STATUTORY RULES OF NORTHERN IRELAND

2000 No. 119

HEALTH AND SAFETY

Transport of Dangerous Goods (Safety Advisers) Regulations (Northern Ireland) 2000

Made - - - -	*31st March 2000*
Coming into operation	*1st June 2000*

The Department of Enterprise, Trade and Investment(**1**), being the Department concerned(**2**), in exercise of the powers conferred on it by Articles 17(1), (2), (4) and (5) and 40(2) of, and paragraphs 1(1), 2(1), 5, 13, 14(1), 15 and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**3**) and of every other power enabling it in that behalf, and for the purpose of giving effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A)(**4**) of that Order after the carrying out by the said Executive of consultations in accordance with Article 46(3)(**5**) of that Order, hereby makes the following Regulations:—

Citation and commencement

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

Interpretation

2.—(1) In these Regulations—

"Approved Carriage List" means the list described in regulation 4(1)(*a*) of the CDGCPL Regulations as revised in accordance with regulation 4(2) of those Regulations;

"the CDGCPL Regulations" means the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997(**6**);

(**1**) Formerly the Department of Economic Development; *see* S.I. 1999/283 (N.I. 1)
(**2**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**3**) S.I. 1978/1039 (N.I. 9); Article 3(1) 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 No. 86)
(**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. 1997 No. 247 as amended by S.R. 1997 No. 360, S.R. 1998 No. 438, S.R. 1998 No. 448 and S.R. 1999 No. 150

"the CDG Road Regulations" means the Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997(**7**);

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

"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(**8**);

"the Executive" means the Health and Safety Executive for Northern Ireland;

"factory" has the meaning assigned to it by section 175 of the Factories Act (Northern Ireland) 1965(**9**);

"harbour area" has the meaning assigned to it in regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991(**10**);

"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 State (other than the United Kingdom) which is a member of the 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(1) of the Mines Act (Northern Ireland) 1969(**11**);

"quarry" has the meaning assigned to it by Article 2(2) of the Quarries (Northern Ireland) Order 1983(**12**);

"radioactive material" has the meaning assigned to it by Article 2(1) of the Radioactive Material (Road Transport) (Northern Ireland) Order 1992(**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—

(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 conveyance used for the transport of dangerous goods on a railway;

"road" has the meaning assigned to it in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995(**14**);

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

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

(**7**) S.R. 1997 No. 248 as amended by S.R. 1998 No. 448 and S.R. 1999 No. 150
(**8**) O.J. No. L145, 19.6.96, p. 10
(**9**) 1965 c. 20 (N.I.)
(**10**) S.R. 1991 No. 509 to which there are amendments not relevant to these Regulations
(**11**) 1969 c. 6 (N.I.)
(**12**) S.I. 1983/150 (N.I. 4)
(**13**) S.I. 1992/234 (N.I. 2) to which there are amendments not relevant to these Regulations
(**14**) S.I. 1995/2994 (N.I. 18) to which there are amendments not relevant to these Regulations

"tank" has the meaning assigned to it in regulation 2(1) of the CDGCPL Regulations;

"UN number" means United Nations Serial Number, that is to say, one of the four digit numbers devised by the United Nations and specified in the Approved Carriage List as a means of identification for dangerous goods, and any reference to the letters "UN" followed by a number, in relation to certain dangerous goods, means the particular UN number for those goods specified in the Approved Carriage List;

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

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

(a) Her Majesty's Forces;

(b) a visiting force within the meaning of Part I of the Visiting Forces Act 1952(**15**); or

(c) any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(**16**),

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 its 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 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) dangerous goods 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 dangerous goods is a reference to—

(a) the transport;

(b) the related loading; or

(c) the related unloading,

of dangerous goods.

Application

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

(**15**) 1952 c. 67
(**16**) 1964 c. 5

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

Duty to appoint safety advisers

4.—(1) An employer shall not transport dangerous goods by road, railway or inland waterway unless—

(a) he has appointed an individual as a safety adviser for the purpose of advising him as to health, safety and environmental matters in connection with the transport of those dangerous goods by the mode of transport concerned; and

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

(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 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 individuals are together carrying on business in partnership, it shall be sufficient compliance with paragraph (1) if one of those individuals complies with paragraph (1) and each partner shall ensure that a safety adviser has been appointed by one of those individuals in accordance with paragraph (1).

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 dangerous goods 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 dangerous goods 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 reports referred to in regulation 5(2) and paragraph (*c*) of Schedule 2 shall be kept by the employer for a minimum of 5 years.

Vocational training certificates

7.—(1) An employer shall not appoint or continue the appointment of an individual to be a safety adviser unless that individual 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) An individual may only be issued with a vocational training certificate in accordance with paragraph (1) where he has—

(a) completed training; and

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

(3) Each vocational training certificate issued in accordance with paragraph (1) shall be in the form set out in Schedule 3.

(4) Each vocational training certificate issued in accordance with paragraph (1) shall be valid for a period of 5 years from the date of issue.

(5) Where, within the period of 12 months which precede the expiry of the certificate referred to in paragraph (4) 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 passed an examination which has been approved in writing by the Secretary of State, the validity of that certificate shall be extended by the Secretary of State for a period of 5 years.

(6) The training referred to in paragraph (2)(*a*) shall include the risks inherent in the transport of dangerous goods, the requirements of the relevant statutory provisions insofar as they relate to the transport of dangerous goods, 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.

(7) The examinations referred to in paragraphs (2)(*b*) and (5) shall include the subjects specified in Schedule 4.

(8) The training and examination 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—

(i) all dangerous goods, or

(ii) one or more of the following groups of dangerous goods, namely—

(aa) gases,

(bb) radioactive material,

(cc) UN 1202 DIESEL FUEL or GAS OIL or HEATING OIL, LIGHT, flash point ≤ 61°C

UN 1203 PETROL or MOTOR SPIRIT or GASOLINE

UN 1223 KEROSENE including aviation jet A1 fuel.

(dd) all dangerous goods except those goods listed in head (ii)(*aa*) and (*bb*).

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

(10) 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 (9), to one or more of the specified modes of transport or to one or more of the specified groups of dangerous goods, the functions and duties of that safety adviser shall be limited to—

(a) the mode of transport indicated on that certificate;

(b) the group of dangerous goods indicated on that certificate; and