

# Guide to Explosives Legislation In Ireland



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Status: This document is an aide-memoire. It should not be taken or quoted as an authority for action. It is not a legal interpretation of, or substitution for, the legislation, and is non-exhaustive. The guidance may be amended or updated from time to time without notice.

## **Table of Contents**

<b>Para</b>	<b>Description</b>	<b>Page</b>
1	Primary Legislation	3
2	Secondary Legislation	3
4	Manufacture of Explosives	4
5	Keeping/Storing of Explosives	6
6	Sale of Explosives	9
7	Conveyance/Transport of Explosives	11
8	Import/Export of Explosives	13
9	Pyrotechnics/Fireworks	15
10	Deemed Explosives and Explosives Precursors	19
11	Use of Explosives	21
	Sources of Additional information	22
Annex 1	List of Current Statutory Instruments relating to explosives	23
Annex 2	Current EU Legislation on Civil Explosives, Pyrotechnic articles and Inland Transport of Dangerous Goods	26

### **Note**

Explosives legislation is complex and is derived from many sources, including Acts (including primary legislation which dates from 1875), Orders in Council (OCs), Orders of Secretary of State (OSS), Statutory Instruments (SIs) and related legislation from several Government Departments and EU Directives, Decisions and Regulations.

This guidance document will be reviewed and updated from time to time.

It should also be noted that explosives legislation is currently under review and a consolidated set of modern explosives legislation (including an Explosives Act to replace the 1875 Act in its entirety), is planned.

## **Primary Legislation**

- a) **Explosives Act, 1875** (as amended by the Criminal Justice Act 2006)  
The Primary Act dealing with Explosives is the Explosives Act, 1875 whose objective is “*to control the manufacture, keeping, sale, conveyance and importation of explosives for legitimate purposes*”.
- b) **Explosive Substances Act, 1883**  
The Explosive Substances Act, 1883 is intended “*to enable the law to deal more effectively with the criminal use of explosives for injuring persons or property*”, and deals with causing explosions, making or possession of explosive under suspicious circumstances, search, seizure etc.
- c) **Explosives Act, 1923**  
This Act amends the Explosives Act, 1875, and includes precautions to be taken by occupiers and age restrictions on employees in explosives sites.
- d) **Dangerous Substances Act, 1972**  
The Dangerous Substances Act, 1972, deals with Explosives, Petroleum and other dangerous substances. The explosives section deals with import, keeping, sale, purchase, certificates, manufacture, marking, records and fireworks. However, the commencement order for that part dealing with explosives was never signed, so the explosives part never came into primary legislation.
- e) **Carriage of Dangerous Goods by Road Act 1998 (No 43 of 1998)**  
This Act allows Ireland to be a contracting party to the ADR (ADR is the name given to the European Agreement concerning the International Carriage of Dangerous Goods by Road) and enables effect to be given to the ADR Framework Directive and Checks Directive.
- f) **Criminal Justice Act 2006 (No 26 of 2006)**  
This Act, *inter alia*, amends the Explosives Act 1875 in the following areas:  
Section 68 substitutes Section 80 of the Explosives Act, with new offences, penalties and Garda powers relating to misuse and possession of fireworks.  
Section 69 (and Schedule 2) increases the penalties awardable in the 1875 Act.

## **2) Secondary Legislation**

A non-exhaustive list of current secondary legislation relating to explosives is included at Annex 1.

## **3) EU Legislation**

A non-exhaustive list of current EU legislation relating to explosives is included at Annex 2.

#### 4) **Manufacture of Explosives**

The **Explosives Act, 1875** (EA) states that explosives are to be manufactured only at a factory lawfully existing or licensed under this Act (EA Section 4). Certain processes are also deemed to be manufacture (EA Section 105).

##### a) **Licensing of Explosives Factories or Magazines**

The licensing of explosive factories/magazines is regulated under sections 6, 7 and 8 of the Explosives Act 1875. The following steps apply to any application to manufacture explosives at a factory

- Section 6: Application (see form on DJE website).
- Section 7: Local authority assent.
- Section 8: Grant & confirmation of licence.
- Section 9: Regulation.
- Section 10: General Rules
- Section 11: Special rules.

Note that this is a completely independent and separate legislation and process from the planning procedure, and involves the following steps:

- i) Application for license. (See Section 6 of the Act). The applicant submits a draft license to the Minister, (in practice the applicant consults the GIE and the application is examined and modified where necessary) and the completed draft licence should contain the following elements;
  - details of the site,
  - distances to be maintained,
  - construction details,
  - processes and quantities of explosive in each location in the factory,
  - location and explosive limit for each magazine,
  - man limits and
  - special terms or conditions.
- ii) Approval and Issue of draft licence. If approved by the Minister, the draft licence is then issued to the applicant with permission to apply to the local authority for their assent to the establishment of the factory/magazine on the proposed site.
- iii) Application for assent. (See Section 7 of the Act). When application for assent is made, the local authority starts a process which involves the following steps:

Publication of notice of time and place of a hearing for the application, together with any objectors. The notice will include details of where and when the draft licence may be inspected by persons interested.

The local authority fixes the time and place for the hearing (normally a month after publication of notice).
- iv) Grant and confirmation of licence (See Section 8 of the Act). The local authority on hearing the applicant and objectors can assent absolutely, or assent with conditions, or dissent. After considering the decision of local authority and any appeal by the applicant, the Minister may, (if the local

authority dissents), refuse the licence, or may modify the licence to meet the reasons stated by the local authority. The licence is not finally confirmed until the factory/magazine is sufficiently completed to justify the use.

- b) **On Site Manufacture of Explosives** The on-site manufacture of emulsion explosives at mines and quarries is also subject to a site specific licence for each location as described below under S.I. No 365 of 1997
- c) **Relevant Secondary Legislation**
- i) **S.I. No 365 of 1997 Ammonium Nitrate Mixtures Exemption Order, 1997** states that AN mixtures are exempt from the manufacture provisions of the EA, provided the person manufacturing the explosive holds a licence issued by the Minister. This applies to ANE pump truck operations in quarries and mines. The licences are site specific and issued to the manufacturer and not the quarry, (although they are sometimes colloquially known as “quarry licenses”.) Note that these licenses are licenses to manufacture explosive substances only and **not** blasting licences.
- ii) **S.I. No 423 of 2016 European Union (Making Available on the Market and Supervision of Explosives for Civil Uses) Regulations 2016** which gives effect to Commission Directive 2014/28/EU and requires that when a licence for manufacture is issued that the licensee be capable of complying with the technical commitments they assume.
- iii) **S.I. No 133 of 2009 as amended by S.I. 106 of 2012 & S.I. 201 of 2015 European Communities (System for the identification and traceability of explosives for civil uses) Regulations.** These Regulations give effect to Commission Directives 2008/48/EC and 2012/4/EU setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses. The aim of the Directives is to strengthen the control of explosives for civil uses by requiring manufacturers of explosives to place a unique identification on each explosive article, thus helping to combat terrorism. These Regulations, with the exception of regulations 4(4), 7, 8, and 9 relating to data collection, came into effect on 5<sup>th</sup> April 2013. The remaining regulations came into effect on 5<sup>th</sup> April 2015. S.I 201 of 2015, which was a minor legal clarification, came into effect on 18<sup>th</sup> May 2015

## 5) **Keeping and Storage of Explosives**

The **Explosives Act, 1875** states that, (with certain exceptions for private use and not for resale, see below), explosives shall not be kept at any place except as follows (EA Section 5):

- Licensed factory or Magazine
- Store (licensed by the local authority)
- Premises registered for keeping explosive

There are three general modes of storage of explosives catered for in the legislation:

### a) **Magazine Licence**

**Sections 6-14 of the Explosives Act 1875** deal with application, local authority assent, grant of licence, regulation, general & special rules and devolution of licence. (Note that the procedure is identical to that described above for a factory licence).

Any person may apply for a magazine licence, however the procedure requires local authority assent, which also include a public assent hearing. (Application Form on DJE website).

The local authority may dissent all-together or may assent with conditions. In theory there is no upper explosives limit, although in practice, explosives limits are curtailed by available safety/separation distances, (internal safety distances between facilities within the site and external safety distances between the site and public roads, housing and other vulnerable features). A Government Inspector of Explosives (GIE) should be consulted regarding the appropriate separation distances to be maintained.

### **Relevant Secondary Legislation**

**S.I. No 450 of 1994 Classification and Labelling of Explosives Order, 1994** deals with the requirement that all UN Class 1 explosives which are conveyed or kept (other than certain exemptions) must be labelled in accordance the package/article requirements in the order. (See also S.I. No 133 of 2009 as amended by S.I. 106 of 2012 and S.I 201 of 2015 on identification and labelling).

### b) **Local Authority Stores**

i) **Section 15-20 of Explosives Act and the Stores for Explosives Order 2007 - S.I. No. 804 of 2007** (Note this Order replaced Stores for Explosives Order 1955 – S.I. No 42 of 1955) deal with licensing and regulation of stores by the local authority. Any person may apply for a licence with the local authority and the application fee is fixed by the local authority within the limit set in the Act. The Application Form and Order is available on DJE website [www.justice.ie](http://www.justice.ie) .

ii) The local authority shall not grant the licence unless satisfied that the fire officer and a Garda have inspected the store and confirmed that it meets their requirements. Prior to the granting of a licence, the applicant must

ensure that a risk assessment on possible fire and explosion hazards is carried out and that the store is at all times operated under the supervision of a competent person. The licence may be granted for a period of up to 5 years. Construction requirements for the store are also detailed in the Order. Additional guidance on Fire Safety aspects of local authority stores is available from Department of Environment, the local authority, or from the DJE website.

iii) In this Order, for the purposes of storage, explosives are divided into four hazard types and the maximum quantity of explosives (of any hazard type) permitted to be stored in a local authority store is 2,000Kgs. The explosive limit is determined by the available separation distances. Comprehensive tables showing the separation distances required to be kept between a store and any other infrastructure for each hazard type and quantity of explosives are contained in Schedule 4 to the S.I. There are some exemptions from separation distances for the storage of small arms ammunition provided for in the S.I, once certain conditions are met. Controlled substances, (including ammonium nitrate, sodium chlorate, nitrobenzene, potassium nitrate, sodium nitrate and emulsion matrix) up to a maximum quantity of 50,000Kgs, may also be stored in a local authority store subject to certain conditions.

c) **Registered Premises**

i) **Sections 21-29 of Explosives Act 1875 (and Appendix F of Guide to Act)** deal with registration of premises for storage of explosives with the local authority and the regulation of the premises. Any person can apply to the local authority and if the fee<sup>1</sup> is paid and if the general rules are observed, then the local authority registers the premises to permit the storage (Application Form on DJE website). The registration must be renewed annually. There are two modes of storage, each with different limits and sub-divided into three Groups:

- **Mode A** : A substantial building (constructed of brick, iron, stone or concrete or an excavation in solid rock) or a securely constructed fireproof safe detached from a dwelling at a safe distance from a street or public place. General limit = 90.72 kg (200lbs) mixed explosives.
- **Mode B**: A substantial receptacle or safe inside a dwelling house or public room. General limit = 22.68kg (50lbs) or double this if kept in a fireproof safe.

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<sup>1</sup> In the Explosives Act 1875 the maximum fee is set at one shilling which converts to approx €6 in current terms

Note that for storage of any explosive other than SAA (small arms ammunition), current best practice requires appropriate separation distances to be kept to the public. A Government Inspector of Explosives may be consulted by the local authority for guidance before such registration or renewal.

Registered Premises Mixed Explosives Explosive Limits	Gp 1 G.P. or shooters powder and SAA	Gp 2 Fireworks and SAA	Gp 3 Other explosives and SAA
Mode A	200lbs (90.72kg) + 500lbs SAA (NEC)	200lbs (Gross Wt) + 500lbs SAA(NEC)	60lbs + 500lbs SAA(NEC)
Mode B	50lbs (22.68kg) + 500lbs SAA(NEC)	50lbs(Gross Wt) + 500lbs SAA(NEC)	15lbs + 500lbs SAA(NEC)
SAA =Small arms ammunition, which includes shotgun, pistol and rifle ammunition. NEC = Net Explosive Content, i.e. the weight of propellant powder or explosive not including the weight of ctge/case/packaging etc. SAA powder weight is usually given in grains, 1lb= 7,000grains of powder, 500lbs = 106,000 x 30grain ctges, 41,000 x 85grain ctges, or 83,000 x 42 grain ctges.)			

d) **Keeping of Explosives for private use and not for sale**

Order in Council No 12 provides for a person to apply for a Garda Certificate<sup>2</sup> that he is a fit person, to keep for private use, up to 10 lbs of an authorised explosive, for any industrial, agricultural, sporting or other special purpose, (as specified on the certificate). The certificate is valid for up to one year from date of issue.

<sup>2</sup> This certificate is known in the Garda Siochana as a "C49" form.



6) **Sale of Explosives**

The sale of explosives is dealt with in **EA Section 30-32**:

- Section 30 restricts sale in public places
- Section 31 makes it an offence to sell to a child under 13 years
- Section 32 requires sales to be in closed labelled packages.

(See also sale of pyrotechnics including fireworks on page 14 and sale of Deemed Explosives (page 18))

**Relevant Secondary Legislation**

a) **S.I. 423 of 2016 European Union (Making Available on the Market and Supervision of Explosives for Civil Uses) Regulations 2016**

These Regulations give effect to Directive 2014/28/EU of the European Parliament and of the Council of 26 February 2014 on the making available on the market of explosives for civil uses

Directive 2014/28/EU (the Recast Explosives Directive) essentially aligns the Explosives Directive with the New Legislative Framework and so these Regulations inter alia transpose those additional provisions of the Directive into Irish legislation. These provisions include

- i) No person shall place explosives (except pyrotechnic articles etc), on the market unless:
  - (1) The explosives satisfy the essential safety requirements in the Directive
  - (2) Have passed the conformity assessment procedure referred to in Regulation 12 of the S.I
  - (3) EU Declaration of Conformity has been drawn up
  - (4) The CE mark has been affixed,
  - (5) The explosives are marked with a unique identification
  - (6) When properly stored and used for their intended purpose, do not endanger the health and safety of persons
- ii) Sets out the obligations of economic operators
- iii) Makes provision for conformity assessment procedures
- iv) Makes provision for the notification of conformity assessment bodies and operational obligations of notified bodies
- v) Implements a system for supervision of transfers of explosives
- vi) Makes provision for dealing with explosives which present a risk to persons, property or the environment

These Regulations came into effect on 1<sup>st</sup> September 2016 and revoke

- European Communities (Placing on the Market and Supervision of Explosives for Civil Uses) Regulations 1995 (S.I No 115 of 1995)
- European Communities (Placing on the Market and Supervision of Explosives for Civil Uses) (Amendment) Regulations 2005 (S.I. No 546 of 2005)

- b) **S.I. No 133 of 2009 as amended by S.I. 106 of 2012 & S.I 201 of 2015 European Communities (System for the identification and traceability of explosives for civil uses) Regulations, 2009.** These Regulations give effect to Commission Directives 2008/48/EC and 2012/4/EU setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses. The aim of the Directives is to strengthen the control of explosives for civil uses, thus helping to combat terrorism. The Regulations require the unique labelling of explosives in accordance with the schedule to the regulations. Manufacturers, traders and users of explosives are also required to tighten record keeping and stock management. This should allow the identification and traceability of an explosive from its production site and its first placing on the market until its final user and use, thereby assisting in the prevention of theft and ensuring that any thefts or losses are quickly detected. These Regulations, with the exception of regulations 4(4), 7, 8, and 9 relating to data collection, came into effect on 5<sup>th</sup> April 2013. The remaining regulations came into effect on 5<sup>th</sup> April 2015. S.I 201 of 2015, which was a minor legal clarification, came into effect on 18<sup>th</sup> May 2015

## **7) Conveyance/Transport of Explosives**

### **a) By Road**

#### **Carriage of Dangerous Goods by Road Act 1998 (No 43 of 1998) and associated Regulations**

This Act allows Ireland to be a contracting party to the ADR and enables effect to be given to the ADR Framework Directive and Checks Directive.

#### **Relevant Secondary Legislation**

##### **i) European Communities (Carriage of Dangerous Goods By Road and Use of Transportable Pressure Equipment) Regulations. Currently: S.I. No 349 of 2011 (as amended)**

The Regulations are updated every two years in line with the ADR with certain derogations for national transport and are made under the European Communities Act, 1972.

These Regulations apply to the carriage, in tanks, in bulk and in packages, of dangerous goods by road, including the packing, loading, filling and unloading of the dangerous goods in relation to their carriage. They apply the provisions of the Annexes A and B to the "European Agreement Concerning the International Carriage of Dangerous Goods by Road" (ADR) The Regulations place duties on the various participants associated with the carriage of the dangerous goods. They contain requirements for the vehicles, tanks, tank containers, receptacles and packages containing the dangerous goods during their carriage. The Regulations require that the drivers, and others involved in the carriage of the dangerous goods by road, be adequately trained and, in the case of drivers, hold certificates of such training. The Regulations also contain provisions on an EC harmonised approach to the road checks aspect of their enforcement.

These regulations give the power to inspectors appointed by the Competent Authority to carry out spot checks on vehicles and premises. This is a requirement of the ADR and is contained in provisions in Chapter 1.8.1 of the ADR.

##### **ii) S.I. 423 of 2016 European Union (Making Available on the Market and Supervision of Explosives for Civil Uses) requires that no explosives may be transferred within the State (whether export, import or internal transfer) except under authority of a Transfer Document (Forms used are TD1/TD 2 for internal transfers within the State authorised by Gardaí. External /inter EU transfer is authorised by the Minister and the forms used are TD3/TD4).**

##### **iii) S.I. No 251 of 1995 Conveyance of Explosives (Amendment) Byelaws, 1995 require that vehicle engine not be run while doors are open, loading/unloading or refuelling except where vehicle is equipped with an engine powered lifting mechanism and protected exhaust.**

- iv) **S.I. No 450 of 1994 Classification and Labelling of Explosives Order, 1994**, deals with the requirement that all UN Class 1 explosives which are conveyed must be labelled in accordance the package/article requirements in the order
- b) **By Rail**  
**S. I. No. 651 of 2010: European Communities (Transport of Dangerous Goods by Rail) Regulations 2010** applies the requirements of RID to carriage by rail in this State.
- c) **By Sea**  
The Rules produced by the International Maritime Organisation contained in “The International Maritime Dangerous Goods Code “  
**and S.I. No 391 of 1992 - Merchant Shipping (Dangerous Goods) Rules, 1992** (as amended);
- d) **By Air**  
The International Air Transport Association Dangerous Goods Regulations and the rules produced by the International Civil Aviation Organisation contained in “Technical Instructions for the Safe Transport of Dangerous Goods by Air”  
**and S.I. No 224 of 1973 – Air Navigation (Carriage of Munitions of War, Weapons and Dangerous Goods) Order, 1973** (as amended)
- e) **By Inland Waterway**  
European Provisions Concerning the International Carriage of Dangerous Goods by Inland Waterways.

## 8) **Importation/Export of Explosives**

### a) **Importation**

**Section 40.9 of the EA** provides for the granting of an importation licence from the Minister for any explosive, and may include any conditions and restrictions as he sees fit for the protection of the public from danger.

#### **Relevant Secondary Legislation**

- i) **S.I. 423 of 2016 European Union (Making Available on the Market and Supervision of Explosives for Civil Uses)** requires that no explosives may be transferred (by way of import), unless the consignee applies (Application Form is called a TD 3), to the recipient competent authority (The Minister) for approval of the transfer. Approval shall be by means of a transfer document (TD 4).
- ii) **S.I. No. 449 of 1994 (Import of Explosives Order)** applies to all explosives except pyrotechnic articles, deemed explosives, and lifesaving devices in vehicles. It requires that no person shall import into the state any explosive unless
  - the explosive is classified for transport in accordance with the UN Scheme of classification (as set out in the 8<sup>th</sup> revised edition (or later) of the Recommendations prepared by the UN Committee of Experts on the Transport of Dangerous Goods), and,
  - It conforms in composition, character and quality to the description in a cert of authorisation issued by the appropriate authority in the country of manufacture and which specifies the use or application for which the explosives is to be placed on the market, and,
  - It has such security markings as may be directed by the Garda Síochána.
- iii) **S.I. No 362 of 1993 European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations, 1993** (as amended) gives effect to Council Directives 91/4/77/EEC and articles 12 and 13 of Directive 2014/28/EU on transfers of ammunition and provide for European Firearms Pass and procedures for transfer of ammunitions and records to be kept by firearms dealers.

### b) **Exportation**

#### **Relevant Secondary Legislation**

- i) **S.I No 405 of 1983 Control of Exports Order, 1983 and S.I. No 884 of 2005 Control of Exports Order, 2005** (as amended) require that listed goods (including explosives and pyrotechnics) can only be exported under licence (Note this licence is issued by the Minister for Jobs Enterprise and innovation and not Justice)

- ii) **S.I. 423 of 2016 European Union (Making Available on the Market and Supervision of Explosives for Civil Uses)** requires that no explosives may be transferred (by way of export), unless the consignor provides the Minister and each of the other relevant competent authorities with all the information that they requests and gets the approval of the Minister

9) **Pyrotechnics/ Fireworks**

Note that the general requirements for explosives throughout this document also apply to pyrotechnics. This Section details specific additional requirements for pyrotechnics, which include fireworks.

a) **Explosives Act 1875**

Fireworks are defined as explosives under the Act (Section 3, O.C. 1(a)).

Fireworks are specifically mentioned in the Act as follows:

- Casting, firing or throwing in highway.. (Section 80, amended as by Criminal Justice Act 2006)
- Importation licence required for.. (O.C. 10 (a)).
- Keeping of ...(Sections 5, 40, O.C.s 6, 12, 16, 16(a), 16(b)).
- Manufacture of .... (Sections 48, 49, O.C. 4)
- Packing of.. (O.S.S 7 (15))
- Admixtures prohibited .. (O.C. 19)
- Police Certificate not required for keeping of .. (O.C. 6A, 12, 16)
- Sale of .. Sections 30, 31, 40 (4), O.C. 9)
- Shop Goods .. (O.C. 16A).
- Admixtures prohibited... (Section 3 (b))
- Duty of local authority and police (re Sec 80 above), (Appx K, 15)

b) **Criminal Justice Act (2006)**

Section 68 of CJA 2006 amends Explosives Act 1875, Sec 80, regarding fireworks offences and increases in penalties (Section 69 and Schedule 2). New offences for unlicensed fireworks include any person who:

- Ignites a firework
- Throws, directs or propels an ignited firework at person or property
- Possesses with intent to sell or supply.
- Gardai are given powers to request names, search without warrant persons, vehicles, vessels, aircraft, seize and detain and arrest without warrant. New penalties: on summary conviction - fine Euro 2,500 or 6 months imprisonment or both, on indictment – Euro10,000 or 5 years or both.

**Relevant Secondary Legislation**

c) **S.I. No 174 of 2015 : European Union (Making Available on the Market of Pyrotechnic articles) Regulations 2015.**

These Regulations give effect to Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the making available on the market of pyrotechnic articles and Commission Implementing Directive 2014/58/EU of 16 April 2014 setting up a system for the traceability of pyrotechnic articles.

Directive 2013/29/EU (the Recast Pyrotechnic Directive) essentially aligns the existing Pyrotechnic Directive (Directive 2007/23/EC) with the New Legislative Framework and so these Regulations inter alia transpose those additional provisions of the Directive into Irish legislation. These provisions;

- Continue to restrict the sale, possession and use of the more hazardous categories of pyrotechnic articles, including fireworks, and
- Allow for the sale to the general public of the least hazardous category of fireworks (Category F1 fireworks), and.
- Set age limits for the sale of pyrotechnic articles, with, for example, the minimum age for the making available of a Category F1 firework (i.e. the least hazardous) being set at 12.
- Outline the obligations of the manufacturer, importer and distributor when making available pyrotechnic articles on the market, and
- Prohibit a person from placing any pyrotechnic article on the market unless they satisfy the essential safety requirements, have been subject to conformity assessment procedures, have had the CE marking affixed to them, the EU Declaration of Conformity has been drawn up, have been properly labelled and when properly stored and used for their intended purpose, do not endanger the health and safety of persons.
- Makes provision for conformity assessment procedures
- Make provision for the notification of conformity assessment bodies and operational obligations of notified bodies
- Makes provision for dealing with pyrotechnic articles which present a risk to persons, property or the environment

In addition, in accordance with Commission Implementing Directive 2014/58/EU, the Regulations include the following provisions.

- To place obligations on manufacturers and importers to place a label on pyrotechnic articles with a specific registration number linked to the notified body which carries out the conformity assessment, and
- To keep records of these numbers and associated details of the articles, which will facilitate the tracing of such articles by authorised officers

Subject to certain provisions which come into operation on 17 October 2016, the Regulations came into operation on 1 July 2015. Certain transitional provisions also apply.

The Regulations revoke the following Statutory Instruments:

- the European Communities (Placing on the Market of Pyrotechnic Articles) Regulations 2010 (S.I. No.1 of 2010);
- the European Communities (Placing on the Market of Pyrotechnic Articles) (Amendment) Regulations 2010 (S.I. No. 416 of 2010);
- the European Communities (Placing on the Market of Pyrotechnic Articles) (Amendment) Regulations 2013 (S.I. No. 373 of 2013).

**d) S.I No 129 of 1984: Keeping of Fireworks Order, 1984**

This order restricts amounts of fireworks that may be kept in Registered Premises and in rooms where fireworks are sold to the public. (Amends O.C. 16, 16(a), and 16(b)).

**e) S.I. No 450 of 1994 Classification and Labelling of Explosives Order 1994:**

This Order allows the Minister to classify explosives, including fireworks, and sets out labelling requirements which they must comply with whenever they are conveyed or kept



- f) **S.I No 804 of 2007: The Stores for Explosives Order 2007**  
This order regulates the storage of explosives according to hazard type and quantity stored. Fireworks can be either hazard type 1, 2 , 3 or 4, as determined by an inspector.
- g) **Local Authorities - Department of the Environment and Local Government - Planning and Development regulations** The provisions of the Part XVI of the Planning and Development Act, 2000 and related Regulations (S.I. 600 of 2001) require the organisers of certain types of large scale outdoor events, including fireworks displays, to obtain a licence from the local authority. The Regulation listed provides that a licence will be required to hold such an outdoor event where the audience comprises 5,000 or more people.
- h) **Carriage of Dangerous Goods by Road Act 1998 and Associated Regulations** (Transport, packing, labeling of pyrotechnics)
- i) **Safety Health & Welfare at Work Act, 2005 and Associated Regulations (General Application) Regulations, 2007 (S.I. No 299 of 2007).** (H&S aspects and responsibilities in the workplace)
- j) **Fire Services Act, 1981. and Associated Regulations** (General powers and input from Fire Services relating to fire risks)
- k) **EU Pyrotechnic Legislation**
- i) **Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnical articles (recast)**  
This Directive replaces Directive 2007/23/EC of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles and is transposed by **S.I. No 174 of 2015 : European Union (Making Available on the Market of Pyrotechnic articles) Regulations 2015, which applies from 01 July 2015.** The recast Directives include additional market surveillance obligations, and also update conformity assessment requirements and harmonise terms across a group of 9 Directives.
- ii) **Commission Implementing Directive 2014/58/EU of 16 April 2014 setting up, pursuant to Directive 2007/23/EC of the European Parliament and of the Council, a system for the traceability of pyrotechnical articles.**  
This new Directive requires articles to be labelled with:
- a numbering system which identifies the notified body which issued the relevant CE cert
  - the category of pyrotechnical article
  - the processing number used by the notified body for the article.

This Directive applies from 17 Oct 2016 and is also transposed by **S.I. No 174 of 2015: European Union (Making Available on the Market of Pyrotechnic articles) Regulations 2015**

**iii) European Standards**

CEN, the European Committee for Standardisation, have developed harmonised standards for almost all pyrotechnics (not all other pyrotechnic articles standards completed) which fall within the scope of the Directive, including fireworks. These standards define categories of use and also specify construction, performance, packaging, labelling and test methods for fireworks. The Directive gives legal status to the standards as EU harmonised standards and only pyrotechnics, including fireworks, which meet the standards and the essential safety requirements in the regulation, may be placed on the market within the EU. The relevant standards are

- Category 1, 2 and 3 Fireworks: EN 15947 Parts 1-5: 2010
- Category 4 Fireworks: EN 16261 Parts 1-4: 2012
- Theatrical Pyrotechnics T1 and T2: EN 16256 Parts 1-5: 2012
- Pyrotechnic Articles for Vehicles: EN ISO 14451 Parts 1-10: 2013
- Other Pyrotechnic articles: Ignition Devices: EN 16265: 2015
- Other Pyrotechnic articles: Cartridges for powder actuated tools: EN 16264:2015
- Other Pyrotechnic articles: EN 16263 Parts 1-5 (to be published)

**1) Summary of pyrotechnics/fireworks legislation**

In summary, the main regulations are:

- S.I. No 174 of 2015: European Union (Making Available on the Market of Pyrotechnic articles) Regulations 2015
- Explosives regulations for import, storage, and manufacture of fireworks.
- Carriage of Dangerous Goods regulations for transport of fireworks.
- Explosives Act (as amended by the Criminal Justice Act 2006) - penalties for possession, sale/supply and igniting/propelling/directing unlicensed fireworks and regulations for sale of fireworks .
- General Health and Safety regulations for work practices, (relevant to professional organised firework displays)
- General fire safety regulations , (relevant to public firework displays)
- Planning legislation for local authority event licensing , (relevant to some public firework displays)

## **10) Deemed Explosives and Explosive Precursors**

**Explosives Act 1875.** The Minister, under Section 104 of the Act, may declare that *“any substance which appears to be specially dangerous to life or property by reason either of its explosive properties, or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of the Act (subject to such exceptions, limitations and restrictions as may be specified in the order) shall accordingly extend to such substance in like manner as if it were included in the term explosive in this Act”*. The following S.I.s have deemed certain substances to be explosives under this section:

- S.I. No. 191 of 1972 Explosives (Ammonium Nitrate and Sodium Chlorate) Order, 1972
- S.I. No. 233 of 1972 Explosives (Nitrobenzene) Order, 1972
- S.I. No. 273 of 1986 Explosives (Potassium Nitrate and Sodium Nitrate) Order, 1986

### **Relevant Secondary Legislation for Deemed Explosives**

#### **a) S.I No 364 of 1997: The Sale of Explosives Order 1997:**

This order requires that certain substances which have been deemed as explosives (e.g. Ammonium Nitrate, Sodium Chlorate, Nitro Benzene, Potassium Nitrate, Sodium Nitrate), can only be sold to persons if they have the appropriate police certificate. This certificate to authorise the sale may be issued by a Garda Superintendent when satisfied that the explosives are for private use and not for resale, and are required for immediate use for industrial or agricultural purposes. The certificate can be for a specific purchase, or number of purchases and be limited to a specific period. The seller of the explosive must ensure that the purchaser has a valid Garda Cert and must countersign it and keep records of all transactions.

#### **b) S.I. No 365 of 1997 Ammonium Nitrate Mixtures Exemption Order, 1997**

states that AN mixtures are exempt from the manufacture provisions of the EA, provided the person manufacturing the explosive holds a licence issued by the Minister. (This applies to ANE pump truck operations in quarries and mines. The licences are site specific and are issued to the manufacturer and not the quarry, although they are sometimes called “quarry licenses”.)

**Explosive Precursors and EU Regulation 98/2013:**

An explosives precursor is a chemical substance which can be made into an improvised explosive with relative ease e.g. by mixing or blending with other substances, or by simple chemical processing. Precursors include a wide range of commonly used chemicals and include certain fertilisers, acids, bleaches and fuels. Following on from the Madrid (2004) and London (2005) bombings, an EU Action Plan on Enhancing the Security of Explosives was formulated, and from that came “EU Regulation 98/2013 on the marketing and use of explosive precursors”. The aim of this Regulation to regulate the making available, possession and use of certain chemicals to the general public. The Regulation provides for Member States to:

- restrict the access of the general public to the substances/concentrations in question,
- have a licensing/registration system to allow legitimate use by the general public,
- require records to be kept of sales
- have a contact point for reporting suspicious activities,
- lay down penalties for infringements.

The EU Regulation entered into force on 2<sup>nd</sup> September 2014.

**Relevant Secondary Legislation on Explosives Precursors:****S.I. No 611 of 2014, the European Union (Marketing and Use of Explosives Precursors Regulations 2014**

a) The EU Regulation takes direct effect across the Community; however a Statutory Instrument (S.I.) is required to give effect to Ireland’s approach to implementing the Regulation. Each Member State is also obliged to lay down rules on penalties applicable to infringements and measures to ensure they are implemented. In this context the Irish legislation, which complements the EU Regulation, is **S.I. No 611 of 2014, the European Union (Marketing and Use of Explosives Precursors Regulations 2014**.

b) These Regulations restrict the access by the general public (as defined within the EU Regulation) to certain chemical substances, of certain concentrations, by requiring a Garda Restricted Explosives Precursor Certificate for the introduction into the State, acquisition, possession or use of the substances listed in Annex I to the EU Regulation.

The Regulations outline the obligations of economic operators if intending to make these particular substances, above a certain concentration level, available to the general public.

The Regulations also require the reporting of any suspicious transactions, significant disappearances or theft of the substances listed in both Annex I and Annex II of the EU Regulation, to a designated Garda national contact point. The Regulations set out the offences and penalties associated with a breach of these Regulations.

The Regulations came into operation on 31 December 2014.

## **11) Use of Explosives**

Note that the use of explosives (including pyrotechnics) in the workplace is regulated under Health and Safety legislation and not under the Explosives Act. (See <http://www.hsa.ie>). The following legislation, inter alia, is relevant:

- Safety Health and Welfare at Work Act 2005
- S.I. No 299 of 2007 (Safety, Health & Welfare at Work (General Application) Regulations 2007
- S.I. No. 123/1972: Mines (Explosives) Regulations, 1972; (Currently being redrafted by HSA)
- S.I. No. 237/1971: Quarries (Explosives) Regulations, 1971 as amended by S.I. No. 1/1976: Quarries (Explosives) (Amendment) Regulations, 1976
- S.I. No 28 of 2008: Safety, Health and Welfare at Work (Quarries) Regulations 2008
- S.I. No. 29 of 2008: Safety, Health and Welfare at Work Act 2005 (Quarries) (Repeals and Revocation) (Commencement) Order 2008
- S.I. No. 481 of 2001: Safety, Health and Welfare at Work (Construction) Regulations, 2001 as amended by S.I. No. 277/2003: Safety, Health and Welfare at Work (Construction) (Amendment) Regulations, 2003

GD 6/2010  
Guidance Notes for Public on Explosives Legislation  
Last revision 1 September 2016

**Sources of Additional Information:**

Explosives Act, 1875 Explosives Substances Act, 1883, Orders in Council Orders of Secretary of State	Website of Attorney General at: <a href="http://www.irishstatutebook.ie/1875/en/act/pub/0017/print.html">http://www.irishstatutebook.ie/1875/en/act/pub/0017/print.html</a>  <b>Thomson J.H. Captain C.B.(1941)</b> <i>“Guide to the Explosives Act, 1875” HM Stationary Office 1941, Reprint 1956, London</i>
Acts of Oireachtas, Statutory Instruments	Website of Attorney General at <a href="http://www.irishstatutebook.ie/front.html">http://www.irishstatutebook.ie/front.html</a>
Professional Organised Pyrotechnic Displays	<b>“GD 1/2006 Guidance Document on Organised Pyrotechnic Displays”</b> Available from: <a href="http://www.justice.ie">http://www.justice.ie</a>
Guidance Documents and Forms	Guidance Documents relating to the import, storage, manufacture and transport of explosives are available at: <a href="http://www.justice.ie">http://www.justice.ie</a> and on request from the Department. Application forms are available at <a href="http://www.justice.ie">http://www.justice.ie</a>
European Law	Directives, Regulations, Decisions and general information and texts available at: <a href="http://eur-lex.europa.eu/homepage.html">http://eur-lex.europa.eu/homepage.html</a>
Workplace Law	Information from Health & Safety Authority at; <a href="http://www.hsa.ie">http://www.hsa.ie</a>
Technical Guidance Documents	The Office of the Government Inspector of Explosives has compiled a series of guidance documents to address particular technical issues or requirements as they arise, and to assist regulators, local authorities, explosives industry, or other authorised interested parties. The most commonly used Guidance Documents are available on the Department Website at <a href="http://www.justice.ie">http://www.justice.ie</a> . (Search tip: use “Explosives Guidance” in your search). Or may be requested by authorised persons through: Crime 4 (Firearms and Explosives) Department of Justice and Equality 94 St. Stephen's Green, Dublin 2 D02 FD70 Tel: 01 6028350/6028357 Fax: 01 6028374 E-mail: <a href="mailto:explosives@justice.ie">explosives@justice.ie</a>

GD 6/2010  
Guidance Notes for Public on Explosives Legislation  
Last revision 1 September 2016

**Annex 1**

**Current Secondary legislation relating to Explosives**

S.I. No.	Year	Title	Description	Parent Act
22	1926	The Explosives Act 1875, Adaptation Order 1926	Adapts EA to Saorstát Éireann from UK.	Adapt Enact 2/1922
79	1935	The Explosives Act 1875, Adaptation Order 1935	Sec State = Min Justice, Board Trade = Min Ind & Com	Mins & Secs 36/1939
38	1955	The Conveyance of Explosives Byelaws, 1955	Conditions, specifications for vehicles & boxes (Revoked in part by CDGR Regs)	Expl 1875
191	1972	Explosives (Ammonium Nitrate and Sodium Chlorate) Order, 1972	Deemed explosive, subject to controls in EA 1875	Expl 1875
233	1972	Explosives (Nitrobenzene) Order, 1972	Deemed explosive, subject to controls in EA 1875	Expl 1875
129	1984	Keeping of Fireworks Order, 1984	Limits shop goods Mode A -2,000lbs, Mode B-500lbs, conditions	Expl 1875
273	1986	Explosives (Potassium Nitrate and Sodium Nitrate) Order, 1986	Deemed explosive, subject to controls in EA 1875	Expl 1875
449	1994	Import of Explosives Order, 1994	Class 1 imports to be classified, conform to cert and security marked	Expl 1875
450	1994	Classification and Labelling of Explosives Order, 1994	Classification by Minister by hazard and compatibility, Labelling of Class 1	Expl 1875
251	1995	Conveyance of Explosives (Amendment) Bye-Laws, 1995	Running engine of explosives veh	Expl 1875
175	1996	Order entitled Explosives (Land Mines) Order, 1996	Prohibits manufacture, keep, import, convey, sell land mine	Expl 1875
272	1997	Explosives Act, 1875, (transfer of Departmental Administration and Ministerial Functions) order, 1997	Transfer to Min Justice from Tpt Energy & Comms re Sec 34 byelaws	Mins & Secs 36/1939
364	1997	Sale of Explosives Order, 1997	Applies to sale of deemed explosives under police cert, records	Expl 1875
365	1997	Ammonium Nitrate Mixtures Exemption Order, 1997	Applies to licence to manufacture of explosives from AN mixtures (e.g. pump trucks at quarries)	Expl 1875
6	2001	European Communities (Safety Advisors for the Transport of Dangerous Goods by Road and Rail) Regulations 2001	Appointment and training of DGSAs	EC 27/1972
495	2001	Carriage of Dangerous Goods by Road Act 1998 (Commencement) Order 2001	Commencement	EC 27/1972
392	2002	Carriage of Dangerous Goods by Road Act 1998 (Appointment of Competent Authorities) Amendment Order 2002	Transfers responsibilities from Min Envir & Loc Govt to Min Transport	EC 27/1972
884	2005	Control of Exports Order, 2005	Export of listed goods (including explosives) requiring licence from Min ET&E	Ctl of Exp 35/1983
390	2006	Criminal Justice Act 2006	Commences amendments to Expl Act re fireworks	CJA

GD 6/2010  
Guidance Notes for Public on Explosives Legislation  
Last revision 1 September 2016

		(Commencement) Order 2006	and penalties	26/2006
804	2007	Stores for Explosives Order 2007	Licensing and regulation of stores by the local authorities	Expls 1875
133	2009	European Communities (System for the identification and traceability of explosives for civil uses) regulations 2009	Requirements for marking, keeping data records for explosives regulated under Council Directive 93/15/EEC	EC 27/1972
1	2010	European Communities (Placing on the market of pyrotechnic articles) Regulations, 2010	Categorisation, essential safety requirements, quality assurance systems, CE marking, conditions and restrictions for sale of pyrotechnic articles including fireworks.	EC 27/1972 Directive 2007/23/EC
416	2010	European Communities (Placing on the market of pyrotechnic articles) (Amendment) Regulations, 2010	provide for transitional provisions relating to the manufacture or importation of articles which were lawful prior to the dates specified above	EC 27/1972 Directive 2007/23/EC
651	2010	European Communities (Transport of Dangerous Goods by Rail) Regulations, 2003	Transposes RID requirements for rail	EC 27/1972 Directive 2010/61/EC
349	2011	European Communities (Carriage of Dangerous Goods by Road and Use of transportable Pressure Equipment) Regulations 2011	<p>The Regulations apply to the transport by road, in tanks, in bulk and in packages, of dangerous goods, including the packing, loading, filling and unloading of the dangerous goods in relation to their carriage.</p> <p>The Regulations and the ADR place duties on the various participants associated with the transport by road of dangerous goods. They contain requirements for the vehicles, tanks, tank containers, receptacles and packages containing the dangerous goods during their transport. The Regulations and ADR require that the drivers, and others involved in the transport by road of the dangerous goods, be adequately trained and, in the case of drivers, hold certificates of such training. The Regulations also contain provisions on an EU harmonised approach to the road checks aspect of their enforcement.</p>	EC 27/1992 Directive 2010/35/EC
238	2013	European Communities (Carriage of Dangerous Goods by Road and Use of transportable Pressure Equipment) (Amendment) Regulations 2013	Amends S.I. 238 of 2013	EC 27/1992 Directive 2008/68/EC 2012/45/EU
106	2012	European Communities (System for the identification and traceability of explosives for civil uses) Amendment Regulations 2009	Requirements for marking, keeping data records for explosives regulated under Council Directive 93/15/EEC	EC 27/1972
373	2013	EC Placing on the Market of	Gives effect to Art 47(2) of recast Directive	EC



GD 6/2010  
Guidance Notes for Public on Explosives Legislation  
Last revision 1 September 2016

		Pyrotechnic Articles (Amendment) Regs 2013	2013/29 EU (ESR 4)	27/1972,CD 2008/43//EC
611	2014	European Union (Marketing and Use of Explosives Precursors) Regulations 2014	Gives effect to EU Regulation 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors	EC 27/1972
201	2015	European Union (System for the Identification and Traceability of Explosives for Civil Uses) (Amendment) regulations 2015	Clarifies the offence of persons acquiring or supplying explosives which are not marked with a unique identification and also allows authorised officers to seize such explosives	EC 27 of 1992
174	2015	European Union (Making Available on the Market of Pyrotechnic articles) Regulations 2015	Gives effect to Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast) And Commission Implementing Directive 2014/58/EU of 16 April 2014 setting up, pursuant to Directive 2007/23/EC of the European Parliament and of the Council, a system for the traceability of pyrotechnic articles	EC 27 of 1992
423	2016	European Union (Making Available on the Market and Supervision of Explosives for Civil Uses) regulations 2016	Gives effect to Directive 2014/28/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses (recast)	EC 27 of 1992

**Annex 2**  
**Current EU Legislation relating to**  
**Civil Explosives, Pyrotechnic Articles,**  
**and Transport of Dangerous Goods**

<b>Civil Explosives</b>		
<b>Ref</b>	<b>Full Title</b>	<b>Notes</b>
Directive 93/15/EC	Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses	Transposed by S.I. No 115/1995
Directive 2004/57/EC	Commission Directive 2004/57/EC of 23 April 2004 on the identification of pyrotechnic articles and certain ammunition for the purposes of 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	Transposed by S.I. No 546 of 2005
Decision 2004/388/EC	Commission Decision of 15 April 2004 on the Intra-Community transfer of explosives document (2004/388/EC)	Format for form for transfer of explosives approval
Directive 2008/43/EC	Commission Directive 2008/43/EC of 4 April 2008 setting up. Pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses	Transposed by S.I. No 133 of 2009 (See also Directive 2012/4/EU)
Decision 2010/347/EU	Commission Decision of 19 June 2010 amending Decision 2004/388/EC on the Intra-Community transfer of explosives document (2010/347/EU)	Allows for electronic system of transfer approvals
Directive 2012/4/ EU	Commission Directive 2012/4/EU of 22 February 2012 amending Directive 2008/43/EC setting up. Pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses	Transposed by S.I. No 106 of 2012, providing postponement to 5 Apr 13 for marking obligations and 5 Apr 2015 for data & record keeping.
Regulation 98/2013	Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors	To be applied by 02 Sep 2014
Directive 2014/28/EU	Directive 2014/28/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses (recast)	To be transposed and applied from 20 Apr 2016. Repeals Directive 93/15/EC and Directive 2004/57/EC

GD 6/2010  
Guidance Notes for Public on Explosives Legislation  
Last revision 1 September 2016

<b>Pyrotechnic Articles</b>		
<b>Ref</b>	<b>Full Title</b>	<b>Notes</b>
Directive 2007/23/EC	Directive 2007/23/EC of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles	Transposed by S.I. No 1 of 2010 as amended by S.I. No 416 of 2010 (to allow for additional transitional provisions)
Directive 2013/29/EU	Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast)	Transposed in part by S.I. No 373 of 2013(Art 47(2) regarding withdrawal of certain non-conforming articles). Transposed by S.I. No 174 of 2015: European Union (Making Available on the Market of Pyrotechnic articles) Regulations 2015 Repeals Directive 2007/23/EC, applies from 01 July 2015.
Directive 2014/58/EU	Commission Implementing Directive 2014/58/EU of 16 April 2014 setting up, pursuant to Directive 2007/23/EC of the European Parliament and of the Council, a system for the traceability of pyrotechnic articles	Transposed by S.I. No 174 of 2015: European Union (Making Available on the Market of Pyrotechnic articles) Regulations 2015, applies from 17 Oct 2016.

<b>Transport of Dangerous Goods</b>		
<b>Ref</b>	<b>Full Title</b>	<b>Notes</b>
Directive 95/50/EC	Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road	Gives effect to uniform procedures for road checks by inspectors Transposed by S.I. No 349 of 2011
Directive 96/35/EC	Council Directive 96/35/EC on the appointment and vocational qualification by examination of safety advisors for the transport by Road and Rail	DGSAs appointment and qualifications. Transposed by S.I. No 6 of 2001
Directive 2000/18/EC	Council Directive 2000/18/EC on minimum examination requirements for safety advisors for the transport by Road and Rail	Associated with above. Transposed by S.I. No 6 of 2001
Directive 2008/68/EC	Directive 2008/68/EC of 24 September 2008 on the inland transport of dangerous goods	Gives effect to ADR, ADN and RID Regulations within the EU Transposed by S.I. No 349 of 2011