

Exemption from provisions of the Health and Safety at Work (Hazardous Substances) Regulations 2017

In accordance with section 220 of the Health and Safety at Work Act 2015 (the Act) and a delegation from the Board of WorkSafe New Zealand, I, Nicole Rosie, Chief Executive, exempt the Civil Aviation Authority (CAA) from compliance with regulations 9.23(3) and 9.27 of the Health and Safety at Work (Hazardous Substances) Regulations 2017 (the Regulations).

This exemption applies to the storage of explosives by the Aviation Security Service (as defined in section 2 of the Civil Aviation Act 1990) (AvSec) for the purpose of training its Explosive Detector Dog Units (EDDUs) at its facilities at Queenstown, Christchurch, Wellington and Auckland.

I grant this exemption –

- being satisfied that:
 - the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to it; and
 - the exemption is not inconsistent with the purpose of the Act; and
- subject to the conditions listed in the Appendix.

The reasons for granting this exemption are:

1. AvSec holds explosives of less than 25 kg in Queenstown, Christchurch, Wellington and Auckland to train EDDU dogs to detect improvised explosive devices on crew, cargo and passengers before they board aircraft.
2. Given the quantities involved and likely means of delivery to the hazardous substance location (HSL), the requirement in regulation 9.23(3)(a) to cease loading or unloading a class 1 substance if a thunderstorm approaches a HSL may require explosives to remain in vehicles until the storm has passed, resulting in more risk than that posed by unloading the explosives directly to the HSL. The requirement in regulation 9.23(3)(b) does not apply to the use given to explosive samples by AvSec.
3. The CAA is unable to meet the requirement in regulation 9.23(3)(c) of the Regulations to evacuate to a specified distance from the substance in the event of an approaching thunderstorm because the HSLs include multiple level office buildings.
4. As the storage rooms holding the small amounts of explosive substances are located in office buildings and in airports near public traffic routes of varying densities, the CAA cannot meet the requirements in regulation 9.27 of the Regulations to:

- a. restrict access to the HSL and its abutting controlled zone only to
 - i. those persons necessary for the handling of class 1 substances; and
 - ii. for limited periods only, persons carrying out maintenance, inspection or management activities or site visitors under the direct supervision of a certified handler; and
- b. ensure that public traffic routes are not subject to certain adverse effects of unintended initiation of the explosive substances.

5. WorkSafe is satisfied that the any risks that could arise from the exemption will be managed if the CAA meets the conditions specified in the appendix of this this exemption.

This exemption takes effect on 1 December 2017 and expires on 1 December 2022 unless it is sooner replaced or revoked.

DATED at WELLINGTON this 29 day of November 2017



Nicole Rosie
CHIEF EXECUTIVE

Appendix

Condition

1.
The CAA must not store or hold actual or likely initiators (including detonators).
2.
The CAA must hold less than 25 kg of class 1 substances in any single explosive storage room.
3.
The CAA must store the explosives in readily moveable containers.
4.
The CAA must comply with the requirements for explosive samples in its operational policy.
5.
The CAA must review its operational policy annually and update it accordingly to ensure that it remains fit for purpose and effective.
The operational policy must provide a means of eliminating or minimising risk that is no less effective than compliance with the Regulations.