

EXPLANATORY MEMORANDUM TO

THE IDENTIFICATION AND TRACEABILITY OF EXPLOSIVES REGULATIONS
(NORTHERN IRELAND) 2013

2013 No. 48

1. This explanatory memorandum has been prepared by the Northern Ireland Office (NIO) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**

This instrument implements Commission Directive [2008/43/EC](#) setting up a system for the identification and traceability of explosives for civil uses, as amended by Commission Directive [2012/4/EU](#). The instrument consolidates and revokes the Identification and Traceability of Explosives Regulations (Northern Ireland) 2010 ([S.R. 2010/143](#)) (“the 2010 Regulations”) and the Identification and Traceability of Explosives (Amendment) (Northern Ireland) Regulations 2012 ([S.R. 2012/ 123](#)) (“the 2012 Regulations”).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None
4. **Legislative Context**
 - 4.1 The 2010 Regulations transposed 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* (“the 2008 Directive”) aimed at preventing the misuse and theft of civil use explosives (e.g. for blasting at quarries) and assisting authorities in tracing the origin of lost or stolen explosives. It imposes requirements as to the marking of civil use explosives with unique identifications and as to record keeping.
 - 4.2 The 2008 Directive required that the national provisions to implement it be in place by 5th April 2009 and be effective from 5th April 2012.
 - 4.3 On 22nd February 2012 Commission Directive 2012/4/EU amending Directive 2008/43/EC was adopted. This changed the date for most of the requirements of the 2008 Directive to apply to 5th April 2013, and for some to 5th April 2015. The 2012 Regulations transposed some of the amendments introduced but some provisions are outstanding. The 2013 Regulations will implement all the remaining provisions and consolidate the 2010 and 2012 Regulations into a single set of Regulations.
 - 4.4 The Transposition Note is at Appendix 1.
 - 4.5 The Regulations are made under the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)). Article 3 of the Order includes as one of the “general purposes” of Part II of the Order, “controlling the keeping and use of explosive or highly flammable or otherwise dangerous substances, and generally preventing the unlawful acquisition, possession and use of such substances”.
 - 4.6 The Commission Directives 2008/43/EC and 2012/4/EU are made in exercise of the Commission’s own delegated powers under Council Directive 93/15/EEC. Neither has therefore been subject to scrutiny by the Parliamentary Committees.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland. Great Britain will introduce equivalent legislation – The Identification and Traceability of Explosives Regulations 2013 (“ITOER 2013”).

5.2 It also applies within the territorial sea of the United Kingdom which is adjacent to Northern Ireland in relation to certain activities.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1. The provisions in Commission Directive 2008/43/EC on the tracking and traceability of civil use explosives were to be applied in member states from 5th April 2012. However, after further discussions between the European Commission, member States and explosives industry bodies, Directive 2008/43/EC was amended by Commission Directive 2012/4/EU. This delayed implementation of marking requirements to 5th April 2013, and record keeping requirements to 5th April 2015. It also excluded certain explosives from scope and amended requirements for the marking of small items of explosives.

7.2. The amending Commission Directive 2012/4/EU had to be transposed into law by member States by 4th April 2012 (with its marking provisions being applied from 5th April 2013 and its record keeping requirements being applied from 5th April 2015). To meet this exceptionally tight timescale, the 2012 Regulations and equivalent GB regulations were implemented which concentrated primarily on extending the coming into force date of the 2010 Regulations, which was the key priority for UK businesses, and introducing a review clause into the legislation in line with Government policy.

7.3. The UK now needs to fully transpose the remaining provisions of the amending Commission Directive 2012/4/EU. If the requirements are not fully transposed, the record keeping requirements will come into effect for UK businesses prematurely and UK businesses will be subject to requirements that will be relaxed elsewhere. This would unnecessarily gold-plate the 2008/43/EC Directive, as amended by the 2012/4/EU Directive.

7.4. This instrument revokes and replaces the 2010 and 2012 Regulations. It ensures that record keeping requirements will apply from 5th April 2015. It also introduces exclusions from scope and clarity on the marking of small explosives items in line with Commission Directive 2012/4/EU. This instrument does not include a requirement which was in regulation 4(6) of the 2010 Regulations, which related to ensuring the safekeeping of explosives while they are awaiting marking. That requirement was considered unnecessary given that there are existing relevant duties in other legislation.

7.5. The change will not require those in the sector to do anything different, apart from in relation to marking of small items where the legal obligations have been modified. The only action required is to ensure that duty holders are provided with information (see guidance at para 9 below).

- Consolidation

7.6. The 2013 Regulations revoke and replace the 2010 Regulations and the 2012 Regulations with a single set of Regulations.

8. Consultation outcome

8.1 HSE carried out a joint consultation exercise for these Regulations and ITOER 13 on the wording used in this instrument, the extended coming into force date for record keeping and the revocation of the requirement (in regulation 6(3)(d) of the 2010 Regulations and the corresponding GB Regulations) for employees to record the names of any employees to whom an explosive is given to use. The changes are minimal and, in order to ensure responses were gathered from those most likely to be affected, the consultation was conducted through the HSE's explosives communities' online forum and by email with affected businesses. Both consultation groups involved manufacturers, importers, those storing explosives, those involved in the commercial carriage of explosives and those involved in regulation of explosives security.

8.2. The consultation began on 30th August 2012 and lasted for 5 weeks. Given that these Regulations only transpose some minor remaining provisions of Commission Directive 2012/4/EU and consolidate existing Regulations, the consultation responses were minimal with the majority of respondents agreeing with the proposed amendments. One respondent stated that the revocation of regulation 6(3)(d) shouldn't be necessary as security requirements are closely aligned to safety requirements. However, HSE has continued with the revocation as the requirements of regulation 6(3)(d) are already covered in other legislation.

9. Guidance

HSE has sent information to the explosives community to explain the changed implementation date. This information is available on the [HSE website](#). (The NIO will include a link to the HSE site on their website.)

10. Impact

10.1 The changes are trivial in scope entailing legislative reorganisations and implementation of minor changes. They do not impact on existing policies put into practice through the 2010 and 2012 Regulations, both of which were supported by Impact Assessments. Consequently, the gross cost to business and civil society organisations is minimal (estimated at less than £5 thousand in total) and mainly relates to industry familiarising themselves with the changes in the legislation. Overall the changes are expected to deliver a small net benefit to business.

10.2 The NIO is affected as regulator, and other public sector organisations that use explosives for civil uses (i.e. not the military or police) will be affected, but the impact is expected to be minimal. No additional resource will be allocated to the NIO, with any action being incorporated into existing regulatory visits by HSE who will carry out enforcement work on behalf of the Secretary of State for Northern Ireland. The amount, which cannot be quantified, is expected to be minimal.

10.3 A full impact assessment was conducted when the 2010 Regulations were implemented. This was updated when the 2012 Regulations were implemented. Businesses were also consulted on the wording of these Regulations and a validation impact assessment is available from www.legislation.gov.uk.

11 Regulating small business

Whilst some end users are small firms there are no aspects of the regulatory changes that will especially impact them. This is also the case for micro-businesses. The Government's policy to exempt micro-businesses from new regulation does not apply

in this instance as the UK legislative changes implement European legislation without gold-plating.

12 Monitoring and review

The 2012 Regulations implemented a five year review clause in line with Government policy. This will remain in place in the 2013 Regulations, with the first report of this review to be published before 5th April 2017, which is the fifth year of the period established under the 2012 Regulations.

13. Contact

Gavin Halliday at the Northern Ireland Office (Tel: 02890 527947 or email: Gavin.Halliday@nio.x.gsi.gov.uk) can answer any queries regarding the instrument.

Validation Impact Assessment

Title: Impact Assessment for the Identification and Traceability of Explosives Regulations 2013 (ITOER 2013) IA No: Lead department or agency: Health and Safety Executive Other departments or agencies: N/a	Impact Assessment (IA)
	Date: 5/12/12
	Stage: Final – Validation stage
	Source of intervention: European
	Type of measure: Secondary Legislation

Summary: Intervention and Options

RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0.047	£0.047	-£0.024	No
			N/a

What is the problem under consideration? Why is government intervention necessary? Commission Directive 2008/43¹ was transposed into GB legislation by the Identification and Traceability of Explosives Regulations 2010 (ITOER10) (Northern Ireland (NI) introduced equivalent regulations) due to come into force in April 2012. Lobbying by European explosives businesses led to this Directive being amended by Commission Directive 2012/4² in February 2012 extending the "into force" date until April 2013 and making changes to the marking of certain explosives. To prevent UK business being prematurely subject to European requirements, regulations amending ITOER10 were made - ITOE(A)R12 (NI introduced equivalent legislation). ITOE(A)R12 extended the "into force" date until April 2013, "buying time", as due to an extremely tight legislative timescale, it was not practical to make other amendments into law then. Those "other amendments" must be in effect by April 2013 to avoid "gold-plating" as other duties prematurely apply.

What are the policy objectives and the intended effects?

The intervention is necessary to (a) reduce burdens for UK business and (b) avoid infraction and associated costs for failure to implement fully EU Directive 2012/4. Intended effects are:

- Promote proportionate safety and security - explosives will be better tracked and monitored.
- Deliver a 'level playing-field' for explosives businesses - UK explosives businesses will be able to compete in Europe using established, well-understood rules.
- Remove unnecessary 'red-tape' - transitional and longer term burdens on the explosives sector will be limited to those that are essential coming into force at the latest possible time.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1. Amend legislation using consolidating regulations (recommended option).
 Option 2. Using non-legislative means (NLM) to implement the changes necessary.
 Option 1 is recommended as it minimises costs (and reduces burdens, will ensure the UK meets its deadline, will satisfy legal obligations and will maintain the UK's reputation on security. The European Commission's view is that NLM would not be legally enforceable and the UK would need to be prepared to risk/fight infraction for non-transposition. Potential reputational damage to UK may prove considerable although its scale and consequences cannot be meaningfully calculated without requiring disproportionate efforts. RPC (Impact Assessment reference RPC11-HSE-1104(2)) and RRC seemed content with this rationale when considering ITOE(A)R12.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: April 2017

Does implementation go beyond minimum EU requirements?	No				
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:094:0008:0012:en:PDF>

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:050:0018:0020:EN:PDF>

Signed by the responsible Minister:

u 162 Date: 22/2/13

Summary: Analysis & Evidence

Policy Option 1

Description: Introduce new 'Identification and Traceability of Explosives Regulations 2013.'

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2013	Time Period Years 2	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.038	High: 0.057	Best Estimate: 0.047

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.004	1	0	0.004
High	0.006		0	0.006
Best Estimate	0.005		0	0.005

Description and scale of key monetised costs by 'main affected groups'

The total costs of just less than £5 thousand are the estimated familiarisation costs for industry to understand the new Regulations. As HSE has been engaging with industry throughout the process, it is unlikely that these familiarisation costs will be substantial. The costs are based on 275 sites spending half an hour each on familiarisation. The cost per site is estimated to be around £18.

Other key non-monetised costs by 'main affected groups'

There are no other costs identified.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0		0.021	0.042
High	0		0.032	0.063
Best Estimate	0		0.026	0.052

Description and scale of key monetised benefits by 'main affected groups'

Cost savings relate to delaying the requirement to keep records from April 2013 to April 2015. The savings are based on 275 sites saving 5 hours of work per annum, at an estimated cost of £20 per hour.

Other key non-monetised benefits by 'main affected groups'

No key non-monetised benefits. It has not been possible to estimate the savings from removal of the two minor legislative provisions in ITOER 2010; one removes a "double banking" of legislation and one related to recording of employee's names. Both these provisions are thought to deliver only negligible savings.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

That familiarisation costs per site will be around 1 hour only.

Savings per site associated with delaying record keeping by two years will be around 5 hours per annum for the duration of the appraisal period.

Costs and benefits are assessed over a two year period only, being the duration of the changes proposed in ITOER 13. Costs and Benefits for ITOER 10 were originally assessed over 10 years. The additional impacts of ITOER 13 relate to the period 2013 – 2015 only, hence the two year appraisal period.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.0025	Benefits: 0.027	Net: 0.024	No	N/a

1. The policy issue and rationale for Government intervention

Commission Directive 2008/43³ was transposed into GB legislation by the Identification and Traceability of Explosives Regulations 2010 (ITOER10) (Northern Ireland (NI) introduced equivalent regulations) due to come into force in April 2012. Lobbying by European explosives businesses led to this Directive being amended by Commission Directive 2012/4⁴ in February 2012 extending the “into force” date until April 2013 and making changes to the marking of certain explosives.

To prevent UK business being prematurely subject to European requirements, regulations amending ITOER10 were made - ITOE(A)R12 (NI introduced equivalent legislation). ITOE(A)R12 extended the “into force” date until April 2013, “buying time”, as due to an extremely tight legislative timescale, it was not practical to make other amendments into law then. Those “other amendments” must be in effect by April 2013 to avoid “gold-plating” as other duties prematurely apply.

2. Policy objectives and intended effects

- Promotion of proportionate safety and security by the marking of individual explosives and the recording of their movement throughout the supply chain to deter misuse and allow the tracking of lost or stolen explosives.
- Delivery of a 'level playing-field' for explosives businesses - UK explosives businesses will be able to operate in accordance with European requirements allowing competition using well-established and well-understood rules.
- Removal of unnecessary 'red-tape' – only essential transitional and longer-term burdens on business will come into force strictly when necessary.
- Simplify and reduce the number of Regulations.

Implementation does not go beyond the minimum necessary to comply with the requirements of EU legislation.

3. Policy options considered, including alternatives to regulation

Option 1 – Replace two sets of existing legislation and introduce changes using a single set of consolidating regulations.

Option 2 - Use non-legislative means (NLM) to implement the changes.

Five key factors were used to assess the options (see table below):

- (a) Time – there is a deadline of April 2013 for changes to be made into law.
- (b) Legal – transposition of EU legislation must satisfy legal obligations.
- (c) Reputation – UK has a good international reputation on security.
- (d) Cost of change – costs of transitional arrangements.
- (e) Ongoing burden – ongoing costs of compliance for business.

	Option 1	Option 2
(a) Time	Satisfied	Satisfied
(b) Legal	Satisfied	EC does not accept NLM as appropriate for implementation of Directives.
(c) Reputation	Maintained	Likely to be adversely affected.
(d) Cost of	Minimised	One-off costs. Broadly in line with option 1. There

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:094:0008:0012:en:PDF>

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:050:0018:0020:EN:PDF>

change		may be additional familiarisation costs for industry.
(e) Ongoing burden	Minimised	Equal to option 1 - to trade in Europe, compliance with other countries' legislation implementing the Directive's prescriptive requirements is still necessary so the same marking is still required.

Option 1 is recommended as it meets the non-monetised requirements (factors (a), (b) and (c)), minimises costs (d) and reduces burdens (e). The European Commission's view is that NLM would not be legally enforceable and the UK would need to be prepared to risk/fight infraction for non-transposition. Potential reputational damage to UK may prove considerable although its scale and consequences cannot be meaningfully calculated without requiring disproportionate efforts. RPC (Impact Assessment reference RPC11-HSE-1104(2)) and RRC seemed content with this rationale when considering ITOE(A)R12.

In late 2011 HSE used NLM (through a non-statutory, industry developed and owned, code of practice) to replace some explosives regulations that were then revoked. It was found that industry needed additional time familiarising themselves with the concept of NLM. Even with NLM, existing legislation would need amending to avoid confusion and remove duties in law probably requiring more consultation with associated costs for businesses. Therefore, option 2 has extra, albeit in likelihood small, costs over option 1.

4. Expected level of business impact

Option 1, the proposed Identification and Traceability of Explosives Regulations 2013 (ITOER13) will reduce the stock of legislation. Making it law by April 2013 will save business costs by delaying the application of European requirements. The changes are trivial in scope entailing legislative reorganisation and implementation of minor changes incurring negligible gross costs of just less than £5 thousand due to familiarisation. They do not impact on existing policies put into practice through ITOER10 and ITOE(A)R12, both of which were supported by Impact Assessments. The changes do not affect HSE's Departmental OIOO balance.

The changes ITOER13 will introduce are:

- Consolidation of ITOER10 and ITOE(A)R12 so simplifying accessibility for businesses. ITOER13 will, in due course, be consolidated into over-arching explosives regulations delivered by the review of explosives legislation.
- Implementation of changes in line with Directive 2012/4. Cap-like primers and some fuses no longer require marking and requirements have been reduced for marking small or oddly-shaped explosives which are impractical to mark with the full unique identification. Also, record-keeping duties are delayed from April 2013 until April 2015.
- Removal of two minor provisions in ITOER10. The first required appropriate security for explosives prior to marking, however, it is now felt that this is adequately achieved by other existing explosives legislation and the current "double-banking" eliminated. The second required employers to record employees' names given explosives to use. After reviewing implementation by other States and discussions with the European Commission, it is evident that this can be removed without risking infraction for incomplete

transposition, thus removing some minor “gold-plating” (see “Savings” below for why any associated savings are not taken into account).

During the making of ITOE(A)R12, an undertaking was given to Ministers that the further legislative amendments would be delivered through consolidating Regulations which ITOER13 does. The Government’s five principles for transposing European legislation have been applied. Industry has been preparing for these changes as they had an existing high level of awareness and there has been extensive consultation.

Costs and Savings

Costs and savings associated with the existing regulations have been covered in their respective impact assessments so only costs and savings associated directly with this proposal are considered here producing an Equivalent Annual Net Cost to Business of **-£0.024m** (i.e. net savings) – see calculations below.

Savings

Based on explosives manufacturing license records, in the UK, there are fewer than 10 companies that manufacture explosives covered by these Directives. Only two major production lines for explosives and a smaller one for detonators are in operation. The reduction in marking is potentially beneficial but cannot be accurately quantified as explosives are manufactured according to demand. Currently, no items subject to a reduction in marking are manufactured in UK so the change is cost neutral. Any saving from the removal of the two legislative provisions, one of which potentially “gold-plates”, is likely to be negligible and as industry cannot easily provide data for its calculation as the provisions are not yet in force, trying to quantify any saving at this time seems disproportionate in view of its minimal impact. Consolidation of ITOER 2010 and ITOE(A)R 2012 into a single set of Regulations will simplify accessibility for businesses. This could also deliver savings for business, but these are not expected to be substantial and so it is not proportional to quantify these savings.

Regarding record-keeping duties, the vast majority of the UK’s commercial explosives users are quarries and mines. Based on figures provided by a major quarry trade association and HSE information on mines, there are around 1300 UK quarries and mines of which about 500 use explosives. Many use explosives falling outside the Directives’ remit and record keeping will not apply to NI quarries as their explosives security regime precludes sites from storing explosives. It is therefore estimated that about 250 GB user sites will need to keep records under ITOER13.

Based on regulators’ knowledge of the sector, it is assessed there are around 15 UK importers of non-EU made explosives mostly specialised types used in offshore gas and oil production. Indications are that suppliers will mark explosives in compliance with the Directives but record-keeping is still needed. It is assumed therefore that about 25 manufacturers and importers and 250 user sites will need to keep records.

Consultation for ITOER10 assumed 5 hours per site per year for record keeping which was not challenged and discussions since then have revealed no need for changing this estimate. Other explosives legislation already requires record keeping and the only additional requirement is to record an

identification number. The cost of this time will be around £20 per hour⁵. ITOER13, will delay implementation of the requirements for record keeping, from April 2013 (which would be the implementation date under a 'Do Nothing' option) until April 2015. The cost savings resulting from this two year delay have been estimated as between **£0.04m and £0.06m** with equivalent annual cost savings of between £0.02m and £0.03m (275 sites, 5 hours work per site at approx. £20/hr). The range reflects +/- 10% variance on the assumptions to reflect the uncertainty in the estimates.

Costs

All costs are one-off and relate to industry familiarising themselves with the changes in the legislation. Again assuming there are 275 sites, we assumed a functional manager would spend around one hour on familiarisation per site. This gives a total estimated cost for familiarisation of just less than **£0.005m** (275 sites, 0.5 hour at approx. £36/hr⁶ = approx £0.005m). Being less than £5 thousand this would be rounded to zero for SNR purposes.

5. Equivalent Annual Net Cost to Business and One in One Out

The equivalent annual net cost to business has been estimated to be around -£0.024million over a two year appraisal period (i.e. net annual savings of equivalent value of £0.024million over two years).

This proposal is classified as a deregulatory EU measure out of scope of OIOO as the savings result from changes to European parent legislation. The proposed regulations do not need to be considered under the terms of the micro-business exemption as they implement a European Directive and do not "gold-plate" by going beyond the Directives' provisions or failing to adopt available derogations

⁵ Based on ASHE, 2011, Average pay for all employees at £14.80/hour grossed up by 30% to reflect non-wage labour costs.

⁶ Based on ASHE, 2011, SOC:113 Functional Manager at £27.83 / hour, grossed up by 30% to reflect non-wage labour costs


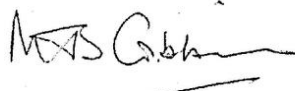
**Stage 1 Transposition Table
Annex C**

Commission Directive 2012/4/EU of 22 February 2012 amending Directive 2008/43/EC setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses.

Article	Copy out (yes/no)	If no - justification	RRC comments	National Provision	Stakeholder comments
1	Partial	Copy out has been used where possible but, for reasons of clarity and certainty, some minor re-casting has been done.			
2	Not applicable	See note below			

Notes:

2 - Amending Directive 2012/4/EU was adopted and published at the end of February 2012. Article 2 of that Directive requires Member States to transpose its provisions into law by 4 April 2012 and for them to be applied as from 5 April 2013. It was not possible in the timescales set out in the amending Directive to fully transpose the requirements by 4 April 2012. Instead ITOE(A)R 2012 and equivalent NI regulations were implemented which concentrated on extending the coming into force date of ITOER 2010 to 5 April 2013, a priority for UK businesses, and introduced a review clause into the legislation in line with Government policy. ITOER 2013 implements the remaining substantive provisions of the amending Directive.

 Regulatory Policy Committee		Validation of the Net Direct Impact on Business
Title of the 'Validation' Impact Assessment (IA)		Identification and Traceability of Explosives Regulations 2013 (ITOER 2013)
Lead Department/Agency		Health and Safety Executive
IA Number		-
Expected date of implementation		-
Origin		European
Date IA submitted to RPC		18/12/2012
Date of RPC Assessment		19/10/2011
Date of Regulatory Triage Confirmation		22/01/2013
Regulatory Triage Assessment reference		RPC11-HSE-1104(3)
Departmental Assessment		
One-in, One-out (OIOO)status		OUT OF SCOPE
Estimate of the Equivalent Annual Net Cost to Business (EANCB)		-£0.024M
RPC Validation		
Direction of Impact		OUT OF SCOPE
Estimate of the Equivalent Annual Net Cost to Business Validated by RPC		-£0.024M
RPC comments <p>The proposal is to implement an amending European Directive which will provide benefit to UK business for two years. Under the OIOO Methodology this is out of scope of OIOO. <i>"The equivalent annual net cost to business has been estimated to be around -£0.024million over a two year appraisal period (i.e. net annual savings of equivalent value of £0.024million over two years)".</i> This appears reasonable but the EANCB set out in the IA's summary sheet (page 1) needs to be amended so that it is consistent with this.</p>		
Signed		Michael Gibbons, Chairman

TRANSPOSITION NOTE:

Commission Directive 2008/43/EC, as amended by Commission Directive 2012/4/EU

This Transposition Note is for the implementation of 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, as amended by Commission Directive 2012/4/EU.

Introductory Note:

These Regulations are called **the Identification and Traceability of Explosives Regulations (Northern Ireland) 2013**.

Article	Objective	Implementation	Responsibility
Article 1.	Subject matter of the Directive.	While no specific transposition of this Article is necessary, the Regulations cover its subject matter.	
Article 2.	Scope.	Regulation 3(1)(a), (d) to (h). (The disapplications in regulation 3(1)(b) and (c) are derived from Article 1.3 of the parent Directive 93/15/EEC of 5 th April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses.)	
Article 3.1, first paragraph.	Requires manufacturers and importers to mark explosives with a unique identification.	Regulation 4(1) and (5).	Secretary of State.
Article 3.1, second paragraph.	This makes provision as to when a new unique identification is required in place of	Regulation 4(4).	As above.

	an original, after a further manufacturing process.		
Article 3.2.	Marking with a unique identification is not required where manufactured for export and the marking is in accordance with the importing country's requirements.	Regulation 4(3).	As above.
Article 3.3.	The unique identification is to comprise the components in the Annex.	Regulation 4(2)(a) and Schedule 1.	As above.
Article 3.4.	Manufacturing sites are to be attributed a three digit code.	Regulation 5 (1) and (2).	As above.
Article 3.5, first paragraph.	For manufacturing sites outside the EU with a manufacturer established in the EU, the importing national authority is to attribute a code to the manufacturer.	Regulation 5(3)(a) and (c), (4) and (6).	As above.
Article 3.5, second paragraph.	For manufacturing sites outside the EU with a manufacturer not established in the EU, the importing national authority is to attribute a code to the importer.	Regulation 5(3)(b) and (5).	As above.
Article 3.6.	This makes provision as to distributors who repackage explosives.	Regulation 4(7).	As above.
Article 4.	Requires the marking of the	Regulation 4(2)(b).	As above.

	unique identification to be durable and legible.		
Article 5, first paragraph.	Marking of cartridged explosives and explosives in sacks.	Regulation 4(1) and Schedule 2, paragraph 1(a) and (b).	As above.
Article 5, second paragraph.	Attaching tags to cartridged explosives and explosives in sacks.	Regulation 4(1) and Schedule 2, paragraph 1(c).	As above.
Article 6.	Marking of two-component explosives.	Regulation 4(1) and Schedule 2, paragraph 2.	As above.
Article 7, first paragraph.	Marking of plain detonators.	Regulation 4(1) and Schedule 2, paragraph 3(a) and (b).	As above.
Article 7, second paragraph.	Attaching tags to plain detonators.	Regulation 4(1) and Schedule 2, paragraph 3(c).	As above.
Article 8, first paragraph.	Marking electric, non-electric and electronic detonators.	Regulation 4(1) and Schedule 2, paragraph 4(a) and (b).	As above.
Article 8, second paragraph.	Attaching tags to electric, non-electric and electronic detonators.	Regulation 4(1) and Schedule 2, paragraph 4(c).	As above.
Article 9, first paragraph.	Marking primers and boosters.	Regulation 4(1) and Schedule 2, paragraph 5(a) and (b).	As above.
Article 9, second paragraph.	Attaching tags to primers and boosters.	Regulation 4(1) and Schedule 2, paragraph 5(c).	As above.
Article 10, first paragraph.	Marking detonating cords.	Regulation 4(1) and Schedule 2, paragraph 6(a) to (c).	As above.
Article 10, second paragraph.	Attaching tags to detonating cords.	Regulation 4(1) and Schedule 2, paragraph 6(d).	As above.
Article 11, first paragraph.	Marking cans and drums containing explosives.	Regulation 4(1) and Schedule 2, paragraph 7(a).	As above.
Article 11, second paragraph.	Attaching tags to cans and drums containing	Regulation 4(1) and Schedule 2, paragraph 7(b).	As above.

	explosives.		
Article 12.	Copies of original labels.	Regulation 4(1) and Schedule 2, paragraph 8.	As above.
Article 13.1.	Requires data collection in relation to explosives.	Regulation 6(1), (2) and (3).	As above.
Article 13.2.	Data collection is to allow holders of explosives to be identified.	Regulation 6(1), (3) and (4).	As above.
Article 13.3.	Requires the data to be kept for ten years after the end of the explosive's life cycle.	Regulation 6(6) and (9).	As above.
Article 14(a).	Requirements as to the record to be kept.	Regulation 6(1) and (3)(a), (c) and (d).	As above.
Article 14(b).	The record is to cover the location of the explosives.	Regulation 6(1) and (3)(b).	As above.
Article 14(c).	The data collection system is to be tested regularly.	Regulation 6(5).	As above.
Article 14(d).	The record is to be kept and maintained.	Regulation 6(1) and (6).	As above.
Article 14(e).	The data is to be protected.	Regulation 6(7).	As above.
Article 14(f).	Provision of information to the competent authority about the origin and location of the explosive.	Regulation 6(8)(a).	As above.
Article 14(g).	The provision of information to the national authority as to contact details of persons.	Regulation 6(8)(b).	As above.
Article 14, final paragraph.	Requires records to be maintained in accordance with national provisions for explosives manufactured or imported before 5th April 2015.	Section 1(1) and (2) of the Explosives Act (Northern Ireland) 1970.	As above.

Article 15, paragraph 1, 1st sub-paragraph.	Transposition.	These Regulations.	As above.
Article 15, paragraph 1, 2nd sub-paragraph.	Dates for the provisions to apply from.	Regulation 1.	As above.
Article 15, paragraph 1, 3rd sub-paragraph.	Provisions transposing the Directive to refer to the Directive.	Explanatory Note.	As above.
Article 15a.	Commission review by 31 st December 2020 on whether to revoke point 3 of the Annex.	No transposition is necessary.	
Article 16.	Entry into force.	No transposition is necessary.	
Article 17.	The Directive is addressed to Member States.	No transposition is necessary.	
Annex, points 1 and 2 and paragraph 1 of point 3.	The description of the unique identification.	Regulation 4(2)(a) and Schedule 1.	As above.
Annex, paragraphs 2 to 5 of point 3.	Marking of very small articles.	Regulation 4(1)(a) and Schedule 2, paragraph 9.	As above.