



Ministry
of Defence

JSP 815 - Annex B

Exemption Certificate Process (Element 3)

Annex B - Exemption Certificate Process

This Annex has been reviewed by the Directorate of Defence Safety (DDS) together with relevant subject matter experts and key safety stakeholders. Any suggestions for amendments should be sent to COO-DDS-GroupMailbox@mod.gov.uk.

Version No	Date of publication	Text affected	Authority
1.0	Oct 20	BETA version for consultation.	Dir HS&EP
1.1	29 Sep 23	Final version.	DDS
1.2	10 Sep 24	Amended text to clarify the approval role of SMEs and DSA Regulators in the ECS process and footnote 2.	DDS

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) and the [The Road Vehicles \(Authorisation of Special Types\) \(General\) Order 2003 \(legislation.gov.uk\)](https://www.legislation.gov.uk) for Operational Military Vehicles (OMVs) are granted by the Land Exemption Committee (LEC) and follow a separate exemption process in accordance with [Defence Land Safety and Environmental Regulations](#) (para 16). The LEC is a committee that has been established to scrutinise requests for exemptions on behalf of the Secretary of State for Defence, the role of the LEC is set out in more detail on the [DLSR Regulation & Certification Team](#) page. Applications for consideration by the LEC are to be made through the DLSR to DSA-DLSR-RegCertGroup@mod.gov.uk.

2. An exemption certificate from legislation (or parts of 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 or where compliance with the legislation will directly compromise operational capability. The need to apply for exemptions should be a last resort and should only arise when all avenues to address the non-compliances have been exhausted. 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 required, 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 and tolerable.

4. The exemption will only be granted once the stipulated conditions of the exemption have been satisfied and it can be demonstrated that the determined outcomes will be safe. The ECS must include:

- a. the title of the relevant Health and Safety legislation in full to which the requested exemption applies including the specific section(s) or regulation(s);
- b. evidence that the required exemption is in the interest of national security or where compliance with the legislation will directly compromise operational capability;

- c. the person or group of persons affected by the non-compliance;
- d. the equipment, material or activity and intended use that is not, or will not be, compliant;
- e. the time period for which an exemption is required and the rationale for it;
- f. 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; and
 - (2) the quantitative extent (magnitude) of the non-compliance.
- g. actions undertaken and / or considered to comply with the legislation;
- h. cost data and Cost Benefit Analysis (CBA) where compliance is being ruled out on the grounds of cost;
- i. an evidence based action plan containing the mitigation control measures to be implemented, likely costs and timescales for compliance in the short and medium to long term;
- j. the plan for health monitoring and assessment where applicable; and
- k. hyperlinks to the evidence supporting the ECS, for example; noise and vibration test, feasibility study report, Legislation Compliance Assessment (LCA) or any relevant manufacturer's report and so on.
- l. 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 to review and provide a recommendation on approval for the ECS to progress to the next stage².

Note: For REACH (Regulation on the registration, evaluation, authorisation and restriction of chemicals) 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.

¹ The sponsor is considered as 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.

² If a sponsor is uncertain of which DSA Regulator(s) should review and provide a recommendation on approval for the ECS to progress to the next stage, the ECS should be submitted to the DSA Secretariat mailbox (DSA-HQ-Secretariat@mod.gov.uk) for onward coordination.

6. If the ECS has been recommended for approval to progress to the next stage:
 - 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 (an Exemption Certificate template can be seen at the end of this Annex). The Sponsor must liaise with the DSA Regulator to record the details of the exemption certificate on the Defence Legislation Support Tool.
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. The Sponsor must liaise with the DSA Regulator and record the unsuccessful ECS for future reference.

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:.....