1991 No. 516

HEALTH AND SAFETY

The Classification and Labelling of Explosives Regulations (Northern Ireland) 1991

Made . . . . . *26th November 1991*

Coming into operation . . *1st March 1992*

To be laid before Parliament

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The Secretary of State, in pursuance of Articles 17(1), (2), (3)(*a*), (4), (5) and (6)(*b*), 40(2) and (4), 43(3) and 55(2) of, and paragraphs 1(1)(*b*) and (*c*) and (4), and 2(1) and (2) 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 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 Classification and Labelling of Explosives Regulations (Northern Ireland) 1991 and shall come into operation on 1st March 1992.

Interpretation

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

"Class 1" means Class 1 in respect of explosives or the classification of dangerous goods as set out in the Sixth Revised Edition of the Recommendations prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods published in New York in 1989 on behalf of the United Nations by the International Regulations Publishing and Distributing Organization(**b**);

"classified" in relation to an article, substance, combination or unit load means either appearing in the "List of Authorised Explosives" or the "List of Classifications of Explosives" both as revised or reissued from time to time and being lists issued by the Health and Safety Executive or assigned to, or excluded from, Class 1 by the Secretary of State. If so assigned, it shall be—

(i) allocated a Division and Compatability group,

(ii) designated as an article, substance, combination or unit load, and

(iii) in the case of an article or substance, allocated a United Nations Serial Number.

If excluded from Class 1, it shall be designated as or as not presenting a significant hazard from explosion.

"combination" means a combination in the same packaging of articles or substances or of one or more of each of them;

"Compatibility Group" means one of the compatibility groups in Class 1 set out in column 1 of Schedule 2 and "Compatibility Group letter" means the letter assigned to a Compatibility Group by column 2 of that Schedule;

"Division" means one of the divisions, into which Class 1 is divided, set out in column 1 of Schedule 1 and "Division number" means the number assigned to a Division by column 2 of that Schedule;

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

"explosive substance" means—

(**a**) S.I. 1978/1039 (N.I. 9)
(**b**) ISBN-92-1-139027-3

(*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;

"hazard classification code" means the Division number followed by the Compatibility Group letter of an article, substance, combination or unit load as assigned on classification;

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

"inner packaging" means the packaging immediately surrounding an article, substance or combination, except when it is the only packaging, but it does not include any envelope, case or contrivance forming part of an article;

"label" includes "mark" and related expressions shall be construed accordingly;

"military explosive" means any article, substance, combination or unit load to which these regulations apply—

(*a*) under the control of the Secretary of State, or otherwise held for the service of the Crown, for the purposes of the Ministry of Defence,

(*b*) under the control of a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(**b**) or of the service authorities of a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(**c**), or otherwise held for the service of such a headquarters, organisation or visiting force, or

(*c*) the conveyance of which is certified by the Secretary of State to be in connection with the execution of a contract with the Secretary of State or with a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964 or with the service authorities of a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952;

"name" means in relation to an explosive article or explosive substance its name—

(*a*) as shown in the "List of Authorised Explosives" or the "List of Classifications of Explosives" both being lists issued by the Health and Safety Executive or in any of the various lists of

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(**a**) 1974 c. 37
(**b**) 1964 c. 5
(**c**) 1952 c. 67

classifications for military explosives issued by the Ministry of Defence, all the foregoing as revised or re-issued from time to time, or

(*b*) as shown in an approval in writing given by the Secretary of State;

"outer packaging" means the packaging immediately surrounding an article, substance or combination where it is the only packaging and in any other case the outermost packaging but does not include—

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

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

"supply" means (whether as principal or agent for another) supply in the course of, or for use at, work by way of—

(*a*) sale, offer for sale, lease, hire or hire purchase,

(*b*) commercial sample, or

(*c*) transfer from a factory, warehouse or other place of work and its curtilage to another place of work, whether or not in the same ownership;

"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;

"United Nations Serial Number" means 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.

Classification and labelling of explosive articles and explosive substances and of combinations and unit loads thereof

3.—(1) Subject to regulation 4, these regulations shall apply to—

(*a*) explosive articles or explosive substances, whether in packaging or not;

(*b*) combinations in the same packaging of explosive articles or explosive substances or of one or more of each of such articles and substances;

(*c*) unit loads of any of the following—

(i) explosive articles, whether in packaging or not,

(ii) packaged explosive substances,

(iii) combinations in the same packaging of explosive articles or explosive substances or of one or more of each of such articles and substances;

except that in relation to supply only, these regulations shall apply to the items specified in this paragraph only in so far as they are supplied with a view to producing a practical effect by explosion or a pyrotechnic effect.

(2) An article, substance, combination or unit load to which these regulations apply may not be conveyed, kept or supplied unless—

(*a*) it has been classified for the time being according to composition and in the form and packaging, if any, in which it is to be conveyed, kept or supplied; and

(*b*) it and any packaging comply with the labelling requirements, if any, imposed in respect of them by these regulations.

(3) Subject to regulation 11, nothing in paragraph (2) shall be construed as affecting any other requirement of law relating to the conveyance, keeping or supply of an article, substance, combination or unit load to which these regulations apply.

Cases to which these regulations do not apply

4.—(1) These regulations shall not apply to an article, substance, combination or unit load which—

(*a*) is conveyed, kept or supplied solely in connection with an application for its classification; or

(*b*) has not been classified and—

(i) is the subject of, or is used in, a research project, and

(ii) is not kept at, or conveyed through, any place to which persons not employed in, or otherwise concerned with, the project have access; or

(*c*) is undergoing explosive ordnance disposal, other than dumping at sea, under the directions of a member of Her Majesty's forces or a constable.

(2) These regulations shall not apply to an article or substance which—

(*a*) is in the process of manufacture, including any examination or testing carried out at the place of manufacture; or

(*b*) has been removed from its packaging for the purpose of immediate use.

(3) These regulations shall not apply to fireworks, small arms ammunition or combinations in the same packaging of fireworks or small arms ammunition that—

(*a*) are kept or supplied by the retailer thereof; or

(*b*) have been obtained from such a person.

(4) These regulations shall not apply to any explosive nuclear device or any component thereof.

Fees for testing

5. If any testing is carried out on behalf of the Secretary of State with the agreement of the applicant in connection with his application for the classification of an article, substance, combination or unit load, the applicant shall pay, prior to the issue of the decision, such expenses as may be incurred in respect of that testing, excluding any typing, messenger or other ancillary work (for which no fee shall be payable).