1993 No. 268

HEALTH AND SAFETY

The Packaging of Explosives for Carriage Regulations (Northern Ireland) 1993

Made . . . . . *28th May 1993*

Coming into operation . . *1st September 1993*

To be laid before Parliament

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The Secretary of State, in pursuance of Articles 17(1), (2), (3)(*a*), (4) and (5), and 55(2) of, and paragraphs 2, 4 and 11 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**a**) ("the 1978 Order") as

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

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 appeared to him to be appropriate, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Packaging of Explosives for Carriage Regulations (Northern Ireland) 1993, and shall come into operation on 1st September 1993.

Interpretation

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

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

"approved testing laboratory" means a testing laboratory—

(*a*) approved by the Secretary of State, or

(*b*) outside the United Kingdom, approved by the competent authority;

"carriage" shall be construed in accordance with paragraph (2);

"certificate holder" means the person whose name is included in or identifiable from the UN mark;

"Class 1" has the meaning assigned to it by regulation 2 of the 1991 regulations;

"competent authority" means a person or organisation in any country which is for the time being a competent authority for the purposes of the testing and certification of packagings and the allocation of a UN mark under the United Nations Recommendations;

"consign" shall be construed in accordance with paragraph (3);

"design type" shall be construed in accordance with paragraph (4);

"the Executive" means the Health and Safety Executive established under section 10 of the Health and Safety at Work etc Act 1974(**b**);

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

"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;

(**a**) S.R. 1991 No. 516
(**b**) 1974 c. 37

"explosives" means explosive articles or explosive 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 or under the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985(**a**);

"inner packagings" means the packagings immediately surrounding any explosives except when they are the only packagings;

"military explosive" has the meaning assigned to it by regulation 2 of the 1991 regulations;

"net mass" means—

(*a*) where a package has outer packaging only, the net mass of the contents, and

(*b*) where the package has inner packagings and outer packagings, the combined mass of the contents and the inner packagings;

"outer packagings" means the packagings immediately surrounding any explosives where it is the only packagings and in any other case the outermost packagings;

"package" means the packagings and their contents prepared for carriage;

"packagings" means any receptacle and any closure or fastening and any components, materials or wrappings which have the purpose of enabling the packagings to perform their containment function, but does not include—

(*a*) any envelope, case or contrivance forming part of an article, or

(*b*) any type of cradle, crate, freight container, aircraft container, container with integral pallet, aircraft pallet or vehicle;

"UN mark" means a mark allocated by the competent authority being a mark specified in the United Nations Recommedations to indicate that the packagings which bear it—

(*a*) correspond with a design type which has been tested successfully in accordance with, and

(*b*) comply with the provisions relating to manufacture required by, the United Nations Recommendations;

"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 Executive or the Secretary of State to an explosive article or explosive substance as a means of identification;

(a) S.R. 1985 No. 81 as amended by S.R. 1988 No. 288, S.R. 1988 No. 415, S.R. 1989 No. 182, S.R. 1990 No. 120 and S.R. 1990 No. 303

"unit load" means the unit formed when packages or unpackaged articles are assembled on or in a device which enables them to be mechanically handled as one unit, but which is not any type of freight container, aircraft container, container with integral pallet, aircraft pallet, or vehicle;

"unit load container" means a unit load containing military explosives the net mass of which, treating the unit load container as a single package, is greater than 400 kg which is designed to simplify handling of the explosives in it and to make them available for use quickly;

"the United Nations Recommendations" means the United Nations Recommendations on the Transport of Dangerous Goods based on those originally prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods considered by the Economic and Social Council at its twenty-third session (Resolution 645 G (XXIII) of 26th April 1957) being either—

(i) the seventh revised edition(**a**), or

(ii) a later edition (which shall include any revision or partial substitution and any such edition, revision or substitution as it has effect subject to any reservation made by or on behalf of the United Kingdom) approved from time to time by the Secretary of State which shall be in substitution for and not an alternative to the seventh revised edition.

(2) When explosives are carried in or on a vehicle or vessel (which shall include a freight container attached to a vehicle or vessel), they shall, for the purposes of these regulations, be deemed to be carried from the time they are placed in or on the vehicle or vessel for the purposes of carriage until they are removed from the vehicle or vessel.

(3) For the purposes of these regulations, a person shall be taken to consign explosives for carriage whether he does so as principal or as agent for another.

(4) For the purposes of these regulations, packagings are of the same design type if they conform in every respect, including design, size, material, thickness and manner of construction, with the specification of packagings which have satisfactorily completed tests and have been allocated a UN mark or if they differ only in having a different surface treatment.

(5) For the purposes of these regulations, a unit load container shall be treated as a single package but any other unit load shall not be so treated and the device on or in which packages or unpackaged articles are assembled in a unit load other than a unit load container shall not be treated as packagings.

Application

3.—(1) These regulations shall not apply to—

(*a*) any explosive nuclear device;

(**a**) ISBN 92 1 139035-4

(*b*) explosives carried or consigned for carriage for the purpose of explosive ordnance disposal, other than dumping at sea, under the direction of a member of Her Majesty's forces, a member of a police force or a person authorised by the Secretary of State;

(*c*) explosive articles of Class 1 which—

(i) have a substantial outer casing so made and closed (if necessary) as to prevent any explosive substance escaping,

(ii) either have satisfactorily completed tests carried out at a laboratory approved by the Secretary of State to show that they are robust enough to be carried without packaging and are the subject of written notification to the Executive or the Secretary of State to that effect or were manufactured before 1st March 1994 and are accompanied by a certificate to that effect,

(iii) are loaded in such a way (including the use of restraining devices where appropriate) that they are safe and will not become loose when subjected to normal conditions of carriage,

(iv) are adequately protected against theft, and

(v) satisfy conditions approved by the Executive;

(*d*) explosives carried in the circumstances mentioned in sections 61 or 74 of the Explosives Act 1875(**a**) or section 29 of the Consumer Protection Act 1987(**b**);

(*e*) explosives carried by hand;

(*f*) explosives carried by air or sea.

(2) Regulations 7 to 9 and 11 shall not apply to explosives which are carried or consigned for carriage—

(*a*) within private premises;

(*b*) between one part of private premises and another in the immediate vicinity.

(3) Regulations 7 to 9 and 11 shall not apply to explosives carried or consigned for carriage with a view to being exploded by the carrier or consignor or the employees of one of them in the course of their employment and not for sale where—

(*a*) the explosive is of a class and division and of a form listed in columns 2 and 3 respectively of Part I of Schedule 1; and

(*b*) the net mass carried in any load does not exceed 50 kg; and

(*c*) the net mass within any item in Part I of Schedule 1 does not exceed the amount specified in column 4 of that Schedule for explosives within that item.

(4) Regulations 7 to 9 and 11 shall not apply to—

(**a**) 1875 c. 17
(**b**) 1987 c. 43