

<p>Draft name Draft regulation of the Minister for Development and Technology amending the regulation on storage premises and facilities for the storage of explosives, weapon, ammunition, products and technology for military or police</p> <p>Lead ministry and cooperating ministries Lead ministry: Ministry of Development and Technology (hereinafter: MDT) - Cooperating Ministry Ministry of the Interior and Administration (hereinafter: MIA) and Ministry of National Defence (hereinafter: MND)</p> <p>Person responsible for the draft at the level of Minister, Secretary of State or Undersecretary of State Mr. Jacek Tomczak – Secretary of State in the MDT</p> <p>Contact details for the substantive draft supervisor Mr. Piotr Gołębiowski, Director of the Department of Trade in Strategic Goods and Technical Safety (DTS); phone (22) 411 96 65; email: piotr.golebiowski@mrit.gov.pl; Ms. Karina Katzer, Head of the DTS; phone (22) 411 96 59; e-mail: karina.katzer@mrit.gov.pl; Mr. Paweł Wieczorek, counsellor at the DTS; phone (22) 411 96 66; e-mail: pawel.wieczorek@mrit.gov.pl.</p>	<p>Date of preparation 4.4.2024</p> <p>Source: Act of 13 June 2019 on the pursuit of economic activities in the field of the manufacture and marketing of explosives, weapon, ammunition, products and technology for military or police use (Journal of Laws of 2023, item 1743)</p> <p>No. in the list of legislative work of the MDT: 6</p>
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REGULATORY IMPACT ASSESSMENT

1. What issue is being addressed?

Article 33(1) of the Act of 13 June 2019 on the pursuit of economic activities in the field of the manufacture and marketing of explosives, weapon, ammunition, products and technology for military or police use, hereinafter referred to as the ‘Licencing Act’, requires the articles listed in the title of the Act, hereinafter referred to as ‘licenced articles’, to be stored under conditions ensuring protection of human life and health, property and the environment. Detailed requirements in this regard concerning storage premises and facilities, as well as the method of storing the licenced articles in such facilities and rooms, are laid down in the regulation of the Minister for Development, Labour and Technology of 5 August 2021 on storage facilities and rooms for the storage of explosives, weapon, ammunition, products and technology for military or police use (Journal of Laws, item 1674), hereinafter referred to as the ‘2021 storage regulation’, issued pursuant to Article 33(4) of the Licencing Act. The most important part of that regulation are the provisions governing the storage of licenced articles, which, by reason of their nature or quantity, may pose during storage potential risks to the life or health of many people, as well as the risk of large-scale damage to property and the environment. Such products, including in particular explosives and ammunition, must be stored in warehouses that meet strict technical and organisational conditions.

However, the definition of the base warehouse set out in §3(1) of the 2021 storage regulation may raise doubts as to whether it covers licenced articles, the storage of which does not pose a potential threat to human life and health, property and the environment, which may give rise to interpretative ambiguities regarding the technical and organisational requirements that must be met in such a case. In addition, the contained in the base warehouse and secondary warehouse definitions requirement for the part of a built structure where the warehouse or storeroom is situated to constitute in each case a separate fire zone excessively tightens fire protection requirements, as it does not take into account situations where the storage of certain licenced articles (e.g. weapons, technologies, many types of products for military or police use, as well as cooperative products, such as armoured sheets) may not cause special fire hazards. For this reason, the aforementioned requirement for the mandatory establishment of a fire zone in each case, regardless of whether or not there is actually a risk of significant fire hazard, should be waived. At the same time, §5 of the 2021 storage regulation also required amending, due to the need to supplement this editorial unit with provisions on technical and construction solutions and on equipment of the storage facility in connection with fire protection requirements, which are not regulated to the necessary extent with the current provisions of §8, §10 and Annexes 2 to 4. To this end, the structure of

§5 has been changed by means of introducing paragraphs, the first of which includes the provisions on technical requirements, set out in §5 of the current 2021 storage regulation. On the other hand, paragraph 2 stipulates technical requirements in the storage facility, as referred to in paragraph 1, with regard to the issue of fire safety, to the extent not regulated with the current regulation. According to the wording of §5(2), those requirements should be fulfilled by means of using technical and construction solutions and providing fire-fighting devices and fire extinguishers, in accordance with the requirements set out in regulations adopted pursuant to Article 13(1) and (3) of the Fire Protection Act of 24 August 1991 (Journal of Laws of 2024, item 275) and pursuant to Article 7(2)(1) of the Construction Law Act of 7 July 1994. – (Journal of Laws of 2023, item 682, as amended), respectively.

In order to define more precisely the requirements concerning fire protection in storage facilities where explosives (ammunition) of sub-classes 1.2, 1.3, 1.4 and 1.6 and Class 9 (according to the ADR classification) are stored, it is proposed to add a provision specifying that the base warehouse must in such a case constitute a separate fire zone. This zone should be separated from other buildings or other parts of the building with fire separation elements having a fire resistance class of at least REI 120, or with strips of free area with a width of not less than 20 m, and openings in the warehouse walls should be closed with fire-resisting doors (or with other opening protections) having fire resistance class of at least EI 60. An exception to this rule may be made only in a situation where explosives (ammunition) are stored that belong to subclass 1.4 and to compliance group S, or to sub-class 1.6, or to Class 9, which pose lower fire hazards than those present in the case of storage of explosives (ammunition) belonging to divisions 1.2, 1.3 and 1.4 (except for compliance group S). For this reason, the base warehouse where explosives and ammunition are stored that belong exclusively to sub-class 1.4S or 1.6, or to class 9, and whose total net weight does not exceed 1 000 kg, may be located in the part of the facility separated by internal walls with fire resistance class of at least EI 60 and with ceilings with fire resistance class of at least REI 60, and also closed with doors (or other opening protections with fire resistance class of EI 30, without the need to section off this warehouse as a separate fire zone. These matters are governed by the new editorial units added in §1 of Annex 3 in Part I, marked as paragraphs 7 and 8.

Generally, the purpose of the draft regulation is, firstly, to clarify the provisions of the 2021 storage regulation in such a way that there is no doubt that the licenced articles, regardless of whether or not they pose potential risks to people, property and the environment during storage, must always be stored in accordance with the requirements of the Licencing Act and, secondly, to amend certain fire protection provisions, so that they do not impose unjustified burdens on entrepreneurs and are adapted to the actual fire hazards. Thirdly, it is also about removing inaccuracies identified in the text of the 2021 storage regulation, which may result in a misinterpretation of the requirements to be met by facilities and rooms for the storage of the licenced articles. This applies in particular to the formula set out in Table 1 in Annex 3 in Part I, designed for calculating the minimum permissible distance (L_d) between the base warehouse in which explosives of subclass 1.2 are stored and access and local roads.

Fourthly, in order to facilitate the possibility of adapting the storage facilities to the requirements to be introduced as a result of amending the 2021 storage regulation, the transitional period laid down in §15, a substantial part of which will expire before the amending regulation enters into force at all, should be made more realistic.

2. The recommended solution, including planned intervention tools and expected impact

It is recommended that the following amendments be introduced to the 2021 storage regulation:

- 1) correction of the definitions of base and secondary warehouses provided in §3(1) and (2) due to the need to establish an unambiguous legal basis for the storage in such warehouses of licenced articles which do not pose any risk to people, property and the environment, but in view of the fact that they are licenced articles, they must be stored, in accordance with the Licencing Act, in storage facilities and rooms that meet the technical and organisational requirements laid down in the said Act. In addition, phrases concerning ‘a separate fire zone’ need to be removed from the definition of the base and secondary warehouses, so that the fire protection requirements are adequate to the scale of the potential fire hazards created by the stored licenced articles, because, as it has been already mentioned, the storage of certain licenced products does not create fire hazards at all. A criterion defining the difference between a base warehouse and a secondary warehouse concerns the quantity and type of stored licenced products in connection with the risk of creating potential hazards to people, property and the environment. There is no justification for introducing in the definitions additional criteria concerning the structure of storage facilities (fire zones, fire division). The issues concerning fire protection requirements are regulated in detail in subsequent provisions of the 2021 storage regulation. Including in the definitions of the base warehouse and the secondary warehouse a phrase concerning ‘a separate fire zone’ would mean that all warehouses in which the licenced articles are stored must meet this condition, and yet in the case of storing for example armoured sheets, technologies or weapons, general fire protection regulations are sufficient;
- 2) introduction into §5(2) of the amended Regulation of references to implementing provisions adopted pursuant to Article 13(1) and (3) of the Fire Protection Act of 24 August 1991 and pursuant to Article 7(2)(1) of the Construction Law Act of 7 July 1994;
- 3) supplementation of the regulations regarding the requirements to be met by the base warehouse in which

explosives (ammunition) belonging to sub-classes 1.2, 1.3, 1.4 and 1.6 and to class 9 are stored. According to the new §1(7) in Annex 3, in Part I; such a warehouse must constitute a separate fire zone separated from other buildings or other parts of civil structure with fire separating elements having a fire resistance class of at least REI 120 or with strips of free area with a width of not less than 20 m, and the openings in the warehouse walls shall be closed with fire doors (or other opening protections having a fire resistance class of at least EI 60;

- 4) introduction in the new §1(8) in Annex 3, Part I, of a possibility that a base warehouse used exclusively for the storage of explosives (ammunition) of sub-class 1.4S or 1.6 and of class 9, having a total net weight not exceeding 1 000 kg, does not have to be sectioned off as a separate fire zone. In such a case, it is sufficient for the warehouse to be located in a part of the civil structure separated with fire-protection internal walls having fire resistance class of at least EI 60 and with ceilings having fire resistance class of at least REI 60, and closed with fire doors (or other opening protections) having fire resistance class of at least EI 30;
- 5) correcting certain provisions consisting in:
 - rectifying an error in the designation of the fire response class of construction products from which ceiling linings or suspended ceilings are made (§8(3)(b)),
 - waiving the requirement for egress doors to be equipped with roller locks (§8(4)),
 - clarifying the rules for arranging in a warehouse packages with licenced articles or products that can be stored in bulk, without packaging (§11(2)),
 - correcting the error in the formula set out in Table 1 in Annex 3 in Part I, used for calculating the minimum permissible distance (L_d) between the base warehouse in which explosives of subclass 1.2 are stored and an access road or a local road,
 - deleting in §7 in Annex 4 the redundant word ‘gross’;
- 6) making more realistic the transitional period during which entrepreneurs storing licenced articles should comply with the revised fire-protection requirements (§ 15).

3. How has this problem been solved in other countries, in particular OECD/EU member states?

In the EU, there are no universal model provisions on the storage of explosives, weapon, ammunition, products and technology for military or police, and national regulations vary in scope, detail and way of implementation (act, regulation, law with a corresponding implementing act, decree). The content and scope of regulations on the storage of explosives, weapon, ammunition, products and technology for military or police generally depends on the content and scope of the regulations on construction law, weapon and ammunition, fire protection and protection of persons and property in force in European Union countries.

4. Operators affected by the Draft

Group	Size	Source of data	Impact
Entities pursuing economic activities in the area of manufacturing and marketing of licenced articles, which are in possession of storage facilities and rooms.	Potentially 1446 entities holding a valid licence issued by the MIA in the field of manufacturing and marketing of the licenced articles. Long-term observations of the licenced articles market have shown that no more than a half of the entities licenced by the MIA have at their disposal facilities and rooms for storage of such articles.	The MIA data on licences granted for the pursuit of economic activities in the field of licenced articles as at 31 December 2022. The MDT analyses based on data from institutions authorised to issue opinions on the capability of entities applying for a licence from the MIA to meet technical and organisational conditions ensuring proper pursuit of economic activities in the field of licenced articles.	Facilitating the pursuit of economic activities in the area of manufacturing and marketing of licenced articles with regard to the storage of such articles in storage facilities and rooms. Improving the security of storage of licenced articles, in particular of explosives and ammunition.
MIA	1	Data of the MIA	Inspections carried out at entities licenced by the MIA to manufacture and market licenced articles and aimed at checking compliance with statutory requirements regarding the storage of such
Regional police commissioners Police Commissioner for the Warsaw Metropolitan Area	16 regional police commissioners and the Police Commissioner for the Warsaw Metropolitan Area	Data of the Police Force General Headquarters	
District (municipal)	335 district	Data of the National	

commissioners of the State Fire Service of Poland	(municipal) commissioners of the State Fire Service of Poland	Headquarters of the State Fire Service of Poland	articles in storage facilities and rooms.
Chief of the Military Police and commanders of Military Police units (concerns entrepreneurs for which the founding body is the MND)	Chief of the Military Police and 7 commanders of Military Police units	Data of the Military Police Headquarters	Supervision of the activities of specialised armed security formations responsible for protection of areas, facilities and equipment belonging to organisational units that are responsible to, controlled by or supervised by the MND
Heads of territorial delegations of the Military Fire Protection (concerns entrepreneurs for which the founding body is the MND)	10 Heads of Military Fire Protection Delegations	Data of the MND	Performing in sections and organisational units responsible to or supervised by the MND the tasks of the State Fire Service of Poland, as well as other tasks resulting from the specificity of the functioning of the Armed Forces

As part of consultation, the draft regulation was presented to the following organisations of employers: Lewiatan Confederation [Konfederacja Lewiatan], Business Centre Club Association of Employers [Związek Pracodawców Business Centre Club], Polish Craft Association [Związek Rzemiosła Polskiego], Employers of Poland [Pracodawcy RP], Union of Entrepreneurs and Employers [Związek Przedsiębiorców i Pracodawców] and Federation of Polish Entrepreneurs [Federacja Przedsiębiorców Polskich]. In addition, the draft was presented to the National Chamber of Commerce [Krajowa Izba Gospodarcza] and the Foundation of Small and Medium-sized Enterprises [Fundacja Małych i Średnich Przedsiębiorstw] for an opinion.

The process of holding public consultations and seeking opinions lasted 30 days and took place in December 2022. The draft was sent in September 2023 to ministries for re-approval and for issuing opinions.

6. Impact on the public finance sector

[illegible]

[illegible]

Additional information, including the identification of data sources and assumptions made in the calculation		
8. Amendment to regulatory burden (including disclosure obligations) resulting from the draft		
<input checked="" type="checkbox"/> Not applicable		
Burdens are placed outside those strictly required by the EU (see reverse side of the compatibility table for details).	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable	
<input type="checkbox"/> Reduction in the number of documents <input type="checkbox"/> Reduction in the number of procedures <input type="checkbox"/> Shortening of the time to settle the matter <input type="checkbox"/> Other:	<input type="checkbox"/> Increase in the number of documents <input type="checkbox"/> Increase in the number of procedures <input type="checkbox"/> Extension of the time to settle the matter <input type="checkbox"/> Other:	
The introduced burdens are suitable for digitisation.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable	
Comment:		
9. Impact on the labour market		
The draft regulation will not affect the labour market appreciably.		
10. Impact on other aspects		
<input type="checkbox"/> natural environment <input type="checkbox"/> regional standing and development <input type="checkbox"/> ordinary, administrative or military courts	<input type="checkbox"/> demographics <input type="checkbox"/> state property <input type="checkbox"/> other: safety of people, property and the environment	<input type="checkbox"/> computerisation <input type="checkbox"/> health
Discussion of the impact	The regulation will contribute to a reduction in the likelihood of entrepreneurs violating safety requirements, including in particular the fire protection requirements that apply when the licenced articles are stored in storage facilities and rooms, and thus it will indirectly have a positive impact on the safety of people, property and the environment.	
11.Planned implementation of the provisions of the act		
In accordance with §2 of the draft regulation, it will enter into force 14 days after publication.		
12. How and when shall the impact of the Draft Regulation be assessed, and what measures shall be applied?		
As the draft regulation will improve to a small extent several selected provisions governing the storage of the licenced articles in storage facilities and premises, there is no justification for evaluating the effects of the regulation.		
13.Annexes (important source documents, research, analyses, etc.)		
No annexes.		