

REPORT TO: Licensing Sub-Committee

MEETING DATE: 12 March 2015

BY: Deputy Chief Executive, Resources and People Services

SUBJECT: Explosives Regulations 2014 and the Petroleum Consolidation Regulations 2014

1 PURPOSE

To (1) update members of East Lothian Licensing Sub Committee's ("Sub-Committee") on the new Explosives Regulations 2014 which came into force on 1 October 2014 and (2) update the Sub-Committee on the new Petroleum Consolidation Regulations 2014 which came into force on 1 October 2014 and (3) to seek approval that the duration of both an Explosives Licence and a Petroleum Licence is one year.

2 RECOMMENDATIONS

That, in accordance with the duration of the majority of other licences, the members of the Sub-Committee approve that the grant of a licence to store explosives and petroleum is for a period of 1 year.

3 BACKGROUND

- 3.1 The Explosives Regulations 2014 came into force on 1 October 2014. The purpose of the Explosives Regulations 2014 is to consolidate and revoke a number of existing explosives regulations. It brings together the requirements of health and safety related explosives legislation and addresses other issues such as authorisation, safety, security and placing on the market.
- 3.2 The Licensing Authority was previously responsible for the grant of a licence for the storage of explosives. The new regulations do not change this position.
- 3.3 The Explosives Regulations 2014 also impose a statutory fee structure for the grant/renewal of a licence for the storage of explosives as detailed in Appendix 2 to this report.

- 3.4 The Petroleum (Consolidation) Regulations 2014 combine, update and replace all previous legislation on petrol storage. The existing health and safety responsibilities remain the same; anything that is still relevant is included in the 2014 Regulations. The most significant changes relate to the administrative processes, and have been designed to reduce administration for both the Licensing Authority and licensees.
- 3.5 The Licensing Authority was previously responsible for the grant of a licence for the storage of petroleum. The new regulations do not change this position.
- 3.6 There is no proposed change to the current fee structure for the grant of a petroleum licence.
- 3.7 Whilst the Explosives Regulations 2014 and the Petroleum (Consolidation) Regulations 2014 provide options for the duration of the licence the licensing authority would seek the approval of the Sub – Committee to grant the licences for a period of 1 year. This ensures that the administration of same can be closely monitored.

4 POLICY IMPLICATIONS

None

5 RESOURCE IMPLICATIONS

- 5.1 Financial – the fee is imposed by statute to cover the cost of the administration of the explosives licence.
- 5.2 Personnel – Not applicable.
- 5.3 Other - None

6 BACKGROUND PAPERS

- 6.1 Guide to the Explosive Regulations 2014 (Appendix 1).
- 6.2 Fees for the grant of a licence to store explosives licence granted by local licensing authorities (Appendix 2).
- 6.3 Guide to the Petroleum (Consolidation) Regulations 2014 (Appendix 3).

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APPENDIX 1

Explosives Regulations 2014

The new Explosives Regulations 2014 (ER 2014) ^[1] came into force on 1 October 2014.

HSE has worked with stakeholders since 2010 to review existing health and safety related explosives legislation. One of the key aims of that review was to consolidate, modernise, and, where practicable, simplify the legislative arrangements.

ER 2014 consolidates and therefore revokes a number of existing explosives regulations. It brings together the requirements of health and safety related explosives legislation into a framework based around common topics such as authorisation, safety, security and placing on the market. As a result of the consolidation the Approved Code of Practice to the Manufacture and Storage of Explosives Regulations 2005 (L139) has been withdrawn. Guidance relating to the security of explosives (HSE Circular 1/2005), and guidance on the placing of civil use explosives on the market (L66) have also been withdrawn.

The main changes to the regulatory framework include:

- merging registrations into the licensing system
- allowing local authorities to issue licences up to 5 years, aligning them with equivalent HSE/police-issued licences
- extending licensing to address storage of ammonium nitrate blasting intermediate (ANBI)
- exceptions for keeping higher hazard and desensitised explosives without a licence have been updated
- tables of separation distances have been restructured to better allow for sites with more than one store; the tables have also been revised to cover quantities of explosives greater than 2000kg
- a revised list of explosives that can be acquired or acquired and kept without an explosives certificate from the police
- the repeal of the Fireworks Act 1951, as its remaining provisions have been superseded by the Pyrotechnic (Safety) Regulations 2010

The regulations are supported by a suite of overarching and subsector guidance^[2].

The overarching guidance consists of two documents:

- L150 focuses on safety provisions^[3]
- L151 covers security provisions^[4]

These top-level documents are principally aimed at more complex and larger operations but they contain overarching technical guidance and background information that will help all dutyholders to comply with the safety and security provisions in the regulations. They are structured around the fundamental objectives, described as 'statements of success^[5]', that all duty holders in the industry should achieve in a manner that is proportionate to their business and also identify detailed specialist and topic based guidance.

The subsector guidance, which will generally follow the same structure as L150, is due to be published soon. HSE will not remove any guidance until such time as a replacement is available. The level of guidance to be used and how to use it will depend on the type of dutyholder, the types of explosive, and the subsector that the dutyholder is operating in.

Further information about the guidance structure^[6] is available.

Not all the regulations would be expected to apply to all of the activities of all subsectors. This is because different subsectors undertake different activities and work with different types of explosives. Information on what regulations would be expected to apply to different subsectors is due to be published soon.

Link URLs in this page

1. Explosives Regulations 2014 (ER 2014)
<http://www.legislation.gov.uk/uksi/2014/1638/made>
2. subsector guidance
<http://www.hse.gov.uk/explosives/new-regs-subsector.htm>
3. L150 focuses on safety provisions
<http://www.hse.gov.uk/pubns/books/l150.htm>
4. L151 covers security provisions
<http://www.hse.gov.uk/pubns/books/l151.htm>

5. statements of success

<http://www.hse.gov.uk/explosives/statements-of-success.htm>

6. guidance structure

<http://www.hse.gov.uk/explosives/guidance-structure.htm>

Fees for licences granted by local licensing authorities

These fees also apply to licences and registrations granted by HSE at mines and in harbour areas.

Type of application	Duration	Fee
Licence to store explosives where, by virtue of regulation 27 of, and Schedule 5 to, the 2014 Regulations, a minimum separation distance of greater than 0 metres is prescribed	1 year	£178
	2 years	£234
	3 years	£292
	4 years	£360
	5 years	£407
Renewal of licence to store explosives where a minimum separation distance of greater than 0 metres is prescribed	1 year	£83
	2 years	£141
	3 years	£198
	4 years	£256
	5 years	£313
Licence to store explosives where no minimum separation distance or a 0 metres minimum separation distance is prescribed	1 year	£105
	2 years	£136
	3 years	£166
	4 years	£198
	5 years	£229
Renewal of licence to store explosives where no minimum separation distance or a 0 metres minimum separation distance is prescribed	1 year	£52
	2 years	£83
	3 years	£115
	4 years	£146
	5 years	£178
Licence variation		
Varying the name of licensee or address of site	£35	

Any other kind of variation	Reasonable cost to the licensing authority of having the work carried out
Transfer of licence	£35
Replacement of licence if lost	£35

Please note that the time-limited fees given above are for whole years. Fees for parts of a year would be on a pro-rata basis. For example:

- the fee for a new local authority storage licence for 9 months would be £133 (three quarters of the annual fee of £178)
- the fee for a new registration for 18 months would be £102 (three quarters of £136)

Appendix 3

Storing petrol safely

Petrol is a dangerous substance; it is a highly flammable liquid and can give off vapour which can easily be set on fire and when not handled safely has the potential to cause a serious fire and/or explosion.

This means there is always a risk of a fire and/or an explosion if there is a source of ignition nearby, for example a naked flame, an electrical spark or similar. Because of these risks storing petrol safely is covered by legislation; and this applies to you if you store petrol.

What is the law on storing petrol safely?

The Petroleum (Consolidation) Regulations 2014 (PCR) ^[1] which came into force on 1 October 2014 apply to:

- workplaces that store petrol where petrol is dispensed, ie retail and non retail petrol filling stations; and
- non-workplace premises storing petrol, for example at private homes, or at clubs/associations (or similar).

Petroleum Enforcement Authorities (PEAs) ^[2], formerly Petroleum Licensing Authorities (PLAs) are responsible for enforcing the Petroleum (Consolidation) Regulations 2014. They also continue to enforce DSEAR at workplaces covered by PCR. This means that there is no change to the current enforcing arrangements.

The safe storage and use of petrol in workplaces is also covered by the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR) ^[3].

Who does this apply to?

Information on how the Petroleum (Consolidation) Regulations 2014 applies to the following groups:

- If you are an owner/employee of a petrol filling station ^[4]
- If you store petrol at home, or at a club/association or similar premises ^[5]
- If you design, manufacture or supply portable petrol storage containers ^[6]
- If your workplace stores but does not dispense petrol ^[7]

What does this legislation replace?

The Petroleum (Consolidation) Regulations 2014 combine, update and replace all previous legislation on petrol storage. The existing health and safety responsibilities remain the same; anything that is still relevant is included in the 2014 Regulations.

What has been withdrawn?

- List of old petroleum legislation ^[8].
- Approved Code of Practice (ACOP) COP6 – Petroleum-Spirit (Plastic Containers) Regulations 1982. Requirements for testing and marking or labelling.
- Approved Document L93 – Approved tank requirements. The provisions for bottom loading and vapour recovery systems of mobile containers carrying petrol.

New guidance

New guidance on portable petrol storage containers ^[9] is available giving practical advice on the design, construction, materials and marking or labelling of containers as required by the regulations.

Link URLs in this page

1. The Petroleum (Consolidation) Regulations 2014 (PCR)
<http://www.legislation.gov.uk/ukxi/2014/1637/contents/made>
2. Petroleum Enforcement Authorities (PEAs)
<http://www.hse.gov.uk/fireandexplosion/petroleum-enforcement-authorities.htm>
3. Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR)
<http://www.hse.gov.uk/fireandexplosion/dsear.htm>

4. If you are an owner/employee of a petrol filling station
<http://www.hse.gov.uk/fireandexplosion/owner-petrol-station.htm>
5. If you store petrol at home, or at a club/association or similar premises
<http://www.hse.gov.uk/fireandexplosion/petrol-storage-club-association.htm>
6. If you design, manufacture or supply portable petrol storage containers
<http://www.hse.gov.uk/fireandexplosion/design-manufacture-storage-containers.htm>
7. If your workplace stores but does not dispense petrol
<http://www.hse.gov.uk/fireandexplosion/workplace-not-dispensing.htm>
8. old petroleum legislation
<http://www.hse.gov.uk/fireandexplosion/withdrawn-legislation.htm>
9. portable petrol storage containers
<http://www.hse.gov.uk/fireandexplosion/portabable-petrol-storage-containers.pdf>

