



STATUTORY INSTRUMENTS.

S.I. No. 624 of 2020



EUROPEAN UNION (UN FIREARMS PROTOCOL) REGULATIONS 2020

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I, LEO VARADKAR, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purposes of giving full effect to Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012¹, hereby make the following regulations:

1. These Regulations may be cited as the European Union (UN Firearms Protocol) Regulations 2020.

2. (1)(a) “EU Regulation” means Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations’ Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime, and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition¹.
- (b) “goods to which the EU Regulation applies” means goods the export of which may take place under the EU Regulation and which are listed in Annex I to the EU Regulation.
- (c) “Minister” means the Minister for Enterprise, Trade and Employment.
- (d) “applicant” means an individual or entity that has applied for an export authorisation or simplified procedures.
- (e) “appeals officer” means an officer acting under the authority of the Minister to review a decision to refuse to grant an export authorisation, or not to apply simplified procedures.
- (f) “prescribed period” means the time period set out in Regulation 7.
- (g) “simplified procedures” means simplified procedures applied under Regulation 5.

(2) A word or expression used in these Regulations and which is also used in the EU Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the EU Regulation.

3. The Minister is the competent authority in the State for the purposes of the EU Regulation.

¹ OJ L94 30.03.12, p. 1

4. (1) The Minister may appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of ensuring compliance with the EU Regulation and these Regulations.

(2) The Minister shall furnish an authorised officer with a warrant of her or her appointment and when exercising a power conferred by these Regulations, the authorised officer shall, if requested by a person affected, produce the warrant or a copy of it to that person for inspection.

(3) The Minister may terminate the appointment of an authorised officer whether or not the appointment was for a fixed period.

(4) The appointment of an authorised officer ceases –

- (a) If it is terminated under paragraph (3)
- (b) If it is for a fixed period, on the expiry of that period, or
- (c) If the person appointed as an officer of the Minister, upon the person ceasing to be such an officer.

(5) An authorised officer may, for the purposes of ensuring compliance with the EU Regulation and these Regulations, do one or more of the following:

- (a) Subject to paragraph (6), enter at all reasonable times any place at which the authorised officer has reasonable grounds for believing that books, records or other documents relating to the EU Regulation are kept;
- (b) at such place, inspect and take copies of any books, records or other documents (including books, records or documents stored in non-legible form) that the authorised officer finds in the course of his or her inspection;
- (c) remove any such books, records or other documents from such place and return them for such period as he or she reasonable considers to be necessary for the purposes of this Regulation;
- (d) require any person at the place concerned to give the authorised officer such information and assistance as the authorised officer may reasonably require for the purposes of this Regulation
- (e) require any person at the place concerned to produce to the authorised officer such books, records or other documents (and in the case of books, records or documents stored in non-legible form, a legible reproduction thereof) that are in that person's possession or procurement, or under that person's control, as the authorised officer may reasonably require for the purposes of this Regulation.

(6) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (8) authorising such entry.

(7) Where an authorised officer in the exercise of his or her powers under this Regulation is prevented from entering any place, an application may be made to the District Court under paragraph (8) for a warrant authorising such entry.

(8) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that books, records or other documents required by an authorised officer for inspection under this Regulation are held in any place and that such inspection is likely to disclose evidence of a contravention of the EU Regulation, the judge may issue a warrant authorising the authorised officer, accompanied by such other authorised officers or members of the Garda Síochána as may be necessary, at any time or times within one month from the date of issue of the warrant, on production of the warrant, if requested, to enter (if necessary by the use of reasonable force) the place concerned and perform the functions conferred on an authorised officer under this Regulation.

(9) In this Regulation, “place” includes -

- (a) a dwelling or a part thereof,
- (b) a building or a part thereof, and
- (c) any other premises or part thereof.

5. Having regard to Recital 8 and pursuant to Article 9(2) of the EU Regulation, simplified procedures shall apply when it is verified to the Minister that any of the following circumstances exist:

(1) the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair, provided that the firearms remain the property of a person established outside the customs territory of the Union, and the firearms are re-exported to that person;

(2) the re-export of firearms, their parts and essential components and ammunition if they are held in temporary storage from the moment they enter the customs territory of the Union until their exit;

(3) the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, provided that the exporter substantiates the lawful possession of these firearms and exports them under the outward processing or temporary exportation customs procedures.

6. Where the Minister decides to refuse to grant an export authorisation or not to apply simplified procedures, the Minister shall notify in writing the applicant of the decision, the reasons for the decision, and of the appeal procedure under Regulation 7.

7. Where a person has been notified of a decision of the Minister to refuse to grant an export authorisation or not to apply simplified procedures, the person may, not later than 28 working days from the date of the decision, appeal to the Minister.

- (a) An appeal shall be in writing setting out the grounds of the appeal and furnishing such supporting documentation as the applicant may deem necessary. An appeal shall be sent to the Minister by

way of prepaid registered post no later than 28 working days from the date of the decision.

- (b) An appeal of a decision to refuse to grant an export authorisation or not to apply simplified procedures shall be considered by an appeals officer acting under the authority of the Minister.

8. Where an appeal of a decision to refuse to grant an export authorisation or not to apply simplified procedures is made within the prescribed period, the decision remains in effect until the date of determination of the appeal.

9. Upon the date of determination of the appeal under Regulation 7 in relation to a decision to refuse to grant an export authorisation or not to apply simplified procedures, the appeals officer appointed by the Minister shall either confirm the decision or allow the appeal.

10. If the appeal is allowed in relation to a decision to refuse to grant an export authorisation, the Minister shall grant an export authorisation, the term of which shall be extended by the time from the receipt of the appeal to the date of determination of the appeal.

11. If the appeal is allowed in relation to a decision not to apply simplified procedures, the Minister shall apply simplified procedures under Regulation 5.

12. Where the Minister receives an appeal after the prescribed period, the Minister shall, by notice in writing, inform the applicant that his or her appeal has been received after the prescribed period has expired and that the appeal is rejected on that basis.

13. A person who –

- (1) Contravenes a provision of the EU Regulation is guilty of an offence.
- (2) In making an application for an authorisation wilfully makes a false or misleading statement is guilty of an offence.
- (3) In making an application for a simplified procedure under Regulation 5 wilfully makes a false or misleading statement is guilty of an offence.
- (4) Without reasonable excuse, fails to comply with any requirement made by an authorised officer under Regulation 4 or in purported compliance with such a requirement gives the authorised officer information which is false or misleading in a material respect is guilty of an offence.
- (5) Obstructs or interferes with an authorised officer in the exercise of his or her powers under Regulation 4 is guilty of an offence.

14. A person guilty of an offence under Regulation 7 shall be liable –
- (a) On summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or both, or
 - (b) On conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years or both.



GIVEN under my Official Seal,
11 December, 2020.

LEO VARADKAR,
Minister for Enterprise, Trade and Employment.

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