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STATUTORY INSTRUMENTS

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**1987 No. 37**

**The Dangerous Substances in Harbour Areas Regulations 1987**

**PART X**

**MISCELLANEOUS AND GENERAL**

**Power of a statutory harbour authority to make byelaws**

**43.**—(1) Subject to the provisions of Schedule 6, a statutory harbour authority may make in respect of the harbour area, byelaws prohibiting the entry or regulating the entry, carriage, handling and storage of dangerous substances.

(2) Byelaws shall not conflict with these Regulations or with any other relevant statutory provision.

(3) Byelaws shall be restricted to matters relating to the harbour area.

(4) Byelaws may contain their own provisions for enforcement.

**Enforcement of these Regulations**

**44.**—(1) Subject to paragraph (2), the Health and Safety Executive shall be responsible for enforcing these Regulations.

(2) A statutory harbour authority shall be responsible for enforcing Parts II and III of these Regulations and regulations 19, 20, 32(2) and 38 in the harbour area against persons other than itself.

**Defence in proceedings for contravening these Regulations or byelaws**

**45.** In any proceedings for an offence of contravening these Regulations (other than for an offence under regulation 16, 31(a) or 32(1)) or of contravening any byelaw made under these Regulations, it shall be a defence for any person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

**Power to grant exemptions from these Regulations**

**46.**—(1) Subject to paragraph (2), the Health and Safety Executive may, by a certificate in writing, exempt any person or class of persons, from any requirement or prohibition imposed by or under these Regulations, and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to—

(a) the conditions, if any, which it proposes to attach to the exemption; and

(b) any other requirements imposed by or under any enactment which apply to the case;

it is satisfied that neither the health or safety of persons, nor the security of any explosive, likely to be affected by the exemption, will be prejudiced in consequence of it.

(3) The Secretary of State for Defence may, in the interests of national security by a certificate in writing, exempt from all or any requirements or prohibitions imposed by these Regulations—

- (a) Her Majesty’s forces;
- (b) visiting forces within the meaning of any of the provisions of Part 1 of the Visiting Forces Act 1952(1);
- (c) any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(2);
- (d) any person engaged in the carriage, keeping or supply of any military explosives, if that person is under the direct supervision of a representative of the Ministry of Defence,

and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

### **Repeals, revocations, modifications and savings**

47.—(1) Subject to paragraph (3), the following provisions and the byelaws made thereunder are hereby repealed except in so far as they apply to Northern Ireland—

- (a) sections 34, 36 (only in so far as that section applies within harbours and harbour areas) and 115 of the Explosives Act 1875;
- (b) section 4 of the Explosives Act 1923(3);
- (c) sections 7 and 8 of the Petroleum (Consolidation) Act 1928(4); and
- (d) section 71(5) of the Harbours Docks and Piers Clauses Act 1847(5).

(2) The Conveyance in Harbours of Military Explosives Regulations 1977 are hereby revoked except in so far as they apply to Northern Ireland.

(3) The provisions mentioned in column 2 Part I of Schedule 8 of the byelaws mentioned in the corresponding entry in Column 1 of that Part (being byelaws made under section 7 of the Petroleum (Consolidation) Act 1928) shall continue in force after the commencement of these Regulations as if that section had not been repealed, but shall cease to have effect on 31st December 1989 unless they have been repealed before that date.

(4) In the Fire Certificates (Special Premises) Regulations 1976(6) after regulation 3 there shall be inserted the following regulation—

#### **“Premises for which a fire certificate is not required**

**3A.** Notwithstanding regulation 3(1), a fire certificate shall not be required for any berth to which the Dangerous Substances in Harbour Areas Regulations 1987 (S.I. 1987/37) apply”.

(5) The provisions mentioned in column 2 of Part II of Schedule 8 of the local Acts and byelaws (being Acts passed and byelaws made before 31st July 1974) mentioned in column 1 of that Part are hereby repealed in so far as they apply within harbours and harbour areas and, within those harbours and harbour areas to the extent that they apply in relation to dangerous substances to which these Regulations apply.

(6) The provisions mentioned in column 2 of Part III of Schedule 8 of the byelaws (being byelaws made before 31st July 1974) mentioned in column 1 of that Part are hereby repealed with effect from 31st December 1989, in so far as they apply within harbours and harbour areas and, within

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(1) 1952 c. 67.  
(2) 1964 c. 5.  
(3) 1923 c. 17.  
(4) 1928 c. 32.  
(5) 1847 c. 27.  
(6) S.I. 1976/2003.

those harbours and harbour areas to the extent they they apply in relation to dangerous substances to which these Regulations apply.

(7) The provisions of any local Act passed before 31st July 1974 or of any byelaws made before 31st July 1974 which conflict with the provisions of these Regulations or of any explosives licence granted under these Regulations shall cease to have effect and that Act or those byelaws shall be modified accordingly.