
STATUTORY INSTRUMENTS

1996 No. 2093

The Carriage of Explosives by Road Regulations 1996

PART V

MISCELLANEOUS & GENERAL

Defence

31.—(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) above unless, within a period ending seven clear days—

- (a) before the hearing to determine mode of trial, where the proceedings are in England or Wales; or
- (b) before the trial, where the proceedings are in Scotland,

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) For the purpose of enabling the other person to be charged with and convicted of the offence by virtue of section 36(1) of the Health and Safety at Work etc. Act 1974, a person who establishes a defence under this regulation shall nevertheless be treated for the purposes of that section as having committed the offence.