
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 247

Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997

Part I

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 and, subject to paragraph (2), shall come into operation on 1st July 1997.

(2) The following provisions shall come into operation on 1st January 1999—

- (a) regulation 22(1);
- (b) regulation 23(3); and
- (c) Schedule 7.

Interpretation

2.—(1) In these Regulations—

“the 1993 Regulations” means the Chemicals (Hazard Information and Packaging) Regulations (Northern Ireland) 1993(1), as if the amendments made by paragraphs 2 to 28 and 30 to 32 of Schedule 9 to the 1995 Regulations had not been made;

“the 1995 Regulations” means the Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995(2);

“ADR” means the European Agreement concerning the International Carriage of Dangerous Goods by Road signed at Geneva on 30th September 1957(3), as revised or re-issued from time to time;

“ADR mark” means a mark allocated by the competent authority for that mark, being a mark specified in ADR to indicate that the packagings which bear it—

- (a) correspond with a design type which has been tested successfully in accordance with ADR; and
- (b) comply with the provisions relating to their manufacture which are required by ADR;

“aerosol” means a non-refillable receptacle made of metal, glass or plastics and containing a gas which is compressed, liquefied or dissolved under pressure, with or without a liquid, paste

(1) S.R. 1993 No. 412 as amended by S.R. 1994 No. 6, regulation 25(2) and S.R. 1995 No. 47, regulation 17(11) and Schedule 9

(2) S.R. 1995 No. 47

(3) Current edition (1995): ISBN 0 11 5512659 (UK); ISBN 92 1 139043 5 (UN version)

or powder, and fitted with a release device allowing the contents to be ejected as solid or liquid particles in suspension in a gas, as a foam, paste or powder or in a liquid state or a gaseous state; “agricultural or forestry tractor” has the same meaning as in regulation 2(1) of the Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997(4);

“approved” means approved for the time being in writing;

“Approved Carriage List” means the list described in regulation 4(1)(a) as revised in accordance with regulation 4(2);

“approved documents” means the documents approved by the Department in accordance with regulation 4(1) as revised in accordance with regulation 4(2);

“approved method” shall be construed in accordance with regulation 4(1)(b);

“approved person” has the meaning assigned to it in regulation 15(1);

“Approved Requirements” means the document “Approved Requirements for Transportable Pressure Receptacles” described in regulation 4(1)(c) as revised in accordance with regulation 4(2);

“approved test” means a test approved for the purposes of regulation 6(1)(e)(i) by a competent authority;

“approved testing laboratory” means a laboratory approved for the purposes of regulation 6(1)(e)(i) by a competent authority;

“carriage” means carriage by road or on a railway (in each case on a vehicle) and shall be construed in accordance with regulation 3(2), and related words shall be construed accordingly;

“certificate holder” means the person whose name is included in or is identifiable from the ADR mark, the RID mark, the UN mark, or as the case may be, the joint ADR and RID mark;

“classification” in relation to dangerous goods shall be construed as a reference to the classification of those goods ascertained in accordance with regulation 5;

“competent authority” means a person or organisation in any country which is for the time being a competent authority for the purposes of—

- (a) the testing and certification of packagings;
 - (b) the approval of tests and laboratories;
 - (c) the certification of the completion of approved tests;
 - (d) the allocation of ADR marks, RID marks, UN marks and joint ADR and RID marks; and
 - (e) the approval of persons to examine, test and certify transportable pressure receptacles,
- and for Northern Ireland the competent authority as regards transportable pressure receptacles means the Department and in all other cases means the Secretary of State;

“competent person” has the meaning assigned to it by paragraph 6 of Schedule 8;

“consignor” shall be regarded as—

- (a) the person who, having a place of business in Northern Ireland, consigns (whether as principal or agent for another) dangerous goods for carriage; or
- (b) if no person satisfies the requirements of sub-paragraph (a), the consignee of dangerous goods insofar as that person has control over the carriage of those goods in Northern Ireland;

“container” means an article of carriage equipment with an internal volume of not less than 1 cubic metre which is—

- (a) of a permanent character and strong enough for repeated use;

- (b) designed to facilitate the carriage of goods, by one or more modes of carriage, without intermediate reloading;
- (c) designed to be readily handled; and
- (d) designed to be easy to fill and empty,

but does not include an intermediate bulk container, any packagings, a tank, a transportable pressure receptacle or a vehicle;

“COTIF” means the Convention concerning the International Carriage by Rail(5) as revised or re-issued from time to time;

“danger sign” means the sign for dangerous goods shown in column 6 of Part I of Schedule 1 (which sign is further specified in Part II of that Schedule) and ascertained in accordance with regulation 5;

“dangerous goods” means any—

- (a) explosives;
- (b) radioactive material;
- (c) goods named individually in the Approved Carriage List (other than when so diluted or treated that they no longer have the hazardous properties of those goods); or
- (d) any other goods which have one or more of the hazardous properties, and for the purposes of this definition “goods” means articles or substances;

“demountable tank” means a tank—

- (a) other than a tank which is—
 - (i) attached to the frame of the vehicle (whether structurally or otherwise) and, except when empty, is not intended to be removed from the vehicle; or
 - (ii) an integral part of the vehicle;
- (b) which—
 - (i) has a capacity greater than 450 litres;
 - (ii) is not designed for the carriage of goods without breakage of load; and
 - (iii) can normally only be handled when empty;

“the Department” means the Department of Economic Development;

“design specification” means a specification for the design of one type of transportable pressure receptacle;

“design standard” means a standard for the design of more than one type of transportable pressure receptacle;

“EEC-type cylinder” has the meaning assigned to it by regulation 13(b);

“examination” means, in respect of a transportable pressure receptacle, a careful and critical scrutiny of that receptacle in or out of service, as appropriate, using suitable techniques, including testing where appropriate, to assess—

- (a) its actual condition; and
- (b) whether, for the period up to the next examination, it will not cause danger when properly used if normal maintenance is carried out, and for this purpose “normal maintenance” means such maintenance as is reasonable to expect the owner of a transportable pressure receptacle to ensure is carried out independently of any advice from the approved or competent person making the examination;

“explosives” means explosive articles or explosive substances which—

- (a) have been assigned on classification in accordance with the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991⁽⁶⁾ to Class 1; or
- (b) are unclassified;

“explosive article” means an article containing one or more explosive substances;

“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;

“factory” has the meaning assigned to it by section 175 of the Factories Act (Northern Ireland) 1965⁽⁷⁾;

“Fire Authority” means the Fire Authority for Northern Ireland established under Article 3 of the Fire Services (Northern Ireland) Order 1984⁽⁸⁾;

“flash point” means the flash point of dangerous goods determined in accordance with the appropriate approved method;

“gas” means a gas classified as a flammable gas, a toxic gas or a non-flammable, non-toxic gas in accordance with Schedule 1;

“genetically modified micro-organisms and organisms” means micro-organisms and organisms in which genetic material has been altered through genetic modification in a way that does not occur naturally;

“genetic modification” means the alteration of genetic material otherwise than by mating or natural recombination or both;

“goods named individually” means, in relation to the Approved Carriage List, those goods whose proper shipping names do not include either an asterisk or the letters “N.O.S.”;

“harbour area” has the meaning assigned to it by regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991⁽⁹⁾;

“hazardous properties” means any of the properties of dangerous goods shown in column 2 of Part I of Schedule 1 and determined in accordance with the appropriate approved method;

“the Health and Safety Commission” means the Health and Safety Commission established under section 10 of the Health and Safety at Work etc. Act 1974⁽¹⁰⁾;

“intermediate bulk container” means a rigid, semi-rigid or flexible portable packaging which has a capacity of 3 cubic metres or less, which is designed for mechanical handling and which satisfies the requirements of regulation 6(1)(e);

“joint ADR and RID mark” means a mark allocated by the competent authority for that mark, being a mark specified in ADR and RID to indicate that the packagings which bear it—

- (a) correspond with a design type which has been tested successfully in accordance with ADR and RID; and

⁽⁶⁾ S.R. 1991 No. 516

⁽⁷⁾ 1965 c. 20 (N.I.)

⁽⁸⁾ S.I. 1984/1821 (N.I. 11)

⁽⁹⁾ S.R. 1991 No. 509, as amended by S.R. 1995 No. 47, regulation 17(3) and Schedule 4

⁽¹⁰⁾ 1974 c. 37

(b) comply with the provisions relating to their manufacture which are required by ADR and RID;

“military establishment” means an establishment intended for use for naval, military or air force purposes or the purposes of the department of the Secretary of State for Defence;

“mine” has the meaning assigned to it by section 156(1) of the Mines Act (Northern Ireland) 1969⁽¹¹⁾;

“motor vehicle” has the same meaning as in Article 3(1) of the Road Traffic (Northern Ireland) Order 1995⁽¹²⁾;

“nominal capacity” means, in relation to the carriage of dangerous goods in a receptacle, the nominal volume of those goods, measured in litres, and, in any case, not less than 80% of the internal volume of the receptacle;

“N.O.S.” means not otherwise specified;

“overpack” means the unit formed when one or more packages are assembled on or in a device, including ropes or straps, which enables them to be handled as one unit, but does not include a container;

“owner” means, in relation to a transportable pressure receptacle, the employer or the self-employed person who owns it (other than a person who buys it solely to use the gas therein before selling it back to the supplier) or, in the case of a lease, the lessee or, if he does not have a place of business in Northern Ireland, his agent in Northern Ireland or, if there is no such agent, the user;

“package” means the package in which dangerous goods are carried and which is liable to be individually handled during the course of the carriage, and includes—

(a) the dangerous goods being carried; and

(b) any packagings (other than a tank or an overpack) associated with the dangerous goods;

“packagings” means the receptacle (whether or not a transportable pressure receptacle) and any components, materials or wrappings associated with the receptacle for the purpose of enabling it to perform its containment function but does not include a container, a skip, a pallet, a vehicle or other article of carriage equipment;

“packing group” means the group to which dangerous goods with relevant properties are allocated in accordance with regulation 5;

“petroleum-spirit” has the meaning assigned to it by section 23 of the Petroleum (Consolidation) Act (Northern Ireland), 1929⁽¹³⁾;

“Pressure Vessels Framework Directive” means Council Directive [76/767/EEC](#)⁽¹⁴⁾, concerning the approximation of laws of the Member States relating to common provision for pressure vessels and methods for inspecting them;

“quarry” has the same meaning as in Article 2(2) of the Quarries (Northern Ireland) Order 1983⁽¹⁵⁾;

“radioactive material” has the meaning assigned to it by Article 2(1) of the Radioactive Material (Road Transport) (Northern Ireland) Order 1992⁽¹⁶⁾;

⁽¹¹⁾ 1969 c. 6 (N.I.)

⁽¹²⁾ S.I. 1995/2994 (N.I. 18)

⁽¹³⁾ 1929 c. 13 (N.I.); section 23(1) was amended by S.R. 1992 No. 413, regulation 3 and Schedule 2 and S.R. 1995 No. 60, regulation 18(9) and Schedule 8

⁽¹⁴⁾ O.J. No. L262, 27.7.1976, p. 153

⁽¹⁵⁾ S.I. 1983/150 (N.I. 4)

⁽¹⁶⁾ S.I. 1992/234 (N.I. 2)

“railway” means a system of transport employing parallel rails which provide support and guidance for vehicles carried on flanged wheels, except any such system which—

- (a) is a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails and which are laid wholly or mainly along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment); or
- (b) is operated wholly within a harbour area, factory, military establishment, mine or quarry;

“receptacle” means a vessel or the innermost layer of packagings which is in contact with any dangerous goods therein and includes any closure or fastener;

“relevant properties” means the properties of dangerous goods which determine the packing group for those goods;

“RID” means the Regulations concerning the International Carriage of Dangerous Goods by Rail which form Annex 1 to Appendix B to COTIF(17);

“RID mark” means a mark allocated by the competent authority for that mark, being a mark specified in RID to indicate that the packagings which bear it—

- (a) correspond with a design type which has been tested successfully in accordance with RID; and
- (b) comply with the provisions relating to their manufacture required by RID;

“road” means a road within the meaning of Article 2(2) of the Road Traffic (Northern Ireland) Order 1995;

“road tanker” means a motor vehicle or trailer constructed or adapted for the carriage of goods which has a tank (in these Regulations referred to as a “carrying tank”) which is—

- (a) attached to the frame of the vehicle (whether structurally or otherwise) and (except when empty) is not intended to be removed from the vehicle;
- (b) an integral part of the vehicle; or
- (c) a demountable tank,

and any reference in these Regulations to the carrying tank of a road tanker shall be construed as a reference to each carrying tank attached to it or being an integral part of it as aforesaid or, as the case may be, a demountable tank;

“safe operating limits” means the operating limits (incorporating a suitable margin of safety) beyond which system failure is liable to occur;

“separate Directives” means Council Directives [84/525/EEC\(18\)](#), [84/526/EEC\(19\)](#) and [84/527/EEC\(20\)](#) concerning the approximation of laws of the Member States relating to seamless steel gas cylinders, seamless unalloyed aluminium and aluminium alloy gas cylinders, and welded unalloyed steel gas cylinders, respectively;

“street” means the whole or any part of any of the following, irrespective of whether it is a thoroughfare—

- (a) any road, highway, lane, footway, alley or passage;
- (b) any square or court; and
- (c) any land laid out as a way whether it is for the time being formed as a way or not,

and where a street passes over a bridge or through a tunnel, references in these Regulations to the street shall include that bridge or tunnel;

(17) Current edition: ISBN 0 11 551266 7

(18) O.J. No. L300, 19.11.1984, p. 1

(19) O.J. No. L300, 19.11.1984, p. 20

(20) O.J. No. L300, 19.11.1984, p. 48

“subsidiary hazard” means any hazard created by the hazardous properties of dangerous goods other than the most hazardous property;

“subsidiary hazard sign” means the sign for the subsidiary hazard of dangerous goods shown in column 2 of Part I of Schedule 2 (which sign is further specified in Part II of that Schedule) and ascertained in accordance with regulation 5;

“the supply Regulations” means the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995(21);

“system failure” means the unintentional release of stored energy (other than from a pressure relief system) from a transportable pressure receptacle;

“tank” means a tank which is—

- (a) used for the carriage of a liquid, gaseous, powdery or granular material or a sludge; and
- (b) so constructed that it can be securely closed (except for the purpose of relieving excess pressure) during the course of carriage;

and includes an assembly of transportable pressure receptacles interconnected by a manifold and mounted on a frame where—

- (c) the frame is permanently fixed to a vehicle; or
- (d) the receptacles have a total volume of 1000 litres or more,

but does not include—

- (e) an intermediate bulk container;
- (f) a hopper with a loose-fitting lid;
- (g) a transportable pressure receptacle;
- (h) an aerosol; or
- (i) packagings which satisfy the requirements of regulation 6(1)(e) or are excluded from the need to satisfy those requirements by virtue of regulation 6(3)(c) to (f);

“tank container” means a tank (other than the carrying tank of a road tanker or tank wagon), whether or not divided into separate compartments, having a total capacity of more than 450 litres (or 1000 litres in the case of tanks used for the carriage of a gas);

“tank wagon” comprises a superstructure, consisting of one or more tanks (including their openings and closures), their items of equipment, and an underframe fitted with its own items of equipment (including running gear, suspension, buffing, traction, braking gear and inscriptions);

“trailer” has the same meaning as in regulation 2(1) of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1989(22);

“transportable pressure receptacle” means any receptacle, other than an aerosol, and including any permanent fitting of such a receptacle, which is used or intended to be used for the carriage of gas and which—

- (a) has a volume not exceeding 1000 litres; or
- (b) if seamless, has a volume not exceeding 5000 litres,

and includes a transportable assembly of such receptacles, in which each has a volume not exceeding 150 litres, held firmly together and interconnected by a manifold;

(21) S.R. 1995 No. 60 as amended by S.R. 1996 No. 376

(22) S.R. 1989 No. 299 to which there are amendments not relevant to these Regulations

“UN mark” means a mark allocated by the competent authority for that mark, being a mark specified in the United Nations Recommendations 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 their 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 specified in the Approved Carriage List as a means of identification for dangerous goods;

“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))(23), as revised or re-issued from time to time and any reference in these Regulations to the United Nations Recommendations shall, for a period of 6 months after any revision or re-issue, be a reference to either the document as it was immediately before that revision or re-issue took effect or the document as revised or re-issued;

“vehicle” means any conveyance which is used for carrying goods by road or by rail.

(2) 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 head (i), where “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(24); or
 - (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(25)

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

3.—(1) Subject to paragraph (2), regulations 3 to 11 shall apply to and in relation to the carriage of any dangerous goods except where—

(23) Current edition (1995): ISBN 92 1 139048 X

(24) 1952 c. 67

(25) 1964 c. 5

- (a) the carriage forms part of an international transport operation within the meaning of COTIF and the goods have been classified, packaged and labelled in accordance with RID;
- (b) the carriage concerned is part of an international transport operation which is subject to any bilateral or multilateral special agreement made under the terms of COTIF to which the United Kingdom is a signatory and conforms with any conditions attached to that agreement;
- (c) the carriage concerned is part of an international transport operation within the meaning of article 1(c) of ADR and the carriage—
 - (i) complies with the provisions of Annex A or Annex B or both to ADR; or
 - (ii) is in a vehicle under the control of the armed forces or a vehicle owned by the armed forces, where they are the armed forces of a country which is a contracting party to ADR;
- (d) the carriage concerned is part of an international transport operation which is subject to any bilateral or multilateral special agreement made under the terms of Article 4.3 of ADR to which the United Kingdom is a signatory and conforms with any conditions attached to that agreement;
- (e) the goods are being carried for or in connection with the carriage of those goods by sea and the goods are classified, packaged and labelled in accordance with the appropriate provisions of the International Maritime Dangerous Goods Code issued by the International Maritime Organisation(26), as revised or re-issued from time to time;
- (f) the goods are being carried for or in connection with the carriage of those goods by air and the goods are classified, packaged and labelled in accordance with the appropriate provisions of the Technical Instructions for the Safe Transport of Dangerous Goods by Air issued by the International Civil Aviation Organisation(27), as revised or re-issued from time to time;
- (g) the goods are being carried in machinery or equipment other than in—
 - (i) any article specified in the Approved Carriage List; or
 - (ii) a receptacle primarily intended for carrying goods for purposes solely in connection with the operation of the said machinery or equipment;
- (h) the vehicle in which the goods are being carried is not being used for, or in connection with, work;
- (i) the goods are being carried—
 - (i) between private premises and another vehicle situated in the immediate vicinity of those premises; or
 - (ii) between one part of private premises and another part of those premises situated in the immediate vicinity of that first part where both parts are occupied by the same person, notwithstanding that those parts may be separated by a road;
- (j) as a result of an emergency or accident, the goods are being carried by or under the orders of the emergency services to the nearest suitable place, solely in order that they can be re-packed or disposed of there, provided any packagings in which the goods are being carried are—
 - (i) clearly marked to indicate that those goods are dangerous; and
 - (ii) sealed so as to prevent the goods from escaping;

(26) Current edition: volume I-IV ISBN 92 801 1314 3; supplement ISBN 92 801 1316 X

(27) Current edition and supplement (1995-1996): Doc 9284-AN/905

- (k) the goods are a sample taken by an authority responsible for the enforcement of any requirement imposed by or under any statutory provision;
 - (l) the goods are being carried on a railway from one part of a harbour area, factory, military establishment, mine or quarry to another part of that harbour area, factory, military establishment, mine or quarry, as the case may be;
 - (m) the goods are explosives;
 - (n) the goods are live animals;
 - (o) the goods are being carried—
 - (i) for purposes solely in connection with the operation of the vehicle container or tank carrying them; and
 - (ii) in—
 - (aa) a tank which forms part of or is permanently attached to the vehicle, container or tank carrying them; or
 - (bb) a battery or the fire safety equipment of the vehicle carrying them;
 - (p) the goods are petroleum-spirit which is—
 - (i) intended for use solely as fuel in any internal combustion engine;
 - (ii) neither wholly nor partly for sale ; and
 - (iii) being carried in a receptacle which was manufactured before 1st November 1997 and conforms with the requirements of—
 - (aa) the Petroleum-spirit (Motor Vehicles, &c.) Regulations (Northern Ireland) 1930⁽²⁸⁾; or
 - (bb) regulations 3 to 6 of the Petroleum-Spirit (Plastic Containers) Regulations (Northern Ireland) 1983⁽²⁹⁾; or
 - (q) the goods are radioactive material (other than that which is being carried in accordance with the conditions specified in Schedules 1 to 4 of marginal 2704 to the ADR).
- (2) For the purposes of these Regulations—
- (a) dangerous goods shall be deemed to be carried from the time when they are placed on a vehicle for the purpose of carrying them by road or on a railway until either—
 - (i) they are removed from the vehicle; or
 - (ii) any receptacle containing the goods which is on the vehicle has been cleaned or purged so that any of the goods or their vapour which remain in the receptacle is not sufficient to create a significant risk to the health or safety of any person, and in either case whether or not the vehicle is on a road or, as the case may be, railway at the material time; and
 - (b) (i) the carriage of dangerous goods; and
 - (ii) the consignment of dangerous goods in packages, shall be deemed to include the carriage or consignment, as the case may be, of uncleaned, empty packages which have contained dangerous goods where those packages still contain sufficient of those dangerous goods (or vapours therefrom) to create a significant risk to the health or safety of any person.
- (3) Where dangerous goods are consigned in an overpack and the particulars on the packages therein cannot be clearly seen, the requirements of regulations 8 and 11, and the derogations in

⁽²⁸⁾ S.R. & O. (N.I.) 1930 No. 11 (p. 330)

⁽²⁹⁾ S.R. 1983 No. 43

regulations 9 and 10 shall apply to the overpack as if it were a package containing the said dangerous goods.

(4) Regulations 12 to 17 shall apply to, and in relation to, transportable pressure receptacles used or intended to be used at work, except—

- (a) where the exceptions contained in paragraph (1)(a) to (g) apply;
- (b) to any receptacle known as a two-part beer keg, one part of which is intended to contain a gas or a mixture of gases under pressure;
- (c) to any receptacle used for the conveyance or storage of beer or carbonated drinks, the capacity of which does not exceed 0.252 cubic metres and the maximum working pressure of which is not greater than 12 bar above atmospheric pressure;
- (d) to any portable fire extinguisher with a working pressure below 25 bar at 60°C and having a total mass not exceeding 23 kilogrammes; or
- (e) subject to paragraph (5), to any transportable pressure receptacle manufactured before 1st January 1999 which is of a type not covered by the Approved Requirements at the time of its manufacture.

(5) Notwithstanding paragraph (4)(e) the following provisions shall apply to the receptacles referred to therein—

- (a) (subject to the exemptions contained in paragraphs (4)(a) to (d)), Schedule 4; and
- (b) (subject to the exceptions contained in Schedule 9), Schedule 8.

(6) Any requirement or prohibition imposed by these Regulations on a person who designs any transportable pressure receptacle or any article which is intended to be a component part thereof, shall extend only to—

- (a) such receptacle or article designed in the course of the trade, business or other undertaking carried on by him (whether for profit or not); and
- (b) matters within his control.

(7) These Regulations shall not apply to or in relation to the carriage of any of the following dangerous goods—

- UN 2900 INFECTIOUS SUBSTANCE AFFECTING ANIMALS* only
- UN 3077 ENVIRONMENTALLY HAZARDOUS SUBSTANCE, SOLID N.O.S.*
- UN 3082 ENVIRONMENTALLY HAZARDOUS SUBSTANCE, LIQUID N.O.S.*
- UN 3245 GENETICALLY MODIFIED MICRO-ORGANISMS;

where those goods are being carried in—

- (a) an agricultural or forestry tractor;
- (b) mobile machinery;
- (c) a vehicle with less than 4 wheels;
- (d) a vehicle with a maximum design speed of 25 km/h or less; or
- (e) a vehicle owned by the armed forces or a vehicle under the control of the armed forces.

(8) These Regulations shall apply to a self-employed person as they apply to an employer and an employee and as if that self-employed person were both an employer and an employee.

Meaning of and revisions to the Approved Carriage List and other approved documents

4.—(1) For the purposes of these Regulations the Department shall approve the following documents published by the Health and Safety Commission (in these Regulations referred to as “approved documents”) entitled—

- (a) “Approved Carriage List”, which contains—
- (i) a list of dangerous goods for which the Health and Safety Commission approved the following information—
 - (aa) in column 1, the proper shipping name of the goods and other relevant information;
 - (bb) in column 2, the UN number;
 - (cc) in column 3, the code for the classification for carriage;
 - (dd) in column 4, the code for any subsidiary hazard;
 - (ee) in column 5, the emergency action code, if any;
 - (ff) in column 6, the hazard identification number, if any;
 - (gg) in column 7, whether the goods may be carried in tanks;
 - (hh) in column 8, whether the goods may be carried in bulk;
 - (ii) in column 9, the packing group, if any;
 - (jj) in column 10, the code for any special provision; and
 - (ii) explanatory notes and other material which are requisite for its use;
- (b) “Approved Requirements and Test Methods for the Classification and Packaging of Dangerous Goods for Carriage” which shall contain—
- (i) the appropriate methods for ascertaining—
 - (aa) the hazardous properties of dangerous goods in order of degree of hazard;
 - (bb) the flash points of dangerous goods;
 - (cc) the relevant properties of dangerous goods; and
 - (dd) the suitability of packagings for dangerous goods; and
 - (ii) explanatory notes and other material which are requisite for its use; and
- (c) “Approved Requirements for Transportable Pressure Receptacles” which shall contain requirements relating to the design, construction, use, modification, repair, testing, examination, filling and marking of transportable pressure receptacles.
- (2) The Department may approve a revision of any of the approved documents referred to in paragraph (1) and, when it does so, the Department shall within 3 months of the date of that approval publish, in such manner as it considers appropriate, a notice specifying the revision, the date on which it was approved and the date on which it takes effect, which last-mentioned date shall be not less than 6 months after the date of the approval of the revision.

Part II

Classification, Packaging and Labelling

Classification and ascertainment of other particulars of dangerous goods

5.—(1) A person shall not consign dangerous goods for carriage unless the classification for those goods and the particulars specified in paragraphs (2) to (5) have been ascertained in accordance with those paragraphs.

(2) In the case of goods which are named individually in the Approved Carriage List (subject to any special provisions relating to those goods in column 10 of the List)—

- (a) the classification shall be that specified in column 2 of Table 1 in the explanatory notes to the Approved Carriage List for the classification code specified in the corresponding entry in column 1 of that Table which code is indicated in column 3 of the entry for those goods in the List; and
 - (b) the particulars to be ascertained are as follows—
 - (i) the packing group, if any, specified in column 9 of the entry for those goods in the List; and
 - (ii) the subsidiary hazards, if any, specified in column 2 of Table 2 of the explanatory notes to the Approved Carriage List for the subsidiary hazard code specified in the corresponding entry in column 1 of that Table, which code is indicated in column 4 of the entry for those goods in the List.
- (3) In the case of all other goods—
- (a) the classification shall be that specified in column 1 of Part I of Schedule 1 for the most hazardous property of the goods specified in the corresponding entry in column 2, which property shall be determined in accordance with the appropriate approved method; and
 - (b) the particulars to be ascertained are as follows—
 - (i) the packing group, if any, shall be that specified in column 4 of Part I of Schedule 1 for the relevant property of the goods specified in the corresponding entry in column 3, which property shall be determined in accordance with the appropriate approved method, and where there is more than one relevant property, the packing group shall be that group with the lowest number, except in the case of goods classified either as flammable solids because they are self-reactive substances or as organic peroxides, when the packing group shall be II; and
 - (ii) the subsidiary hazards, if any, determined in accordance with the appropriate approved method.
- (4) In the case of all goods, other particulars to be ascertained are as follows—
- (a) the designation comprising one of the proper shipping names of the goods specified in column 1 for the entry for those goods in the Approved Carriage List together with additional information determined in accordance with the explanatory notes to the List;
 - (b) the UN number specified in column 2 for the entry for the goods in the Approved Carriage List;
 - (c) the danger sign shown in column 6 of Part I of Schedule 1 for the classification of the goods specified in the corresponding entry in column 1 of that Part; and
 - (d) the subsidiary hazard sign, if any, shown in column 2 of Schedule 2 for each subsidiary hazard of the goods specified in the corresponding entry in column 1 of that Schedule.
- (5) In the case of goods which are not named individually in the Approved Carriage List, the entry for the goods in that List for the purpose of ascertaining the particulars in paragraph (4)(a) and (b) shall be that which most fully and accurately describes those goods.

Consignment of dangerous goods in packages

- 6.—(1) The consignor shall not consign any dangerous goods for carriage in packages unless those packages are suitable, and in particular, unless—
- (a) the packages, and any packagings or overpack associated with the packages are designed, constructed, maintained, filled and closed so as to prevent any of the contents of those packages from escaping when subjected to the stresses and strains of normal handling and conditions encountered in carriage, except that this shall not prevent the fitting of a suitable safety device;

- (b) the packages, and any packagings or overpack associated with the packages are, insofar as they are likely to come into contact with the contents of those packages, made of materials which are liable neither to be adversely affected by those contents to the extent that a risk to the health or safety of any person is likely to be created nor, in conjunction with them, to form any substance which is likely to create such a risk;
 - (c) where the receptacles are fitted with replaceable closures, those closures are designed so that the receptacles concerned can be repeatedly re-closed without their contents escaping;
 - (d) any conditions relating to the packaging or packing of the goods specified in the explanatory notes to the Approved Carriage List opposite the Special Provision code for those goods, which code is indicated in column 10 of the entry for those goods in the List, are complied with; and
 - (e) subject to paragraph (3)—
 - (i) the packagings are of a design type which has been tested by an approved testing laboratory using approved tests;
 - (ii) the competent authority which approved the tests referred to in head (i) has issued a certificate confirming that they have been satisfactorily completed; and
 - (iii) the packagings have been allocated an ADR mark, a RID mark, a UN mark or a joint ADR and RID mark by a competent authority and bear that mark,
 - or, alternatively, the packagings are packagings which meet the requirements of heads (i) to (iii) and which have been reconditioned in accordance with a specification approved by a competent authority and have been allocated an ADR mark, a RID mark, a UN mark or a joint ADR and RID mark by that competent authority and bear that mark.
- (2) The consignor of any dangerous goods for carriage in packages shall ensure that—
- (a) the packagings referred to in paragraph (1)(e) are filled, closed and used in accordance with—
 - (i) any conditions specified in the certificate issued by the competent authority and the associated test report; and
 - (ii) the appropriate approved method; and
 - (b) the marks referred to in paragraph (1)(e)(iii) are durable, legible and large enough to be readily visible.
- (3) Packagings shall not be required to meet the requirements of paragraph (1)(e) if—
- (a) they are transportable pressure receptacles or aerosols, together with any associated packagings;
 - (b) they have a capacity exceeding 3 cubic metres;
 - (c) they contain goods which appear in or have a classification which is specified in column 1 of Schedule 3—
 - (i) insofar as they are within the packing group, if any, specified in the corresponding entry in column 2 of that Schedule; and
 - (ii) are contained in individual receptacles containing quantities not exceeding those specified in the corresponding entry in column 3 of that Schedule (or, in the case of gas, contained in individual receptacles not exceeding the volumes specified in that column), provided that the total gross mass of any package containing any receptacles such as are referred to above shall not exceed 30 kilogrammes;
 - (d) the entry for the goods in the Approved Carriage List so indicates;
 - (e) in relation to particular dangerous goods, the appropriate approved method so indicates; or

- (f) they have a nominal capacity of 25 litres or less, are uncleaned empty and are being consigned to a suitable place for no other purpose than cleaning or disposal.
- (4) In this regulation “reconditioned” in relation to packagings means packagings which have been—
- (a) cleaned back to the original materials of construction with all contents, internal and external corrosion and external coatings and labels removed;
 - (b) restored to their original shape and contour, with chimes (if any) straightened and sealed and all non-integral gaskets replaced; and
 - (c) inspected after cleaning but before painting, with rejection of packagings with visible pitting, significant reduction in material thickness, metal fatigue, damaged threads or closures or other significant defects.

Use of marks on packagings

7.—(1) A person shall not mark any packagings with a mark which is liable to be confused with an ADR mark, a RID mark, a UN mark or a joint ADR and RID mark.

(2) A person shall not mark any packagings with an ADR mark, a RID mark, a UN mark or a joint ADR and RID mark—

- (a) other than in accordance with any requirements specified by the competent authority in relation to that mark; or
- (b) without the authority of the certificate holder unless the mark is a duplicate of a mark the use of which by that person has been authorised by the holder.

Particulars to be shown on packages containing dangerous goods

8.—(1) Subject to paragraphs (3) to (6) and regulation 9, a consignor shall not consign dangerous goods for carriage in a package unless—

- (a) the package in which those goods are carried clearly shows in accordance with regulation 11 the particulars specified in paragraph (2) or permits those particulars when shown on the receptacle or on inner packagings to be clearly seen; and
- (b) any conditions relating to the particulars to be shown on that package specified in the explanatory notes to the Approved Carriage List opposite the Special Provision code for the goods in question, which code is indicated in column 10 of the entry for those goods in the List, are complied with.

(2) The particulars required under paragraph (1)(a) shall be the following particulars ascertained in accordance with regulation 5 namely—

- (a) the designation of the goods;
- (b) the UN number (in all cases preceded by the letters “UN”);
- (c) the danger sign; and
- (d) any subsidiary hazard signs.

(3) Where two or more dangerous goods having the same classification or the same subsidiary hazard are consigned in a package in separate receptacles, nothing in paragraph (2) shall prevent a single danger sign or subsidiary hazard sign, as the case may be, from being shown for all the goods concerned.

(4) Where dangerous goods are consigned in individual receptacles which, in accordance with regulation 6(3)(c) and Schedule 3, are not required to meet the requirements of regulation 6(1)(e), such receptacles and any packages in which they are contained shall not be required to show the particulars referred to in paragraph (1) and specified in paragraph (2) unless, subject to paragraph (5),

they are consigned in a package containing two or more receptacles, in which case the package shall be required to show the particulars specified in paragraph (2)(a) and (b), or where the package contains dangerous goods of more than one designation, either—

- (a) the words “Dangerous Goods in Limited Quantities of Class(es) X, Y, etc.”, where X, Y, etc. are the codes specified in column 3 of the Approved Carriage List; or
- (b) the particulars specified in paragraph (2)(b),

for each of the dangerous goods in the package.

(5) Notwithstanding paragraph (4), where dangerous goods are consigned in a package containing two or more receptacles to a retail outlet the package shall not be required to show the particulars specified in paragraph (2)(a) and (b) (or, as the case may be, the particulars specified in paragraph (4) (a) or (b)), provided the goods therein are intended for consumption by individuals for the purposes of personal care or household use.

(6) The requirements of paragraph (1)(a) shall not apply in relation to dangerous goods to the extent that they are disapplied by the special provisions for those goods in the Approved Carriage List, the code for such provision being in column 10 of the said List.

Derogations from regulation 9 of the supply Regulations and regulation 8 of these Regulations

9.—(1) Where a package would otherwise be required to show the particulars required by both regulation 9 of the supply Regulations and regulation 8, it shall be sufficient compliance with the aforementioned provisions if the package shows in accordance with regulation 11 the particulars specified in paragraphs (2) to (6).

(2) Except in the case of a pesticide, where the package consists only of a single receptacle, the specified particulars are the particulars required by regulation 9(2)(a), (b), (c)(ii), (iii) and (iv) in the case of substances (or regulation 9(3)(a), (b), (c)(i), (iii), (iv) and (vi) in the case of preparations) of the supply Regulations and regulation 8(2)(b), (c) and (d).

(3) Except in the case of a pesticide, where the package consists of one or more receptacles in outer packagings, the specified particulars are either the particulars required by paragraph (2) or the particulars required by regulation 8.

(4) In the case of a pesticide (whether the package consists only of a single receptacle or of one or more receptacles in outer packagings), the specified particulars are the particulars required by regulation 9(3)(a), (b), (c)(i), (iii), (iv) and (vi) of the supply Regulations and regulation 8(2)(b), (c) and (d).

(5) Where, to facilitate handling, a package consists of two or more smaller packages held together in such a way that the labels on those smaller packages can be clearly seen, then it shall be sufficient compliance with paragraph (3) or (4) if those smaller packages are labelled in accordance with the relevant paragraph.

(6) In this regulation “pesticide” and “preparations” have the same meanings as in the supply Regulations.

Derogations from regulation 9 of the supply Regulations

10.—(1) Where a package is required to show the particulars required by regulation 9 of the supply Regulations, but is excepted from showing the particulars required by regulation 8 because it shows the particulars required by any of the transport rules specified in regulations 3(1)(a) to (f), it shall be a sufficient compliance with regulation 9 of the supply Regulations if the package shows the particulars specified in paragraphs (2) and (3).

- (2) Where the package consists only of a single receptacle, the specified particulars are—

- (a) the particulars required by whichever of the transport rules is appropriate; and
 - (b) the particulars required by regulation 9(2)(a), (b), (c)(ii), (iii) and (iv) in the case of substances (or regulation 9(3)(a), (b), (c)(i), (iii), (iv) and (vi) in the case of preparations) of the supply Regulations in accordance with regulation 11.
- (3) Where the package consists of one or more receptacles in outer packagings, the specified particulars are those required by whichever of the transport rules is appropriate.

Methods of marking or labelling packages

- 11.**—(1) The particulars required to be shown by regulations 8 to 10 shall be—
- (a) displayed so that they can be read easily when the package is placed in an attitude in which it may normally be expected to be placed;
 - (b) such that they stand out from their background so as to be readily noticeable;
 - (c) either clearly and indelibly marked on the package or clearly and indelibly printed on a label which, subject to paragraph (2), is securely fixed to the package with one entire surface in contact with it; and
 - (d) in English, except that (other than in the case of the designation of goods required to be shown in accordance with regulation 8) where goods are supplied to a recipient in another member State, the particulars may be in an official language of that State.
- (2) Where it is not reasonably practicable to attach a label in accordance with paragraph 1(c) the label shall be attached in some other appropriate manner.
- (3) Subject to paragraph (4), danger and subsidiary hazard signs shall have a side length of at least 100 millimetres.
- (4) If the package is an awkward shape or so small that it is not possible to display the relevant sign in accordance with paragraph (3) the sign shall be as large as is practicable.
- (5) Where, by virtue of regulation 9 or 10, a package is labelled in accordance with regulation 9 of the supply Regulations, that package shall be marked or labelled in accordance with regulation 11 of those Regulations.

Part III

Transportable Pressure Receptacles

Design, manufacture, modification and repair

- 12.**—(1) Any person who designs, manufacturers, imports or supplies a transportable pressure receptacle intended for containing dangerous goods shall ensure that—
- (a) it is safe and suitable for its purpose; and
 - (b) it complies with the appropriate design, construction, and quality assurance requirements of the Approved Requirements, including any requirement therein for the approval or supervision of the design or construction by an approved person, the examination or testing by an approved person or the approval or supervision of a quality assurance scheme for the design, construction, examination or testing by an approved person.
- (2) Any person who modifies or repairs a transportable pressure receptacle shall ensure that, following such modification or repair, it complies with the requirements specified in paragraph (1) (a) and (b).

(3) A person shall not supply, and an owner shall not fill or use, a transportable pressure receptacle which has been—

- (a) modified or repaired; or
- (b) damaged in such a way that it appears that there may be a risk to safety, unless, subsequent to the modification, repair or damage, it has been examined and tested by—
- (c) an approved person in accordance with the appropriate examination and testing requirements of the Approved Requirements; or
- (d) in the case of an EEC-type cylinder, an inspection body referred to in regulation 13(b)(i).

(4) A person shall not manufacture a transportable pressure receptacle unless he has the technical expertise and all other suitable means required for the manufacture of that receptacle in accordance with the appropriate construction requirements of the Approved Requirements, including suitably qualified personnel to—

- (a) supervise the entire manufacturing process;
- (b) carry out joining of materials; and
- (c) carry out the relevant tests.

Approved Requirements, approval and certification

13. A person shall not import, supply or own a transportable pressure receptacle containing dangerous goods unless either—

- (a) he has received evidence, either by a certificate in writing or a stamp on the receptacle, provided—
 - (i) by an approved person; or
 - (ii) in accordance with a quality assurance scheme approved and supervised by an approved person,
 - that the receptacle conforms with the appropriate design and construction requirements of the Approved Requirements; or
- (b) the receptacle is an EEC-type cylinder, that is to say—
 - (i) there is an EEC Verification Certificate in force in respect of it issued by an inspection body which, under the law of any member State, is authorised to grant such a Certificate for the purposes of the Pressure Vessels Framework Directive and the separate Directive relating to that type of cylinder, or, in the case of a cylinder not subject to EEC verification under any of the separate Directives, it conforms to the requirements of the Pressure Vessels Framework Directive and the separate Directive relating to that type of cylinder; and
 - (ii) it bears all the marks and inscriptions required by the Pressure Vessels Framework Directive and the separate Directive relating to that type of cylinder.

Marking of transportable pressure receptacles

14. The owner of a transportable pressure receptacle shall ensure that—

- (a) the receptacle has been marked by a competent authority or an approved person, following—
 - (i) an initial examination and test to certify that the receptacle conforms with the appropriate initial examination and test requirements of the Approved Requirements; and

- (ii) where required by the Approved Requirements, an examination and test to certify that the receptacle conforms with any relevant periodic examination or test requirements of the Approved Requirements; and
- (b) a further periodic examination in accordance with the appropriate periodic examination and test requirements of the Approved Requirements is not overdue.

Approved persons

15.—(1) In these Regulations, an approved person means—

- (a) a person approved by the Department for the performance of particular functions under this Part, which functions shall be specified by the Department in the certificate of approval; or
- (b) a person approved by a competent authority other than the Department, for the performance of particular functions in relation to transportable pressure receptacles under the ADR,

and any reference in these Regulations to an approved person in connection with a particular function is a reference to a person approved for the performance of that function.

(2) Any approval under paragraph (1)(a) shall be by a certificate in writing, may be made subject to conditions and may be revoked by a certificate in writing at any time.

(3) Following an approval under paragraph (1)(a), the Department shall carry out, upon reasonable notice, a surveillance inspection of the approved person at such intervals as the Department considers appropriate and for that purpose the approved person shall, at his own cost, afford any facilities and assistance and make available any information which may reasonably be required by the Department.

(4) In this regulation a “surveillance inspection” means an inspection of such premises, equipment and documents and the making of such enquiries as the Department considers appropriate for the purpose of verifying compliance by an approved person with any conditions specified in the certificate of approval by the Department.

(5) Schedule 4 shall have effect with respect to fees for approvals under paragraph (1)(a) and surveillance inspections under paragraph (3) but an approved person shall not be charged for more than one such inspection in any 12 month period.

(6) Every person approved under paragraph (1)(a), in carrying out any functions under these Regulations, shall carry out such functions properly, with due regard to any criteria specified in the Approved Requirements and shall not carry out any function of an approved person other than the functions for which that person is approved.

(7) A person shall not affix to a transportable pressure receptacle the mark referred to in regulation 14 unless he is a competent authority, an approved person, or a person authorised by such authority or person.

(8) A person shall not affix to a transportable pressure receptacle a mark liable to be confused with the mark referred to in regulation 14.

Filling of transportable pressure receptacles

16. The employer of a person who fills a transportable pressure receptacle with dangerous goods shall ensure—

- (a) that, before it is filled—
 - (i) it is marked in accordance with the appropriate marking requirements of the Approved Requirements;
 - (ii) the marks on the receptacle are checked to verify that it is suitable for that gas; and

- (iii) all other appropriate safety checks are made;
- (b) that it is filled in accordance with the appropriate filling requirements of the Approved Requirements; and
- (c) that, after it is filled—
 - (i) the receptacle is checked to verify that it is within its safe operating limits and is not overfilled; and
 - (ii) in the event of overfilling, any excess gas is removed safely.

Records

17. The manufacturer or, if he does not have a place of business in Northern Ireland, his agent in Northern Ireland or, if he has no such agent, the importer of a transportable pressure receptacle, and the owner of a hired out transportable pressure receptacle—

- (a) made in accordance with the Approved Requirements for transportable pressure receptacles, shall keep a copy of the design standard or design specification to which the said receptacle was manufactured together with any certificate of conformity issued under regulation 13(a);
- (b) which is an EEC-type cylinder, shall keep the EEC Verification Certificate referred to in regulation 13(b)(i) where one has been issued.

Part IV

Miscellaneous

Exemption certificates

18.—(1) Subject to paragraph (2) and to any of the provisions imposed by the Communities in respect of the transport of dangerous goods by road, the Department may, by a certificate in writing, exempt—

- (a) any person or class of person;
- (b) any dangerous goods or class of dangerous goods; or
- (c) any type or class of transportable pressure receptacle,

from all or any of the requirements or prohibitions imposed by or under these Regulations, and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the Department by a further certificate in writing.

(2) The Department shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any requirements imposed by or under any statutory provision which applies to the case,

it is satisfied that the health or safety of persons who are likely to be affected by the exemption will not be prejudiced by it.

(3) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing, exempt any person from any of the requirements or prohibitions imposed by these Regulations insofar as they relate to the carriage of any dangerous goods in or on—

- (a) any vehicle owned by the armed forces; or
- (b) any vehicle under the control of the armed forces,

and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the said Secretary of State by a further certificate in writing.

Enforcement

19.—(1) The enforcing authority for these Regulations, other than the provisions specified in paragraph (2), shall—

- (a) notwithstanding regulation 4 of the Health and Safety (Enforcing Authority) Regulations 1997⁽³⁰⁾; and
- (b) without prejudice to the operation of those Regulations with regard to the provisions specified in paragraph (2),

be the Department.

(2) For the purposes of paragraph (1) the specified provisions are as follows—

- (a) regulations 14 and 16;
- (b) paragraphs 3(2), 4(1) and (2), and 21(2) and 10(2) of Schedule 8; and
- (c) regulations 12(3), 13 and 17, insofar as they relate to owners of transportable pressure receptacles.

Defences

20.—(1) In any proceedings for an offence for a contravention of any of the provisions of these Regulations it shall, subject to paragraphs (2) and (3), be a defence for the person charged to prove—

- (a) that the commission of the offence was due to the act or default of another person not being one of his employees (hereinafter called “the other person”); and
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in paragraph (1) unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(3) Where a contravention of these Regulations by any person is due to the act or default of the other person, that other person shall be guilty of the offence which would, but for any defence under these Regulations available to the first-mentioned person, be constituted by the act or default.

Transitional defences

21.—(1) In any proceedings for an offence consisting of a contravention of these Regulations before 1st January 1999, it shall be a defence for the accused to prove that the goods were classified, packaged and labelled for carriage prior to 1st July 1996 in accordance with the 1993 Regulations, and that—

- (a) the goods have not been removed from their package or receptacle since they were packaged;
- (b) the label has not been altered or removed since the goods were packaged; and
- (c) it was not reasonably practicable either—
 - (i) to repackage and re-label the goods before they were consigned for carriage; or
 - (ii) to consign the goods for carriage on a date earlier than they were in fact consigned.

(2) In any proceedings for an offence consisting of a contravention of these Regulations on or after 1st November 1997 and before 1st January 1999, it shall be a defence for the accused to prove that the goods were classified, packaged and labelled for carriage prior to 1st November 1997 in accordance with the 1995 Regulations as in operation immediately before the commencement of these Regulations and that the requirements specified in paragraph (1)(a) to (c) are satisfied, in relation to those goods.

(3) In any proceedings for an offence consisting of a contravention of these Regulations before 1st November 1997 it shall be a defence for the accused to prove that the goods were classified, packaged and labelled in accordance with the 1995 Regulations as in operation immediately before the commencement of these Regulations.

(4) In any proceedings for an offence consisting of a contravention of regulation 6(1)(e) in relation to the consignment of goods for carriage in metallic intermediate bulk containers or stainless steel or aluminium drums it shall be a defence for the accused to prove that the containers, or drums, whichever is the case, were manufactured less than 15 years prior to the date of consignment of the goods and before 1st July 1996.

(5) In any proceedings for an offence consisting of a contravention of regulation 6(1)(e) before 1st January 1999, in relation to the consignment of goods for carriage in plastic packagings or metal packagings other than those specified in paragraph (6), it shall be a defence for the accused to prove that the packagings were manufactured less than 5 years prior to the date of consignment of the goods and before 1st July 1996.

(6) In any proceedings for an offence consisting of a contravention of regulation 8(1) in relation to the consignment of goods for carriage in transportable pressure receptacles, it shall be a defence for the accused to prove that the packages were labelled for carriage before 1st July 1996 in accordance with the 1993 Regulations and that the label has not been altered since then.

(7) In any proceedings for an offence consisting of a contravention of regulation 8(1), on or after 1st November 1997, in relation to the consignment of goods for carriage in transportable pressure receptacles, it shall be a defence for the accused to prove that the packages were labelled for carriage prior to 1st November 1997 in accordance with the 1995 Regulations as in operation immediately before the commencement of these Regulations and the label has not been altered since then.

Amendments

22.—(1) In the Highly Flammable Liquids and Liquefied Petroleum Gases Regulations (Northern Ireland) 1975(**31**) for regulation 7(7) there shall be substituted—

“(7) In this regulation “cylinder” means a transportable pressure receptacle—

- (a) in the case of a cylinder manufactured before 1st January 1999, a cylinder which complies with the conditions specified in paragraph 3(3)(a) or (b) of Schedule 8 of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997; and
- (b) in the case of a cylinder manufactured after that date, a cylinder in relation to which the evidence specified in regulation 13(a) of those Regulations exists or the conditions specified in regulation 13(b) of those Regulations are satisfied.”

(2) In the Control of Asbestos at Work Regulations (Northern Ireland) 1988(**32**)—

- (a) for regulation 18(3)(a) there shall be substituted—

(31) S.R. 1975 No. 256; regulation 7(7) was substituted by S.R. 1991 No. 471, regulation 25(4) and Schedule 6

(32) S.R. 1988 No. 74; the relevant amending Regulations are S.R. 1995 No. 47, regulation 17(2) and S.R. 1995 No. 60, regulation 18(2)

- “(a) where the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 apply, in accordance with those Regulations;”;
- (b) in Schedule 2, for paragraph 1(1)(a) there shall be substituted—
- “(a) raw asbestos (together with the labelling required under the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 60) and the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247);”;
- (3) The Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991(33) shall be amended in accordance with Schedule 5.
- (4) The Pressure Systems and Transportable Gas Containers Regulations (Northern Ireland) 1991(34) shall be amended in accordance with Schedule 6.
- (5) The Dangerous Substances (Notification and Marking of Sites) Regulations (Northern Ireland) 1992(35) shall be amended as follows—
- (a) in regulation 2(1)—
- (i) for the definition of “the 1995 Regulations” there shall be substituted—
- ““the 1997 Regulations” means the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247);”;
- (ii) in the definition of “classification” for “regulation 5 of the 1995 Regulations” there shall be substituted “regulation 5 of the 1997 Regulations”; and
- (iii) in the definition of “dangerous substance” for “falls within the definition of “dangerous goods” in regulation 2(1) of the 1995 Regulations” there shall be substituted “falls within the definition of “dangerous goods” in regulation 2(1) of the 1997 Regulations”; and
- (b) in Schedule 1 for paragraph 1(d), there shall be substituted—
- “(d) aerosol dispensers unless they are labelled in accordance with the 1997 Regulations, or would be so labelled if they were carried by road.”.
- (6) In the Road Traffic (Carriage of Explosives) Regulations (Northern Ireland) 1993(36) in regulation 7(3) for the words “falls within the definition of “dangerous goods” in regulation 2(1) of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 47)” there shall be substituted “falls within the definition of “dangerous goods” in regulation 2(1) of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247)”.
- (7) In the Packaging of Explosives for Carriage Regulations (Northern Ireland) 1993(37) in regulation 2(1) for sub-paragraph (b) of the definition of “explosives” there shall be substituted—
- “(b) have not been classified under the 1991 Regulations or under regulation 5 of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247);”.

(33) S.R. 1991 No. 509; the relevant amending Regulations are S.R. 1995 No. 47, regulation 17(3) and Schedule 4 and S.R. 1995 No. 60, regulation 18(3)

(34) S.R. 1991 No. 471

(35) S.R. 1992 No. 71; the relevant amending Regulations are S.R. 1995 No. 47, regulation 17(4)

(36) S.R. 1993 No. 83 as amended by S.R. 1995 No. 47, regulation 17(8)

(37) S.R. 1993 No. 268 as amended by S.R. 1995 No. 47, regulation 17(10)

(8) In the supply Regulations in regulation 9(1), for “the Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995” there shall be substituted “the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247)”.

(9) In the Health and Safety (Safety Signs and Signals) Regulations (Northern Ireland) 1996(38), in regulation 2(1) in the definition of “dangerous goods” for “Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995” there shall be substituted “Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247)”.

Revocations

23.—(1) The Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995(39) are hereby revoked.

(2) Regulation 18(6) of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995(40) is hereby revoked.

(3) The instruments specified in Schedule 7 are hereby revoked.

Particulars deemed to satisfy the requirements of certain enactments

24. Where a package is required to show particulars in accordance with these Regulations and shows such particulars, those particulars shall be deemed to satisfy the requirements of—

- (a) section 5 of the Petroleum (Consolidation) Act (Northern Ireland), 1929(41) including that section as applied to any dangerous substance by an Order in Council made under section 19 of that Act; and
- (b) regulations 6 and 7 of the Highly Flammable Liquids and Liquefied Petroleum Gases Regulations (Northern Ireland) 1975,

insofar as those requirements require the package to be marked or labelled.

Sealed with the Official Seal of the Department of Economic Development on

L.S.

20th May 1997.

Philip B. Strong
Assistant Secretary

(38) S.R. 1996 No. 119

(39) S.R. 1995 No. 47 as amended by S.R. 1997 No. 247, regulation 6 and Schedule 3

(40) S.R. 1995 No. 60

(41) 1929 c. 13 (N.I.), to which there are amendments not relevant to this regulation