STATUTORY RULES OF NORTHERN IRELAND

# 2011 No. 365

# HEALTH AND SAFETY

## The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations (Northern Ireland) 2011

| | |
|---|---|
| *Made - - - -* | *18th October 2011* |
| *Coming into operation* | *10th November 2011* |

The Department of Enterprise, Trade and Investment(**1**), being the Department concerned(**2**), makes the following Regulations in exercise of the powers conferred by Articles 17(1) to (6), 40(2) to (4), 55(2) of, and paragraphs 1,2,3(1), 5 to 8, 10 to 15 and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**3**) ("the 1978 Order").

The Regulations give effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A)(**4**) of the 1978 Order after the Executive had carried out consultations in accordance with Article 46(3)(**5**).

### Citation and commencement

**1.** These Regulations may be cited as the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (Regulations) (Northern Ireland) 2011 and come into operation on 10th November 2011.

### Amendment of Regulations

**2.** The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010(**6**) are amended in accordance with regulations 3 to 10.

(**1**) Formerly the Department of Economic Development; see S.I. 1999/283 (N.I. 1), Article 3(5); that Department was formerly the Department of Manpower Services; see S.I. 1982/846 (N.I. 11), Article 3.
(**2**) see Article 2(2) of S.I. 1978/1039 (N.I.9)
(**3**) S.I. 1978/1039 (N.I.9); Article 17(6) was amended by the Health and Safety (Offences) Act 2008 (c.20), section 2 and Schedule 3, paragraph 3(1) and Schedule 4; Article 3(1)(c) was modified by the Health and Safety at Work Order (Application to Environmentally Hazardous Substances) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 52) as amended by S.R. 2007 No. 403 and S.R. 2009 No. 296
(**4**) Article 13(1A) was substituted by S.I. 1998/2795 (N.I. 18), Article 4
(**5**) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18
(**6**) S.R. 2010 No. 160

**Interpretation – General**

**3.**—(1) In regulation 2, the Table in paragraph (5) is amended as follows.

(2) For the row containing the expression and meaning of "conformity mark", substitute—

| | |
|---|---|
| ""conformity mark" | The mark referred to in article 14 of the Transportable Pressure Equipment Directive, the form of the mark being set out in article 15 of that Directive." |

(3) Before the row in which the expression "conformity mark" is given a meaning, insert—

| | |
|---|---|
| ""conformity assessment" | The assessment and the procedure for assessment of conformity set out in the Directives." |

(4) After the row in which the expression "the Dangerous Goods Directive" is given a meaning, insert—

| | |
|---|---|
| ""the Directives" | The Dangerous Goods Directive and the Transportable Pressure Equipment Directive." |

(5) After the row in which the expression "national carriage" is given a meaning, insert—

| | |
|---|---|
| ""relevant member State" | A member State of the EU on whose market the equipment in question has been made available." |

(6) After the row in which the expression "the security provisions" is given a meaning, insert—

| | |
|---|---|
| ""TPED competent authority" | The GB competent authority or the competent national authority in respect of the Transportable Pressure Equipment Directive in Northern Ireland or another member State of the EU." |

(7) For the row containing the expression and meaning of "the Transportable Pressure Equipment Directive" substitute—

| | |
|---|---|
| ""the Transportable Pressure Equipment Directive" | Directive 2010/35/EU of the European Parliament and the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC.(**7**) |

**Interpretation of ADR, RID and ADN**

**4.**—(1) Regulation 3 is amended as follows.

(2) In paragraphs (b) and (c), for "Communities" substitute "EU".

(3) Omit paragraphs (f), (g), and (h).

(4) In paragraph (k), at the end, omit "and".

(**7**) OJ L165, 30.6.2010, p.1.

(5) In paragraph (l), at the end, for "." substitute—

";

(m) Sub-sections 2.2.1.1.2, 2.2.1.1.3 and 2.2.1.1.4 of ADR apply as if the words "by the competent authority of a Contracting Party" were included after the word "assigned"; and

(n) Sub-sections 2.2.1.1.2, 2.2.1.1.3 and 2.2.1.1.4 of RID apply as if the words "by the competent authority of a Member State of COTIF" were included after the word "assigned".".

**Obligations relating to the Transportable Pressure Equipment Directive**

**5.**—(1) For regulation 15, substitute—

"**Scope of Obligations**

**15.**—(1) Regulations 15A to 15F apply to transportable pressure equipment within the scope of the Transportable Pressure Equipment Directive by virtue of article 1(2)(a) of that Directive.

(2) For the avoidance of doubt, any reference in those regulations to a manufacturer, importer, distributor, owner or operator as "it" is not to be construed as excluding a natural person.".

(2) After regulation 15, insert—

"**General Obligations**

**15A.**—(1) A manufacturer, importer, distributor, owner or operator may only place or make available on the market, put into service or use equipment if it ensures that the equipment meets the requirements of the Dangerous Goods Directive.

(2) On receipt of a request from the Health and Safety Executive for Northern Ireland, a manufacturer, importer, distributor, owner or operator must identify to the Executive any manufacturer, importer, distributor or owner who has supplied it with, or to whom it has supplied, equipment over at least the previous 10 years.

(3) A request made pursuant to paragraph (2) must—

(a) be in writing; and

(b) contain a date by which a response is to be provided with that date being reasonable in all the circumstances.

(4) Paragraph (5) applies where a manufacturer, importer, distributor or owner provides to an operator information about equipment it has placed or made available on the market, or put into service.

(5) The information must comply with the Directives.

(6) This regulation does not apply to an owner who is a private individual using or intending to use equipment in the circumstances set out in article 8(4) of the Transportable Pressure Equipment Directive.

**Obligations of Manufacturers**

**15B.**—(1) A manufacturer must—

(a) ensure a conformity assessment is carried out by a notified body;

(b) mark equipment in accordance with articles 14 and 15 of the Transportable Pressure Equipment Directive; and

(c) keep the technical documentation specified in the Dangerous Goods Directive for the period specified in that Directive.

(2) Where a manufacturer knows or has reason to believe that equipment it has placed on the market does not comply with the Directives, that manufacturer must—

(a) take immediate corrective measures to ensure that the equipment complies with the Directives,

(b) withdraw the equipment from the market, or

(c) issue a recall of the equipment.

(3) Where a manufacturer considers that equipment it has placed on the market presents a risk, that manufacturer must immediately inform the TPED competent authority in any relevant member State of the risk, including providing details of any non-compliance with the Directives and any action taken in accordance with paragraph (2).

(4) A manufacturer must record each instance of non-compliance with the Directives and any corrective measure taken and must retain that record for at least 20 years from the date that the non-compliance is discovered.

(5) On receipt of a reasoned request from a TPED competent authority, a manufacturer must—

(a) provide to that authority, in a language that it easily understands, all information and documents necessary to show that the equipment meets the requirements of the Directives; and

(b) cooperate with that authority in any action it takes to eliminate risks posed by that equipment.

(6) This regulation applies to an importer or a distributor as if that person were a manufacturer where the importer or distributor—

(a) places equipment on the market under the importer or distributor's own name or trademark; or

(b) modifies equipment already placed on the market in such a way that compliance with the Directives may be affected.

**Obligations of Importers**

**15C.**—(1) An importer must ensure that—

(a) the manufacturer has complied with conformity assessment and drawn up the technical documentation in accordance with the Dangerous Goods Directive;

(b) equipment has been marked in accordance with articles 14 and 15 of the Transportable Pressure Equipment Directive;

(c) the certificate of conformity for the equipment either contains the name and address of the importer or has this information attached to it;

(d) the conditions in which equipment under the responsibility of the importer is stored and transported do not jeopardise the equipment's compliance with the Dangerous Goods Directive; and

(e) the technical documentation specified in the Dangerous Goods Directive is kept for the period set out in that Directive.

(2) Where an importer knows or has reason to believe that equipment it has placed on the market does not comply with the Directives, that importer must—

(a) take immediate corrective measures to ensure that the equipment complies with the Directives;

(b) withdraw the equipment from the market; or

(c) issue a recall of the equipment.

(3) Where an importer considers that equipment presents a risk before it has been placed on the market, that importer must inform the manufacturer and the Health and Safety Executive for Northern Ireland of the risk.

(4) Where an importer considers that equipment it has placed on the market presents a risk, that importer must immediately inform the manufacturer and the TPED competent authority in any relevant member State of the risk, including details of any non-compliance with the Directives and any action taken in accordance with paragraph (2).

(5) An importer must record each instance of non-compliance with the Directives and any corrective measure taken and must retain that record for at least 20 years from the date that the non-compliance is discovered.

(6) On receipt of a reasoned request from a TPED competent authority, an importer must—

(a) provide to that authority, in a language that it easily understands, all information and documents necessary to show that the equipment meets the requirements of the Directives; and

(b) cooperate with that authority in any action taken to eliminate risks posed by that equipment.

**Obligations of Distributors**

**15D.**—(1) A distributor must ensure that—

(a) the equipment has been marked in accordance with articles 14 and 15 of the Transportable Pressure Equipment Directive;

(b) the certificate of conformity for the equipment contains or has attached to it the name and address of the importer where relevant; and

(c) the conditions in which equipment under the responsibility of the distributor is stored and transported do not jeopardise the equipment's compliance with the Directives.

(2) Where a distributor knows or has reason to believe that equipment it made available on the market does not comply with the Directives, that distributor must—

(a) take immediate corrective measures to ensure that the equipment complies with the Directives;

(b) withdraw the equipment from the market; or

(c) issue a recall of the equipment.

(3) Where a distributor considers that equipment presents a risk before it has been made available on the market, that distributor must inform—

(a) the manufacturer or the importer; and

(b) the Health and Safety Executive for Northern Ireland,

of the risk.

(4) Where a distributor considers that equipment it has made available on the market presents a risk, that distributor must immediately inform—

(a) the manufacturer or the importer; and

(b) the TPED competent authority in any relevant member State,

of the risk, including details of any non-compliance with the Directives and any action taken in accordance with paragraph (2).