

SCHEDULE 2

Regulation 14

THE SCHEDULES TO BE INSERTED AFTER SCHEDULE  
14 TO THE EXPLOSIVES REGULATIONS 2014

“SCHEDULE 15

Regulation 2(1)

NOTIFIED BODY REQUIREMENTS

1. A conformity assessment body must be established in the United Kingdom and have legal personality.

2. A conformity assessment body must be a third party body independent of the organisation or the civil explosive it assesses.

3.—(1) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of civil explosives, nor the representative of any of those parties.

(2) Sub-paragraph (1) does not preclude the use of civil explosives that are necessary for the operations of the conformity assessment body or the use of civil explosives for personal purposes.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of civil explosives, or represent the parties engaged in those activities.

5. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not engage in activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified (including consultancy services).

6. A conformity assessment body must ensure that the activities of its subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

7. A conformity assessment body and its personnel must carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and must be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in those activities.

8. A conformity assessment body must be capable of carrying out all of the conformity assessment activities in relation to which it has been, or is to be, notified, whether those activities are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

9. A conformity assessment body must have at its disposal—

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment activities;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures, and have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;

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- (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the process.

**10.** A conformity assessment body must have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and must have access to the necessary equipment or facilities.

**11.** The personnel responsible for carrying out conformity assessment activities must have—

- (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
- (b) satisfactory knowledge of the requirements of the assessments which the personnel carry out and adequate authority to carry out those assessments;
- (c) appropriate knowledge and understanding of the essential safety requirements, of the applicable harmonised standards and of the Directive and Part 13 of these Regulations;
- (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

**12.** A conformity assessment body must be able to demonstrate the impartiality of its top level management and the personnel responsible for carrying out the conformity assessment activities.

**13.** The remuneration of the top level management and the personnel responsible for carrying out the conformity assessment activities must not depend on the number of assessments carried out or on the results of those assessments.

**14.** A conformity assessment body must have, and must satisfy the Secretary of State that it has, adequate civil liability insurance in respect of its activities.

**15.** A conformity assessment body must ensure that its personnel observe professional secrecy with regard to all information obtained in carrying out their tasks in accordance with these Regulations and that proprietary rights are protected.

**16.** Paragraph 15 does not prevent the personnel from providing information to the Secretary of State or the enforcing authority in respect of Part 13 of these Regulations.

**17.** A conformity assessment body must participate in, or ensure that its personnel who are responsible for carrying out the conformity assessment activities are informed of, the relevant standardisation activities and the activities of any notified body coordination group established under the Directive and must apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

## SCHEDULE 16

Regulation 76

### OPERATIONAL OBLIGATIONS OF NOTIFIED BODIES

**1.** A notified body must carry out conformity assessments in accordance with the relevant conformity assessment procedures.

**2.** A notified body must carry out conformity assessments in a proportionate manner, avoiding unnecessary burdens on economic operators.

**3.** A notified body must perform its activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

4. A notified body must respect the degree of rigour and the level of protection required to ensure that the civil explosive is in conformity with the requirements of Part 13 of these Regulations.

5. Where a notified body finds that essential safety requirements or corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it must require the manufacturer to take appropriate corrective measures and must not issue a certificate of conformity or grant an approval.

6. Where, in the course of the monitoring of conformity following the issue of a certificate or grant of an approval, a notified body finds that a civil explosive is no longer in conformity with the essential safety requirements, it must require the manufacturer to take appropriate corrective measures and must suspend or withdraw the certificate of conformity or approval (if necessary).

7. Where the notified body has required a manufacturer to take corrective measures and the manufacturer has failed to take such measures, or those measures have not had the required effect, the notified body must restrict, suspend or withdraw any certificate of conformity or approval.

8. Paragraph 9 applies where a notified body is minded to—

- (a) refuse to issue a certificate of conformity or grant an approval;
- (b) restrict, suspend or withdraw a certificate of conformity or approval.

9. Where this paragraph applies, the notified body must—

- (a) give the person applying for the certificate or approval, or the person to whom the certificate or approval was given, a notice in writing giving reasons and specifying the date on which the refusal, restriction, suspension or withdrawal is intended to take effect;
- (b) give the person applying for the certificate or approval, or the person to whom the certificate or approval was given, an opportunity to make representations within a reasonable period from the date of the notice; and
- (c) take account of any such representations before taking its decision.

10. A notified body must inform the Secretary of State of—

- (a) any refusal, restriction, suspension or withdrawal of a certificate of conformity or approval;
- (b) any circumstances affecting the scope of, or conditions for, notification under regulation 70 (notification);
- (c) any request for information which it has received from the enforcing authority in respect of Part 13 regarding conformity assessment activities; and
- (d) on request, conformity assessment activities performed within the scope of its notification under regulation 70 and any other activity performed, including cross-border activities and subcontracting.

11. A notified body must make provision in its contracts with its clients enabling such clients to appeal against a decision—

- (a) to refuse to issue a certificate of conformity or grant an approval; or
- (b) to restrict, suspend or withdraw a certificate of conformity or approval.

12. A notified body must provide other bodies notified under the Directive carrying out similar conformity assessment activities covering the same civil explosives with relevant information on issues relating to negative and, on request, positive conformity assessment results.

13. A notified body must participate in the work of any notified body coordination group established under the Directive, directly or by means of its designated representatives.”