any explosive within a harbour or harbour area; or
- (c) load or unload any explosive in circumstances to which this regulation applies by virtue of regulation 33(1),

unless there is in existence an explosives licence permitting that activity and the conditions attached to the licence are complied with.

(2) If an application for an explosives licence is made before 6th April 1988, then explosives may be carried or handled in circumstances where, but for the provisions of this paragraph, an explosives licence would be required, until such time as the licence is issued or refused or until 31st December 1991 whichever is the earlier, if the explosives are carried or handled in accordance with the byelaws relating to such explosives which were in force immediately before the coming into operation of these Regulations or, in the case of military explosives, in accordance with the Conveyance in Harbours of Military Explosives Regulations 1977(5) as in force immediately before the coming into operation of these Regulations.

Applications for explosives licences

35.—(1) An application for an explosives licence or for any alteration in the terms of an existing explosives licence shall be made to the Health and Safety Executive and the applicant shall be—

- (a) in a case to which regulation 34(1)(a) and (b) relates, the harbour authority or, if he informs the harbour authority of his intention, a berth operator; or
- (b) in a case to which regulation 34(1)(c) relates, a person having an interest in the activities for which the licence is required,

and in either case the application shall be made in accordance with the procedure specified in Schedule 7 unless the Executive otherwise agrees.

(2) The Executive may make a charge for work carried out in connection with an application for an explosives licence or for any alteration in the terms of an existing licence of £150 plus £25 for each man-hour expended (excluding time spent in travelling and any typing, messenger or ancillary work) and that charge shall be payable by the applicant prior to the issue of the decision.

Consideration of licence applications

36.—(1) In considering an application for an explosives licence or for any alteration in the terms of an existing licence, the Health and Safety Executive shall take account of any comments or objections received by it pursuant to paragraphs 3 and 5 of Schedule 7 and may reject the application altogether or may grant the licence or amending licence which may be subject to such conditions

(4) 1865 c. 125.
(5) S.I. 1977/890.

as it thinks fit and any such licence or amending licence may be with or without limit of time and may be varied or revoked in writing at any time.

(2) Nothing in paragraph (1) shall prevent the Executive from granting a provisional explosives licence or a provisional amending licence in cases of urgency and any such licence or amending licence may have effect for a period of up to 6 months from the date on which it was granted unless revoked in writing by the Executive before its date of expiry.

Security of explosives

37.—(1) The operator of a berth at which explosives are carried or handled shall appoint a berth explosives security officer who shall ensure in respect of the berth that adequate precautions are taken to secure explosives against loss, theft or wrongful use and a harbour authority in whose harbour or harbour area explosives are carried or handled shall appoint a harbour explosives security officer who shall do likewise in respect of those parts of the harbour or harbour area for which there is no berth explosives security officer.

(2) Any person handling or having custody of explosives in a harbour or harbour area shall take adequate precautions to secure those explosives against loss, theft or wrongful use, and shall comply with any instructions given to him for that purpose by an explosives security officer and shall cooperate with the explosives security officer in the execution of his duties.

(3) Any person having custody of explosives in a harbour or harbour area who transfers the custody of those explosives to some other person shall obtain a written receipt from that other person recording that transfer.

(4) Where explosives are dropped overboard (otherwise than intentionally as part of the activities of persons at work) or lost, the person who had previously had custody of those explosives shall forthwith report the occurrence to the harbour master and either to the berth explosives security officer, if the incident took place at a berth, or to the harbour explosives security officer and shall take such steps as are reasonably practicable to recover those explosives.

Vessels and vehicles loaded with explosives to be taken out of harbours and harbour areas

38. When loading of a vessel or a vehicle with explosives has been completed, the master of the vessel or the operator of that vehicle, as the case may be, shall ensure that the vessel or vehicle is taken out of the harbour or harbour area as soon as is reasonably practicable unless the harbour master and, where the vessel or vehicle is at a berth, the berth operator otherwise agree.

Harbour craft carrying explosives not to carry passengers

39.—(1) Subject to paragraph (2), the master of a harbour craft shall ensure that while the harbour craft is carrying explosives it does not carry any passengers.

(2) Paragraph (1) shall not apply—

(a) where the only explosives carried are—

(i) explosives in Division 1.4, Compatibility Group S, or

(ii) ships' pyrotechnic signals which are being carried to another vessel and which contain a total of less than 1 kilogram of explosives; or

(b) where the only passengers carried are carried in connection with the harbour works for which the explosives are carried or who are to handle the explosives being carried.

Electro-explosive devices

40. A person shall not bring an electro-explosive device into a harbour or harbour area unless it is so constructed and packed as to be safe for carriage.

Deteriorated explosives

41. Where in any harbour or harbour area explosives have deteriorated or have undergone any change which might significantly increase the risks attendant upon their carriage and handling within the harbour or harbour area, the person having custody of those explosives shall—

- (a) notify the Health and Safety Executive and the harbour master and, where the explosives are at a berth, the berth operator of the deterioration or change;
- (b) agree with the harbour master any additional precautions to be taken before moving or handling them; and
- (c) take those precautions.

Records relating to explosives to be kept

42.—(1) The harbour authority shall keep a record of all explosives handled within the harbour or harbour area, other than shop goods fireworks, in any calendar year and that record shall distinguish between exports, imports and explosives in transit and be preserved for 5 years after making.

(2) The berth operator shall co-operate with the harbour authority in the preparation of such record.

(3) In a case to which regulation 34(1)(c) relates, the licensee shall keep a record of all explosives, other than shop goods fireworks, loaded or unloaded there in any calendar year and that record shall distinguish between exports, imports and explosives in transit and be preserved for 5 years after making.