

This Statutory Instrument corrects errors in S.I. 2022/1378 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2023 No. 247

HEALTH AND SAFETY

**The Health and Safety and Nuclear (Fees) (Amendment)
Regulations 2023**

<i>Made</i>	- - - -	<i>3rd March 2023</i>
<i>Laid before Parliament</i>		<i>6th March 2023</i>
<i>Coming into force</i>	- -	<i>1st April 2023</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 43(2), (4), (5) and (6) and 82(3)(a) of the Health and Safety at Work etc. Act 1974(a) (“the 1974 Act”) and paragraph 7 of Schedule 4 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018(b).

The Secretary of State makes these Regulations, in so far as they are made in exercise of the powers conferred by the 1974 Act, for the purpose of giving effect without modifications to proposals submitted to the Secretary of State by the Health and Safety Executive under section 11(3) of the 1974 Act(c) and by the Office for Nuclear Regulation under section 81(1)(a)(iv) of the Energy Act 2013(d).

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Health and Safety and Nuclear (Fees) (Amendment) Regulations 2023 and come into force on 1st April 2023.

(2) These Regulations extend to Great Britain.

(3) The amendments made by these Regulations apply to any work outside Great Britain to which sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974 apply by virtue of the Health and Safety at Work etc Act 1974 (Application outside Great Britain) Order 2013(e) as they apply to work in Great Britain.

(4) The amendments made by regulations 3 and 4 do not apply in relation to any relevant application which is made to the Executive(f) before 1st October 2023.

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- (a) 1974 c. 37. Section 43 was amended by paragraph 12 of Schedule 15 to the Employment Protection Act 1975 (c. 71) and S.I. 2002/794 and 2008/960. There are amendments to section 82 but none is relevant to these Regulations.
- (b) 2018 c. 16. There are amendments to Schedules 4 and 7 but none is relevant to these Regulations. See paragraph 8 of Schedule 4 for the meaning of “appropriate authority” for the purposes of paragraph 7 of that Schedule.
- (c) Section 11 was substituted by S.I. 2008/960 and amended by paragraph 2(2) and (3) of Schedule 12 to the Energy Act 2013 (c. 32), section 1(4) of the Deregulation Act 2015 (c. 20) and paragraph 2(2) and (3) of Schedule 1 to the Building Safety Act 2022 (c. 30).
- (d) 2013 c. 32. There are amendments to section 81 but none is relevant to these Regulations.
- (e) S.I. 2013/240.
- (f) See the definition of “the Executive” in section 10 of the Health and Safety at Work etc. Act 1974.

(5) In paragraph (4) “relevant application” means an application under regulation 7(2) of the Ionising Radiations Regulations 2017(a) for a consent to carry out specified practices for the purposes of those Regulations.

Amendment of the Health and Safety and Nuclear (Fees) Regulations 2022

2. The Health and Safety and Nuclear (Fees) Regulations 2022(b) are amended in accordance with regulations 3 to 15.

Fees payable in connection with the Ionising Radiations Regulations 2017: applications for registration and for consent to carry out specified practices

3.—(1) Regulation 8 (fees payable in connection with the Ionising Radiations Regulations 2017 etc.) is amended as follows.

(2) In paragraph (2)—

- (a) omit “(within the meaning given in the 2017 Regulations)”;
- (b) omit “or for a consent to carry out specified practices”.

(3) After paragraph (3) insert—

“(3A) A fee is payable to the appropriate authority by the applicant on each application under regulation 7(2) of the 2017 Regulations for a consent to carry out specified practices for the purposes of those Regulations.”.

(4) In paragraph (6), after “paragraph (2) or (4)” insert “(other than an application for registration pursuant to regulation 6 of the 2017 Regulations)”.

(5) In paragraph (11), after the definition of “the 2019 Regulations” insert—

““appropriate authority” has the meaning given in regulation 6(10) of the 2017 Regulations;”.

4. In regulation 17 (provisions supplementary to regulations 14 to 16)—

- (a) in the heading, after “regulations” insert “8(3A) and”;
- (b) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), after “regulations” insert “8(3A) and”;
 - (ii) after sub-paragraph (a)(i), insert—

“(ia) in the case of regulation 8(3A), by the Executive or the ONR (as the case may be) in carrying out the work in connection with an application referred to in that provision;”;
- (c) in paragraph (2), after “regulations” insert “8(3A) and”.

5. In Schedule 6 (fees payable in connection with the Ionising Radiations Regulations 2017 etc.), in Table 1, after the final entry, insert—

“Application for registration pursuant to regulation 6 of the 2017 Regulations	£26	n/a”.
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(a) S.I. 2017/1075.
(b) S.I. 2022/1378.

Fees payable in relation to the Explosives Regulations 2014 and the Acetylene Safety (England and Wales and Scotland) Regulations 2014: proposed variation or variation of a licence without an application

6.—(1) Regulation 9 (fees payable in relation to the Explosives Regulations 2014 and the Acetylene Safety (England and Wales and Scotland) Regulations 2014) is amended as follows.

(2) After paragraph (1) insert—

“(1A) Where a licensing authority which is the licensing authority by virtue of—

- (a) paragraph 1(c) or (d) of Schedule 1 to the Explosives Regulations 2014; or
- (b) paragraph 1(b), 2 or 4 of that Schedule in cases where the assent of the local authority is required under regulation 13(3) of those Regulations or is not required by virtue of regulation 13(4)(b) to (g) of those Regulations,

proposes to vary or varies a licence as described in column 2 of Part 1 of Schedule 7 without the agreement of the explosives licensee as permitted by regulation 16 of the Explosives Regulations 2014, the fee specified in the corresponding entry in column 3 of that Part is payable by the explosives licensee to the licensing authority.”.

(3) For paragraph (2) substitute—

“(2) Where a fee is referred to in column 3 of Part 1 of Schedule 7 as an amount per hour worked, the amount is to be adjusted pro rata for a period worked of less than one hour.”.

(4) Omit paragraph (3).

(5) After paragraph (4) insert—

“(4A) Where a licensing authority which is the licensing authority by virtue of—

- (a) paragraph 1(a) of Schedule 1 to the Explosives Regulations 2014; or
- (b) paragraph 1(b), 2 or 4 of that Schedule in cases where the requirement for assent by the local authority under regulation 13(3) of those Regulations is disapplied by regulation 13(4)(a) of those Regulations,

proposes to vary or varies a licence as described in column 1 of Part 2 of Schedule 7 without the agreement of the explosives licensee as permitted by regulation 16 of the Explosives Regulations 2014, the fee specified in the corresponding entry in column 3 of that Part is payable by the explosives licensee to the licensing authority.

(4B) Any fee payable under paragraph (1) or (4) is payable prior to notification of the result of the application.

(4C) Where a fee is payable by an explosives licensee as specified in paragraph (1A) or (4A), the fee is payable within 30 days from the date—

- (a) on which the variation of the licence takes effect; or
- (b) if the licence is not varied, of the invoice that the licensing authority gives or sends to the explosives licensee.”.

(6) After paragraph (8) insert—

“(8A) Any fee payable under paragraph (8) is payable prior to notification of the result of the application.

(8B) Where an acetylene licensing authority proposes to vary or varies a licence as described in column 1 of Part 4 of Schedule 7 without the consent of the acetylene licensee as permitted by regulation 9(5)(a) of the 2014 Acetylene Regulations, the fee specified in the corresponding entry in column 2 of that Part is payable by the acetylene licensee to the acetylene licensing authority.

(8C) Where a fee is referred to in column 2 of Part 4 of Schedule 7 as an amount per hour worked, the amount is to be adjusted pro rata for a period worked of less than one hour.

(8D) Where a fee is payable by an acetylene licensee as specified in paragraph (8B), the fee is payable within 30 days from the date—

- (a) on which the variation of the licence takes effect; or

- (b) if the licence is not varied, of the invoice that the acetylene licensing authority gives or sends to the acetylene licensee.”.

(7) Omit paragraphs (9) and (10).

(8) In paragraph (11)—

- (a) after the definition of “the 2014 Acetylene Regulations” insert—

“acetylene licensee” means a licensee within the meaning given in the 2014 Acetylene Regulations (see regulation 2 of those Regulations);

“acetylene licensing authority” means a licensing authority within the meaning given in the 2014 Acetylene Regulations (see regulation 2 of those Regulations);”;

- (b) after the definition beginning ““ammonium nitrate blasting intermediate””, insert—

“explosives licensee” means a licensee within the meaning given in the Explosives Regulations 2014 (see regulation 2(1) of those Regulations);”.

7. In regulation 12 (estimate of cost of work), after paragraph (1) insert—

“(1A) In addition, where—

- (a) a fee is to be assessed on the basis of the reasonable cost to the licensing authority of carrying out relevant work; and
- (b) the licensing authority proposes to vary an explosives licence without the agreement of the explosives licensee as permitted by regulation 16 of the Explosives Regulations 2014,

the licensing authority must prepare and send an estimate of the cost of carrying out the relevant work to the explosives licensee.

(1B) In this regulation “explosives licence”, “explosives licensee” and “licensing authority” have the same meanings as in regulation 9.”.

8.—(1) Schedule 7 (fees payable in relation to the Explosives Regulations 2014, the 2014 Acetylene Regulations etc) is amended as follows.

(2) In Part 1—

- (a) in column 2—

- (i) in the heading, after “application” insert “or exercise of function”;

- (ii) after “Varying”, in both places it occurs, insert “, or proposing to vary,”;

- (b) in column 3—

- (i) in the entries relating to regulation 13 of the Explosives Regulations 2014 as extended by regulation 2 of those Regulations—

- (aa) for “£670”, in both places it occurs, substitute “£683 plus £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors”;

- (bb) for “£248” substitute “£253 plus £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors”;

- (cc) for “£88” substitute “£90 plus £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors”;

- (ii) in the entry relating to regulation 16 of the Explosives Regulations 2014, for “£460” substitute—

- (a) where the licensing authority proposes to vary a licence but does not in fact make any variation, £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors;

- (b) in any other case, £469 plus £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors”;

- (c) omit column 4.

- (3) In Part 2—
- (a) in column 1, in the heading, after “made” insert “or function is exercised”;
 - (b) in column 2—
 - (i) in the heading, after “application” insert “or exercise of function”;
 - (ii) in the entry relating to regulation 16 of the Explosives Regulations 2014—
 - (aa) for “Varying a licence” substitute “Varying, or proposing to vary, a licence”;
 - (bb) for “licensee” substitute “explosives licensee”;
 - (cc) after “kind of variation” insert “or any proposal to vary a licence”;
 - (c) in note (e), for “the direction of” substitute “the duration of”.
- (4) In Part 3, in each of notes (b) to (e), for “is as granted” substitute “is granted”.
- (5) In Part 4—
- (a) in column 1, in the heading, after “application” insert “, or exercise of function,”;
 - (b) in column 1, in the entry beginning “application to vary a licence” after “regulation 6” insert “or variation of a licence under regulation 9(5)(a)”;
 - (c) in column 2—
 - (i) in the entry relating to an original application for a licence, for “£42” substitute “£43 plus £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors”;
 - (ii) in the entry relating to an application to renew a licence under regulation 6, for “£42” substitute “£43 plus £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors”;
 - (iii) in the entry relating to an application to vary a licence under regulation 6 (as amended by sub-paragraph (b) above), for “£42” substitute—
 - “(a) where the licensing authority proposes to vary a licence but does not in fact make any variation, £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors;
 - (b) in any other case, £469 plus £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors”;
 - (iv) in the entry relating to an application to transfer a licence under regulation 6, for “£42” substitute “£43 plus £138 per hour worked by a member of the licensing authority’s staff or one of its inspectors”;
 - (d) omit column 3.
- (6) In Part 5, in column 3—
- (a) for “certification”, in both places it occurs, substitute “certificate”;
 - (b) for “or each year” substitute “for each year”.

Fees for applications for or changes to explosives licences under Part 5 of the Dangerous Goods in Harbour Areas Regulations 2016: alteration of a licence without an application

9.—(1) Regulation 11 (fees for applications for or changes to an explosives licence under Part 5 of the Dangerous Goods in Harbour Areas Regulations 2016) is amended as follows.

- (2) For the heading substitute—

“Fees in relation to Part 5 of the Dangerous Goods in Harbour Areas Regulations 2016”.

- (3) After paragraph (1) insert—

“(1A) Where the appropriate authority makes, or proposes to make, any alteration to the terms of an existing explosives licence without an application as permitted by regulation

16(2) or 17(2) of the Dangerous Goods in Harbour Areas Regulations 2016, a fee is payable by the holder of that licence.”.

(4) In paragraph (2)—

- (a) for “on an application for each purpose specified” substitute “for each type of work specified”;
- (b) omit the words from “, so calculated” to the end.

(5) After paragraph (2) insert—

“(2A) Where a fee is payable under paragraph (1), the fee is payable prior to notification of the result of the application.

(2B) Where a fee is payable by the holder of a licence under paragraph (1A), the fee is payable within 30 days from the date—

- (a) on which the alteration of the terms takes effect; or
- (b) if the licence is not altered, of the invoice that the licensing authority gives or sends to the holder of the licence.”.

10. In Schedule 8 (fees for application for or changes to an explosives licence under Part 5 of the Dangerous Goods in Harbour Areas Regulations 2016)—

- (a) in the heading, for “for application for or changes to an explosives licence under” substitute “in relation to”;
- (b) in column 1, for the heading, substitute “(Type of work)”;
- (c) in column 1, in the first entry, after “alteration” insert “, or proposed alteration,”.

Increase in amounts of fees

11. The Schedule contains amendments to the amounts of fees.

Other minor amendments

12. In regulation 4(2) (fees for applications for approval under the Freight Containers (Safety Convention) Regulations 2017), for “on column 1” substitute “in column 1”.

13. In regulation 18 (fees for applications for approvals under the Offshore Installations and Pipeline Works (First-Aid) Regulations 1989)—

- (a) in paragraph (6)(b), for “the offshore” substitute “offshore”;
- (b) in paragraph (7)(b), omit “rating”.

14. In Schedule 4 (fees for examination or surveillance by an employment medical adviser), in column 1, after “The Work in Compressed Air Regulations” insert “1996”.

15. In Schedule 9 (fees for notifications and applications under the 2014 GMO Regulations)—

- (a) in entry (b), for “class 2 contained” substitute “class 2 contained use”;
- (b) in entry (k), for “regulation (2)” substitute “regulation 9(2)”.

Signed by authority of the Secretary of State for Work and Pensions

3rd March 2023

Mims Davies
Parliamentary Under Secretary of State
Department for Work and Pensions

SCHEDULE

Regulation 11

Changes to amounts of fees payable under the Health and Safety and Nuclear (Fees) Regulations 2022

In the provisions of the Health and Safety and Nuclear (Fees) Regulations 2022 listed in column 1 of the table below for the fee listed in the corresponding entry in column 2 of the table substitute the fee listed in the corresponding entry in column 3 of the table—

<i>Column 1</i> <i>(provision of the Health and Safety and Nuclear (Fees) Regulations 2022)</i>	<i>Column 2</i> <i>(existing fee)</i>	<i>Column 3</i> <i>(new fee)</i>
Schedule 1		
column 2	£515	£525
column 2	£283	£289
Schedule 2		
column 2	£100	£102
Schedule 3		
Table 1	£3,439	£3,508
Table 2, column 1	£788	£804
Table 2, column 2	£788	£804
Table 2, column 3	£85	£87
Schedule 4		
column 3	£41	£42
column 3	£76	£78
column 3	£78 (in each place it occurs)	£80
column 4	£78 (in each place it occurs)	£80
column 5	£45 (in each place it occurs)	£46
Schedule 5		
column 2	£78	£80
column 2	£45 (in both places it occurs)	£46
Schedule 6		
Table 1, column 2	£856 (in each place it occurs)	£873
Table 1, column 2	£144	£147
Table 1, column 2	£59	£60
Table 1, column 3	£144 (in each place it occurs)	£147
Table 2, column 2	£2,017	£2,057
Table 2, column 2	£59	£60
Table 2, column 3	£144 (in each place it occurs)	£147
Table 3, column 2	£3.73	£3.80
Schedule 7, Part 1		

<i>Column 1 (provision of the Health and Safety and Nuclear (Fees) Regulations 2022)</i>	<i>Column 2 (existing fee)</i>	<i>Column 3 (new fee)</i>
column 3	£166 (in both places it occurs)	£169
column 3	£55 (in both places it occurs)	£56
Schedule 7, Part 2		
column 3	£189 (in both places it occurs)	£193
column 3	£248	£253
column 3	£311	£317
column 3	£382	£390
column 3	£432	£441
column 3	£111	£113
column 3	£144	£147
column 3	£177	£181
column 3	£211 (in both places it occurs)	£215
column 3	£243	£248
column 3	£88 (in both places it occurs)	£90
column 3	£150	£153
column 3	£272	£277
column 3	£333	£340
column 3	£55	£56
column 3	£123	£125
column 3	£155	£158
column 3	£37 (in each place it occurs)	£38
Schedule 7, Part 3		
column 3	£133 (in both places it occurs)	£136
column 3	£166 (in each place it occurs)	£169
column 3	£200 (in both places it occurs)	£204
column 3	£233 (in each place it occurs)	£238
column 3	£267 (in both places it occurs)	£272
column 3	£117 (in both places it occurs)	£119
column 3	£138 (in each place it occurs)	£141
column 3	£160 (in both places it occurs)	£163
column 3	£184 (in both places it occurs)	£188
column 3	£205 (in each place it occurs)	£209
column 3	£144	£147
column 3	£177	£181
column 3	£211	£215
column 3	£243	£248
column 3	£277	£283
column 3	£194 (in both places it occurs)	£198
column 3	£222	£226
column 3	£248	£253
column 3	£272 (in both places it occurs)	£277
column 3	£311	£317
column 3	£350	£357
column 3	£171	£174
column 3	£238	£243
column 3	£305	£311
column 3	£26 (in both places it occurs)	£27

<i>Column 1 (provision of the Health and Safety and Nuclear (Fees) Regulations 2022)</i>	<i>Column 2 (existing fee)</i>	<i>Column 3 (new fee)</i>
column 3	£47 (in both places it occurs)	£48
column 3	£37	£38
Schedule 7, Part 5		
column 3	£45 (in both places it occurs)	£46
column 3	£61 (in both places it occurs)	£62
column 3	£128 (in both places it occurs)	£131
Schedule 8		
column 2	£732	£747
column 2	£135	£138
column 2	£57	£58
Schedule 9		
column 2	£502	£512
column 2	£1,003 (in each place it occurs)	£1,023
column 2	£1,086 (in both places it occurs)	£1,108
column 2	£1,252 (in both places it occurs)	£1,277
column 2	£750 (in both places it occurs)	£765
Schedule 13		
Table 1, column 1	£1,800	£1,836
Table 1, column 2	£2,479	£2,529
Table 1, column 3	£125	£128
Table 1, column 4	£125	£128
Table 2, column 1	£601	£613
Table 2, column 2	£1,419	£1,447
Table 3, column 1	£612	£624
Table 3, column 2	£1,419	£1,447
Table 3, column 3	£601	£613
Table 3, column 3	£1,419	£1,447
Table 4, column 1	£612	£624
Table 4, column 2	£1,419	£1,447
Table 4, column 3	£612	£624
Schedule 15		
column 2, entry (a)	£475	£485
column 2, entry (b)	£475	£485
column 2, entry (c)	£475	£485
column 2, entry (f)	£475	£485
column 2, entry (i)	£475	£485
column 2, entries (j) to (o)	£418 (in each place it occurs)	£426
column 2, entry (u)	£418	£426

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health and Safety and Nuclear (Fees) Regulations 2022 (S.I. 2022/1378) (“the 2022 Regulations”) to make various changes to the fees fixed or determined by those Regulations.

In particular, these Regulations:

- (a) allow the Office for Nuclear Regulation (from 1st April 2023) and the Health and Safety Executive (from 1st October 2023) to recover their costs associated with applications under regulation 7(2) of the Ionising Radiations Regulations 2017;
- (b) enable the licensing authority to recover the costs of work relating to licences under the Explosives Regulations 2014, the Acetylene Safety (England and Wales and Scotland) Regulations 2014 and the Dangerous Goods in Harbour Areas Regulations 2016, where this work is carried out otherwise than following an application from the holder of the licence;
- (c) change the way in which certain fees in respect of work relating to such licences are determined.

These Regulations also introduce fee increases for some of the fees that were fixed or determined by the 2022 Regulations. The fees are raised by 2% from the level set out in the 2022 Regulations.

These Regulations also correct a number of errors in the 2022 Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

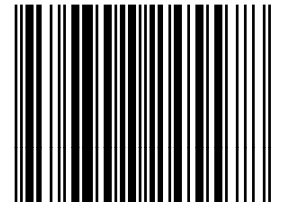
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