
STATUTORY INSTRUMENTS

2005 No. 1082

The Manufacture and Storage of Explosives Regulations 2005

PART 1

INTRODUCTION

Citation and commencement

1.—(1) These Regulations may be cited as the Manufacture and Storage of Explosives Regulations 2005 and, except as provided by paragraph (2), shall come into force on 26th April 2005.

(2) The repeal by these Regulations of sections 40(8) and 103 of the 1875 Act comes into force only with the coming into force of the repeal of section 32 of that Act by the Fireworks Act 2003(1).

Interpretation

2.—(1) In these Regulations —

“the 1875 Act” means the Explosives Act 1875(2);

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“ammonium nitrate blasting intermediate” means non-sensitised mixtures of, primarily, ammonium nitrate and other substances which are not themselves explosive, such as oxidisers and fuels, intended to produce a blasting explosive only after further processing prior to use and classified in accordance with the United Nations Recommendations as falling within Class 5.1;

“black powder” means an intimate mixture, with or without sulphur, of charcoal or other carbon with potassium nitrate or sodium nitrate, whether the mixture is in meal, granular, compressed or pelletised form, being an explosive substance allocated in accordance with the United Nations Recommendations the U.N. nos. 0027 or 0028;

“centre point”, in relation to a store or a building, means the centre point of the store or building determined as far as is reasonably possible;

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

“desensitised explosive” means —

- (a) a solid explosive substance which has been wetted with water or alcohol or diluted with one or more other substances; or
- (b) a liquid explosive substance which has been dissolved or suspended in water or one or more other substances,

to form a homogeneous mixture so as to suppress its explosive properties and which, without that treatment, would be classified in accordance with the United Nations Recommendations as falling within Class 1;

(1) 2003 c. 22.

(2) 1875 c. 17 (38 & 39 Vict.); relevant amending instruments are [S.I.1974/1885](#) and [1987/52](#).

“disposes”, in relation to explosives and explosive-contaminated items, means destroying the explosives or explosive-contaminated items or otherwise rendering them harmless;

“the Executive” means the Health and Safety Executive;

“explosive” means —

- (a) any explosive article or explosive substance which would —
 - (i) if packaged for transport, be classified in accordance with the United Nations Recommendations as falling within Class 1; or
 - (ii) be classified in accordance with the United Nations Recommendations as —
 - (aa) being unduly sensitive or so reactive as to be subject to spontaneous reaction and accordingly too dangerous to transport, and
 - (bb) falling within Class 1; or
- (b) a desensitised explosive,

but it does not include an explosive substance produced as part of a manufacturing process which thereafter reprocesses it in order to produce a substance or preparation which is not an explosive substance;

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

“explosives certificate” has the same meaning as in the Control of Explosives Regulations 1991(3);

“explosive substance” means a substance or preparation, not including a substance or preparation in a solely gaseous form or in the form of vapour, which is —

- (a) 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
- (b) designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these as a result of a non-detonative, self-sustaining, exothermic chemical reaction;

“firearm” has the same meaning as it is given in section 57(1) of the Firearms Act 1968(4);

“fireworks” means the explosive articles allocated in accordance with the United Nations Recommendations any of the U.N. nos. 0333 to 0337;

“harbour” means a harbour which is within the jurisdiction of a harbour authority and includes—

- (a) the areas of water within the jurisdiction of that harbour authority; and
- (b) land within the jurisdiction of, or occupied by, the harbour authority and used in connection with the loading and unloading of ships,

but does not include the areas of water which are within the jurisdiction not only of the harbour authority but also of another harbour authority and which are used primarily by ships using berths within the harbour of that other harbour authority;

“harbour authority” has the same meaning as in the Harbours Act 1964(5);

“hazard type” means any of hazard type 1 explosive, hazard type 2 explosive, hazard type 3 explosive or hazard type 4 explosive;

“hazard type 1 explosive” means an explosive which, as a result of, or as a result of any effect of, the conditions of its storage or process of manufacture, has a mass explosion hazard;

(3) S.I. 1991/1531, to which there are amendments not relevant to these Regulations.

(4) 1968 c. 27.

(5) 1964 c. 40; “harbour authority” is defined in section 57(1).

“hazard type 2 explosive” means an explosive which, as a result of, or as a result of any effect of, the conditions of its storage or process of manufacture, has a serious projectile hazard but does not have a mass explosion hazard;

“hazard type 3 explosive” means an explosive which, as a result of, or as a result of any effect of, the conditions of its storage or process of manufacture, has a fire hazard and either a minor blast hazard or a minor projectile hazard, or both, but does not have a mass explosion hazard;

“hazard type 4 explosive” means an explosive which, as a result of, or as a result of any effect of, the conditions of its storage or process of manufacture, has a fire hazard or slight explosion hazard, or both, with only local effect;

“headquarters” means a headquarters for the time being specified in Schedule 2 to the Visiting Forces and International Headquarters (Application of Law) Order 1999(6);

“Her Majesty’s Forces” means any of the naval, military or air forces of the Crown, whether raised inside or outside the United Kingdom and whether any such force is a regular, auxiliary or reserve force, and includes any civilian employee of the Ministry of Defence attached to those forces;

“licence” means a licence for the manufacture or storage of explosives granted under regulation 13 and includes a varied licence;

“licensee” means a person who has been granted a licence under regulation 13 and includes a person to whom a licence is transferred and a person treated under regulation 21 as being licensed;

“licensing authority” has the meaning assigned to it by Schedule 1;

“local authority” means in relation to —

- (a) the City of London, the Common Council for the City of London;
- (b) an area in the rest of London, the London Borough Council for that area;
- (c) an area where there is a fire and rescue authority, that authority;
- (d) the Isles of Scilly, the Council of the Isles of Scilly;
- (e) an area in the rest of England, the county council for that area or where there is no county council for that area, the district council for that area;
- (f) an area in Scotland, the council for the local government area; and
- (g) an area in Wales, the county council or the county borough council for that area;

“manufacture” includes —

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

but it does not include the packing, unpacking, re-packing, labelling or testing of explosives or the division of an amount of explosives stored in bulk into smaller amounts and the placing of those smaller amounts into containers;

“mine” means an excavation or system of excavations, including all such excavations to which a common system of ventilation is provided, made for the purpose of, or in connection with, the getting, wholly or substantially by means involving the employment of persons below ground, of minerals (whether in their natural state or in solution or suspension) or products of minerals;

“non-sensitised” means giving a negative test result when subjected to Test Series 8 of the Manual of Tests and Criteria, third edition(7), supporting the United Nations Recommendations;

(6) S.I. 1999/1736.

(7) ISBN 92 - 1 - 1390680.

“percussion caps” means items intended for use in small arms ammunition allocated in accordance with the United Nations Recommendations the UN nos. 0044, 0377 or 0378;

“police force”, for the purposes of regulations 3(4)(d) and (6)(b), 5(3)(d) and 27(6), includes—

- (a) the police force known as the British Transport Police Force⁽⁸⁾;
- (b) the special constables appointed as special constables under section 3 of the Special Constables Act 1923⁽⁹⁾ on the nomination of the United Kingdom Atomic Energy Authority⁽¹⁰⁾; and
- (c) the constabulary to be known as the Civil Nuclear Constabulary by virtue of section 52(1) of the Energy Act 2004⁽¹¹⁾;

“preparation” means a mixture of two or more substances or a solution of any substance or substances;

“propellant” means a deflagrating explosive used as a propellant in firearms;

“public consultation zone” means the area around the store or proposed store, or the building where the manufacture of explosives takes place or is proposed to take place, which, from the centre point of the store or building, has a radius equivalent to double the greatest separation distance required by virtue of these Regulations to apply in the case of that store or building;

“pyrotechnic” means an explosive article or substance of a kind designed to produce an effect by heat, light, sound, gas or smoke, or a combination of any of these, as a result of non-detonative, self-sustaining, exothermic chemical reactions;

“quarry” has the meaning assigned to it by regulation 3 of the Quarries Regulations 1999⁽¹²⁾;

“registered” in relation to a person, means a person registered in respect of the storage of explosives under regulation 11 and includes a person treated under regulation 21 as being registered;

“registration” save in regulation 22 and Schedule 4 means registration under regulation 11 and “certificate of registration” means a certificate issued under regulation 11(3);

“renewal of a licence” or “renewal of a registration” means respectively the granting of a licence or registration to follow a previous licence or registration without any amendment or gap in time.

“separation distance” means the distance between the store or the building in which explosives are, or are to be, manufactured and a building, or other place in or at which people are or are likely to be present either all the time or from time to time;

“ship” includes every description of vessel used in navigation;

“shooters' powder” means —

- (a) black powder,
- (b) smokeless powder, or

(8) Established by section 20 of the Railways and Transport Safety Act 2003 (c. 20) as of 1st July 2004, replacing the British Transport Police Force which comprised constables appointed under section 53 of [British Transport Commission Act 1949](#) (12 & 13 Geo c. xxix).

(9) 1923 c. 11.

(10) The United Kingdom Atomic Energy Authority (“UKAEA”) nominates persons to be special constables under section 3 of the Special Constables Act 1923 (c. 11) as extended by paragraph 1 of the second Schedule to the Emergency Laws (Miscellaneous Provisions) Act 1947 (c. 10), Schedule 3 to the Atomic Energy Authority Act 1954 (c. 32) and Schedule 1, paragraph 4, to the Nuclear Installations Act 1965 (c. 57). The power of this Authority so to nominate special constables is prospectively repealed by the Energy Act 2004, section 197(9) and Schedule 23; section 52(1) of that Act provides, as of 1st March 2005, for the Civil Nuclear Police Authority to secure the maintenance of an efficient and effective constabulary to be known as the Civil Nuclear Constabulary; this constabulary is to replace the special constables nominated by UKAEA.

(11) 2004 c. 20.

(12) S.I. 1999/2024.

(c) any other substance or preparation based on potassium nitrate or nitro cellulose, whether in powder, pelletised or granular form, used, or to be used, as a propellant;

“site” 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 shall be 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 shall be treated as a whole area;

“small arms ammunition” means the explosive articles allocated in accordance with the United Nations Recommendations the U.N. nos. 0012, 0014 or 0055 which are intended exclusively for use in small arms;

“smokeless powder” means an explosive substance allocated in accordance with the United Nations Recommendations the U.N. nos. 0160 or 0161;

“a store” means a building, enclosed area or metal structure in which explosives are, or are to be, stored;

“substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour;

“U.N. no.” means United Nations Serial Number, that is to say one of the four-digit numbers devised by the United Nations as a means of identification of types of explosives in accordance with the United Nations Recommendations;

“United Nations 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 26 April 1957))(13) as revised or reissued from time to time;

“visiting force” has the same meaning as it does for the purposes of any provision of the Visiting Forces Act 1952(14);

“water-based”, in relation to explosives, means explosives which are based on water and ammonium nitrate and allocated in accordance with the United Nations Recommendations the U.N. no. 0241; and

“wholly-owned subsidiary” has the same meaning as it is given by section 736(2) of the Companies Act 1985(15).

(2) For the purposes of these Regulations, and subject to regulation 3(7), the manufacture or storage of ammonium nitrate blasting intermediate shall be deemed to be the manufacture or storage of an explosive.

(3) For the purposes of measuring of any distance required to be a separation distance by virtue of these Regulations, the distance to be measured shall be the horizontal distance between the outside edge of the store or the building in which the explosives are, or are to be, manufactured and the nearest point of the building or other place which the separation distance applies to.

(4) Any reference in these Regulations to the quantity of an explosive shall be construed as a reference to the net mass of explosive substance and, in the case of any pyrotechnic article, the net mass of the explosive shall, for the purposes of these Regulations, be deemed to be one quarter of the gross mass of the pyrotechnic article or, where the manufacturer, importer or supplier specifies a different net mass amount on the pyrotechnic article, its packaging or a document accompanying the pyrotechnic article, that amount.

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

(14) 1952 c. 67.

(15) 1985 c. 6; section 736 is substituted by the Companies Act 1989 (c. 40), section 144(1).

(5) For the purposes of these Regulations and subject to paragraph (6), “storage” in relation to explosives means their possession for any period after their manufacture, save for —

- (a) any period during which they are being prepared at any place for use at that place; and
- (b) any period during which they are being transported beyond the place where they are stored.

(6) Subject to paragraph (7), where, during any transport of any explosive beyond the place where it is stored, that explosive is, or is to be, kept at any place for more than twenty-four hours, that keeping shall be treated as storage within the meaning of these Regulations and the provisions of these Regulations shall apply to that keeping accordingly, notwithstanding any application of the provisions of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004⁽¹⁶⁾ to that transporting.

(7) Paragraph (6) shall not apply to explosives in respect of which there is in existence an explosives licence granted under regulation 36(1) of the Dangerous Substances in Harbour Areas Regulations 1987⁽¹⁷⁾.

(8) The performance of any function given to the chief officer of police under these Regulations may be delegated by him, to such an extent and subject to such conditions as he may specify —

- (a) to a member of the police force in respect of which he is the chief officer of police;
- (b) to a person employed to assist that police force as mentioned in section 15 of the Police Act 1996⁽¹⁸⁾ (civilian employees); or
- (c) to a person employed or appointed in relation to that police force as mentioned in section 9 of the Police (Scotland) Act 1967⁽¹⁹⁾ (civilian employees),

and any such delegation shall be made in writing by that chief officer of police.

(9) For the purposes of these Regulations, save for paragraph 45(3)(f) of Schedule 5, “chief officer of police” —

- (a) in relation to England and Wales, has the same meaning as in section 101(1) of the Police Act 1996; and
- (b) in relation to Scotland, means the person appointed to the office of chief constable pursuant to section 4 of the Police (Scotland) Act 1967⁽²⁰⁾; and

in relation to an area, means the chief officer of police for that area and includes a member of a police force to whom the performance of any of his functions under these Regulations has been delegated pursuant to paragraph (8).

(10) Any reference in the definitions in this regulation of “desensitised explosive”, “explosive substance”, “pyrotechnic” or “substance” to liquid, gas, gaseous form or vapour, means, respectively, liquid, gas, gaseous form or vapour at normal atmospheric temperature and pressure.

Application

3.—(1) Except as provided for in paragraph (8), these Regulations shall apply —

- (a) in Great Britain; and

⁽¹⁶⁾ S.I. 2004/568.

⁽¹⁷⁾ S.I. 1987/37, to which there are amendments not relevant to these Regulations.

⁽¹⁸⁾ 1996 c. 16; section 15 is amended by the Greater London Authority Act 1999 (c. 29) section 325 and Schedule 27, paragraph 74(1) to (4); section 101(1) is amended by the Greater London Authority Act 1999, sections 312(1)(a) and (b), (2) and (3), 423 and Schedule 34, Part VII and the Anti-terrorism, Crime and Security Act 2001, section 101, Schedule 7, paragraphs 20 and 27.

⁽¹⁹⁾ 1967 c. 77; section 9 is amended by the Police and Magistrates' Courts Act 1994 (c. 29), section 49, and by the Criminal Justice (Scotland) Act 2003 (asp7), section 76(1) to (3).

⁽²⁰⁾ 1967 c. 77; section 4(3) is repealed by the Local Government (Scotland) Act 1973, sections 146(4), 237(1) and Schedule 29.

- (b) outside Great Britain as sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001(21).
- (2) Regulations 4 to 25 shall not apply to —
 - (a) any activity to which Part IX of the Dangerous Substances in Harbour Areas Regulations 1987 (explosives) applies;
 - (b) any activity to which the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004 apply, apart from any activity which is to be treated as storage by virtue of regulation 2(6);
 - (c) the master or crew of a ship or to the employer of such persons in respect of the normal shipboard activities of a ship's crew which are carried out solely by the crew under the direction of the master and in this sub-paragraph the reference to the normal shipboard activities of a ship's crew shall include —
 - (i) the construction, reconstruction or conversion of a ship outside, but not inside, Great Britain; and
 - (ii) the repair of a ship save repair when carried out in dry dock;
 - (d) the transport of explosives by air;
 - (e) an offshore installation within the meaning of regulation 3 of the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995(22);
 - (f) a mine which is, for the time being, solely used for, or in connection with, the getting of minerals or ensuring the safety of another mine.
- (3) Regulations 8 and 10 shall not apply to —
 - (a) a constable in the execution of his duties;
 - (b) an inspector appointed under section 19 of the 1974 Act in the performance of his functions;
 - (c) a customs officer in the performance of his functions.
- (4) Regulation 10 shall not apply to —
 - (a) the Executive;
 - (b) a local authority;
 - (c) the Commissioners of Customs and Excise;
 - (d) a police force; and
 - (e) a person employed as mentioned in section 15 of the Police Act 1996 (civilian employees) or section 9 of the Police (Scotland) Act 1967 (employees other than constables) who, in either case, is duly authorised in writing by the chief officer of police to store explosives.
- (5) Regulations 5 and 9 to 21 shall not apply to the manufacture or storage of explosives, at any site under the control of the Secretary of State for Defence, or held for the purposes of a visiting force or headquarters, under a scheme approved by him which —
 - (a) provides for their safe manufacture and storage; and
 - (b) prescribes —
 - (i) separation distances, or
 - (ii) a combination of separation distances and other safety measures,

(21) S.I. 2001/2127.

(22) S.I. 1995/738, amended by S.I. 2002/2175.

which are designed to ensure a standard of safety which is equivalent to that ensured by the separation distances prescribed by regulation 5 and Schedule 2.

- (6) Regulations 5 to 21 and 24 shall not apply to explosives —
- (a) seized by a constable in the execution of his duties,
 - (b) received by a police force from a member of the public; or
 - (c) which, for reasons of public safety or protection of property, are undergoing ordnance disposal by —
 - (i) persons under the direction of a member of Her Majesty's Forces or civilian employees of the Ministry of Defence authorised in writing by the Secretary of State for Defence to carry out ordnance disposal; or
 - (ii) persons under the direction of a constable or authorised in writing by the chief officer of police to carry out ordnance disposal.

(7) In relation to the application of these Regulations to ammonium nitrate blasting intermediate by virtue of regulation 2(2), regulations 10 and 11 shall not apply to the storage of ammonium nitrate blasting intermediate.

(8) To the extent that these Regulations concern the importation of pyrotechnics into the United Kingdom, they shall extend to Northern Ireland⁽²³⁾.

(23) By virtue of section 84(1) of the Health and Safety at Work etc. Act 1974, Parts I and IV of the Act extend to Northern Ireland "so far as may be necessary to enable regulations under section 15 to be made and operate for the purpose mentioned in paragraph 2 of Schedule 3", which includes, as a subject matter for such regulations, prohibiting the import into the United Kingdom of articles or substances of any specified description.