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Dear Simon

Guidance to police services on the storage of shooters' powders

I am writing to you, as Chairman of the ACPO Firearms and Explosives Working Group, with some guidance for police Explosives Liaison Officers on the storage of shooters' powders (black powder and smokeless' powders and other small arms propellants).

Explosive Liaison Officers are aware of the change in the requirements to the storage of shooters powders. This letter gives further guidance on the implementation and enforcement of those requirements in the initial period immediately following the coming into force of MSER. I am copying it to all ELOs in England, Scotland and Wales – as well as to Pat Johnson of the BSSC.

I have consulted ACPO, ACPO(S) colleagues, as well as the shooting organisations, on the draft of this letter.

Background and objectives

ELOs will be aware that the introduction of the new requirements followed work done by HSE's Health and Safety Laboratory in demonstrating the hazards from black powder stored in metal screw-top tins stored in metal ammunition boxes.

HSE's primary objective is to phase out the use of metal screw-top tins and metal ammunition boxes because these represent a significant hazard, not least to the shooters themselves and their families.

HSE has recommended the use of 550g-capacity plastic containers for black powder and HT1 smokeless powder. The plastic containers were found to eliminate the explosion hazard. (However other materials such as cardboard, and other forms of container may also have the same effect).

HSE understands that the importers of black powder are intending to move to supplying it in 550g-capacity plastic containers – at present they are supplied in 1kg containers. However, there may be a period of another year during which before the changeover is made and before stocks in 1kg containers are used up.

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Legal position and enforcement

The guidance on the use of plastic containers and wooden boxes is guidance to regulation 5(3)b of the regulations. This regulation disapplies the requirements to maintain separation distances for the storage of up to 30kg of shooters' powders and 300 grams of percussion caps, subject to the condition that the explosives are 'stored in a safe and suitable place with all due precautions for public safety'.

Paragraphs 411-420 of the Approved Code of Practice set out guidance on what those wishing to take advantage of that disapplication must do to qualify for that disapplication. It is essential to note that these paragraphs do not impose a requirement where a person is solely storing 25 kg or less of HT3 smokeless powder. (There is an indirect requirement for quantities of between 25kg and 30kg). This is because there is no separation distance requirement for this quantity. However, storage in wooden boxes is recommended as safer than storage in metal ammunition boxes.

These paragraphs are applicable to the storage of HT1 smokeless powder (ie UN number 0160) however, HSE understands that smokeless powder of this type is not currently produced.

The requirements of MSER on the storage of shooters powders came into effect on the 26 April 2005. It is **not** the case that these requirements apply from the date of renewal of the explosive certificate.

Shooters and other users of shooters powders have a responsibility under the regulations to take steps to comply with the new requirements. However HSE equally recognises that many of those affected will be unaware of the changes, and that it may also take a little time for them to either obtain a ready-made box or build their own. HSE's view is that the basic principle is that where dutyholders are taking reasonable steps to comply with the new requirements, they should be given a reasonable period in which to come into full compliance.

HSE also recognises that police forces are not in a position to visit all dutyholders to check compliance before the normal visit to renew their certificate.

Enforcement Action and priorities

At this stage the emphasis of police activity should be on:

- alerting dutyholders to the new requirements – a number of forces have either written to all certificate holders or are including information about the new requirements with renewal reminders;
- securing compliance through voluntary informal methods (ie 'having a quiet word'). While the approach taken must always at the end of the day be a matter for the judgement and discretion of the individual officer, formal enforcement action should only be considered if other options have been tried or if it is clear that the individual will not cooperate voluntarily;
- advising on suitable sources of further guidance and information.

The enforcement approach will depend on the circumstances and in particular the quantity of powder that is being stored and the method of storage. For example where black powder is being stored in metal screwtop tins this should be regarded as a more urgent priority for action than where it is stored in plastic containers. A large quantity should be regarded as a more urgent priority than a small quantity.

In general, HSE's view is that the priorities are to ensure the phasing out of storage of black powder in metal screwtop tins and in metal ammunition boxes as quickly as is reasonably practicable, and in particular in cases where larger quantities (ie more than 3kgs are being stored).

HSE's view is that at this stage if a dutyholder has been made aware of the requirements, then it is reasonable for the police to expect them to be able to demonstrate that they have taken steps to comply with the requirements – ie placed an order for a box with a supplier, or are in the process of constructing the box.

Issue of explosives certificates

While ultimately it is a matter for the judgement and discretion of the chief officer of police, and of the courts, HSE's view is that the issue of an explosives certificate should not normally be made conditional on obtaining a wooden box (or boxes). **If** formal enforcement action is necessary then this should be taken under the Manufacture and Storage of Explosives Regulations 2005 using the powers under the Health and Safety at Work (etc) Act.

1 kg plastic containers

HSE has asked the Health and Safety Laboratory to carry out tests on the storage of black powder in 1 kg plastic containers. At this stage, while we believe that it is preferable to store in 550g capacity plastic containers, and welcome the moves by importers to move to supplying powder in this form, we believe that during the transitional period until that takes effect storage in 1 kg plastic containers is acceptable – provided that the containers are stored in a wooden box constructed according to the specifications set out in the ACoP (ie 18mm plywood with plywood partitions etc).

Smokeless powder

As noted above, in the case of HT3 smokeless powder the regulations do not require that the powder is stored in a wooden box. However, storage in a wooden box (or cupboard or cabinet) is a sensible precaution.

It is likely that smokeless powder will continue to be sold in 1kg plastic containers for the foreseeable future. These powders present a much lower hazard than black powder. HSE has asked the Health and Safety Laboratory to carry out tests on smokeless powder stored in these containers. Subject to the results of these tests, HSE believes that storage in 1kg plastic containers should be regarded as acceptable.

Sincerely



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Head of Mines Quarries and Explosives