

## SCHEDULE 11

Regulation 43

### ENFORCEMENT WITHIN GREAT BRITAIN

## PART 1

### INTRODUCTORY

1.—(1) This Schedule makes provision for the enforcement of these Regulations within Great Britain.

(2) Despite sub-paragraph (1), nothing in paragraphs 2 to 12 or 14 applies for the purpose of making any person responsible for the enforcement of these Regulations as they apply—

(a) on sites which are GB nuclear sites; or

(b) on any part of a site which is, or forms part of, a GB nuclear site <sup>M1</sup>.

(3) The provisions of this Schedule apply despite the provisions of the Health and Safety (Enforcing Authority) Regulations 1998 <sup>M2</sup>.

#### Marginal Citations

**M1** Section 18 of the Health and Safety at Work etc. Act 1974 has been amended, by the [Energy Act 2013 \(c.32\)](#), [Schedule 12, paragraph 6](#), with the effect that the Office for Nuclear Regulation is the enforcing authority (within the meaning of the 1974 Act) for the relevant statutory provisions as they apply in relation to GB nuclear sites. Exceptions may be made for the Office of Rail Regulation to enforce any of the relevant statutory provisions as they apply on such nuclear sites.

**M2** [S.I. 1998/494](#); relevant amending instruments are [S.I. 2005/1082](#), 2007/2598, 2009/693 and 2014/469.

## PART 2

### ENFORCEMENT OF PROVISIONS

#### Enforcement in respect of the manufacture and storage of explosives

2.—(1) A licensing authority is the enforcing authority for the manufacture and storage provisions—

(a) for a site in relation to which it has granted a person a licence;

(b) where, in relation to a deemed licence, it would have been the licensing authority by virtue of paragraph 1 or 4 of Schedule 1 if an application for a licence had been made under these Regulations;

(c) where, in any case other than those mentioned in paragraphs (a) and (b)—

(i) it would be the licensing authority by virtue of paragraph 1 or 4 of Schedule 1 if an application for a licence is, or should have been, made under these Regulations; or

(ii) it would have been the licensing authority had the requirements of paragraph (1) of regulation 6 not been disapplied by paragraph (2) of that regulation or the requirements of paragraph (1) of regulation 7 not been disapplied by paragraph (2) of that regulation.

(2) In this paragraph—

*Status: Point in time view as at 05/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the The Explosives Regulations 2014, SCHEDULE 11. (See end of Document for details)*

- (a) “deemed licence” means—
  - (i) any licence deemed by regulation 47(1) to be a licence granted under regulation 13;
  - (ii) any licence deemed to be held by a person pursuant to regulation 47(12); and
  - (iii) any registration deemed by regulation 47(2) to be a licence granted under regulation 13;
- (b) “manufacture and storage provisions” means—
  - (i) regulations 6, 7, 23, 26, 27 and 30 as they apply otherwise than in respect of the manufacture and storage of ammonium nitrate blasting intermediate;
  - (ii) regulation 29 as it applies to the manufacture and storage of chlorate mixtures.

3. A licensing authority is the enforcing authority for regulation 3 of the Management of Health and Safety at Work Regulations 1999<sup>M3</sup> in relation to the manufacture or storage of explosives for which it is the enforcing authority by virtue of paragraph 2.

#### **Marginal Citations**

**M3** [S.I. 1999/3242](#), to which there are amendments not relevant to these Regulations.

4. The enforcing authority for regulation 13(8) as it applies in respect of the manufacture and storage of any explosive and for regulations 6, 7, 23, 26, 27 and 30 as they apply in respect of the manufacture and storage of ammonium nitrate blasting intermediate is—

- (a) in relation to manufacture or storage on an authorised defence site or a new nuclear build site, the ONR;
- (b) otherwise, the Executive.

#### **Enforcement in respect of discarding, disposal and decontamination**

5. The licensing authority is the enforcing authority for regulation 28 where a person discards or disposes of explosives or explosive-contaminated items, or decontaminates explosive-contaminated items, at a site in relation to which it has granted that or any other person a licence.

6.—(1) The enforcing authority for regulation 28 where a person discards or disposes of explosives or explosive-contaminated items, or decontaminates explosive-contaminated items, at a place other than a site in relation to which a person holds a licence is—

- (a) where the discarding, disposal or decontamination is carried out by, or on behalf of, a person who holds a licence granted by the Executive in a case in which the assent of the local authority was required under regulation 13(3) before the licence was granted, the Executive;
- (b) where the discarding, disposal or decontamination is carried out by, or on behalf of, a person who holds a licence granted by the ONR in a case in which the assent of the local authority was required under regulation 13(3) before the licence was granted, the ONR;
- (c) where neither paragraph (a) or (b) applies—
  - (i) in any case where the local authority is by virtue of the 1998 Regulations the enforcing authority for the premises, or part of premises, at which the disposal or decontamination is carried out, the local authority;
  - (ii) otherwise, the Executive.

(2) In this paragraph, “local authority” in sub-paragraph 1(c) has the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998<sup>M4</sup>.

#### **Marginal Citations**

- M4** S.I. 1998/494; relevant amending instruments are S.I. 2005/1082, 2007/2598, 2009/693 and 2014/469. For the purposes of regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations, “local authority” means: (a) in relation to England, a county council so far as they are the council for an area in which there are no district councils, a district council, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under-Treasurer of the Middle Temple or the Council of the Isles of Scilly; (b) in relation to Scotland, the council for a local government area; (c) in relation to Wales, a county council or county borough council.

#### **Enforcement in respect of import of chlorate mixtures**

7. The Executive is the enforcing authority for regulation 29 as it applies to the import of pyrotechnic substances or pyrotechnic articles which consist of sulphur or phosphorous mixed with chlorate of potassium or other chlorates.

#### **Enforcement in respect of acquisition and supply of fireworks**

8. The enforcing authority for regulation 9 is—
- (a) for a site in relation to which it has granted a person a licence, the Executive;
  - (b) subject to sub-paragraph (a), a local authority which is a licensing authority in the area of that local authority.

#### **Enforcement in respect of explosives certificates and access to relevant explosives**

9.—(1) The enforcing authority for regulations 5, 11(5), 21(4), 31, 32 and 37 in any area of Great Britain is the chief officer of police for that area.

(2) Despite sub-paragraph (1), the enforcing authority for regulations 31, 32 and 37 against a police force, any member of a police force or any relevant person is—

- (a) so far as the relevant regulation applies in relation to activities carried out on, or in relation to, any authorised defence site or a new nuclear build site, the ONR;
  - (b) otherwise, the Executive.
- (3) For the purposes of this paragraph “relevant person” means a person—
- (a) appointed to assist a police force as mentioned in paragraph 4(2) of Schedule 2 to the Police Reform and Social Responsibility Act 2011 (civilian staff); or
  - (b) appointed to assist a police force as mentioned in section 26 of the Police and Fire Reform (Scotland) Act 2012 (police staff).

#### **Enforcement in respect of identification and traceability**

10. The enforcing authority for regulation 33—
- (a) at a site in relation to which a person holds a licence granted by the chief officer of police for the area in which the site is situated, is that chief officer of police;
  - (b) at an authorised defence site or a new nuclear build site, is the ONR;
  - (c) otherwise, is the Executive.

11.—(1) The enforcing authority for regulation 34 is the Executive.

*Status: Point in time view as at 05/04/2015.*

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(2) Despite sub-paragraph (1), the ONR is the enforcing authority for regulation 34 to the extent that it imposes requirements on manufacturers who—

- (a) are established in Great Britain; and
- (b) manufacture explosives on an authorised defence site or a new nuclear build site.

#### **Enforcement in respect of record keeping**

12.—(1) The enforcing authority for regulation 35 is—

- (a) the Executive—
  - (i) in respect of any place within a site in relation to which it is the licensing authority;
  - (ii) subject to paragraph (b)(ii), in respect of any place occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence;
  - (iii) in respect of any place below ground in any mine;
  - (iv) subject to paragraph (b)(iii), against a police force, any member of a police force or relevant person;
- (b) the ONR—
  - (i) in respect of any place within a site in relation to which it is the licensing authority;
  - (ii) in respect of any place within an authorised defence site or a new nuclear build site;
  - (iii) against a police force, any member of a police force or any relevant person, so far as regulation 35 applies in relation to activities carried out on, or in relation to, any authorised defence site or new nuclear build site;
- (c) in any other case, the chief officer of police for the area.

(2) In this paragraph “relevant person” has the meaning given in paragraph 9.

13. The enforcing authority for regulation 36—

- (a) at a site in relation to which a person holds a licence granted by the chief officer of police for the area in which the site is situated, is, subject to sub-paragraph (b), that chief officer of police;
- (b) at a site which is, or forms part of, an authorised defence site or a new nuclear build site, is the ONR;
- (c) in any other case, is the Executive.

#### **Enforcement in respect of unmarked plastic explosives**

14.—(1) The enforcing authority for regulation 38 is the Executive.

(2) Despite sub-paragraph (1), the ONR is the enforcing authority for paragraphs (1) and (2) of regulation 38 as they apply on, or in relation to, an authorised defence site or a new nuclear build site.

#### **Enforcement in respect of transfers, and the placing on the market, of civil explosives**

15.—(1) The Executive is the enforcing authority for regulation 8 and Part 13.

(2) Despite sub-paragraph (1), the ONR is the enforcing authority for regulation 8 as it applies on, or in relation to, any activity carried out wholly or mainly on an authorised defence site or a new nuclear build site.

**Status:**

Point in time view as at 05/04/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the The Explosives Regulations 2014, SCHEDULE 11.