

EXPLANATORY MEMORANDUM TO

The Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015

S.R. 2015 No. 236

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and Articles 17(1) to (6) and 55(2) of, and paragraphs 1(1) and (4), 5, 12(1) and 14(1) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015 formally appoints national authorities and provides for enforcement, including penalties for infringement in respect of the directly applicable EU Regulation on classification, labelling and packaging of substances and mixtures (EC) No 1272/2008 – “the CLP Regulation” see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:353:0001:1355:en:PDF>
- 2.2. Although this EU Regulation does not require transposition, Member States are required to make arrangements in order to give full effect to aspects of this Regulation. The Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015 makes these arrangements and also makes minor amendments to the Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (S.R. 2009No. 273) (EHIP) see: <http://www.legislation.gov.uk/nisr/2009/273/contents/made> some of which continue to have effect until 31 May 2018.

3. Background

- 3.1. There have been significant changes in the regulation of chemicals at EU level in the last few years, as directly acting EU Regulations replace Directives that required transposition by Member States. In this case, in 2009, the EU Regulation on classification, labelling and packaging of substances and mixtures (the CLP Regulation) came into force. The CLP Regulation adopts an international chemicals hazard classification and labelling system for the supply of substances and mixtures in the EU. After a transitional period, it will entirely replace two directives – the Dangerous Substances and Dangerous Preparations Directives. The existing domestic EHIP Regulations which transpose these Directives, can then, in the main, be revoked, but the provisions they make for enforcement of the CLP Regulation will need to be replaced.

- 3.2. In addition, the Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015 provide an opportunity to correct the EHIP Regulations for the remainder of their tenure. Specifically they reinstate a requirement that suppliers who advertise chemicals alert potential buyers to any hazardous properties, which was incorrectly omitted from the EHIP Regulations. This requirement has effect until 31 May 2017.
- 3.3. The CLP Regulation requires Member States to formally appoint national authorities and provide for enforcement, including penalties for infringement.
- 3.4. Apart from ensuring that the UK meets the obligations of the EU Regulation, the Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015 are intended to provide transparency and consistency of approach and help to ensure that the EU requirements are implemented in the least burdensome way possible.
- 3.5. The Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015 designates the Department of Justice to carry out the obligations laid down in the CLP Regulation.
- 3.6. Provisions in these Regulations in relation to enforcement of the CLP Regulation are based on existing provisions in the EHIP Regulations.

4. Consultation

- 4.1. A consultation exercise on the Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015 ran from 5 February 2015 to 19 March 2015 and was specifically targeted at the explosives industry in Northern Ireland. The consultation document was also posted on the Department of Justice's website.
- 4.2. No responses to the consultation were received. This is attributed to the generally uncontroversial nature of the proposals.

5. Equality Impact

- 5.1. As the Regulations enable the Department to meet its EU obligations and they do not introduce any new obligations on dutyholders, no groups are likely to be impacted by these changes.

6. Regulatory Impact

- 6.1. These proposals have no negative effect on business, charities, social economy enterprises or voluntary bodies.

7. Financial Implications

- 7.1. These proposals should have no financial implications on dutyholders.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. There are no s. 24 implications.

9. EU Implications

- 9.1. The Statutory Rule is essential to support the CLP Regulation.

10. Parity or Replicatory Measure

- 10.1. In HSENI the corresponding Statutory Rule is the Biocidal Products and Chemicals (Appointment of Authorities and enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013 No. 206) and in Great Britain the corresponding Statutory Instrument is the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2012 No. 1506).

11. Additional Information

- 11.1. These Regulations will come into operation on 31 May 2015.

12. Contact Details

- 12.1. Any queries should be directed to Firearms and Explosives Branch, Block B, Castle Buildings, Stormont Estate, Belfast, BT4 3SG.

Department of Justice
May 2015