EXPLANATORY MEMORANDUM TO

THE IDENTIFICATION AND TRACEABILITY OF EXPLOSIVES REGULATIONS (NORTHERN IRELAND)

2010 No. 143

1. This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument transposes a European Directive aimed at preventing the misuse and theft of civil use explosives (e.g. for blasting at quarries) and assisting authorities in tracing the origin of lost or stolen explosives which have been recovered.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The instrument transposes Commission Directive 2008/43/EC setting up a system for the identification and traceability of explosives for civil uses. The Directive was adopted on 4 April 2008, had to be made law by member States by 5 April 2009 and comes into operation on 5 April 2012.

4.2 The Directive applies to the UK and the instrument will closely resemble a Great Britain instrument.

4.3 The UK and a majority of other member States were unable to make the Directive law by 5 April 2009. In recognition of the difficulties States faced, such as the short period for transposition, the European Commission delayed infraction proceedings for not doing so. In October 2009, infraction proceedings commenced against the UK and the eight other member States that still had to transpose.

4.4 UK transposition has proved complicated as the Directive's requirements affect several existing sets of explosives Regulations in both Great Britain and Northern Ireland. Options were considered to determine the most suitable way to ensure full transposition, reduce the regulatory burden on industry and facilitate implementation. It was decided to transpose through a new instrument rather than by amending existing legislation.

4.5 The duties in the Directive, and therefore the instrument, overlap duties in two existing sets of Northern Ireland Regulations, the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991 (CLER) and the Explosives Act (Northern Ireland) 1970 which will remain in force until superseded by this instrument coming into operation on 5 April 2012.

5. Territorial Extent and Application

5.1 This instrument applies to all of Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 This instrument is made under the Health and Safety at Work (Northern Ireland) Order 1978 by the Secretary of State. This is because the Directive contains elements that affect explosives security and safety. This approach follows previous legislative precedent.

7.2 The instrument transposes into Northern Ireland Law the European Commission Directive 2008/43/EC requiring member States to set up a system to trace and identify explosives for civil uses (e.g. for blasting at quarries). It is intended to reduce the risk of incidents such as the 2004 train bombing in Madrid by terrorists using explosives stolen from a quarry. Despite losses or thefts of explosives being rare in Northern Ireland, the instrument should assist in prevent them and aid investigation into any that occur.

7.3 The instrument includes no duties other than those in the Directive. The majority of civil use explosives manufactured in, or imported into, Northern Ireland must be uniquely marked as specified and records of their movement and end use, kept for 10 years. Those keeping the records must provide enforcing authorities with contact details allowing them to access this information at any time necessary.

7.4 In Northern Ireland very few companies will be required to mark explosives. Record keeping for explosives is required by existing legislation and the instrument requires additionally that the unique number is recorded.

7.5 No public interest has been shown in the instrument by any party not directly affected. There has been no media attention.

- ***Consolidation***

7.7 This is not a consolidation measure.

8. Consultation outcome

8.1 Formal consultation was jointly carried out by the Health and Safety Executive (HSE) and the Northern Ireland Office. This reduced the administrative burden of the consultation for stakeholders.

8.2 Consultation lasted 8 weeks rather than the normal 12 for the following reasons:

- there is an urgent need to transpose the Traceability Directive in order to avoid a potential fine by the European Court of Justice for non-transposition;
- the part of the explosives sector affected is mature and compact with well-established and effective formal and informal intelligence gathering and dissemination networks;
- the impact of this instrument will be relatively modest as the majority of the duties exist to a large degree in current explosives legislation – the changes are of a technical nature rather than fundamentally new policy;

- the Traceability Directive further implements part of a parent Directive[1] that had itself been consulted upon and the regulations implementing it have been in operation since 1993;
- businesses have been aware for some months how in principle the Traceability Directive would affect explosives marking and record keeping;
- prior to the formal consultation there had been considerable informal consultation with both trade associations and businesses in the affected sector on the duties in this instrument and how they can be met;
- best endeavours were made directly to inform those affected by this instrument of the consultation.

8.3 A range of organisations representing all elements of the explosives sector, including the police, manufacturers, importers and commercial and non-commercial end users was consulted. Some responses were critical of elements of the proposed Regulations. The instrument does not go beyond the requirements of the Traceability Directive itself and where possible the guidance will be designed to assist industry in meeting the duties. Some respondents felt that the costs were under-represented in the Impact Assessment (IA) and this has been addressed in the final IA.

9. Guidance

9.1 A working group of representatives of stakeholder representatives will develop guidance underpinning this instrument before it comes into force in April 2012.

9.2 When the Regulations come into operation in 2012, the Northern Ireland Office will make relevant information available on its website. A short guidance leaflet for duty-holders will also be produced and distributed and there will be a publicity campaign aimed at the duty-holders (principally through the trade press) and business associations.

10. Impact

10.1 The impact on business, charities or voluntary bodies is limited. The marking and record-keeping duties in this instrument are not entirely new but add to existing requirements. There are only a few manufacturers and importers in Northern Ireland that will need to ensure that certain explosives for civil uses are uniquely marked. They have the flexibility to include their own logistical information in the marking which can be used to facilitate their other business processes. Commercial users of explosives will have to record the unique marking of explosives in addition to the existing records as will a very small number of people who store explosives non-commercially.

10.2 The impact on the public sector is modest. Compliance monitoring of the duties in this instrument will occur as part of the existing inspection regime. Limited Northern Ireland Office resources will be devoted to issuing unique site identification codes as required and maintaining an electronic database of these codes.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to make the marking and record-keeping duties as closely aligned to the existing

[1] 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 that can be found at:
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993L0015:EN:HTML

duties as possible. The proportionality of the impact is not expected to be affected by the size of the company in itself; the impact of the Regulations will depend directly on the amount of explosives used by a company.

11.3 The basis for the final decision on what action to take to assist small business was the findings from consultation and discussions with relevant stakeholders. Representatives of small businesses will be involved in the working group developing guidance underpinning this instrument before it comes into operation in April 2012.

12. Monitoring and review

12.1 The success criteria for this legislation are that:
(a) Duty-holders have a clear understanding of their obligations, with all explosives for civil uses manufactured or imported being uniquely marked before being placed on the market in Northern Ireland after April 2012.
(b) All lost or stolen explosives found to have originated in Northern Ireland can be tracked through the supply chain to the last legal owner.
Work to review the working of the Regulations will begin within one year of the instrument coming into operation.

13. Contact

Clare Brewster at the Northern Ireland Office Tel: 02890520056 or email: Clare.Brewster@nio.x.gsi.gov.uk can answer any queries regarding the instrument.

GREAT BRITAIN SHORT IMPACT ASSESSMENT (SUMMARY INTERVENTIONS AND OPTIONS)

FOR

THE INDENTIFICATION AND TRACEABILITY OF EXPLOSIVES REGULATIONS (NORTHERN IRELAND) 2010

1. The following pages contain a copy of the short Impact Assessment (Summary: Interventions and Options) that was conducted in respect of the corresponding Great Britain Regulations.

2. The Secretary of State is of the opinion that the analysis and considerations set out in the Great Britain Impact Assessment can be applied directly to Northern Ireland where very few businesses are affected, on a pro-rata basis.

Northern Ireland Office
February 2010

Initial Impact Assessment

Summary: Intervention & Options		
Department /Agency: Health and Safety Executive	**Title:** Final Impact Assessment of European Community Directive on the Identification and Traceability of Explosives for civil uses.	
Stage: Final	**Version: 1**	**Date:** February 2010
Related Publications: Directive on the harmonization of the provisions relating to the placing on the market and supervision of explosives for civil uses Directive on the identification and traceability of explosives for civil uses		

Available to view or download at:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993L0015:EN:HTML

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:094:0008:01:EN:HTML

Contact for enquiries: David Pascoe **Telephone: 0151 951 4241**

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

On 4 April 2008, the European Commission adopted the Identification and Traceability of explosives for civil uses Directive, requiring most explosive articles for civil uses to be labelled with a 'unique identification' made up of a human readable alphanumeric code and a bar code. The Directive also requires records to be kept of all transfers and issues of explosives. The transposition deadline was 5 April 2009. The Directive does not apply to explosives for military or police use, pyrotechnics, ammunition nor to the onsite mixing of explosives.

Government intervention is necessary as the Directive must be transposed into UK legislation.

What are the policy objectives and the intended effects?

The aim of this directive is to uniquely identify commercial packaged explosive and other items such as detonators to assist in determining their place of manufacture and the chain of supply. This is a measure intended by the EU to reduce the risk of a terrorist attack such as the Madrid bombings which involved the use of stolen commercial explosive. The measures should also assist in the investigation of both terrorist and non-terrorist criminal activities involving explosives.

What policy options have been considered? Please justify any preferred option.

Had Member States taken action individually to address this issue, individual national measures might have been seen as barriers to trade and therefore incompatible with European law, and inconsistencies between the measures of individual Member States would have led to additional compliance costs for businesses. Community legislation is the most uniform and effective Community-wide response to this issue.

The options of transposing this Directive by making a new set of Regulations or by amending two existing sets of Regulations were considered. On Better Regulation grounds a review of all health and safety explosives legislation is to take place over the next two years to deliver an integrated modern suite of legislation. Any short-term amendment would add to the fragmented nature of the existing legislation and in any event, the two sets of Regulations form part of this review. To amend them, then immediately review and further amend them does not seem sensible and was thought likely to lead to confusion.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

We intend to begin the review of these regulations in 2013, one year after they come into force so that they have had time to bed in and take effect.

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

Policy Option:	Description: **Directive is adopted**

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	Costs to manufacturers of labelling equipment and systems together with associated running costs. Costs for explosives users of holding records for 10 years as opposed to current 3 years.
£ 110,250	1	
Average Annual Cost (excluding one-off)		
£ 191,000	30	**Total Cost** (PV) **£ 3.5 million - £4 million**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups' For the reasons outlined in the evidence base, it is difficult to estimate the benefits of these proposals, and an indicative estimate only is provided of possible benefits. The indicative estimate below assumes two deaths through criminal/terrorist activity being prevented over a 30 year period through more efficient investigation and intelligence resulting from the improvements in tracing explosives, but different assumptions could be applied.
One-off	**Yrs**	
£		
Average Annual Benefit (excluding one-off)		
£	30	**Total Benefit** (PV) **£ 1,900,000**

Other **key non-monetised benefits** by 'main affected groups'

Key Assumptions/Sensitivities/Risks It is assumed that the implementation of the directive will **not** make it more difficult for explosives users to maintain records manually.

Price Base Year 2007	Time Period Years 30	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£**

What is the geographic coverage of the policy/option?			Great Britain	
On what date will the policy be implemented?			5 April 2012	
Which organisation(s) will enforce the policy?			HSE and police	
What is the total annual cost of enforcement for these organisations?			£ no additional costs	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ N/A	
What is the value of changes in greenhouse gas emissions?			£ N/A	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of	£ £110,000	Decrease of	£	**Net Impact**	**£**	110,000

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

Assessment of the impact of EU directive on the labelling and traceability of explosives

Introduction

The Directive is part of the European Commission's Action Plan on the Security of Explosives, and is a 'daughter' Directive of the Placing on the market, supervision and transfer of explosives Directive (93/15/EEC). In line with the scope of its parent, this Directive applies to civil explosives and not to explosives for military and police use; nor does it apply to pyrotechnic articles or to ammunition.

The key requirements of the Directive are that manufacturers and importers from outside the European Economic Area (henceforth referred to as 'importers') must ensure that explosives and 'each smallest packaging unit' of the explosives are marked with a unique identification number. This is a alphanumeric code which is in a human readable form in a format prescribed by the Directive as well as in the form of an electronic readable identification (a bar code or matrix code). The alphanumeric code will include information on the place of production or import into the Community market and the manufacturing site. This information should be marked on or firmly affixed to the explosive and smallest packaging unit.

The Directive also requires 'undertakings in the explosives sector' to maintain a data collection system in relation to explosives throughout the supply chain and life cycle of the explosive. This system must enable those holding the explosives to be identified at any time and the information must be held for up to 10 years from delivery or from the end of the life-cycle of the explosive.

Background

The UK industry

Civil explosives fall into three broad types:

- bulk, site-mixed, explosives which provide the main explosive charge for blasting;
- packaged explosives which are used in certain more specialist situations such as underground or in wet conditions; and
- detonators and primers which supply the initial energy to initiate an explosion in the bulk explosives.

Bulk explosives are manufactured on-site, in most cases at mines and quarries. They are made by mixing ammonium nitrate with diesel fuel or by mixing ammonium nitrate-based emulsions with fuel and gassing agents. This type of explosive is by far the most widely used in the UK and because it is not actually explosive until it undergoes final mixing on site it is not covered by the requirements of the Directive. Packaged explosives are used in situations where site-mixed explosives would not be suitable. Detonators and primers are now almost entirely imported.

There are three companies in the UK manufacturing explosive articles for use in the civilian sector (other companies are involved in the manufacture of emulsions). Two of these companies operate as a joint venture so there are effectively only two manufacturing sites in the UK with three manufacturing lines in total. All of these companies also provide blasting services to the mining and quarrying industry – ie rather than selling the explosives to the quarrying company, the company carries out the blasting operations itself and is paid for the quantity of material involved in the blast.

Existing legislation on labelling and record keeping

The labelling requirements for explosives supplied in Great Britain are set out in the Classification and Labelling of Explosives Regulations 1983 (SI 1140/1983). These require that for certain listed security-sensitive explosive articles and substances, the outer packaging should display the following information:

- the total number of explosives articles and the total nominal mass of any explosives substances (or in the case of detonating cord the length of the cord);
- the month and year of manufacture or when the explosives left the factory;
- 'a description which enables each explosive article to be distinguished from every other explosive article which is not identical'.

For those explosive substances, the 'inner packaging' must also carry the following information:

- the name of the explosive substance;
- the nominal mass or length and diameter of the cartridge;
- the month and year when the explosives were manufactured or left the factory.

There are similar requirements in Northern Ireland.

The requirements on record-keeping for GB are set out in the Control of Explosives Regulations 1991 (SI 1991/1531). These require that anyone acquiring or keeping certain security-sensitive explosives should maintain records. The main information that must be included in the records is as follows:

- the date the explosives were acquired;
- the date the explosives were transferred, or used or destroyed [etc];
- if the explosives are transferred, the details of the person receiving the explosive;
- a description of the explosive;
- the quantity of explosive (ie net mass or number of articles etc).

These records must be kept for three years from the date the explosives are transferred, used or destroyed etc.

There are similar requirements in Northern Ireland.

Costs for UK industry

Costs for explosives manufacturers and importers

As noted above there are already fairly extensive requirements on labelling and recordkeeping in the UK. However, the Directive goes further.

On marking/labelling:

- all items of explosives must marked with a unique identification
- the identification must use the format prescribed by the directive;
- articles such as detonators and cartridges must be marked or labelled – previously only the outer packaging had to be labelled.

The implications for manufacturers of these changes are that they will need to invest in labelling equipment and systems – and there will be a ongoing costs (see detailed costing below).

The major change in the recordkeeping requirements is that record must be maintained for 10 years rather than 3 years.

Costs and benefits for end-users

End-users will be required to keep records for ten years. The working conditions at mines and quarries as well as other technical issues present real difficulties in the deployment of barcode readers. In any event it is debateable whether or not it would be cost-effective for most end-users to develop the necessary computer systems to facilitate barcode scanning. We therefore anticipate that end-users will mainly continue to maintain records manually incurring little additional cost above that already incurred to comply with existing legislation.

The Directive leaves manufacturers freedom to decide how to use most of the characters. It would be beneficial, particularly for end-users, if manufacturers were to use this code in a way that facilitated manual record-keeping. For the purposes of this impact assessment we have assumed that this aspect of the Directive will be cost neutral.

Impact on small firms

The explosives manufacturers in the UK are small firms, but are all part of larger multinational organisations.

There are a large number of small firms in the mining and quarrying sector. However, in terms of production (and therefore consumption of explosives) the sector is dominated by eight major firms.

Costs to the public sector

As noted above, the Directive does not apply to explosives for police or military use. Therefore there are no direct or indirect costs to users of explosive in the public sector.

There are potential benefits to the police in that the proposals could assist in investigations into terrorist and non-terrorist criminal activities involving explosives. This is through each piece of explosive being uniquely identified allowing the place of manufacture and chain of supply to be determined. The benefits in investigations involving explosives manufactured outside of the UK will be correspondingly greater difficulty in obtaining information.

Detailed analysis of costs

Manufacturers and importers

The costs for a basic labelling and recording system for a single production line producing 1000 tonnes of explosive per year have been estimated by one manufacturer to be as follows:

One-off setup and capital costs (per line)	
Label printer with software	£1.5K
3 hand held scanners	£7.5K
1 x PC	£0.5K

1 x Database	£15K
Total	**£24.5K**
Ongoing annual costs (per line)	
Consumables	£2K
Maintenance Contracts	£3K
Equipment replacement costs	£3K (replacement of hardware every 3 yrs)
Labour costs	£10K
Total	**£18K**

The labour costs are for the work involved in scanning product barcodes during the production and dispatch process, and in maintaining records and administering the information system. This is estimated at 5 person hours per day (ie approximately 1000 hours per year per line) Employment costs (including wages and non-wage employment costs) are estimated at £10 per hour.

Assuming that there are 3 main operating lines in the UK each producing about 1000 tonnes of explosives, one-off costs to these manufacturers are estimated to be £73,500 in total. Operating costs to these manufacturers are estimated at £54,000 per year in total.

In addition, it assumed that there are three small scale manufacturers, for which costs would lower. It is estimated that costs will be approximately 50% of the costs for the main manufacturers, at approximately £36,750 for one-off costs, and £27,000 per year for operating costs, Therefore total one-off costs to the industry are estimated at £110,250, and total operating costs are estimated at £81,000 per year.

Costs for end-users

There are approximately 2,200 quarries in the UK, although only a proportion of these are operational at any one time. Most of the operational quarries will be using explosives for quarrying operations – although only a minority actually store explosives or use explosives regularly. We have estimated the additional record-keeping costs at averaging between £5 - £50 per quarry per year i.e. a total of £11,000 - £110,000. Due to uncertainty and lack of data about this estimate, the upper end of the range is applied as the estimate for this impact assessment.

Total costs

Total costs are therefore estimated at £110,250 for one-off costs, and £81,000 per year for annually recurring costs, plus £110,000 per year for additional record keeping costs. Discounted over a 30 year period this cost, inclusive of one-off and annually recurring costs, is estimated within a range of £3,500,000 to £4,000,000 in present value terms.

Benefits

The aim of this directive is to uniquely identify commercial packaged explosive and other items such as detonators to assist in determining their place of manufacture and chain of supply. This is a measure intended by the EU to reduce the risk of a terrorist attack such as the Madrid bombings which involved the use of stolen commercial explosive. The measures could also assist in the investigation of both terrorist and non-terrorist criminal activities involving explosives.

Clearly the benefits to society of preventing even a single terrorist event would be substantial. However, the total benefit is extremely difficult to calculate because:

- there are relatively few such events, their effects vary so greatly and are so complex it is difficult to make assumptions about them;
- the effects of the Directive in reducing the frequency of such events are very indirect and therefore it is difficult to make assumptions about their impact.
- A significant cost of terrorist accidents has also been the damage to buildings and infrastructure, and disruption to economic activity, and there is a lack of reliable data about these costs.

There are already strict UK controls on the security of explosives and robust requirements on labelling and recordkeeping. It is therefore extremely difficult to attempt to quantify an additional benefit from tightening these controls still further.

The estimated value of a preventable fatality is £1.5 million (source: HSE Economic Appraisal Values (2006, Q3). It is not possible to estimate the number of fatalities that may be prevented as a result of this proposal. However, for the purposes only of providing an indication of the potential value of benefits of this proposal, if the measures did result in avoiding a hypothetical explosion (or similar terrorist attack) saving two lives in year 30, the benefit in present value terms would be approximately £1.9m. If the number of fatalities avoided was greater or less than this, or occurred in a different year in the appraisal period, the benefits would differ proportionately. This estimate of benefits does not include avoided damage to buildings, infrastructure, and disruption of economic activity, and possible benefits of this type that may be generated by the Directive are very difficult to reliably estimate.

Competition assessment

Markets

The primary market affected by these proposals is the market for explosives for civil use.

Product market

The major secondary market is the market for blasting services to the mining and quarrying industry.

It is arguable that this market could be further divided into three sub-markets:

- bulk explosives;
- cartridge explosives; and
- detonators and primers.

According to figures published by the Office for Fair Trading, production and sales of packaged explosives have fallen from about 17,000 tonnes in 1992 to less than 4,000 tonnes in 2009, as users switch to the use of bulk site-mixed explosives. Packaged explosives are estimated to account for 15% by volume and 30% by value of the civil explosives market.

The market for bulk explosives will be largely unaffected, and given that very few detonators and primers are now manufactured in the UK the impact in the UK will primarily affect the market for packaged explosives.

Geographic market

Of the three UK producers (Ulster Industrial Explosives, Exchem and Exxor – a joint venture between Exchem and Orica), one is based in Northern Ireland and the others in Great Britain at a site with two production lines. There is very little movement of explosives either between Northern Ireland and Great Britain or between continental Europe and the UK. It is not clear whether this lack of movement is due to the depressed prices for packaged explosives in the UK or to logistical and transport difficulties or a combination of the two.

Consumers

When it considered the proposal for the joint venture between Exchem and Orica, the OFT noted that the mining and quarrying sector is dominated by eight companies and that 'these are knowledgeable and sophisticated purchasers who may be able to exercise buyer power'. They are also potentially capable of manufacturing bulk explosives for themselves on-site, providing their own blasting services or purchasing explosives elsewhere in Europe for direct import.

Impact on competition

The Directive applies equally to all explosives manufacturers – although there will be an increase in the costs of producing packaged explosives as compared to bulk site-mixed explosives. This is therefore likely to reinforce the trend towards users switching to these types of explosive. The Directive will not add substantially to the barriers to entering this market as doing so already necessitates substantial capital outlay.

This market is characterised by a very low-level of competition, apparently tempered by a high-level of buyer power. There does not appear to be any evidence that the Directive will reduce the level of competition still further.

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	*Results in Evidence Base?*	*Results annexed?*
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

Annexes

Small Firms Impact Test

See evidence base,

Competition Assessment

See evidence base.

Legal Aid

Not applicable – the Directive does not create new criminal sanctions or civil penalties

Sustainable development

The Directive has no implications for sustainable development.

Environmental Impact

The Directive will not:

1. **lead to a change in the emission of greenhouse gases;**
2. **be vulnerable to the predicted effects of climate change;**
3. **impact significantly on air quality;**
4. **involve a material change to the appearance of the landscape or townscape;**
5. **change either the degree of water pollution or levels of abstraction of water or exposure to flood risk;**
6. **disturb or enhance habitat or wildlife;**
7. **affect the number of people exposed to noise or the levels to which they are exposed.**

Health Impact Assessment

The Directive 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 Directive 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 Directive will not impact on any of the variables that influence the probability of an individual becoming more or less healthy.

The Directive 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 Directive 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 Directive, according to their racial group, for example in terms of access to a service, or the ability to take advantage of opportunities.

There is no evidence that any part of the Directive 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 Directive.

The Directive 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 Directive is not likely to damage relations between any particular racial group (or groups) and HSE.

The Directive is not relevant to the race equality duty.

Carbon assessment

The Directive has no significant impact on emissions of greenhouse gases

Disability Impact Assessment

This Directive has no impact on disability equality.

Gender Impact Assessment

The Directive will not affect men and women differently, or have any impact positive or negative on life chances or on gender stereotyping.

Human Rights

The Directive will not engage with anyone's convention rights.

Rural proofing

The Directive will not have any significant differential impact in rural areas.

TRANSPOSITION NOTE:

Commission Directive 2008/43/EC

This Transposition Note is for the implementation of Commission Directive 2008/43/EC of 4th April 2008 setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses.

Introductory Note:
These Regulations are called **the Identification and Traceability of Explosives Regulations (Northern Ireland) 2010**. The Regulations do more than is necessary to implement the Directive in the following areas:
(a) the requirement on importers to ensure the security and safekeeping of explosives while they are awaiting marking (regulation 4(6)); and
(b) the inclusion of the reference to boxes (containing explosives) in paragraph 7 of Schedule 2 for the purposes of marking with a unique identification..

Article	Objective	Implementation	Responsibility
Article 1.	Subject matter of the Directive.	While no specific transposition of this Article is necessary, the Regulations cover its subject matter.	
Article 2.	Scope.	Regulation 3(1)(a), (d) and (e). (The disapplications in regulation 3(1)(b) and (c) are derived from Article 1.3 of the parent Directive 93/15/EEC of 5th April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil uses.)	
Article 3.1, first paragraph.	Requires manufacturers and importers to mark explosives with a unique identification.	Regulation 4(1) and (5).	Secretary of State.
Article 3.1, second	This makes	Regulation 4(4).	As above.

paragraph.	provision as to when a new unique identification is required in place of an original, after a further manufacturing process.		
Article 3.2.	Marking with a unique identification is not required for export and the marking is in accordance with the importing country's requirements.	Regulation 4(3).	As above.
Article 3.3	The unique identification is to comprise the components in the Annex.	Regulation 4(2)(a) and Schedule 1.	As above.
Article 3.4.	Manufacturing sites are to be attributed a three digit code.	Regulation 5 (1) and (2).	As above.
Article 3.5, first paragraph.	For manufacturing sites outside the EU with a manufacturer established in the EU, the importing national authority is to attribute a code to the manufacturer.	Regulation 5(3)(a) and (c), (4) and (6).	As above.
Article 3.5, second paragraph.	For manufacturing sites outside the EU with a manufacturer not established in the EU, the importing national authority is to attribute a code to the importer.	Regulation 5(3)(b) and (5).	As above.
Article 3.6.	This makes provision as to distributors who repackage explosives.	Regulation 4(8).	As above.

Article 4.	Requires the marking of the unique identification to be durable and legible.	Regulation 4(2)(b).	As above.
Article 5, first paragraph.	Marking of cartridged explosives and explosives in sacks.	Regulation 4(1) and Schedule 2, paragraph 1(a) and (b).	As above.
Article 5, second paragraph.	Attaching tags to cartridged explosives and explosives in sacks.	Regulation 4(1) and Schedule 2, paragraph 1(c).	As above.
Article 6.	Marking of two-component explosives.	Regulation 4(1) and Schedule 2, paragraph 2.	As above.
Article 7, first paragraph.	Marking of plain detonators and fuses.	Regulation 4(1) and Schedule 2, paragraph 3(a) and (b).	As above.
Article 7, second paragraph.	Attaching tags to plain detonators and fuses.	Regulation 4(1) and Schedule 2, paragraph 3(c).	As above.
Article 8, first paragraph.	Marking electric, non-electric and electronic detonators.	Regulation 4(1) and Schedule 2, paragraph 4(a) and (b).	As above.
Article 8, second paragraph.	Attaching tags to electric, non-electric and electronic detonators.	Regulation 4(1) and Schedule 2, paragraph 4(c).	As above.
Article 9, first paragraph.	Marking primers and boosters.	Regulation 4(1) and Schedule 2, paragraph 5(a) and (b).	As above.
Article 9, second paragraph.	Attaching tags to primers and boosters.	Regulation 4(1) and Schedule 2, paragraph 5(c).	As above.
Article 10, first paragraph.	Marking detonating cords and fuses.	Regulation 4(1) and Schedule 2, paragraph 6(a) to (c).	As above.
Article 10, second paragraph.	Attaching tags to detonating cords and fuses.	Regulation 4(1) and Schedule 2, paragraph 6(d).	As above.
Article 11, first paragraph.	Marking cans and drums containing explosives.	Regulation 4(1) and Schedule 2, paragraph 7(a).	As above.
Article 11, second	Attaching tags to	Regulation 4(1)	As above.

paragraph.	cans boxes and drums containing explosives.	and Schedule 2, paragraph 7(b).	
Article 12.	Copies of original labels	Regulation 4(1) and Schedule 2, paragraph 8.	As above.
Article 13.1.	Requires data collection in relation to explosives	Regulation 6(1) and (3).	As above.
Article 13.2.	Data collection is to allow holders of explosives to be identified.	Regulation 6(1) and (3).	As above.
Article 13.3	Requires the data to be kept for ten years after the end of the explosive's life cycle.	Regulation 6(6).	As above.
Article 14(a)	Requirements as to the record to be kept.	Regulation 6(1) and (3)(a), (c), (d) and (e).	As above.
Article 14(b)	The record is to cover the location of the explosives.	Regulation 6(1) and (3)(b).	As above.
Article 14(c)	The data collection system is to be tested regularly.	Regulation 6(5).	As above.
Article 14(d)	The record is to be kept and maintained.	Regulation 6(1), (4) and (6).	As above.
Article 14(e)	The data is to be protected.	Regulation 6(7).	As above.
Article 14(f)	Provision of information to the competent authority about the origin and location of the explosive.	Regulation 6(8)(a).	As above.
Article 14(g)	The provision of information to the national authority as to contact details of persons.	Regulation 6(8)(b).	As above.
Article 14, final paragraph	Requires records to be maintained in accordance with national provisions for explosives manufactured or	Explosives Act (Northern Ireland) 1970 (1970 c.10(NI))	As above.

	imported before 5th April 2012.		
Article 15	Transposition.	These Regulations.	As above.
Article16	Entry into force.	No transposition is necessary.	
Article 17	The Directive is addressed to Member States.	No transposition is necessary.	
Annex	The description of the unique identification.	Regulation 4(2)(a) and Schedule 1.	As above.