

2009 No. 248

HEALTH AND SAFETY

**The Manufacture and Storage of Explosives (Amendment)
Regulations (Northern Ireland) 2009**

Made - - - - - 23rd June 2009

Coming into operation - 7th August 2009

To be laid before Parliament

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 17(1), (2), (4) and (5), 40(2) and (4), 53(1), 54(1) and 55(2) of, and paragraphs 1(1), (2) and (3), 6, 10, 13, 14(1), 15, 17 and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(a) as applied and modified by Article 53 of that Order. In accordance with Article 46(1)(b) of that Order he has consulted with the Health and Safety Executive for Northern Ireland and such bodies as appeared to him to be appropriate.

Citation and Commencement

1. These Regulations may be cited as the Manufacture and Storage of Explosives (Amendment) Regulations (Northern Ireland) 2009 and shall come into operation on 7th August 2009.

Amendments to the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006

2. The Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006(c) shall be amended in accordance with the Schedule.

Amendments to the Explosives Act 1875

3. Sections 53, 54, 55, 56, 61 and 76 of the Explosives Act 1875(d) shall be repealed.

Amendment to the Explosives Act (Northern Ireland) 1970

4. Section 5 of the Explosives Act (Northern Ireland) 1970(e) shall be repealed.

Paul Goggins

Northern Ireland Office
23rd June 2009

Minister of State for Northern Ireland

(a) S.I. 1978/1039 (N.I. 9); Article 47A was inserted by Article 3, and Article 2 was amended by Articles 4 and 8, of S.I. 1997/1774 (N.I. 16)

(b) Article 46 was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18

(c) S.R. 2006 No. 425

(d) 1875 c.17 (38 & 39 Vict.)

(e) 1970 c. 10, as amended by S.R. 2006 No. 425

SCHEDULE

Regulation 2

AMENDMENTS TO THE MANUFACTURE AND STORAGE OF EXPLOSIVES REGULATIONS (NORTHERN IRELAND) 2006

1. In paragraph (1) of regulation 2, in the definition of “registration”, after “regulation 13(3)” insert “and includes a varied registration”.

2. In regulation 3 (Application) in paragraph (2)(b)—

(a) omit “section 53 of the 1875 Act”

3. In regulation 5 (separation distances)—

(a) for paragraph (2), substitute—

“(2) Paragraph (1) shall not apply to—

(a) desensitised explosives; or

(b) explosives which are stored under a licence granted by the Secretary of State in cases where—

(i) the public hearing procedure was required pursuant to regulation 11(4); or

(ii) that procedure was not required by virtue of regulation 11(5)(d) or (e).”; and

(b) in paragraph (3)—

(i) for “sub-paragraph (b)”, substitute “sub-paragraphs (b) and (d)”;

(ii) after sub-paragraph (a), insert—

“(aa) a combined total of 5 kilograms of shooters’ powder and model rocket motors;”;

(iii) after sub-paragraph (d), insert—

“(e) 4 kilograms of explosive kept by a police force for operational purposes other than those referred to in sub-paragraph (d).”; and

(c) after paragraph (7), insert—

“(8) In this regulation, “model rocket motors” means explosive articles which—

(a) are allocated the U.N. nos. 0186, 0272, 0349, 0351 or 0471;

(b) are intended to be used for the propulsion of model rockets or similar articles; and

(c) in respect of each individual explosive article, contain no more than 1 kilogram of explosive.”.

4. In regulation 10 (explosives not to be stored without a licence or certificate of registration)—

(a) in paragraph (2)—

(i) in sub-paragraphs (d) and (e), before “days” wherever it appears, insert “consecutive”; and

(ii) for sub-paragraph (g), substitute—

“(g) the storage of explosives by a company which is a wholly-owned subsidiary of another company at a site in relation to which that other company holds—

(i) a registration; or

(ii) a licence to store explosives

and that storage by the wholly-owned subsidiary is in accordance with any condition of that registration or licence.”; and

(b) in paragraph (3)—

(i) in sub-paragraph (b)—

(aa) omit “or explosive articles to which they respectively relate”; and

(bb) at the end, insert “and”; and

(ii) after sub-paragraph (b), insert—

“(c) in sub-paragraphs (d) and (e), Christmas Day, Good Friday and, to the extent that they are not the same as those, any days which under the Banking and Financial

Dealings Act 1971(a) are bank holidays shall not be included for the purposes of determining the period of days referred to in those sub-paragraphs.”.

5. In regulation 11 (grant of licences)—

(a) for paragraph (2), substitute—

“(2) A licence, not being the renewal of a licence, may be granted—

(a) for such period not exceeding 5 years; or

(b) for any period or without a time limit in a case—

(i) to which paragraph (4) applies; or

(ii) to which paragraph (4) does not apply by virtue of paragraph (5)(e); or

(iii) where the licence application relates only to the manufacture of ammonium nitrate blasting intermediate,

as the Secretary of State determines.”;

(b) in paragraph (5)—

(i) omit sub-paragraph (b);

(ii) in sub-paragraph (d), omit “or” at the end; and

(iii) at the end of sub-paragraph (e), insert—

“(f) which is to follow, without a gap in time, a previous licence granted to follow, without a gap in time, a deemed licence for the purposes of regulation 26(3); or

(g) relating to the manufacture of explosives by the Police Service of Northern Ireland for operational purposes or the training of its members in relation to those purposes.”; and

(c) in paragraph (7), after “paragraph (4)” insert “or in cases where that procedure was not required by virtue of paragraph (5)(d) or (e)”.

6. In regulation 13—

(a) in paragraph (4), for “3 years” substitute “5 years”;

(b) in paragraph (5), omit “exceptions listed in”;

(c) in paragraph (7), after “manufacture of explosives” insert “, other than manufacture not requiring a licence by virtue of regulation 9(2),”; and

(d) in paragraph (8), omit “or explosive articles”.

7. In regulation 15 (variation of licences)—

(a) at the end of the heading, add “and registration”;

(b) in paragraph (1)(b), after “11(4)” add “, or in cases where that procedure was not required by virtue of regulation 11(5)(e),”; and

(c) after paragraph (2), insert—

“(2A) The Secretary of State may vary a registration—

(a) where there has been a change of circumstances such that the separation distances can no longer be maintained and a consequent reduction in the quantity of explosives that may be stored is required so as to reduce that quantity to one specified by the Secretary of State which is below the maximum quantity referred to in regulation 13(1) for the kind of explosives concerned;

(b) so as to change the period for which the registration is in operation; and

(c) in relation to any of the matters to which it relates, by agreement with the registered person.”.

8. In regulation 17 (further provisions concerning refusals, variations and revocations)—

(a) for paragraph (1)(a), substitute—

“(a) refuse an application for—

(a) 1971 c. 80

- (i) a licence or registration;
- (ii) a renewal of a licence or registration; or
- (iii) a transfer of a licence or registration;” and
- (b) in sub-paragraph (b) of paragraph (1)—
 - (i) after “licence” insert “or registration”; and
 - (ii) after “licensee” insert “or registered person”;
- (c) for paragraph (3)(a), substitute—
 - “(a) refuse an application for—
 - (i) a licence or registration;
 - (ii) a renewal of a licence or registration; or
 - (iii) a transfer of a licence or registration;”.
- (d) in sub-paragraph (b) of paragraph (3)—
 - (i) after “licence” insert “or registration”; and
 - (ii) after “licensee” insert “or registered person”; and
- (e) in paragraph (4)—
 - (i) after “varies a licence” insert “or registration”, and
 - (ii) after “licensee” insert “or registered person”.

9. For regulation 18 (transfer of licences and registration), substitute—

“**18.**—(1) A licence or registration may be transferred in writing by the Secretary of State to any other person who wishes to manufacture or store explosives in place of the licensee or registered person and who applies to the Secretary of State for the transfer.

(2) The Secretary of State shall grant an application for a transfer of a licence or registration unless he is of the opinion that the applicant is not a fit person—

- (a) to manufacture explosives, in the case of an application to transfer a licence to do so; or
- (b) to store explosives, in the case of an application to transfer a licence or registration to do so.

(3) Where the Secretary of State is of an opinion referred to in paragraph (2)(a) or (b), he shall, subject to regulation 17, refuse the application to transfer the licence or registration, as the case may be.”.

10. In regulation 20(1) (death, incapacity or bankruptcy)—

- (a) for “terms”, substitute “conditions”;
- (b) in sub-paragraph (a)—
 - (i) for “28 days from” substitute “a period of 60 days starting with the date of”; and
 - (ii) omit “or” at the end;
- (c) in sub-paragraph (b), at the end add “or”; and
- (d) after sub-paragraph (b), insert—
 - “(c) the transfer of, or refusal to transfer, a licence or registration.”.

11. After regulation 24 (prohibition concerning the acquisition and supply of fireworks), insert—

“Information as to net mass of pyrotechnic articles

24A. Where the manufacturer, importer or supplier of a pyrotechnic article specifies its net mass of explosive on the pyrotechnic article, its packaging or in a document accompanying it, he shall ensure, so far as is reasonably practicable, that the net mass of the explosive in that pyrotechnic article does not exceed the quantity he so specifies on the pyrotechnic article, the packaging or that document as the case may be”.

12. Regulation 26(19) is revoked.

13. In Schedule 2 (exceptions)—

- (a) under the heading “EXCEPTIONS”, add “PART 1”; and
 (b) at the end, insert—

“PART 2

Explosive articles which—

- (a) are allocated the U.N. nos. 0186, 0272, 0349, 0351 or 0471;
 (b) are intended to be used for the propulsion of model rockets or similar articles; and
 (c) in respect of each individual explosive article, contain no more than 1 kilogram of explosive.”

14. For Schedule 4 (Fees), substitute—

“SCHEDULE 4

Regulation 19

FEES

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
<i>Provision in relation to which the application is made</i>	<i>Purpose of application</i>	<i>Fee</i>	<i>Fee for work by Specialist Inspector</i>
Regulation 11	Licence to manufacture explosives not being ammonium nitrate blasting intermediate nor relating to on-site mixing	£622	£125 per hour worked
	Licence to manufacture ammonium nitrate blasting intermediate	£154 per hour worked	
	Licence to manufacture explosives by means of on-site mixing	£231	£125 per hour worked
	Licence to store more than 2000 kilograms of explosives or licence which provides for different separation distances to apply than those specified in Schedule 1	£622	£125 per hour worked
	Licence to store no more than 2000 kilograms of explosives (see Note)	£402	
	Renewal of a licence	£306	
Regulation 13	Registration in relation to the storage of explosives (see Note)	£225	
	Renewal of a registration	£174	

<i>1</i> <i>Provision in relation to which the application is made</i>	<i>2</i> <i>Purpose of application</i>	<i>3</i> <i>Fee</i>	<i>4</i> <i>Fee for work by Specialist Inspector</i>
Regulation 15	Varying a licence to manufacture explosives not being ammonium nitrate blasting intermediate or licence to store more than 2000 kilograms of explosives	£426	£125 per hour worked
	Varying a licence to manufacture ammonium nitrate blasting intermediate	£154 per hour worked	
	Varying a licence to store no more than 2000 kilograms of explosives:		
	(a) varying name of licensee or address of site	£34	
	(b) any other kind of variation	the reasonable cost to the Secretary of State of having the work carried out	
Regulation 18	Transfer of a licence or registration	£34	
	Replacement of a licence or certificate of registration if lost	£34	

Note:

The fee payable for—

- (a) a licence to store no more than 2000 kilograms of explosives;
- (b) registration; or
- (c) renewal of a licence to store no more than 2000 kilograms of explosives or renewal of a registration, of less than 5 years' duration shall be, respectively, the fee set out above for such a licence, registration or a renewal of such a licence or a registration of 5 years' duration decreased proportionately according to the duration of the period for which the licence in question, registration or renewal of either is granted.”.

15. In Schedule 5 (register)—

(a) for paragraph 2(g), substitute—

“(g) where separation distances are required by regulation 5 or a condition of the licence to be maintained around the building where explosives are manufactured or the store, a plan in a suitable scale sufficient to show those separation distances;”;

(b) in paragraph 4, for “paragraph 6”, substitute “paragraphs 6 and 6A”;

(c) after paragraph 6, insert—

“6A. The requirements of paragraph 4 shall not apply where the information referred to in paragraph 2 is in respect of a licensed site in relation to which regulation 11(4) did not apply to the licence application for that site by virtue of regulation 11(5)(g).”

(d) in paragraph 4(b), omit “only”.

16. In the third column of Part 1 of Schedule 7 (repeals and revocations), for “62 and 66” substitute “62 to 66”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 and repeal certain sections of the Explosives Act 1875.

2. Regulation 2 and the Schedule amend the 2006 Regulations to increase the maximum life of registrations and licences to five years, give the Secretary of State the power to vary a registration to store explosives and to refuse to transfer a licence or registration if he considers that the transferee is not a fit person. A new duty is placed on manufacturers etc to ensure that information given regarding the net mass of explosive content in pyrotechnic articles is accurate.

3. Regulation 3 repeals sections 53 to 56 , 61 and 76 of the Explosives Act 1875 in relation to Government Inspectors.

4. Regulation 4 repeals section 5 of the Explosives Act (Northern Ireland) 1970 in relation to inspection powers of members of the Police Service of Northern Ireland.

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