

EIG Brief Guide #11: Regarding the “24 hour” rule

The introduction of the Explosive Regulations 2014 (ER2014) has clarified, to an extent, the situation regarding temporary storage as part of the transport logistics chain and where explosives are in use.

Regulation 7 of ER2014 requires that, subject to a variety of exemptions, no person may store explosives unless that person holds a licence for that storage and complies with any conditions of that licence.

Two of these exemptions are

- The storage of no more than 7kg of HT1 and HT2 explosives for no longer than 24 hours (Reg 7 (2) b)
- The storage of HT3 and HT4 explosives for no longer than 24 hours (Reg 7 (2) c)

and it is often taken that these two exemptions are the origin of the “24 hour” rule.

However this is not the case. These provisions permit the actual keeping of explosives in a “store” as part of a “storage” activity. They allow for the temporary storage of explosives without the need to obtain a licence. The regulations define a store as:-

“a building, enclosed area or metal structure in which explosives are, or are to be, stored”

and Regulation 2 (5) states

For the purposes of these Regulations and subject to paragraph 6, “storage” in relation to explosives means their possession for any period after their manufacture, save for-

- a) Any period during which they are being prepared at any place for use at that place; and***
- b) Any period during which they are being transported beyond the place at which they are stored.***

and Regulation 2(6) states

Subject to paragraph 7, where, during any transport of any explosive beyond the place where it is stored, that explosive is or is to be, kept at any place for more than 24 hours that keeping is to be treated as storage within the meanings of these Regulations and the provisions of these Regulations apply to that keeping accordingly, notwithstanding any applications of CDGUTPER 2009 to that transporting

and Regulation 2(7) states

Paragraph 6 does not apply to explosives in respect of which there is in existence an explosives licence granted under regulation 36 (1) of the Dangerous Substances in Harbour Areas Regulations 1987

Furthermore Regulation 3(8)(b) states that Regulation 7 (ie the need to hold a licence for storage)

does not apply to any activity where the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDGUTPER2009) applies

HSE have provided guidance on this.

- Where explosives are taken off a lorry and put in a big pile and left – **this is storage** (subject to the licencing exemptions in Reg 7 (2))
- If the explosives are unloaded within a reasonable time, taken to an appropriate location on the site, initially prepared and rigged in preparation for their use – **this is NOT storage**.

The following examples may help illustrate EIG's understanding of the situation:-

Amateur firework display

If the quantity and duration of storage exceeds all of the exemptions in ER2014 Reg 7(2) then the place at which the fireworks are stored **should be licenced** – in most cases this will be with the Local Authority. It may be possible and sensible to avoid requiring a licence by splitting the fireworks, for example for a school or sports club display, between several locations, such that the quantity and duration of storage meets one or more of the exemptions. Of course all the fireworks should be stored in a safe and secure manner.

Large professional firework Display

Any work at the display site itself is not storage. However, if the display is of sufficient size or complexity to require the fireworks to be brought onto site and kept on site for an extended period before being positioned ready for use, then the area in which they are kept may require a licence (depending on quantity and time – see Regulation 7 (2)). An example would be a large display on a stadium roof where fireworks are brought on to the site for several shows and are held in a store on the site prior to rigging. The store **should be licenced**, but the stadium roof **does not need a licence**.

Packing a vehicle prior to transport

Packing a vehicle one day for transport early the next day **does not require the area where the vehicle is kept to be licenced**. However if this was a frequent operation, involving many vehicles with overlapping periods holding explosives, for example at a transport hub, or an HSE licenced, site then we believe it would be sensible to identify this area and potentially set limits on its occupancy as part of the overall safety management system for the site. If any of the vehicles are left preloaded for a prolonged period i.e. more than 24 hours then this is storage.

Demolition

This is similar to the professional firework display example above. Explosives rigged in their position of firing are in use and not being stored, however if there is an area on site where explosives may be held prior to rigging then this area may need to be licenced (depending on quantity and time – see Regulation 7 (2)).

Carriers' transport hubs

The movement of explosives by carriers through transport hubs is part of the transport logistic chain and generally, given that any individual package is held at a hub for less than 24 hours such hubs **do not require a licence** to store explosives. However some operations may, as part of their service to customers, offer to store explosives for "picking off" and subsequent delivery to end users and such operations **should have a licenced store** dedicated for the purpose.