
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 248

**Carriage of Dangerous Goods by Road
Regulations (Northern Ireland) 1997**

Part VII

MISCELLANEOUS AND GENERAL

Exemption certificates

25.—(1) Subject to paragraph (2), and to any 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;
- (c) any container, tank or vehicle or class thereof,

from all or any of the requirements or prohibitions imposed by 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 exemption under paragraph (1) 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 other requirements imposed by or under any statutory provisions which apply to the case,

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

(3) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing, exempt any person from all or 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.

Defence

26.—(1) Subject to paragraphs (2) and (3), in any proceedings for an offence consisting of a contravention of any of the provisions of these Regulations it shall 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 commission of the offence.

(2) The person charged shall not be entitled to rely upon the defence referred to in paragraph (1) without leave of the court 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 any of the provisions 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.

International provisions

27.—(1) Where, in relation to the carriage of any dangerous goods, any provision of these Regulations applies to a matter to which any specified international provision applies, it shall be sufficient compliance, in relation to that matter, with the provision of the particular regulation, if the specified international provision is satisfied in respect of that matter.

(2) For the purposes of paragraph (1), the specified international provision means any provision of—

- (a) the Convention concerning International Carriage by Rail⁽¹⁾, as revised or re-issued from time to time or any regulations made under it;
- (b) the IMDG Code; or
- (c) the Technical Instructions for the Safe Transport of Dangerous Goods by Air, as revised or re-issued from time to time by the International Civil Aviation Organisation⁽²⁾.

Transitional defence

28. In any proceedings for an offence consisting of a contravention of any of the provisions of these Regulations prior to 1st November 1997 it shall be a defence for the accused to prove that the goods were carried, or in the case of an alleged contravention of regulation 13 intended to be carried, before 1st November 1997 in—

- (a) a road tanker in accordance with the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations (Northern Ireland) 1992⁽³⁾ as in operation immediately before the commencement of these Regulations; or
- (b) in bulk or in packages in accordance with the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations (Northern Ireland) 1992⁽⁴⁾ as in operation immediately before the commencement of these Regulations.

Revocations

29.—(1) The Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations (Northern Ireland) 1992 are hereby revoked.

(2) The Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations (Northern Ireland) 1992 are hereby revoked.

(1) Cmnd. 5897
(2) Current edition and supplement (1995-1996): Doc 9284-AN/905
(3) S.R. 1992 No. 260
(4) S.R. 1992 No. 261

Amendment of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1986

30. The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1986⁽⁵⁾ shall be amended as follows—

- (a) in each of paragraphs 13 and 13A—
 - (i) in sub-paragraph (1) the second occurrence of the word “a” shall be deleted, and for the words “dangerous substance”, wherever they occur there shall be substituted “dangerous goods”, and
 - (ii) sub-paragraph (2) shall be deleted; and
- (b) after paragraph 13A there shall be inserted the following paragraph—

“13B. In paragraphs 13 and 13A—

 - (a) “road-tanker” and “tank container” have the same meanings as in regulation 2(1) of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (“the 1997 Regulations”);
 - (b) “carriage” has the same meaning as in regulation 2(1) of the Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997; and
 - (c) “dangerous goods” means any goods which fall within the definition of “dangerous goods” in regulation 2(1) of the 1997 Regulations, other than—
 - (i) explosives; or
 - (ii) radioactive material (other than that which is being carried in accordance with the conditions specified in Schedules 1 to 4 of marginal 2704 to ADR),and in this sub-paragraph “ADR” has the meaning assigned to it by regulation 2(1) of the 1997 Regulations.”.

(5) S.R. 1986 No. 247; paragraph 13A was added by S.R. 1988 No. 24, regulation 25(3)(b) and was modified by S.R. 1992 No. 260, regulation 30(3) and Schedule 5 Part II paragraph 1