
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 160

**The Carriage of Dangerous Goods and Use of Transportable
Pressure Equipment Regulations (Northern Ireland) 2010**

PART 1

INTRODUCTORY PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010 and shall come into operation on 19th May 2010.

Interpretation — General

- 2.—(1) The provisions of this regulation apply for the purposes of interpreting these Regulations.
- (2) In these Regulations, any reference to a “Part”, “Chapter”, “Section” or “Sub-section” shall be construed—
- (a) in relation to the carriage of goods by road, as a reference to that Part, Chapter, Section or Sub-section of ADR;
 - (b) in relation to the carriage of goods by rail, as a reference to that Part, Chapter, Section or Sub-section of RID; and
 - (c) in relation to the carriage of goods by inland waterway, as a reference to that Part, Chapter, Section or Sub-section of ADN.
- (3) Where an expression is defined in ADR, RID or ADN and is not defined in these Regulations, it has the meaning as defined in—
- (a) ADR in relation to carriage by road;
 - (b) RID in relation to carriage by rail; and
 - (c) ADN in relation to carriage by inland waterway.
- (4) Where an expression is defined in the Transportable Pressure Equipment Directive and is not defined in these Regulations, it has the meaning as in that Directive.
- (5) The expressions mentioned in column 1 of the following Table shall have the meanings given opposite thereto in column 2.

Table

<i>Column 1</i>	<i>Column 2</i>
“the 2006 Regulations”	The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2006 ⁽¹⁾ .
“ADN”	The Regulations annexed to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterway ⁽²⁾ , as revised or re-issued from time to time.
“ADR”	Annexes A and B to the European Agreement concerning the International Carriage of Dangerous Goods by Road ⁽³⁾ , as revised or reissued from time to time.
	But—
	(a) to the extent that a reference in these Regulations to ADR is a reference to ADR as it applied for the purposes of the 2006 Regulations, it has the same meaning as in regulation 2 of those Regulations; and
	(b) in regulation 11(6)(b) it means Annexes A and B as in force on the date in question.
“armed forces”	Means—
	(a) one of Her Majesty’s forces within the meaning of the Armed Forces Act 2006 ⁽⁴⁾ ;
	(b) the Ministry of Defence Police ⁽⁵⁾ ;
	(c) a visiting force within the meaning of Part 1 of the Visiting Forces Act 1952 ⁽⁶⁾ ; or
	(d) a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964 ⁽⁷⁾ .
“conformity mark”	The mark referred to in article 10(1) of the Transportable Pressure Equipment Directive, the form of the mark being set out in Annex VII to that Directive.

(1) [S.R. 2006 No. 173](#)(2) [ISBN 9789211391343 \(2009 edition\)](#)(3) [ISBN 9789211391336 \(2009 edition\)](#)(4) [2006 c. 52](#)(5) [See Section 1\(1\) of the Ministry of Defence Police Act 1987 \(c. 4\)](#)(6) [1952 c. 67](#)(7) [1964 c. 5](#)

<i>Column 1</i>	<i>Column 2</i>
“COTIF”	The Convention concerning International Carriage by Rail(8), as revised or re-issued from time to time.
“the Dangerous Good Directive”	Directive 2008/68/EC of the European Parliament and of the Council of 24th September 2008 on the inland transport of dangerous goods(9) as amended from time to time.
“the Northern Ireland competent authority”	<p>The competent authority in Northern Ireland for the purposes of these Regulations as determined under regulation 21.</p> <p>But a reference to the “2006 Northern Ireland Competent Authority” is a reference to the competent authority in Northern Ireland for the purposes of the 2006 Regulations.</p>
“national carriage”	Carriage that includes carriage in Northern Ireland and does not include carriage outside of the United Kingdom.
“RID”	<p>The Annex to the Regulation concerning the international carriage of dangerous goods by rail which forms Appendix C to COTIF(10) as revised or re-issued from time to time.</p> <p>But—</p> <p>(a) to the extent that the reference in these Regulations to RID is a reference to RID as it applied for the purposes of the 2006 Regulations, it has the same meaning as in regulation 2 of those Regulations; and</p> <p>(b) in regulation 11(6)(b) it means the Annex as in force on the date in question.</p>
“the security provisions”	The prohibitions and requirements of Chapter 1.10 (including those requirements deemed to be part of ADR in consequence of regulation 7).
“the Transportable Pressure Equipment Directive ”	Council Directive 1999/36/EC of 29th April 1999(11) concerning the approximation of laws of member States relating to common provision provision for transportable pressure equipment and methods for inspection and for the purposes of these Regulations—

(8) Cm 3812; COTIF was modified by the Protocol signed at Vilnius on 3rd June 1999 (Cm 4873)

(9) O.J. No. L260, 30.9.2008, p. 13

(10) ISBN 9788086206394 (2009 edition)

(11) O.J. No. L138, 1.6.1999, p. 20; last amended by Commission Directive 2002/50/EC of 6th June 2002 (O.J. No. L149, 7.6.2002, p. 28)

<i>Column 1</i>	<i>Column 2</i>
	<p>(a) a reference in that Directive to Directive 94/55/EC and 96/49/EC shall be treated as a reference to the Dangerous Goods Directive (and the reference to articles 6(1) and 7 of Directive 94/55/EC and articles 6(1) and 7(1) and (2) of Directive 96/49/EC in article 1(4) shall be treated as a reference to article 4 of the Dangerous Goods Directive); and</p> <p>(b) a reference to the annex to Directive 94/55/EC and the annex to 96/49/EC shall be treated as a reference to ADR and RID (respectively).</p>
“vehicle”	Has the meaning given in article 2 of the Dangerous Goods Directive except that the words “at least four wheels and” are to be omitted.
“wagon”	Has the meaning given in article 2 of the Dangerous Goods Directive.

Interpretation of ADR, RID and ADN for the purposes of these Regulations

3. For the purposes of these Regulations—

- (a) the scope of the ADR, RID and ADN shall be deemed to include national as well as international carriage;
- (b) a member State of the Communities which is not a Contracting Party to ADR or ADN shall be deemed to be a Contracting Party to ADR or ADN (as the case may be);
- (c) a member State of the Communities which is not a Member State of COTIF shall be deemed to be a Member State of COTIF;
- (d) a reference in—
 - (i) ADR or RID to “competent military authority”;
 - (ii) ADR or ADN to “Contracting Party”; and
 - (iii) RID to “Member State”,
 shall be treated as a reference to “the Northern Ireland competent authority” unless the context requires otherwise;
- (e) Sub-section 1.1.4.4 of RID shall apply as if the words “or the provisions of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010 in so far as they relate to carriage by road” were included after the words “provisions of ADR”;
- (f) Sub-section 1.6.2.7 shall be treated as reading “Until 30 June 2011 the requirements of 6.2.1.4.1 to 6.2.1.4.4 applicable until 31 December 2008 apply instead of those of 1.8.6, 1.8.7, 6.2.2.9, 6.2.3.6 to 6.2.3.8”;
- (g) Sub-section 1.6.3.35 shall be treated as reading “The requirements of 1.8.6, 1.8.7 and 6.8.4 TA4 and TT9 do not apply before 1 July 2011.”;
- (h) Sub-section 1.6.4.34 shall be treated as reading “The requirements of 1.8.6, 1.8.7 and 6.8.4 TA4 and TT9 do not apply before 1 July 2011.”;

- (i) the words “The competent authorities of the Contracting Parties may provide that” are omitted from Sub-section 1.8.3.2 of ADR;
- (j) the words “The competent authorities of the Member States may provide that” are omitted from Sub-section 1.8.3.2 of RID;
- (k) the reference in Sub-section 1.8.3.3 to “national authorities” shall be treated as a reference to “the Northern Ireland competent authority or an enforcement authority”; and
- (l) Sub-section 5.3.4 of RID is omitted.

Application

- 4.—(1) These Regulations apply in relation to the carriage of dangerous goods by road and by rail.
- (2) These Regulations apply in relation to the carriage of dangerous goods by inland waterway but only to the extent that they apply Sub-sections 1.8.3.7 to 1.8.3.16 (which relate to the training and examination system for safety advisers and the connected issuing and renewal of vocational training certificates).
- (3) These Regulations do not apply to the carriage of explosives within the meaning of the Explosives Acts (Northern Ireland) 1875 to 1970.

PART 2

PROHIBITIONS AND REQUIREMENTS

Carriage to be in accordance with ADR or RID

5. No person shall carry dangerous goods, or cause or permit dangerous goods to be carried, where that carriage is prohibited by ADR or RID, including where that carriage does not comply with any applicable requirement of ADR or RID.

Alternative placarding requirements to apply to certain national carriage

- 6.—(1) This regulation applies in relation to national carriage—
- (a) in a tank;
 - (b) in bulk; or
 - (c) in relation to carriage by rail, by piggyback transport,
- where that carriage is by a United Kingdom vehicle or a United Kingdom wagon.
- (2) But this regulation does not apply in relation to carriage—
- (a) of class 7 goods; or
 - (b) of any dangerous goods by a vehicle or wagon belonging to or under the responsibility of one of the armed forces.
- (3) For the purposes of regulation 5, the requirements of—
- (a) Part 1 of Schedule 1 in respect of carriage by road; and
 - (b) Part 2 of Schedule 1 in respect of carriage by rail,
- are deemed to be requirements of Section 5.3.2 and any conflicting requirements in ADR and RID are to be disregarded.
- (4) In this regulation—

- (a) a “United Kingdom vehicle” means a vehicle registered by the Secretary of State in accordance with section 21(1) of the Vehicle Excise and Registration Act 1994⁽¹²⁾ or a trailer being towed by such a vehicle; and
- (b) a “United Kingdom wagon” means a wagon used only for carriage within the United Kingdom.

(5) In Schedule 1 “emergency action code” is a reference to the emergency action code for the dangerous goods in question as listed in the Dangerous Goods Emergency Action Code List⁽¹³⁾, as revised or re-issued from time to time.

Additional security requirement relating to access

7.—(1) For the purposes of regulation 5, the requirement set out in paragraph (2) is deemed to be a requirement of Chapter 1.10.

(2) A person involved in the carriage of dangerous goods shall take all reasonable steps to ensure that unauthorised access to those goods is prevented.

PART 3

EXEMPTIONS

Derogations and transitional provisions

8.—(1) The Health and Safety Executive for Northern Ireland may exempt the carriage of dangerous goods from requirements and prohibitions arising under Part 2 of these Regulations.

(2) But paragraph (1) only applies for the purposes of—

- (a) implementing a derogation authorised under article 6(2) to (4) of the Dangerous Goods Directive;
- (b) maintaining a transitional provision permitted by article 7 of the Dangerous Goods Directive; or
- (c) ensuring that carriage to which these Regulations apply, but the Dangerous Goods Directive, ADR or RID does not apply, is carried out in a manner consistent with a derogation or transitional provision referred to at sub-paragraph (a) or (b).

(3) Where any exemption is granted pursuant to paragraph (1), that exemption is to be set out in a document to be called “Carriage of Dangerous Goods: Approved Derogations and Transitional Provisions” (in this regulation referred to as “the document”).

(4) The document may be revised in whole or in part from time to time.

(5) In the document the Health and Safety Executive for Northern Ireland shall set out—

- (a) the types of carriage to which the exemption applies;
- (b) the circumstances in which the exemption applies;
- (c) the requirements and prohibitions that do not apply pursuant to paragraph (1); and
- (d) any requirements and prohibitions that apply instead.

(6) The Health and Safety Executive for Northern Ireland may not bring to an end, or substantially alter, an exemption unless those who might be affected have been consulted.

(7) This regulation does not limit the power to issue an authorisation under regulation 9(1).

⁽¹²⁾ 1994 c. 22; paragraph 2 of Schedule 3 to the Finance Act 1997 replaced the existing section 21(1) with a new version

⁽¹³⁾ ISBN 9780113413263 (2009 edition)

Authorisations

9.—(1) A body referred to in column 1 of the following Table may issue an authorisation to a person or class of persons to carry dangerous goods in circumstances which are contrary to prohibitions and requirements arising under Part 2 of these Regulations providing the conditions specified in column 2 opposite that body are satisfied in respect of that carriage.

<i>Column 1</i>	<i>Column 2</i>
The Health and Safety Executive for Northern Ireland	The carriage is national carriage and the authorisation relates to prohibitions and requirements arising out of functions for which the Health and Safety Executive for Northern Ireland is the competent authority in Northern Ireland.
The Department of the Environment for Northern Ireland	The carriage is national carriage and the authorisation relates to prohibitions and requirements arising out of functions for which the Department of the Environment is the competent authority in Northern Ireland.

(2) An authorisation issued pursuant to paragraph (1) shall be in writing and shall set out—

- (a) the carriage that is covered by the authorisation;
- (b) the reason that the authorisation is being issued; and
- (c) any time limit applicable to the validity of the authorisation.

(3) An authorisation issued pursuant to paragraph (1) may be—

- (a) made subject to conditions; and
- (b) withdrawn at any time by the body which granted it by the provision of a notice in writing to that effect to the person authorised and that notice shall set out whether the withdrawal of the authorisation has effect immediately or whether the withdrawal has effect from a specified date.

(4) Any authorisation granted, or deemed to be granted, pursuant to regulation 36 of the 2006 Regulations that was in force immediately before the coming into operation of these Regulations shall be deemed to be an authorisation issued pursuant to paragraph (1) of this regulation and subject to the same conditions as were in force immediately before the coming into operation of these Regulations.

Reference temperatures and standards

10.—(1) This regulation applies where the Northern Ireland competent authority has recognised reference temperatures or standards in accordance with regulation 24(1) or (2).

(2) Part 2 does not apply in relation to national carriage to the extent that it imposes requirements on that carriage that conflict with the reference temperatures or standards recognised in accordance with regulation 24(1) or (2).

(3) The exemption set out in paragraph (2) only applies if the tank or pressure receptacle being used for carriage—

- (a) is clearly marked or labelled to show that it is suitable for national carriage only; and
- (b) does not carry the conformity mark.

Old pressure receptacles

11.—(1) This regulation applies in relation to national carriage.

(2) This regulation applies in relation to the carriage of dangerous goods which is not permitted under Part 2 of these Regulations because the old pressure receptacle used for that carriage cannot, by virtue of its design or construction, satisfy the requirements for the use of pressure receptacles set out in ADR or RID.

(3) Subject to paragraph (5), the requirements in ADR or RID which cannot be complied with are to be disregarded for the purposes of Part 2 if the requirements of paragraph (4) are satisfied.

(4) The requirements are—

(a) the old pressure receptacle has not been subject to modification, major repair or re-rating which has put it outside the scope of the design standard or design specification to which it was originally constructed;

(b) the old pressure receptacle—

(i) has been approved by a person appointed pursuant to regulation 25(2) as being safe for use; or

(ii) was found to be safe by an inspection body or competent person in accordance with paragraph 4(2) of Schedule 2 to the 2006 Regulations and marked accordingly, and the time elapsed since the approval or the finding that the receptacle was safe does not exceed the intervals for periodic inspection specified in Tables 1 to 3 of Packaging Instruction P200 and Packing Instruction P203 in Section 4.1.4; and

(c) in respect of old pressure receptacles used for the carriage of acetylene, the operator has a written record of—

(i) the tare weight of the old pressure receptacle, including the porous substance and, where relevant, the acetone or other solvent;

(ii) the nature of the solvent used; and

(iii) the maximum safe operating pressure of the old pressure receptacle.

(5) An old pressure receptacle which is of seamless construction or has contained acetylene and in relation to which a modification, major repair or re-rating has been undertaken may not be used for the carriage of dangerous goods.

(6) In this regulation “old pressure receptacle” means a cylinder, tube, pressure drum, closed cryogenic receptacle or bundle of cylinders—

(a) constructed—

(i) in the case of cylinders, tubes and cryogenic receptacles, on or before 30th June 2003; and

(ii) in the case of other pressure receptacles, on or before 9th May 2004;

(b) which did not meet the design and construction requirements applicable to that receptacle that were set out in ADR or RID as in force on the date construction was completed;

(c) which did comply with the design and construction requirements imposed under the law of the United Kingdom in force on the date construction was completed; and

(d) which has not been subject to a reassessment of conformity pursuant to a provision of the law of the United Kingdom or other EEA State giving effect to article 5 of the Transportable Pressure Equipment Directive (including regulation 17 of these Regulations).

Carriage within the perimeter of an enclosed area

12. Part 2 does not apply to the carriage of dangerous goods where such carriage is wholly performed within the perimeter of an enclosed area.

Carriage by road other than by vehicles

13.—(1) This regulation applies in relation to carriage by road.

(2) Part 2 does not apply in relation to carriage where that carriage is not undertaken by a vehicle.

Instruments of war and related material and nuclear material

14. Part 2 does not apply in relation to the carriage of—

(a) class 7 goods by a vehicle or wagon belonging to, or under the responsibility of, one of the armed forces; or

(b) nuclear material within the meaning of the Nuclear Industries Security Regulations 2003⁽¹⁴⁾.

PART 4

TRANSPORTABLE PRESSURE EQUIPMENT

Conformity assessment

15.—(1) This regulation applies to transportable pressure equipment within the scope of the Transportable Pressure Equipment Directive by virtue of article 1(2)(a) of that Directive.

(2) Subject to regulation 16, equipment shall only be placed on the market or put into service if the four obligations set out in this regulation are all satisfied.

(3) The first obligation is that the equipment meets the requirements of—

(a) the Dangerous Goods Directive; or

(b) if applicable, article 3(4) of the Transportable Pressure Equipment Directive.

(4) The second obligation is that the fact that the equipment satisfies the first obligation is demonstrated by the conformity assessment procedures mentioned in article 3(1) and (2) of the Transportable Pressure Equipment Directive.

(5) The third obligation is that those conformity assessment procedures are carried out by a notified body.

(6) The fourth obligation is that the marking requirements set out in article 10 of the Transportable Pressure Equipment Directive that are applicable to conformity assessment are complied with in relation to that equipment.

(7) For the purposes of these Regulations, a reference in Part I of Annex IV to the Transportable Pressure Equipment Directive to “national authorities” shall be treated as if it were a reference to “competent authority”.

Conformity assessment — national carriage

16.—(1) Transportable pressure equipment to which regulation 15 applies may be—

(a) placed on the market; or

(b) put into service,

for use in national carriage if the three obligations set out in this regulation are all satisfied.

(2) The first obligation is that the equipment satisfies the conformity assessment referred to in article 4(4) of the Transportable Pressure Equipment Directive.

(3) The second obligation is that the assessment is carried out by an approved body.

(4) The third obligation is that the marking requirements set out in article 10 of the Directive as read with article 4(2) that are applicable to conformity assessment are complied with.

Reassessment of conformity

17.—(1) This regulation applies to transportable pressure equipment within the scope of the Transportable Pressure Equipment Directive by virtue of article 1(2)(b) of that Directive.

(2) Equipment may be reassessed for conformity in accordance with this regulation.

(3) The equipment shall be—

(a) reassessed by a notified body in accordance with the procedure set out in Part II of Annex IV to the Transportable Pressure Equipment Directive; and

(b) marked in accordance with the requirements of article 10 of that Directive that are applicable to the reassessment of conformity.

(4) But if the equipment has been manufactured in series to a design type which has been reassessed by a notified body in accordance with paragraph (3)(a), the procedure set out in Part II of Annex IV may be undertaken by an approved body and references in that Part to “notified body” are to be treated as references to “approved body”.

Periodic inspection and repeated use

18.—(1) This regulation applies to transportable pressure equipment within the scope of the Transportable Pressure Equipment Directive by virtue of article 1(2)(c) of that Directive.

(2) If the equipment bears a marking referred to in article 10(1) or (2) of the Transportable Pressure Equipment Directive or the marking for gas cylinders referred to in the second indent of article 1(2)(c) of that Directive, it is to be subject to periodic inspection in accordance with the requirements of article 6(1) of the Directive.

(3) Periodic inspections of tanks are permitted in the manner described in the second paragraph of article 6(1) of the Directive.

(4) The marking requirements applicable to periodic inspections set out in article 10 of the Transportable Pressure Equipment Directive shall be complied with in relation to the equipment.

Misleading and other markings

19.—(1) No person shall affix a marking on transportable pressure equipment which is likely to mislead third parties with regard to the meaning or the graphics of the conformity mark.

(2) Any other marking may be affixed to transportable pressure equipment provided that the visibility and legibility of the conformity mark is not reduced.

PART 5

RADIOLOGICAL EMERGENCIES

Radiological emergencies

20.—(1) This regulation applies in relation to the carriage of class 7 goods.

(2) The requirements of Schedule 2 are to be complied with in relation to radiological emergencies.

(3) But paragraph (2) does not apply in relation to carriage by vehicles or wagons belonging to or under the responsibility of one of the armed forces.

(4) For the purposes of these Regulations—

- (a) “radiological emergency” means a situation arising during the course of the carriage of a consignment that requires urgent action in order to protect workers, members of the public or the population (either partially or as a whole) from exposure;
- (b) “exposure” means being exposed to ionising radiation; and
- (c) “ionising radiation” means the transfer of energy in the form of particles or electromagnetic waves of a wavelength of 100 nanometres or less, or a frequency of 3×10^{15} hertz or more, capable of producing ions directly or indirectly.

PART 6

NORTHERN IRELAND COMPETENT AUTHORITY FUNCTIONS

Competent authority

21.—(1) Subject to paragraph (2), the competent authority for Northern Ireland for the purposes of these Regulations is the Health and Safety Executive for Northern Ireland.

(2) The competent authority for Northern Ireland is the Department of the Environment for the functions of the competent authority—

(a) in relation to—

- (i) the inspection of vehicles; and
- (ii) the issue of certificates following inspections or copies thereof, in pursuance of chapter 9.1 of Annex B to ADR; and

(b) in relation to ADR carriage of class 7 goods by road.

(3) The Northern Ireland competent authority may appoint a person to carry out a function of the Northern Ireland competent authority under these Regulations and a reference in these Regulations to the performance of the function by the Northern Ireland competent authority is to be treated as including a reference to the performance of the function by the person appointed.

(4) The person may be appointed to carry out the function in particular circumstances or generally.

(5) Paragraphs (6) and (7) apply if the 2006 Northern Ireland competent authority appointed, or was deemed by regulation 29 of the 2006 Regulations to have appointed, a person to perform a competent authority function pursuant to regulation 26 of those Regulations and that appointment had effect immediately before the coming into operation of these Regulations.

(6) The person appointed, or deemed appointed, under the 2006 Regulations shall be deemed to be a person appointed pursuant to paragraph (3) to perform the equivalent function in ADR or RID.

(7) But in the case of a function performed in relation to carriage by inland waterway, the Northern Ireland competent authority shall be deemed to have performed the function under the equivalent provision of ADN as it was performed, or deemed performed, under ADR pursuant to regulation 26 of the 2006 Regulations.

Functions of the Northern Ireland competent authority arising under ADR, RID and ADN

22. The Northern Ireland competent authority shall perform those functions that are identified in ADR, RID and ADN as being the functions of a competent authority.

Fees in relation to functions of the Northern Ireland competent authority

23.—(1) This regulation applies where a person has asked the Northern Ireland competent authority to perform a function which is, by virtue of regulation 22, a function of the Northern Ireland authority.

(2) A fee may be charged for, or in conjunction with, the performance of the function by, or on behalf of, the Northern Ireland competent authority.

(3) Any fee charged shall be reasonable for the work performed or to be performed.

(4) But in relation to—

- (a) a function mentioned in regulation 25(3), paragraph 1(2) and (3) of Schedule 4 applies; and
- (b) a function mentioned in paragraphs (5) to (15) the fee specified in those paragraphs in relation to that function shall apply, instead of paragraphs (2) and (3).

(5) The fee for the provision of inspection facilities, including the carrying out of an inspection, and the administrative work carried out upon receipt of an application for an ADR certificate in respect of a vehicle shall be £88.50.

(6) Subject to paragraph (7), where a vehicle fails to pass an inspection carried out in respect of an application for an ADR certificate, an application for a further inspection shall be treated for the purpose of these Regulations as a separate application for an ADR certificate.

(7) Where a vehicle fails to pass an inspection and within 21 days thereafter arrangements are made for a further inspection to be carried out within that period, paragraph (6) shall not apply but a further fee of £45.50 shall be payable in respect of such arrangements.

(8) The fees paid in pursuance of paragraphs (5), (7) or (11) shall be repaid—

- (a) if no appointment for an examination of the vehicle is made or the appointment made is subsequently cancelled by the Northern Ireland competent authority;
- (b) if the person for whom the appointment is made gives to the Northern Ireland competent authority notice cancelling the appointment of not less than one clear day before the date of the appointment;
- (c) if the person for whom the appointment is made keeps the appointment but the examination does not take place, or is not completed, for a reason not specified in Schedule 3; or
- (d) if the person for whom the appointment is made satisfies the Northern Ireland competent authority that the vehicle cannot, or, as the case may be, could not, reasonably be presented for examination on the date of the appointment due to exceptional circumstances occurring not more than seven days before the said date and of which notice is given within three days of the occurrence thereof to the Northern Ireland competent authority at the vehicle testing centre where the examination is or, as the case may be, was to be held.

(9) Where an application is made for a first ADR certificate in respect of a tractor for a semi trailer, and an inspection of the tractor is waived, the fee payable upon receipt of such an application shall be £28.00.

(10) The fee for the issue of a copy of an ADR certificate which has been lost or destroyed shall be £14.

(11) An application made to the Northern Ireland competent authority for an ADR certificate shall be accompanied by the appropriate fee determined in accordance with this regulation.

(12) The fee payable under paragraph (7) in respect of arrangements for a further inspection of a vehicle shall be paid on or before the date arranged for such further inspection.

(13) Where applications are made for inspections to be carried out in respect of ADR certificates for a vehicle and trailer at the same time or consecutively, separate applications, each accompanied by the appropriate fee, shall be submitted.

(14) Subject to paragraph (15), an application for an ADR certificate shall be accompanied by an application for a test made under regulation 10 of the Goods Vehicle (Testing) Regulations (Northern Ireland) 2003⁽¹⁵⁾ (a “goods vehicle test”).

(15) An application for an ADR certificate need not be accompanied by an application for a goods vehicle test where—

- (a) a motor vehicle having a maximum gross weight exceeding 3,500 kilograms which has not yet reached the end of the month in which falls the first anniversary of the date on which it was registered;
- (b) a trailer which has not yet reached the end of the month in which falls the first anniversary of the date on which it was first sold or supplied by retail; or
- (c) it has a current goods vehicle test certificate.

(16) In this regulation—

- (a) “ADR certificate” means a certificate of approval issued for a vehicle following inspection of the vehicle in pursuance of Sub-sections 9.1.2.1 and 9.1.3.1 of Annex B to ADR, and references to an inspection of a vehicle or the issue of a certificate or a copy thereof are references to such an inspection, or issue of a certificate or copy, by the Northern Ireland competent authority;
- (b) “exceptional circumstances” means an accident, a fire, industrial action, a failure in the supply of essential services or other unexpected happening (excluding a breakdown or mechanical defect in a vehicle or non-delivery of spare parts therefor); and
- (c) save in paragraphs (7) and (8)(d) (insofar as it relates to seven days), no period of time shall include any day which is a Saturday, Sunday or public holiday and “public holiday” shall not include Good Friday and shall include Easter Tuesday.

Northern Ireland competent authority functions relating to reference temperatures and standards

24.—(1) The Northern Ireland competent authority may recognise different reference temperatures from those set out in—

- (a) paragraphs (5)(b) and (c) of packing instruction P200 of Section 4.1.4; or
- (b) Sub-sections 4.2.2.7.2, 4.3.3.2.2 or 4.3.3.2.3,

in relation to the filling of pressure receptacles and tanks intended to be used only for the national carriage of liquefied gas.

(2) The Northern Ireland competent authority may recognise standards for the construction of the shell of a tank intended to be used only for the national carriage of liquefied gas which specify—

(15) [S.R. 2003 No. 304](#) to which there are amendments not relevant to these Regulations

- (a) a different design reference temperature for the shell of the tank from that set out in Sub-section 6.7.3.2.1; or
- (b) a different test pressure specified for the shell of the tank from that set out in Sub-sections 4.3.3.2.2 and 4.3.3.2.3,

provided that the temperature or pressure specified in the standard is such that it will ensure that the shell is safe and suitable for its intended use.

Appointments by the Northern Ireland competent authority

25.—(1) Paragraph (2) applies in respect of equipment which under these Regulations may not be used in connection with the carriage of dangerous goods unless it has been approved for that use.

(2) The Northern Ireland competent authority may appoint such persons as it thinks fit to determine whether the equipment should be approved and, if so, to approve that equipment for use.

(3) Where it is a function of the Northern Ireland competent authority, by virtue of regulation 22, to approve or authorise a body or expert to carry out, witness, supervise or decide to waive an inspection, examination, test or approval in respect of equipment used in connection with the carriage of dangerous goods, that function shall be performed by the appointment of a person pursuant to paragraph (2).

(4) In respect of the appointment of a person to carry out the functions of a notified body for the purposes of Part 4 of these Regulations, the Northern Ireland competent authority may not appoint a person pursuant to paragraph (2) unless that person satisfies the criteria set out in Annexes I and II to the Transportable Pressure Equipment Directive.

(5) In respect of the appointment of a person to carry out the functions of an approved body for the purposes of Part 4 of these Regulations, the Northern Ireland competent authority may not appoint a person pursuant to paragraph (2) unless that person satisfies the criteria set out in Annexes I and III to the Transportable Pressure Equipment Directive.

(6) Schedule 4 has effect in relation to the making of appointments pursuant to paragraph (2).

Certain functions to be deemed to have been performed by the Northern Ireland competent authority

26.—(1) Paragraphs (3) and (4) apply if—

- (a) the 2006 Northern Ireland competent authority or a person to whom a function has been delegated by regulation 26(4) of the 2006 Regulations performed a function pursuant to regulation 26(1) of those Regulations; and
- (b) the action taken by the 2006 Northern Ireland competent authority or that other person, as a consequence of the performance of the function, had effect immediately before the coming into operation of these Regulations.

(2) But paragraphs (3) and (4) do not apply where the function was performed by appointment in accordance with regulation 29 of the 2006 Regulations.

(3) The Northern Ireland competent authority or other person shall be deemed to have performed the function pursuant to regulation 22 under the same provision of ADR or RID as it was performed pursuant to regulation 26 (1) of the 2006 Regulations.

(4) In the case of a function performed in relation to carriage by inland waterway, the Northern Ireland competent authority shall be deemed to have performed the function under the equivalent provision of ADN as it was performed under ADR pursuant to regulation 26(1) of the 2006 Regulations.

PART 7

MISCELLANEOUS

Keeping and provision of information

27.—(1) An accident report of the kind referred to in Sub-section 1.8.3.6 shall be provided to the Northern Ireland competent authority or enforcement authority if requested.

(2) A written record of the information contained in the transport document described in Chapters 5.4 and 5.5 shall be kept for a period of three months after the completion of the carriage in question.

Enforcement

28.—(1) Subject to paragraph (2) the enforcing authorities for these Regulations are—

- (a) the Health and Safety Executive for Northern Ireland in relation to road, rail and inland waterways;
- (b) the Department of the Environment in relation to ADR carriage of class 7 goods by road; and
- (c) the Chief Constable in relation to road.

(2) The Health and Safety Executive for Northern Ireland and the Department of the Environment are the enforcing authorities to the extent that these Regulations require compliance with the security provisions.

Defence

29.—(1) In any proceedings for an offence consisting of a contravention of any of the provisions of these Regulations, it is a defence for the person charged to prove that—

- (a) the commission of the offence was due to the act or default of another person, not being one of that person's employees ("the other person"); and
- (b) the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) The person charged shall not be entitled, without leave of the court, to rely on the defence referred to in paragraph (1) unless, at least seven clear days before the hearing to determine the mode of trial, the person 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 the person's possession.

(3) If a contravention of any of the provisions of these Regulations by any person is due to the act or default of the other person, then that other person is guilty of the offence, which would, but for the defence in paragraph (1), be constituted by the act or default.

Amendments

30. The statutory provisions specified in column 1 of the Table in Schedule 5 are amended in accordance with the provisions of that Table opposite thereto in columns 2 and 3.

Revocations

31.—(1) Subject to paragraph (2) the Regulations specified in the Table in Schedule 6 are revoked.

(2) The amendments made by those Regulations to other statutory provisions and having effect immediately before the coming into operation of paragraph (1) shall, subject to regulation 30, continue to have effect as if paragraph (1) had not been made.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 22nd April 2010.

L.S.

M. Bohill
A senior officer of the
Department of Enterprise, Trade and Investment