

# Guide to Explosives Legislation 2010



Issued by the Office of the  
Government Inspector of Explosives

Feb 2010

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

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### Sources of Additional Information:

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| Explosives Act, 1875<br>Explosives Substances Act, 1883,<br>Orders in Council<br>Orders of Secretary of State | <b>Thomson J.H. Captain C.B.(1941)</b><br><i>“Guide to the Explosives Act, 1875” HM Stationary Office 1941, Reprint 1956, London</i>      |
| Acts of Oireachtas,<br>Statutory Instruments  | Website of Attorney General at<br><a href="http://www.irishstatutebook.ie/front.html">http://www.irishstatutebook.ie/front.html</a>       |
| Professional Organised Pyrotechnic Displays   | <b>“Guidance Document on Organised Pyrotechnic Displays”</b> Available from:<br><a href="http://www.justice.ie">http://www.justice.ie</a> |
| Forms and Guidance Documents  | from: <a href="http://www.justice.ie">http://www.justice.ie</a>   |

### 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 EC Directives.

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 is planned for 2010.

1)

### **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, it is understood that 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 is included at the end of this document.

### 3) **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 DJELR 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 mixture 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 known as “quarry licenses”.) Note that these licenses are licenses to manufacture explosive substances and not blasting licences.
  - ii) **S.I. No 115 of 1995 European communities (Placing on the Market and Supervision of Explosives for Civil Uses)** requires that when a licence for manufacture is issued that the licensee be capable of complying with the technical commitments they assume.

4)

## **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 DJELR 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 kept must be labelled in accordance the package/article requirements in the order. (See also S.I. No 133 of 2009 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 DJELR 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 DJELR 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 is paid (equivalent to one shilling) and if the general rules are observed, then the local authority registers the premises to permit the storage (Application Form on DJELR 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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Last revision 23 Feb 2010

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<br>Mixed Explosives<br>Explosive Limits  | Gp 1<br>G.P. or shooters<br>powder and SAA | Gp 2<br>Fireworks<br>and SAA              | Gp 3<br>Other explosives<br>and SAA |
|--|--|---|-------------------------------------|
| Mode A   | 200lbs (90.72kg)<br>+ 500lbs SAA<br>(NEC)  | 200lbs (Gross Wt)<br>+ 500lbs<br>SAA(NEC) | 60lbs<br>+ 500lbs<br>SAA(NEC)       |
| Mode B   | 50lbs (22.68kg)<br>+ 500lbs<br>SAA(NEC)    | 50lbs(Gross Wt)<br>+ 500lbs<br>SAA(NEC)   | 15lbs<br>+ 500lbs<br>SAA(NEC)       |
| <p>SAA =Small arms ammunition, which includes shotgun, pistol and rifle ammunition.<br/>NEC = Net Explosive Content, i.e. the weight of propellant powder or explosive not including the weight of ctge/case/packaging etc.<br/>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.)</p> |  |   |                                     |

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 (C49) 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.

5) **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)

**Relevant Secondary Legislation**

a) **S.I. 115 of 1995 European communities (Placing on the Market and Supervision of Explosives for Civil Uses)** (which transposes Council Directive 93/15/EEC), requires that no person shall place explosives (except pyrotechnic articles etc), on the market unless:

- i) The explosives satisfy the essential safety requirements in the Directive
- ii) Conformity of explosives to requirements has been attested, in accordance with EC Type examination, Module B, together with:
  - Type conformity, Module C, or
  - Production quality assurance, Module D, or
  - Product quality assurance, Module E, or
  - Product verification, Module F or
  - Unit verification, Module G.
- iii) The CE mark has been affixed,
- iv) The explosives are properly marked

b) **S.I. No 133 of 2009 European Communities (System for the identification and traceability of explosives for civil uses) Regulations, 2009.** These Regulations give effect to Commission Directive 2008/48/EC 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 Directive 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.

The Regulations also amend the European Communities (Placing on the Market and Supervision of Explosives for Civil Uses) Regulations 1995 (S.I. No. 115 of 1995). Penal sanctions for those who contravene the 1995 to 2009 Regulations are prescribed.

6) **Sale of Deemed Explosives (See page 17)**

## 7) Conveyance 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) **Carriage of Dangerous Goods by Road Regulations.**

The Regulations are updated every two years in line with the ADR with certain derogations for national transport, as provided for in separate regulations 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 place duties on the Competent Authority, in Part 7, in respect of carrying out spot checks on vehicles and premises. This requirement is contained in provisions in Chapter 1.8.1 of ADR.

##### ii) **European Communities (ADR Miscellaneous Provisions) Regulations.**

These Regulations apply to the carriage, in tanks, in bulk and in packages, of dangerous goods by road. They complement the provisions of the "associated Regulations", namely, the Carriage of Dangerous Goods by Road Regulations made under the Carriage of Dangerous Goods by Road Act 1998.

The Regulations contain provisions on an EC harmonised approach to the road checks aspect of their enforcement. They also implement certain exemptions which are in addition to those contained in the Annexes A and B to the "European Agreement Concerning the International Carriage of Dangerous Goods by Road" (ADR)

##### iii) **S.I. 115 of 1995 European communities (Placing 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 competent authority document. (CAD) (Forms used are TD1/TD 2. Internal transfers within the State are authorised by Gardaí (External /inter EU transfer is authorised by the Minister and the forms used are TD3/TD4).

##### iv) **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.

- v) **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. 701 of 2003: European Communities (Transport of Dangerous Goods by Rail) Regulations** 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. 115 of 1995 European communities (Placing 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 recipient competent authority 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 Siochána.

iii) **S.I. No 362 of 1993 European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations, 1993** gives effect to Council Directives 9 /77/EEC 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 300 of 2000 Control of Exports Order, 2000** require that listed goods (including explosives and pyrotechnics) can only be exported under licence (Note this licence is issued by the Minister Enterprise Trade & Employment and not Justice)

ii) **S.I. 115 of 1995 European Communities (Placing 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 with a copy of the recipient competent authority document and any other information which the Minister may reasonably require.

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 below)\*
- 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)**

Amends Explosives Act 1875, Sec 80, regarding fireworks offences\* (Section 68) 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 1 of 2010 (EUROPEAN COMMUNITIES (PLACING ON THE MARKET OF PYROTECHNIC ARTICLES) Regulations, 2010**

These Regulations give effect to 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.

The Regulations restrict the sale, possession and use of the more hazardous categories of pyrotechnic articles, including fireworks, but allows for the sale to the general public of the least hazardous category of pyrotechnic articles (category 1 fireworks and category P1 pyrotechnics). The Regulations also set age limits for the sale of pyrotechnic articles.

The Regulations outline the obligations of the manufacturer, importer and distributor when placing pyrotechnic articles on the market and prohibit any person from placing any pyrotechnic article on the market unless they satisfy essential safety requirements, have been subject to conformity assessment procedure and have had the CE marking affixed to them.

The Regulations also makes provision for the appointment of authorised officers and of Notified Bodies.

The Regulations will come into operation on 4 July 2010 in respect of fireworks of categories 1, 2 and 3 and on 4 July 2013 for other pyrotechnic articles, fireworks of category 4 and theatrical pyrotechnic articles.

- 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 Legislation**
  - i) **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.**  
See Irish transposition as S.I. No 1 of 2010 above.
  - ii) **European Standards**  
CEN, the European Committee for Standardisation, is currently developing harmonised standards for all pyrotechnics which fall within the scope of

the Directive, including fireworks. These standards will define categories of use and also specify construction, performance, packaging, labelling and test methods for fireworks. The Directive will give legal status to the standards as EU harmonised standards and only pyrotechnics including fireworks which meet the standard and the essential safety requirements in the regulation, may be placed on the market within the EU.

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

In summary, the main regulations are:

- S.I. No 1 of 2010 for placing on the market of pyrotechnics
- 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

**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 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**

#### **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”.)

## **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. The following legislation, inter alia, is relevant:

- S.I. No. 123/1972: Mines (Explosives) Regulations, 1972;
- 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

**Current Secondary legislation relating to Explosives**

| <b>S.I. No.</b> | <b>Year</b> | <b>Title</b>   | <b>Description</b>  | <b>Parent Act</b>   |
|-----------------|-------------|--|---|---------------------|
| 22              | 1926        | The Explosives Act 1875, Adaptation Order 1926   | Adapts EA to Saorstat Eireann 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           |
| 115             | 1995        | European Communities (Placing on the market and Supervision of Explosives for Civil Uses) Regulations, 1995    | Essential safety requirements, CE mark, Transfer under CAD, manufacture                         | EC 27/1972          |
| 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           |
| 300             | 2000        | Control of Exports Order, 2000   | Export of listed goods (including explosives) requiring licence from Min ET&E                   | Ctl of Exp 35/1983  |
| 6               | 2001        | European Communities (Safety Advisers 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  | CDGR 43/1998        |
| 392             | 2002        | Carriage of Dangerous Goods by Road Act, 1998 (Appointment of Competent Authorities) (Amendment) Order, 2002   | Transfers responsibilities from Min Environ & Loc Govt to Min Transport                         | EC 27/1972          |
| 701             | 2003        | European Communities   | Transposes RID requirements for rail  | EC                  |

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|     |      | (Transport of Dangerous Goods by Rail) Regulations, 2003  |   | 27/1972                            |
| 546 | 2005 | European Communities (Placing on the market and Supervision of Explosives for Civil Uses) (Amendment) Regulations, 2005 | Gives effect to Commission Directive 2004/57/EC of 23 Apr 2004 on the identification of pyrotechnic articles and certain ammunition (for use with S.I. 115 of 1995).    | EC 57/2004                         |
| 390 | 2006 | Criminal Justice Act 2006 (Commencement) Order 2006   | Commences amendments to Expl Act re fireworks and penalties   | CJA 26/2006                        |
| 288 | 2007 | Carriage of Dangerous Goods by Road Regulations, 2007   | Transposes ADR requirements for road  | CDGR 43/1998                       |
| 299 | 2007 | European Communities (Carriage of Dangerous Goods by Road) (ADR Miscellaneous Provisions) Regulations 2007              | National; Exemptions and Road Checks  | EC 27/1972                         |
| 290 | 2007 | Carriage of Dangerous Goods by Road Act, 1998 (Appointment of Competent Authorities) Order, 2007                        | Division of responsibilities H&SA, DJELR, RPII  | CDGR 43/1998                       |
| 291 | 2007 | Carriage of Dangerous Goods by Road Act 1998 (Fees) Regulations, 2007   | Fees associated with training certs etc   | CDGR 43/1998                       |
| 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<br>Directive 2007/23/EC |