

Proposals for Health and Safety (Miscellaneous Amendment and Revocations) Regulations

This consultative document is issued by the Health and Safety Commission in compliance with its duty to consult under section 16(2) of the Health and Safety at Work etc Act 1974.

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to reach there no later than **1 February 2008**

The Commission tries to make its consultation procedure as thorough and open as possible. Responses to this consultative document will be lodged with the Health and Safety Executive's Information Centres after the close of the consultation period where they can be inspected by members of the public or be copied to them on payment of the appropriate fee to cover costs.

Responses to this consultative document are invited on the basis that anyone submitting them agrees to their response being dealt with in this way. Responses, or part of them, will be withheld from the Information Centres only at the express request of the person making them. In such cases, a note will be put in the index to the responses identifying those who have commented and have asked that their views, or part of them, be treated as confidential.

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Further single copies of this document may be obtained from HSE Books – see back cover.

CONTENTS

Page:

| | |
|-----------|---|
| 2 | About this consultation document |
| 3 | How to respond |
| 3 | Code of Practice on Consultation |
| 5 | Executive Summary |
| 7 | Introduction |
| 7 | Who will be affected by these proposals? |
| 7 | Overview of the proposals |
| 8 | Amendments to the Control of Explosives Regulations 1991 |
| 10 | Amendments to the Manufacture and Storage of Explosives Regulations 2005 |
| 16 | Revocation of local mine regulations |
| 16 | Amendment to the Control of Noise at Work Regulations 2005 |
| 19 | Annex A List of consultees |
| 21 | Annex B Draft regulations |
| 37 | Annex C Commentary on draft regulations |
| 65 | Annex D Impact Assessment |

PROPOSALS FOR HEALTH AND SAFETY (MISCELLANEOUS AMENDMENTS AND REVOCATIONS) REGULATIONS

Consultation by the Health and Safety Commission

About this document

The Health and Safety Commission (HSC) has a statutory duty to consult to seek stakeholders' views on proposals. HSC believes that this enables an open and transparent approach to decision-making, which is essential if policies and decisions are to have widespread ownership and reflect the needs and aspirations of the people they will affect. The Commission then decides on the best way forward based on an interpretation and analysis of the results of the exercise.

The Commission tries to make its consultation procedure as thorough and open as possible. Responses to this consultation document will be lodged in the Health and Safety Executive's Knowledge Centre after the close of the consultation period where they can be inspected by members of the public or be copied to them on payment of the appropriate fee to cover costs.

Responses to this consultation document are invited on the basis that anyone submitting them agrees to their being dealt with in this way. Responses, or part of them, will be withheld from the Information Centres only at the express request of the person making them. In such cases a note will be put in the index to the responses identifying those who have commented and have asked that their views, or part of them, be treated as confidential.

Many business e-mail systems now automatically append a paragraph stating the message is confidential. If you are responding to this CD by e-mail and you are content for your responses to be made publicly available, please make clear in the body of your response that you do not wish any standard confidentiality statement to apply.

We will acknowledge all responses and give full consideration to the substance of arguments in the development of proposals; we may also contact you again if, for example, we have a query. When HSC has decided upon its recommendation to Ministers, we will let you know how the work will proceed and how the decision reached reflects the results of the consultation.

If you are not satisfied with the way in which this consultation exercise has been conducted we want to know, and we want to put things right. Please phone or write to the contact on the consultation document. We aim to reply to all complaints within 10 working days. If you are not satisfied with the response, you may ask for your complaint to be passed to a more senior member of staff. Following our second response, if you are still not satisfied, you can ask for your complaint to be referred to the Chief Executive.

If you reply to this consultation document in a personal capacity, rather than as a post holder of an organisation, you should be aware that information you provide may constitute "personal data" in the terms of the Data Protection Act 1998. For the purposes of this Act, HSE is the 'data controller' and will process the data for health, safety and environmental purposes. HSE may disclose this data to any person or organisation for the purposes for which it was collected, or where the Act allows disclosure. You have the right to ask

for a copy of the data and to ask for inaccurate data to be corrected. Please note that all replies will be made public unless you specifically state that you wish yours to be made confidential.

If you are reading this document on a computer screen and would prefer a printed version, it can be obtained on request. Furthermore, if you require a more accessible format an Executive Summary is available in Braille, large print, disc, audiocassette or in other languages. Please contact:

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How to respond

Responses to this consultation document should be sent to Cherone Ashdown, HSE, 7NW, Rose Court, 2 Southwark Bridge, London SE1 9HS. (Tel: 020 7717 6262; Fax: 020 7717 6690). Responses by email are welcome and should be sent to: explosives.policy@hse.gsi.gov.uk . Responses must be received by Friday 1 February 2008.

As an aid to consultation, a summary of issues for consultation and a questionnaire can be found by going to:

<http://www.hse.gov.uk/consult/condocs/cd214.htm> .You can complete the questionnaire online, or alternatively you can download a Word response form. You do not have to use this questionnaire, and you are welcome to comment on any issue raised by this document.

Code of Practice on Consultation

HSE is committed to best practice in consultation and to the Government's Code of Practice on consultation. The Code of Practice sets out 6 criteria for consultation documents. These are:

- 1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.**
- 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**
- 3. Ensure that your consultation is clear, concise and widely accessible.**
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- 5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**
- 6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.**

If you believe that this document, or the consultation on these proposals, does not meet these criteria please contact: Chris Simon HSE Better Regulation Unit, HSE Rose Court 2 Southwark Bridge London SE1 9HS.

Executive summary

This consultation covers three sets of issues:

- amendments to explosives legislation intended to reduce paperwork for police and holders of explosives certificates and to address issues in the Manufacture and Storage of Explosives Regulations that have come to light since the regulations came into force in 2005;
- the revocation of 224 sets of local mining regulations;
- an amendment to address an omission in the Control of Noise at Work Regulations 2005.

The main changes to reduce paperwork are the proposals to disapply the requirement for an Explosive Certificate in respect of firearms certificate holders wishing to hold a small amount of explosive for use with their firearm. There are approximately 10,000 explosives certificate holders in Britain. Between 90 and 95 per cent of these are holders of Firearm and Shotgun Certificates. The criteria for the grant of the two types of certificate are virtually identical and there is therefore considerable duplication between the two regimes. In HSC's view this duplication is unnecessary.

The document also sets out proposals to increase the life of explosives certificates to five years (in line with firearms legislation), this would in turn enable the life of many licences and registration for the storage of explosives to be extended from 3 years to 5.

The amendments to the Manufacture and Storage of Explosives Regulations address a number of issues that have become apparent since the regulations came into force. In the main the changes are addressing drafting anomalies and other issues. However there are some aspects of the proposals that would involve changes to the requirements. The main substantive changes are:

- changes to the mechanism for transferring a licence to give the licensing authority the power to refuse a transfer where the transferee is not a fit person to manufacture and/or store explosives;
- changes to enable licensing authorities to vary a registration and, in certain circumstances, further limit the amount of explosives that can be stored at a registered store;
- a proposed new duty on the accuracy of the labelling or other information about the amount of explosive contained in fireworks. This information is used by storeholders to assist them in keeping within the limits set out in their registration or licence.

The proposals would amend the Control of Noise at Work Regulations to correct an oversight in the original regulations by including a requirement for hearing protection supplied for use at work to comply with the Personal Protective Equipment Regulations 2002.

Finally, the proposals would also revoke 224 sets of local mine regulations (ie specific to one mine). In the large majority of cases, the mine closed some time ago.

In 23 cases it is proposed to revoke the local regulations at working mines. The main reasons for this are that:

- the regulations are in most cases outdated – referring to working systems and /or equipment that are no longer in use.
- they are also inconsistent in approach with current legislation – especially the regulations on the Control of Substances Hazardous to (COSHH);
- there are inconsistencies between the regulations which can cause problems for companies with several mines each operating under its own local regulations.

Introduction

1. The document begins with an overview of the proposals and information about who might be affected by them. It then goes on to discuss the changes under four headings. These are:
 - amendments to the Control of Explosives Regulations 1991(COER);
 - amendments to the Manufacture and Storage of Explosives 2005 (MSER);
 - amendment to the Control of Noise at Work Regulations 2005
 - revocation of certain local mining regulations.
2. The document also includes a summary of the issues for consultation, a questionnaire and the Impact Assessment for the regulations.

Who will be affected by these proposals?

3. These proposals will affect, and be of interest to the following people:
 - people involved in the manufacture and storage of explosives, including:
 - firework importers;
 - quarry operators;
 - manufacturers and users of ammonium nitrate blasting intermediates;
 - shooters and re-enactors;
 - operators of mines covered by existing local mining regulations; and
 - people purchasing personal hearing protection devices for use at work.

Overview of the proposals

4. These regulations make amendments to existing regulations as well as revoking a number of existing provisions. The changes are set out in the four schedules and fall under four main headings:
 - amendments to the Control of Explosives Regulations 1991;
 - amendments to the Manufacture and Storage of Explosives Regulations 2005;
 - revocations of local mining regulations; and
 - an amendment to the Control of Noise at Work Regulations 2005.The draft Regulations are included at Annex 1.
5. The proposed amendments to the Control of Explosives Regulations 1991 (COER) would make a number of changes to the regime for explosives certificates with the aim of reducing paperwork both for those who are currently required to hold an explosive certificate and for the police who issue them and oversee compliance.
6. The amendments to the Manufacture and Storage of Explosives Regulations address a number of issues that have become apparent since the regulations came into force. Annex 2 gives a detailed commentary on the proposed amendments. In the main the changes are addressing drafting anomalies and other issues however there are some aspects of the proposals that would involve changes to the requirements. These are highlighted in the following section.

7. The proposals would also revoke 224 sets of local mine regulations (ie specific to one mine). In the large majority of cases, the mine closed some time ago.
8. In 23 cases the proposals would revoke the local regulations at working mines. The main reasons for this are that:
 - the regulations are in most cases outdated – referring to working systems and /or equipment that are no longer in use.
 - they are also inconsistent in approach with current legislation – especially the regulations on the Control of Substances Hazardous to (COSHH);
 - there are inconsistencies between the regulations which can cause problems for companies with several mines each operating under its own local regulations.
9. Finally the proposals would amend the Control of Noise at Work Regulations to correct an oversight in the original regulations by including a requirement for hearing protection supplied for use at work to comply with the Personal Protective Equipment Regulations 2002 (SI No 1144).

The proposals

Amendments to the Control of Explosives Regulations 1991

10. The Control of Explosives Regulations 1991 (COER) carried forward the system of explosives certificates from the Explosives Act 1875. Someone wishing to acquire, or to acquire and keep, certain types of explosive is required to obtain an explosives certificate from the police. Before granting an explosives certificate the police consider whether the applicant is a fit person to acquire or keep explosives. The Explosives Certificate regime is very much a parallel to the Firearms Certificate regime. (For simplicity we are using the term firearms certificate to cover other permits granted under firearms legislations).
11. Since the regulations came into force there has been a significant increase in the number of people who need to hold both a firearms certificate and an explosives certificate. This increase (due to a growth in the types of shooting involving the use of black powder for home loading or for muzzle-loaded guns) means that an estimated 90 per cent of explosive certificate holders are shooters who also hold firearms certificates. There are presently of the order of 9,000 explosive certificate holders.
12. In cases where the explosives certificate is granted at the same time as the firearms certificate, the police will carry out a single set of checks for both purposes. However given the fact that the maximum life of the explosives certificate is set at 3 years the police must carry out a check on renewing the certificate after 3 years. We believe that the present position involves a great deal of duplication, involving unnecessary paperwork for both police and shooters with no obvious benefit to public safety and security.
13. In HSC's view, if someone is judged a fit person to hold a firearm then this entails that they are a fit person to hold a reasonable quantity of material for use with the firearm.

14. The proposals have been drawn up following discussions with the Association of Chief Police Officers (ACPO) as well as with the Association of Chief Police Officers (Scotland) (ACPO(S)) and with the shooting organisations, and consultation with the Home Office. They would disapply the requirement to hold an explosives certificate in cases where people hold a firearms certificate.
15. This disapplication would be subject to two main conditions. The first would be that the person would need to write to the police giving them notice that they intended to operate under this disapplication. They would in turn need to get a letter of acknowledgement from the police. This provision is intended to meet police concerns that without this provision they would not know which individuals were storing black powder as opposed to smokeless powder – the less-hazardous propellant used by most shooters. This notification would be a one-off process.
16. The second condition would limit the amount of explosive that could be stored. The police view would limit this quantity to 1.5 kilograms. This is intended to allow a shooter to hold one part-used bottle of powder and a further full container in reserve. The view of the shooting organisations is that they would wish to have a higher limit of at least 5kg. They have made the point that if this limit is set too low the disapplication would not achieve its objective of making a substantial reduction in the number of people holding both types of certificate.
17. The draft regulations do not include a figure for the amount of explosive that could be stored under the disapplication. Views are invited on what would be an appropriate amount. HSC will consider this issue further in the light of the submissions made during the consultation exercise with a view to setting a threshold which would probably lie between 1.5 and 5 kilograms.
18. It should be stressed that this provision would only disapply the requirement to hold an explosives certificate it would not disapply other duties about either the safety or the security of the explosives. The police would continue to enforce these requirements alongside the enforcement of the requirements on security of the firearms themselves.
19. The proposals will also make two further changes to reduce paperwork.
20. First, the maximum period of validity of the acquire-and-keep explosives certificate was set at three years. At the time the regulations were drafted it was believed that the life of the Firearms Certificate was to be reduced from 5 years to 3 years. In fact the life of the firearms certificates has remained at 5 years. The proposals would therefore increase the maximum period of validity from 3 years to 5 years. Not only will this reduce the administration involved in the explosives certificate regime but it will in turn enable the police to issue licences and registrations under MSER for up to 5 years – at present these cannot be issued beyond the life of the explosives certificate. (Please note that this change would only affect stores where the police are the licensing authority – where the licensing authority is the local authority or the fire and rescue authority the licences or registrations are normally renewed annually).
21. It should be noted that there would need to be a fees for four and five-year certificates. These fees would be specified in the Health and Safety (Fees)

Regulations 2008. These fees would be greater than the fee for a three year certificate to reflect the work done by the police however there would be a saving from reduced administration costs (ie the total cost of 3 five-year certificates would cost less than the total cost of 5 three-year certificates). A similar point would apply to four and five-year licences and registrations granted by the police under MSER.

22. Second, in cases where the applicant does not have a permanent place of storage they can apply for an acquire-only certificate. This enables them to acquire explosives but not to store them. This type of certificate is mainly used by reenactors who are issued with powder at events; it may also be used by blasting contractors who have explosive delivered to the site. At present the maximum period of validity for these certificates is one year. We believe that the intention of this limitation was to discourage the use of this type of certificate as a way to avoid maintaining suitable storage facilities. It is not clear that this has had any effect in achieving this objective, and in any event, the limitation applies equally to those who have a genuine need for such certificates. In the view of both HSC and ACPO/ACPOS, this distinction is not justified and the period of validity should be increased to 5 years in line with the life of the acquire-and-keep explosives certificate. Chief officers of police would still retain discretion to grant an acquire-only certificate for shorter periods such as a year where they were of the view that the more permanent storage arrangements would be appropriate.
23. The amendment to Schedule 1 of COER would have the effect of enabling people to keep smaller model rocket motors without the need for an explosives certificate. At the moment some rocket motors are on Schedule 1 and others are not, this amendment would mean that all these items would be treated in a comparable way and this in turn will be comparable with similar low hazard pyrotechnic articles.

Consultation points:

- Do you agree with the proposed disapplication for firearms certificate holders?
If you agree, do you have any views on what the threshold should be above which an explosives certificate is required?
Do you agree with the proposal to extend the life of explosives certificates?
Do you agree with the proposals on acquire-only certificates?
Do you agree with the proposals to add smaller rocket motors to Schedule 1 of COER?

Amendments to the Manufacture and Storage of Explosives Regulations 2005 (MSER)

24. Apart from amendments to remedy minor drafting issues, these amendments fall under four main headings:
- meeting comments made by the Joint Committee on Statutory Instruments (JCSI) ;
 - correcting gaps or anomalies in enforcement responsibilities;
 - changes to the operation of the system for registrations
 - other amendments and corrections.

25. The more significant changes are discussed in more detail below.

Comments from the Joint Committee on Statutory Instruments (JCSI)

26. MSER created a power for a licensing authority to refuse a licence where it took the view that the applicant was not a fit person to manufacture or store explosives safely. The regulations also enable licensees to transfer their licences to someone else (if for example they sell the business). When it considered the Northern Ireland version of the regulations, the JCSI commented on the fact that there is no power to prevent the transfer of a licence to an unfit person (reference: Third Report of the Session 2006/7 - HL Paper 12/HC 82-iii).

27. This point is correct, and while the licensing authority would have the power to revoke the licence immediately after transfer, we believe that there is a need to change the regulations to meet the JCSI's concerns.

Registrations

28. MSER carried forward the Explosives Act 1875 approach in enabling someone storing smaller quantities of explosive to apply for a registration as opposed to a licence. A registration is in effect a simplified form of licence as it does not involve any site-specific conditions in the registration itself (eg a condition on the quantity or type of explosive). This means that someone with a registration can keep up to the maximum permitted by the Regulation 11.

29. MSER however departed from the Explosives Act in abolishing the distinction between the 'Mode A' store in a separate building and the 'Mode B' store in the building itself. This means that a registered person could keep the whole permitted amount in the building. Concern has been expressed about terraced houses being used for firework storage. While the building might be suitable for storage of a smaller quantity it would not be suitable for storage of the whole amount that could be kept there.

30. It is important to note however in this context that there is provision in the MSER Approved Code of Practice (paragraph 313 page 70) on storage of fireworks within or adjoining domestic/sleeping accommodation. The ACoP requires that if someone is storing more than 75kg of Hazard Type 4 fireworks then there must be:

- a fire detection system;
- fire separation between the fireworks and the domestic accommodation and access/exit routes to the accommodation.

The ACoP goes on to say that 'where these precautions are not taken, the licensing authority may decide that the premises are not a suitable place for the storage of explosives and refuse a licence or registration'. The licensing authority would of course also have the option of taking enforcement action either by issuing an enforcement notice or through prosecution.

31. HSC would welcome views on the extent of problems with storage of large quantities of fireworks in registered stores which are unsuitable for the storage of the full quantities permitted by the regulations. It is not clear whether the concern is about the *potential* for unsafe storage rather than

concern about widespread practices. It is also unclear to what extent the provisions in the ACoP provide an effective backstop.

32. In the informal consultation undertaken by HSC, stakeholder's views have been equivocal: on the one hand it is recognised that there are concerns, but on the other hand, there may be good arguments for relying on the provisions in the ACoP – at least at this stage.
33. It is also recognised that the proposed changes could place an additional onus on local licensing authorities to make judgements about fire-loadings which they may feel ill-equipped to make. It is recognised that there would need to be guidance to licensing authorities to ensure consistency in the operation of this provision, but this may also provide a further argument for allowing greater time to test the effectiveness of the regulations as currently drafted.
34. At present the only alternative available to the licensing authority under the regulations would be to refuse (or revoke) the registration. The amendment would create the option of setting a lower maximum amount for the premises. This would be subject to the 'due process' requirements of the regulations as well as to section 44 of the HSW Act.

Information about the net mass of explosive contained in pyrotechnic articles

35. There are a number of aspects of the regulations where the requirements vary depending on the quantity and type of explosive. Under the old legislation the quantity of explosive in pyrotechnics was deemed to be one quarter of the gross weight. MSER gives two options, if the supplier provides specific information about the net mass of explosive then the store operator can use these in determining how much they can store. If the supplier does not provide this information then it is assumed that the explosive makes up one quarter of the gross weight.
36. Suppliers have an incentive to provide this information (eg on package labelling) because in most cases the net mass is less than one quarter of the gross weight and using the true content enables the supplier to make fewer deliveries. However, there is also the possibility that the supplier could provide incorrect information (deliberately or otherwise). Experience of the operation of this duty suggests strongly that there is a need to create a specific duty in the regulation so that where suppliers provide this information, they ensure, so far as is reasonably practicable, that the actual net mass does not exceed the stated quantity.

Power to vary a registration

37. The proposals would enable a local licensing authority to vary a registration – for example when a business is sold, or relocates or there is a need to extend the registration. At the moment the local licensing authority can vary a licence but there is no mechanism for varying a registration. We believe that there are strong arguments for consistency of treatment between licences and registrations and are therefore proposing to amend the regulations accordingly.

Power to transfer a registration

38. The amendments would also enable licensing authorities to transfer a registration. Again this is intended to ensure comparability of treatment as between licences and registrations.

Gaps and anomalies in enforcement responsibilities

39. The regulations do not themselves contain a duty on risk assessment but instead rely on the Regulation 3 in the Management of Health and Safety at Work Regulations. The proposed amendment would enable enforcing authorities for MSER to enforce the regulation on risk assessment in relation to the manufacture or storage of explosives.

40. MSER also covers 'ammonium nitrate blasting intermediates'. These provide the primary ingredient for on-site mixed explosives. While the current regulations provide for enforcement in respect of the manufacture of these materials they did not provide for the enforcement in relation to their storage. The amendment corrects that omission.

Other amendments: Short-term storage

41. Regulation 10(2)(e) allows the storage, without a licence or registration, for up to 3 days of limited quantities of either shooters' powders or fireworks provided the explosives are kept at the place of intended use. The point has been made that while this works as intended on normal weekends it does not work so well on bank holiday weekends: if the black powder or fireworks are delivered to the site on say the Friday morning then the 3-day period would run out on the Monday morning, before the event is over. This seems to be a reasonable point and there does not appear at first sight to be any reason why the period for this dispensation should not be increased to 5 days. We are therefore proposing to amend the regulation accordingly.

42. It must be stressed that this disapplication is simply a disapplication from the need to hold a registration or licence – it is not in any way a disapplication of the safety requirements of the regulations.

Other amendments: Model rocket motors

43. Model rocketry is an increasingly popular hobby in the UK. As outlined above, amendments have been included that would mean that these users of smaller rocket motors were put on a footing comparable with users of similar low-hazard explosives. Regulation 5 of MSER includes provisions on separation distances around explosives stores, together with disapplications intended to benefit hobbyists using small quantities of explosives. The proposals include an amendment which would extend these disapplications to model rocket users.

Consultation points:

Do you agree with the proposal to permit a licensing authority to refuse to transfer a licence or registration to a person they consider to be unfit to manufacture or store explosives? If you do not agree, do you believe that the provisions should be left as they stand or, should there be some alternative mechanism?

Do you agree with the proposal to enable local licensing authorities to include

a provision limiting the amount of explosive that might be stored in a registered store in certain circumstances?

Do you agree with the proposals to place a duty on manufacturers and importers to ensure that they do not understate the amount of explosives in the information they provide on the net mass of the explosives in the articles they supply?

Do you agree with the proposal that there should be a mechanism to enable licensing authorities to vary a registration?

Do you agree with the proposal to extend the disapplication for short-term storage at sites of re-enactment events, firework displays and similar events?

Do you agree with the proposal to extend the disapplication of separation distance requirements to the storage of small quantities of smaller model rocket motors?

Corrections and clarifications

44. In addition to the changes outlined in the preceding paragraphs, there are four main areas where we believe there is a need to amend the regulations to correct errors and omissions.
45. First, Regulation 7 requires that 16-18 year-olds working under in the manufacture and storage of explosives must be under appropriate supervision. We are proposing to amend this regulation so that it applies to all under-18s. It must be stressed that this is subject to the general legislation on the employment of children which among other things prohibits employment in 'industrial undertakings'. The amended regulation would have the effect that *where the legislation permits the employment, of under-16s*, they must be under appropriate supervision. This would restore the position that applied under the Explosives Act 1875.
46. Second, the regulations enable a subsidiary company to store explosives at a store licensed to its parent. It is proposed to amend the regulations to extend this provision to enable the company to store at premises registered by its parent company.
47. Third, we have had some discussions with the Department of Justice about the provisions in Schedule 4 on the registers of explosives sites. For non security-sensitive sites there is a requirement on the licensing authority to maintain a register and to give access to that register to anyone. For security-sensitive explosives the requirement is limited to access by people living in the area. The Department of Justice were concerned that this provision could be read as a prohibition that was in contradiction with the Freedom of Information Act. The intention of our provision was to add to the Freedom of Information Act rights not to restrict them so we propose to clarify the wording of this paragraph of the Schedule.
48. Fourth, at the moment Regulation 3(2)(f) disapplies the regulations in 'any mine ...used solely for the purpose of the getting of minerals or ensuring the safety of the mine'. The intention of this provision is to ensure that explosives used in mines are not subject to two sets of regulations (MSER

or the relevant mining legislation). However, there are cases where parts of a working mine are used for purposes other than the getting of minerals (for example, for the storage of documentation or for waste disposal) and therefore the mine falls foul of the current disapplication. We would also wish to avoid a situation where disused parts of a working mine might be let out for the storage of explosives and for those explosives not to be subject to either MSER or the relevant mining regulations. We are therefore proposing to amend the regulation to make clear that the disapplication would only apply to the storage of explosives below ground at a mine, where the explosives are for use for the getting of minerals or for ensuring the safety of the mine.

Consultation points:

Do you agree with the proposal to amend regulation 7 to require the appropriate supervision of all under-18s working in the manufacture and storage of explosives (where that employment is permitted by general employment law)?

Do you agree with the proposal to permit a company to store explosives at premises registered by its parent company?

Do you agree with the proposed amendment to Schedule 4 on the access to registers of stores holding certain explosives?

Do you agree with the proposed amendment on application of the regulations below ground at a mine?

Minor drafting issues

49. The regulations also pick up some more minor drafting issues:

- Regulation 11(7) prohibits the registration by a local licensing authority at a site where manufacturing takes place. This was intended to ensure that at HSE-licensed sites, the HSE licence covered all of the manufacturing and storage activities covered at the site. However, Regulation 9 sets out a number of manufacturing activities where a licence from HSE is not required. There is therefore an unintended contradiction between Regulations 9 and 11. The amendment would resolve this contradiction;
- the wording of Regulation 11(9) is to be amended to make clear that it is for the licensing authority to determine the duration of a renewal registration. This would bring the wording of the provision on renewals into line with the wording of the provision on the initial grant of the registration;
- we also propose to make a similar amendment to regulation 13 which deals with the grant and renewal of licences;
- we also propose to amend regulation 13(9)b to make it consistent with regulation 13(1)b. This would ensure that the provisions on the length of renewal licences are consistent with the provisions on the initial grant of the licence;
- Schedule 1 provides for HSE to be the licensing authority for explosives 'stored at a mine'. This is intended to apply to the surface

buildings. However, Regulation 2 defines a mine as the underground workings. We propose to amend Schedule 1 to correct this.

Consultation point:

Do you agree with the proposed minor amendments discussed in paragraph 49?

Revocation of local mine regulations

50. The proposed Schedule 2 lists 224 mining regulations that are proposed for revocation. These are all special, or local, regulations applying to individual named mines.
51. The large majority of these regulations concern mines that have now been abandoned. However, 23 sets of regulations apply to mines that are still working. In 14 cases the systems referred to are no longer used. The proposal for the remaining 9 is to replace the existing local regulations with consents under section 83 of the Mines and Quarries Act. The main reasons for this are that the regulations are outdated and prescriptive and often differ between mines – leading to difficulties for companies operating more than one mine.
52. The section 83 consents would cover:
- construction and maintenance of roadways;
 - driver competence;
 - maintenance of vehicles;
 - use of vehicles to carry people below ground; and
 - managers' transport rules on the operation of the vehicles below ground.
53. There are four cases, the mine owners have said they wish to continue to operate under their local regulations. These have not therefore been included in the list of proposed revocations

Consultation point:

Do you agree with the proposal to revoke the local mine special regulations listed in Schedule 2 to the draft regulations?

Control of Noise at Work Regulations

54. Following an oversight in the transposition of the Control of Noise at Work Regulations, a requirement for employers to ensure that hearing protection provided for use at work complied with product safety legislation was not carried over from the Noise At Work Regulations 1989 or from the draft Control of Noise at Work regulations 2005 that went out to consultation in 2004. The effect of this was to disapply European Community Directive 89/686/EEC on the approximation of laws of Member States relating to personal protective equipment. This amendment will reapply requirements for hearing protection to conform to community legislation on personal protective equipment intended to protect against harmful levels of noise.

This will be achieved through requiring that hearing protection provided for use at work conforms to the relevant requirements of the Personal Protective Equipment Regulations 2002.

55. HSE guidance *Controlling noise at work* (L108 ISBN 07-176-6164-4) includes detailed guidance on the selection, use, care and maintenance of hearing protection. This recommends that all hearing protection should carry the CE mark which is an indication that it meets essential requirements in accordance with the Personal Protective Equipment Regulations 2002 (paragraph 266 page 75). This advice will still be correct following this amendment and therefore no changes are proposed for the guidance. Manufacturers and suppliers of hearing protection must already comply with the Personal Protective Equipment Regulations 2002 and therefore should not be affected by this amendment.

Consultation point:

Do you agree with the proposed amendment to the Control of Noise at Work Regulations 2005?

Impact Assessment

56. The initial impact assessment for these proposals is included at Annex 3. The results are as follows:

| | |
|----------------------------|-------------------|
| Total discounted benefits | £1,866,000 |
| Total discounted costs | £151,000 |
| Net benefits | £1,715,000 |
| Average net annual benefit | £57,000 |

Questions for consultation

Do you agree with the proposed disapplication for firearms certificate holders?

If you agree, do you have any views on what the threshold should be above which an explosives certificate is required?

Do you agree with the proposal to extend the life of explosives certificates?

Do you agree with the proposals on acquire-only certificates?

Do you agree with the proposals to add smaller rocket motors to Schedule 1 of COER?

Do you agree with the proposal to permit a licensing authority to refuse to transfer a licence or registration to a person they consider to be unfit to manufacture or store explosives? If you do not agree, do you believe that the provisions should be left as they stand or, should there be some alternative mechanism?

Do you agree with the proposal to enable local licensing authorities to include a provision limiting the amount of explosive that might be stored in a registered store in certain circumstances?

Do you agree with the proposals to place a duty on manufacturers and importers to ensure that they do not understate the amount of explosives in the information they provide on the net mass of the explosives in the articles they supply?

Do you agree with the proposal that there should be a mechanism to enable licensing authorities to vary a registration?

Do you agree with the proposal to extend the disapplication for short-term storage at sites of re-enactment events, firework displays and similar events?

Do you agree with the proposal to extend the disapplication of separation distance requirements to the storage of small quantities of smaller model rocket motors?

Do you agree with the proposal to amend regulation 7 to require the appropriate supervision of all under-18s working in the manufacture and storage of explosives (where that employment is permitted by general employment law)?

Do you agree with the proposal to permit a company to store explosives at premises registered by its parent company?

Do you agree with the proposed amendment to Schedule 4 on the access to registers of stores holding certain explosives?

Do you agree with the proposed amendment on application of the regulations below ground at a mine?

Do you agree with the proposed minor amendments discussed in paragraph 49?

Do you agree with the proposal to revoke the local mine special regulations listed in Schedule 2 to the draft regulations?

Do you agree with the proposed amendment to the Control of Noise at Work Regulations 2005?

Annexes

- Annex A - List of consultees
- Annex B - The Regulations
- Annex C - Commentary on the regulations
- Annex D - Impact assessment

LIST OF CONSULTEES

We have notified the following organisations about the publication of this document:

Local authorities in England Wales and Scotland with current licensing and enforcement responsibilities for the Manufacture and Storage of Explosives Regulation

Fire and Rescue Authorities in Metropolitan Counties

Chief Fire Officers Association

Local Authorities Coordinators of Regulatory Services

Convention of Scottish Local Authorities

Association of Chief Police Officers

Association of Chief Police Officers (Scotland)

Confederation of British Industries

CBI Explosives Industry Group and member companies

British Fireworks Association and member companies

British Retail Consortium

British Pyrotechnists Association

Quarry Products Association

British Aggregates Association

Coal Producers Association (COALPRO)

UK Coal

Mining Association UK

Federation of Small Mines in Great Britain

Union of Democratic Mineworkers

Trades Union Congress

Broadcasting Entertainment Cinematograph and Theatre Union

Fire Brigades Union

Trading Standards Institute

Institute of Explosives Engineers

Association of Stage Pyrotechnicians

Department for Business Efficiency and Regulatory Reform

Home Office

Department of Communities and Local Government

Ministry of Defence

Welsh Assembly

Scottish Executive

Gun Trade Association

British Shooting Sports Council

British Association for Shooting and Conservation

Muzzle Loaders of Great Britain
National Association of Reenactment Societies
English Civil War Society
American Civil War Society
UK Rocketry Association
Southern England Rocket Fliers
British Model Fliers Association
BSIF Personal Safety Manufacturers Association
Engineering Employers Federation
Association of British Insurers
Construction Federation
British Institute of Occupational Hygienists
British Standards Institute
Chartered Institute of Environmental Health
Institute of Acoustics

 STATUTORY INSTRUMENTS

2008 No.

HEALTH AND SAFETY

The Health and Safety (Miscellaneous Amendments and Revocations) Regulations 2008

| | | |
|-------------------------------|---------|-----|
| <i>Made</i> | - - - - | *** |
| <i>Laid before Parliament</i> | | *** |
| <i>Coming into force</i> | - - | *** |

The Secretary of State makes these Regulations —

(a) in exercise of the powers conferred upon him by section 143(2) of the Mines and Quarries Act 1954(a) and sections 15(1), (2), (3)(c), and (9) 18(2)(a) and 82(3)(a) of, and paragraphs 1(1), 4, 5, 6(1) 7, 8(1), 9, 11, 13(2) and 14, of Schedule 3 to, the Health and Safety at Work etc Act 1974(b) (“the 1974 Act”), and

(b) for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act .

Before submitting proposals to the Secretary of State, the Health and Safety Commission has consulted the bodies that appeared to it to be appropriate as required by section 50(3) of the 1974 Act .

Citation and commencement

1. These Regulations may be cited as the Health and Safety (Miscellaneous Amendments and Revocations) Regulations 2008 and shall come into force on 6th April 2008.

Extension outside Great Britain

2. The amendments made by regulation 3 and Schedule 1 to the Control of Explosives Regulations 1991(c) shall extend outside Great Britain in the same way that those Regulations extend outside Great Britain by virtue of regulation 14 of those Regulations.

(a) 1954 c. 70 (2 & 3 Eliz 2); subsections (1) to (4) of section 141, which included the power to make regulations, were repealed by S.I. 1974/2013, with a saving for regulations made and in force under that section; section 143(2) provides an express power to revoke special regulations.

(b) 1974 c.37. Sections 15 and 50 were amended by the Employment Protection Act 1975 (c.71) Schedule 15, paragraphs 6 and 16 respectively. The general purposes of Part I of the 1974 Act were extended by section 1(1) of the Offshore Safety Act 1992 (c.15).

(c) S.I. 1991/1531, to which there are amendments not relevant to these Regulations.

Amendments and revocations

3.—(1) The instruments referred to in Schedule 1 are amended in accordance with that Schedule.

(2) The instruments referred to in Schedule 2 are revoked.

Signed by authority of the Secretary of State for Work and Pensions

| | |
|---------|--|
| | <i>Name</i> |
| Address | Parliamentary Under-Secretary of State |
| Date | Department for Work and Pensions |

SCHEDULE 1

Regulation 3(1)

AMENDMENTS

The Control of Explosives Regulations 1991

1.—(1) The Control of Explosives Regulations 1991(a) are amended as follows.

(2) In regulation 2 —

(a) for the definition of “chief officer of police”, substitute —

“chief officer of police”—

(a) in relation to England and Wales, has the same meaning as in section 101(1) of the Police Act 1996(b); and

(b) in relation to Scotland, means the person appointed to the office of chief constable pursuant to section 4 of the Police (Scotland) Act 1967(c); and

(b) after paragraph (8) insert —

(8A) The performance of any function given to the chief officer of police under these Regulations may be delegated by him, to such an extent and subject to such conditions as he may specify —

(a) to a member of the police force in respect of which he is the chief officer of police;

(b) to a person employed to assist that police force as mentioned in section 15 of the Police Act 1996 (civilian employees); or

(c) to a person employed or appointed in relation to that police force as mentioned in section 9 of the Police (Scotland) Act 1967 (civilian employees),

and any such delegation shall be made in writing by that chief officer of police.

(3) In regulation 3 —

(a) for sub-paragraph (c) of paragraph (3), substitute —

(c) a person employed to assist that police force as mentioned in section 15 of the Police Act 1996 (civilian employees) or a person employed or appointed in relation to that police force as mentioned in section 9 of the Police (Scotland) Act 1967 (civilian employees); or

(b) after paragraph (4), insert —

(a) S.I. 1991/1531, to which there are amendments not relevant to these Regulations.

(b) 1996 c.16; section 101(1) is amended by the Greater London Authority Act 1999, sections 312(1)(a) and (b), (2) and (3), 423 and Schedule 34, Part VII and the Anti-terrorism, Crime and Security Act 2001, section 101, Schedule 7, paragraphs 20 and 27; section 15 is amended by the Greater London Authority Act 1999 (c.29) section 325 and Schedule 27, paragraph 74(1) to (4).

(c) 1967 c.77; section 4(3) is repealed by the Local Government (Scotland) Act 1973, sections 146(4), 237(1) and Schedule 29; section 9 is amended by the Police and Magistrates' Courts Act 1994 (c.29), section 49, and by the Criminal Justice (Scotland) Act 2003 (asp 7), section 76(1) to (3).

4A Regulation 7 shall not apply to a person who acquires or keeps black powder of a quantity not exceeding [] kilograms if —

- (a) that person —
 - (i) is the holder of a firearm certificate or a shot gun certificate granted under the Firearms Act 1968 or is exempt from the need to hold a certificate under that Act;
 - (ii) is aged 18 years or over;
 - (iii) is not a prohibited person or a person prohibited by section 21 of the Firearms Act 1968 from having a firearm in his possession;
 - (iv) is resident in Great Britain; and
 - (v) has, before acquiring the black powder, sent a written notification in the form set out in Schedule 5 (or one to the same effect) to the chief officer of police for the relevant police force and has received a written acknowledgement of the notification from that chief officer of police; and
- (b) the black powder is for use exclusively in a firearm to which the certificate or exemption referred to in sub-paragraph (a)(i) relates.

4B For the purposes of paragraph (4A) —

- (a) “relevant police force” means —
 - (i) where the notification relates to the keeping of black powder, the police force for the police area in which the place of keeping is to be situated;
 - (ii) where the notification relates to the acquisition only of black powder, the police force for the police area in which the person acquiring the explosive resides or, in the case of a body corporate, the police area in which the body corporate has its registered office, or, if it has no registered office, its principal office; and
- (b) “certificate”, “firearm”, “firearm certificate”, “shot gun” and “shot gun certificate” have the same meanings as they are given in the Firearms Act 1968.

(4) In regulation 5(3) —

- (a) for sub-paragraph (a), substitute “5 years after the date that its validity begins; or”; and
- (b) omit sub-paragraph (b).

(5) In regulation 14(1), for “1989” substitute “2001”.

(6) In regulation 15(2)(a), for “licensed factory or magazine” substitute “site in relation to which the Executive is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to the 2005 Regulations”.

(7) In Schedule 1, under the heading “EXCEPTIONS”, insert “PART 1” and at the end insert —

PART 2

Model rocket motors, which —

- (a) are allocated the U.N. no. 0186, 0272, 0349, 0351, 0471 or 0499;
- (b) are intended to be used for the propulsion of model rockets; and
- (c) in respect of each individual model rocket motor, have a net mass of explosive content of no more than 1 kilogram.

(8) After Schedule 4, insert —

FORM OF NOTIFICATION

To: The Chief Officer of Police

I intend to *acquire / acquire and keep no more than [] of black powder. I am the holder of a firearm/shot gun certificate granted under the *Firearms Act 1968/exempt from the need to hold a firearm/shot gun certificate under the Firearms Act 1968 and the black powder is for use exclusively in a firearm to which the *certificate/exemption relates.

I am 18 or over and am not a prohibited person within the meaning of the Control of Explosives Regulations 1991 or the Firearms Act 1968.

Signed.....

Name.....

Address.....

Date.....

*Delete as applicable

The Health and Safety (Enforcing Authority) Regulations 1998

2.—(1) The Health and Safety (Enforcing Authority) Regulations 1998(a) are amended as follows.

(2) In regulation 4 —

(a) after paragraph (8) insert —

“(8A) In respect of a site —

(a) at which more than two tonnes of —

- (i) ammonium nitrate blasting intermediate, or
- (ii) ammonium nitrate blasting intermediate and other explosives

is stored, the Executive shall be the enforcing authority for the 2005 Regulations; and

(b) at which two tonnes or less of —

- (i) ammonium nitrate blasting intermediate, or
- (ii) ammonium nitrate blasting intermediate and other explosives,

is stored, the chief officer of police for the area in which the site is situated shall be the enforcing authority for the 2005 Regulations.

(b) after paragraph (9), insert —

“(9A) A licensing authority shall be the enforcing authority for regulation 3 of the Management of Health and Safety at Work Regulations 1999(b) in relation to any manufacture or storage of explosives for which it is the enforcing authority by virtue of paragraph (7).”

(c) in paragraph (11), omit “local authority”; and

(d) after paragraph (11), insert —

“(12) In paragraph (9) and sub-paragraph (a) of paragraph (10), “local authority” has the same meaning as it is given by regulation 2(1) of the 2005 Regulations.”

(a) S.I. 1998/494, amended by S.I. 2005/1082 and 2007/2598; there are other amending instruments but none is relevant.
 (b) S.I. 1999/3242, to which there are amendments not relevant to these Regulations.

The Manufacture and Storage of Explosives Regulations 2005

3.—(1) The Manufacture and Storage of Explosives Regulations 2005(a) are amended as follows.

(2) In regulation 2 —

(a) after the definition of “mine”, insert —

“model rocket motors” means explosive articles allocated the U.N. no. 0186, 0349, 0351, 0471 or 0499 which are intended to be used for the propulsion of model rockets; and

(b) in paragraph (9), omit the words from “and includes” to the end.

(3) For sub-paragraph (f) of regulation 3(2), substitute —

the storage of explosives below ground at a mine, where the explosives are for use at that mine for the getting of minerals or ensuring the safety of the mine.

(4) In regulation 5 —

(a) in paragraph (2), at the end add “or would have been required pursuant to that provision but for the operation of regulation 27(4)”; and

(b) in paragraph (3) —

(i) after sub-paragraph (a), insert —

(aa) a combined total of 5 kilograms of shooters’ powder and model rocket motors; and

(ii) in sub-paragraph (d) —

(aa) omit “and” at the end of paragraph (i); and

(bb) at the end of paragraph (ii), add “and

4 kilograms of explosive kept temporarily and for operational purposes other than those referred to in sub-paragraph (d)(i) and (ii); and

(iii) at the end, add “and, in the case of any storage of model rocket motors, the net mass of explosive content of each model rocket motor must not exceed 1 kilogram.”.

(5) In regulation 7, for “between the age of 16 years and” substitute “under”.

(6) In regulation 9(2)(j), omit “terms and”.

(7) In regulation 10 —

(a) in paragraph (2)(e), for “3 days” substitute “5 days”;

(b) for paragraph (2)(h), substitute —

the storage of explosives by a company which is a wholly-owned subsidiary of another company at a site in relation to which that other company holds —

(i) a registration, or

(ii) a licence to store explosives

and that storage by the wholly-owned subsidiary is in accordance with any term of that registration or condition of that licence; and

(c) in paragraph (3) —

(i) in sub-paragraph (a), omit “and” at the end; and

(ii) in sub-paragraph (b), omit “or explosive articles” and after that sub-paragraph insert — “and

(c) where a person wishes to rely on the exception referred to in paragraph (2)(b)(ia), each model rocket motor to be stored for the purposes of that

(a) S.I. 2005/1082, amended by S.I. 2007/2598.

exception must have a net mass of explosive content not exceeding 1 kilogram.

- (8) In regulation 11 —
- (a) in paragraph (4)(b), for “three years” substitute “five years”;
 - (b) in paragraph (5), omit the exceptions listed in it;
 - (c) in paragraph (7), after “manufacture of explosives” insert “, other than manufacture not requiring a licence by virtue of regulation 9(2),”;
 - (d) in paragraph (8), omit the explosive articles; and
 - (e) in paragraph (9) —
 - (i) after “exceeding one year” insert “as the licensing authority determines”;
 - (ii) for “solely” substitute “, whether solely or not,” and
 - (iii) for “three years” substitute “five years”.
- (9) In regulation 13 —
- (a) in paragraph (1) —
 - (i) in sub-paragraph (b), for “three years” substitute “five years”; and
 - (ii) in sub-paragraph (c), after “applies” insert “or would have applied but for the operation of regulation 27(4)”;
 - (b) in paragraph (5), after “licence shall”, insert “include conditions which”;
 - (c) in paragraph (6), after “paragraph (3)” insert “or would have been required pursuant to that provision but for the operation of regulation 27(4)”;
 - (d) in paragraph (9) —
 - (i) for “up to one year”, substitute “up to two years as the licensing authority determines”;
 - (ii) in sub-paragraph (a), for “one year period”, substitute “two year period”;
 - (iii) in sub-paragraph (b) —
 - (aa) for “solely” substitute “, whether solely or not,”; and
 - (bb) for “three years” substitute “five years”; and
 - (iv) in sub-paragraph (c), after “original licence” where it first appears insert “or would have applied to an application for a licence but for the operation of regulation 27(4)”.
- (10) In regulation 15 —
- (a) in paragraph (1), after “regulation 18”, insert “and, in relation to paragraph (2)(a), subject to paragraphs (2A) and (2B),”;
 - (b) after paragraph (2), insert —
 - (2A) Paragraph (2B) applies where, in relation to an application for registration, the only ground for refusing the application is the one referred to in paragraph (2)(a) but the licensing authority is also of the view that the proposed site, or within it, any place where the storage of explosives is to take place, would be suitable for that storage if the amount of explosives to be stored there were of an amount determined by the licensing authority which is less than the maximum amount permitted by regulation 11(1) for the kind or kinds of explosives to which the application relates.
 - (2B) Where this paragraph applies —
 - (a) the ground for refusal referred to in paragraph (2)(a) shall not apply;
 - (b) regulation 11(2) shall apply in relation to the application as if there were no grounds for refusal;
 - (c) the licensing authority shall specify the maximum amount of explosives which may be stored at the proposed site or a place within it, which, in its opinion, would have the effect that that site or place would be suitable for that storage; and

- (d) the applicant shall not store more than that specified amount.
- (11) In regulation 16 —
- (a) in paragraph (1)(b), after “13(3)” insert “, or would have been required but for the operation of regulation 27(4),”; and
 - (b) after paragraph (2), insert —
 - (2A) The licensing authority which grants a registration may vary it —
 - (a) where there has been a change of circumstances such that the separation distances can no longer be maintained and a consequent reduction in the amount of explosives that may be stored is required so as to reduce that amount to a quantity specified by the licensing authority which is below the maximum amount referred to in regulation 11(1) for the kind or kinds of explosives concerned;
 - (b) where the person registered is a company and the name of the company changes;
 - (c) so as to change the period for which the registration is in force;
 - (d) so as to reduce or increase any maximum amount specified pursuant to regulation 15(2B)(c); and
 - (e) in relation to any of the matters it relates to, by agreement with the person registered.
- (12) In regulation 17, at the end of paragraph (1)(b), insert “or”.
- (13) In regulation 18(1)(a), after “registration” insert “or a renewal of a licence or registration”.
- (14) For regulation 19 and the chapeau to that regulation, substitute —

Appeal against decisions concerning registrations

19. A person may appeal to the Secretary of State against a decision of a licensing authority —

- (a) refusing to register him, to renew his registration or to transfer to him a registration held by another;
- (b) issuing him with a registration subject to a term or restriction which aggrieves him;
- (c) varying or refusing to vary his registration or a term of it; or
- (d) revoking his registration,

and the provisions of section 44(2) to (6) of the 1974 Act^(a) (appeals in connection with licensing provisions) shall apply in respect of any such appeal.”.

- (15) For regulation 20, substitute —

20.—(1) A licence or registration may be transferred in writing by the licensing authority which issued the licence or registration to any other person who wishes to manufacture or store explosives in place of the licensee or the person who is registered and who applies to the licensing authority for the transfer.

(2) A licensing authority shall grant an application for a transfer of a licence or registration unless it is of the opinion that the applicant is not a fit person —

- (a) to store explosives, in the case of an application to transfer a registration or a licence to store explosives; or
- (b) to manufacture explosives, in the case of an application to transfer a licence to do so.

^(a) 1974 c.37; section 44 is amended by the Employment Protection Act 1975 (c. 71), sections 116 and 125(3), Schedule 15, paragraph 13 and Schedule 18 and by the Tribunals and Inquiries Act 1992 (c. 53), section 18(1) and Schedule 3, paragraph 9.

(3) A refusal to transfer a licence or registration shall be treated for the purposes of these Regulations as a refusal of an application for, respectively, a licence or registration and the provisions of regulation 18 shall apply to any such refusal to transfer as if the references in that regulation to “refuse an application for a licence or registration “ included refusing to transfer a licence or registration.â

(16) In regulation 21(1) —

- (a) for “terms”, substitute “conditions”;
- (b) for “or registration” where it first appears, substitute “or the terms of his registration”;
- (c) in sub-paragraph (a), for “28 days from”, substitute “a period of 60 days starting with the date of” and omit “or”; and
- (d) in sub-paragraph (b), at the end insert “; or
(c) the transfer of, or a refusal to transfer, a licence or registration.â

(17) After regulation 25, insert —

Information as to net mass of pyrotechnic articles

25A. Where the manufacturer, importer or supplier of a pyrotechnic article specifies its net mass of explosive on the pyrotechnic article, its packaging or in a document accompanying the pyrotechnic article, he shall ensure, so far as is reasonably practicable, that the net mass of the explosive in that pyrotechnic article does not exceed the amount he so specifies on, as the case may be, the pyrotechnic article, the packaging or that document.â

(18) Regulation 27(18) is revoked.

(19) In Schedule 1 —

- (a) in paragraph 1, in sub-paragraph (a)(iii), for “at a mine” substitute “on the surface at a mine, whether in a building or not.â; and
- (b) in paragraph 3, after “manufacture” insert “explosives to which paragraph (1) of regulation 9 applies”.

(20) In Schedule 4 —

- (a) for paragraph 2(g), substitute —
“(g) where separation distances are required by regulation 5 or a condition of the licence to be maintained around the store or the building where explosives are manufactured, a plan in a suitable scale sufficient to show those separation distances.â; and
- (b) in paragraph 4, omit “only” in both places where it appears.

The Control of Noise at Work Regulations 2005

4. At the end of paragraph (4) of regulation 7 of the Control of Noise at Work Regulations 2005(a), add —

“(b) and shall comply with any requirement of the Personal Protective Equipment Regulations 2002(b) which is applicable to them.”.

(b) S.I. 2002/1144.

SCHEDULE 2

Regulation 3(2)

REVOCATIONS

| <i>Title of instrument</i> | <i>Reference</i> |
|--|------------------|
| The Rotherham Main Mine (Employment Below Ground) Special Regulations 1957 | S.I. 1957/331 |
| The Newman Spinney Mine (Electricity) Special Regulations 1958 | S.I. 1958/1168 |
| The Loch Aline Mine (Diesel Vehicles) Special Regulations 1958 | S.I. 1958/1678 |
| The Sandwith Anhydrite Mine (Electricity) Special Regulations 1959 | S.I. 1959/141 |
| The Subwealden Mine (Diesel Vehicles) Special Regulations 1959 | S.I. 1959/1011 |
| The Middleton-by-Wirksworth Limestone Mine (Diesel Vehicles) Special Regulations 1959 | S.I. 1959/1520 |
| The Linby Mine (Refuge Holes) Special Regulations 1960 | S.I. 1960/132 |
| The Parsonage Mine (Refuge Holes) Special Regulations 1960 | S.I. 1960/133 |
| The Sandwith Anhydrite Mine (Explosives) Special Regulations 1960 | S.I. 1960/718 |
| The Billingham Mine (Explosives) Special Regulations 1960 | S.I. 1960/724 |
| The Riber Mine (Explosives) Special Regulations 1960 | S.I. 1960/1118 |
| The Woodside Nos. 2 & 3 Mine (Diesel Vehicles) Special Regulations 1960 | S.I. 1960/1291 |
| The Moorgreen (Waterloo) Mine (Diesel Vehicles) Special Regulations 1960 | S.I. 1960/2347 |
| The Bestwood Mine (Diesel Vehicles) Special Regulations 1961 | S.I. 1961/241 |
| The Bates Mine (Diesel Vehicles) Special Regulations 1961 | S.I. 1961/1273 |
| The Hartley Bank Mine (Diesel Vehicles) Special Regulations 1961 | S.I. 1961/1973 |
| The Sandwith Anhydrite Mine (Diesel Vehicles) Special Regulations 1961 | S.I. 1961/2305 |
| The Grimethorpe Mine (Diesel Vehicles) Special Regulations 1961 | S.I. 1961/2444 |
| The Lynemouth Mine (Diesel Vehicles and Storage Battery Vehicles) Special Regulations 1961 | S.I. 1961/2445 |
| The Dollar Nos. 4 and 5 Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/13 |
| The Lingdale Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/49 |
| The Golborne Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/617 |
| The Usworth Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/719 |
| The Lea Hall Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/735 |
| The North Skelton Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/763 |
| The Calverton Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/931 |
| The New Stamphill Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1002 |
| The Coppice Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1020 |

| | |
|---|----------------|
| The Brightling Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962 1094 |
| The Horden Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1096 |
| The Sutton Manor Mine (Steam Boilers) Special Regulations 1962 | S.I. 1962/1286 |
| The Easington Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1676 |
| The Boldon Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1729 |
| The Harton Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1730 |
| The Heworth Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1731 |
| The Wardley Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1732 |
| The Washington "F" Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/1733 |
| The Rufford Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/2059 |
| The Trelewis Drift Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/2114 |
| The Wharnccliffe Woodmoor 4 and 5 Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/2193 |
| The Seaham Mine (Diesel Vehicles) Special Regulations 1962 | S.I. 1962/2512 |
| The Denby Grange Mine (Refuge Holes) Special Regulations 1962 | S.I. 1962/2578 |
| The Bold Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/28 |
| The Newstead Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/45 |
| The Dawdon Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/118 |
| The Lambton "D" Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/132 |
| The Herrington Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/353 |
| | |
| The Thoresby Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/825 |
| The Mainsforth Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/889 |
| The Cousland No. 2 Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1035 |
| The Westoe Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1096 |
| The Ledston Luck Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1117 |
| The Nostell Mine (Refuge Holes) Special Regulations 1963 | S.I. 1963/1137 |
| The Hem Heath Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1197 |
| The Abernant Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1335 |
| The Skelpie Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1469 |
| The Blaengwrach New Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1470 |
| The Albion Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1536 |
| The Markham Main Mine (Steam Boilers) Special Regulations 1963 | S.I. 1963/1545 |
| The Silverwood Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1618 |
| The Fforchaman Mine (Diesel Vehicles) Special Regulations 1963 | S.I. 1963/1778 |
| The Merry Lees Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/239 |
| The Harelawhill Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/378 |
| The Marley Hill Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/379 |

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| The Prince of Wales Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/539 |
| The Kellingley Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/567 |
| The Ormonde Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/616 |
| The Eden/South Medomsley Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/660 |
| The Denby Hall Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/669 |
| The Newbiggin Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/899 |
| The Cwmgwili Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/1225 |
| The Ryhope Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/1418 |
| The Wearmouth Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/1476 |
| The Pleasley Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/1614 |
| The Huncoat Mine (Diesel Vehicles) Special Regulations 1964 | S.I. 1964/1952 |
| The Nailstone Mine (Precautions against Inrushes) Special Regulations 1964 | S.I. 1964/1773 |
| The Blackhall Mine (Diesel Vehicles) Special Regulations 1965 | S.I. 1965/41 |
| The Langley Park Mine (Diesel Vehicles) Special Regulations 1965 | S.I. 1965/272 |
| The Brandon Pit House Mine (Diesel Vehicles) Special Regulations 1965 | S.I. 1965/539 |
| The South Crofty Mine (Locomotives) Special Regulations 1965 | S.I. 1965/759 |
| The Bevercotes Mine (Diesel Vehicles) Special Regulations 1965 | S.I. 1965/1194 |
| The Fishburn Mine (Diesel Vehicles) Special Regulations 1965 | S.I. 1965/1430 |
| The Stafford Mine (Diesel Vehicles) Special Regulations 1965 | S.I. 1965/1699 |
| The Astley Green Mine (Steam Boilers) Special Regulations 1965 | S.I. 1965/1915 |
| The Trimdon Grange Mine (Diesel Vehicles) Special Regulations 1965 | S.I. 1965/1997 |
| The East Hetton Mine (Diesel Vehicles) Special Regulations 1966 | S.I. 1966/141 |
| The Dean and Chapter Nos. 1, 2 and 3 Mine (Diesel Vehicles) Special Regulations 1966 | S.I. 1966/350 |
| The Thorny Bank Mine (Diesel Vehicles) Special Regulations 1966 | S.I. 1966/475 |
| The Cairn Hill Mine (Refuge Holes) Special Regulations 1966 | S.I. 1966/777 |
| The Arley Mine (Diesel Vehicles) Special Regulations 1966 | S.I. 1966/979 |
| The Sallet Hole Mine (Storage Battery Locomotives) Special Regulations 1966 | S.I. 1966/1325 |
| The Ellington Mine (Diesel Vehicles and Storage Battery Vehicles) Special Regulations 1967 | S.I. 1967/956 |
| The Haig Mine (Diesel Vehicles) Special Regulations 1967 | S.I. 1967/1291 |
| The Glebe Mine (Locomotives and Diesel Vehicles) Special Regulations 1967 | S.I. 1967/1335 |
| The Groverake Mine (Storage Battery Locomotives) Special Regulations 1967 | S.I. 1967/1545 |

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| The Fauld Mine (Diesel Vehicles) Special Regulations 1968 | S.I. 1968/1295 |
| The Brenkley Mine (Endless Rope Haulage) Special Regulations 1969 | S.I. 1969/559 |
| The Bagworth Mine (Pass-Byes) (Revocation) Special Regulations 1969 | S.I. 1969/727 |
| The Lynemouth Mine (Cable Reel Shuttle Cars) Special Regulations 1969 | S.I. 1969/799 |
| The Ellington Mine (Cable Reel Shuttle Cars) Special Regulations 1969 | S.I. 1969/800 |
| The Prince of Wales Mine (Captive Rail Diesel Locomotives) Special Regulations 1969 | S.I. 1969/1377 |
| The Whiteheaps Mine (Storage Battery Locomotives) Special Regulations 1969 | S.I. 1969/1592 |
| The Blackdene Mine (Storage Battery Locomotives) Special Regulations 1969 | S.I. 1969/1876 |
| The Bullcliffe Wood Mine (Suspended Chair Haulage Apparatus) Special Regulations 1970 | S.I. 1970/36 |
| The Aberpergwm Mine (Diesel Vehicles) Special Regulations 1970 | S.I. 1970/613 |
| The Blidworth Mine (Man-riding) (Revocation) Special Regulations 1970 | S.I. 1970/1122 |
| The New Stubbin Mine (Diesel Vehicles) (Revocation) Special Regulations 1970 | S.I. 1970/1174 |
| The Creswell Mine (Winding and Haulage) Special Regulations 1970 | S.I. 1970/1230 |
| The Maltby Main Mine (Methane Gas-Fired Steam Boilers) Special Regulations 1970 | S.I. 1970/1428 |
| The West Cannock No. 5 Mine (Diesel Vehicles) Special Regulations 1971 | S.I. 1971/28 |
| The Winsford Rock Salt Mine (Diesel Vehicles and Storage Battery Vehicles) Special Regulations 1971 | S.I. 1971/50 |
| The Lynemouth Mine (Cable Reel Shuttle Cars) (Amendment) Special Regulations 1971 | S.I. 1971/111 |
| The Ellington Mine (Cable Reel Shuttle Cars) (Amendment) Special Regulations 1971 | S.I. 1971/139 |
| The Silverwood Mine (Methane Gas-Fired Steam Boilers) Special Regulations 1971 | S.I. 1971/1325 |
| The Ashington Mine (Endless Rope Haulage) Special Regulations 1971 | S.I. 1971/1578 |
| The Littleton Mine (Refuge Holes) Special Regulations 1971 | S.I. 1971/1703 |
| The Riddings Drift Mine (Rope Hauled Sledge) Special Regulations 1971 | S.I. 1971/1704 |

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| The Cotgrave Mine (Electric Lighting for Cinematography) Special Regulations 1972 | S.I. 1972/371 |
| The Marblaegis Mine (Diesel Vehicles) Special Regulations 1972 | S.I. 1972/984 |
| The Hatfield/Thorne Mine (Chain Haulage) Special Regulations 1972 | S.I. 1972/1163 |
| The Easington Mine (Man-riding) (Revocation) Special Regulations 1972 | S.I. 1972/1179 |
| The Savile Mine (Rope Hauled Sledge) Special Regulations 1972 | S.I. 1972/1180 |
| The Creswell Mine (Light Water Container Barrier) Special Regulations 1972 | S.I. 1972/1351 |
| The Vane Tempest Mine (Diesel Vehicles) (Revocation) Special Regulations 1972 | S.I. 1972/1364 |
| The Vane Tempest Mine (Endless Rope Haulage) Special Regulations 1972 | S.I. 1972/1357 |
| The Ledston Luck Mine (Rope Hauled Sledge) Special Regulations 1972 | S.I. 1972/1389 |
| The Hucknall Mine (Endless Rope Haulage) Special Regulations 1972 | S.I. 1972/1630 |
| The Glass Houghton Mine (Rope Hauled Sledge) Special Regulations 1972 | S.I. 1972/1831 |
| The Bentinck Mine (Endless Rope Haulage) Special Regulations 1972 | S.I. 1972/1952 |
| The Newstead Mine (Endless Rope Haulage) Special Regulations 1972 | S.I. 1972/2036 |
| The Longriggs Mine (Diesel Vehicles) Special Regulations 1973 | S.I. 1973/371 |
| The Nostell Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/737 |
| The Pye Hill Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/917 |
| The Savile Mine (Diesel Vehicles) Special Regulations 1973 | S.I. 1973/940 |
| The Calverton Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1003 |
| The Cadley Hill Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1005 |
| The Annesley Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1041 |
| The Whitwick Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1042 |
| The Cotgrave Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1043 |
| The Linby Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1044 |
| The Gedling Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1073 |
| The Babbington Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1074 |
| The Ash Grove No. 1 Mine (Diesel Vehicles) Special Regulations 1973 | S.I. 1973/1206 |
| The Creswell Mine (Light Water Container Barrier) Special Regulations 1973 | S.I. 1973/1339 |

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| The Bagworth Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1499 |
| The Rawdon Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1524 |
| The Moorgreen Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1633 |
| The Bates Mine (Endless Rope Haulage) Special Regulations 1973 | S.I. 1973/1689 |
| The Elsecar Main Mine (Diesel Vehicles) Special Regulations 1974 | S.I. 1974/710 |
| The Cynheidre/Pentremawr (Escape Breathing Apparatus) Special Regulations 1974 | S.I. 1974/1101 |
| The Bilsthorpe Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/1176 |
| The Rixey Park Mine (Storage Battery Locomotives) Special Regulations 1974 | S.I. 1974/1866 |
| The Collins Green Mine (Employment Below Ground) Special Regulations 1974 | S.I. 1974/1917 |
| The Desford Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/1963 |
| The Silverdale Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/2049 |
| The Whitwick Mine (Diesel Vehicles) Special Regulations 1974 | S.I. 1974/2112 |
| The Markham Main Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/2198 |
| The Frickley/South Elmsall Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/2199 |
| The Ellistown Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/2200 |
| The Hatfield/Thorne Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/2201 |
| The Santon Main Mine (Diesel Vehicles) Special Regulations 1974 | S.I. 1974/2217 |
| The Askern Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/2218 |
| The Kellingley Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/2219 |
| The Measham Mine (Endless Rope Haulage) Special Regulations 1974 | S.I. 1974/2220 |
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| The Kiveton Park (Diesel Vehicles) Special Regulations 1974 | S.I. 1974/2224 |
| The Shilbottle Mine (Endless Rope Haulage) Special Regulations 1975 | S.I. 1975/1078 |
| The Baddesley Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/27 |
| The Birch Coppice Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/28 |
| The High Moor Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/43 |
| The Warsop Main Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/44 |
| The Snibston Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/82 |
| The Monktonhall Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/479 |
| The Snibston Mine (Diesel Vehicles) Special Regulations 1976 | S.I. 1976/480 |
| The Bogside Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/482 |

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| The Polkemmet Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/483 |
| The Arkwright Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/484 |
| The Bolsolver Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/485 |
| The Shirebrook Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/486 |
| The Westthorpe Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/487 |
| The Daw Mill Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/556 |
| The Whitwell Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/967 |
| The Seafield Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/1445 |
| The Solsgirth Nos. 1 & 2 Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/1607 |
| The Killoch Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/1608 |
| The Bilston Glen Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/1609 |
| The New Hucknall Mine (Endless Rope Haulage) Special Regulations 1976 | S.I. 1976/1610 |
| The Cardowan Mine (Endless Rope Haulage) Regulations 1976 | S.I. 1976/1612 |
| The Yorkshire Main Mine (Endless Rope Haulage) Regulations 1976 | S.I. 1976/1654 |
| The Frances Mine (Endless Rope Haulage) Regulations 1976 | S.I. 1976/1655 |
| The High Moor Mine (Diesel Vehicles) Regulations 1976 | S.I. 1976/1733 |
| The Markham Mine (Diesel Vehicles) Regulations 1976 | S.I. 1976/1734 |
| The Blackdene Mine (Storage Battery Locomotives) Special Regulations 1976 | S.I. 1976/1827 |
| The Bentinck Mine (Diesel Engined Stone Dusting Machine) Regulations 1976 | S.I. 1976/2046 |
| The High Moor Mine (Cable Reel Shuttle Cars) Regulations 1976 | S.I. 1976/2052 |
| The Bentley Mine (Endless Rope Haulage) Regulations 1977 | S.I. 1977/203 |
| The Murton Mine (Endless Rope Haulage) Regulations 1977 | S.I. 1977/225 |
| The Donisthorpe Mine (Endless Rope Haulage) Regulations 1977 | S.I. 1977/243 |
| The Rossington Mine (Endless Rope Haulage) Regulations 1977 | S.I. 1977/483 |
| The Goldthorpe/Highgate Mine (Endless Rope Haulage) Regulations 1977 | S.I. 1977/658 |
| The Ireland Mine (Diesel Vehicles) Regulations 1977 | S.I. 1977/735 |
| The Dinnington Main Mine (Revocation of Special Regulations) Regulations 1977 | S.I. 1977/737 |
| The Blaenserchan Mine (Diesel Vehicles) Regulations 1977 | S.I. 1977/917 |
| The Parsonage Mine (Endless Rope Haulage) Regulations 1977 | S.I. 1977/1593 |
| The Hapton Valley Mine (Diesel Vehicles) Regulations 1977 | S.I. 1977/1696 |
| The Treeton Mine (Refuge Holes) Special Regulations 1977 | S.I. 1977/1758 |

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| The Golborne Mine (Endless Rope Haulage) Regulations 1977 | S.I. 1977/1855 |
| The Cynheidre/Pentremawr Mine (Escape Breathing Apparatus) (Amendment) Regulations 1977 | S.I. 1977/2036 |
| The Cwmgwili Mine (Escape Breathing Apparatus) Regulations 1977 | S.I. 1977/2106 |
| The Gascoigne Wood Mine (Refuge Holes) Regulations 1978 | S.I. 1978/33 |
| The Thoresby Mine (Cable Reel Load-Haul-Dump Vehicles) Regulations 1978 | S.I. 1978/119 |
| The Sallet Hole Nos. 1 & 2 Mines (Diesel Vehicles) Regulations 1978 | S.I. 1978/761 |
| The Trelewis Drift Mine (Diesel Vehicles) Regulations 1978 | S.I. 1978/1376 |
| The High Moor Mine (Cable Reel Load-Haul-Dump Vehicles) Regulations 1979 | S.I. 1979/1293 |
| The Boulby Mine (Diesel Vehicles) Regulations 1979 | S.I. 1979/1532 |
| The Whitwell Mine (Teleplatform Haulage and Refuge Holes) Regulations 1979 | S.I. 1979/1769 |
| The Point of Ayr Mine (Diesel Vehicles) Regulations 1980 | S.I. 1980/1705 |
| The Sallet Hole No. 2 Mine (Storage Battery Locomotives) Special Regulations 1980 | S.I. 1980/1203 |
| The Harworth Mine (Cable Reel Load-Haul-Dump Vehicles) Regulations 1980 | S.I. 1980/1474 |
| The Glebe Mine (Locomotives and Diesel Vehicles) Special Regulations 1981 | S.I. 1981/1502 |
| The Mines (Endless Rope Haulage) Regulations 1983 | S.I. 1983/711 |
| The Point of Ayr and Cadley Hill Mines (Drift) Regulations 1983 | S.I. 1983/712 |
| The Houghton Main Mine (Steam Boilers) Regulations 1983 | S.I. 1983/1360 |
| The Kellingley Mine (Steam Boilers) Regulations 1985 | S.I. 1985/1162 |
| The Gascoigne Wood Mine (Refuge Platforms) Regulations 1985 | S.I. 1985/1262 |

EXPLANATORY NOTE

(This note is not part of the Regulations)

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3. The amendment in Schedule 1 to the Control of Noise at Work Regulations 2005 is for fully implementing Article 6(1) of Directive 2003/10/EC (OJ No. L42, 15.2.2003, p.38) on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

4. The revocations in Schedule 2 concern local regulations governing mines which have either been closed permanently or where the mechanical systems which were once used in them, and which the local regulations concern, are no longer used.

Health and Safety (Miscellaneous Amendments and Revocations) Regulations 2008 - commentary

| Extension outside Great Britain | | |
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| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| The amendments made by regulation 3 and Schedule 1 to the Control of Explosives Regulations 1991 shall extend outside Great Britain in the same way that those Regulations extend outside Great Britain by virtue of regulation 14 of those Regulations. | Regulations 12 and 13 of the Control of Explosives Regulations 1991 apply offshore. Among other things the regulations require that any loss of explosives should be reported to the chief officer of police for the relevant police force. As the regulations amend the definition of chief officer of police it is necessary that the amending regulations should also apply offshore. | None. |
| Amendments to the Control of Explosives Regulations | | |
| <i>Amendment to Regulation 2: Interpretation</i> | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| for the definition of “chief officer of police”, substitute — “chief officer of police”— (a) in relation to England and Wales, has the same meaning as in section 101(1) of the Police Act 1996); and (b) in relation to Scotland, means the person appointed to the office of chief constable pursuant to section 4 of the Police (Scotland) Act 1967; and | This amendment brings the wording used in COER into line with the wording used in MSER. | None |

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| <p>After paragraph (8) insert: “The performance of any function given to the chief officer of police under these Regulations may be delegated by him, to such an extent and subject to such conditions as he may specify—</p> <p>(a) to a member of the police force in respect of which he is the chief officer of police;</p> <p>(b) to a person employed to assist that police force as mentioned in section 15 of the Police Act 1996 (civilian employees); or</p> <p>(c) to a person employed or appointed in relation to that police force as mentioned in section 9 of the Police (Scotland) Act 1967(civilian employees),</p> <p>and any such delegation shall be made in writing by that chief officer of police.”</p> | <p>In a large number of police force areas the explosives certificate regime is administered by civilian employees of the police force rather than by uniformed members of the force. This amendment is intended to recognise that role, and again is in line with the wording of MSER.</p> | <p>None. This simply reflects existing practice.</p> |
| <p><i>Amendment to Regulation 4: application</i></p> | | |
| <p>for sub-paragraph (c) of paragraph (3), substitute —</p> <p>i(c) a person employed to assist that police force as mentioned in section 15 of the Police Act 1996 (civilian employees) or a person employed or appointed in relation to that police force as mentioned in section 9 of the Police (Scotland) Act 1967 (civilian employees); or; and</p> | <p>This amendment simply updates the wording of Regulation 3(3)(c) of COER so that it refers to the Police Act 1996 as opposed to the Police Act 1964.</p> <p>Regulation 3 provides an exemption for civilian employees of police forces from the need to hold an explosives certificate in respect of explosives held on behalf of the force.</p> | <p>None.</p> |
| <p>After paragraph (4), insert –</p> <p>“(4A) Regulation 7 shall not apply to a person who acquires or keeps black powder of a quantity not exceeding [] kilograms if —</p> <p>(a) that person —</p> | <p>This is a new provision which would exempt certain holders of Firearm and Shotgun Certificates from the need to hold an explosives certificate provided certain conditions are met.</p> <p>One of these conditions is the amount of powder that can be stored. As noted in the main</p> | <p>The most significant cost savings likely to result from a reduction in the number of people required to hold an explosives certificate as well as a Firearms and Shotgun Certificate. At present there is no fee for these explosives certificates so cost savings would be primarily</p> |

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| <p>(i) is the holder of a firearm certificate or a shot gun certificate granted under the Firearms Act 1968 or is exempt from the need to hold such a certificate under that Act; and</p> <p>(ii) is aged 18 years or over; and</p> <p>(iii) is not a prohibited person or a person prohibited by section 21 of the Firearms Act 1968 from having a firearm in his possession; and</p> <p>(iv) is resident in Great Britain; and</p> <p>(v) has, before acquiring the black powder, sent a written notification in the form set out in Schedule 5 (or one to the same effect) to the chief officer of police for the relevant police force and has received a written acknowledgement of the notification from that chief officer of police; and</p> <p>(b) the black powder is for use exclusively in a firearm to which the certificate or exemption referred to in sub-paragraph (a)(i) relates.</p> <p>(4B) For the purposes of paragraph (4A) –</p> <p>(a) “relevant police force” means —</p> <p>(i) where the notification relates to the keeping of black powder, the police force for the police area in which the place of keeping is to be situated;</p> <p>(ii) where the notification relates to the acquisition only of black powder, the police force for the police area in which the person acquiring the explosive resides or, in the case of a body corporate, the police area in which the body corporate has its registered office, or, if it has no registered office, its principal office; and</p> <p>(b) “certificate”, “firearm” “firearm certificate”, “shot gun” and “shot gun certificate” have the same meanings as they are given in the Firearms Act 1968.</p> | <p>consultation document, this amount will be determined in the light of evidence submitted during the consultation exercise.</p> <p>A further condition is that those wishing to take advantage of this disapplication will need to notify the police force for the area where they live.</p> | <p>for the public sector, although paperwork requirements for certificate holders would also be reduced. Average annual benefit calculated at £77.8k. There would be one-off costs for processing initial notifications to the police from certificate holders wishing to take advantage of the disapplication - calculated at £150.8k</p> |
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| Amendment to Regulation 5: revocation and expiry of explosives certificates | | |
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| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| <p>In regulation 5(3) — (a) for sub-paragraph (a), substitute “5 years after the date that its validity begins; or”; and (b) omit sub-paragraph (b)”.</p> <p>Amendment would read: <i>An explosives certificate shall cease to be valid —</i> (a) <i>5 years after the date that its validity begins; or</i> (b) <i>after such lesser time as may be stated therein; or</i> (c) <i>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.</i></p> | <p>This amendment would increase the maximum life of explosives certificates from 1 year to 5 years in the case of acquire-only certificates and from 3 years to 5 years in the case of ‘acquire and keep’ certificates.</p> <p>This would in turn increase the maximum life of the storage licence.</p> | <p>We calculate that the proposed increase in the duration of the certificates would result in reduced costs amounting to annual benefits £8.1k for acquire only certificates and £7.8k for acquire and keep certificates. Linked to this proposal would be further benefits arising from the proposal to increase the duration of certain licences and registrations under the Manufacture and Storage of Explosives Regulations (see below).</p> |
| Amendment to Regulation 14: Extension outside Great Britain | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| <p>In regulation 14(1), for “1989” substitute “2001”.</p> | <p>Regulation 14 currently refers to the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1989 this has now been superceded by the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001.</p> | <p>None.</p> |

| Amendment to Regulation 15: enforcement | | |
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| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| In regulation 15(2)(a), for “licensed factory or magazine” substitute “site in relation to which the Executive is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to the 2005 Regulations”. | The present regulation uses terminology specific to the Explosives Act. The reference should have been replaced by a reference to MSER. This amendment corrects that oversight. | None. |
| Schedule 1 | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| In Schedule 1, under the heading “EXCEPTIONS”, insert “PART 1” and at the end insert — PART 2 Model rocket motors, which — (a) are allocated the U.N. no. 0186, 0272, 0349, 0351 or 0471 or 0499; (b) are intended to be used for the propulsion of model rockets; and (c) in respect of each individual model rocket motor, have a net mass of explosive content of no more than 1 kilogram. | It has been agreed with the police that the smaller, lower powered articles as defined in this amendment are not criminally attractive and should therefore be included in Schedule 1 | This provision would be of benefit to model rocketry enthusiasts. However, we do not know how many such enthusiasts there are. We believe the number to be relatively small and so have not sought to quantify the benefit for the purpose of the impact assessment. |

| Schedule 5: Form of Notification | | |
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| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| <p>After Schedule 4, insert —</p> <p style="padding-left: 40px;">SCHEDULE 5 Regulation 3(4A)(a)(v)f</p> <p>FORM OF NOTIFICATION</p> <p>To: The Chief Officer of Police</p> <p>I intend to *acquire / acquire and keep no more than [] of black powder. I am the holder of a firearm/shot gun certificate granted under the *Firearms Act 1968/exempt from the need to hold a firearm/shot gun certificate under the Firearms Act 1968 and the black powder is for use exclusively in a firearm to which the *certificate/exemption relates.</p> <p>I am 18 or over and am not a prohibited person within the meaning of the Control of Explosives Regulations 1991 or the Firearms Act 1968.</p> <p>Signed.....</p> <p>Name.....</p> <p>Address.....</p> <p>Date.....</p> <p>*Delete as applicable</p> | <p>This is the text of the proposed notification</p> | <p>See above</p> |
| The Health and Safety (Enforcing Authority) Regulations 1998 | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| <p>In regulation 4 —</p> <p>after paragraph (8) insert —</p> | <p>MSER states that the HSE should be the enforcing authority in respect of the <i>manufacture</i> of ammonium nitrate blasting intermediates</p> | <p>At present the enforcement responsibility for these sites would lie with the authority that has general enforcement responsibilities for health</p> |

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| <p>ì(8A) In respect of a site —</p> <p>(a) at which more than two tonnes of</p> <p>(i) ammonium nitrate blasting intermediate, or</p> <p>(ii) ammonium nitrate blasting intermediate and other explosives</p> <p>is stored, the Executive shall be the enforcing authority for the 2005 Regulations; and</p> <p>(b) at which two tonnes or less of</p> <p>(i) ammonium nitrate blasting intermediate, or</p> <p>(ii) ammonium nitrate blasting intermediate and other explosives</p> <p>is stored, the chief officer of police for the area in which the site is situated shall be the enforcing authority for the 2005 Regulations.ì;</p> | <p>(ammonium nitrate emulsions and similar materials used for the on-site mixing of blasting explosives). However it made no provision for licensing and enforcement in relation to the storage of these materials. This amendment corrects that omission and provides that the HSE should be the enforcing authority for the storage of more than 2 tonnes and the police for 2 tonnes or less. This is in line with the enforcement responsibilities for blasting explosives.</p> | <p>and safety at the site. This might be HSE but in many cases would be the local authority. We believe that there are currently about 10 storage sites for this substance, and HSE would take over enforcement responsibility for all of these sites.</p> |
| <p>after paragraph (9), insert —</p> <p>ì(9A) A licensing authority shall be the enforcing authority for regulation 3 of the Management of Health and Safety at Work Regulations 1999 in relation to any manufacture or storage of explosives for which it is the enforcing authority by virtue of paragraph (7)”.ì</p> | <p>MSER does not itself contain a duty to carry out a risk assessment. Instead it relies on the duty in the Management of Health and Safety at Work Regulations (MHSWR). A person storing explosives would have a duty under MHSWR to carry out a risk assessment of the risks arising from the manufacture and storage of explosives, and duties under MSER to control those risks. At the moment in certain cases these two duties are enforceable by different authorities. This amendment would align the enforcement responsibilities under the two sets of regulations in relation to explosives. This would mean that if a dutyholder had failed to carry out an adequate risk assessment and had in turn failed to comply with the substantive requirements of MSER the same authority could take enforcement action on both areas of concern.</p> | <p>None. It is important to stress that this does not create an additional duty. It simply means that the same enforcing authority has responsibility for enforcing both the risk assessment duty and the duties under MSER.</p> |

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| <p>(a) in paragraph (11), omit “local authority”;</p> <p>(b) after paragraph (11), insert —</p> <p>î(12) In paragraph (9) and sub-paragraph (a) of paragraph (10), “local authority” has the same meaning as it is given by regulation 2(1) of the 2005 Regulations.î.</p> <p>The present regulation 4(11) as amended reads as follows:</p> <p><i>(11) For the purposes of paragraphs (7) to (10), “ammonium nitrate blasting intermediate”, “disposes”, “licence”, “licensing authority”, “local authority”, “registered” and “site” have the same meanings as they are given by regulation 2(1) of the 2005 Regulations and “deemed licence” and “deemed registration” have the same meanings as they are given by regulation 27(19) of those Regulations.”.</i></p> | <p>At present, Regulation 4(11) applies the MSER definition of local authority to Regulations 4(7) to 4(10). However, this definition should not have been applied to Regulation 4(10)b.</p> <p>Regulation 4(10) sets out the enforcement responsibilities for the requirements on the safe disposal of explosives. The intention was that where the explosives were disposed of by, or on behalf of, someone who had a licence or registration under MSER then the relevant MSER licensing authority should be the enforcing authority. However, in cases where there is no licence or registration (eg explosives are used at a civil engineering site), then the enforcing authority would be the normal licensing authority under the Enforcing Authority regulations. In most cases this would be the executive, but in certain cases this might be the local authority which in England could very well be different from the local authority under MSER. The amendment would restore the original intended effect of Regulation 4(10).</p> | |
| The Manufacture and Storage of Explosives Regulations 2005 | | |
| <i>Amendment to Regulation 2: interpretation</i> | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| <p>(a) after the definition of “mine”, insert —</p> <p>î“model rocket motors” means explosive articles allocated the U.N. no. 0186, 0349, 0351, 0471 or 499 which are intended to be used for the propulsion of model rockets; î;</p> | <p>There are a number of provisions in the regulations which provide dispensations for people keeping small quantities of low-hazard explosives. Unfortunately these dispensations do not cover the propellant cartridges used to propel model rockets (“model rocket motors”).</p> | <p>None (supports substantive provisions).</p> |

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| | There are amendments to both MSER and to the Control of Explosives Regulations which are intended to rectify this position. This amendment supports those provisions by adding a definition. | |
| <p>(b) in paragraph (9), omit the words from “and includes” to the end.</p> <p>Amended regulation would read: <i>“For the purposes of these Regulations, save for paragraph 45(3)(f) of Schedule 5, “chief officer of police” —</i> <i>a) in relation to England and Wales, has the same meaning as in section 101(1) of the Police Act 1996; and</i> <i>(b) in relation to Scotland, means the person appointed to the office of chief constable pursuant to section 4 of the Police (Scotland) Act 1967; and in relation to an area, means the chief officer of police for that area”</i></p> | | None. |
| Amendment to Regulation 3: application | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| For sub-paragraph (f) of regulation 3(2), substitute – “(f) the storage of explosives below ground at a mine, where the explosives are for use at that mine for the getting of minerals or ensuring the safety of the mine”. | Currently regulation 3(2)(f) disapplies the regulations in ‘any mine ...used solely for the purpose of the getting of minerals or ensuring the safety of the mine’. However, there are cases where parts of a working mine are used for purposes other than the getting of minerals (for example, for the storage of documentation or for waste disposal) and therefore such a | Clarifies the original intention that MSER is disapplied only to explosives stored underground and used for getting minerals or for ensuring the safety of the mine (as these are covered by mining regulations). Storage of explosives below ground at a mine for other purposes would be covered by MSER. |

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| | mine falls foul of the current disapplication. The proposed amendment makes it clear that the disapplication would only apply to the storage of explosives where they are for use for the getting of minerals or for ensuring the safety of the mine. | |
| <i>Amendment to Regulation 5: separation distances</i> | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| In paragraph (2), at the end add “or would have been required pursuant to that provision but for the operation of regulation 27(4) in the cases to which regulation 27(3) applies”; and | Regulation 5(2) disapplies separation distances in cases where HSE grants to licence under the assent process. Regulation 27(4) disapplies Regulation 13(3) in certain specified cases. The intention was to ensure that in these cases there was no need to go through the assent process. Unfortunately this had the unintended knock-on consequence of disapplying Regulation 5(2). The proposed amendment means that Regulation 5(2) applies where Regulation 13(3) applies or would have applied but for the effect of Regulation 27(4). | Restores original intention that the disapplication on separation distances in Regulation 5(2) should apply to cases covered by Regulation 27(4) for deemed licences. |
| In regulation 5(3) — (a) after sub-paragraph (a), insert — i(aa) a combined total of 5 kilograms of shooters’ powder and model rocket motors; î , and | Regulation 5 includes requirements to maintain separation distances around explosives stores. The distance depends on the type and quantity of explosives. There are some exceptions to these requirements for shooters and similar users. The intention of this amendment is to ensure that users of rocket motors are treated in a comparable way to shooters and similar users. In its direct effect it would enable users of rocket motors to keep a quantity of black powder as | At the moment, we understand that the normal practice is for rocket motor enthusiasts to cooperate with some users to keeping black powder while others keep the rocket motors. This amendment would have some benefit in terms of convenience for the rocket motor users. |

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| | well as rocket motors, without having to maintain the separation distances that would otherwise be required. | |
| (b) in sub-paragraph (d) — (i) omit “and” at the end of paragraph (i); and (ii) at the end of paragraph (ii), add “and (iii) 4 kilograms of explosive kept temporarily and for operational purposes other than those referred to in subparagraph (d)(i) and (ii).”; and | There is currently provision in the regulations allowing the police to store small quantities of explosives for dog training purposes without needing to maintain separation distances. This amendment would extend that provision to other operational purposes. | This amendment would have a benefit for the police in giving extra flexibility prior to certain operations. It is envisaged that this flexibility would be used only rarely and this dispensation would not be used for routine storage. |
| (c) at the end, add “and, in the case of any storage of model rocket motors, the net mass of explosive content of each model rocket motor must not exceed 1 kilogram.” | See entry for sub-paragraph (a) | See above. |
| Amendment to Regulation 7: employment of young persons | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| In Regulation 7, for “between the age of 16 years and” substitute “under”. Amended regulation would read: <i>“No person who manufactures or stores explosives shall permit a person under 18 years to work in that manufacture or storage except under appropriate supervision”.</i> | The present regulations require that young persons between the age of 16 and 18 should only be employed in the manufacture or storage of explosives if under appropriate supervision. The regulation should have applied the same requirement to under-16s (where there employment is permitted at all by employment legislation). This amendment corrects that omission. | We do not believe that this amendment will impose any additional costs. |

| <i>Amendment to Regulation 9: explosives not to be manufactured without a licence</i> | | |
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| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| <p>In regulation 9(2)(j), omit “terms and”.</p> <p>Amended regulation would read:</p> <p><i>“(j) the manufacture of explosives by a company which is a wholly-owned subsidiary of another company at a site in relation to which that other company holds a licence to manufacture explosives and that manufacture by the wholly-owned subsidiary is in accordance with the conditions of that licence”.</i></p> | <p>The second amendment to Regulation 9 replaces deletes the word ‘term’ from the phrase ‘terms and conditions’.</p> <p>At the moment some of the regulations use the phrase ‘terms and conditions’ whereas others simply refer to ‘conditions’. This amendment is intended to make the use of these terms more consistent and logical. We have sought to standardise the terminology by using ‘terms’ to cover such matters as, for example the duration of a licence and ‘conditions’ to cover something that a person is required to comply with in order to be able to carry out an activity, for example they may store explosives, but only explosives of a particular type.</p> | <p>None, other than to make the regulations more consistent and logical.</p> |
| <i>Amendment to Regulation 10: explosives not to be stored without a licence</i> | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| <p>in paragraph (2)(e), for “3 days” substitute “5 days”.</p> <p>Amended regulation would read:</p> <p><i>“(e) the storage of no more than 100 kilograms of —</i></p> <p><i>(i) hazard type 3 explosives consisting of fireworks;</i></p> <p><i>(ii) shooters’ powders; or</i></p> <p><i>(iii) a combination of shooters’ powders and</i></p> | <p>The regulations include provisions exempting temporary storage at re-enactment and similar events from the need for storage licences or registrations. This provision would extend the duration of these provisions to give some greater flexibility in particular to provide for Bank Holiday weekends.</p> | <p>This measure would be a benefit for re-enactors and for the suppliers of black powder to such events. The number of such events is relatively small. We have not sought to quantify this benefit for the Impact Assessment.</p> |

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| <p><i>hazard type 3 and 4 explosives consisting of fireworks, provided that the explosives are stored for no longer than 5 days in their place of intended use”.</i></p> | | |
| <p>For paragraph (2)(h), substitute — (h) the storage of explosives by a company which is a wholly-owned subsidiary of another company at a site in relation to which that other company holds — (i) a registration, or (ii) a licence to store explosives and that storage by the wholly-owned subsidiary is in accordance with any term of that registration or condition of that licence; and</p> | <p>The present regulation 10(2) allows a subsidiary company to use a store licensed by its parent company without the need to obtain a licence itself. However, there is no equivalent provision where the parent company holds a registration (ie for a store holding a smaller quantity). The amendment corrects this anomaly.</p> | <p>Although this has potential benefits for companies we have not sought to quantify this benefit for the Impact Assessment.</p> |
| <p>In paragraph (3) — (a) in sub-paragraph (a), omit ‘and’ at the end; and (b) in sub-paragraph (b), omit ‘or explosive articles’ and after that sub-paragraph insert—‘and</p> | <p>The Regulations define ‘explosives’ as explosive substances and explosive articles. In the phrase ‘explosives and explosive articles’, ‘explosive articles’ is redundant because they already fall within the definition of ‘explosives’. A similar amendment has been made to regulation 11.</p> | <p>None</p> |
| <p>(c) where a person wishes to rely on the exception referred to in paragraph (2)(b)(ia), each model rocket motor to be stored for the purposes of that exception must have a net mass of explosive content not exceeding 1 kilogram.</p> | <p>MSER permits people to keep small quantities of certain explosives without the need for a licence or registration. These quantities are set out in Regulation 10 (2)(b)(ii). The effect of the amendment to add model rocket motors to Schedule 1 of COER is that model rockets can benefit from these allowances. However, ‘model rockets’ range from very small to very large devices. In the case of the large devices we believe that these should be subject to the requirement to hold a licence or</p> | <p>Again this is a provision that will be of clear benefit to model rocketry enthusiasts. However because of the difficulty in quantifying this benefit we have not taken it into account in the Impact Assessment.</p> |

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| | registration. This provision sets the condition that to benefit from the exemption all of the items should contain less than 1kg of propellant. | |
| <i>Amendment to Regulation 11: registration in relation to storage</i> | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| (a) in paragraph (4)(b), for “three years” substitute “five years”. | Sub-paragraph (a) states that the licence for storage or registration may last for as long as the applicants Explosives Certificate. Sub-paragraph b covers cases where the police issue a licence or registration to cover the storage of smokeless powder where there is no requirement for an explosives certificate, or where the applicant qualifies for one of the allowances in Regulation 10. It would permit the police to grant registrations for up to five years as opposed to three at present. | This would be of benefit to firearms dealers selling shooters powders. We believe this would be a clear benefit for the dealers concerned but because of the small number we have not sought to quantify this benefit for the Impact Assessment. |
| (b) in paragraph (5), omit the exceptions listed in it; Amended regulation would read: <i>‘(5) For the purposes of paragraph (1) no more than one of the subparagraphs (a) to (e) of paragraph (1) shall apply’</i> | Simply removes unnecessary words. | None |
| (c) in paragraph (7), after “manufacture of explosives” insert “,other than manufacture not requiring a licence by virtue of regulation 9(2),”. Amended regulation would read: <i>“(7) No application for registration may be made in respect of the storage of explosives at a site at which the manufacture of explosives, other than manufacture not requiring a licence by virtue of regulation 9(2), also takes place or is to take place”.</i> | The intention behind Regulation 11(7) was to prohibit the granting by a local licensing authority of a licence or registration for storage at a site licensed by HSE for the manufacture of explosives. This was to ensure that there would be a single licensing and enforcing body for the site. However, Regulation 9(2) sets out a number of circumstances where manufacture does not require a licence. The amendment to Regulation 11(7) has been drafted to take | None. |

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| | account of these situations. | |
| (d) in paragraph (8), omit 'or explosive articles'; | MSER defines 'explosives' as explosive substances and explosive articles. The amendment to Regulation 11(8) deletes the unnecessary reference to 'explosive articles' in the phrase 'explosives or explosive articles' – explosive articles are by definition 'explosives'. | None. |
| <p>(e) in paragraph (9) —</p> <p>(i) after 'exceeding one year' insert 'as the licensing authority determines'; and</p> <p>(ii) for 'solely' substitute 'i, whether solely or not,i, and</p> <p>(iii) for "three years" substitute "five years".</p> <p>Amended regulation would read:</p> <p><i>"A renewal of a registration may be granted for any period not exceeding one year as the licensing authority determines save that –</i></p> <p><i>(a) subject to sub-paragraph (b), where the applicant for renewal has been granted an explosives certificate, a renewal of a registration may be granted for any period not exceeding the due expiry date of that explosive certificate where that date is later than that one year period; or</i></p> <p><i>(b) where the application for renewal of registration relates, whether solely or not, to the storage of smokeless powder, a renewal of registration may be granted for any period not exceeding five years".</i></p> | <p>Regulation 11(9) stipulates the maximum periods for which a licensing authority may grant a licence. The amendment makes clear that it is for the licensing authority to determine the length of the renewal. This brings the wording of Regulation 11(9) into line with the wording of Regulation 11(4).</p> <p>In line with the amendment to Regulation 11(4) , the amendment also extend the maximum period for which a regulation can be renewed in these cases, from three years to five.</p> | Again there would be a clear benefit to those affected but we have not sought to quantify this benefit. |

| Amendment to Regulation 13: grant of licences | | |
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| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| <p>(a) in paragraph (1) —</p> <p>(i) in sub-paragraph (b), for “three years” substitute “five years”; and</p> <p>(ii) in sub-paragraph (c), after “applies” insert “or would have applied but for the operation of regulation 27(4)”;</p> <p>Amended regulation would read:</p> <p><i>13.—(1) A licence, not being a renewal of a licence, may be granted for such period not exceeding two years as the licensing authority determines, save that —</i></p> <p><i>(a) subject to sub-paragraphs (b) and (c), where the applicant for the licence has been granted an explosives certificate, a licence may be granted for any period not exceeding the due expiry date of that explosives certificate if that date is later than that two year period;</i></p> <p><i>(b) subject to sub-paragraph (c), where the licence application relates, whether solely or not, to the storage of smokeless powder, a licence may be granted for such period not exceeding five years; or</i></p> <p><i>(c) in a case to which paragraph (3) applies or would have applied but for the operation of regulation 27(4), or the licence application relates only to the manufacture of ammonium nitrate blasting intermediate, a licence may be granted for any period or without a time limit.</i></p> | <p>This is a very similar amendment to the amendment to Regulation 11(4)(b) it would enable the police to grant licences for up to five years in cases where an explosives certificate is not required, instead of the present three years.</p> <p>The second amendment is made for the reasons discussed in the amendment to Regulation 5(2) ie Regulation 27(4) disapplies Regulation 13(3) in certain specified cases. The intention was to ensure that in these cases there was no need to go through the assent process. Unfortunately this had the unintended knock-on consequence of disapplying Regulation 5(2). The proposed amendment means that Regulation 5(2) applies where Regulation 13(3) applies or would have applied but for the effect of Regulation 27(4).</p> | <p>This is likely to be a clear benefit for a small number of people. We have not tried to quantify this benefit.</p> <p>If the second amendment were not made it would cause difficulties for those licences to which Regulation 27(4) applies.</p> |

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| <p>(b) in paragraph (5), after “licence shall”, insert “include conditions which”;</p> | <p>(see comments under proposed amendment to Regulation 9(2)(j))</p> | |
| <p>in paragraph (6), after “paragraph (3)” insert “or would have been required pursuant to that provision but for the operation of regulation 27(4)”;</p> | <p>This amendment is made for similar reasons to those given in the preceding entry. Regulation 13(6) sets out the conditions which the Executive may include in a licence. This includes conditions on separation distances. Without this amendment the executive would not be able to include these conditions.</p> | <p>None. However, if this amendment were not made it would cause difficulties for those licences to which Regulation 27(4) applies.</p> |
| <p>(b) in paragraph (9) — (i) for “up to one year”, substitute “up to two years as the licensing authority determines; and (ii) in sub-paragraph (a), for “one year period”, substitute “two year period”.</p> <p>Amended regulation would read: <i>“(9) A renewal of a licence may be granted for any period up to two years as the licensing authority determines”....</i> <i>“(a) subject to sub-paragraphs (b) and (c), where the applicant for the renewal has been granted an explosives certificate, a renewal of a licence may be granted for any period not exceeding the due expiry date of that explosives certificate where that date is later than that two year period”;</i></p> | <p>There are very similar amendments to Regulation 11 designed to make the wording of the provisions on the renewal of licences consistent with the provisions on their initial grant. The amendment to Regulation 13(9) is to make the wording of this provision on the renewal of registrations consistent with the wording of regulation 13(4) on the grant of registrations.</p> | <p>None. However, there would be costs to both licensing authorities and duty holders if we did not make these changes.</p> |
| <p>(iii) in sub-paragraph (b) — (aa) for “solely” substitute , “whether solely or not”; and (bb) for “three years” substitute “five years” and</p> | <p>This is a similar amendment to the amendment made to Regulation 11(9). It would enable the police to renew licences for up to 5 years. This would be consistent with the increased period for the initial grant of licences.</p> | |

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| <p>Amended regulation would read:</p> <p><i>(b) subject to sub-paragraph (c), where the licence renewal application relates whether solely or not to the storage of smokeless powder, a renewal of a licence may be granted for any period not exceeding five years; or</i></p> | | |
| <p>(iv) in sub-paragraph (c), after “original licence” where it first appears insert “or would have applied to an application for a licence but for the operation of regulation 27(4)”.</p> <p>Amended regulation would read:</p> <p><i>(c) where paragraph (3) applied to the application for the original licence or would have applied to an application for a licence but for the operation of regulation 27(4), or the application for the original licence related only to the manufacture of ammonium nitrate blasting intermediate, and the licence was granted for a certain period, a renewal of a licence may be granted for any period or without a time limit.</i></p> | <p>This amendment corrects an omission discussed in previous entries. Without this amendment licences to which 27(4) applies, could only be granted for a maximum of two years. The intention was that these licences would be granted for an indefinite period – as is the case for similar licences granted by HSE.</p> | <p>None. However if this amendment were not made there would be additional costs and or/or administration for the licensees concerned.</p> |
| <p>Amendment to Regulation 15: refusals of licences, registration and draft licences</p> | | |
| <p><i>Amendment</i></p> | <p><i>Comment</i></p> | <p><i>Impact</i></p> |
| <p>(a) in paragraph (1), after “regulation 18”, insert “and, in relation to paragraph (2)(a), subject to paragraphs (2A) and (2B),”; and</p> | <p>Regulation 11 sets out amounts of explosive that can be kept in registered premises. In contrast to a licence, the regulations do not provide for the registration to set out the</p> | <p>Our initial assessment is that on balance, this proposal would be cost neutral. The costs to business of operating with a reduced storage limit would be offset by the benefit in not having</p> |

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| <p>(b) after paragraph (2), insert —</p> <p>i(2A) Paragraph (2B) applies where, in relation to an application for registration, the only ground for refusing the application is the one referred to in paragraph (2)(a) but the licensing authority is also of the view that the proposed site, or within it, any place where the storage of explosives is to take place, would be suitable for that storage if the amount of explosives to be stored there were of an amount determined by the licensing authority which is less than the maximum amount permitted by regulation 11(1) for the kind or kinds of explosives to which the application relates.</p> <p>(2B) Where this paragraph applies —</p> <p>(a) the ground for refusal referred to in paragraph (2)(a) shall not apply;</p> <p>(b) regulation 11(2) shall apply in relation to the application as if there were no grounds for refusal;</p> <p>(c) the licensing authority shall specify the maximum amount of explosives which may be stored at the proposed site or a place within it, which, in their opinion, would have the effect that that site or place would be suitable for that storage; and</p> <p>(d) the applicant shall not store more than that specified amount.</p> <p>Amended regulation would read:</p> <p>“(1) Subject to regulation 18, and, in relation to paragraph (2)(a), subject to paragraphs (2A) and (2B), the licensing authority shall the licensing authority shall —</p> <p>(a) refuse an application for a licence or registration; and</p> <p>(b) where regulation 14(1) applies, refuse to issue the draft licence referred to in regulation 14(1),</p> | <p>maximum amount that can be kept at the site. At present, if a licensing authority took the view that the site was unsuitable for storage of the full amount permitted by Regulation 11 then the only alternative would be to refuse the registration. This amendment would permit the licensing authority to specify a reduced maximum amount as an alternative to refusal.</p> | <p>to find new premises in the event of a refusal of a licence or registration.</p> |
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| <p>where paragraph (2) applies.</p> <p>(2) This paragraph applies when the licensing authority is of the opinion that —</p> <p>(a) the proposed site or, within it, any place where the manufacture or storage of explosives is proposed to take place is unsuitable for that manufacture or storage; or</p> <p>(b) the applicant is not a fit person —</p> <p>(i) to store explosives, in the case of an application for registration or a licence to store explosives; or</p> <p>(ii) to manufacture explosives, in the case of an application for a licence to do so.</p> <p>ì(2A) Paragraph (2B) applies where, in relation to an application for registration, the only ground for refusing the application is the one referred to in paragraph (2)(a) but the licensing authority is also of the view that the proposed site, or within it, any place where the storage of explosives is to take place, would be suitable for that storage if the amount of explosives to be stored there were of an amount determined by the licensing authority which is less than the maximum amount permitted by regulation 11(1) for the kind or kinds of explosives to which the application relates.</p> <p>(2B) Where this paragraph applies —</p> <p>(a) the ground for refusal referred to in paragraph (2)(a) shall not apply;</p> <p>(b) regulation 11(2) shall apply in relation to the application as if there were no grounds for refusal;</p> <p>(c) the licensing authority shall specify the maximum amount of explosives which may be stored at the proposed site or a place within it, which , in their opinion, would have the effect that that site or place would be suitable for that storage;</p> | | |
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| <p>and (d) the applicant shall not store more than that specified amount.î.</p> | | |
| <p>Regulation 16: variation of licences</p> | | |
| <p>Amendment</p> | <p>Comment</p> | <p>Impact</p> |
| <p>(a) in paragraph (1)(b), after “13(3)” insert “, or would have been required but for the operation of regulation 27(4),”; and</p> | <p>See discussion on preceding entries.</p> | <p>None.</p> |
| <p>after paragraph (2), insert — î(2A) The licensing authority which grants a registration may vary it — (a) where there has been a change of circumstances such that the separation distances can no longer be maintained and a consequent reduction in the amount of explosives that may be stored is required so as to reduce that amount to a quantity specified by the licensing authority which is below the maximum amount referred to in regulation 11(1) for the kind or kinds of explosives concerned; (b) where the person registered is a company and the name of the company changes; (c) so as to change the period for which the registration is in force; (d) so as to reduce or increase any maximum amount specified pursuant to regulation 15(2B)(c); and (e) in relation to any of the matters it relates to, by agreement with the person registered”.</p> | <p>The amendment to Regulation 16 adds a provision that would enable a licensing authority to vary a registration. At the moment the regulations only permit it to vary a licence. .</p> | <p>Applicants are currently required to apply for a new registration when circumstances change. Proposals likely to result in reduced costs for applicants and simplified procedures.</p> |

| Regulation 17: revocation of licences and registration | | |
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| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| In regulation 17, at the end of paragraph (1)(b), insert “or”. | This amendment inserts an ‘or’ that was omitted. This is necessary to make clear that the three paragraphs of Regulation 17(1)(b) are alternatives | None, apart from correcting drafting error. |
| Regulation 18: Further provisions concerning refusals, variations and revocations | | |
| In regulation 18(1)(a), after “registration” insert “or a renewal of a licence or registration”. | This amendment makes clear that if a licensing authority wishes to a refuse to renew a licence or registration it must go through the process set out in Regulation 18. This is already implicit in the regulation; the amendment simply makes this point explicit. It is also consistent with the proposed wording of Regulation 19. | None apart form clarity and consistency. |
| Regulation 19: appeal against refusal or revocation of registration | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| For regulation 19, and the chapeau to that regulation, substitute — “Appeal against decisions concerning registrations 19. A person may appeal to the Secretary of State against a decision of a licensing authority — (a) refusing to register him, to renew his registration or to transfer to him a registration held | s44 of the Health and Safety at Work Act gives rights of appeal to anyone aggrieved by the decision of a licensing authority. The present regulations provides for rights of appeal in the event of a refusal or a revocation of a <i>registration</i> . This proposal would widen those rights of appeal for holders of registrations take account of decisions that could be made under the | This would give wider rights of appeal to holders of registrations. Assumed that this would be cost-neutral. |

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| <p>by another;</p> <p>(b) issuing him with a registration subject to a term or restriction which aggrieves him;</p> <p>(c) varying or refusing to vary his registration or a term of it; or</p> <p>(d) revoking his registration,</p> <p>and the provisions of section 44(2) to (6) of the 1974 Act (appeals in connection with licensing provisions) shall apply in respect of any such appeal.”</p> | <p>amended regulations especially the amended provisions on the transfer or variation of a registration or the provision enabling a licensing authority to restrict the amount that can be stored.</p> | |
| <p>Regulation 20: transfer of licences and registration</p> | | |
| <p><i>Amendment</i></p> | <p><i>Comment</i></p> | <p><i>Impact</i></p> |
| <p>For regulation 20, substitute –</p> <p>20.—(1) A licence or registration may be transferred in writing by the licensing authority which issued the licence or registration to any other person who wishes to manufacture or store explosives in place of the licensee or the person who is registered and who applies to the licensing authority for the transfer.</p> <p>(2) A licensing authority shall grant an application for a transfer of a licence or registration unless it is of the opinion that the applicant is not a fit person —</p> <p>(a) to store explosives, in the case of an application to transfer a registration or a licence to store explosives; or</p> <p>(b) to manufacture explosives, in the case of an application to transfer a licence to do so.</p> <p>(3) A refusal to transfer a licence or registration shall be treated for the purposes of these Regulations as a refusal of an application for, respectively, a licence or registration and the provisions of regulation 18</p> | <p>This amendment made has been made to meet concerns raised by the Joint Committee on Statutory Instruments in its report on the Manufacture and Storage of Explosives (Northern Ireland) Regulations (reference HL Paper 12/HC 82-iii). The concern raised by the JCSI and that the current provision could permit a transfer to someone who, if they had to apply for a licence in their own right, was not a fit person in the view of the licensing authority.</p> | <p>Under the present regulations licensees can transfer a licence simply by notifying the licensing authority. Under the new proposal they would need to apply to the licensing authority to have the licence transferred. There would be some additional costs to both licensees and dutyholders. However, it is assumed that under the present arrangements, licensing authorities would exercise a degree of scrutiny of transfers notified to them and that in principle the proposal should not in practice significantly increase the amount of work involved. We have assumed that 50 licences or registrations are transferred annually, and that this would involve an average of 30 minutes of time for both the transferor/transferee and the licensing authority</p> |

| | | |
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| <p>shall apply to any such refusal to transfer as if the references in that regulation to “refuse an application for a licence or registration “ included refusing to transfer a licence or registration.î</p> | | |
| <p>Regulation 21: death, bankruptcy or incapacity</p> | | |
| <p><i>Amendment</i></p> | <p><i>Comment</i></p> | <p><i>Impact</i></p> |
| <p>(In regulation 21(1) – a) for “terms”, substitute “conditions”; and</p> | <p>(see comments under proposed amendment to Regulation 9(2)(j))</p> | <p>None.</p> |
| <p>(b) for “or registration” where it first appears, substitute “or the terms of his registration”; and (c) in sub-paragraph (a), for “28 days from”, substitute “a period of 60 days starting with the date of” and omit “or”; and (d) in sub-paragraph (b), at the end insert “; or (c) the transfer of, or a refusal to transfer, a licence or registration,î Amended regulation would read: <i>“(1) If a licensee or registered person dies or becomes incapacitated, a person manufacturing or storing explosives in accordance with the conditions of the first-named person’s licence or the terms of his registration shall be treated as being licensed or registered in accordance with the first-named person’s licence or registration until either —</i> <i>(a) the expiration of a period of 60 days starting with the date of such death or incapacity;</i> <i>(b) the grant or refusal of a new licence or registration; or</i> <i>(c) the transfer of, or a refusal to transfer, a</i></p> | <p>Regulation 21 currently provides a 28-day period of grace in the event of death or incapacity for someone else to take over the running of the business. This amendment provides a longer period to take account of the amendments to Regulation 20.</p> | <p>This would provide a benefit in such cases however we believe these would be rare and have not attempted to quantify this benefit.</p> |

| | | |
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| <p><i>licence or registration, whichever is the earlier.</i></p> <p><i>(2) If a licensee or registered person becomes bankrupt or, in the case of a company, goes into liquidation or receivership or has a receiving order made against it, any receiver, trustee in bankruptcy or liquidator shall be treated as being the licensee or registered person”.</i></p> | | |
| <p>Regulation 25A : information as to net mass of pyrotechnic articles</p> | | |
| <p><i>Amendment</i></p> | <p><i>Comment</i></p> | <p><i>Impact</i></p> |
| <p>After regulation 25, insert- 25A. Where the manufacturer, importer or supplier of a pyrotechnic article specifies its net mass of explosive on the pyrotechnic article, its packaging or in a document accompanying the pyrotechnic article, he shall ensure, so far as is reasonably practicable, that the net mass of the explosive in that pyrotechnic article does not exceed the amount he so specifies on, as the case may be, the pyrotechnic article, the packaging or that document.†</p> | <p>The maximum amounts that may be stored under a licence or registration are based on the net mass of explosive contained in the explosive article. In the case of fireworks or other pyrotechnic articles the net mass of explosive is assumed to be one quarter of the gross weight unless the supplier provides more specific information – for example that the explosive composition of a certain article was only one sixth of the gross weight.</p> <p>The proposed regulation would place a duty on the manufacturer, importer, or supplier, to ensure that any such information is, so far as is reasonably practicable, does not understate the stated amount.</p> | <p>It is assumed that this proposal is cost neutral in that dutyholders have the option of relying on the default assumption about the net mass as a proportion of the gross.</p> |

| Regulation 27 | | |
|--|---|---------------|
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| Regulation 27(18) is revoked. | The original regulations included a provision revoking Order in Council No 9. of the 27 November 1875. However, regulation 27(18) states that Order in Council No 9 should continue in effect – and therefore contradicts the revocation. This amendment would correct this error and avoid any uncertainty over the continuing status of Order in Council No 9. | |
| Schedule 1: meaning of licensing authority | | |
| <i>Amendment</i> | <i>Comment</i> | <i>Impact</i> |
| in paragraph 1, in sub-paragraph (a)(iii), for 'at a mine' substitute 'on the surface at a mine, whether in a building or not'; Amended sub-paragraph would read: <i>"(iii) the Executive where the explosives are to be stored on the surface at a mine, whether in a building or not....."</i> | Schedule 1 sets out enforcement and licensing responsibilities and gives the HSE responsibility for mines. The intention had been to make HSE responsible for the enforcement of the regulations above ground at a mine (in line with its responsibilities below ground). However, this is at odds with the definition of a mine in Regulation 2 which defines the mine as the workings below ground. The amendment clarifies this issue. | None |
| in paragraph 3, after "manufacture" insert "explosives to which paragraph (1) of regulation 9 applies". Amended paragraph would read: <i>"Where a person wishes to manufacture explosives</i> | The intention behind the original regulation was to have a single licence covering both manufacture and storage at sites where HSE had granted a licence for manufacture (ie to end the practice of having LA-registered stores at | None |

| | | |
|---|---|--|
| <p><i>to which paragraph (1) of regulation 9 applies and store explosives at the same site, the Executive shall be the licensing authority in respect of any application for a licence relating to that site and the reference to “an application” in paragraph 1(c) includes any such application”.</i></p> | <p>HSE-licensed manufacturing sites). However there may be cases where the site operator is doing work that falls within the definition of manufacture but where an HSE manufacturing licence is not required. The intention is to exclude such sites from paragraph 3.</p> | |
| <p>In Schedule 4 — for paragraph 2(g), substitute — ì(g) where separation distances are required by regulation 5 or a condition of the licence to be maintained around the store or the building where explosives are manufactured, a plan in a suitable scale sufficient to show those separation distances.î</p> | <p>The present regulation requires ‘a plan in a suitable scale sufficient to show the separation distances required...’. The amended regulation would more clearly exclude premises that are not subject to any separation distances.</p> | <p>None apart from improved clarity.</p> |
| <p>(b) in paragraph 4, omit îonlyî in both places where it appears. Amended regulation would read: <i>Subject to paragraph 7, where the licence or registration relates to explosives which require an explosives certificate under the Control of Explosives Regulations 1991, the licensing authority shall</i> <i>(a) ensure that the information referred to in paragraph 2(a) to (d) in respect of that licence or registration is available for inspection at an office of the licensing authority, at all reasonable times and free of charge, by a person who resides or, in the case of an undertaking, is situated within a public consultation zone concerned in relation to the licence or registration; and</i> <i>(b) provide a copy of the entry in the register relating to the information referred to in subparagraph 2(a) to (d) in respect of that licence or registration to</i></p> | <p>This amendment follows discussions with the Department of Justice about the relationship between paragraph 4 of Schedule 4 and the Freedom of Information Act. It was felt that this was a prohibition that was in conflict with the Act. That was not the intention and it was agreed to delete the word only, as it was unnecessary and gave a misleading impression. Without the word ‘only’ the provision requires the police to make available certain information to people living in the vicinity of explosives sites and does no more than that.</p> | <p>None</p> |

such a person as is referred to in sub-paragraph (a) who requests a copy and pays a charge which shall not exceed the reasonable cost of providing the copy.

Summary: Intervention & Options

| | | |
|---|---|-----------------------------|
| Department /Agency: Health and Safety Executive | Title: Impact Assessment of Health and Safety (Miscellaneous Amendments and Revocations) Regulations 2008 | |
| Stage: Initial assessment | Version: Final | Date: 1 October 2007 |
| Related Publications: | | |

Available to view or download at:

<http://www.>

Contact for enquiries: Andy Miller HSE

Telephone: 020 7717 6345

What is the problem under consideration? Why is government intervention necessary?

The proposals are intended to:

- reduce the administrative burden resulting from explosives legislation;
- correct issues that have arisen since the new regulations on the manufacture and storage of explosives;
- revoke redundant and outdated local mining regulations;
- correct an omission in the control of noise at work regulations.

What are the policy objectives and the intended effects?

The amendments are intended to:

- reduce administrative burdens on the police and on dutyholders;
- ensure that the regulations on manufacture and storage of explosives and on the control of noise at work regulations operate as intended by correcting omissions and anomalies;
- remove redundant and outdated legislation from the statute book.

What policy options have been considered? Please justify any preferred option.

There are two options; to make the proposed amendments to the regulations or do nothing. Currently the administrative burden on the private sector (duty holders) and public sector are higher than necessary. Savings can be made which would not be realised if we were to follow the 'do nothing' option.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

We intend to review the operation of the amendments in 3 years time.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option: final proposal

Description: Costs and benefits of the amending regulations and supplementary provisions

| | | | |
|--|---|------------|---|
| COSTS | ANNUAL COSTS | | Description and scale of key monetised costs by 'main affected groups' The main costs are the costs of the processing the initial notifications by those explosives certificate holders notifying their police force that they wish to take advantage of the disapplication from the need to hold an explosives certificate. . |
| | One-off (Transition) | Yrs | |
| | £ 151,0000 | 1 | |
| | Average Annual Cost (excluding one-off) | | |
| | £ 0 | | Total Cost (PV) £ 151,0000 |
| Other key non-monetised costs by 'main affected groups' . | | | |

| | | | |
|---|--|------------|---|
| BENEFITS | ANNUAL BENEFITS | | Description and scale of key monetised benefits by 'main affected groups' The main benefits derive from reducing the numbers of explosives certificate holders as well as proposals to extend the duration of explosives certificates. |
| | One-off | Yrs | |
| | £ 0 | 30 | |
| | Average Annual Benefit (excluding one-off) | | |
| | £ 62,200 | | Total Benefit (PV) £ £1,866,000 |
| Other key non-monetised benefits by 'main affected groups' | | | |
| There are also benefits to certificate holders from reduced paperwork. These are difficult to quantify. | | | |

Key Assumptions/Sensitivities/Risks The key assumption is the proportion of holders of explosives certificates who will choose to make use of the proposed disapplication. A second key assumption is that police forces will make full use of the provisions enabling them to grant certificates, licences and registrations for up to 5 years.

| | | | |
|-------------------------|-------------------------|--|--|
| Price Base Year 2007 | Time Period Years 30 | Net Benefit Range (NPV) £ | NET BENEFIT (NPV Best estimate) £ 1,715,000 |
|-------------------------|-------------------------|--|--|

| | | | | |
|---|-------------------|-------------------|--------------------|-------------------|
| What is the geographic coverage of the policy/option? | Great Britain | | | |
| On what date will the policy be implemented? | 6 April 2008 | | | |
| Which organisation(s) will enforce the policy? | police and HSE | | | |
| What is the total annual cost of enforcement for these organisations? | £ no additional | | | |
| Does enforcement comply with Hampton principles? | Yes | | | |
| Will implementation go beyond minimum EU requirements? | N/A | | | |
| What is the value of the proposed offsetting measure per year? | £ 0 | | | |
| What is the value of changes in greenhouse gas emissions? | £ 0 | | | |
| Will the proposal have a significant impact on competition? | No | | | |
| Annual cost (£-£) per organisation (excluding one-off) | Micro 0 | Small 0 | Medium 0 | Large 0 |
| Are any of these organisations exempt? | No | No | N/A | N/A |

| | | | |
|---|-----|-----------------------|------------|
| Impact on Admin Burdens Baseline (2005 Prices) | | (Increase - Decrease) | |
| Increase of | £ 0 | Decrease of | £ 0 |
| | | Net Impact | £ 0 |

Key:

Annual costs and benefits: Constant Prices

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Health and Safety (Miscellaneous Amendments and Revocations) Regulations - Impact Assessment

SUMMARY OF PROPOSALS

Amendments to the Control of Explosives Regulations

- The principal proposed amendments to the Control of Explosives Regulations are as follows:
 - a provision that holders of Firearm and Shotgun Certificates would be able to hold a small quantity of black powder (gunpowder) for use with their weapons, provided certain conditions are met;
- an increase in the maximum period of validity for 'acquire-only' certificates from 1 year to 5 years;
- an increase in the maximum period of validity for 'acquire-and-keep' certificates from 3 years to 5 years.

The proposal to increase the maximum life of the acquire-and-keep certificate would have benefits for the 500 sites storing explosives under licences or registrations where the police are the licensing authority. The life of these permits is tied to the life of the explosives certificate. Increasing the life of the explosive certificate would in turn enable the life of the storage licence or registration to be extended. At HSE sites the licence is granted on an indefinite basis so there would be no consequent benefit from these sites – although they would benefit from the extension of the life of certificates.

Amendments to the Manufacture and Storage of Explosives Regulations

The amendments to the Manufacture and Storage of Explosives Regulations address a number of issues that have become apparent since the regulations came into force. In the main the changes are addressing drafting anomalies and other issues however there are some aspects of the proposals that would involve changes to the requirements.

The main substantive changes are:

- changes to the mechanism for transferring a licence to give the licensing authority the power to refuse a transfer where the transferee is not a fit person to manufacture and/or store explosives;
- changes to enable licensing authorities to vary a registrations and, in certain circumstances, further limit the amount of explosives that can be stored at a registered store;
- a proposed new duty on the accuracy of the labelling or other information about the amount of explosive contained in fireworks. This information is used by storeholders to assist them in keeping within the limits set out in their registration or licence.

Revocation of local mining regulations

The proposals would also revoke 224 sets of local mine regulations (ie specific to one mine). In the large majority of cases, the mine closed some time ago.

The proposals would amend the Control of Noise at Work Regulations Revocation to correct an oversight in the original regulations by including a requirement for hearing protection to bear a CE mark certifying compliance with the Personal Protective Equipment Regulations 2002.

It is also proposed to revoke the local regulations at 20 working mines. The main reasons for this are that:

- the regulations are in most cases outdated – referring to working systems and /or equipment that are no longer in use.
- they are also inconsistent in approach with current legislation – especially the regulations on the Control of Substances Hazardous to (COSHH);
- there are inconsistencies between the regulations which can cause problems for companies with several mines each operating under its own local regulations.

Amendments to control of Noise of Work Regulations

The costs and benefits of the Control of Noise at Work Regulations 2005 are detailed in the final regulatory impact assessment for these regulations and are available at <http://www.hse.gov.uk/noise/noise.pdf> . This RIA assumed that the duty to comply with product safety legislation was in the regulations. HSE's guidance on the selection of hearing protection already recommends that employers should ensure hearing protection for use at work conforms to product safety legislation and is CE marked. This amendment will reintroduce that expectation into the regulations as is required by European Community law and as was the case with the Noise at Work Regulations 1989.

Given that the final RIA for the Control of Noise at Work Regulations 2005 assumed that this duty was in the regulations and given that it is already HSE guidance and good practice that hearing protection supplied for use at work conforms to the requirements product supply legislation etc the costs and benefits of this amendment costs over and above those set out in the final RIA for the Control of Noise at Work Regulations 2005 should be nil or negligible. Therefore a detailed regulatory impact assessment for this amendment has not been prepared.

SUMMARY OF IMPACT

Reduction in number of explosives certificate holders

The most significant cost savings are likely to result from the reduction in the number of people who are required to hold an explosives certificate as well as a Firearms and Shotgun Certificate. It is estimated that some 9,000 current explosives certificate holders could benefit from this proposal. At present there is no fee for these certificates – so the cost savings would be primarily for the public sector – although the proposal would also reduce the paperwork requirements for certificate holders as well.

Certificate holders wishing to benefit from this provision would need to notify the police. There would therefore be an initial one-off cost from introducing the policy which would need taken into account

Increase in the maximum period of validity for explosives certificates

There would be a benefit to both the public sector and the private sector from the reduction on administration resulting from a move to extend the life of explosives certificates from three years to five. However, it should be borne in mind that the costs of administering these certificates is not just the cost of the work involved in the initial grant or renewal but also in follow-up visits. The fees set for explosives certificates include assumptions about the average number and duration of interim visits during the life of the certificate. Moving to certificates with a duration of five years would mean that the number of interim visits would increase (eg if the visits were carried out annually there would be 5 visits during the life of a five-year certificate as opposed to three during the life of a 3-year certificate. These costs would be reflected in the fact that the fee for a five-year certificate would be more than the fee for a three-year certificate although that fee would nevertheless reflect the savings from reduced paperwork.

The detailed calculations are set out below under the heading Costs and Benefits.

Most acquire-only certificates are granted to re-enactors for use of powder at re-enactment events. Many of these would be covered by the exemption from the need to have an explosives certificate and we would expect the number of acquire-only certificates to fall to less than 10 per

cent of the current total of about 2550. There are a small number (around 100) private firms operating under acquire-only certificates. Given that other companies using explosives have to pay for their certificates, it is HSE's intention to introduce fees for these companies. These fees would reflect the true cost to the police of issuing these certificates. The cost saving to the public sector would be offset by an increase in costs to the private sector.

Increasing the period of validity for storage licences and registrations

The increase in the maximum life of the explosives certificate would also enable an increase in the maximum period of validity for MSER registrations and licences granted by the police to people who also hold an explosives certificate.

Again there would be a saving from reduced administration even though the fee for the five-year licence or registration would need to reflect the cost of a greater number of interim visits.

Amendments to the Health and Safety Enforcing Authority Regulations

The amendments to the Health and Safety Enforcing Authority regulations correct omissions in the original regulations. The effect of these amendments is to give the enforcement responsibility to the authority with responsibility for enforcing MSER rather than the authority given general responsibility for enforcing health and safety legislation at that site (eg the HSE at a factory or construction site or the local authority at a warehouse).

It is assumed that this measure will be cost-neutral.

Amendments to the Manufacture and Storage of Explosives Regulations 2005

The majority of the amendments to MSER would be cost-neutral. This section picks out the major potential exceptions.

Amendment to provisions on the transfer of licences.

Under the present regulations, licensees can transfer a licence simply by notifying the licensing authority. Under the new proposal they would need to apply to the licensing authority to have the licence transferred. There would be some additional costs to both licensees and dutyholders. However, it is assumed that under the present arrangements, licensing authorities would exercise a degree of scrutiny of transfers notified to them and that in principle the proposal should not in practice substantially increase the amount of work involved.

Information on the net mass of explosive articles

At present the regulations state that in the case of pyrotechnic articles, the net mass of explosive in the article is deemed to be one quarter of the gross weight unless the importer or supplier gives specific information about the net explosive content. This gives importers and suppliers the *option*, where the explosive makes up a lower proportion of the gross weight, of specifying the net mass of the explosive content. This is not required but the importer or other supplier has a commercial interest in providing this information in that in many cases it would enable them to make fewer transport journeys as a greater (gross) quantity could be delivered to customers – meaning that fewer deliveries are needed.

This however brings with it an incentive to understate the quantity contained in the item. The regulations therefore include a proposal for a regulation which would create a duty to ensure that the weight stated does not understate the actual mass of explosive. This regulation has been formulated in this way in order to avoid penalising an importer who intentionally avoids errs on the side of caution in order to avoid understating the net content. It is assumed that this proposal is cost neutral in that dutyholders have the option of relying on the default assumption about the net mass as a proportion of the gross.

Revocation of local mining regulations

The proposals would revoke 224 sets of local mining regulations. In most cases the mines have now closed so the measure will be cost-neutral (ie both costs and benefits will be zero). There are 23 cases where the mine is still open. There will be benefits in terms of greater flexibility and from the fact that owners of groups of mines operating under these regulations will be able to

operate within the same regulatory framework across all of these mines. However, because of the small number of mines involved, and the fact that the benefits are likely to be fairly small, we have not sought to estimate those benefits.

COSTS AND BENEFITS

We have not rounded the figures given below, but it is important to remember that these are estimates.

The assumptions used are set out below if you would like a copy of the spreadsheet with the detailed calculations please contact HSE at explosives.policy@hse.gsi.gov.uk

Benefits

Key assumptions and sensitivities –

Assumed hourly rate for police staff:

Explosives Liaison Officer £50/hour

Administration Officer £22/hour

We have assumed that 90 per cent of explosives certificate holders will make use of the proposed disapplications. Both benefits and costs would be reduced if the proportion is lower.

The numbers of sites are estimated as follows:

| | |
|--|-------------|
| Number of licensed stores | 250 |
| Number of registered stores | 350 |
| Number of HSE-licensed sites | 100 |
| Number of acquire-only certificates | 2500 |
| Number of Acquire and Keep certificates | 6500 |

These estimates are based on information provided by the Association of Chief Police Officers.

Benefits from disapplying the requirement to hold an explosives certificate from certain firearm certificate holders.

Exemption from requirement to hold an explosives certificate

| | |
|--|-----------------|
| Current cost to police of issuing acquire-and-keep certificate co-terminous with firearm and shotgun certificate (per certificate) | £21 |
| Current cost of issuing an acquire-only certificate (per certificate) | £21 |
| Annual saving from reduction in number of acquire-and-keep certificates | £40,502 |
| Annual saving from reduction in number of acquire-only certificates | £37,386 |
| Total annual saving | £77,888 |
| Initial implementation cost (per certificate holder) | £19 |
| Total initial implementation cost | £150,790 |

Assumptions

It is assumed that 90 percent of current holders of acquire and keep certificates (total number 6500) and of acquire-only certificates (2500) will wish to take advantage of this provision.

The assumptions about the cost of the acquire-only and acquire-and-keep certificates are based on the following estimates of the time taken to issue these documents. These are:

| | |
|--|------------|
| Explosive Liaison Officer time (at £50 per hour) | 12 minutes |
| Administrator time (at £22 per hour) | 30 minutes |

The initial implementation costs are based on the following estimates of time taken to receive and process the application by the police:

| | |
|--------------------|------------|
| ELO time | 12 minutes |
| Administrator time | 24 minutes |

Benefit from move to 5-year acquire-only certificate

This proposal will reduce the costs of administering the certificates for the remaining holders of acquire-only certificates.

Five-year acquire-only certificates

| | |
|---|----------------|
| Current cost to police of issuing certificate (per certificate) | £61 |
| Total annual saving from move to issue every 5 years | £12,154 |
| Assumed cost of 5-year acquire-only | £161 |
| Additional annual cost to dutyholders | £4,019 |
| Net annual benefit | £8,135 |

Assumptions

We have assumed that 10 per cent of the 2500 holders of acquire-only certificates will continue to require such a certificate. There would then be a benefit to the public sector from the savings of police time. However, this would be offset by the proposed fee for the issue of these certificates for business purposes. For the purpose of this analysis we have assumed that 5 per cent of the current total number of acquire-only certificate holders are businesses who would pay a fee under the new arrangements (and the remainder would continue as at present to receive these at no charge).

The cost of issuing these certificates is based on the following assumptions

| | Annual certificate | Five-year certificate |
|--------------------|--------------------|-----------------------|
| ELO time | 1 hour | 3 hours |
| Administrator time | 30 minutes | 30 minutes |

Benefit from moving to 5-year acquire-and-keep explosives certificates

Five year acquire-and-keep certificates

| | |
|--|---------------|
| Cost of 3-year acquire-and-keep for person with registered store | £136 |
| Cost of 3-year acquire-and-keep for person with licensed store | £161 |
| Cost of 5-year acquire-and-keep for person with registered store | £186 |
| Cost of 5-year acquire-and-keep for person with licensed store | £211 |
| Cost of 3- year acquire-and-keep for a site licensed by HSE | £211 |
| Cost of 5-year acquire-and-keep for a site licensed by HSE | £261 |
| Annual saving over 15 years for a site with a registration | £8 |
| Annual saving over 15 years for a site with a licence | £11 |
| Annual saving over 15 years for a site with an HSE licence | £18 |
| Total annual saving | £7,839 |

Assumptions

As noted above, the move to increasing the maximum life of the explosive certificates would also enable an increase in the life of the registration or licence granted by the police under MSER (HSE licences are granted for an indefinite period).

We have assumed that the total numbers of certificate holders affected by this proposal is 700 comprised of:

350 police-registered stores

250 police-licensed stores

100 HSE-licensed stores

We have calculated the savings over a period of 15 years by deducting the cost of three 5-year certificates from the cost of five 3-year certificates.

The unit costs for the various type of certificate have been estimated using the following assumptions about the amount of time involved for administration and interim visits

| | | |
|--|------------|------------|
| 3-year acquire-and-keep for person with registered store | ELO time | 2.5 hours |
| | Admin time | 30 minutes |
| 3-year acquire-and-keep for person with licensed store | ELO time | 3 hours |
| | Admin time | 30 minutes |
| 5-year acquire-and-keep for person with registered store | ELO time | 3.5 hours |
| | Admin time | 30 minutes |
| 5-year acquire-and-keep for person with licensed store | ELO time | 4 hours |
| | Admin time | 30 minutes |
| 3- year acquire-and-keep for a site licensed by HSE | ELO time | 4 hours |
| | Admin time | 30 minutes |
| 5-year acquire-and-keep for a site licensed by HSE | ELO time | 5 hours |
| | Admin time | 30 minutes |

Benefit from moving to 5-year registrations and storage licences

We have calculated the savings from this proposal using the same method and assumptions.

Increase maximum period of validity from 3 to 5 years

| | |
|--|---------------|
| Cost of renewal registration for 3 years | £94 |
| Cost of renewal licence for 3 years | £179 |
| Cost of 5-year renewal registration | £129 |
| Cost of 5-year renewal licence | £229 |
| Annual saving over 15 years for a site with a registration | £6 |
| Annual saving over 15 years for a site with a licence | £14 |
| Total annual savings | £4,190 |

The estimated costs for the licences/registrations are based on the following time estimates:

| | | |
|--|------------|-------------------|
| Cost of renewal registration for 3 years | ELO time | 1 hour 48 minutes |
| | Admin time | 12 minutes |
| Cost of renewal licence for 3 years | ELO time | 3.5 hours |
| | Admin time | 12 minutes |
| Cost of 5-year renewal registration | ELO time | 2.5 hours |
| | Admin time | 12 minutes |
| Cost of 5-year renewal licence | ELO time | 4.5 hours |
| | Admin time | 12 minutes |

Please note that these are the estimated times for renewals. More time required for the initial grant of the licence or registration; however this difference has been ignored.

Summary table

Annual Benefits (not discounted)

| | |
|---|----------------|
| Disapplication of explosives certificate requirements | £77,888 |
| Increase in duration of acquire-only-certificates | £8,135 |
| Increase in duration of acquire-and-keep certificates | £7,839 |
| Increase in duration of MSER registrations and licences | £4,190 |
| Total | £98,051 |

Discounted costs and benefits

| | |
|---------------------------|-------------------|
| Total discounted benefits | £2,390,000 |
| Total discounted costs | £151,000 |
| Net benefits | £2,239,000 |
| Annual net benefit | £74,600 |

Competition analysis

The markets involved are:

- blasting explosives;
- fireworks;
- the extractive industries.

The proposals will not increase entry costs (or exit) costs – while 5 year explosives certificates and licences and registrations will be available, it will be open to firms to apply for a shorter period. Firms wishing to surrender their explosives certificates or registrations and licences will also be able to apply for a refund in respect of the unused portion.

The proposals will not favour or disadvantage any firm or type of firm or affect their ability to compete with others in the same market.

Small firms

It is not anticipated that the proposals will have any disproportionate impact on small firms – if anything, in so far as the proposals will reduce paperwork they may benefit small firms.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

| Type of testing undertaken | <i>Results in Evidence Base?</i> | <i>Results annexed?</i> |
|----------------------------|----------------------------------|-------------------------|
| Competition Assessment | Yes | Yes |
| Small Firms Impact Test | Yes | Yes |
| Legal Aid | Yes | Yes |
| Sustainable Development | Yes | Yes |
| Carbon Assessment | Yes | Yes |
| Other Environment | Yes | Yes |
| Health Impact Assessment | Yes | Yes |
| Race Equality | Yes | Yes |
| Disability Equality | Yes | Yes |
| Gender Equality | Yes | Yes |
| Human Rights | Yes | Yes |
| Rural Proofing | Yes | Yes |

Competition –

There are no implications for competition

Small Firms Impact Test –

The proposals will have no disproportionate effect on small firms

Legal Aid

Not applicable – the proposals do not create new criminal sanctions or civil penalties

Sustainable development

The proposals have no implications for sustainable development.

Environmental Impact

The policy will not:

- lead to a change in the emission of greenhouse gases;
- be vulnerable to the predicted effects of climate change;
- impact significantly on air quality;
- involve a material change to the appearance of the landscape or townscape;
- change either the degree of water pollution or levels of abstraction of water or exposure to flood risk;
- disturb or enhance habitat or wildlife;
- affect the number of people exposed to noise or the levels to which they are exposed

Health Impact Assessment

The policy will have no significant impact on human health by virtue of its effects on the following wider determinants of health: income; crime; environment; transport; housing; education; employment; agriculture; or social cohesion

The policy will have no significant impact on any of the following lifestyle related variables: physical activity; diet; smoking, drugs, or alcohol use; sexual behaviour; accidents and stress at home or work

The policy will not impact on any of the variables that influence the probability of an individual becoming more or less healthy.

The policy will not result in a significant demand on any of the following health and social care services: primary care; community services; hospital care; need for medicines; accident or emergency attendances; social services; a health protection and preparedness response; likely contacts with health and social service provision.

Race Equality Impact Assessment

The consequences of the policy will not differ according to people's racial group, for example, because they have particular needs, experiences or priorities?

There is no reason to believe that people could be affected differently by the proposed policy, according to their racial group, for example in terms of access to a service, or the ability to take advantage of proposed opportunities.

There is no evidence that any part of the proposed policy could discriminate unlawfully, directly or indirectly, against people from some racial groups.

There is no evidence that people from some racial groups may have different expectations of the policy in question.

The proposed policy is unlikely to affect relations between certain racial groups, for example because it is seen as favouring a particular group or denying opportunities to another.

The proposed policy likely to damage relations between any particular racial group (or groups) and HSE.

The policy is not relevant to the race equality duty.

Carbon assessment –

The proposals have no significant impact on emissions of greenhouse gases

Disability Impact Assessment

This policy has no impact on disability equality.

Gender Impact Assessment

The proposals will not affect man and women differently, or have any impact positive or negative on life chances or on gender stereotyping.

Human Rights –

The proposals will not engage with anyone's convention rights.

Rural proofing

The proposals will not have any significant differential impact in rural areas

Proposals for Health and Safety (Miscellaneous Amendment and Revocations) Regulations

The full text of this and other
Consultative Documents can be viewed
and downloaded from the
Health and Safety Executive web site on the
internet: www.hse.gov.uk/consult/index.htm

Consultative Documents are available from:

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Printed and published by
the Health and Safety Executive

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CD214

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