STATUTORY RULES OF NORTHERN IRELAND

# 2010 No. 59

# HEALTH AND SAFETY

## The Carriage of Explosives Regulations (Northern Ireland) 2010

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| *Made - - - -* | *2nd March 2010* |
| *To be laid before Parliament* | |
| *Coming into operation* | *9th April 2010* |

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 17(1) to (6), 20 (2), 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 (**1**) as so applied and modified by Article 53 and 54 of that Order as read with paragraph 1A of Schedule 2 to the European Communities Act 1972(**2**).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for the reference to the Dangerous Goods Directive(**3**) to be construed as a reference to that instrument as amended from time to time.

In accordance with Article 46(1)(c) of that Order he has consulted with the Health and Safety Executive for Northern Ireland and such other bodies as appeared to him to be appropriate.

## PART 1

## INTRODUCTORY PROVISIONS

### Citation and commencement

**1.** These Regulations may be cited as the Carriage of Explosives Regulations (Northern Ireland) 2010 and come into operation on 9 April 2010.

### Interpretation - General

**2.**—(1) The provisions of this regulation apply for the purposes of interpreting these Regulations.

(**1**) S.I. 1978/1039 (N.I.9)
(**2**) 1972 c.68 Paragraph 1A Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)
(**3**) OJ No. L260, 30.9.2008, P13

(2) In these Regulations, any reference to a "Part", "Chapter", "Section" or "Sub-section" shall be construed—

(a) in relation to the carriage of goods by road, as a reference to that Part, Chapter, Section or Sub-section of ADR;

(b) in relation to the carriage of goods by rail, as a reference to that Part, Chapter, Section or Sub-section of RID; and

(c) in relation to the carriage of goods by inland waterway, as a reference to that Part, Chapter, Section or Sub-section of ADN.

(3) Where an expression is defined in ADR, RID or ADN and is not defined in these Regulations, it has the meaning as defined in—

(a) ADR in relation to carriage by road;

(b) RID in relation to carriage by rail; and

(c) ADN in relation to carriage by inland waterway.

(4) Where an expression is defined in the Transportable Pressure Equipment Directive and is not defined in these Regulations, it has the same meaning as in that Directive.

(5) The expressions mentioned in column 1 of the Table have the meanings given in column 2.

**Table**

| *Column 1* | *Column 2* |
|---|---|
| "the 2006 Regulations (1)" | The Carriage of Explosives Regulations (Northern Ireland) 2006 (**4**). |
| "the 2006 Regulations (2)" | The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2006 (**5**) |
| "ADN" | The Regulations annexed to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterway (**6**), as revised or reissued from time to time. |
| "ADR" | Annexes A and B to the European Agreement concerning the International Carriage of Dangerous Goods by Road(**7**), as revised or reissued from time to time.<br><br>But—<br>(a) to the extent that a reference in these Regulations to ADR is a reference to ADR as it applied for the purposes of the 2006 Regulations (1), it has the same meaning as in regulation 2 of those Regulations; and<br>(b) in regulation 14(6)(b) it means Annexes A and B as in force on the date in question. |
| "armed forces" | Means—<br>(a) one of Her Majesty's Forces within the meaning of the Armed Forces Act 2006(**8**); |

(**4**) S.R. 2006 No. 182
(**5**) S.R. 2006 No.173
(**6**) ISBN 9789211391343 (2009 edition)
(**7**) ISBN 9789211391336 (2009 edition)
(**8**) 2006 c.52.

| *Column 1* | *Column 2* |
|---|---|
| | (b) the Ministry of Defence Police(**9**);<br>(c) a visiting force within the meaning of Part 1 of the Visiting Forces Act 1952(**10**); or<br>(d) a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(**11**). |
| "conformity mark" | The mark referred to in article 10(1) of the Transportable Pressure Equipment Directive, the form of the mark being set out in Annex VII to that Directive. |
| "COTIF" | The Convention concerning International Carriage by Rail(**12**), as revised or reissued from time to time. |
| "the Dangerous Goods Directive" | Directive 2008/68/EC of the European Parliament and of the Council of 24th September 2008 on the inland transport of dangerous goods(**13**), as amended from time to time. |
| "fire and rescue authority" | The fire and rescue authority for Northern Ireland established under the Fire and Rescue Services (Northern Ireland) Order 2006 (**14**) |
| "the Northern Ireland competent authority" | The competent authority in Northern Ireland for the purposes of these Regulations as determined under regulation 17.<br><br>But a reference to "2006 Northern Ireland Competent Authority" is a reference to the competent authority in Northern Ireland for the purposes of the 2006 Regulations (1). |
| "national carriage" | Carriage that includes carriage in Northern Ireland and does not include carriage outside the United Kingdom. |
| "RID" | The Annex to the Regulation concerning the international carriage of dangerous goods by rail which forms Appendix C to COTIF(**15**), as revised or reissued from time to time.<br><br>But—<br>(a) to the extent that a reference in these Regulations to RID is a reference to RID as it applied for the purposes of the 2006 Regulations (1), it has the same meaning as in regulation 2 of those Regulations; and<br>(b) in regulation 14(6)(b) it means the Annex as in force on the date in question. |
| "the security provisions" | The prohibitions and requirements of Chapter 1.10 (including those requirements deemed to be part of ADR in consequence of regulations 8 and 9.) |

(**9**) *See* section 1(1) of the Ministry of Defence Police Act 1987 (c.4).
(**10**) 1952 c.67.
(**11**) 1964 c.5.
(**12**) Cm 3812; COTIF was modified by the Protocol signed at Vilnius on 3rd June 1999 (Cm 4873).
(**13**) OJ No. L260, 30.9.2008, p.13.
(**14**) S.I. 2006 No. 1254 (N.I. 9)
(**15**) ISBN 9788086206394 (2009 edition).

| *Column 1* | *Column 2* |
|---|---|
| "the Transportable Pressure Equipment Directive " | Council Directive 1999/36/EC of 29th April 1999 (**16**)concerning the approximation of laws of member States relating to common provision for transportable pressure equipment and methods for inspection and for the purposes of these Regulations—<br>(a) a reference in that Directive to Directive 94/55/EC and 96/49/EC shall be treated as a reference to the Dangerous Goods Directive (and the reference to articles 6(1) and 7 of Directive 94/55/EC and articles 6(1) and 7(1) and (2) of Directive 96/49/EC in article 1(4) shall be treated as a reference to article 4 of the Dangerous Goods Directive); and<br>(b) a reference to the annex to Directive 94/55/EC and the annex to 96/49/EC shall be treated as a reference to ADR and RID (respectively). |
| "vehicle" | Has the meaning given in article 2 of the Dangerous Goods Directive except that the words "at least four wheels and" shall be omitted. |
| "wagon" | Has the meaning given in article 2 of the Dangerous Goods Directive. |

**Interpretation of ADR, RID and ADN for the purposes of these Regulations**

**3.** For the purposes of these Regulations—

(a) the scope of ADR, RID and ADN shall be deemed to include national as well as international carriage;

(b) a member State of the Communities which is not a Contracting Party to ADR or ADN shall be deemed to be a Contracting Party to ADR or ADN (as the case may be);

(c) a member State of the Communities which is not a member State of COTIF shall be deemed to be a member State of COTIF;

(d) a reference in—

(i) ADR or RID to "competent military authority";

(ii) ADR or ADN to "Contracting Party"; and

(iii) RID to "member State",

shall be treated as a reference to "competent authority" unless the context requires otherwise;

(e) Sub-section 1.1.4.4 of RID shall apply as if the words "or the provisions of the Carriage of Explosives Regulations (Northern Ireland) 2010 in so far as they relate to carriage by road" were included after the words "provisions of ADR";

(f) Sub-section 1.6.4.34 shall be treated as reading "The requirements of 1.8.6, 1.8.7 and 6.8.4 TA4 and TT9 do not apply before 1 July 2011.";

(g) the words "The competent authorities of the Contracting Parties may provide that" are omitted from Sub-section 1.8.3.2 of ADR;

(h) the words "The competent authorities of the member States may provide that" are omitted from Sub-section 1.8.3.2 of RID;

(**16**) OJ No. L138, 1.6.1999, p.20; last amended by Commission Directive 2002/50/EC on 6 June 2002 (OJ No L149, 7.6.2002, p.28)

(i) the reference in Sub-section 1.8.3.3 to "national authorities" shall be treated as a reference to "the Nothern Ireland competent authority or an enforcement authority"; and

(j) Sub-section 5.3.4 of RID is omitted.

**Application**

**4.**—(1) These Regulations apply in relation to the carriage of dangerous goods by road and by rail.

(2) These Regulations apply in relation to the carriage of dangerous goods by inland waterway but only to the extent that they apply Sub-sections 1.8.3.7 to 1.8.3.16 (which relate to the training and examination system for safety advisers and the connected issue and renewal of vocational training certificates).

(3) The dangerous goods to which these Regulations apply are those to which the Explosives Acts (Northern Ireland) 1875 to 1970(**17**), the Explosives (Northern Ireland) Order 1972(**18**) or the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006(**19**) apply.

# PART 2

## PROHIBITIONS AND REQUIREMENTS

**Carriage to be in accordance with ADR or RID**

**5.** A person shall not carry dangerous goods, or cause or permit dangerous goods to be carried, where that carriage is prohibited by ADR or RID, including where that carriage does not comply with any applicable requirement of ADR or RID.

**Classification of Goods**

**6.**—(1) A consignor shall not consign dangerous goods for carriage unless the goods have been classified—

(a) in accordance with any general requirement applicable to the goods in question in Chapter 2.1;

(b) in accordance with any class specified requirements applicable to the goods in question in Chapter 2.2, as indicated in columns (3a) and (3b) of Table A of Chapter 3.2; and

(c) using the test methods applicable to the goods in question required by Chapters 2.2 and 2.3.

(2) A consignor complying with sub-paragraph (1)(a) shall allocate—

(a) a UN number as indicated in column (1) of Table A of Chapter 3.2;

(b) a name and description for the goods, as indicated in column (2) of Table A of Chapter 3.2; and

(c) a packing group for the goods, as indicated in column (4) of Table A of Chapter 3.2,

that is appropriate to the goods in question.

**Alternative placarding requirements to apply to certain national carriage**

**7.**—(1) This regulation applies in relation to national carriage—

(a) in a tank;

(**17**) 1875 c.17; 1970 c. 10 (NI)
(**18**) S.I. 1972/730 (N.I.3)
(**19**) SR 2006 No. 425