| **Title:** Carriage of Dangerous Goods and use of Transportable Pressure Equipment Regulations 2009 | |
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| **PIR No:** | **Date: 01/07/2022** |
| Original **IA/RPC No: DfTPIR0062** | **Type of regulation:** **Domestic** |
| **Lead department or agency: DfT** | **Type of review: Statutory** |
| **Other departments or agencies:** None. | **Date measure came into force:** **01/07/2009** |
| | **Recommendation: Keep** |
| Contact for enquiries: **dangerousgoods@dft.gov.uk** | **RPC Opinion:** Choose an item. |

**1. What were the policy objectives of the measure?**

The Government wants to promote safety and minimise the risks associated with the transport of dangerous goods in the UK as well as facilitate trade across international borders and support economic growth through effective regulation. In Great Britain this is achieved through the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG 2009), which implement the Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) and the Regulation Concerning the International Carriage of Dangerous Goods by Rail (RID). These are international agreements drawn up through the auspices of the United Nations and the Convention concerning International Carriage by Rail. They are subject to a biennial cycle of updates which are automatically reflected in CDG 2009 through ambulatory referencing. CDG 2009 fulfils the UK's commitment to implement these agreements domestically for dangerous goods transport by road and rail.

The Post Implementation Review (PIR) being undertaken covers the regulations as they exist at present, i.e., the original regulations of 2009 and amendments made in 2011, 2019 and 2020. The purposes of the 2009 Regulations were to implement European Directives (a) applying the European Agreement on the International Carriage of Dangerous Goods by Road; (b) on transportable pressure equipment; and (c) on informing the public about health protection measures to be applied and steps to be taken in the event of a radiological emergency.

The purposes of the 2011 amendment regulations were to (a) implement a European Directive on Transportable Pressure Equipment; (b) enable ADR and RID to be interpreted in such a way as to ensure that class 1 goods are classified by the GB competent authority or the competent authority of another party to ADR or RID; (c) give the Secretary of State for Energy and Climate Change certain responsibilities in relation to class 7 goods, and make the Secretary of State for Defence an enforcing authority.

The purposes of the 2019 amendment regulations were to (a) to implement in part as respects Great Britain provisions of Council Directive 2013/59 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation; and (b) amend regulation 3 of the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008, to update the reference to Council Directive 96/29 laying down basic standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation.

The purposes of the 2020 amendment regulations were to (a) address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the European Union; (b) restate retained EU law in a clearer and more accessible way, and (c) make amendments to secondary legislation in the field of the carriage of dangerous goods by road and rail and, in particular, amend legislation relating to the inspection of transportable pressure equipment used in Great Britain.

## 2. What evidence has informed the PIR?

Stakeholder engagement was conducted through a targeted survey carried out in February 2022, sent to all organisations and individuals on the consultation list for the carriage of dangerous goods held by the DfT Dangerous Goods Unit. There are 354 consultees on the list, which includes companies engaged in the manufacture, approval or carriage of dangerous goods, Dangerous Goods Safety Advisors (DGSAs), training providers and authorities including other Government departments. The survey questions are at **Annex A**.

There were 24 responses to the survey. This is a small number on which to base conclusions. Of these, 6 were companies involved in the carriage of dangerous goods, 7 were manufacturers of dangerous goods or transportable pressure equipment; 8 were consultants and advisers. One respondent (RAMTUC) is a forum for its members; one a is trainer in the carriage of dangerous goods; and one is a multi-disciplinary firm covering several areas in the carriage and storage of dangerous goods.

## 3. To what extent have the policy objectives been achieved?

The principal objective – that of implementing ADR and RID – has been achieved in full through the making and implementing of these regulations. The second objective was to ensure a level playing field and facilitate international trade. It is difficult to draw conclusions from the responses, since only 24 were received from over 350 forms sent out and not all were from companies involved in the manufacture or transport of dangerous goods. However, there are suggestions that levels of enforcement may differ from one country to another. The third objective was to boost and maintain safety. This is difficult to quantify since safety concerns arise only when there has been a significant accident; and we are aware of none since the 2009 regulations entered into force. Our other objective was to ensure that compliance with ADR/RID, through the regulations, is cost-effective. It is difficult to judge how far this has been achieved, as responses relating to the annual costs of compliance varied considerably (see below).

Annual cost of compliance

Nine respondents said that there was no additional cost arising from compliance with the regulations, in some cases because they were consultants or advisors and in another because they carried only limited quantities (LQ)[1]. Two stated the costs were unknown or difficult to quantify and two did not answer the question. Five others stated that additional costs were incurred only through extra training and equipment or gave figures ranging from £1,070 to £20,000 a year. One manufacturer of cylinders stated that the total approval and inspection costs for all cylinders manufactured in the last three years had been between £900,000 and £1m. From the responses received, it is difficult to quantify if the financial impact on business has been more or less than anticipated in the initial impact assessment or the subsequent amendments.

Non-financial effect

Seven respondents replied ‘not applicable’ or said there had been no non-financial effect. Two said they had merely to spend time ensuring they remained familiar with the regulations. Six said they had had to review and overhaul security measures and assess and implement changes or modify documentation and training. One said the regulations made it more bureaucratic and cumbersome to requalify as a DGSA and two said specifically that the regulations slowed down the transport of their products and had an adverse effect on business. One said that for some work they were forced to sub-contract the business but did not indicate why. Another said that reviewing and complying with new legislation caused a significant

[1] You do not need to follow all the requirements of ADR/RID if you’re transporting ‘limited quantities’ of some dangerous goods. These limits are listed in column 7a of the ‘Dangerous goods list’ in part 3 of ADR/RID

increase in workload, although their statement seemed to refer mainly to the 2020 amending legislation which was necessary due to the UK's exit from the EU. Two said the regulations had a positive effect on their business, one stating that they were central to their business model and the other saying that they ensured a level playing field. There does not appear to be a key non-financial effect of these regulations other than a need to keep up to date with the changes to ADR/RID, which would be necessary regardless of the CDG 2009 regulations as these changes occur on an ongoing and regular basis.

Do you employ less than 50 staff?

These was almost equally divided, with 11 respondents replying 'yes', and 11 replying 'no' and one stating 'not applicable'. One respondent did not answer this question.

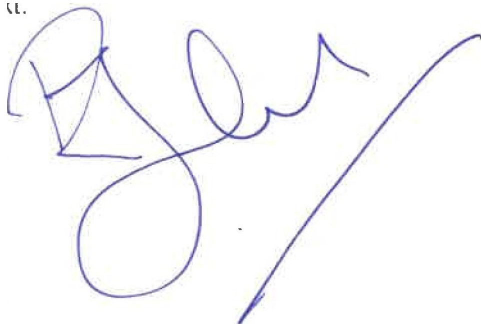
Has there been a disproportionate effect on businesses with less than 50 staff?

Twelve respondents stated 'no', one replied 'not applicable' and another 'unable to comment'. One stated 'no but DGSA costs are higher for one person than for an operator with 50 or 100 trucks'.

Five respondents stated unequivocally that there had been a disproportionate effect to small businesses. Comments received were 'the smaller the company, the less capability they have spare to ensure compliance with regulations'; 'small clients have less training or systems and are less aware of compliance issues. This applies to all legislation, not just dangerous goods legislation'; 'absolutely. We are the last remaining independent company that carries dangerous goods'; 'for radioactive materials, we need to employ a Radioactive Protection Adviser at an extortionate cost. This has prevented some companies from supporting customers. It has lost them other dangerous goods work'; and 'to understand changes in regulations and to implement those changes is likely to have a more significant impact on a smaller workforce'.

Sign-off for Post Implementation Review: Minister

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: 

Date: 8.2023

## Further information sheet

**4. What were the original assumptions?**

Our assumptions were that the regulations would implement ADR/RID; that this would have a positive effect on safety; and would facilitate trade with other countries while not being a burden on industry.

Four respondents said they were unable to quantify the effect on safety, although two of these felt there had been some improvement. Another said that since 2000, they had seen the elimination of incidents on site among their clientele. Positive improvements noted were 'we ensure via pre-loading checks that vehicles have the necessary equipment as required by ADR'; 'it has increased the safety of hazardous cargo movement across the board. It has also highlighted the inadequacies of those who pay lip service to strict guidance and controls'; and 'all LQ is checked and verified through our DGSA'.

Negative responses were 'not that I have seen'; 'none at all despite a considerable increase in administrative costs' and 'many owners of freight companies have little or no idea of the dangerous goods requirements especially LQ which some think is wholly regulated'.

**5. Were there any unintended consequences?**

Ten respondents replied 'no' or said they were not aware of any unintended consequences. Two were positive about the consequences: one said the regulations had resulted in the possibility of conducting overseas inspections and another that they had enhanced skills across their organisation, and they were able to align fully with their customers on emergency procedures.

Other respondents had negative experiences, although most related to ADR and RID rather than CDG 2009 or related to amendments to CDG 2009 which have yet to come into force and are outside of the scope of this PIR. Issues raised were:

- significant cost increases and time delays for clients;
- RID and ADR presented two competing regulatory systems, one for portable tanks governed by chapters 4.2 and 6.7 derived from the UN Model Regulations and one for tank containers. The differences presented economic difficulties in trade with countries where RID and ADR applies;
- sections of ADR that required interpretation by a competent authority could lead to differing interpretations;
- the need to gain new type approvals and ensure that EU Notified Bodies are available to conduct conformity assessments were an increased burden on industry. This would be complicated further when type approvals and conformity assessments would be required for the UK and the EU. Changes such as these would have an impact on business efficiency, growth, sustainability, credibility and international reputations;
- discussions about interpretation, implementation and achieving compliance had been protracted; and
- concern over levels of enforcement of CDG 2009.

**6. Has the evidence identified any opportunities for reducing the burden on business?**

Stakeholders suggested a number of amendments to the Regulations. These are set out, with the Government's response, in **Annex B**.

**7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?**

All EU countries are required to implement RID and ADR through Directive 2008/68/EC, as do many other countries not in the EU including Switzerland and Russia as they are signatories to the Agreements which form the basis of the Directive. Therefore, it is only where we derogate from the requirements of RID/ADR in our domestic regulations where there should be any difference with international competitors. We asked stakeholders if the impact from CDG 2009 had the same impact on their international competitors as on them.

Seven respondents said there had been no impact compared to international competitors or they were not affected as their business was entirely in the UK. Two said they had no means of judging the impact compared to other countries.

One response was that the lack of enforcement activity in the UK compared to other states provided opportunities to UK operations that were not available elsewhere.

One respondent said they were still asked for additional documentation for local approval processes in some European countries. They were not sure if this was replicated for imports into the UK.

Another said the effect of the regulations was that they were forming 'business partnerships with ISO17020 accredited inspection bodies in Germany, Belgium, Finland and Austria.'

Other comments were:

'having spoken to other cylinder manufacturers and customers in EU countries there is no doubt that there is confusion with regards to requirements and particularly with requirements to place product on the GB market post 2022'. This comment relates to a future change in CDG 2009 which is not in scope of this Post Implementation Review (PIR) as it is not yet in force.

'we have a very large part of the business in Europe and the rest of the world. The only impact we have had on the movement of ADR goods, is Brexit and any monetary agreements.'

**Annex A**

Survey Questions

1. Name of respondent

2. Company

3. Position held

4. What has been the annual cost to your company of complying with the Carriage of Dangerous Goods Regulations 2009 and the various amendments?

5. If the regulations have affected your company in any non-financial ways, please explain how.

6. Have the regulations had any unintended consequences? If so, please briefly describe them below.

7. If you are able to provide any information about how the impact of the Dangerous Goods Regulations on UK business compares to that of international competitors, please do so.

8. Has there been an improvement in safety? Can you quantify this in any way?

9. Does your business employ fewer than 50 people?

☐ Yes
☐ No

10. Do you believe that the Dangerous Goods Regulations have had a disproportionate impact on businesses with less than 50 employees?
☐ Yes
☐ No

11. If you answered ‘yes’, please provide further details.

12. What would your recommendations be for the next steps of the regulation?
☐ Keep the regulations as they are
☐ Make changes to the regulations
☐ Remove the regulations
☐ Replace the regulations with something else
☐ Don’t know

13. If you have suggested changes, removal or replacement, please provide the reasons for your response here:

14. Do you have any other comments?

## **Annex B**

Stakeholders suggested amendments to CDG 2009 and Government response

A number of stakeholders made detailed suggestions for amending the regulations. These are set out in the table below with our response. Comments are reproduced in the table in full except where individuals were named in responses, and which have now been omitted. **It should be noted that some of the suggestions, and the reasons for making them, relate to ADR or RID rather than CDG 2009; or they relate to amendments to CDG 2009 made in 2021, which are not yet in force and are outside the scope of this PIR. We have however included them for the sake of completeness.**

Eleven respondents stated that changes should be made to the regulations. Six stated they should be kept as they are; one did not know; and another said they should be maintained and reviewed periodically as required. One stated that ADR should have cross-references to other regulations.

One stated the regulations should be removed completely and simplified to give small businesses derogations and an option to become ISO9001 approved. Another said there was little point in continuing with periodic inspections as the administrative process added zero benefit to the services they provided.

Other more general suggestions for amendment included 'the regulations could be written in a much clearer and more concise manner'; 'replace them with something else'; and 'it would be preferable to seek mutual agreement with the EU regarding type approvals and conformity assessments'.

One comment, which related more to the provisions of ADR rather than CDG 2009, was 'markings are not required on a vehicle if carrying limited quantities by road, due to the redefining of the maximum mass of vehicles being the unladen weight. Therefore, a trailer with 26 tonnes of limited quantities can travel on the road without any warning to other road users or the emergency services of the danger. Changes to follow ADR's definition would improve safety on the road if such a vehicle is involved in an incident.'

Reasons for changes

The following were given as reasons for amending the regulations:

'We have domestic rules, so there is no need for an annual ADR certificate if used in the UK only. This would free up HGV test slots.'

'Combine the amendments and original regulations into one document, preferably with direct references to ADR so that it is easy to find variances between the UK and EU requirements.'

'Only with regular review will the regulations become safer and more widely employed by all parties concerned.'

The next comment is about ADR, rather than CDG 2009:

'The regulations are contradictory and confusing. UN 3065 PGIII has special provision 145 which allows receptacles of up to 250 litres to be considered not ADR, but LQ and EQ (Excepted Quantities) are for lower. Provides confusion as to whether a load falls under ADR or not.'

'I would like to see a completely updated CDG 2009.'

The next two comments are about the amendments made to CDG 2009 in 2021:

‘Small components manufactured in quantity, i.e., pressure receptacle valves, should be permitted to be TPED (Pi mark) in lieu of UK TPE Rho mark as it will permit continuity of use and replacement with minimal impact to business and operation.’

‘There is a need to drastically and dramatically reduce the red tape caused by these regulations.  The industry has lost 95% of these test houses with a further one in administration in 2020’.

| Stakeholder suggestion | Theme | Government response |
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| 1. There is a disconnect between goods that are exempt/relaxed from ADR (etc) and other UK national legislation. For example (a) Class 7 in excepted packages are still liable to IRR17 and possibly EPR. (b) Class 1.4S will also be subject to the Explosives Regulations and possibly Firearms Regs in the case of ammunition. There is nothing in ADR (as it's not a UK document) and nothing in CDG or ADTP to even mention a cross-reference, let alone guide the user on their way. This makes users think "it's exempt – I don't need to do anything" and this might not be the case. Granted that IRR etc are under HSE control rather than DfT. | Class 7 | The other regulations cited are outside transport regulations and whilst explosives of 1.4S are exempted via both LQ and being Transport Category 4, ADR still requires classification and UN packaging. This means that before an explosive UN number can legally be used the Competent Authority has to have agreed the classification which then means storage and explosive transfer document requirements will apply. Both these classes of dangerous goods are specialist, so practitioners will be experts who know about application of the other regulations. Given that ADR covers so many substances and countries which are party to it, it would be impossible to cross reference all other laws that may also apply.<br>The DGU will consider noting in the Approved Derogations and Transitional Provisions Document that other legislation may apply even when there is a derogation from the CDG Regulations but due to the number of substances and laws they may be subject to, it will not be possible to list what they are. In some circumstances the Government already includes cross-references in guidance; for example, HSE reference transport requirements in their Explosives Regulations 2014 guidance. |
| 2. Remove the regulations completely. Simplify the regulations, give small businesses derogations, an option to become ISO9001 approved as opposed to IS017020:2012 Type A inspection Body, there is a significant cost for zero benefit. As a commercial organisation there is very little point in continuing periodic inspection as the administrative process adds zero benefit to the service we provide. Given the minimal returns the company makes from providing this critical service, the company would be best advised to invest elsewhere. | Removal of regulations | This would involve disapplication of ADR/RID since CDG applies ADR/RID. We would not be fulfilling our obligations as signatories to these agreements if we removed the regulations completely. |
| 3. The regulations are contradictory and confusing. UN3065 PGIII, has a special provision of 145 which allows receptacles of up to 250 litres to be considered not to be ADR, yet the limited and excepted quantities are far lower than this. This provides confusion as to whether a load falls under ADR or not and many discussions between us and hauliers. This should be made the same as one appears to contradict the other. | ADR Concern | This is a comment about ADR, which is outside the scope of this review. The Dangerous Goods team will respond direct to the provider of this comment. |
| 4. I feel it would be possible for a one-off risk assessment to be carried out by a Radiation Protection Supervisor. This could be done using approved equipment, which could be hired in, for journeys involving radiative sources below a prescribed level of activity {to be determined}. This would cover all journeys from the same customer up to that activity. | Class 7 | This is possible under the current regulations – there is no need to provide a bespoke Radiation Risk Assessment (RRA) for each movement. Generic/bounding case RRAs are appropriate and can cover all moves by a duty holder. |
| 5. At the moment markings are not required on a vehicle if carrying limited quantities by road for a CDG journey due to the re defining of maximum mass of a vehicle being the | ADR Concern | This is a comment about ADR rather than CDG. We will respond direct to the provider of this comment. |

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| unladen weight, not as every other definition of gross weight of the vehicle. Therefore, a trailer with 26 tons of limited quantities can travel on the road without any warning to other road users or the emergency services of the danger. Changes to follow ADR's definition would improve safety on the road if such a vehicle is involved in an incident. | | |
| 6. a) Complete introduction of classification criteria of substances which emit corrosive or toxic vapours in contact with water.<br>b) Sort out that mess with UN portable tanks v RID/ADR tank-containers. I am doubtful if there is much understanding of what this serious set of issues is all about which, if so, is disturbing.<br>c) Update the requirements for offshore containers with confirmation that the ISO standard for these containers is acceptable.<br>d) Update the references to ISO 1496/4 to the 2019 version.<br>e) Notify the UN Secretariat that work is taking place in an ISO working group on updating ISO 1496/4. The standard will have something to say about BK1 and BK2 bulk containers and will specifically say that it will not cover BK3s.<br>f) Ask HSE to attend DfT briefing meetings. g) Amend the provisions in the 1.8.3 area of RID/ADR/ADN so that it becomes a compulsory requirement that the person whose papers are being marked is not identified to the marker in any way, shape or form. | ADR Concern | This is about ADR or multimodal transport requirements which is outside of the scope of this PIR. We will respond direct to the provider of this comment. |
| 7. Small components, manufactured in quantity i.e. pressure receptable valves should be permitted to be TPED (Pi mark) in lieu of specifically UK TPE (Rho Mark), this will permit continuity of use, replacement during operation with minimal impact to business and certification.<br>There is no clear definition of requirement of existing TPED to be converted from pi mark TPED to UK TPE…the words "wishes" is not a definitive requirement. The addition of guidance to why an owner/operator would want to convert existing TPED marked transportable pressure equipment to UK TPE.<br>The guidance of replacement of TPED components (i.e. safety valves, pressure receptacle valves) incorporated within Class 2 tanks and MEGC's after implementation of 2020 No. 1111. | CDG 2021 amendments | The comments here relate to the amendments to CDG 2009 made in 2021 which have not yet come into force and as such are out of scope of this review. A Q&A guidance document has been developed about the 2021 amendment and is due to be circulated shortly. |
| 8.Understand CDG revision well under way and similar needs to be done in regard to the uselessness of Emergency Telephone numbers on groupage loads required on ferry/marine dangerous goods. We petitioned the MCA four years ago and this is just being looked at by MCGA.<br>Our example, one trailer on a ferry with 8 Dangerous Goods consignments all compatible under IMDG. This means 8 [telephone] numbers. If there is a trailer deck fire anywhere there will be other loadings FCL or groupage correctly stowed under segregation rules. Do you ring all the numbers which in terms of a major sized vessel could be 4000 [containers]?" | Maritime legislation | This relates to carriage on board ferries/ships. This is the responsibility of the Maritime and Coastguard Agency, and we will forward this to them. |

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| 9. One area of contention is the belief in the CAA that they are always dealing with the most hazardous details and pay no attention to the requirements when trucking, even unto airlines trucking on ferry to the continent. Again, I have not heard of such in the last 3 years. | Aviation legislation | This does not relate to CDG 2009. We will raise this with the Civil Aviation Authority and discuss training requirements to address this concern. |
| 10. None of us are helped by the dismal performance of the SQA in the DGSA examinations. I have complained to DG Directorate, but amazingly they still repeat syllabus requirement detail and specimen answers from many years ago. This means those who cannot afford the very high DGSA fees are somehow always failing by one or two marks. The preference for tanker questions (such liquids and gases being in tonnage probably the higher on the roads and rail) outweighs the packaged/cylinder consignments which obviously in terms of declarations and movements far exceed those in the bulk materials. I understand I think that some trainers of DGSA pride themselves on the number of passes, but I think a real working DGSA (bulk and packages) should oversee the SQA questionnaires once set, checking for the specimen answer, which is clearly not set out in the SQA papers (up to January 2022). | Dangerous Goods Examinations | This comment relates to examinations for Dangerous Goods Safety Advisers (DGSA's), rather than CDG 2009 specifically. SQA have recently updated the DGSA sample papers. To note, sample exam papers are intended to help candidates prepare for the DGSA examinations. They are not 'past papers' but the layout and content of the questions are broadly representative of actual exam papers. |
| 11.We urge the DfT to further extend the existing UK Derogation 4 by proposing incorporation of this derogation, along with minor changes proposed below, into the ADR. Incorporating the derogation into the ADR would facilitate retail deliveries of DG to end customers globally. | ADR Concern | We note their support for Road Derogation 4 but amendments to ADR are outside the scope of this PIR. |
| 12. We ask for additional clarity regarding overpacks by explicitly excepting labelling requirements to make clear that there is no need to have labels or marking on the outer surface of any packaging or overpacking for the reasons explained in some detail below. Additionally, the current derogation does not facilitate transport of lithium batteries, including those with and contained in equipment. Given the proliferation of these products in retail stores, we ask that the derogation (and any subsequent proposal to the ADR) include batteries previously packed in accordance with SP188, small lithium batteries.<br><br>There is a compelling case for change in line with the Government's intention to reduce red tape and introduce better regulation without detriment to safety. There would be trade benefits for both businesses and consumers. Taking the current UK derogation to broader regulatory bodies would provide more permanence to the provisions within the derogation. Before addressing this case for change, we lay out our understanding of the current position relating to the Derogation and then Overpacking:<br><br>Presently, the requirements under ADR 3.4.2 or 4.1 and ADR 5.2 and 6.1.3 do not apply in the UK (with the exception of Class, 1, 4.2, 6.2 and 7 goods) where:<br>o The goods for carriage by road were originally packed:<br>in limited quantities (LQ) in accordance with ADR 3.4 or<br>combination packagings in accordance with ADR 4.1.<br>o The quantity carried on the transport unit does not exceed: | Derogations | The Dangerous Goods Unit plans to review existing domestic derogations during 2023 and we will consider these comments in relation to that exercise. However, specifically in relation to the comments regarding lithium batteries, we believe that companies already take advantage of the derogation afforded by Special Provision 188 which disapplies all other provisions of ADR and covers lithium ion batteries contained in personal items of equipment that would be sold in retail. We will respond direct to the provider of this comment. |

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| 30 kilograms or litres per type, colour, strength or inner package size of a substance or an article; and<br>a total of 333 kilograms or litres per transport unit.<br>o The goods have been removed from their outer packaging for:<br>the final stages of the carriage operation between a distribution centre and a retailer or end-user; or<br>a retailer and end-user; or<br>between an end-user and retailer or distribution centre.<br><br>Clear Benefits of the Derogation<br>• The Derogation works well, supporting trade and growth without compromising on risks to health and safety. It allows businesses to carry limited quantities of "dangerous goods" without strict package labelling and marking requirements for the final stages of retail distribution by road. The principle behind this is that an acceptable level of safety is assured in the context of specific goods in specific quantities within existing retail packaging. | | |
| 13. Overpacking - Case for Change<br>• The Derogation [road Derogation 4] does not however provide what marking (if any) should be made on any overpack (5.1.2) used for dangerous goods movements particularly in the context of larger containers (bags, boxes, bins) often used in conjunction with dynamically changing contents., e.g., the delivery of perfumes and lithium batteries to neighbouring consumers.<br>• We also believe the requirement in the derogation that goods have been removed from their outer packaging is overly restrictive. We ask that the derogation apply to unpackaged as well as packaged goods in Limited Quantity and small lithium batteries shipped according to SP188. Allowing transportation of packaged goods in addition to the currently authorized unpackaged goods provides flexibility for completing last mile deliveries under the derogation.<br>• The Derogation does not go far enough as it is limited to specific types of dangerous goods and in the specific quantities noted above. It was drafted in a time period where deliveries to consumers was not as prevalent or as necessary as it is today.<br>• The Derogation does not go far enough as it is limited to specific types of dangerous goods (those prepared according to 3.4 and 4.1) and in the specific quantities noted above. There are similar products available for retail sale and transported in the manner described in the derogation that would be additionally excepted. On primary example of these types of products are small lithium batteries prepared under SP188. As currently written, these products would not be covered by the derogation. However, the hazard associated with these products are significantly lower than products currently allowed. For example, lithium batteries larger than the limits in SP188 are prepared under 4.1. These products would present greater hazard and risk yet are excepted under the | ADR Concern /Derogations | To change overpack text would require changes to the UN Model Regulations, otherwise there would be confusion if domestic and international use of overpacks were not aligned. |

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| derogation. We ask that packages prepared in accordance with SP188 be added to the derogation.<br>• The practical effect of the Derogation's current limitations is that only a low number of deliveries can be made in this way. In all other cases, transport and logistic companies have to incur significant time and cost inefficiencies (e.g., in adding additional packing/marking, separating products into a much greater number of deliveries/journeys) for no discernible benefits to safety and greater environmental detriment. Given the number of products available for consumer purchase that contain lithium batteries, we believe that the current derogation should be expanded to address many of these types of products. This expansion in scope of the derogation will allow greater utilization of the concept by delivery companies and provide for greater flexibility in planning and scheduling deliveries. Given in relative terms, goods will still be carried in low quantities by responsible operators (such goods being well packaged) the risks are already reduced as far as reasonably practicable.<br>• In the context of new/modern delivery operations (e.g., direct to consumer deliveries in vans, bikes, carts), throughout the delivery route, the contents of a specific "overpack" may change, during the course of the delivery process. This creates the practical problem of potentially needing to display and remove specific markings at different times during the same overall journey. Given individual products have their own markings, there are sufficient safeguards in place to minimise risk without the need to label overpacking. The current derogation imposes requirements on those within the transport and logistics industry that do not apply in the traditional retail experience i.e., consumers buy products and bags to facilitate handling to vehicles or their homes. We ask that the derogation additionally except the marking requirements related to overpacks in 5.1.2.<br>• These minor revisions will change the landscape in which logistic companies currently operate; it would increase the speed and efficiency of goods delivery at significantly reduced costs to the consumer. It will also facilitate the possibility of same-day delivery with no detriment to safety. This brings vast trade and commercial benefits without safety risk and is very much in line with the Government's mandate of cutting unnecessary red tape and better regulation. It would be in line with a greater movement to home deliveries driven by consumer behaviour and would facilitate retailers and logistics companies dealing with issues such as the driver shortage and rising energy costs. Post-Brexit now is the time to capitalise on the obvious benefits of reform.<br>Conclusion<br>• For the reasons articulated above, we would strongly urge you to make these minor revisions and propose incorporation of these exceptions into the ADR. If helpful, we would be happy to discuss them with you at a forum of your choice. | | |
| 14. Potential for conflict/double regulation: Part 5 - Radiation Emergencies and Notifiable Events, Regulation 24 - This Part applies in relation to the carriage of class 7 goods only. Schedule 2 makes provision in connection with radiation emergencies and notifiable | Class 7 | During inspections the Office for Nuclear Regulation (ONR) has come across a lot of confusion on what a suitable RRA contains (specifically regarding accident dose assessment) and what (if any) the overlap is between contingency and emergency plans. |

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| events. But this Part does not apply to carriage by vehicles or wagons belonging to or under the responsibility of one of the armed forces | | ONR has put in place guidance on these points and updated them a number of times over an 18mth period, but it is still an area that duty holders are struggling to understand.<br><br>Where a “radiation emergency” could occur (Para 3) requires an emergency plan to be put in place. There is already a requirement for contingency plans under IRR17, reg 13. For smaller duty holders there is very little difference between a contingency plan and emergency plan but CDG adds burden which does not improve safety. For simplicity, some larger duty holders have chosen to have one emergency plan for all packages they transport despite not all packages resulting in radiation emergencies. This creates complexity in demonstrating how CDG emergency planning / IRR17 contingency planning requirements are met.<br><br>ONR considers that there may be a simpler and more consistent approach to be found in this area.<br><br>There are requirements for duty holders to consult with health boards, external emergency services and local authorities (e.g. Para 6(6)) As radioactive material can be transported throughout the UK it is impractical to require duty holders to identify and consult with all such stakeholders.<br><br>DfT will discuss with ONR whether further advice on this interpretation can be issued. |
| 15.We also seek clarification of ADR 3.3 Special Provision 290 where the primary hazard is not class 7, and the class 7 element is the sub hazard. Again, in this case the interpretation is that Schedule 2 would not apply. | ADR Concern | ONR advises that a literal reading of the regulations would suggest that Schedule 2 would apply even if only secondary hazard. DfT will consider with ONR whether further advice can be issued. |
| 16. For CDG 2009, Schedule 2, Para 5(6) – which requires duty holders in class 7 to make a report (i.e. Exercise Report on the Emergency Plan) to the GB Competent Authority (i.e. ONR) – is disproportionate compared to other classes. | Class 7 | We will discuss this further with ONR. |
| 17. The class 7 industry should be being consulted sufficiently prior to ONR publishing guidance documents covering class 7. | Class 7 | ONR advises that they consult with the class 7 industry before any significant change/addition to guidance is published |
| 18. One year’s notice to implement [the 2019 amendment] was acceptable, however the late availability of the associated guidance (June and October 2019) was not helpful. In future if the guidance was ready at the outset, it would assist companies with their implementation activities. | Class 7 | ONR advises that they were not able to publish guidance in advance as they did not have final copies of the regulations until they were published. |