

SCHEDULE 5

AMENDMENTS

PART 2

AMENDMENTS TO SECONDARY LEGISLATION

The Control of Explosives Regulations 1991

34.—(1) The Control of Explosives Regulations 1991⁽¹⁾ are amended as follows.

(2) In regulation 2 (interpretation) —

(a) after the definition of “the 1983 Regulations”, insert —

““the 2005 Regulations” means the Manufacture and Storage of Explosives Regulations 2005;”;

(b) after the definition of “chief officer of police”, insert —

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

“desensitised explosive” means —

(a) a solid explosive substance which has been wetted with water, alcohol or dissolved with one or more other substances; or

(b) a liquid explosive substance which has been dissolved or suspended in water or one or more other substances,

to form a homogeneous mixture so as to suppress its explosive properties and which, without that treatment, would be classified in accordance with the United Nations Recommendations as falling within Class 1;”;

(c) for the definition of “explosive”, substitute —

““explosive” means —

(a) any explosive article or explosive substance which would —

(i) if packaged for transport, be classified in accordance with the United Nations Recommendations as falling within Class 1; or

(ii) be classified in accordance with the United Nations Recommendations as —

(aa) being unduly sensitive or so reactive as to be subject to spontaneous reaction and accordingly too dangerous to transport, and

(bb) falling within Class 1; or

(b) a desensitised explosive,

but it does not include an explosive substance produced as part of a manufacturing process which thereafter reprocesses it in order to produce a substance or preparation which is not an explosive substance;”;

(d) after the definition of “explosive”, insert —

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

(e) after the definition of “explosives certificate”, insert —

⁽¹⁾ [S.I. 1991/1531](#), to which there are amendments not relevant to these Regulations.

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- ““explosive substance” means a substance or preparation, not including a substance or preparation in a solely gaseous form or in the form of vapour, which is —
- (a) capable by chemical reaction in itself of producing a gas at such a temperature and pressure and at such speed as could cause damage to surroundings; or
 - (b) designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as a result of a non-detonative self-sustaining exothermic chemical reaction;”;
- (f) in the definitions of “fireworks” and “fog signals”, for “on classification under the 1983 Regulations” substitute “in accordance with the United Nations Recommendations”;
- (g) omit the definition of “for private use”;
- (h) in the definition of “gunpowder”, for “on classification under the 1983 Regulations” substitute “in accordance with the United Nations Recommendations”;
- (i) for the definition of “license”, substitute —
““licence” means a licence for the manufacture or storage of explosives granted under regulation 13 of the 2005 Regulations;”;
- (j) omit the definitions of “licensed factory” and “licensed magazine”;
- (k) omit the definition of “percussion caps”;
- (l) after the definition of “occupier”, insert —
““preparation” means a mixture or a solution of two or more substances;”;
- (m) for the definition of “registered premises” substitute —
““registered”, in relation to a person, means a person registered in respect of the storage of explosives under regulation 11 of the 2005 Regulations and “registration” shall be construed accordingly;”;
- (n) omit paragraph (a) in the definition of “restricted substance”;
- (o) in the definitions of “small arms ammunition” and “smokeless powder”, for “on classification under the 1983 Regulations” substitute “in accordance with the United Nations Recommendations”;
- (p) after the definition of “smokeless powder”, insert —
““substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour;”;
- (q) omit the definition of “store”;
- (r) in the definition of “U.N. no.”, for “and allocated by the Health and Safety Executive or the Secretary of State to an explosive article or substance as a means of identification” substitute “as a means of identification of types of explosives in accordance with the United Nations Recommendations”; and
- (s) after the definition of “U.N. no.”, insert at the end —
“and
“United Nations 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 26 April 1957)) as revised or reissued from time to time.”.
- (3) In paragraphs (3) and (4) of regulation 3 (application), for “Regulations 7 and 10”, substitute “Regulation 7”.

- (4) In regulation 4 (explosives certificate) —
- (a) in paragraph 6(b) and (c), omit “subject to paragraph (7)”;
 - (b) for paragraph 6(f) and (g), substitute —
 - “(f) where the application is for a certificate relating only to acquisition of explosives—
 - (i) it is not reasonably practicable for the applicant to be an occupier of a site for the storage of explosives for which he would be required under the 2005 Regulations to have a licence or be registered in respect of that storage, and
 - (ii) the explosives either will not be kept, or, if kept, the applicant will ensure that they are kept at a site where such storage is permitted pursuant to a licence or registration or at a site occupied by the Secretary of State for Defence; and
 - (g) where the application is for a certificate relating to the keeping of explosives, either —
 - (i) the applicant is or is to be the occupier of a site for the storage of explosives in respect of which storage there is or will be a licence or registration in force; or
 - (ii) the explosives will be kept at a site occupied on behalf of the Crown, or
 - (iii) in the case where the applicant does not hold a licence in respect of the storage of the explosives, no licence is required to be held by the applicant in respect of that storage by virtue of regulation 10(2) of the 2005 Regulations.”;
 - (c) paragraph (7) is revoked;
 - (d) after paragraph (9) insert —

“(10) Any reference in the definitions in this regulation of “desensitised explosive”, “explosive substance” or “substance” to, as the case may be, liquid, gas, gaseous form, or vapour means, respectively, liquid, gas, gaseous form or vapour at normal atmospheric temperature and pressure.”.
- (5) In regulation 8(e), after “regulation 3(3) or (4)” insert —

“and that, where those provisions apply to a specified person only in particular circumstances or for particular purposes, those circumstances or purposes are satisfied in the case of the person concerned.”.
- (6) In regulation 9 (restrictions on prohibited persons) —
- (a) at the beginning of paragraph (1), insert “subject to paragraph (4),”;
 - (b) for paragraph (2), substitute —

“(2) Subject to paragraph (4), no prohibited person, whether or not he satisfies any relevant conditions of regulation 7, shall acquire, handle or have control of any explosive or any restricted substance.”; and
 - (c) after paragraph (3), add —

“(4) This regulation does not apply to a desensitised explosive which is a medicinal product as defined in section 130 of the Medicines Act 1968(2) nor a substance specified

(2) 1968 c. 67; subsections (3A) to (3C) were inserted by the Animal Health and Welfare Act 1984 (c. 40), section 13(2); subsections (4), (6), and (9) were amended by that Act, Schedule 1, paragraph 3 and Schedule 2; subsection (7) was repealed by that Act, Schedule 1, paragraph 3 and Schedule 2; Subsection (5) was amended, and subsection (5A) was inserted, by S.I. 1994/3119; the meaning of “medicinal product” was modified by S.I. 1994/3144. Sections 104(1) and 105(1) were amended by S.I. 1994/1031.

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in an order made under section 104 or 105 of that Act which is for the time being in force and which directs that specified provisions of that Act shall have effect in relation to that substance as such provisions have effect in relation to medicinal products within the meaning of that Act.”.

(7) Regulation 10 (keeping explosives for private use) is revoked.

(8) For regulation 11 (occupier of licensed factory or licensed magazine to appoint person responsible for explosives), substitute —

“Licensed occupier to appoint person responsible for security of explosives

11.—(1) An person who occupies a site and who has —

- (a) a licence for the manufacture or storage of explosives at that site which was granted by the Executive in a case where the assent of the local authority was required pursuant to regulation 13(3) of the 2005 Regulations; or
- (b) a deemed licence which, if an application for a licence would have been made under the 2005 Regulations in respect of the manufacture or storage of explosives to which the deemed licence relates, that application would have required the assent of the local authority pursuant to regulation 13(3) of those Regulations,

shall appoint one individual to be responsible to him for ensuring that adequate precautions are taken at that site to secure explosives against loss.

(2) For the purposes of paragraph (1) —

“deemed licence” means —

- (a) a licence, amending licence, continuing certificate or store licence granted or issued under sections 8, 12, 14 or 15 of the Explosives Act 1875 which is deemed by virtue of regulation 27(1) or (12) of the 2005 Regulations to be a licence granted under regulation 13 of those Regulations; and
- (b) a licence deemed to be held by a person pursuant to regulation 27(3).”.

(9) In regulation 12 (making, preservation and production of records) —

- (a) in paragraph (4)(a), omit “for private use”; and
- (b) for paragraph (4)(c), substitute —

“(c) an explosive which is produced by mixing at any place non-explosive substances or preparations to form an explosive for immediate use at that place.”.

(10) In paragraph (8) of regulation 13 (reporting loss), for “licensed factory or licensed magazine” substitute “site in relation to which the Executive is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to the 2005 Regulations,”.

(11) Regulations 16 (power to revoke or amend licences) and 18 (transitional provisions) and paragraphs (5) and (6) of regulation 19 (modifications, revocations and savings) are revoked.

(12) For Schedule 1 (exceptions) substitute —

“SCHEDULE 1

Regulation 3

EXCEPTIONS

<i>Explosives</i>	<i>U.N. no.</i>
AIR-BAG INFLATORS, AIR-BAG MODULES, SEAT-BELT PRETENSIONERS	0503

<i>Explosives</i>	<i>U.N. no.</i>
2 AMINO – 4, 6 – DINITROPHENOL, WETTED with not less than 20% water by mass	3317
AMMONIUM PICRATE, WETTED with not less than 10% water, by mass	1310
ARTICLES, PYROTECHNIC for technical purposes	0428
ARTICLES, PYROTECHNIC for technical purposes	0429
ARTICLES, PYROTECHNIC for technical purposes	0430
ARTICLES, PYROTECHNIC for technical purposes	0431
ARTICLES, PYROTECHNIC for technical purposes	0432
BARIUM AZIDE, WETTED with not less than 50% water, by mass	1571
CARTRIDGES, OIL WELL	0277
CARTRIDGES, OIL WELL	0278
CARTRIDGES, POWER DEVICE	0275
CARTRIDGES, POWER DEVICE	0276
CARTRIDGES, POWER DEVICE	0323
CARTRIDGES, POWER DEVICE	0381
CARTRIDGES, SIGNAL	0054
CARTRIDGES, SIGNAL	0312
CARTRIDGES, SIGNAL	0405
CARTRIDGES, SMALL ARMS	0012
CARTRIDGES, SMALL ARMS	0328
CARTRIDGES, SMALL ARMS	0339
CARTRIDGES, SMALL ARMS, BLANK	0014
CARTRIDGES, SMALL ARMS, BLANK	0327
CARTRIDGES, SMALL ARMS, BLANK	0338
CARTRIDGES, EMPTY, WITH PRIMER	0055
CARTRIDGES, EMPTY, WITH PRIMER	0379
CASES, COMBUSTIBLE, EMPTY, WITHOUT PRIMER	0446
CASES, COMBUSTIBLE, EMPTY, WITHOUT PRIMER	0447
CORD, IGNITER	0066
CUTTERS, CABLE, EXPLOSIVE	0070
DINITROSOBENZENE	0406

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<i>Explosives</i>	<i>U.N. no.</i>
DINITROPHENOL, WETTED with not less than 15% water, by mass	1320
DINITROPHENOLATES, WETTED with not less than 15% water, by mass	1321
DINITRORESORCINOL, WETTED with not less than 15% water, by mass	1322
DIPICRYL SULPHIDE, WETTED with not less than 10% water, by mass	2852
FIREWORKS	0333
FIREWORKS	0334
FIREWORKS	0335
FIREWORKS	0336
FIREWORKS	0337
FLARES, AERIAL	0093
FLARES, AERIAL	0403
FLARES, AERIAL	0404
FLARES, SURFACE	0092
FLASH POWDER	0094
FLASH POWDER	0305
FUSE, INSTANTANEOUS, NON-DETONATING (QUICKMATCH)	0101
FUSE, SAFETY	0105
IGNITERS	0121
IGNITERS	0314
IGNITERS	0315
IGNITERS	0325
IGNITERS	0454
ISOSORBIDE DINITRATE MIXTURE with not less than 60% lactose, mannose, starch or calcium hydrogen phosphate	2907
LIGHTERS, FUSE	0131
5-MERCAPTO-TETRAZOL-1-ACETIC ACID	0448

<i>Explosives</i>	<i>U.N. no.</i>
NITROCELLULOSE SOLUTION, FLAMMABLE with not more than 12.6% nitrogen, by dry mass, and not more than 55% nitrocellulose	2059
NITROCELLULOSE WITH WATER (not less than 25% water, by mass)	2555
NITROCELLULOSE WITH ALCOHOL (not less than 25% alcohol, by mass, and not more than 12.6% nitrogen, by dry mass)	2556
NITROCELLULOSE with not more than 12.6% nitrogen, by dry mass, MIXTURE WITH or WITHOUT PLASTICIZER, WITH or WITHOUT PIGMENT	2557
NITROGLYCERINE SOLUTION IN ALCOHOL with not more than 1% nitroglycerine	1204
NITROGLYCERINE SOLUTION IN ALCOHOL with more than 1% but not more than 5% nitroglycerine	3064
NITROGUANIDINE (PICRITE) with not less than 20% water, by mass	1336
4 NITROPHENYLHYDRAZINE	3376
NITROSTARCH, WETTED with not less than 20% water, by mass	1337
POTASSIUM SALTS OF AROMATIC NITRO- DERIVATIVES, explosive	0158
PRIMERS, CAP TYPE	0044
PRIMERS, CAP TYPE	0377
PRIMERS, CAP TYPE	0378
ROCKETS, LINE-THROWING	0238
ROCKETS, LINE-THROWING	0240
ROCKETS, LINE-THROWING	0453
SIGNAL DEVICES, HAND	0373
SIGNAL DEVICES, HAND	0191
SIGNALS, DISTRESS, ship	0194
SIGNALS, DISTRESS, ship	0195
SIGNALS, RAILWAY TRACK, EXPLOSIVE	0192
SIGNALS, RAILWAY TRACK, EXPLOSIVE	0193
SIGNALS, SMOKE, with explosive sound unit	0196
SIGNALS, SMOKE, without explosive sound unit	0197

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<i>Explosives</i>	<i>U.N. no.</i>
SILVER PICRATE, WETTED with not less than 30% water, by mass	1347
SODIUM DINITRO-o-CRESOLATE, dry or wetted with less than 15% water, by mass	0234
SODIUM DINITRO-o-CRESOLATE, WETTED with not less than 15% water, by mass	1348
SODIUM DINITRO-o-CRESOLATE, WETTED, with not less than 10% water, by mass	3369
SODIUM PICRAMATE, dry or wetted with less than 20% water by mass	0235
SODIUM PICRAMATE, WETTED with not less than 20% water, by mass	1349
TETRAZOL-1-ACETIC ACID	0407
TRINITROBENZENE, WETTED with not less than 30% water, by mass	1354
TRINITROBENZOIC ACID, WETTED with not less than 30% water, by mass	1355
TRINITROPHENOL, WETTED with not less than 30% water, by mass	1344
TRINITROTOLUENE, WETTED with not less than 30% water, by mass	1356
UREA NITRATE, WETTED with not less than 20% water by mass	1357
ZIRCONIUM PICRAMATE, WETTED with not less than 20% water, by mass	1517
ZIRCONIUM PICRAMATE, dry or wetted with less than 20% water, by mass	0236''

(13) For Schedule 2 (form of explosives certificate) substitute —

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“SCHEDULE 2

Regulation 4

FORM OF EXPLOSIVES CERTIFICATE

HEALTH AND SAFETY AT WORK ETC ACT 1974
CONTROL OF EXPLOSIVES REGULATIONS 1991
CERTIFICATE TO *ACQUIRE/ACQUIRE AND KEEP EXPLOSIVES

1. I the undersigned *being/being duly authorised by the chief officer of police for police force, do hereby certify that (name)..... of (address)..... (post code)..... is a fit person to *acquire/acquire and keep explosives in accordance with this certificate.

Signature of certifying officer: Date Rank or designation, or both

2. This certificate shall be valid from (date)..... until (date), unless notice of revocation by or on behalf of the chief officer of police has been served on the certificate holder at an earlier date.

Alternative A – acquisition only

3. The maximum amount of explosives acquired on any one occasion shall not exceed

4. The only explosives which may be acquired are those of the following descriptions, namely:

5. Explosives may only be acquired for the purpose(s) of:

Alternative B – acquisition and keeping

3. The explosives may only be kept at the following address

4. The only explosives which may be acquired or kept are those of the following descriptions, namely:

(Notes:

Alternative A:

(a) If this certificate relates to acquisition only, this section must be completed in accordance with these Notes and “Alternative B” deleted.

(b) In paragraph 2, the maximum period that may be entered for this alternative A certificate is one year.

(c) Each of paragraphs 3 and 4 must be completed.

(d) Paragraph 5 may be completed or deleted.

Alternative B:

(a) If this certificate relates to acquisition and keeping, this section must be completed in accordance with these Notes and “Alternative A” deleted.

(b) In paragraph 2, the maximum period that may be entered for this certificate is three years.

(c) Paragraphs 3 and 4 must be completed.

(d) In paragraph 3, the type of storage place must be entered. This will be one of the following: HSE licensed storage place or place of manufacture, police licensed or registered storage place; local authority registered storage place, or other legal place of storage.)

*Delete as applicable

(14) Part I of Schedule 4 (modifications of the Explosives Act 1875) is revoked.

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