1993 No. 488

HEALTH AND SAFETY

The Placing on the Market and Supervision of Transfers of Explosives Regulations (Northern Ireland) 1993

Made . . . . . *17th December 1993*

Coming into operation—

The whole regulations except regulations 4 to 7 and 12 and except regulation 8 in respect of transfers mentioned in regulation 1(3)	*31st January 1994*
Regulation 8 in respect of transfers mentioned in regulation 1(3)	*26th September 1994*
Regulations 4 to 7 and 12	*1st January 1995*

To be laid before Parliament

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The Secretary of State, being a Minister designated(**a**) for the purpose of section 2(2) of the European Communities Act 1972(**b**) in relation to the placing on the market, transfer and safety of explosives for civil use, in the exercise of the powers conferred on him by the said section 2(2), and in pursuance of Articles 17(1), (2), (3)(*a*) and (*b*), (4) and (5)(*b*), and 55(2) of, and paragraphs 1(1)(*b*), (3) and (4), 2(1), 3(1), 5(1) and 15 of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978(**c**) as applied and modified by Article 53 of that Order and after consulting, in accordance with Article 46 of that Order as so applied and modified, the Health and Safety Agency for Northern Ireland and such other bodies as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Placing on the Market and Supervision of Transfers of Explosives Regulations (Northern Ireland) 1993.

(2) Subject to paragraph (3) and (4), these Regulations shall come into operation on 31st January 1994.

(3) In respect of transfers which take place wholly within the United Kingdom or which terminate outside the United Kingdom, regulation 8 shall come into operation on 26th September 1994.

(4) Regulations 4 to 7 and 12 shall come into operation on 1st January 1995.

(5) These Regulations shall not extend to Great Britain.

Interpretation

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

"the 1972 Act" means the European Communities Act 1972;

"the 1978 Order" means the Health and Safety at Work (Northern Ireland) Order 1978;

"the 1991 Regulations" means the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991(**d**);

"CE marking" means the marking referred to in regulation 7(4);

(**a**) The European Communities (Designation) (No. 3) Order 1993 (S.I. 1993/2661)
(**b**) 1972 c. 68
(**c**) S.I. 1978/1039 (N.I. 9)
(**d**) S.R. 1991 No. 516

"Civil Uses Directive" means Council Directive 93/15/EEC on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses(**a**);

"Commission" means the Commission of the European Communities;

"essential safety requirements" means the requirements listed in Schedule 1;

"Executive" means the Health and Safety Executive established under Section 10 of the Health and Safety at Work etc Act 1974(**b**);

"explosives" means explosive articles or explosive substances which have been assigned on classification in accordance with the 1991 Regulations to Class 1;

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

"explosive substance" means—

(*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;

"harmonised standard" means a text setting out technical specifications adopted by the European Committee for Standardisation (CEN) under a mandate from the Commission in accordance with Council Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations(**c**), and of which the reference number is published in the Official Journal of the European Communities;

"notified body" means a body notified to the Commission by a member State pursuant to Article 6.2 of the Civil Uses Directive.

(2) Any reference in these Regulations to a numbered Annex is a reference to the Civil Uses Directive so numbered.

Application

3.—(1) Subject to paragraph (2), these Regulations shall apply to all explosives.

(2) Regulations 4 to 8 shall not apply to—

(*a*) ammunition the acquisition of which is regulated or prohibited by virtue of the Firearms Orders 1981 to 1992(**d**); or

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(**a**) O.J. No. L121, 15.5.93, p. 20

(**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

(**c**) O.J. No. L109, 26.4.83, p. 8; the Directive was last amended by Commission Decision 90/230/EEC (O.J. No. L380, 31.12.90, p. 13)

(**d**) S.I. 1981/155 (N.I. 2) as extended by S.I. 1983/1899 (N.I. 20) and amended by S.I. 1989/1338 (N.I. 10) and S.I. 1992 No. 3267

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

(*c*) a pyrotechnic article; or

(*d*) an explosive which is used immediately at the place of manufacture; or

(*e*) an explosive article intended for use as a life saving device in a motor vehicle.

(3) Regulations 4 to 8 shall not apply in respect of the transfer of explosives to, by or on behalf of—

(*a*) any Explosives Inspectors appointed under Section 53 of the Explosives Act 1875(**a**); or

(*b*) a constable acting in the execution of his duties; or

(*c*) a person employed by the Police Authority for Northern Ireland, in their capacity as such so far as these provisions relate to the transfer of explosives; or

(*d*) a customs officer acting in the performance of his duties; or

(*e*) the Crown in respect of any explosives which—

(i) are in premises occupied by or on behalf of the Crown, or

(ii) are intended for the purposes of the Secretary of State having responsibility for defence; or

(*f*) the Executive.

Placing on the market of explosives

4.—(1) No person shall place any explosives on the market unless—

(*a*) the explosives satisfy such of the essential safety requirements as apply to those explosives; and

(*b*) the conformity of the explosives to the requirements of these Regulations has been attested in accordance with regulation 5; and

(*c*) the CE marking has been affixed to the explosives in accordance with regulation 7.

(2) For the purposes of paragraph (1), explosives shall be treated as satisfying the essential safety requirements if they conform to any relevant national standard.

(3) For the purposes of this regulation, "national standard" means a standard of a member State—

(*a*) which transposes a relevant harmonised standard; and

(*b*) the reference number of which has been published by that member State pursuant to Article 4.1 of the Civil Uses Directive.

(4) For the purpose of this regulation, explosives are placed on the market when they are first supplied or made available to any person with a view to their distribution or use within the Communities, or are imported, except with a view to re-export, from outside the Communities, and "place on the market" shall be construed accordingly.

(a) 1875 c. 17

Conformity attestation

5. For the purposes of regulation 4(1)(*b*), the procedure for attesting conformity of explosives to the requirements of these Regulations shall be—

(*a*) EC type examination (Module B) referred to in Annex II(1), together with—

(i) type conformity (Module C) referred to in Annex II(2), or

(ii) production quality assurance (Module D) referred to in Annex II(3), or

(iii) product quality assurance (Module E) referred to in Annex II(4), or

(iv) product verification (Module F) referred to in Annex II(5); or

(*b*) unit verification (Module G) referred to in Annex II(6).

Notified bodies

6.—(1) The Secretary of State may from time to time appoint in writing such qualified bodies as he thinks fit to be notified bodies for the purposes of these Regulations.

(2) An appointment under this regulation may relate to all or any description or class of explosives, may be subject to conditions or to limit of time, and may be revoked in writing at any time.

(3) For the purposes of this regulation a body is qualified if it meets the criteria set out in Annex III (minimum criteria to be taken into account by member States for the notification of bodies) or if it meets the assessment criteria laid down by a relevant harmonised standard.

(4) The Secretary of State shall—

(*a*) notify the Commission and the other member States of any body appointed under this regulation;

(*b*) revoke the appointment of any such body if it appears to the Secretary of State that that body is no longer qualified; and

(*c*) notify the Commission and the other member States of the revocation of any such appointment.

(5) A body appointed by the Secretary of State under this regulation, after agreeing with the applicant any fee in respect of the work to be undertaken by it, shall perform the functions of a notified body under the Civil Uses Directive.

CE marking

7.—(1) For the purposes of regulation 4(1)(*c*), the CE marking is properly affixed if—

(*a*) it is visible, easily legible and indelible; and

(*b*) it is of a durable nature such that it will remain visible, easily legible and indelible during normal transport or storage; and

(*c*) it is affixed either—

(i) to the explosives themselves, or, where that is not practicable,