



Ministry
of Defence

JSP 815 Volume 2 Annex B

Exemption Certificate Process (Element 3)

Annex B - Exemption Certificate Process

1. Certain provisions in Health and Safety legislation allow the SofS to exempt a person or class of persons from parts of its requirements by issuing an exemption certificate which is set out in this Annex.

Note: Exemptions against [The Road Vehicles \(Construction and Use\) Regulations 1986 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukreg/1986/1000) and the [The Road Vehicles \(Authorisation of Special Types\) \(General\) Order 2003 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukreg/2003/1000) are granted by the Land Exemption Committee (LEC) and follow a separate exemption process. This process is set out in the Defence Land Systems Regulator (DLSR) SOP 3 - Legislative DEDs Process, which can be found on the [DLSR Legislation and Compliance](#) page. Applications for consideration by the LEC are to be made through the DLSR, to DSA-DLSR-HQ-LEG1@mod.uk.

2. An exemption certificate from legislation will only be granted where the SofS is satisfied that the person or class of persons involved in activities detailed in an Exemption Case Submission (ECS) are carried out in the interests of national security. Any exemption certificate granted is normally time limited (to a maximum of five years unless there are valid reasons for a longer period) and be subject to conditions.

3. Where the provisions of legislation cannot be complied with, and an exemption certificate is granted, control measures should be put in place to limit any safety risks to the person or class of persons to a level that is ALARP.

4. The ECS must demonstrate that the required exemption from the relevant Health and Safety legislation is in the interest of national security or to protect operational capability. The exemption will only be granted, once the stipulated conditions of the exemption have been satisfied. The ECS must include:

- a. the title of the relevant legislation in full to which the requested exemption applies including the specific section(s) or regulation(s);
- b. the person or group of persons affected by the non-compliance;
- c. the equipment, material or activity and intended use that is not, or will not be, compliant;
- d. the time period for which an exemption is required and the rationale for it;
- e. an outline of the reasons for the non-compliance. For example, if there is not an exemption certificate in place, how the proposed activity will be adversely affected; for example:
 - (1) the numbers of personnel placed at potential risk;
 - (2) the impact on front line operational capability; and
 - (3) the quantitative extent (magnitude) of the non-compliance.
- f. actions undertaken and / or considered to comply with the legislation;
- g. cost data where compliance is being ruled out on the grounds of cost;

- h. an action plan containing the mitigation control measures to be implemented, likely costs and timescales for compliance in the short and medium to long term;
- i. the plan for health monitoring and assessment where applicable; and
- j. where renewal of an existing exemption certificate is being sought, details on the success or otherwise of the previous action plan, including the results of health monitoring where applicable.

5. Preparation of the ECS by the sponsor¹ must include input from operating authorities, acquisition teams and medical personnel as appropriate. The draft ECS must be passed by the sponsor to relevant subject matter experts, including the appropriate Defence Safety Authority (DSA) Regulator for a recommendation on approval.

Note: For REACH exemptions, the ECS is to be directed through DE&S Quality, Safety & Environmental Protection (QSEP) to DESEngSfty-QSEPSEP-Reach@mod.gov.uk as outlined in JSP 418 Leaflet 5.

6. If the ECS is recommended for approval:

- a. for safety related exemptions that are requested in the interest of national security, the sponsor must forward the completed ECS and draft exemption certificate to the Director of Defence Safety (Dir DS) for endorsement. If the ECS is endorsed by the Dir DS, the sponsor is to forward the ECS and draft exemption certificate to the SofS for consideration.
- b. for exemptions requested to protect operational capability, the sponsor forwards the completed ECS and draft exemption certificate to the appropriate Approval Authority (AA) for consideration.

7. If the SofS/AA deem the case successful, a signed and completed exemption certificate will be issued to the sponsor by the SofS/AA. A copy of the completed exemption certificate (this includes REACH exemption certificates) together with any conditions that must be met, is to be provided to the Dir DS and the appropriate DSA Regulator by the sponsor.

8. If not successful, the activity must be ceased until such time as it can comply with the legislation or a new ECS has been approved.

¹ The sponsor is those that that would be holding the residual risk and / or receiving the benefit of the exemption, for example; this could be the Senior Responsible Owner or the User.

Template
EXEMPTION CERTIFICATE
(...name of Legislation and date....)

1. For persons undertaking [...name of activities to be exempt...] using [...name of equipment / system...].

2. [... name of Legislation and date....] cannot be complied with fully when undertaking [...name of activities to be exempt...] using [...name of equipment or material ...].

3. I, having considered the case made for exemption at Ref [...Exemption Case Submission reference...] do hereby exempt, in accordance with the power vested in me by virtue of regulation [...number...] of [... name of Legislation and date....], in the interests of national security/protecting operational capability, all persons undertaking [...name of activities to be exempt...] using [...name of equipment or material...].

4. This exemption is granted subject to the following conditions:

- a.
- b.
- c.

5. I may vary or revoke this Exemption at any time by a certificate in writing, and in any event this Exemption shall expire, unless renewed, on [...date...].

Signed..... Date.....

Certificate No:.....