1988 No. 415

HEALTH AND SAFETY

Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations (Northern Ireland) 1988

Made . . . . . 29th November 1988

Coming into operation—
regulation 7 *16th January 1990*
remainder *16th January 1989*

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The Department of Agriculture, the Department of Economic Development, the Department of Health and Social Services and the Department of the Environment acting jointly as the Department

concerned(**a**), in exercise of the powers conferred by Articles 17(1) to (6) and 55(2) of, and paragraphs 1(1) to (4), 2, 11, 13, 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**b**) and of every other power enabling them in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to them to be appropriate, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations (Northern Ireland) 1988 and shall come into operation on 16th January 1989, except regulation 7 which shall come into operation on 16th January 1990.

Interpretation

2.—(1) In these Regulations—

"agricultural unit" means land which is occupied as a unit for agriculture, including horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, forestry, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the preparation of land for agricultural purposes;

"approved list" has the same meaning as in regulation 4 of the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985(**c**);

"classified" means classified in accordance with regulation 6(4) of the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985;

"consignor" means a person who consigns (whether as principal or as agent for another) a dangerous substance for carriage by road;

"carriage" shall be construed in accordance with regulation 3(3);

"dangerous substance" (whether or not a substance which is a preparation or other mixture) means—

(*a*) any substance, listed in Part IA2 of the approved list, which is specified to be in packing group I or II in column 7 of that Part;

(*b*) any substance, which, although not listed in Part IA2 of the approved list, is classified as being in one of the groups of substances listed in Part IB of the approved list and is specified to be in packing group I or II in column 7 of that Part;

(*c*) any substance which is specified in column 6 of Part IA2 of the approved list as a flammable gas, a toxic gas or an organic peroxide;

(*d*) any flammable gas, toxic gas or organic peroxide other than one in Part IA2 of the approved list;

(*e*) asbestos in any form listed in Part IA2 of the approved list;

(**a**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**b**) S.I. 1978/1039 (N.I. 9)
(**c**) S.R. 1985 No. 81. Relevant amending Regulations are S.R. 1988 No. 288

(*f*) asbestos waste designated as "special waste" by regulation 3(1) of the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981(**a**);

(*g*) any substance listed in Part IA2 of the approved list as hazardous waste other than hazardous waste, flammable liquid, with a flash point of 21°C to 55°C;

(*h*) any other substance which, although not listed in Part IA2 of the approved list has, when classified, the properties of a substance specified in Schedule 1,

but does not include a substance carried at such dilution or otherwise treated so that it no longer has the properties of any flammable gas, organic peroxide, toxic gas or any substance in Schedule 1;

"the Department" means the Department of Economic Development;

"flammable gas" means a gas so classified;

"flash point" has the same meaning as in regulation 2(1) of the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985;

"freight container" means a container as defined in Article II of the International Convention for Safe Containers (CSC) except any container specially designed for air transport or any skip or cage used in a mine or quarry;

"inspector of vehicles" means a person appointed by the Department of the Environment as an inspector of vehicles for the purposes of any provision of the Road Traffic (Northern Ireland) Order 1981(**b**);

"operator" means in relation to a road tanker or other vehicle—

(*a*) any person who is required to hold a road freight vehicle licence under section 17(2) of the Transport Act (Northern Ireland) 1967(**c**) other than a person described in sub-section 1(*b*) or (*c*) of that section; and

(*b*) the keeper of the vehicle in any other case;

"organic peroxide" means a substance so classified;

"packing group" means—

(*a*) in the case of a substance listed as dangerous for conveyance in Part IA2 or Part IB of the approved list, the packing group (if any) specified opposite thereto in column 7 of the appropriate Part; or

(*b*) in the case of a dangerous substance not so listed, the packing group specified opposite to that substance in column 2 of Schedule 1;

"receptacle" means a vessel or the innermost layer of packagings which is in contact with a dangerous substance and which is liable to be individually handled when the substance is used or disposed of;

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

(**a**) S.R. 1981 No. 252
(**b**) S.I. 1981/154 (N.I. 1) to which there are amendments not relevant to these Regulations
(**c**) 1967 c. 37 (N.I.) to which there are amendments not relevant to these Regulations

"toxic gas" means a gas so classified.

(2) For the purposes of these Regulations—

(*a*) a combination of a motor vehicle and one or more trailers shall be treated as one vehicle for so long as they remain attached; and

(*b*) a reference to the carriage by road of a dangerous substance in bulk shall be treated as a reference to the carriage of that substance when it is—

(i) carried in or on the vehicle or in a freight container; and

(ii) not in a receptacle.

Application of these Regulations

3.—(1) Regulation 13 shall apply in relation to the carriage of any quantity of a dangerous substance, and, subject to paragraph (2), the remainder of these Regulations shall apply in relation to the carriage of—

(*a*) any quantity of a dangerous substance in bulk;

(*b*) any quantity of any organic peroxide or any flammable solid (irrespective of its packing group if any) which is subject to the provisions of regulation 10(2) or 10(3);

(*c*) any organic peroxide (other than one specified in sub-paragraph (*b*)) or any flammable or toxic gas or any dangerous substance allocated to packing group I in the approved list or in Schedule 1, in a receptacle with a capacity of 5 litres or more;

(*d*) asbestos or any asbestos waste which is a dangerous substance (irrespective of its packing group), in a receptacle with a capacity of 5 litres or more;

(*e*) any dangerous substance listed in the approved list as "hazardous waste" which is designated as "special waste" by regulation 3(1) of the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981, in a receptacle with a capacity of 5 litres or more;

(*f*) any other dangerous substance, in a receptacle with a capacity of 200 litres or more.

(2) These Regulations shall not apply—

(*a*) where either—

(i) the Dangerous Substances (Conveyance by Road in Road Tankers and Tank Containers) Regulations (Northern Ireland) 1988(**a**) apply, or

(ii) the carriage is specified in sub-paragraphs (*a*) to (*g*) of regulation 3(1) of those Regulations (which provides for exceptions from the Regulations in certain cases);

(*b*) in so far as the substance is used solely in connection with the operation of the vehicle;

(*c*) where the substance being carried by road is a radioactive substance within the meaning of regulation 2(1) of the Ionising Radiations Regulations (Northern Ireland) 1985(**b**);

(**a**) S.R. 1988 No. 24

(**b**) S.R. 1985 No. 273

(*d*) where the Explosives Acts (Northern Ireland) 1875 to 1970(**a**) or the Explosives (Northern Ireland) Order 1972(**b**) apply;

(*e*) where—

(i) the vehicle carrying the dangerous substance is engaged in an international transport operation within the meaning of the Convention concerning International Carriage by Rail (COTIF)(**c**) as revised or re-issued from time to time, and

(ii) such carriage conforms in every respect to the provisions of the Uniform Rules concerning the Contract for International Carriage of Goods by Rail (CIM) which forms Appendix B to that Convention and to the Regulations (RID) made thereunder;

(*f*) where the vehicle carrying the dangerous substance—

(i) is engaged in an international transport operation within the meaning of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) signed at Geneva on 30th September 1957(**d**), as revised or re-issued from time to time,

(ii) complies with the conditions in Annexes A and B to that Agreement, and

(iii) is certified pursuant to that Agreement as complying with it,

or where by a provision of that Agreement the transport operation is subject to a special bilateral or multilateral agreement under the terms of Article 4 of that Agreement to which the United Kingdom is a Contracting Party;

(*g*) where the vehicle carrying the dangerous substance is not, for the time being, subject to the provisions of the said European Agreement by reason only that it is a vehicle belonging to or under the orders of the armed forces of a Contracting Party;

(*h*) where the vehicle is a vehicle which is only used on roads for delivering goods between private premises and a vehicle in the immediate vicinity of those premises or in passing from one part of such premises to another in the immediate vicinity;

(*i*) where the vehicle is carrying a dangerous substance by road from one part of an agricultural unit to another part of that unit, and the dangerous substance is diluted ready for use or is otherwise in a condition ready for use;

(*j*) where the vehicle in which the substance is being carried by road is not a goods vehicle and is not being used for or in connection with work;

(*k*) to any substance specified in sub-paragraphs (*c*) to (*i*) of regulation 3(1) of the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985;

(*l*) where the substance being carried is commercial butane, commercial propane or any mixture thereof in a cylinder and is being carried—

(**a**) 1875 c. 17; 1924 c. 5 (N.I.); 1970 c. 10 (N.I.)
(**b**) S.I. 1972/730 (N.I. 3)
(**c**) Cmnd. 8535
(**d**) Cmnd. 734