
STATUTORY INSTRUMENTS

2003 No. 1082

The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003

Defence of due diligence

12.—(1) In any proceedings under the Health and Safety at Work etc Act 1974 for an offence for contravention of regulation 4, 5, 6 or 9(1), it shall, subject to paragraphs (2) and (3) below, be a defence for the person charged to prove—

- (a) that the commission of the offence was due to the act or default of a third party; and
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in paragraph (1) unless, within a period ending seven clear days—

- (a) before the hearing to determine mode of trial, where the proceedings are in England or Wales;
- (b) before the immediate diet, where the proceedings are summary proceedings in Scotland; or
- (c) before the first diet, where the proceedings are solemn proceedings in Scotland,

he has served on the person bringing the proceedings a notice in writing giving such information identifying or assisting in the identification of the third party as was then in his possession.

(3) Where a contravention of these Regulations by any person is due to the act or default of the third party, the third party shall be guilty of an offence.

(4) In this Regulation, “third party”, in relation to a person charged with an alleged offence means a person who, at the time of the alleged offence—

- (a) was not an employee of the person charged; and
- (b) was not a contractor engaged by the person charged to carry out on behalf of the person charged the activity to which the charge relates.

Status:

Point in time view as at 01/05/2003.

Changes to legislation:

There are currently no known outstanding effects for the The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003, Section 12.