1993 No. 315

HEALTH AND SAFETY

The Road Traffic (Training of Drivers of Vehicles Carrying Explosives) Regulations (Northern Ireland) 1993

Made . . . . . *13th July 1993*

Coming into operation . . *1st October 1993*

To be laid before Parliament

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Schedule 1 — Cases where the carriage of explosives is not carriage to which these regulations apply by virtue of regulation 3.

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The Secretary of State, in pursuance of Articles 17(1), (2), (3), (4), 5(*b*) and 6(*b*), 40(2), (3) and (4), 54(5) 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(**a**), 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

(**a**) S.I. 1978/1039 (N.I. 9)

modified, the Health and Safety Agency for Northern Ireland and such other bodies as appear to him to be appropriate, hereby makes the following regulations:—

Citation and commencement

1.—(1) These regulations may be cited as the Road Traffic (Training of Drivers of Vehicles Carrying Explosives) Regulations (Northern Ireland) 1993 and shall come into operation on 1st October 1993.

Interpretation

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

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

"another member state" means a member state other than the United Kingdom;

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

"attendant" means a person who accompanies the driver of a vehicle carrying explosives to help ensure their safety and security;

"break-down vehicle" has the same meaning as in regulation 2(1) of the Goods Vehicle (Certification) Regulations (Northern Ireland) 1990(**b**);

"carriage" and related words shall be construed in accordance with paragraph (5) and regulation 3;

"Compatibility Group" and "Compatibility Group letter" have the same meanings as in regulation 2 of the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991(**c**);

"Contracting Party" means a country which is a signatory to ADR;

"the Council Directive" means Council Directive 89/684/EEC on vocational training for certain drivers carrying dangerous goods by road(**d**), as revised from time to time;

"Division" and "Division number" have the same meanings as in regulation 2 of the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991;

"explosives", "explosive article" and "explosive substance" have the same meanings as in regulation 2(1) of the Road Traffic (Carriage of Explosives) Regulations (Northern Ireland) 1993(**e**);

"military explosive" has the same meaning as in regulation 2 of the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991;

(a) ISBN 0 11 551114 8; for the edition current when these regulations were made
(b) S.R. 1990 No. 224
(c) S.R. 1991 No. 516
(d) O.J. No. L398, 30.12.89, p. 33
(e) S.R. 1993 No. 83

"motor vehicle" has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Explosives) Regulations (Northern Ireland) 1993;

"operator" shall be construed in accordance with regulation 4;

"road" means a road within the meaning of Article 2(2) of the Road Traffic (Northern Ireland) Order 1981(**a**);

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

"trailer" has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Explosives) Regulations (Northern Ireland) 1993.

(2) Where a vehicle, which is engaged in any carriage of explosives, is—

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

(*b*) being 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.

(3) Any requirement imposed on or in respect of the driver of a vehicle by regulations 5 to 10 shall be taken to include a like requirement imposed on or, as the case may be, in respect of an attendant.

(4) A combination of a motor vehicle and one or more trailers or semi-trailers shall be deemed for the purposes of these regulations to be a single vehicle for as long as the constituent parts of such a combination remain attached, and explosives contained in different parts of such a vehicle shall accordingly be considered to be contained in the same vehicle.

(5) Without prejudice to the generality of regulation 3, a trailer or semi-trailer containing explosives shall not be considered to be engaged in carriage for the purposes of these regulations unless it forms part of a combination deemed to be a single vehicle in accordance with paragraph (4).

(6) For the purposes of these regulations, a vehicle shall be deemed to be registered in the United Kingdom where the relevant motor vehicle is registered under the Vehicles (Excise) Act 1971(**c**) or any enactment repealed thereby.

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

Application

3.—(1) These regulations shall apply to the carriage of any explosives in or on a vehicle not also being used to carry passengers for hire or reward,

(**a**) S.I. 1981/154 (N.I. 1), to which there are amendments not relevant to these regulations
(**b**) S.R. 1989 No. 299
(**c**) 1971 c. 10

except where specified in Schedule 1; 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 such carriage to which these regulations apply by virtue of paragraph (1), from the commencement of loading the vehicle with the explosives concerned for the purpose of carrying them on a road until all the explosives have been unloaded from the vehicle, regardless of whether or not the vehicle concerned is on a road at the material time.

Meaning of operator

4.—(1) The operator of any vehicle which is engaged in the carriage of explosives shall be—

(*a*) any person who holds a road freight vehicle licence under section 17 of the Transport Act (Northern Ireland) 1967(**a**) for the use of that vehicle on a road to carry goods for reward other than a person described in sub-section (1)(*b*) or (*c*) of that section; or

(*b*) where no such licence is held—

(i) (in the case of a vehicle which is not registered in the United Kingdom) the driver of the vehicle; or

(ii) (in the case of any other vehicle but subject to paragraph (2)) the keeper of the vehicle; and for this purpose, where the vehicle is on hire or lease to any person, that other person shall be treated as its keeper.

(2) Where an employee who would otherwise be the operator of a vehicle in accordance with sub-paragraph (*b*)(ii) of paragraph (1) uses that vehicle for the carriage of explosives on behalf of his employer, that employer shall, notwithstanding that sub-paragraph, be regarded as the operator of the vehicle for the purposes of these regulations.

Instruction and training for drivers

5.—(1) The operator of any vehicle registered in 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 particular explosives being carried may give rise and the action to be taken in an emergency concerning them and;

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

(*c*) his duties under the Road Traffic (Carriage of Explosives) Regulations (Northern Ireland) 1993.

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

(**a**) 1967 c. 37 (N.I.)

Vocational training certificates

6.—(1) Subject to regulations 7 and 8, 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.

(2) A driver may only be issued with a vocational training certificate in accordance with paragraph (1) where—

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

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

(*c*) a fee of £2·50 has been paid to the Secretary of State.

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

(4) The training referred to in paragraph (2)(*a*) shall be in the form of a theoretical course accompanied by practical exercises, and shall cover at least the subjects specified in Schedule 2.

(5) Each vocational training certificate issued in accordance with paragraph (1) shall be valid for 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—

(*a*) the holder can show to the satisfaction of the Secretary of State that he has—

(i) successfully completed a refresher course in the carriage of explosives which has been approved by the Secretary of State, and

(ii) passed the examination referred to in paragraph (2)(*b*); and

(*b*) a fee of £2·50 has been paid to the Secretary of State.

(6) Schedule 3 shall have effect with respect to fees for applications for such approvals under this regulation as are specified in paragraph 1 of that Schedule.

(7) Any current certificate in the form set out in Appendix B.6 to ADR and valid for Class 1 (regardless of whether or not that certificate has been extended in the manner described by Article 5.2 of the Council Directive) which is held by a driver and which was issued to him under the national provisions giving effect to Article 1 of that Directive in another member state or in Great Britain 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.

(8) In this regulation, ''carriage'' means carriage arising out of or in connection with work and shall be construed in accordance with regulation 2(5) and regulation 3; and related words shall be construed accordingly.