

## Summary: Intervention & Options

<b>Department /Agency:</b> Health and Safety Executive	<b>Title:</b> Impact Assessment of Health and Safety (Miscellaneous Amendments and Revocations) Regulations 2008	
<b>Stage:</b> Initial assessment	<b>Version:</b> Final	<b>Date:</b> [ ] October 2008
<b>Related Publications:</b>		

Available to view or download at:

<http://www.>

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

The proposals are intended to:

- reduce the administrative burden arising from explosives legislation;
- resolve issues that have arisen since new regulations on Manufacturing and Storage of Explosives came into force;
- revoke redundant and outdated local mining regulations; and,
- remedy an oversight in the Control of Noise at Work Regulations and update HSE's address details in the Genetically Modified Organisms (Contained Use) 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 Manufacturing and Storage of Explosives Regulations, the Control of Noise at Work Regulations and the Genetically Modified Organisms (Contained Use) Regulations operate as intended, by updating and remedying 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- remove redundant and outdated legislation from the statute book.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, or to 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 go for 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

<b>Policy Option: final proposal</b>	<b>Description: Costs and benefits of the amending regulations and supplementary provisions</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups'
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	<b>£ 0</b>	30	
	<b>Average Annual Cost</b> (excluding one-off)		
<b>£ 0</b>		<b>Total Cost (PV)</b>	<b>£ 0</b>
Other <b>key non-monetised costs</b> by 'main affected groups' .			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups'
	<b>One-off</b>	<b>Yrs</b>	
	<b>£ 0</b>	30	
	<b>Average Annual Benefit</b> (excluding one-off)		
<b>£ 20,164</b>		<b>Total Benefit (PV)</b>	<b>£ 383,837</b>
Other <b>key non-monetised benefits</b> by 'main affected groups'			
There are also benefits to certificate holders from reduced paperwork. These are difficult to quantify.			

**Key Assumptions/Sensitivities/Risks** 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	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £ 383,837
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What is the geographic coverage of the policy/option?	Great Britain			
On what date will the policy be implemented?	6 April 2009			
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

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of £ 0	Decrease of £ 0	<b>Net Impact</b>	£ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## 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:  
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 for these sites – although they would benefit from the extension of the life of certificates in reduced fees.

##### **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. Some aspects of the proposals 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;
- 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.

It is also proposed to revoke the local regulations at 23 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; and
- they are also inconsistent in approach with current legislation – especially the regulations on the Control of Substances Hazardous to Health (COSHH).

## **Amendments to the Control of Noise at Work Regulations**

The proposals would amend the Control of Noise at Work Regulations 2005 to remedy 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.

The costs and benefits of the Control of Noise at Work Regulations 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 of 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.

## **Amendments to the Genetically Modified Organisms (Contained Use) Regulations 2000**

These regulations require HSE to keep a public register of GMO notifications. Regulation 24(7) states that copies of the register shall be maintained at the offices of HSE in Rose Court, London and Magdalen House in Bootle. HSE no longer has an office at Magdalen House and is moving to a single headquarters in Redgrave Court in Bootle. Therefore, this regulation will be amended to state that copies of the register as regards Great Britain shall be maintained at the offices of the Health and Safety Executive at Redgrave Court. A copy of the register will remain available on the HSE website for public viewing. This minor factual change was not in the consultation proposals on the Miscellaneous Amendments Regulations, but has been consulted on separately. This proposal is expected to be cost-neutral.

## **SUMMARY OF IMPACT**

### **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 in 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 of the 2550 acquire-only certificates granted each year are granted to re-enactors for use of powder at re-enactment events. 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 improve provisions in the original Regulations. First, they include enforcement of certain quantities of Ammonium Nitrate Blasting Intermediates. Second, the amendments complete a change made in 2007 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). This involves changing the meaning of “local authority” to be consistent with existing use in the Enforcing Authority Regulations.

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 proposals therefore include a regulation which would create a duty to ensure, on a so far as is reasonably practicable basis, that the weight stated does not understate the actual mass of explosive. This regulation has been formulated in this way to avoid penalising an importer who intentionally errs on the side of caution 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.**

### **Benefits**

#### **Key assumptions and sensitivities –**

Assumed hourly rate for police staff:

Explosives Liaison Officer £50/hour

Administration Officer £22/hour

The numbers of sites are estimated as follows:

Number of licensed stores	250
Number of registered stores	350
<b>Number of HSE-licensed sites</b>	100
<b>Number of acquire-only certificates</b>	2500
<b>Number of Acquire and Keep certificates</b>	6500

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

#### **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
<b>Total annual saving from move to issue every 5 years</b>	<b>£12,154</b>
Assumed cost of 5-year acquire-only	£161
<b>Additional annual cost to dutyholders</b>	<b>£4,019</b>
<b>Net annual benefit</b>	<b>£8,135</b>

##### *Assumptions*

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
<b>Total annual saving</b>	<b>£7,839</b>

### 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
<b>Total annual savings</b>	<b>£4,190</b>

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 is required for the initial grant of the licence or registration; however this difference has been ignored.

### Summary table

#### Annual Benefits (not discounted)

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
<b>Total</b>	<b>£20,164</b>

### Discounted costs and benefits

Total discounted benefits (over 30 years)	<b>£383,837</b>
Total costs	<b>0</b>

## **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