STATUTORY RULES OF NORTHERN IRELAND

2001 No. 387

HEALTH AND SAFETY

The Carriage of Explosives by Rail Regulations (Northern Ireland) 2001

Made - - - -	*17th October 2001*
To be laid before Parliament	*2001*
	22nd November
Coming into operation	*2001*

The Secretary of State, in exercise of powers conferred on him by Articles 17(1), (2), (3)(*a*), (4)(*b*), (5)(*b*) and (6)(*b*), 54(1) and (2) and 55(2) of, and paragraphs 1, 2, 6, 11, 13, 14(1), 15 and 19 of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978(**1**) as applied and modified by Article 53 of that Order and after consulting, in accordance with Article 46 of that Order as so applied and modified, the Health and Safety Executive for Northern Ireland and such other bodies as appear to him to be appropriate, hereby makes the following regulations:

Part I

Interpretation and Application

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Carriage of Explosives by Rail Regulations (Northern Ireland) 2001 and shall come into operation on 22nd November 2001.

(2) In these Regulations, unless the context otherwise requires—

"the 1991 Regulations" means the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991(**2**);

"the 1993 Regulations" means the Packaging of Explosives for Carriage Regulations (Northern Ireland) 1993(**3**);

(**1**) S.I.1978/1039 (N.I. 9) as modified by the Health and Safety at Work Order (Application to Environmentally Hazardous Substances) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 525)
(**2**) S.R. 1991/516 as amended by S.R. 1997/474
(**3**) S.R. 1993/268

"ADR" means the European Agreement concerning the International Carriage of Dangerous Goods by Road signed at Geneva on 30 September 1957(**4**), as revised or re-issued from time to time;

"the CDG CPL Regulations" means the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997(**5**);

"carriage" means carriage by rail and shall be construed in accordance with regulation 2(6), and related words shall be construed accordingly;

"Carriage Information" means the information referred to and described in regulation 9(1) and (2);

"the CER Regulations" means the Carriage of Explosives by Road Regulations (Northern Ireland) 1997(**6**);

"classification" means classification under the 1991 Regulations;

"Compatibility Group" and "Compatibility Group letter" have the meanings assigned to them in regulation 2 of the 1991 Regulations;

"computer" means a computer system including its software;

"consignor" means—

(a) the person who, having a place of business in Northern Ireland, consigns, whether as principal or agent for another, explosives for carriage, or

(b) if no person satisfies the requirements of sub-paragraph (*a*), the consignee of those goods in so far as that person has control over the carriage of those explosives in Northern Ireland;

"consignor's declaration" has the meaning assigned to it by regulation 9(2)(*b*)(*v*);

"container" has the meaning assigned to it in regulation 2(1) of the CDG CPL Regulations;

"COTIF" means the Convention concerning International Carriage by Rail, as revised or re-issued from time to time(**7**);

"dangerous goods" has the meaning assigned to it in regulation 2(1) of the CDG CPL Regulations;

"danger sign" means any of the signs referred to and described in paragraph 5 or 6 of Schedule 4;

"designation" in relation to a classified explosive means the name given for that explosive in the list of classified and authorised explosives 1994(**8**) or the Ministry of Defence's Lists of Temporary and Permanent Classifications for Military Explosives(**9**), as revised or re-issued from time to time;

"the Directive" means 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;

"Division" and "Division number" have the meanings assigned to them in regulation 2 of the 1991 Regulations;

"explosives" means explosive articles or explosive substances which—

(**4**) 1995 edition, ISBN 0 11 55 1265 9 (UK)
(**5**) S.R. 1997/247 as amended by S.R. 1997/360
(**6**) S.R. 1997/474
(**7**) Cmnd 5897
(**8**) ISBN 0 7176 0772 0
(**9**) MOD ESTC Leaflets Nos 3 and 4, June 1996

(a) have been assigned on classification to Class 1 in accordance with the 1991 Regulations; or

(b) are unclassified;

"explosive article" means an article containing one or more explosive substances;

"explosive substance" means—

(a) a solid or liquid substance; or

(b) a mixture of solid or liquid substances or both,which is capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings or which is designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as a result of non-detonative self-sustaining exothermic chemical reactions;

"facility owner" means—

(a) any person who has an estate or interest in, or right over, a railway facility; and

(b) any person whose permission to use that railway facility is needed by another before that other may use it;

and any reference to a facility owner's railway facility is a reference to the railway facility by reference to which he is a facility owner;

"factory" has the meaning assigned to it by section 175 of the Factories Act (Northern Ireland) 1965(**10**);

"gunpowder" means the explosive substance allocated on classification the UN Number 0027 or 0028;

"harbour area" means—

(a) (i) all areas of water within the statutory jurisdiction of a statutory harbour authority, other than the areas of water referred to in sub-paragraph (*b*);

(ii) any berth, abutting any of the areas of water falling within head (i), where the loading or unloading of explosives takes place (whether or not that berth is for other purposes under the statutory jurisdiction of the harbour authority);

(iii) any land, within the statutory jurisdiction of a statutory harbour authority or occupied by a statutory harbour authority, used in connection with the loading or unloading of vessels,

but excluding—

(b) areas of water which are within the statutory jurisdiction of another statutory harbour authority where those areas of water are used primarily by vessels using berths or land within the harbour area of that other statutory harbour authority (for the purpose of these Regulations the harbour area of that other statutory harbour authority is known as "an overlapping harbour area");

"harbour authority" means—

(a) in relation to a harbour area, the harbour authority by reference to which that harbour area is defined,

(b) in relation to a harbour, any person being, or claiming to be—

(i) the proprietor of that harbour, or

(ii) entrusted with the duty, or invested with the power of improving, managing, maintaining or regulating that harbour;

(**10**) 1965 c. 20 (N.I.)

"hazardous properties" has the meaning assigned to it in regulation 2(1) of the CDG CPL Regulations;

"IMDG Code" means the International Maritime Dangerous Goods Code, as revised or re-issued from time to time by the International Maritime Organisation(**11**);

"infrastructure controller" means a person who controls railway infrastructure;

"large container" means a container having an internal volume of more than 3 cubic metres;

"locomotive" means any railway vehicle which has the capacity for self-propulsion (whether or not the power by which it operates is derived from a source external to the vehicle);

"military establishment" means an establishment intended for use for naval, military or air force purposes or the purposes of the department of the Secretary of State having responsibility for Defence;

"military explosive" has the meaning assigned to it in regulation 2 of the 1991 Regulations;

"mine" means a mine within the meaning of the Mines Act (Northern Ireland) 1969(**12**);

"net explosive content" means the net mass of explosive substance in that explosive article;

"overpack" has the meaning assigned to it in regulation 2(1) of the CDG CPL Regulations;

"package" and "packagings" have the meanings assigned to them in regulation 2(1) of the 1993 Regulations;

"piggyback transport" means the carriage of a road vehicle on a wagon;

"quarry" means a quarry within the meaning of the Quarries (Northern Ireland) Order 1983(**13**);

"railway" means a system of transport employing parallel rails which provide support and guidance for vehicles carried on flanged wheels, except any such system which is—

(a) a tramway or system of transport used wholly or mainly for the carriage of passengers where the rails are laid wholly or mainly across a street or in any place to which the public may have access; or

(b) operated wholly within a factory, harbour area, military establishment, mine or quarry;

"railway facility" means any track, station or light maintenance depot;

"railway fog signal" means a railway track explosive signal, in Division 1.4, and Compatibility Group S and with the UN number 0193;

"receptacle" has the meaning assigned to it in regulation 2(1) of the CDG CPL Regulations;

"RID" has the meaning assigned to it in regulation 2(1) of the CDG CPL Regulations;

"road vehicle" means any conveyance which is used for the carriage of explosives on a road;

"small container" means a container having an internal volume of not more than 3 cubic metres;

"smokeless powder" means the explosive substance allocated on classification the UN Number 0160 or 0161;

"station" means any land or other property which consists of premises used as, or for the purposes of, or otherwise in connection with, a railway passenger station or railway passenger terminal (including any approaches, forecourt, cycle store or car park), whether or not the land or other property is, or the premises are, also used for other purposes;

"subsidiary hazard sign" means any of the signs which are referred to and described in paragraph 7 or 8 of Schedule 4;

(**11**) Volumes I to IV, ISBN 92 801 13143; Supplement ISBN 92 801 1316X
(**12**) 1969 c. 6 (N.I.)
(**13**) S.I. 1983/150 (N.I. 4)

"tank container" and "tank wagon" have the meanings assigned to them in regulation 2(1) of the CDG CPL Regulations;

"track" means any land or other property comprising the permanent way of any railway, taken together with the ballast, sleepers and metals laid on it, whether or not the land or other property is also used for other purposes, and any reference to track includes a reference to any—

(a) level crossings, bridges, viaducts, tunnels, culverts, retaining walls or other structures used for the support of, or otherwise in connection with, track; and

(b) walls, fences or other structures bounding the railway or bounding any adjacent or adjoining property;

"train" means—

(a) two or more items of rolling stock coupled together, at least one of which is a locomotive; or

(b) a locomotive not coupled to any other rolling stock;

"train operator" in relation to any train means any person who has the management of that train for the time being, and related expressions shall be construed accordingly;

"unclassified" in relation to any explosives means explosives which have not been classified in accordance with the 1991 Regulations;

"UN number" means United Nations Serial Number, that is to say, one of the four digit numbers devised by the United Nations and, in the case of explosives, allocated by the Health and Safety Executive or the Secretary of State for Defence to an explosive article or explosive substance as a means of identification;

"wagon" means a railway vehicle, other than a tank wagon, used for the carriage of explosives.

(3) For the purposes of these Regulations—

(a) the operator of a container or wagon shall be either—

(i) the person who, having a place of business in Northern Ireland, owns the container or wagon concerned, or

(ii) if no person satisfies the requirements of head (i), the person who, having a place of business in Northern Ireland, acts as agent for the owner of the container or wagon, or

(iii) if no person satisfies the requirements of either head (i) or head (ii), the operator of the train on which the container is carried or of which the wagon forms part;

(b) the members of the train crew shall include the driver, guard and any other person on board who has responsibilities in connection with the carriage of explosives on that train, and related expressions shall be construed accordingly;

(c) "carriage in bulk" means the carriage of explosives without packagings;

(d) any reference to explosives being carried in a wagon or large container under sole use shall be a reference to the carriage of a load of explosives which originate from one consignor in respect of which—

(i) the use of the wagon or large container concerned is exclusively reserved; and

(ii) all operations for the loading and unloading are carried out in conformity with the instructions of the consignor or the consignee.

(4) For the purposes of paragraph (3)(*a*), a person to whom a container or wagon is leased or hired shall be deemed to be the owner of it unless the lessor or, as the case may be, the hirer has made a written agreement with the person to whom he has leased or hired the container or wagon to the effect that the lessor or hirer shall assume the responsibilities of the owner imposed by or under these Regulations.