

**2009 No. 693**

**HEALTH AND SAFETY**

**The Health and Safety (Miscellaneous Amendments and Revocations) Regulations 2009**

<i>Made</i> - - - -	<i>11th March 2009</i>
<i>Laid before Parliament</i>	<i>16th March 2009</i>
<i>Coming into force</i> - -	<i>6th April 2009</i>

The Secretary of State makes these Regulations in exercise of the powers conferred upon him by section 143(2) of the Mines and Quarries Act 1954(a), section 2(2) of the European Communities Act 1972(b) and sections 15(1), (2), (3)(c), (5)(a) and (9), 18(2)(a) and 82(3)(a) of, and paragraphs 1(1), 4, 5, 6(1), 7, 9, 11, 13(2), 14 and 16, of Schedule 3 to, the Health and Safety at Work etc. Act 1974(c) (“the 1974 Act”).

The Secretary of State is a Minister designated in relation to the control and regulation of genetically modified organisms(d).

In making these Regulations, and save as is referred to below, he gives effect without modifications to proposals submitted to him by the Health and Safety Executive under section 11(3) of the 1974 Act.

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

The Secretary of State makes sub-paragraphs (4)(a) and (c), (9)(a), (b)(ii), (d) and (e) and (10)(a) of paragraph 4 of Schedule 1 to these Regulations independently of those proposals to the extent that those provisions relate to, or are connected with, the insertion by these Regulations of regulation 13(4)(f) of the Manufacture and Storage of Explosives Regulations 2005(e).

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- (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1954 c. 70 (2 & 3 Eliz. 2); subsections (1) to (4) of section 141, which included the power to make regulations, were repealed by S.I. 1974/2013, with a saving for regulations made and in force under that section; section 143(2) provides an express power to revoke special regulations.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) 1972 c.68. As regards Scotland, see also section 57(1) of the Scotland Act 1998 (c. 46), which provides that, despite the transfer to the Scottish Ministers by virtue of that Act of functions in relation to the observing and implementing obligations under community law, any function of a Minister of the Crown in relation to any matter shall continue to be exercisable by him as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.
- (c) 1974 c.37. Section 11 is substituted by S.I. 2008/960; sections 15(1) and 50(3) are amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 6 and 16 respectively; section 50(3) is further amended by the Health Protection Agency Act 2004, Schedule 3, paragraph 5(1) and (3) and S.I. 2008/960, which also inserts section 50(1AA).
- (d) S.I. 1991/755.
- (e) S.I. 2005/1082, amended by S.I. 2007/2598.

In relation to the provisions made independently of the Health and Safety Executive's proposals and in accordance with section 50(1AA) of the 1974 Act, the Secretary of State has consulted the Health and Safety Executive and the other body which appeared to him to be appropriate to consult, namely, the Local Government Association.

### **Citation and commencement**

1. These Regulations may be cited as the Health and Safety (Miscellaneous Amendments and Revocations) Regulations 2009 and shall come into force on 6<sup>th</sup> April 2009.

### **Extension outside Great Britain**

2. The amendments made by regulation 3(1) and Schedule 1 to —

- (a) the Control of Explosives Regulations 1991(a),
- (b) the Manufacture and Storage of Explosives Regulations 2005, and
- (c) the Control of Noise at Work Regulations 2005(b),

shall apply outside Great Britain to the extent that they affect provisions of those Regulations which apply outside Great Britain by virtue of, respectively, regulation 14 of the Control of Explosives Regulations 1991, regulation 3(1)(b) of the Manufacture and Storage of Explosives Regulations 2005 and regulation 14 of the Control of Noise Regulations 2005.

### **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

*William D. McKenzie.*  
Parliamentary Under-Secretary of State  
Department for Work and Pensions

11th March 2009

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(a) S.I. 1991/1531, to which there are amendments not relevant to these Regulations.  
(b) S.I. 2005/1643.

## SCHEDULE 1

Regulation 3(1)

### AMENDMENTS

#### **The Control of Explosives Regulations 1991**

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

(2) In regulation 2 —

(a) in paragraph (1), 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(a); 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(b);”;

(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.”; and

(c) after paragraph (9), insert —

“(10) Any reference in the definitions in this regulation of “desensitised explosive”, “explosive substance” or “substance” to, as the case may be, liquid, gas, gaseous form or vapour means, respectively, liquid, gas, gaseous form or vapour at normal atmospheric temperature and pressure.”.

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

“(c) a person —

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

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

who, in either case, is duly authorised in writing by the chief officer of police for the relevant police area; or”.

(4) Omit regulation 4(10).

(5) In regulation 5(3) —

(a) in sub-paragraph (a), for “3 years” substitute “5 years”; and

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(a) 1996 c.16; section 15 is amended by the Greater London Authority Act 1999 (c. 29), section 325 and Schedule 27, paragraph 74(1) and (4) and the Police and Justice Act 2006 (c. 48), sections 2 and 52 and Schedule 2, paragraph 16(1) to (3) and Schedule 15, Part 1(B).

(b) 1967 c.77; section 4(3) is repealed by the Local Government (Scotland) Act 1973 (c. 65), sections 146(4), 237(1) and Schedule 29; section 9 is amended by the Police and Magistrates’ Courts Act 1994 (c.29), section 49, the Criminal Justice (Scotland) Act 2003 (asp 7), section 76(1), (2)(a) to (c), (2)(d)(i) and (ii) and SSI 2005/465.

(b) omit sub-paragraph (b).

(6) In regulation 14(1) —

(a) omit “10” and “16”; and

(b) for “1989” substitute “2001”.

(7) 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”.

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

## “PART 2

Explosive articles which —

- (a) are allocated the U.N. no. 0186, 0272, 0349, 0351 or 0471;
- (b) are intended to be used for the propulsion of model rockets or similar articles; and
- (c) in respect of each individual explosive article, contain no more than 1 kilogram of explosive.”

### **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) in paragraph (8), after “manufacture”, add “and storage”;
- (b) in paragraph (9), at the beginning insert “Except as provided in paragraph (9A),”;
- (c) after paragraph (9), insert —

“(9A) The Executive shall be the enforcing authority for regulation 25 of the 2005 Regulations for a site in relation to which it has granted a person a licence for the manufacture or storage of explosives under regulation 13 of the 2005 Regulations or registered a person in respect of such storage under regulation 11 of those Regulations.

(9B) 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).”;

- (d) in paragraph (11), omit “local authority”; and
- (e) 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.”.

### **The Genetically Modified Organisms (Contained Use) Regulations 2000**

**3.** For paragraph (7) of regulation 24 of the Genetically Modified Organisms (Contained Use) Regulations 2000(c), substitute —

“(7) Copies of the register as regards Great Britain shall be maintained at the offices of the Executive at Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS.”.

### **The Manufacture and Storage of Explosives Regulations 2005**

**4.**—(1) The Manufacture and Storage of Explosives Regulations 2005(d) are amended as follows.

(2) In regulation 2 —

- (a) in paragraph (1), in the definition of “registration”, after “regulation 11” insert “and includes a varied registration”; and
- (b) in paragraph (9), omit the words from “and includes” to the end.

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

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(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.  
(c) S.I. 2000/2831, to which there are amendments not relevant to these Regulations.  
(d) S.I. 2005/1082, amended by S.I. 2007/2598.

- “(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.”.
- (4) In regulation 5 —
- (a) for paragraph (2), substitute —
- “(2) Paragraph (1) shall not apply to —
- (a) desensitised explosives; or
- (b) explosives which are stored under a licence granted by the Executive in cases —
- (i) where the assent of the local authority was required pursuant to regulation 13(3); or
- (ii) where that assent was not required by virtue of regulation 13(4)(c), (e) or (f);”
- ;
- (b) in paragraph (3) —
- (i) for “sub-paragraph (b)”, substitute “sub-paragraphs (b) and (d)”;
- (ii) after sub-paragraph (a), insert —
- “(aa) a combined total of 5 kilograms of shooters’ powder and model rocket motors; ”;
- (iii) for sub-paragraph (d)(i), substitute —
- “(i) 4 kilograms of explosive kept for operational purposes, including ordnance disposal and the training of dogs for the detection of explosives; or”; and
- (iv) in sub-paragraph (d)(ii), insert “solely” after “kept”;
- (c) in paragraph (6), after “applies” insert “or a case to which that paragraph does not apply by virtue of regulation 13(4)(f)”;
- (d) after paragraph (7), insert —
- “(8) In this regulation, “model rocket motors” means explosive articles which —
- (a) are allocated the U.N. no. 0186, 0272, 0349, 0351 or 0471;
- (b) are intended to be used for the propulsion of model rockets or similar articles; and
- (c) in respect of each individual explosive article, contain no more than 1 kilogram of explosive.”.
- (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) and (f), before “days” wherever it appears insert “consecutive”;
- (b) 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
- (c) in paragraph (3) —
- (i) in sub-paragraph (a), omit “and” at the end;
- (ii) in sub-paragraph (b), omit “or explosive articles” and at the end add “and”; and
- (iii) after sub-paragraph (b), insert —
- “(c) in sub-paragraphs (e) and (f), Christmas Day, Good Friday and, to the extent they are not the same as those, any day which under the Banking and Financial

Dealings Act 1971(a) is a bank holiday shall not be included for the purposes of determining the period of days referred to in those sub-paragraphs.”.

(8) In regulation 11 —

(a) for paragraph (4), substitute —

“(4) A registration, not being a renewal of a registration, granted by a licensing authority which is a local authority shall remain in force for such period not exceeding two years as the licensing authority determines.

(4A) A registration, not being a renewal of a registration, granted by a licensing authority which is a chief officer of police or the Executive shall remain in force for such period not exceeding five years as that licensing authority determines, save that, where the applicant for registration has been granted an explosives certificate, the registration shall remain in force for any period not exceeding the due expiry date of that explosives certificate.”;

(b) in paragraph (5), omit “the exceptions listed in”;

(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 “or explosive articles”; and

(e) for paragraph (9), substitute —

“(9) A renewal of registration granted by a licensing authority which is a local authority shall remain in force for such period not exceeding one year as the licensing authority determines.

(9A) A renewal of a registration granted by a licensing authority which is a chief officer of police or the Executive shall remain in force for such period not exceeding five years as that licensing authority determines, save that, where the applicant for registration has been granted an explosives certificate, the registration shall remain in force for any period not exceeding the due expiry date of that explosives certificate.”.

(9) In regulation 13 —

(a) for paragraph (1), substitute —

“(1) A licence, not being a renewal of a licence, may be granted —

(a) where the licensing authority is a local authority, for such period not exceeding two years as the licensing authority determines;

(b) where the licensing authority is a chief officer of police or the Executive, for such period not exceeding five years as that licensing authority determines, save that, where the applicant for the licence has been granted an explosives certificate, the licence may be granted for any period not exceeding the due expiry date of that explosives certificate; or

(c) for any period or without a time limit in a case —

(i) to which paragraph (3) applies; or

(ii) to which paragraph (3) does not apply by virtue of paragraph (4)(e) or (f); or

(iii) where the licence application relates only to the manufacture of ammonium nitrate blasting intermediate.”;

(b) in paragraph (4) —

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

(ii) at the end of sub-paragraph (d), insert —

“(e) to an application for a licence which is to follow, without a gap in time, a previous licence granted to follow, without a gap in time, a deemed licence for the purposes of regulation 27(3); or

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(a) 1971 c. 80.

- (f) to an application for a licence relating to the manufacture of explosives by a police force maintained pursuant to section 2 of the Police Act 1996<sup>(a)</sup> for their operational purposes or the training of members of that police force in relation to those purposes.”;
- (c) in paragraph (5), after “licence shall”, insert “include conditions which”;
- (d) in paragraph (6), after “paragraph (3)” insert “or in cases where that assent was not required by virtue of paragraph (4)(c), (e) or (f)”;
- (e) for paragraph (9), substitute —
  - “(9) A renewal of a licence may be granted —
    - (a) where the licensing authority is a local authority, for such period not exceeding two years as the licensing authority determines;
    - (b) where the licensing authority is a chief officer of police or the Executive, for such period not exceeding five years as that licensing authority determines, save that, where the applicant for the licence has been granted an explosives certificate, the licence may be granted for any period not exceeding the due expiry date of that explosives certificate; or
    - (c) for any period or without a time limit in a case —
      - (i) where paragraph (3) applied to the application for the original licence; or
      - (ii) where paragraph (3) did not apply to the application for the original licence by virtue of paragraph (4)(e) or (f); or
      - (iii) where the application for the original licence related only to the manufacture of ammonium nitrate blasting intermediate.”.
- (10) In regulation 16 —
  - (a) in paragraph (1)(b), after “13(3)” insert “, or in cases where that assent was not required by virtue of regulation 13(4)(e) or (f),”; 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) so as to change the period for which the registration is in force; and
      - (c) in relation to any of the matters it relates to, by agreement with the person registered.
    - (2B) A registration may be varied on the grounds referred to in paragraph (2A)(a) and (b) without the agreement of the person who is registered, subject to regulation 18.”.
- (11) In regulation 17, at the end of paragraph (1)(b), insert “or”.
- (12) In regulation 18 —
  - (a) for sub-paragraph (a) of paragraph (1), substitute —
    - “(a) refuse an application for —
      - (i) a licence or registration;
      - (ii) a renewal of a licence or registration; or
      - (iii) a transfer of a licence or registration;”;
    - (b) in sub-paragraph (b) of paragraph (1) —
      - (i) after “licence” insert “or registration”; and

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(a) 1996 c.16.

- (ii) after “licensee” insert “or registered person”;
  - (c) for sub-paragraph (a) of paragraph (3), substitute —
    - “(a) refuse an application for —
      - (i) a licence or registration;
      - (ii) a renewal of a licence or registration; or
      - (iii) a transfer of a licence or registration;”;
  - (d) in sub-paragraph (b) of paragraph (3) —
    - (i) after “licence” insert “or registration”; and
    - (ii) after “licensee” insert “or registered person”; and
  - (e) in paragraph (4) —
    - (i) after “varies a licence” insert “or registration”; and
    - (ii) after “licensee” insert “or registered person”.
- (13) 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 which aggrieves him;
- (c) varying a registration without his agreement to the variation or refusing to vary a term of his registration; or
- (d) revoking his registration,

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

- (14) 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.

(3) Where a licensing authority is of an opinion referred to in sub-paragraph (a) or (b) of paragraph (2), it shall, subject to regulation 18, refuse the application to transfer the licence or registration, as the case may be.”.

- (15) In regulation 21(1) —

- (a) for “terms”, substitute “conditions”;
- (b) for “or registration” where it first appears, substitute “or the terms of his registration”;

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<sup>(a)</sup> 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 the Tribunals and Inquiries Act 1992 (c. 53), section 18(1) and Schedule 3, paragraph 9.

- (c) in sub-paragraph (a), for “28 days from”, substitute “a period of 60 days starting with the date of” and omit “or” at the end;
- (d) in sub-paragraph (b), at the end insert “or”; and
- (e) after sub-paragraph (b), insert —
  - “(c) the transfer of, or a refusal to transfer, a licence or registration,”.

(16) 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.”.

(17) Regulation 27(18) is revoked.

(18) 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,”; and
- (b) in paragraph 3, after “the same site” insert “and requires a licence for that manufacture and for that storage”.

(19) 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;”;
- (b) in paragraph 3, for “paragraph 7” substitute “paragraphs 7 and 7A”;
- (c) in paragraph 4 —
  - (i) for “paragraph 7”, substitute “paragraphs 7 and 7A”; and
  - (ii) omit “only” in both places where it appears; and
- (d) after paragraph 7, insert —

**7A.** The requirements of paragraphs 3 and 4 shall not apply where the information referred to in paragraph 2 is in respect of a licensed site in relation to which regulation 13(3) did not apply to the licence application for that site by virtue of regulation 13(4)(f).”.

**The Control of Noise at Work Regulations 2005**

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

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

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(a) S.I. 2005/1643.

(b) S.I. 2002/1144, to which there are amendments not relevant to these Regulations.

## 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 Ribber 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 Grimthorpe 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 Staphill 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
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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations amend five sets of Regulations, which are referred to below, and revoke a number of old Regulations concerning mines (*regulation 3 and Schedule 1*).

2. In addition to making minor and drafting amendments, these Regulations make the following changes of substance.

3. The maximum period of validity of an explosives certificate under the Control of Explosives Regulations 1991 (S.I. 1991/1531) is now extended to five years. The amendments made get rid of the distinction between periods of validity for explosives certificates relating to the acquisition and keeping of explosives and those for acquisition only. The former were up to three years and are now up to five and the latter were up to one year but are now also up to five. The definition of chief officer of police is changed so that it is linked to statutory provisions and the power to delegate the chief office of police's functions under those Regulations is now provided for in a separate provision. Certain model rocket motors are added to the list of explosives in Schedule 1 to those Regulations, which relates to exceptions to the Regulations (*paragraph 1 of Schedule 1*).

4. The Health and Safety (Enforcing Authority) Regulations 1998 (S.I. 1998/494) are amended so that the Health and Safety Executive ("the Executive") is the enforcing authority for the storage of ammonium nitrate blasting intermediate. The amendments also make the Executive the enforcing authority for section 25 of the Manufacture and Storage of Explosives Regulations 2005 (S.I. 2005/1082) ("the 2005 Regulations") at sites in relation to which it has granted a person a licence to manufacture or store explosives or registered a person for such storage (*paragraph 2 of Schedule 1*).

5. The amendment to the Genetically Modified Organisms (Contained Use) Regulations 2000 (S.I. 2000/2831) reflects a change of address at which copies are to be maintained of the register as regards Great Britain of notifications of activities involving genetic modification of micro-organisms. The copies are now to be maintained at the offices of the Executive at Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS (*paragraph 3 of Schedule 1*).

6. The amendments to the 2005 Regulations include the following. The period for which a registration may be granted by the Executive, or a chief officer of police, is extended to five years; but if the applicant has an explosive certificate, the period is to be up to the expiry date of that certificate. The requirement of regulation 13 of the 2005 Regulations for local authority assent before a licence may be granted is disapplied in two cases. Firstly, where the application is for a licence to follow a licence which was granted to follow a "deemed licence" within the meaning of the 2005 Regulations and, secondly, where the police are applying for a licence to manufacture explosives for their operational purposes or training in those purposes. In those cases, the requirements of regulation 5(1) of the 2005 Regulations as to separation distances are also disapplied. Regulation 16 of the 2005 Regulations is amended so that a licensing authority may vary a registration. Regulation 20 of the 2005 Regulations now provides that a transfer of a licence or a registration is to be refused if the licensing authority is of the opinion that the applicant is not a fit person to store or manufacture explosives, as the case may be. A new regulation 25A is added, placing a duty on manufacturers, importers and suppliers of pyrotechnic articles to ensure, so far as is reasonably practicable, that the net mass of explosive in the article does not exceed the amount they have specified on the article, its packaging or its accompanying document (*paragraph 4 of Schedule 1*).

7. 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) read with Article 4(1) of Council Directive 89/656/EEC on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (OJ No. L393, 30.12.1989, p. 18 – 28) (*paragraph 5 of Schedule 1*).

8. The revocations in Schedule 2 are of regulations, many of them special regulations for the purposes of the Mines and Quarries Act 1954, governing mines which have either been closed permanently or where the mechanical systems which were once used in them, and which the regulations concern, are no longer used.

9. A full impact assessment prepared of the effect that this instrument will have on the costs of business is available from the Health and Safety Executive's website (<http://www.hse.gov.uk/ria>) and the Better Regulation Executive's Impact Assessment library (<http://www.ialibrary.berr.gov.uk>). A copy of the impact assessment can also be requested from the Health and Safety Executive at 5S.3 Redgrave Court, Merton Road, Merseyside, L20 7HS. A copy is also annexed to the Explanatory Memorandum which is available alongside the instrument on the Office of Public Sector Information's website (<http://www.opsi.gov.uk/legislation.uk.htm>).

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STATUTORY INSTRUMENTS

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**HEALTH AND SAFETY**

The Health and Safety (Miscellaneous Amendments and  
Revocations) Regulations 2009

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