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STATUTORY INSTRUMENTS

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**1991 No. 1531**

**HEALTH AND SAFETY**

**The Control of Explosives Regulations 1991**

*Made* - - - - *5th July 1991*  
*Laid before Parliament* *15th July 1991*  
*Coming into force* - - *1st November 1991*

In exercise of the powers conferred on me by sections 15(1), (2), (3)(a) and (c), (4), (5) and (9) and 82(3)(a) of, and paragraphs 4, 6(1), 7, 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(1), and for the purpose of giving effect without modifications to proposals submitted to me by the Health and Safety Commission under section 11(2)(d) of that Act after the carrying out by that Commission of consultations in accordance with section 50(3), I hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Control of Explosives Regulations 1991 and shall come into force on 1st November 1991.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1983 Regulations” means the Classification and Labelling of Explosives Regulations 1983(2);

“chief officer of police” includes any other member of a police force who has been authorised in writing by the chief officer of police to act on his behalf for the purposes of these Regulations;

“the Executive” means the Health and Safety Executive;

“explosive” means any explosive article or explosive substance (as each is defined in regulation 2(1) of the 1983 Regulations) which has been assigned on classification under the 1983 Regulations to Class 1;

“explosives certificate” means the certificate described in regulation 4;

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(1) 1974 c. 37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 6 and 16.  
(2) S.I. 1983/1140.

“fireworks” means the explosive articles allocated on classification under the 1983 Regulations any of the U.N. nos. 0333 to 0337;

“fog signals” means the explosive articles allocated on classification under the 1983 Regulations the U.N. no. 0193;

“for private use” means for a person’s own use or use by his employees in the course of their employment, and not for sale;

“gunpowder” means the explosive substance allocated on classification under the 1983 Regulations the U.N. no. 0027;

“holder” in relation to an explosives certificate means the person named in the explosives certificate as a fit person to acquire or to acquire and keep explosives;

“license” means any of the following granted under the Explosives Act 1875(3) in respect of a factory or magazine—

- (a) a license,
- (b) an amending license, or,
- (c) a continuing certificate which is deemed by that Act to be a license;

“licensed factory” and “licensed magazine” mean a factory or magazine, as the case may be, licensed under the Explosives Act 1875 or lawfully existing whether under that Act or by virtue of a certificate of exemption granted pursuant to the Explosives Act 1875 (Exemptions) Regulations 1979(4);

“name” in relation to an explosive article or explosive substance has the meaning assigned to it by the 1983 Regulations;

“occupier” has the same meaning as in section 108 of the Explosives Act 1875;

“percussion caps” means any of the explosive articles allocated on classification under the 1983 Regulations the U.N. nos. 0044, 0377 or 0378;

“prohibited person” means, subject to regulation 9(3), a person, other than a person in respect of whom an order has been made under regulation 6(4), who—

- (a) has been convicted of any offence under the Explosive Substances Act 1883(5), or
- (b) has been sentenced to imprisonment or custody for life; or to imprisonment, detention in a young offenders institution, youth custody or corrective training for a term exceeding thirty months; or to preventive detention; or to detention during Her Majesty’s pleasure or for life, or under section 205(2) or (3) of the Criminal Procedure (Scotland) Act 1975(6); or for a term exceeding thirty months passed under section 53 of the Children and Young Persons Act 1933(7) (young offenders convicted of grave crimes), or under section 206 of the said Act of 1975(8) (detention of children convicted on indictment), or
- (c) has been sentenced to imprisonment, or youth custody, or detention in a young offenders institution, or corrective training for a term exceeding six months, but not exceeding thirty months, and less than ten years have passed since the conviction for the crime for which sentenced, or less than five years for those under seventeen at the time of conviction, or

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(3) 1875 c. 17, the relevant provisions are sections 6, 12, 14, 38 and 40; sections 6, 12 and 40 were amended by S.I. 1974/1885.

(4) S.I. 1979/1378.

(5) 1883 c. 3.

(6) 1975 c. 21; section 205 was substituted by the Criminal Justice (Scotland) Act 1980 (c. 62), section 43.

(7) 1933 c. 12; section 53 was repealed in part by the Criminal Justice Act 1948 (c. 58), section 83, by the Children and Young Persons Act 1963 (c. 37), section 64(3), and by the Criminal Justice Act 1967 (c. 80), section 103(2), and was amended by the Criminal Justice Act 1961 (c. 39), sections 2(1), 41(1) and (3) and Schedule 4, by the Children and Young Persons Act 1963, section 64(1) and Schedule 3, paragraph 13, by the Murder (Abolition of Death Penalty) Act 1965 (c. 71), sections 1(5) and 4, and by the Children and Young Persons Act 1969 (c. 54), section 30(1).

(8) Section 206 was substituted by the Criminal Justice (Scotland) Act 1980, section 44.

- (d) has been sentenced to imprisonment or youth custody or detention in a young offenders institution for a term not exceeding six months, and less than seven years have passed since the conviction for the crime for which sentenced, or less than three and a half years for those under seventeen at the time of conviction;

“registered premises” means premises registered with a local authority for the keeping of explosives under the Explosives Act 1875;

“relevant police force” means in the case of an explosive certificate–

- (a) which will certify that the holder is a fit person to keep explosives, the police force for the police area in which the place of keeping is or is to be situated,
- (b) which will certify only that the holder is a fit person to acquire explosives, the police force for the police area in which the applicant resides or, in the case of a body corporate, in which the applicant has its registered office, or, if it has no registered office, its principal office,
- (c) which has been issued, the police force stated in the certificate;

“restricted substance” means–

- (a) a substance which on classification under the 1983 Regulations has been excluded from Class 1 and designated as not presenting a significant hazard from explosion only because of the proportion it contains of water or other agent with which it is diluted, but which is neither a medicinal product as defined in section 130 of the Medicines Act 1968(9) nor a substance specified in an order made under section 104 or 105 of the Medicines Act 1968 which is for the time being in force and which directs that specified provisions of that Act shall have effect in relation to that substance as such provisions have effect in relation to medicinal products within the meaning of that Act, or
- (b) any collection of substances which would if mixed form one or more explosive substances and which has been prepared for that purpose;

“small arms ammunition” means the explosive articles allocated on classification under the 1983 Regulations the U.N. no. 0012, 0014 or 0055 and which are intended exclusively for use in small arms;

“smokeless powder” means the explosive substances allocated on classification under the 1983 Regulations the U.N. no. 0160 or 0161 and which are intended exclusively for use in small arms;

“store” has the same meaning as in section 108 of the Explosives Act 1875; and

“U.N. no.” means United Nations Serial Number, that is to say, one of the four-digit numbers devised by the United Nations and allocated by the Health and Safety Executive or the Secretary of State to an explosive article or substance as a means of identification.

(2) In these Regulations any reference to acquiring or transferring explosive shall mean acquiring or transferring possession of or property in such explosive.

(3) For the purposes of these Regulations, a person who acts as agent to acquire or transfer any explosive for another person shall be treated as if he as well as the other person had acquired or transferred that explosive as principal.

(4) For the purposes of these Regulations, except for regulation 9(2), the keeping or possession of any explosive by an employee who has been duly authorised by his employer for the purposes of his employment shall be treated as if it were keeping or possession, as the case may be, by the employer.

(5) Where explosive is transported (including being loaded or unloaded and during breaks which are reasonably incidental to completing the journey within a reasonable length of time) the explosive

shall not be treated as being kept or acquired by or transferred to or from a person who has possession of it only by reason of being—

- (a) a carrier;
- (b) a person engaged in the work of loading or unloading; or
- (c) the occupier of a place it passes through while on the journey.

(6) In determining whether any explosive is lost for the purposes of these Regulations, there shall be excluded any explosive in respect of which it can be shown that the cause was not theft and that the explosive no longer exists.

(7) In these Regulations any reference to the quantity of any explosive shall be construed as a reference to the net mass of explosive substance.

(8) For the purposes of these Regulations, an explosive is not of the same type as another explosive unless it is identical to it.

(9) Unless the context otherwise requires any reference in these Regulations to—

- (a) a numbered regulation is a reference to the regulation in these Regulations so numbered;
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears;
- (c) a numbered Schedule is a reference to the Schedule to these Regulations so numbered.

### Application

**3.—**(1) These Regulations shall apply to all explosives except that regulations 7, 8, 9, 12 and 13 shall not apply to the explosives listed in Schedule 1.

(2) Regulations 7 to 9 shall not apply to smokeless powder or to ammunition the acquisition of which is regulated or prohibited by virtue of the Firearms Acts 1968 to 1988<sup>(10)</sup>.

(3) Regulations 7 and 10 shall not apply to the acquisition or keeping of explosives by or on behalf of—

- (a) a person exercising a power of seizure under section 74 of the Explosives Act 1875<sup>(11)</sup>;
- (b) a constable acting in the execution of his duties;
- (c) a person employed as mentioned in section 10 of the Police Act 1964<sup>(12)</sup> (civilian employees) or in section 9 of the Police (Scotland) Act 1967<sup>(13)</sup> (employees other than constables) who, in either case, is duly authorised in writing by the chief officer of police for the relevant police area; or
- (d) a customs officer acting in the performance of his functions.

(4) Regulations 7 and 10 shall not apply to—

- (a) the Crown, in respect of any explosive which—
  - (i) is in premises occupied on behalf of the Crown for, or
  - (ii) is intended for use for,

naval, military or air force purposes or the purposes of the department of the Secretary of State having responsibility for defence or that of the Secretary of State having responsibility for home affairs;

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<sup>(10)</sup> 1968 c. 27, 1982 c. 31, 1988 c. 45.

<sup>(11)</sup> 1875 c. 17; section 74 was modified by S.I. 1974/1885.

<sup>(12)</sup> 1964 c. 48; section 10 was repealed in part by the Superannuation Act 1972 (c. 11), section 29(4), and by the Local Government Act 1972 (c. 70), section 272(1).

<sup>(13)</sup> 1967 c. 77.

- (b) the service authorities of visiting forces within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952<sup>(14)</sup> or any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964<sup>(15)</sup>;
- (c) a police force;
- (d) the Executive.

(5) Regulation 9 shall not apply to the employment of or the acquisition, keeping, handling or control of any explosive or any restricted substance in the course of their duties by members of Her Majesty's forces.

(6) These Regulations shall not apply to any explosive nuclear device.

### **Explosives certificate**

4.—(1) An explosives certificate is a certificate certifying that the person to whom it is issued is a fit person—

- (a) to acquire explosives; or
- (b) to acquire and keep explosives,

in accordance with the terms of the explosives certificate and shall be in the form of the certificate in Schedule 2 or one to the same effect.

(2) Subject to paragraph (8), an application for an explosives certificate shall be made to the chief officer of police for the relevant police force.

(3) The Executive may from time to time approve in writing a form of application for an explosives certificate and if it does so any such application shall be in the approved form or one to the same effect.

(4) Subject to paragraphs (5) and (6), a chief officer of police shall issue an explosives certificate to a person who he is satisfied is a fit person to hold a certificate in those terms.

(5) A chief officer of police shall not issue an explosives certificate to a person if the chief officer of police is satisfied that the person is of unsound mind or intemperate habit.

(6) A chief officer of police shall not issue an explosives certificate to a person unless the chief officer of police is satisfied that—

- (a) the person has good reason for acquiring the explosives;
- (b) subject to paragraph (7), the person is a responsible person who may be permitted to acquire the explosives without danger to public safety or peace;
- (c) subject to paragraph (7), the person will take all reasonable precautions to prevent access to the explosives by unauthorised persons and to prevent loss of the explosives;
- (d) the person is not a prohibited person;
- (e) where the person is a body corporate, no director or secretary of the body corporate, and where the person is a Scottish firm, no partner in the firm, is a prohibited person;
- (f) where the application is for a certificate relating only to acquisition of explosives, it is not reasonably practicable for the applicant to be an occupier of a licensed factory, licensed magazine, store or registered premises and the explosives either will not be kept, or, if kept, the applicant will ensure that they are kept in a licensed factory, licensed magazine, store or registered premises or in premises occupied by the Secretary of State; and
- (g) where the application is for a certificate relating to keeping of explosives, either—

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(14) 1952 c. 67.

(15) 1964 c. 5.

- (i) the applicant is or is to be the occupier of a licensed factory, licensed magazine, store or registered premises, or
- (ii) the explosives will be kept in premises occupied on behalf of the Crown, or
- (iii) the explosives are to be kept for private use, and will be kept in a licensed factory, licensed magazine, store or registered premises, or are of one or more of the descriptions specified in regulation 10(1).

(7) Sub-paragraphs (b) and (c) of paragraph (6) shall not apply in respect of explosives kept or to be kept in a licensed factory or licensed magazine.

- (a) (a) This paragraph applies with respect to an explosives certificate which would, if granted, certify only that the holder is a fit person to acquire explosives and where the person who would be the holder is not resident in Great Britain or, in the case of a body corporate, does not have a registered office or any other office in Great Britain.
- (b) Where this paragraph applies, the application for an explosives certificate may be made by a person resident in Great Britain who has knowledge of and control over any occasion when the person to whom the certificate would relate would acquire or use explosives.
- (c) An application under this paragraph shall be made to the chief officer of police for the police area in which the person who makes the application resides or, in the case of a body corporate, has its registered office or, if it has no registered office, its principal office.

(9) The holder of an explosives certificate shall inform the chief officer of police who issued it of any change in the holder's address or, where the holder is a body corporate or partnership, of its proper address for the purposes of section 46(4) of the Health and Safety at Work etc. Act 1974, either before or forthwith after any such change occurs.

### **Revocation and expiry of explosives certificate**

5.—(1) A chief officer of police may revoke an explosives certificate issued by him if, at any time, he is satisfied that the holder was not when the explosives certificate was issued, or is no longer, a fit person to hold an explosives certificate in the terms of that explosives certificate.

(2) A chief officer of police shall revoke an explosives certificate issued by him if, at any time, he is satisfied that any of the conditions in paragraph (5) or (6) of regulation 4 was not met when the explosives certificate was issued, or is no longer met.

- (3) An explosives certificate shall cease to be valid—
  - (a) 3 years after the date of issue; or
  - (b) one year after the date of issue where the certificate relates only to the acquisition of explosives; or
  - (c) after such lesser time as may be stated therein; or
  - (d) after notice of revocation by the chief officer of police for the relevant police force has been served on the holder of the certificate,

whichever happens first.

(4) The holder of an explosives certificate shall surrender it to the chief officer of police who issued it forthwith after it has ceased to be valid.

### **Appeals and applications to the Crown Court or Sheriff**

6.—(1) A person aggrieved by any decision of a chief officer of police under regulation 4 or 5 may appeal within 21 days of receiving notice of that decision.

(2) An appeal under this regulation in England and Wales shall be to the Crown Court and in Scotland shall be to the sheriff by Act of Sederunt.

(3) The court hearing an appeal under this regulation may dismiss the appeal or allow the appeal and give directions to the chief officer of police to issue or restore the explosives certificate.

(4) A prohibited person may apply to the Crown Court or, in Scotland, to the Sheriff by Act of Sederunt for an order that he is no longer a prohibited person and the court hearing any such application may make an order exempting him from the provisions of these Regulations relating to a prohibited person.

### **Acquisition and keeping of explosives**

7.—(1) No person shall acquire any explosives unless—

- (a) he has a valid explosives certificate certifying him to be a fit person to acquire explosives; and
- (b) he acquires no more explosives than any quantity referred to in the explosives certificate; and
- (c) where the explosives certificate specifies the description of explosives which he is a fit person to acquire, he acquires only explosives of that description; and
- (d) where the explosives certificate specifies purposes for which he is a fit person to acquire explosives, he acquires them only for those purposes.

(2) No person shall keep any explosives unless he—

- (a) has a valid explosives certificate certifying him to be a fit person to keep explosives; and
- (b) keeps no more explosives than the quantity referred to in the explosives certificate; and
- (c) where the explosives certificate specifies the description of explosives which he is a fit person to keep, keeps only explosives of that description; and
- (d) keeps them at any place specified in the explosives certificate.

### **Transfer of explosives**

8. No person shall transfer any explosive to another unless he is satisfied that—

- (a) the transferee has an explosives certificate certifying him to be a fit person to acquire that explosive;
- (b) the explosive is for immediate export to a transferee resident outside the United Kingdom and any licence relating to the transfer under the Import, Export and Customs Powers (Defence) Act 1939<sup>(16)</sup> has been granted;
- (c) the explosive is for immediate transport to Northern Ireland and the transferee has police consent under regulation 11(1) of the Explosives Regulations (Northern Ireland) 1970<sup>(17)</sup>;
- (d) the explosive is for transport to an offshore installation in controlled waters as both those terms are defined in section 1(4) of the Mineral Workings (Offshore Installations) Act 1971<sup>(18)</sup>; or
- (e) the transferee is a person specified in regulation 3(3) or (4).

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<sup>(16)</sup> 1939 c. 69.

<sup>(17)</sup> S.R. & O. (N.I.) 1970 No. 110.

<sup>(18)</sup> 1971 c. 61; section 1 was substituted by the Oil and Gas (Enterprise) Act 1982 (c. 23), section 24.

### **Restrictions on prohibited persons**

9.—(1) No employer shall knowingly employ a prohibited person in a position where he handles or has control of any explosive or any restricted substance.

(2) Notwithstanding regulation 7, no prohibited person shall acquire, keep, handle or have control of any explosive or any restricted substance.

(3) In determining whether a person is a prohibited person for the purposes of this regulation, no account shall be taken of any sentence such as is mentioned in sub-paragraph (d) of the definition of “prohibited person” in regulation 2(1) which was imposed in respect of an offence committed before these Regulations came into force.

### **Keeping explosives for private use**

10.—(1) No person shall keep any explosive for private use except explosive of one or more of the following descriptions—

- (a) gunpowder;
- (b) smokeless powder;
- (c) any propellant made or adapted and also, in either case, intended exclusively for small arms ammunition;
- (d) an explosive listed in Schedule 1.

(2) No person shall keep any explosive in any premises for private use except one or more of the following—

- (a) any quantity of fireworks which are kept for less than 14 days before being used and are kept in a safe and suitable place with all due precautions for public safety;
- (b) any quantity of fog signals kept by any railway operator for use on the railway if packaged so as to be in Division 1.4 and Compatibility Group S for the purposes of the 1983 Regulations;
- (c) such quantity of percussion caps or small arms ammunition or a mixture of them as will ensure that the quantity of explosives kept in the premises under this sub-paragraph, including any explosives kept by other persons, does not exceed 15 kilograms;
- (d) such quantity of gunpowder as will ensure that the quantity of explosives kept in the premises under this sub-paragraph, including any explosives kept by other persons, does not exceed 10 kilograms; and
- (e) such quantity of any explosive mentioned in paragraph (1) as will ensure that the quantity of explosives kept in the premises under this sub-paragraph, including any explosives kept by other persons, does not exceed 5 kilograms.

(3) This regulation shall not apply to the keeping of any explosive in a licensed factory or magazine, a store, registered premises or premises occupied on behalf of the Crown.

### **Occupier of licensed factory or licensed magazine to appoint person responsible for security of explosives**

11. The occupier of a licensed factory or of a licensed magazine shall appoint one individual to be responsible to him for ensuring in respect of the licensed factory or licensed magazine that adequate precautions are taken to secure explosives against loss.



## **Making, preservation and production of records**

**12.**—(1) Any person who acquires possession of or keeps any explosive shall make and maintain an up to date record containing such of the information in Schedule 3 as applies in the case.

(2) Any record made under this regulation shall be preserved by the person responsible for making it in a safe place for a period of 3 years from the date of the latest entry in it.

(3) For the purpose of investigating any offence which has, or which he has reasonable grounds for suspecting has, been committed, a constable may require a person responsible for preserving records under this regulation to produce all or any of them forthwith and the constable may inspect and take copies of them.

(4) This regulation shall not apply to—

(a) a person who acquires or keeps for private use not more than—

(i) 10 kilograms of gunpowder, plus

(ii) 5 kilograms of gunpowder or smokeless powder or of any propellant made or adapted and also, in either case, intended exclusively for small arms ammunition;

(b) unfinished explosive except when it enters or leaves the factory; or

(c) an explosive which is manufactured in accordance with a licence issued under the Ammonium Nitrate Mixtures Exemption Order 1967(19) and is used immediately at the point of manufacture.

(5) For the purposes of paragraph (4)(b), explosive shall not be treated as unfinished only because it has not been packaged or labelled.

## **Reporting loss**

**13.**—(1) Any person who acquires possession of, keeps, loads, unloads or transports explosive or is the occupier of a place where it is loaded or unloaded while on a journey shall ensure that the loss of any explosive is reported forthwith to the chief officer of police for the police area in which the loss occurs or, if he does not know where the loss occurred, to the chief officer of police for the police area in which the loss is discovered, or (where that regulation applies) in accordance with regulation 14(2).

(2) Subject to paragraph (3), where the person required by paragraph (1) to ensure the reporting of a loss is a person who had acquired possession of the explosive or was keeping it, he shall also confirm the report in writing without delay including the following information (whether or not previously supplied orally)—

(a) the date and time that the loss was first discovered;

(b) the place at which that discovery was made;

(c) a description of each type of explosive that has been lost sufficient to distinguish that type from other explosives which are similar but not identical;

(d) for each type lost—

(i) the number of articles lost, or

(ii) the total nominal mass of each type of explosive substance lost, except that in the case of a substance in cartridge form, the number of cartridges lost may be given.

(3) In the case of a person mentioned in regulation 12(4)(a) it shall be sufficient compliance with paragraph (2)(d) to include a reasonable estimate of the total quantity of explosive lost.

(4) Any person who transports, loads or unloads explosive or is the occupier of a place where it is loaded or unloaded shall also report the loss of any explosive without delay to the consignor or, if the consignor is outside the United Kingdom, to the consignee.

(5) Any person making a report under paragraph (4) shall provide the consignor or consignee with any information in the possession of the person making the report which the consignor or consignee needs to comply with paragraph (6).

(6) Any consignor or consignee to whom a loss is reported under paragraph (4) shall without delay notify the loss in writing to the chief officer of police for the police area in which the loss was discovered, and also (if different) the chief officer of police who issued any explosives certificate held by the consignor or consignee which relates to the explosive the loss of which has been so reported, giving the information listed in paragraph (2).

(7) An employee shall inform his employer without delay if he becomes aware of any loss of explosive which his employer must report.

(8) Where any loss of explosive occurs at a licensed factory or licensed magazine, then any requirement in this regulation to report or supply information to a chief officer of police shall also include a like requirement to report or supply the same information to the Executive.

#### **Extension outside Great Britain**

**14.**—(1) These Regulations (except regulations 7, 8, 9, 10, 11, 16 and 17) shall apply outside Great Britain to and in relation to any explosive which is on premises, or which is used or for use in connection with activities, to which, or in relation to which, sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974 apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1989<sup>(20)</sup> as they apply to and in relation to explosives in Great Britain.

(2) Where any loss of explosive occurs or is discovered outside Great Britain, any report required by regulation 13(1) shall be made to any chief officer of police.

#### **Enforcement**

**15.**—(1) Subject to the following paragraphs of this regulation the enforcing authority for these Regulations in any area of Great Britain shall be the chief officer of police for that area.

(2) The enforcing authority in relation to regulation 12—

- (a) in respect of any place within a licensed factory or magazine;
- (b) in respect of any place in premises 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; and
- (c) under regulation 12(1) in respect of any place below ground in any mine,

shall be the Executive.

(3) The Executive shall be the enforcing authority for these Regulations—

- (a) in relation to regulation 11;
- (b) for any area outside Great Britain; and
- (c) against a police force or any member of a police force.

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(20) S.I. 1989/840.

### **Power to revoke or amend licenses**

16. The Executive may revoke or amend any license, in whole or in part, if it is satisfied that, for any reason including the circumstances in which any explosive is or may be kept, any explosive in the factory or magazine to which the license relates is insufficiently secure or insufficiently safe.

### **Power to grant exemptions**

17.—(1) Subject to paragraph (2), the Executive may, by a certificate in writing, exempt any person or class of persons or any explosive or class of explosives from any requirements or prohibitions imposed by these Regulations, and any such exemptions may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(2) The Executive shall not grant an exemption under paragraph (1) 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 the health or safety of persons likely to be affected by the exemption will not be prejudiced in consequence of it and that the security of explosives will not be so prejudiced.

(3) The Secretary of State having responsibility for defence may, by a certificate in writing, exempt any person or class of persons or any explosive or class of explosives from any requirement or prohibition imposed by these Regulations where he is satisfied that such exemption is in the interest of national security, 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.

### **Transitional provisions**

18.—(1) The provisions of regulation 7 shall not apply to the occupier of a licensed factory or a licensed magazine for a period of one year after the date of coming into force of these Regulations and, for the same period, regulation 8 shall have effect as if the occupier of a licensed factory or licensed magazine was added to the list of persons in that regulation, provided, in each case, that such licensed factory or licensed magazine is in existence at that date.

(2) Where, immediately before the coming into force of these Regulations, a certificate or license was in force under any provision revoked by these Regulations, that certificate or license shall continue in force until its expiry date or earlier revocation and nothing in regulation 7, 8 or 10 shall prevent a person from doing anything permitted by it.

### **Modifications, revocations and savings**

19.—(1) The Explosives Act 1875 shall be modified to the extent set out in Part I of Schedule 4.

(2) Notwithstanding the modification of section 50 of the Explosives Act 1875, Order in Council (No.9) of the 27th November 1875 relating to the Sale of Explosive(21) shall remain in force.

(3) The instruments specified in the first column of Part II of Schedule 4 shall be revoked to the extent specified in the third column of that Part, except as they apply to Northern Ireland.

(4) Any record required to be kept under any instrument revoked by these Regulations shall be preserved in the same manner and for the same period as if these Regulations had not been made.

(5) Any certificate or license of a type mentioned in regulation 18(2) shall be subject to revocation in the same circumstances and in the same manner as if these Regulations had not been made.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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(6) Nothing in these Regulations shall prejudice the operation of section 5 of the Explosives Act 1875<sup>(22)</sup> (which requires explosives to be kept only in licensed factories or magazines, stores or registered premises, subject to certain exceptions).

Home Office  
5th July 1991

*Kenneth Baker*  
One of Her Majesty's Principal Secretaries of  
State

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<sup>(22)</sup> 1875 c. 17; section 5 was modified by S.I. 1974/1885, 1984/510, and is applied to explosives other than gunpowder by section 39.

## SCHEDULE 1

Regulation 3

## EXCEPTIONS

Explosives	U.N. no.
ARTICLES, PYROTECHNIC for technical purposes	0428
ARTICLES, PYROTECHNIC for technical purposes	0429
ARTICLES, PYROTECHNIC for technical purposes	0430
ARTICLES, PYROTECHNIC for technical purposes	0431
ARTICLES, PYROTECHNIC for technical purposes	0432
CARTRIDGES, OIL WELL	0277
CARTRIDGES, OIL WELL	0278
CARTRIDGES, POWER DEVICE	0275
CARTRIDGES, POWER DEVICE	0276
CARTRIDGES, POWER DEVICE	0323
CARTRIDGES, POWER DEVICE	0381
CARTRIDGES, SIGNAL	0054
CARTRIDGES, SIGNAL	0312
CARTRIDGES, SIGNAL	0405
CARTRIDGES, SMALL ARMS	0012
CARTRIDGES, SMALL ARMS	0328
CARTRIDGES, SMALL ARMS	0339
CARTRIDGES, SMALL ARMS, BLANK	0014
CARTRIDGES, SMALL ARMS, BLANK	0327
CARTRIDGES, SMALL ARMS, BLANK	0338
CASES, CARTRIDGE, EMPTY, WITH PRIMER	0055
CASES, CARTRIDGE, EMPTY, WITH PRIMER	0379
CASES, CARTRIDGE, EMPTY, WITHOUT PRIMER	0446
CASES, CARTRIDGE, EMPTY, WITHOUT PRIMER	0447
CORD, IGNITER	0066
CUTTERS, CABLE, EXPLOSIVE	0070

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Explosives	U.N. no.
DINITROBENZENE	0406
FIREWORKS	0333
FIREWORKS	0334
FIREWORKS	0335
FIREWORKS	0336
FIREWORKS	0337
FLARES, AERIAL	0093
FLARES, AERIAL	0403
FLARES, AERIAL	0404
FLARES, SURFACE	0092
FLASH POWDER	0094
FLASH POWDER	0305
FUSE, INSTANTANEOUS, NON- DETONATING (QUICKMATCH)	0101
FUSE, SAFETY	0105
IGNITERS	0121
IGNITERS	0314
IGNITERS	0315
IGNITERS	0325
IGNITERS	0454
LIGHTERS, FUSE	0131
5-MERCAPTO-TETRAZOL-1-ACETIC ACID	0448
POTASSIUM SALTS OF AROMATIC NITRO-DERIVATIVES, explosive	0158
PRIMERS, CAP TYPE	0044
PRIMERS, CAP TYPE	0377
PRIMERS, CAP TYPE	0378
ROCKETS, LINE THROWING	0238
ROCKETS, LINE THROWING	0240
ROCKETS, LINE THROWING	0453
SIGNAL DEVICES, HAND	0373
SIGNALS, DISTRESS, ship	0194
SIGNALS, RAILWAY TRACK, EXPLOSIVE	0192
SIGNALS, RAILWAY TRACK, EXPLOSIVE	0193

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Explosives	U.N. no.
SIGNALS, SMOKE with explosive sound unit	0196
SIGNALS, SMOKE without explosive sound unit	0197
SODIUM DINITRO-O-CRESOLATE, dry or wetted with less than 15% water by mass	0234
SODIUM PICRAMATE, dry or wetted with less than 20% water by mass	0235
TETRAZOL-1-ACETIC ACID	0407
ZIRCONIUM PICRAMATE dry or wetted with less than 20% water by mass	0236

SCHEDULE 2

Regulation 4

FORM OF EXPLOSIVES CERTIFICATE  
HEALTH AND SAFETY AT WORK ETC. ACT 1974

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CERTIFICATE TO \*ACQUIRE/ACQUIRE AND KEEP EXPLOSIVES

1. I the undersigned \*being/being duly authorised by the chief officer of police for ..... police force, do hereby certify that (name) ..... of (address) ..... is a fit person to \*acquire/acquire and keep explosives in accordance with this certificate.

Alternative A—acquisition only

- 2. The maximum amount of explosives acquired on any one occasion shall not exceed .....
3. The only explosives which may be acquired are those of the following descriptions, namely .....
4. Explosives may only be acquired for the purpose(s) of .....
5. This certificate shall be valid until ..... (maximum one year), unless notice of revocation by or on behalf of the chief officer of police has been served on the certificate holder at an earlier date.

(Notes:

- (a) If this certificate relates to acquisition only, this section must be completed in accordance with these Notes and "alternative B" deleted.
(b) Each of paragraphs 2, 3 and 4 may be completed or deleted.
(c) Paragraph 5 must be completed.)

Alternative B—acquisition and keeping

- 2. The explosives may only be kept at the
\*licensed factory
\*licensed magazine
\*registered premises
\*store
\*premises occupied by the Secretary of State
\*premises used for keeping for private use } at .....
3. The only explosives which may be acquired or kept are those of the following descriptions, namely .....
4. The amount of explosives kept may not exceed the amount which may lawfully be kept at the said premises.
5. This certificate shall be valid until ..... (maximum three years), unless notice of revocation by or on behalf of the chief officer of police has been served on the certificate holder at an earlier date.

(Notes:

- (a) If this certificate relates to acquisition and keeping, this section must be completed in accordance with these Notes and "alternative A" deleted.
(b) In paragraph 2 all but one of the alternatives marked with a \* must be deleted. No address should be inserted if the explosives are to be kept at premises used for keeping for private use. An address must be inserted in all other cases.
(c) If paragraph 2 allows explosives to be kept at a store, registered premises or premises used for keeping for private use paragraph 3 must be completed. If paragraph 2 refers to keeping explosives at premises used for keeping for private use, the description of explosives in paragraph 3 must not



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include any explosives other than one or more of those mentioned in regulation 10(1) of the Regulations.

- (d) Paragraph 4 needs no change.
- (e) Paragraph 5 must be completed.)

Signed.....

Date .....

\* Delete as applicable

SCHEDULE 3

Regulation 12

INFORMATION TO BE RECORDED

1. The record required to be kept by or for a person who acquires explosives shall—
  - (a) identify the person by whom it is made;
  - (b) be updated as soon as is reasonably practicable after the event that is to be recorded has taken place;
  - (c) list under the relevant date and in accordance with paragraph 3 those explosives possession of which has been acquired;
  - (d) list under the relevant date and in accordance with paragraph 3 those explosives possession of which has ceased and indicate whether they were used, destroyed, lost, or transferred to another person;
  - (e) give the name and address of the person from whom such explosives were acquired, and the address of the place at which they were used, destroyed or lost, or the name and address of the person to whom they were transferred;
  - (f) give the total number of explosive articles and the total nominal mass of explosive substances not contained in explosive articles or, in the case of such substances in cartridge form, the total number, held after each entry made under sub-paragraphs (c) and (d) of this paragraph.
2. The record required to be kept by or for a person who keeps explosives shall—
  - (a) identify the place in respect of which it is made;
  - (b) list under the relevant date and in accordance with paragraph 3 the incoming and outgoing explosives, including any which have been lost;
  - (c) give the name and address of the consignor or consignee of the explosives, or indicate that the explosives have been lost;
  - (d) give the total number of explosive articles and the total nominal mass of explosive substances not contained in explosive articles or, in the case of such substances in cartridge form, the total number, held after each entry made under sub-paragraph (b) of this paragraph.
- 3.—(1) In respect of each type of explosive, other than those mentioned in sub-paragraphs (2) and (3) below, there shall be recorded—
  - (a) the name;

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- (b) the number of explosive articles of that type or in the case of explosive substances not contained in explosive articles the unit mass and number of units of explosive substance of each type as appropriate and the total nominal mass of each type of explosive substance or, where it is not reasonably practicable to specify the nominal mass of each type of explosive substance, a reasonably accurate estimate of the nominal mass;
  - (c) a description which enables each explosive article to be distinguished from every other explosive article which is not identical.
- (2) In respect of each type of explosive substance—
- (a) in cartridge form, there shall be recorded—
    - (i) the name;
    - (ii) the nominal diameter and either the nominal mass or length;
    - (iii) the number of cartridges;
  - (b) packaged in bulk without being divided into units, there shall be recorded—
    - (i) the name;
    - (ii) the number of outer cases;
    - (iii) the total nominal mass.
- (3) In respect of each type of linear fuse, whether detonating or otherwise, there shall be recorded—
- (a) the name;
  - (b) the number of spools of linear fuse or cord of that type;
  - (c) the length of fuse or cord, or in the case of partially used spools, a reasonably accurate estimate of the length of fuse or cord.

## SCHEDULE 4

Regulation 19

### PART I

#### MODIFICATIONS OF THE EXPLOSIVES ACT 1875

The Explosives Act 1875 shall except insofar as it applies to Northern Ireland be modified as follows—

- (a) in section 5 for proviso (1) substitute the following proviso—

“(1) To a person keeping gunpowder for his private use (within the meaning of the Control of Explosives Regulations 1991); or”;
- (b) in section 40(4) delete the words “for private use and not for sale, or”;
- (c) for section 41 substitute the following section—

“**41.** Exception of safety cartridges

Nothing in this Act shall apply to the filling or conveying for private use and not for sale of any safety cartridges to the amount allowed by the Control of Explosives Regulations 1991 to be kept for private use within the meaning of those Regulations.”;
- (d) in section 50 delete from the first paragraph the words “percussion caps, or safety fuzes for blasting, or”.

## PART II

### REVOCATIONS

Instruments revoked	References	Extent of revocation
Order in Council (No.6A) amending Order in Council (No. 6 of the 27th day of November 1875, relating to Stores licensed for Mixed Explosives.	20th April 1883 (Rev.VII, p. 34) amending 27th November 1875 (Rev. VII, p. 26).	The whole Order except articles (1) and (3)(b) and (d).
Order in Council (No. 12 to replace No. 8) relating to the keeping of Explosives for Private Use and not for Sale.	20th April 1883 (Rev. VII, p. 43).	The whole Order.
Order in Council (No. 13) relating to the exemption of Small Arm Nitro-compounds from the Restrictions imposed in Orders in Council, Nos. 6A, 7A and 12	24th September 1886 (Rev. VII, p. 46).	The whole Order.
Order in Council (No. 16) repealing and consolidating the previous Orders relating to Premises registered for Mixed Explosives.	S.R. & O. <a href="#">1896/964</a> .	Part III.
Order in Council (No. 28) (The Sale of Explosives Order 1928).	S.R. & O. <a href="#">1928/245</a> .	The whole Order.
The Control of Explosives Order 1953.	S.I. <a href="#">1953/1598</a> .	The whole Order.
The Control of Explosives Order 1954	S.I. <a href="#">1954/757</a> .	The whole Order.
The Explosives Acts 1875 and 1923 etc. (Repeals and Modifications) Regulations 1974.	S.I. <a href="#">1974/1885</a> .	Regulation 3(1), so far as modifying Order in Council (No. 28) and S.I. <a href="#">1953/1598</a> .
The Explosives Act 1875 etc. (Metrication and Miscellaneous Amendment) Regulations 1984.	S.I. <a href="#">1984/510</a> .	Regulation 2 and Schedule 1, so far as amending Order in Council (No. 12 to replace No. 8), Order in Council (No. 28) and S.I. <a href="#">1953/1598</a> .

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make new provision for controlling the acquisition and keeping of explosives, replacing the instruments revoked by regulation 19(3).

Regulation 2 defines expressions used in the Regulations, and makes further provision as to construction. Regulation 3 sets out how the Regulations apply in relation to different kinds of explosives and to persons of various descriptions.

Regulation 7 prohibits, with the exceptions stated in regulation 3(1) to (4), the acquisition or keeping of explosives except in accordance with an explosives certificate. Regulation 4 provides for the issue of explosives certificates as set out in Schedule 2 by the chief officers of police, if satisfied as to the fitness of the applicant and the other matters specified in regulation 4(5) to (7); certificates for acquisition may be issued to non-residents on application by a resident (regulation 4(8)). Regulation 5 limits the duration of certificates and sets out the circumstances in which they either may or must be revoked. Appeals against decisions under regulations 4 and 5 lie to the Crown Court or, in Scotland, the sheriff (regulation 6).

Regulation 8 restricts the transfer of explosives, except those mentioned in regulation 3(1) and (2). With these exceptions, and the further exception in regulation 3(9) (members of H.M. forces), regulation 9 precludes the handling etc. of explosives by, and related employment of, prohibited persons as defined in regulation 2(1). Regulation 10 limits the descriptions and quantities of explosives that may be kept for private use (as so defined) except as provided in paragraph (3) and in regulation 3(3) and (4).

Regulation 11 requires the occupier of a factory or magazine licensed under the Explosives Act 1875 to appoint an individual to be responsible to him for security.

Regulation 12, with Schedule 3, contains requirements as to recording information about, and regulation 13 contains requirements as to reporting losses of, explosives other than those listed in Schedule 1 (see regulation 3(1)).

Regulation 14 extends the Regulations, with the exceptions stated, to, and to activities connected with, offshore installations, pipelines and mines.

Under regulation 15(1) the Regulations are to be enforced by chief officers of police, except in the cases described in regulation 15(2) and (3) where the Health and Safety Executive (“the Executive”) is the enforcing authority.

Regulation 16 empowers the Executive to revoke licenses granted under the Explosives Act 1875 in respect of factories and magazines. Regulation 17(1) and (2) empowers them to grant and to revoke exemptions from requirements or prohibitions imposed by the Regulations; under regulation 17(3) similar powers are exercisable in the interest of national security by the Secretary of State responsible for defence.

Regulation 18 contains transitional provisions. Regulation 19, with Schedule 4, modifies provisions of the Explosives Act 1875 and wholly or partly revokes, with savings, a number of instruments made under that Act and under the Health and Safety at Work etc. Act 1974.