



Ministry
of Defence

JSP 815 - Annex B

Exemption Certificate Process (from health & safety legislation)

(Element 3)

Annex B - Exemption Certificate Process

JSP 815 has been updated as a part of Defence Reform and will be subject to further scheduled reviews and updated as required.

Amendment record

This Annex has been reviewed by the Directorate of Defence Safety & Support (DDSS) together with relevant subject matter experts and key safety stakeholders. Any suggestions for amendments should be sent to People-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
1.3	1 Sep 26	Scheduled revision and Defence Reform update.	Dir-DSS

Terms and definitions

The term 'Defence Area' refers to one of the four top-level areas of Defence: Department of State (DOS), Armed Forces (MSHQ and Military Commands), National Armaments Director (NAD) Group and the Defence Nuclear Enterprise (DNE). Within Defence Safety Policy (JSP 815, JSP 375 and JSP 376), reference to a 'Defence Area' responsibility applies to the top-level Defence Area however, for the Armed Forces it also applies to their component Military Commands (Army, Air, Navy and CSOC).

General safety terms and definitions are provided in the [Master Glossary of Safety Terms and Definitions](#) which can also be accessed on [GOV.UK](#).

Direction

1. The direction and guidance in this Annex set out the process to be followed for exemption certificates issued by the Secretary of State (SofS) for Defence for a person or class of persons from certain provisions of Health and Safety legislation.
2. Please note that in addition to the SofS for Defence there are other approving authorities for exemptions¹ for example:
 - a. The Health and Safety Executive (HSE), Department for Environment, Food & Rural Affairs (Defra), Department of Transport (DoT), Maritime and Coastguard Agency (MCA) and local authorities.

¹ The process set out in this Annex can also be used as guidance for exemption certificates issued by other approving authorities although some specific processes may differ, in all cases sponsors must engage with DDSS.

b. Exemptions for Operational Military Vehicles (OMVs), against provisions of [The Road Vehicles \(Authorisation of Special Types\) \(General\) Order 2003](#), [The Road Vehicles \(Construction and Use\) Regulations 1986](#), [The Road Vehicles \(Authorised Weight\) Regulations 1998](#) and [The Road Vehicles Lighting Regulations 1989](#) are granted by the Land Exemption Committee (LEC) and follow a separate exemption process in accordance with the [Defence Land Safety and Environmental Regulations](#). 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-RegulateBranch@mod.gov.uk.

c. Where legislation contains both Health & Safety and Environmental Protection requirements, or where there is uncertainty regarding the appropriate exemption route, sponsors are to consult DDSS and the relevant specialist authority at the earliest opportunity. This may include DEPR, DE&S Quality, Safety, Environment & Engineering (QSEE) or other competent authorities as appropriate. Sponsors are to make sure that all applicable legislative requirements and associated Defence policies are considered when developing the Exemption Case Submission.

3. An exemption certificate from safety legislation (or parts of legislation) will only be granted where the SofS has the authority to grant an exemption from a specific piece of legislation and is satisfied that the activities, equipment, vehicles or materials detailed in an Exemption Case Submission (ECS) are required 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.

4. 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.

5. 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 with reference to the provision for the exemption in the specific legislation concerned.
- c. The person or group of persons affected by the non-compliance.
- d. Any personal information included within the ECS must comply with Defence information management and data protection requirements.
- e. Any groups that may experience different levels of risk or require additional control measures, and evidence that these factors have been considered when developing mitigation measures and determining residual risk.

- f. The equipment, material or activity and intended use that is not, or will not be, compliant.
- g. The time period for which an exemption is required and the rationale for it.
- h. 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.
- i. Actions undertaken and / or considered to comply with the legislation.
- j. Cost data and Cost Benefit Analysis (CBA) where compliance is being ruled out on the grounds of cost.
- k. 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.
- l. The plan for health monitoring and assessment where applicable.
- m. 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; and
- n. 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.

6. Preparation of the ECS by the sponsor² must include direction and guidance from operating authorities, acquisition teams and medical personnel³ 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 stage⁴. Although not always legally required, it is best practice to consult the appropriate authority or Statutory Regulator (usually the Health and Safety Executive) which the Directorate of Defence Safety & Support (DDSS) can assist with.

² 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.

³ The exemption should not authorise participation by a person(s) that a Defence Medical Officer judges clinically unsuitable.

⁴ 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 Group Mailbox (DSA-HQ-Secretariat@mod.gov.uk) for onward coordination.

7. If the ECS has been recommended to progress to the approval stage, the sponsor must obtain the endorsement from the Director of Defence Safety & Support (Dir-DSS)⁵ and senior manager (minimum 3*) within the sponsoring organisation. Once the ECS has been endorsed, the sponsor is to forward the ECS and draft exemption certificate to the SofS or other approving authorities for consideration.

Note: For exemptions to the Registration, Evaluation, Authorisation and restriction of Chemicals (REACH) Regulations, the Biocidal Products Regulations (BPR) and the Classification, Labelling and Packaging (CLP) Regulations, the ECS is to be directed through QSEE to DES-EngSfty-QSEESSA-HazMat@mod.gov.uk as outlined in [JSP 418 Leaflet 5](#).

8. If the SofS / approving authority considers the case successful, they will issue a signed and completed exemption certificate to the sponsor. 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-DSS and the appropriate DSA Regulator by the sponsor (an Exemption Certificate template can be seen at the end of this Annex). Where the ECS is against Environmental Protection law, the sponsor must liaise with Defence Environmental Protection Regulator (DEPR).

9. The exemption certificate details must be recorded by the sponsor on the appropriate register, for example, the Defence Legislation Support Tool (DLST).

10. 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.

11. The assumptions, constraints and mitigation measures underpinning an exemption certificate are to remain valid throughout its duration. Where significant changes occur that could materially affect those assumptions, including new medical evidence, health surveillance outcomes, safety occurrences, significant adverse health outcomes, new scientific or operational evidence, or significant changes to the operating environment or conditions of use, the sponsor is to conduct a formal review.

12. Where the results of a formal review identify significant changes that may affect the continued validity of the exemption the sponsor must notify the approving authority once this becomes apparent. This includes any other information that may materially affect the basis upon which the exemption was granted.

⁵ Draft exemption certificates should be sent to the DDSS Group Mailbox (MULTIUSER) which is People-DDS-GroupMailbox@mod.gov.uk.

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.....