STATUTORY RULES OF NORTHERN IRELAND

2010 No. 143

HEALTH AND SAFETY

The Identification and Traceability of Explosives Regulations (Northern Ireland) 2010

Made - - - -	*31st March 2010*
Coming into operation	*5th April 2012*
To be laid before Parliament	

The Secretary of State makes these Regulations in exercise of the powers conferred on him by Article 17(1), (2), (3)(c), 4(b) and (5) and 55 (2) of, and paragraphs 1(1) and (4), 2, 5(1), 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978 (**1**) ("the 1978 Order"), as applied and modified, in relation to explosives, by Article 53 of the 1978 Order. In accordance with Article 46(1) (**2**) of the 1978 Order, as so applied and modified, the Secretary of State has consulted with the Health and Safety Executive for Northern Ireland and such other bodies as appear to the Secretary of State to be appropriate.

Citation and commencement

1. These Regulations may be cited as the Identification and Traceability of Explosives Regulations (Northern Ireland) 2010 and shall come into operation on 5th April 2012.

Interpretation

2.—(1) In these Regulations —

"Class 1" means Class 1 in respect of explosives or the classification of dangerous goods as set out in the UN Recommendations;

"distributor" means a person in the supply chain, other than a manufacturer or an importer, who makes an explosive available on the market and "distributes" and "distribution" shall be construed accordingly;

"explosive" means an explosive article or substance which has been classified in accordance with the UN Recommendations as falling within Class 1;

"explosive article" means an article containing one or more explosive substances;

"explosive substance" means —

(**1**) S.I 1978/1039 (N.I.9)
(**2**) Article 46 (1) was amended by S.I. 1998/2795 (N.I. 18) Article 6 (1) and paragraph 18 of Schedule 1.

(a) a solid or liquid substance, or

(b) a mixture of solid or liquid substances or both,

which is capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings or which is designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as a result of non-detonative, self-sustaining, exothermic chemical reactions;

"manufacture" includes —

(a) in relation to explosive articles, their repair, modification, disassembly or unmaking; and

(b) in relation to explosive substances, their reprocessing, modification or adaptation;

"site", in relation to the definition of "transfer" and regulation 5(2) means the whole area under the control of the same person and, for these purposes—

(a) all places adjoining each other under the control of the same person shall be treated as a whole area; and

(b) two or more areas under the control of the same person separated only by a road, railway or inland waterway shall be treated as a whole area;

"transfer" means any physical movement of explosives apart from movement within one site; and

"UN Recommendations" means the United Nations Recommendations on the Transport of Dangerous Goods (based on those originally prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods considered by the Economic and Social Committee of Experts at its twenty-third session (Resolution 645G (XXIII) of 26th April 1957))(**3**) as revised or reissued from time to time.

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

(3) Where explosive is transported (including being loaded or unloaded and during breaks which are reasonably incidental to completing the journey within a reasonable length of time), the explosive shall not be treated as being kept or acquired by a person who has possession of it only by reason of being —

(a) a carrier;

(b) a person engaged in the work of loading or unloading; or

(c) the occupier of a place through which it passes while on the journey.

Application

3.—(1) These Regulations apply to every explosive except the following —

(a) ammunition the acquisition of which is regulated or prohibited by virtue of the Firearms (Northern Ireland) Order 2004(**4**);

(b) an explosive which it is shown is intended for lawful use by the armed forces or the police of any country;

(c) a pyrotechnic article;

(d) an explosive which is transported and delivered without packaging or in a mobile explosives manufacturing unit for its direct unloading into the blast-hole; and

(e) an explosive which is used immediately at the place of manufacture.

(**3**) Current edition (1997): ISBN 92-1-139057 5.
(**4**) S.I 2004 No. 702 (N.I. 3)

(2) In this regulation —

(a) "mobile explosives manufacturing unit" means a unit, or vehicle mounted with a unit, for manufacturing and charging explosives from dangerous goods that are not explosives, with the unit consisting of various tanks, bulk containers and related equipment;

(b) "pyrotechnic article" means any article containing explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustaining exothermic chemical reactions.

Unique identification

4.—(1) Subject to paragraphs (3) and (4), any person who manufactures an explosive shall as soon as is practicable after that manufacture and before transfer of the explosive —

(a) mark each explosive item in respect of the explosive, with a unique identification in accordance with Schedule 2;

(b) where an associated label in respect of that marking is required by that Schedule, attach the label in accordance with those requirements; and

(c) where a passive inert electronic tag or associated tag is to be applied in respect of that marking, place that tag in accordance with the applicable provisions of that Schedule.

(2) The unique identification shall —

(a) comprise the components described in Schedule 1; and

(b) be marked on or firmly affixed to the explosive item concerned in a way which ensures that it is durable and clearly legible.

(3) Paragraph (1) shall not apply where the explosive is manufactured for export and is marked with an identification in accordance with the requirements of the importing country for allowing traceability of the explosive.

(4) Where an explosive is subject to a further manufacturing process after its original manufacture, the manufacturer shall mark each explosive item in respect of the explosive subjected to that further process with a new unique identification only if the original unique identification is no longer marked in the way that paragraph (2)(b) requires and any new marking so required shall be done as soon as is practicable after that further process and before transfer of the explosive.

(5) Subject to paragraph (7) a person who imports an explosive into Northern Ireland shall, as soon as is practicable after import and before acquisition of the explosives by another person —

(a) mark each explosive item in respect of the explosive with a unique identification in accordance with Schedule 2;

(b) where an associated label in respect of that marking is required by that Schedule , attach the label in accordance with those requirements; and

(c) where a passive inert electronic tag or associated tag is to be applied in respect of that marking, place that tag in accordance with the applicable provisions of that Schedule.

(6) An importer who, pursuant to paragraph (5), is to mark the explosive item with a unique identification and apply any labels and tag referred to in that paragraph, shall apply measures to ensure, so far as is reasonably practicable, the security and safekeeping of those explosives while they are awaiting that marking or the application of any of those labels and tags.

(7) Paragraph (5) shall not apply where the explosive items are marked with a unique identification before importation.

(8) Where a distributor of explosives repackages the explosives, the distributor shall ensure that —

(a) the explosive items in respect of the explosive have the unique identification marked on or affixed to them in accordance with Schedule 2;

(b) where an associated label in respect of that marking is required by that Schedule, the label is attached in accordance with those requirements; and

(c) where a passive inert electronic tag or associated tag is applied in respect of that marking, that tag is placed in accordance with the applicable provisions of that Schedule.

(9) In this regulation, "explosive item" means an explosive article, a container containing an explosive substance or each smallest packaging unit containing explosive.

Attribution of manufacturing site codes

5.—(1) This regulation applies for the purposes of the attribution of a three digit code (referred to in this regulation as the "code") to a site where explosives are manufactured, which is unique to that site and is a component of the unique identification described in Schedule 1.

(2) For each site within Northern Ireland at which explosives are manufactured —

(a) the manufacturer shall apply to the Secretary of State for him to attribute a code for the site; and

(b) the Secretary of State shall attribute the code and inform the manufacturer accordingly.

(3) For the purposes of the attribution of a code to a site where explosives are manufactured in a country that is not a member State —

(a) paragraph (4) applies where the manufacturer is established in a member State and the place of import of the explosive is Northern Ireland;

(b) paragraph (5) applies where the manufacturer is not established in a member State and the place of import of the explosive is Northern Ireland; and

(c) paragraph (6) applies where the manufacturer is established in Northern Ireland and the place of import of the explosives is either Great Britain or a member State other than the United Kingdom.

(4) Where this paragraph applies —

(a) in the case where the manufacturer is established in Northern Ireland —

(i) the manufacturer shall apply to the Secretary of State for him to attribute a code for the site where the explosives are manufactured; and

(ii) the Secretary of State shall attribute the code and inform the manufacturer accordingly; and

(b) in the case where the manufacturer is established in Great Britain or a member State other than the United Kingdom —

(i) the Secretary of State shall attribute a code for the site where the explosives are manufactured when he receives a request from the manufacturer to do so; and

(ii) the Secretary of State shall inform the manufacturer accordingly.

(5) Where this paragraph applies —

(a) the importer shall apply to the Secretary of State for him to attribute a code for the site where the explosives are manufactured; and

(b) the Secretary of State shall attribute the code and inform the importer accordingly.

(6) Where this paragraph applies, the manufacturer shall apply to—

(a) the Health and Safety Executive, where the place of import of the explosive is Great Britain; or