STATUTORY RULES OF NORTHERN IRELAND

1997 No. 475

HEALTH AND SAFETY

The Carriage of Explosives by Road (Driver Training) Regulations (Northern Ireland) 1997

Made - - - -	*28th October 1997*
To be laid before Parliament	
Coming into operation	*1st December 1997*

The Secretary of State, in pursuance of Article 17(1) to (6), 40(2) to (4), 54 and 55(2) of, and paragraphs 2, 3, 5, 6, 13 and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978, 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 Agency for Northern Ireland and such other bodies as appear to her to be appropriate, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Carriage of Explosives by Road (Driver Training) Regulations (Northern Ireland) 1997 and shall come into operation on 1st December 1997.

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

"the 1991 Regulations" means the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991(**1**);

"the 1993 Regulations" means the Road Traffic (Training of Drivers of Vehicles Carrying Explosives) Regulations (Northern Ireland) 1993(**2**);

"the Carriage Regulations" means the Carriage of Explosives by Road Regulations (Northern Ireland) 1997(**3**);

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

(**1**) S.R. 1991 No. 516
(**2**) S.R. 1993 No. 315
(**3**) S.R. 1997 No. 474
(**4**) 1995 Edition ISBN 0 11 551265 9 (UK version); ISBN 92 11 39043 5 (UN version)

"the ADR Directive" means Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road(**5**);

"approved" means approved in writing for the purposes of these Regulations;

"attendant" has the same meaning as in regulation 2(1) of the Carriage Regulations;

"break-down vehicle" has the same meaning as in regulation 2(1) of the Goods Vehicles (Testing) Regulations (Northern Ireland) 1995(**6**);

"carriage" has the same meaning as in regulation 2(1) of the Carriage Regulations;

"Compatibility Group" and "Compatibility Group letter" have the same meanings as in regulation 2(1) of the 1991 Regulations;

"the Council Directive" means Council Directive 89/684/EEC on vocational training for certain drivers carrying dangerous goods by road(**7**) and any reference in these Regulations to anything done under that Directive shall have effect notwithstanding any subsequent revocation of that Directive;

"Division" and "Division number" have the same meanings as in regulation 2(1) of the 1991 Regulations;

"explosives" means explosive articles or substances which—

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

(b) have not been classified under the 1991 Regulations;

"explosive article" and "explosive substance" have the same meanings as in regulation 2(1) of the Carriage Regulations;

"fire authority" means the Fire Authority for Northern Ireland established under Article 3 of the Fire Services (Northern Ireland) Order 1984(**8**);

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

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

"motor vehicle" has the same meaning as in Article 3(1) of the Road Traffic (Northern Ireland) Order 1995(**9**);

"operator" has the same meaning as in regulation 2(1) of the Carriage Regulations;

"packages" have in relation to explosives the same meaning as in regulation 2(1) of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles (Northern Ireland) 1997(**10**);

"road" has the same meaning as in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995;

"semi-trailer" has the same meaning as in regulation 2(1) of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1989(**11**);

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

(**5**) O.J. No. L319, 12.12.94, p. 7
(**6**) S.R. 1995 No. 450
(**7**) O.J. No. L398, 30.12.89, p. 33
(**8**) S.I.1984/1821 (N.I. 11)
(**9**) S.I. 1995/2994 (N.I. 18)
(**10**) S.R. 1997 No. 247
(**11**) S.R. 1989 No. 299 as amended by S.R. 1991 No. 147

"trailer" has the same meaning as in regulation 2(1) of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1989;

"UN number" has the meaning assigned to it in regulation 2(1) of the Carriage Regulations; and

"vehicle" has the same meaning as in regulation 2(1) of the Carriage Regulations;

"vehicle examiner" means a person appointed by the Department of the Environment (Northern Ireland) under Article 74 of the Road Traffic (Northern Ireland) Order 1995.

(3) Where a vehicle, which is engaged in the carriage of explosives, is being—

(a) driven by a person undergoing training under the supervision of an instructor; or

(b) towed or otherwise moved by a break-down or recovery vehicle and the driver of the break-down or recovery vehicle is accompanied by the driver of the vehicle, which is being towed or otherwise moved,

the instructor or (as the case may be) the driver of the vehicle, which is being towed or otherwise moved, shall be regarded as the driver of the vehicle concerned for the purposes of these Regulations.

(4) Any requirement imposed by regulations 3 to 6 on or in respect of the driver of a vehicle, which is engaged in the carriage of explosives, shall be taken to include a like requirement imposed on, or as the case may be, in respect of, any attendant.

(5) For the purposes of these Regulations—

(a) a combination of a motor vehicle and a trailer or a 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.

(6) Without prejudice to the generality of regulation 2(4), a trailer or semi-trailer containing explosives shall not be considered to be engaged in the carriage of explosives for the purposes of these Regulations unless it forms part of a combination deemed to be a single vehicle in accordance with paragraph (5).

(7) For the purposes of these Regulations, any reference to a motor vehicle which is registered outside the United Kingdom is a reference to a motor vehicle which is not registered in the United Kingdom but is registered in another country in accordance with that country's rules governing the registration of such vehicles.

(8) Any reference in these Regulations to the driver of a vehicle does not include a reference to a person whose work does not include his driving the vehicle concerned on a road.

(9) Any reference in these Regulations to the net mass of any explosive shall be construed as a reference to the net mass of explosive substance.

(10) In these Regulations—

(a) any reference to a vehicle under the control of the armed forces is a reference to—

(i) a vehicle on board which there is, as a member of its crew, a member of the armed forces acting in the course of his duties; or

(ii) a vehicle in a convoy escorted by a vehicle of the type referred to in sub-paragraph (i),

where "a member of the armed forces" means—

(iii) a member of Her Majesty's Forces;

(iv) a member of a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(**12**); or

(**12**) 1952 c. 67

(v) a civilian who is an employee of Her Majesty's Forces; and

(b) any reference to a vehicle owned by the armed forces is a reference to a vehicle owned by—

(i) Her Majesty's Forces,

(ii) visiting forces within the meaning of Part I of the Visiting Forces Act 1952, or

(iii) any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(**13**);

and includes a vehicle which has been provided to the armed forces under any kind of 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.

Application

2.—(1) These Regulations shall apply to the carriage of explosives in or on a vehicle not also being used to carry passengers for hire or reward, except where specified in Schedule 1 or Schedule 2, and, unless the context otherwise requires, any reference in these Regulations to the carriage of explosives shall be construed as a reference to any carriage to which these Regulations apply by virtue of this paragraph.

(2) A vehicle shall be deemed to be engaged in the carriage of explosives from the commencement of loading it with the explosives concerned for the purpose of carrying them by road until the said vehicle and, where appropriate, any compartment of it has been unloaded and, where necessary, cleaned or purged so that any of the explosives or their vapours, which remain in or on the vehicle, are not sufficient to create a significant risk to the health or safety of any person, regardless of whether or not the vehicle is on a road at the material time.

Instruction and training for drivers

3.—(1) The operator of any motor vehicle (other than a motor vehicle registered outside the United Kingdom) which is engaged in the carriage of explosives shall ensure that the driver of the vehicle has received adequate instruction and training to enable him to understand—

(a) the nature of the dangers to which the explosives being carried may give rise and the action to be taken in an emergency concerning them;

(b) his duties under the Health and Safety at Work (Northern Ireland) Order 1978(**14**); and

(c) his duties under the Carriage Regulations.

(2) Each operator shall keep a record of any training provided by him, in accordance with paragraph (1), to the driver of a vehicle, where that driver is employed by him, and shall make available a copy of that record to the driver concerned.

Vocational training certificates

4.—(1) Subject to paragraphs (2) and (9) and regulation 5, the operator of any vehicle, which is engaged in the carriage of explosives, shall ensure that the driver of that vehicle holds a valid certificate applicable to that carriage (to be known as a "vocational training certificate") issued by the Secretary of State.

(**13**) 1964 c. 5
(**14**) S.I. 1978/1039 (N.I. 9)

(2) Without prejudice to the generality of paragraph (1), in the case of the carriage of explosives referred to in regulation 2(1), the vocational training certificate shall be appropriate to the carriage of explosives in packages.

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

(a) successfully completed such training in the carriage of the explosives concerned as the Secretary of State has from time to time approved;

(b) passed an examination (the syllabus of which shall cover the training referred to in sub-paragraph (*a*) of this paragraph) which has been approved by the Secretary of State; and

(c) paid a fee of £2·80 to the Secretary of State.

(4) Each vocational training certificate issued in accordance with paragraph (1) shall be in a form approved by the Secretary of State.

(5) The training referred to in paragraph 3(*a*) shall be given in the form of a theoretical course accompanied by practical exercises and shall cover at least their subjects specified in Schedule 3.

(6) Each vocational training certificate issued in accordance with paragraph (1) shall be valid for a period of 5 years from the date of issue but its validity may be extended for periods of up to 5 years by the Secretary of State where, within the period of 12 months which precede the expiry of the original certificate or 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) successfully completed a refresher course in the carriage of explosives which has been approved by the Secretary of State;

(b) passed the examination referred to in paragraph (3)(*b*); and

(c) paid a fee of £2·80 to the Secretary of State.

(7) Schedule 4 shall have effect with respect to fees for applications for such approvals under this regulation as are specified in paragraph 1 of that Schedule.

(8) Any current certificate in the form set out in Appendix B.6 to ADR (regardless of whether or not that certificate has been extended in the manner described by Article 5.2 of the Council Directive or Marginal 10315(3) of the ADR) which is held by a driver and which was issued to him under national provisions giving effect to Article 1 of the Council Directive or the ADR Directive in a member state shall be deemed to be a vocational training certificate issued in conformity with the foregoing provisions of this regulation valid for the carriage of explosives.

Existing training certificates

5.—(1) It shall be sufficient compliance with regulation 4(1) if the driver of the relevant vehicle holds a training certificate applicable to the explosives being carried which was issued to him by the appropriate national authority before the coming into operation of the 1993 Regulations(**15**) as respects the carriage of explosives on the basis of national provisions existing at that time, which the Commission of the European Communities has confirmed satisfy the corresponding requirements of the Council Directive, provided that such compliance shall cease—

(a) on 1st July 1997; or

(b) at the end of the period of validity of the certificate concerned, where that date is earlier than the relevant date specified in sub-paragraph (*a*) above.

(2) Any vocational training certificate issued in accordance with regulation 6(1) of the 1993 Regulations shall be deemed to be a vocational training certificate issued in accordance with regulation 4(1) of these Regulations and shall remain valid until the expiry date stated in it, subject

(**15**) S.R. 1993 No. 315