

2006 No. 520

HEALTH AND SAFETY

**The Carriage of Explosives (Amendment) Regulations
(Northern Ireland) 2006**

Made - - - - *13th December 2006*

Coming into operation - *1st February 2007*

To be laid before Parliament

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 17(1) to (6), 40(2) to (4) and 55(2) of, and paragraphs 1(1) to (4), 2, 3(1), 5, 13, 14(1), 15 and 19 of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978(a) as so applied and modified by Article 53 of that Order. In accordance with Article 46(1)(b) of that Order he has consulted with the Health and Safety Executive for Northern Ireland(c) and such bodies as appeared to him to be appropriate.

Citation and Commencement

1. These Regulations may be cited as the Carriage of Explosives (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 1st February 2007.

Amendments to the Carriage of Explosives Regulations (Northern Ireland) 2006

2. The Carriage of Explosives Regulations (Northern Ireland) 2006(d) shall be amended in accordance with the Schedule.

Amendments to the Order of Secretary of State (No. 9) Relating to Compressed Acetylene Contained in a Porous Substance 1919

3. Conditions (1) to (4), (9) and (11) of the Order of Secretary of State (No. 9) Relating to Compressed Acetylene Contained in a Porous Substance 1919(e) shall be omitted.

Northern Ireland Office
13th December 2006

Peter Hain
One of Her Majesty's Principal
Secretaries of State

(a) S.I. 1978/1039 (N.I. 9); Article 47A was inserted by Article 3, and Article 2 was amended by Articles 4 and 8, of S.I. 1997/1774 (N.I. 16)
(b) Article 46 was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18
(c) Formerly the Health and Safety Agency for Northern Ireland; see S.I. 1998/2795 (N.I. 18), Article 3(1)
(d) S.R. 2006 No. 182
(e) S.I. 1919/809

AMENDMENTS TO THE CARRIAGE OF EXPLOSIVES
REGULATIONS (NORTHERN IRELAND) 2006

1. In regulation 2(1) (interpretation)—

- (a) for the definition of “ADR” substitute—
- ““ADR” means (except for the purposes of regulations 4 and 33(4)) the provisions which came into effect on 1st January 2005 concerning the international carriage of dangerous goods by road which—
- (a) form Annexes A and B to the European Agreement Concerning the International Carriage of Dangerous Goods by Road (version applicable as from 1st January 2005)(a); and
- (b) are contained in Annexes A and B to Council Directive 94/55/EC, as amended, of 21st November 1994 on the approximation of the laws of member States with regard to the transport of dangerous goods by road(b),
- and “ADR Directive” means the Directive referred to in sub-paragraph (b);”;
- (b) after the definition of “battery-wagon” insert—
- ““bulk container” has the meaning in section 1.2.1 of ADR in relation to carriage by road or of RID in relation to carriage by rail;”;
- (c) after the definition of “class 2 goods” insert—
- ““class 3 goods” shall be construed in accordance with sub-section 2.2.3.1.1. of ADR in relation to carriage by road or of RID in relation to carriage by rail;
- “class 4 goods” shall be construed in accordance with sub-section 2.2.41.1.1 of ADR in relation to carriage by road or of RID in relation to carriage by rail;”;
- (d) in the definition of “emergency action code” for the words “2004(c)” substitute “2005(d)”;
- (e) in the definition of “old tank” for the words “UN-certified MEGC” substitute “UN MEGC”;
- (f) in the definition of “operator” for the words “UN-certified MEGC or tank” substitute “UN MEGC, tank or bulk container”;
- (g) for the definition of “RID” substitute—
- ““RID” means (except for the purposes of regulations 4 and 33(4)) the Regulations which came into effect on 1st January 2005 concerning the international carriage of dangerous goods by rail which—
- (a) form Annex 1 to Appendix B to COTIF; and
- (b) are contained in the Annex to Council Directive 96/49/EC of 23rd July 1996, as amended, on the approximation of the laws of member States with regard to the transport of dangerous goods by rail(e),
- and the “RID Directive” means the Directive referred to in paragraph (b);”;

(a) Current edition (2005): ISBN 92-1-139097-4 and corrigendum 1 (December 2004)

(b) OJ No. L319, 12.12.94, p7; relevant amending Directives are Directive 2000/61/EC of the European Parliament and the Council of 10th October 2000 (OJ No. L79, 1.11.2000, p40), Commission Directives 2003/28/EC of 7th April 2003 (OJ No. L90, 8.4.2003, p45) and 2004/111/EC (OJ No. L365, 10.12.2004, p25)

(c) ISBN 0-11-341275-4

(d) ISBN 0-11-341304-1

(e) OJ No. L235, 17.9.1996, p25; relevant amending Directives are Directive 2000/62/EC of the European Parliament and the Council of 10th October 2000 (OJ No. L270, 1.11. 2000, p44), Commission Directives 2003/26/ EC of 7th April 2003 (OJ No. L90, 8.4.2003, p47), 2004/89/EC (OJ No. L293, 16.9.2004 p14) and 2004/110/EC (OJ No. L365, 10.12.2004 p24)

- (h) in the definition of “transportable pressure equipment” for the words “UN-certified MEGC” substitute “UN MEGC”; and
 - (i) for the definition of “UN-certified multiple element gas container” substitute—
 - ““UN multiple element gas container” (“UN MEGC”) has the meaning in sub-section 6.7.5.1 of ADR in relation to carriage by road or of RID in relation to carriage by rail;”.
2. In regulation 3 (application)—
- (a) for head (8)(a)(i) substitute—
 - “(i) class 2 to 6 goods; and”; and
 - (b) in paragraph (16), for the words “2, 5 and 6” substitute “2 to 6”.
3. In regulation 5 (application to tanks, pressure receptacles, battery-vehicles, battery-wagons, MEGCs, UN-certified MEGCs and transportable pressure equipment)—
- (a) for the heading substitute—
 - “**Application to tanks, pressure receptacles, battery-vehicles, battery-wagons, MEGCs, UN MEGCs and transportable pressure equipment**”; and
 - (b) in paragraph (2) for the words “UN-certified MEGCs” substitute “UN MEGCs”.
4. In regulation 7 (exemptions)—
- (a) for paragraph (4) substitute—
 - “(4) Notwithstanding regulations 19(1) and 20(1), where—
 - (a) goods are packaged in—
 - (i) limited quantities in accordance with chapter 3.4 of ADR for carriage by road; or
 - (ii) combination packagings in accordance with chapter 4.1 of ADR, and are not class 1 goods; and
 - (b) are then removed from their outer packaging for the final stages of the carriage operation between—
 - (i) a distribution centre and a retailer or end-user; or
 - (ii) a retailer and an end-user,

the marking required by chapter 5.2 and section 6.1.3 of ADR need not be affixed for the final stages of the carriage operation provided that the total quantity of such goods on the transport unit does not exceed 30 kilograms or litres per type, colour, strength or inner package size of a substance or an article and 333 kilograms or litres per transport unit.”; and
 - (b) after paragraph (5) insert—
 - “(5A) Notwithstanding regulation 23, Part 9 of ADR need not apply to vehicles constructed before 1st November 1997 provided that the carrier ensures that the vehicle is suitable for the safe carriage of the dangerous goods being carried.”.
5. After regulation 10 (safety obligations) insert—

“Security provisions

- 10A.** Any person involved in the carriage of dangerous goods by road or by rail shall comply with—
- (a) in so far as they relate to matters within his control, the general security measures; and
 - (b) any particular security obligations applying to him,

in chapter 1.10 of ADR in relation to carriage by road or of RID in relation to carriage by rail.”.

6. In regulation 13 (emergency plans for marshalling yards) for the words “1.10” substitute “1.11”.

7. In regulation 18 (use of tanks, battery-vehicles, battery-wagons, MEGCs and UN-certified MEGCs)—

(a) for the heading substitute—

“Use of tanks, battery-vehicles, battery-wagons, MEGCs and UN MEGCs”; and

(b) for paragraph (2) substitute—

“(2) Any consignor consigning dangerous goods and any filler filling a UN MEGC for carriage by road or by rail shall ensure that—

- (a) the goods are not consigned and the UN MEGC is not filled unless the letter M is indicated in column (10) of Table A of chapter 3.2 of ADR in relation to carriage by road or of RID in relation to carriage by rail; and
- (b) the UN MEGC is used in accordance with section 4.2.4 of ADR in relation to carriage by road or of RID in relation to carriage by rail.”.

8. In regulation 19(2) (consignment) for the words “UN-certified MEGC” substitute “UN MEGC”.

9. In regulation 20(2)(b) (construction and testing of packagings and packages) for the words “6.1.5.9.1” substitute “6.1.5.8.1”.

10. In regulation 21 (carriage, loading, unloading and handling) for paragraph (2) substitute—

“(2) Any carrier carrying dangerous goods or any filler filling a vehicle, wagon or container with dangerous goods for carriage by road or by rail, shall ensure that those dangerous goods are not carried in bulk in vehicles, wagons or containers unless—

- (a) such carriage is authorised by section 7.3.1 or columns (10) or (17) of Table A of chapter 3.2 of ADR in relation to carriage by road or of RID in relation to carriage by rail; and
- (b) any requirement specified in those columns and in chapter 7.3 of ADR in relation to carriage by road or of RID in relation to carriage by rail which are applicable to the goods, vehicle, wagon or container in question are met.”.

11. In regulation 29(6) (issue of safety adviser vocational training certificates by the Northern Ireland competent authority) after the words “(2)(b)” add “in accordance with sub-section 1.8.3.14 of ADR in relation to carriage by road or of RID in relation to carriage by rail”.

12. In regulation 30 (issue of driver training certificates by the Northern Ireland competent authority) after paragraph (5) insert—

“(5A) The Northern Ireland competent authority shall maintain a register of all valid driver training certificates in accordance with sub-section 1.10.1.6 of ADR.”.

13. For regulation 32 (miscellaneous functions of the Northern Ireland competent authority) substitute—

“32.—(1) Subject to paragraph (2), the Northern Ireland competent authority may issue certificates of approval where sub-section 9.1.3.1 of ADR requires such certificates to be issued by the competent authority in Northern Ireland.

(2) The Northern Ireland competent authority may only issue a certificate of approval where the appropriate fee has been paid in accordance with Schedule 2.

(3) A certificate issued by the Northern Ireland competent authority by reference to sub-section 9.1.3.1 of ADR shall—

- (a) comply with that paragraph and sub-section 9.1.3.3 of ADR;
- (b) where applicable to the vehicle in question, comply with sub-section 1.6.5.3 of ADR; and
- (c) be valid for the period calculated in accordance with sub-section 9.1.3.4 of ADR.

(4) Any current certificate held by a person which—

- (a) was issued to him by a competent authority under national provisions giving effect to the ADR Directive; and
- (b) is in the form required by paragraph (3),

shall be deemed to be a certificate issued by the Northern Ireland competent authority under this regulation.

(5) Where a certificate referred to in paragraph (3)(a) is required pursuant to regulation 23 and Part 9 of ADR in relation to the new vehicle, the Northern Ireland competent authority may instead issue a type approval for such a vehicle in the circumstances set out in and in accordance with sub-section 9.1.2.2 of ADR.

(6) Any type approval held by a person which—

- (a) was issued to him by a competent authority under national provisions giving effect to the ADR Directive; and
- (b) complies with sub-section 9.1.2.2 of ADR,

shall be deemed to be a type approval issued by the Northern Ireland competent authority under this regulation provided that no modification has been made to the vehicle since the type approval was issued.

(7) The Northern Ireland competent authority shall assign a packing group for dangerous goods where required in accordance with special provision 278 of chapter 3.3 of ADR in relation to carriage by road or of RID in relation to carriage by rail.

(8) Nothing in this regulation shall be construed as making a fee payable by a person in any of the capacities specified in Article 40(4) of the Health and Safety at Work (Northern Ireland) Order 1978.

(9) In this regulation “vehicle” has the meaning in sub-section 9.1.1.2 of ADR.”.

14. In regulation 48(4) (revocations and savings) for the word “33” substitute “25”.

15. In Schedule 1 (competent authority functions)—

(a) for paragraph 1 substitute—

“1. The references referred to in regulation 25(b) are—

- (a) sub-sections 2.2.1.1.3, 2.2.7.7.2.2 and 3.1.2.6(b), special provisions 178, 237, 266, 271, 272, 278, 288, 311 and 645 of chapter 3.3, sub-sections 4.1.5.15, 4.1.5.18 and 4.1.6.2, packing instructions P099 and P101 of section 4.1.4, packing instructions IBC99, LP99 and PR6 and paragraph (3)(g) of packing instruction P601 of section 4.1.4, sub-sections 4.2.1.9.4.1 and 4.2.1.15.2, sub-section 6.2.1.1.2 and note a to sub-section 7.5.2.2 of ADR in relation to carriage by rail or of RID in relation to carriage by rail; and
- (b) sub-sections 8.2.1.2, 8.2.2.6.1, 8.2.2.6.5 and 8.2.2.6.7 and additional requirements S:1(4)(a) and S:9 of chapter 8.5 of ADR in relation to carriage by road.”.

(b) for paragraph 4 substitute—

“4. The references referred to in regulation 27(1)(b) are—

- (a) sub-sections 4.2.3.7.1 and 6.11.2 of ADR in relation to carriage by road or of RID in relation to carriage by rail; and
- (b) sub-section 8.1.4.4 of ADR in relation to carriage by road.”.

(c) for paragraph 5 substitute—

“5. The references referred to in regulation 28(1)(b) are—

- (a) special provision 16 of chapter 3.3 and 2.2.1.1.3, special provision 237 of chapter 3.3, paragraphs 3(d) and (9) of packing instruction P200, packing instructions P902 and LP902, paragraph 1(b) of packing instruction P905 of section 4.1.4, mixed packaging provision MP21 of sub-section 4.1.10.4, sub-sections 6.1.3.8(i), 6.6.5.1.7 and 6.1.5.1.8 of ADR in relation to carriage by road or of RID in relation to carriage by rail;
- (b) sub-section 7.5.1.4 of ADR in relation to carriage by road; and
- (c) paragraphs (3)(3.2), (5)(5.1) and (6) of additional provision CW33 of section 7.5.11 and sub-section 6.4.11.6 of RID in relation to carriage by rail.”.

16. In Schedule 2 (fees for certificates and applications for approvals), for paragraphs 1 to 3 substitute—

“1. A driver may only be issued with a driver training certificate in accordance with regulation 30 where such fee as is reasonable in light of the actual work performed has been paid to the Secretary of State.

1A. The validity of a driver training certificate may only be extended in accordance with regulation 30(6)(c) where, within the period of 12 months which precede the expiry of the original certificate or an extension of it granted in accordance with that regulation, such fee as is reasonable in light of the actual work performed has been paid to the Secretary of State.

2. Such fee as is reasonable in light of the actual work performed shall be payable by the applicant to the Secretary of State on each application for an original approval or a renewal of any approval of initial or refresher training in accordance with sub-section 8.2.2.6 of ADR pursuant to regulation 22(1).

3. An individual may only be issued with a safety adviser vocational training certificate in accordance with regulation 29 where such fee as is reasonable in light of the actual work performed has been paid to the Secretary of State or the person designated by him for the purpose of issuing safety adviser vocational training certificates.

3A. The validity of a safety adviser vocational training certificate may only be extended in accordance with regulation 29(5)(c) where, within the period of 12 months which precede the expiry of the original certificate or an extension of it granted in accordance with that paragraph, such fee as is reasonable in light of the actual work performed has been paid to the Secretary of State or the person designated by him for the purpose of issuing safety adviser vocational training certificates.”.

17. In Schedule 4 (placards, marks and plate markings for carriage within Northern Ireland)—

(a) for paragraphs 2 and 3 substitute—

“2. Subject to paragraphs 3 and 5, where a battery-vehicle, tank-vehicle or transport unit is carrying one dangerous good in a battery-vehicle, tank or transport unit or in a container in bulk—

- (a) the orange-coloured plate referred to in paragraph 1 shall be displayed in accordance with the provisions of sub-sections 5.3.2.1.2 and 5.3.2.1.4 of ADR which are applicable to the goods, battery-vehicle, tank-vehicle, transport unit or container in question; and
- (b) an identical orange-coloured plate shall be affixed to the rear of the transport unit in place of the orange-coloured plate to be affixed to the rear of the transport unit pursuant to sub-section 5.3.2.1.1 of ADR.”.

3. Subject to paragraph 5, where more than one dangerous good is being carried in a tank or in bulk in a transport unit or a battery-vehicle or tank-vehicle with more than one tank, element or container—

- (a) the orange-coloured plates referred to in paragraph 1 shall be displayed in accordance with the provisions of sub-sections 5.3.2.1.2 and 5.3.2.1.4 of ADR which are applicable to the goods, transport unit, battery-vehicle, tank-vehicle or container in question, except that—
 - (i) only one on each side of the transport unit, tank, tank compartment, element of a battery-vehicle, or container in question, parallel to the longitudinal axis, shall bear the EAC; and
 - (ii) the remaining plates shall bear only the UN number and shall be 150mm in height; and
- (b) an orange-coloured plate shall be affixed to the rear of the battery-vehicle, tank-vehicle or transport unit in question which shall be identical to the plates referred to in paragraph (a), except that it shall display only the EAC in the top half of the plate.”; and
- (b) in paragraph 5—
 - (i) in head (2)(c) omit the words “the part incorporating”; and
 - (ii) after sub-paragraph (2) add—

“(3) Where dangerous goods are carried in a tank which was constructed before 1 January 2005, the orange-coloured plate need not be indelible and legible after 15 minutes’ engulfment in fire.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Carriage of Explosives Regulations (Northern Ireland) 2006 (S.R. 2006 No. 182) (“the Carriage Regulations”) to implement—

- (a) Commission Directive 2004/89/EC adapting for the fifth time to technical progress Council Directive 96/49/EC on the approximation of the laws of the member States with regard to the transport of dangerous goods by rail (O.J. No. L293, 16.9.2004, p.14);
- (b) Commission Directive 2004/110/EC adapting for the sixth time to technical progress Council Directive 96/49/EC on the approximation of the laws of the member States with regard to the transport of dangerous goods by rail (O.J. No. L365, 10.12.2004, p.24); and
- (c) Commission Directive 2004/111/EC adapting for the fifth time to technical progress Council Directive 94/55/EC on the approximation of the laws of the member States with regard to the transport of dangerous goods by road (O.J. No. L365, 10.12.2004, p.25).

2. Council Directive 96/49/EC (O.J. No. L319, 12.12.96, p.7) applies the European Agreement concerning the International Carriage of Goods by Road signed at Geneva on 30th September 1957 (“ADR”). Council Directive 96/55/EC (O.J. No. L234, 17.9.96, p. 25) applies the Regulations concerning the International Carriage of Dangerous Goods by Rail (“RID”) which form Annex 1 to Appendix B to the Convention concerning International Carriage by Rail. The amendments in these Regulations align the Carriage Regulations with the latest versions of the ADR and RID agreements, as defined in regulation 2 of the Carriage Regulations.

3. Apart from minor amendments, the principal modifications are new provisions—

- (a) providing alternative requirements for the carriage of dangerous goods in bulk (*paragraphs 1(b) and (e) and 13 of the Schedule*);
- (b) for security relating to identification requirements for carriers and their personnel and site security plans for high consequence dangerous goods (*paragraphs 6 and 12 of the Schedule*);
- (c) clarifying when dangerous goods may be carried in multiple element gas containers (MEGCs) (*paragraph 6(b) of the Schedule*); and
- (d) reinstating a provision relating to the fire-resistance of orange-coloured plates for carriage within Northern Ireland (*paragraph 16(b) of the Schedule*).

4. The Regulations also make consequential amendments to the Order of Secretary of State (No. 9) Relating to Compressed Acetylene Contained in a Porous Substance 1919 (S.I. 1919/809) (regulation 3).

5. In Great Britain, the corresponding Regulations are the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations 2005 (S.I. 2005 No. 1732). The Department for Transport has prepared a regulatory impact assessment in relation to those Regulations. Copies of that assessment together with a Northern Ireland Supplement prepared by the Secretary of State are held at Firearms and Explosives Branch, Room 4.16, Block B, Castle Buildings, Stormont Estate, Belfast, BT4 3SG, from where copies may be obtained on request.

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