STATUTORY RULES OF NORTHERN IRELAND

2000 No. 171

HEALTH AND SAFETY

The Transport of Explosives (Safety Advisers) Regulations (Northern Ireland) 2000

Made - - - -	*10th May 2000*
To be laid before Parliament	
Coming into operation on	*30th June 2000*

The Secretary of State, in pursuance of Articles 17(1), (2), 5(*b*), 49, 54(1) and (5) and 55(2), of and paragraphs 5, 14(1) and 15 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:

Citation and commencement

1. These Regulations may be cited as the Transport of Explosives (Safety Advisers) Regulations (Northern Ireland) 2000 and shall come into operation on 30th June 2000.

Interpretation

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

"the Directive" means Council Directive 96/35/EC on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway(**2**);

"explosives" means explosive articles or substances which—

(a) have been assigned on classification to Class 1, or

(b) are unclassified;

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

(**1**) S.I. 1978/1039 (N.I. 9) was modified by the Health and Safety at Work Order (Application to Environmentally Hazardous Substances) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 525) as amended by the Health and Safety at Work Order (Application to Environmentally Hazardous Substances) (Amendment) Regulations (Northern Ireland) 2000 (S.R. 2000 N0. 86)

(**2**) O.J. No. L 145, 19.6.96, p. 10

"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;

"factory" has the meaning assigned to it by section 175 of the Factories Act (Northern Ireland) 1965(**3**);

"harbour area" has the meaning assigned to it in regulation 2(1) of the Explosives in Harbour Areas Regulations (Northern Ireland) 1995(**4**);

"inland waterway" includes rivers, their estuaries and adjoining harbours, canals and lakes, but does not include an inland waterway which is not connected to the inland waterways of a member state;

"member state" means a country (other than the United Kingdom) which is a member of the European Communities;

"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;

"mine" has the meaning assigned to it by section 156 of the Mines Act (Northern Ireland) 1969(**5**);

"quarry" has the meaning assigned to it by Article 2 of the Quarries (Northern Ireland) Order 1983(**6**);

"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—

(a) is a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails and which are laid wholly or mainly along a street or in any place to which the public has access (including a place to which the public has access only on making a payment); or

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

"railway vehicle" means any wagon used for the transport of explosives by railway;

"road" has the meaning assigned to it in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995(**7**);

"road vehicle" means any conveyance used for the transport of explosives by road;

"safety adviser" means a person appointed for the purposes of these Regulations and holding a valid vocational training certificate;

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

"vehicle" means a road vehicle or a railway vehicle;

"vehicle owned by the armed forces" means a vehicle which is owned by—

(**3**) 1965 c. 20 (N.I.)
(**4**) S.R. 1995 No. 87
(**5**) 1969 (c. 6) (N.I.)
(**6**) S.I. 1983/150 (N.I. 4)
(**7**) S.I. 1995/2994 (N.I. 18)

(a) Her Majesty's Forces,

(b) visiting forces within the meaning of Part I of the Visiting Forces Act 1952(**8**); or

(c) any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(**9**),

and includes a vehicle which has been provided to the armed forces under any agreement or arrangement under which payments are, or are to be, made for the provision of the vehicle, including a conditional-sale agreement, a credit-sale agreement, a hire purchase agreement and a contract for sale;

"vehicle under the control of the armed forces" means—

(a) a vehicle on board which there is, as a member of the crew—

(i) a member of Her Majesty's Forces,

(ii) a member of a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952, or

(iii) a civilian who is an employee of Her Majesty's Forces, acting in the course of his duties; or

(b) a vehicle in a convoy escorted by a vehicle of the type referred to in head (i) of sub-paragraph(*a*);

"vocational training certificate" has the meaning assigned to it by regulation 7(1).

(2) For the purposes of these Regulations—

(a) a combination of a motor vehicle and a trailer or semi-trailer shall be deemed to be a single vehicle for as long as the constituent parts of such a combination remain attached; and

(b) explosives contained in different constituent parts of such a vehicle shall accordingly be considered to be contained in the same vehicle,

and in this paragraph "motor vehicle" shall have the same meaning as in Article 3(1) of the Road Traffic (Northern Ireland) Order 1995.

(3) Any reference in these Regulations to the transport of explosives is a reference to—

(a) the transport;

(b) the related loading; or

(c) the related unloading,

of explosives.

Application

3.—(1) These Regulations shall apply to a self-employed person as they apply to an employer.

(2) Subject to the provisions of Schedule 1, these Regulations shall apply to and in relation to the transport of explosives by road, railway and inland waterway.

Duty to appoint safety advisers

4.—(1) An employer shall not transport explosives by road, rail or inland waterway unless—

(a) he has appointed a person as a safety adviser for the purpose of advising him as to health, safety and environmental matters in connection with the transport of those explosives by the mode or modes of transport concerned; and

(**8**) 1952 c. 67
(**9**) 1964 c. 5

(b) that safety adviser has functions and duties, which relate to that mode of transport and those explosives.

(2) A self-employed person may appoint himself as a safety adviser under paragraph (1).

(3) Where an employer appoints more than one individual in accordance with paragraph (1), he shall make arrangements for ensuring adequate co-operation between them.

(4) The employer shall ensure that the number of individuals appointed under paragraph (1) is sufficient to ensure that their functions and duties can be carried out effectively.

(5) The employer shall ensure that the time available for any safety adviser, whom he appoints, and the means at his disposal to fulfil his functions and duties are adequate having regard to those functions and duties.

(6) The employer shall provide any safety adviser whom he appoints with adequate information and facilities for the performance of his functions and duties.

(7) Where two or more persons are together carrying on business in partnership, it shall be sufficient compliance with paragraph (1) if one of them complies with it and each partner ensures that a safety adviser has been appointed by one of them.

Functions and duties of safety advisers

5.—(1) Subject to regulation 7(10) a safety adviser shall, for the period of his appointment, have such functions as are necessary to enable him to achieve the purpose referred to in regulation 4(1), including those functions set out in Schedule 2, in connection with the transport of explosives by the employer who has appointed him.

(2) A safety adviser shall ensure the preparation of a report on any accident which affects the health or safety of any person or causes damage to the environment or to property and which occurs during the transport of explosives by the employer who has appointed him.

(3) The safety adviser shall provide a copy of the report referred to in paragraph (2) to the employer who has appointed him.

Keeping of reports

6. The employer shall keep reports required by regulation 5(2) and by paragraph (*c*) of Schedule 2 for a minimum of 5 years.

Vocational training certificates

7.—(1) An employer shall not appoint nor continue the appointment of a person as a safety adviser unless that person holds a valid certificate (in these Regulations referred to as a "vocational training certificate") issued by the Secretary of State or by a person designated by the Secretary of State for the purpose of issuing vocational training certificates.

(2) A vocational training certificate may only be issued to a person in accordance with paragraph (1) where he has—

(a) completed training;

(b) passed an examination which has been approved in writing by the Secretary of State; and

(c) paid a fee of £170·00 to the Secretary of State or the person designated by the Secretary of State for the purpose of issuing vocational training certificates.

(3) Each vocational training certificate issued in accordance with paragraph (1) shall be:

(a) in the form set out in Schedule 3; and

(b) valid for a period of 5 years from the date of issue.

(4) Where, within the period of 12 months which precedes the expiry of the certificate referred to in paragraph (3)(*b*) or of any extension of it granted in accordance with this paragraph, the holder can show to the satisfaction of the Secretary of State that he has—

(a) passed an examination, which has been approved in writing by the Secretary of State,

(b) paid a fee of £170·00 to the Secretary of State or the person designated by the Secretary of State for the purpose of issuing vocational training certificates,

the validity of that certificate shall be extended by the Secretary of State for a period of 5 years.

(5) The training referred to in paragraph (2)(*a*) shall include the risks inherent in the transport of explosives, the requirements of the relevant statutory provisions in so far as they relate to the transport of explosives, the duties of a safety adviser pursuant to regulation 5(2) and (3) and the functions of a safety adviser as set out in Schedule 2.

(6) The examinations referred to in paragraphs (2)(*b*) and (4) shall include the subjects specified in Schedule 4.

(7) The training referred to in paragraph (2) and the examination referred to in paragraph (5) shall relate to—

(a) one or more of the following modes of transport—

(i) road,

(ii) railway,

(iii) inland waterway; and

(b) the transport of explosives.

(8) Where the training and examination are limited to one or more of the modes of transport referred to in paragraph (7)(*a*), that limitation shall be clearly indicated on the vocational training certificate issued in accordance with regulation 7(1).

(9) Where the vocational training certificate held by a safety adviser in accordance with paragraph (1) indicates that it has been limited, in accordance with paragraph (8), to one or more of the specified modes of transport, the functions and duties of that safety adviser shall be limited to the modes of transport so specified.

Mutual recognition of vocational training certificates

8. Any current certificate in the form set out in Schedule 3, which is held by a safety adviser and which was issued to him by a competent authority under national provisions giving effect to the Directive, shall be deemed to be a vocational training certificate issued in accordance with regulation 7 and, where that certificate indicates that it is limited to one or more modes of transport, it shall be so limited. In this regulation "competent authority" means the authority appointed or body designated, in a Member State or Great Britain, for the purposes of issuing vocational training certificates in accordance with Article 5 of the Directive.

Information to be provided to the Secretary of State or vehicle examiners

9.—(1) Any employer, who is required by these Regulations to appoint a safety adviser, shall when requested to do so by the Secretary of State or by any vehicle examiner inform him of the name of that safety adviser.

(2) Every employer shall, when requested to do so by the Secretary of State or by any vehicle examiner, provide him with a copy of any accident and annual reports which have been prepared in accordance with regulation 5(2) or paragraph (*c*) of Schedule 2.

(3) A safety adviser shall on request produce to any vehicle examiner the relevant certificate he holds in accordance with regulation 7.