
STATUTORY INSTRUMENTS

2014 No. 1638

The Explosives Regulations 2014

PART 15

POWER TO GRANT EXEMPTIONS AND MISCELLANEOUS PROVISIONS

Exemptions

46.—(1) Subject to paragraphs (2) and (4), the Executive 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 limit of time and may be revoked by the Executive by a certificate in writing at any time.

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

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactment which apply to the case,

it 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 and that the security of explosives will not be prejudiced.

(3) Subject to paragraph (4), the Secretary of State having responsibility for defence may, in the interests of national security, by a certificate in writing, exempt any person or class of persons, any headquarters or any explosive or class of explosives 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 limit of time and may be revoked by that Secretary of State by a certificate in writing at any time.

(4) The power to exempt in paragraph (1) or (3) does not apply to regulations 8, 33, 34, 36 and 38 to 42.

Savings and transitional provisions

47.—(1) A licence granted under regulation 13 of the 2005 Regulations or deemed to have been so granted by virtue of regulation 27(1) of those Regulations which was valid immediately before the relevant date is deemed to be a licence granted under regulation 13 of these Regulations and continues in force, despite the revocation of the 2005 Regulations by these Regulations, on its existing terms and conditions, subject to—

- (a) any variation under regulation 16(1)(a) to (c) of these Regulations; or
- (b) its expiry on the date it was due to expire or its revocation under regulation 23 of these Regulations, whichever is the sooner.

(2) A registration granted under regulation 11 of the 2005 Regulations which was valid immediately before the relevant date is deemed to be a licence granted under regulation 13 of these Regulations and continues in force, despite the revocation of the 2005 Regulations by these

Regulations, on its existing terms until the date it was due to expire or its revocation under regulation 23, whichever is the sooner.

(3) Where an application for a licence or variation of a licence under the 2005 Regulations has been made to, and received by, the licensing authority before the relevant date and the application has not been refused nor granted by that date, the application is deemed to be an application for a licence or, as the case may be, a variation of a licence under, respectively, regulation 12 or regulation 16 of these Regulations and the provisions of these Regulations apply to the application accordingly, subject to paragraph (4) in respect of cases to which the requirements of regulations 13(3) and 14 of the 2005 Regulations applied.

(4) In relation to the application of the requirements of regulations 13(3) and 14 of these Regulations to an application referred to in paragraph (3)—

- (a) a draft licence issued by the Executive or the ONR to the applicant under regulation 14(1) of the 2005 Regulations before the relevant date is deemed to be a draft licence for the purposes of regulation 14(1) of these Regulations;
- (b) a notice under regulation 14(3) or (8) of the 2005 Regulations which has been published before the relevant date in respect of the application is deemed to be a notice for the purposes of, respectively, regulation 14(3) or (8) of these Regulations;
- (c) if a public hearing for the purposes of regulation 14 of the 2005 Regulations would be held or continue to be held on or after the relevant date, it may continue to be so held and is deemed to be a hearing for the purposes of regulation 14 of these Regulations;
- (d) the assent to the application by the local authority pursuant to regulation 14 of the 2005 Regulations, or the assent by both local authorities to the application where the assent of both is required under that regulation, given before the relevant date is deemed to be assent for the purposes of regulations 13(3) and 14 of these Regulations.

(5) An explosives certificate granted under regulation 4 of the 1991 Regulations which was valid immediately before the relevant date is deemed to be an explosives certificate granted under regulation 11 of these Regulations and continues in force, notwithstanding the revocation of the 1991 Regulations by these Regulations, on its existing terms until the date it was due to expire or its revocation under regulation 21, whichever is the sooner.

(6) Where an application for an explosives certificate under the 1991 Regulations has been made to, and received by, the chief officer of police for the relevant police force before the relevant date and the application has not been refused nor granted by that date, the application is deemed to be an application for an explosives certificate under regulation 11 of these Regulations and the provisions of these Regulations apply to the application.

(7) Despite the revocation of the 1993 Regulations by these Regulations, a recipient competent authority document issued under the 1993 Regulations which was valid immediately before the relevant date is deemed to be a valid recipient competent authority document for the purposes of regulation 8 of these Regulations.

(8) Where an application for a recipient competent authority document under the 1993 Regulations has been made to, and received by, the Executive before the relevant date and the application has not been refused nor granted by that date, the application is deemed to be an application for a recipient competent authority document under regulation 8 of these Regulations and the provisions of these Regulations apply to the application.

(9) In relation to the application of these Regulations to the storage of ammonium nitrate blasting intermediate by virtue of regulation 2(2), where a person is storing ammonium nitrate blasting intermediate on the relevant date, regulations 7, 12, 13, 14, 16 to 18, 20 and 23 do not apply to that storage by that person until 1st October 2017.

(10) Paragraph (11) applies to a person who, immediately before the relevant date, held—

- (a) a licence granted under regulation 13 of the 2005 Regulations; or
- (b) a registration granted under regulation 11 of the 2005 Regulations,

which, in either case, is deemed to be a licence granted under regulation 13 of these Regulations by virtue of, respectively, paragraph (1) or (2) of this regulation and, in respect of that licence or registration, was subject to the requirements of regulation 5 of the 2005 Regulations.

(11) A person to whom this paragraph applies is not subject to the requirements of regulation 27 until the later of—

- (a) 1st October 2015; or
- (b) the expiry of the licence or registration, as the case may be, deemed to be a licence under, respectively, paragraph (1) or (2); and

until that later date, that person must continue to comply with the requirements of regulation 5 of the 2005 Regulations.

(12) Where the storage of explosives at any place—

- (a) was immediately before the relevant date exempt from the requirement for a licence under the 2005 Regulations by virtue of an exemption certificate granted under regulation 26 of those Regulations; and
- (b) is not storage to which regulation 3(9) of these Regulations relates,

the person doing that storing is deemed to hold a licence granted by the Executive under regulation 13 with an expiry date of 1st October 2016.

(13) Paragraph (14) applies to a person who, immediately before the relevant date, acquires or is keeping explosives which do not require an explosives certificate under the 1991 Regulations but which do under these Regulations.

(14) A person to whom this paragraph applies is deemed to hold an explosives certificate under these Regulations which permits the acquiring and keeping of the explosives referred to in paragraph (13) until 1st October 2016.

(15) The amendments made by the 2005 Regulations to—

- (a) the Stratified Ironstone, Shale and Fireclay Mines (Explosives) Regulations 1956(1); and
- (b) the Miscellaneous Mines (Explosives) Regulations 1959(2),

continue to have effect despite the revocation of the 2005 Regulations by these Regulations.

(16) The amendments made by the Explosives Act 1875 and 1923 Etc. (Repeals and Modifications) (Amendment) Regulations 1974(3) (“the Amendment Regulations”) to the Explosives Act 1875 and 1923 Etc. (Repeals and Modifications) Regulations 1974(4) continue to have effect despite the revocation of the Amendment Regulations by these Regulations.

(17) In this regulation—

- (a) “the 1991 Regulations” means the Control of Explosives Regulations 1991(5);
- (b) “the 1993 Regulations” means the Placing on the Market and Supervision of Transfers of Explosives Regulations 1993(6);
- (c) “recipient competent authority document” has the same meaning as in regulation 8(9); and
- (d) “relevant date” means 1st October 2014.

(1) S.I. 1956/1943, amended by S.I. 2005/1082; there are other amending instruments but none is relevant.

(2) S.I. 1959/2258, amended by S.I. 2005/1082; there are other amending instruments but none is relevant.

(3) S.I. 1974/2166.

(4) S.I. 1974/1855, amended by S.I. 1974/2166; there are other amending instruments but none is relevant.

(5) S.I. 1991/1531, to which there are amendments not relevant to these Regulations.

(6) S.I. 1993/2714, to which there are amendments not relevant to these Regulations.

Repeals, revocations and amendments

48.—(1) The primary legislation specified in Part 1 of Schedule 13 and the secondary legislation specified in Part 2 of that Schedule is amended in accordance with the provisions of that Schedule.

(2) The primary legislation specified in column 1 of Part 1 of Schedule 14 is repealed to the extent specified in column 3 of that Schedule.

(3) The secondary legislation specified in column 1 of Part 2 of Schedule 14 is revoked to the extent specified in column 3 of that Schedule.

Review

49.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how other member States have implemented—

- (a) Council [Directive 93/15/EC](#) on the harmonization of the provisions relating to the placing on the market and supervision of explosives for civil uses⁽⁷⁾, as amended by Regulation [\(EC\) No 1882/2003](#) of the European Parliament and of the Council of 29th September 2003⁽⁸⁾, Regulation [\(EC\) No 219/2009](#) of the European Parliament and of the Council of 11th March 2009⁽⁹⁾ and Regulation [\(EU\) No 1025/2012](#) of the European Parliament and of the Council of 25th October 2012⁽¹⁰⁾ which are implemented by these Regulations; and
- (b) Commission [Directive 2008/43/EC](#) of 4th April 2008 setting up, pursuant to Council Directive [93/15/EEC](#), a system for the identification and traceability of explosives for civil uses⁽¹¹⁾ as amended by Commission Directive [2012/4/EU](#)⁽¹²⁾, which are implemented by these Regulations.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with 1st October 2014.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

(7) OJ No. L 121, 15.5.1993, p.20.

(8) OJ No. L 284, 31.10.2003, p. 1.

(9) OJ No. L 87, 31.3.2009 p. 109.

(10) OJ No. L 316, 14.11.2012, p. 12.

(11) OJ No. L 94, 5.4.2008, p.8.

(12) OJ No. L 50, 23.2.2012, p.18.