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STATUTORY RULES OF NORTHERN IRELAND

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**2013 No. 48**

**The Identification and Traceability of  
Explosives Regulations (Northern Ireland) 2013**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Identification and Traceability of Explosives Regulations (Northern Ireland) 2013 and, except as provided in paragraph (2), come into force on 5th April 2013.

(2) Regulations 4(7) and 6, and regulation 8 to the extent that it relates to regulations 4(7) and 6, come into force on 5th April 2015.

**Interpretation**

2.—(1) In these Regulations—

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

“distributor” means a person in the supply chain, other than a manufacturer or an importer, who makes an explosive available on the market and “distributes” and “distribution” are to be construed accordingly;

“explosive” means an explosive article or substance which has been classified in accordance with the UN Recommendations as falling within Class 1;

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

“explosive substance” means—

- (a) a solid or liquid substance, or
- (b) a mixture of solid or liquid substances or both,

which is capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings or which is designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as a result of non-detonative, self-sustaining, exothermic chemical reactions;

“manufacture” includes—

- (a) in relation to explosive articles, their repair, modification, disassembly or unmaking; and
- (b) in relation to explosive substances, their reprocessing, modification or adaptation;

“site”, in relation to a site within Northern Ireland, means the whole area under the control of the same person and, for these purposes—

- (a) all places adjoining each other under the control of the same person are treated as a whole area; and
- (b) two or more areas under the control of the same person separated only by a road, railway or inland waterway are treated as a whole area;

“territorial sea” means the territorial sea of the United Kingdom adjacent to Northern Ireland and “within the territorial sea” includes on, over and under it;

and

“UN 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 26th April 1957))(1) as revised or reissued from time to time.

(2) In these Regulations, any reference to acquiring an explosive means acquiring possession of, or property in, such explosive.

(3) Where an explosive is transported (including being loaded or unloaded and during breaks which are reasonably incidental to completing the journey within a reasonable length of time), the explosive is not to be treated as being kept or acquired by a person who has possession of it only by reason of being—

- (a) a carrier;
- (b) a person engaged in the work of loading or unloading; or
- (c) the occupier of a place it passes through while on the journey.

### **General application**

3.—(1) These Regulations apply to every explosive except the following—

- (a) ammunition the acquisition of which is regulated or prohibited by virtue of the Firearms (Northern Ireland) Order 2004(2);
- (b) an explosive which it is shown is intended for lawful use by the armed forces or the police of any country;
- (c) a pyrotechnic article;
- (d) an explosive which is transported and delivered without packaging or in a mobile explosives manufacturing unit for its direct unloading into the blast-hole;
- (e) an explosive which is used immediately at the place of manufacture;
- (f) fuses, which are cord-like non-detonating igniting devices;
- (g) safety fuses, which consist of a core of fine grained black powder surrounded by a flexible woven fabric with one or more protective outer coverings and which, when ignited, burn at a predetermined rate without any external explosive effect; and
- (h) cap-type primers, which consist of a metal or plastic cap containing a small amount of primary explosive mixture that is readily ignited by impact and which serve as igniting elements in small arms cartridges or in percussion primers for propelling charges.

(2) In this regulation—

- (a) “mobile explosives manufacturing unit” means a moveable unit, whether mounted on a vehicle or not, for manufacturing and charging explosives from dangerous goods that are not explosives, with the unit consisting of various tanks, bulk containers and related equipment; and
- (b) “pyrotechnic article” means any article containing explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions.

(1) Current edition (1997): ISBN 92-1-139057 5.

(2) [S.I. 2004/702 \(N.I. 3\)](#).

## **Unique identification**

4.—(1) Subject to paragraphs (3) and (4), any person who manufactures an explosive must, as soon as is practicable after that manufacture and before the explosive may be moved away from the site where it is manufactured—

- (a) mark each explosive item in respect of the explosive with a unique identification in accordance with Schedule 2;
  - (b) where an associated label in respect of that marking is required by that Schedule, attach the label in accordance with those requirements; and
  - (c) where a passive inert electronic tag or associated tag is to be applied in respect of that marking, place that tag in accordance with the applicable provisions of that Schedule.
- (2) The unique identification must—
- (a) comprise the components described in Schedule 1; and
  - (b) be marked on or firmly affixed to the explosive item concerned in a way which ensures that it is durable and clearly legible.

(3) Paragraph (1) does not apply where the explosive is manufactured for export and is marked with an identification in accordance with the requirements of the importing country for allowing traceability of the explosive.

(4) Where an explosive is subject to a further manufacturing process after its original manufacture, the manufacturer must mark each explosive item in respect of the explosive subjected to that further process, with a new unique identification only if the original unique identification is no longer marked in the way that paragraph (2)(b) requires and any new marking so required must be done as soon as is practicable after that further process and before the explosive may be moved away from the site where it is manufactured.

(5) Subject to paragraph (6), a person who imports an explosive into Northern Ireland must, as soon as is practicable after import and before acquisition of the explosive by another person —

- (a) mark each explosive item in respect of the explosive with a unique identification in accordance with Schedule 2;
- (b) where an associated label in respect of that marking is required by that Schedule, attach the label in accordance with those requirements; and
- (c) where a passive inert electronic tag or associated tag is to be applied in respect of that marking, place that tag in accordance with the applicable provisions of that Schedule.

(6) Paragraph (5) does not apply where the explosive items are marked with a unique identification before importation.

- (7) Where a distributor repackages an explosive, the distributor must ensure that—
- (a) the explosive items in respect of the explosive have the unique identification marked on or affixed to them in accordance with Schedule 2;
  - (b) where an associated label in respect of that marking is required by that Schedule, the label is attached in accordance with those requirements; and
  - (c) where a passive inert electronic tag or associated tag is applied in respect of that marking, that tag is placed in accordance with the applicable provisions of that Schedule.

(8) In this regulation, “explosive item” means an explosive article, a container containing an explosive substance or each smallest packaging unit containing explosive.

**Attribution of manufacturing site codes**

5.—(1) This regulation applies for the purposes of the attribution of a three digit code (referred to in this regulation as the “code”) to a site where explosives are manufactured, which is unique to that site and is a component of the unique identification described in Schedule 1.

(2) For each site within Northern Ireland at which explosives are manufactured —

- (a) the manufacturer must apply to the Secretary of State to attribute a code for the site; and
- (b) the Secretary of State must attribute the code and inform the manufacturer accordingly.

(3) For the purposes of the attribution of a code to a site where explosives are manufactured in a country that is not an EEA State<sup>(3)</sup>—

- (a) paragraph (4) applies where the manufacturer is established in an EEA State and the place of import of the explosive is Northern Ireland;
- (b) paragraph (5) applies where the manufacturer is not established in an EEA State and the place of import of the explosive is Northern Ireland; and
- (c) paragraph (6) applies where the manufacturer is established in Northern Ireland and the place of import of the explosive is either Great Britain or an EEA State other than the United Kingdom.

(4) Where this paragraph applies—

(a) in the case where the manufacturer is established in Northern Ireland—

- (i) the manufacturer must apply to the Secretary of State to attribute a code for the site where the explosives are manufactured; and
- (ii) the Secretary of State must attribute the code and inform the manufacturer accordingly; and

(b) in the case where the manufacturer is established in Great Britain or an EEA State other than the United Kingdom—

- (i) the Secretary of State must attribute a code for the site where the explosives are manufactured when it receives a request from the manufacturer to do so; and
- (ii) the Secretary of State must inform the manufacturer accordingly.

(5) Where this paragraph applies—

- (a) the importer must apply to the Secretary of State to attribute a code for the site where the explosives are manufactured; and
- (b) the Secretary of State must attribute the code and inform the importer accordingly.

(6) Where this paragraph applies, the manufacturer must apply to—

- (a) the Health and Safety Executive, where the place of import of the explosive is Great Britain; or
- (b) the national authority of the EEA State of import of the explosive, for the Health and Safety Executive or that national authority, as the case may be, to attribute a code for the site where the explosives are manufactured.

**Records**

6.—(1) Subject to paragraph (2), a person (referred to in this regulation as “person A”) who manufactures, imports, distributes, acquires or keeps any explosive must, in respect of any explosive

(3) Directive 2008/43/EC applies in relation to the EEA by virtue of Decision No. 119/2010 of the EEA Joint Committee: OJ No. L 58, 10.11.2010, p.76.

manufactured in, or imported into, Northern Ireland on or after 5th April 2015, keep a record in respect of that explosive containing the information referred to in paragraph (3).

- (2) The duty imposed by paragraph (1) does not apply to—
  - (a) an employee of person A acting in the course of person A's business, where the manufacture, importation, distribution, acquisition or keeping of explosives concerned is that business or a part of it; or
  - (b) individuals who acquire any explosive, otherwise than in connection with their work, solely for their own personal use.
- (3) The information referred to in paragraph (1) is—
  - (a) the means of identifying and describing the explosive, including—
    - (i) its type; and
    - (ii) the unique identification in relation to the explosive;
  - (b) the location of the explosive while it is in the possession of person A;
  - (c) the name and address of any person to whom the explosive is transferred; and
  - (d) whether, while in the possession of person A, the explosive has been—
    - (i) subjected to a further manufacturing process after its original manufacture;
    - (ii) used;
    - (iii) transferred to another person; or
    - (iv) destroyed,and the date of any such further manufacturing process, use, transfer or destruction.
- (4) The record of that information must be kept up to date as necessary by person A.
- (5) The system applied by person A for collecting the information must be tested by person A at regular intervals to ensure its effectiveness and the quality of the information recorded.
- (6) Person A must keep the record for a period of ten years from the date when the explosive concerned was used, transferred to another person or destroyed.
- (7) Person A must protect the record against accidental or malicious damage or destruction.
- (8) Person A must provide the enforcing authority with —
  - (a) information as to the origin and location of each explosive to which the record relates, where the enforcing authority requests it; and
  - (b) the name of an employee or other person who would be able to provide the enforcing authority with that information at any time and the details necessary for that authority to be able to contact that individual.
- (9) Where a business of person A which manufactures, imports, distributes, acquires or keeps explosives is to cease to trade, person A must notify the enforcing authority of that fact and provide any record still required to be kept pursuant to paragraph (6) to that authority, who must keep that record for the remainder of the period referred to in that paragraph.

## **Review**

- 7.—(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 Commission Directive 2008/43/EC setting up, pursuant to Council Directive 93/15/EC(4), a system for the identification and traceability of explosives for civil uses(5) as amended by Commission Directive 2012/4/EU(6), which these Regulations implement.

(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 four years beginning with the day on which these Regulations come into force.

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

### **Enforcement**

8. The Secretary of State is the enforcing authority for—

- (a) regulation 5, to the extent that it imposes requirements on manufacturers of explosives who are established within Northern Ireland and importers of explosives into Northern Ireland; and
- (b) the remainder of these Regulations as they apply within Northern Ireland and within the territorial sea.

### **Application within the territorial sea**

9. These Regulations apply within the territorial sea only to and in relation to the acquisition or keeping of an explosive on premises to which, or in relation to which, any of paragraphs 2 to 8 of Schedule 3 applies.

### **Revocation**

10. The following Regulations are revoked—

- (a) the Identification and Traceability of Explosives Regulations (Northern Ireland) 2010(7); and
- (b) the Identification and Traceability of Explosives (Amendment) (Northern Ireland) Regulations 2012(8).

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(4) OJ L 121, 15.5.1993, p.20, amended by Regulation (EC) No. 1882/2003 of the European Parliament and the Council (OJ L 284, 31.10.2003, p.1) and Regulation (EC) No. 219/2009 of the European Parliament and the Council (OJ L 87, 31.3.2009, p.109).

(5) OJ L 94, 5.4.2008, p.8.

(6) OJ L 50, 22.2.2012, p.18.

(7) S.R. 2010/143, as amended by S.R. 2012/123.

(8) S.R. 2012/123.

Northern Ireland Office  
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