

*Draft Regulations laid before the Assembly under paragraphs 1(11) and 38(5) of Schedule 7 to, the
European Union (Withdrawal) Act 2018, for approval*

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2020 No. 0000

**EXITING THE EUROPEAN UNION
HEALTH AND SAFETY**

**The Carriage of Explosives (Amendment) (EU
Exit) Regulations (Northern Ireland) 2020**

Made - - - - 00th November 2020

Coming into operation 00th November 2020

The Department of Justice, being the devolved authority⁽¹⁾, makes the following Regulations in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽²⁾.

The requirements of paragraphs 1(11) and 38(5) of Schedule 7 to that Act (relating to the appropriate Assembly procedure for these Regulations) have been satisfied.

Citation and commencement

1. These regulations may be cited as the Carriage of Explosives (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 and come into operation on IP completion day⁽³⁾.

Amendment of Regulations

2. The Carriage of Explosives (Northern Ireland) Regulations 2010⁽⁴⁾ are amended in accordance with regulations 3 to 6.

Amendments to Part 1 (Introductory provisions)

3.—(1) In regulation 2 (Interpretation – General) the Table in paragraph (5) is amended in accordance with paragraphs (2) to (4).

(2) After the expression and meaning of “ADR” insert—

(1) See Section 20(1) of 2018 c. 16.

(2) 2018 c. 16; Paragraph 21(b) of Schedule 7 was amended by paragraph 53(b) of schedule 5 to that Act.

(3) “IP completion day” is defined in section 39 of the European Union (Withdrawal Agreement) Act 2020.

(4) S.R. 2010 No. 59, amended by S.R. 2012 No. 177.

“the Annexes”	Subject to paragraphs (6) and (7), Annexes I and II to the Dangerous Goods Directive.”
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- (3) In the row containing the expression and meaning of “the Dangerous Goods Directive”—
- (a) before “Directive” insert “Subject to paragraphs (6) and (7),”; and
 - (b) for “as amended from time to time” substitute “as it had effect immediately before IP completion day”.
- (4) After the Table in paragraph (5) insert—
- “(6) References to—
 - (a) “the Annexes”; and
 - (b) “the Dangerous Goods Directive”,
- are subject to the modifications identified in paragraph (7).
- (a) (7) Section I.1 of Annex I; and
 - (b) Section II.1 of Annex II—
- to the Dangerous Goods Directive are to be read as if “as applicable with effect from 1 January 2019,” had been omitted.”.

Amendments to Part 3 (Exemptions)

4.—(1) Regulation 12 (Derogations and transitional provisions) is amended in accordance with paragraphs (2) to (5).

(2) For paragraph (2)(a) and (b) substitute—

“(a) implementing a derogation authorised under article 6(2) to (4) of and listed in—

- (i) section I.3 of Annex I, or
- (ii) section II.3 of Annex II

to the Dangerous Goods Directive that had effect immediately before IP completion day, subject to the modifications in paragraph (3); or

(b) maintaining a transitional provision permitted by article 7 of and listed in—

- (i) section I.2 of Annex I, or
- (ii) section II.2 of Annex II

to the Dangerous Goods Directive, subject to the modifications in paragraph (3); or”

(3) For paragraph (3) substitute—

“(3) The modification referred to in paragraphs (2)(a) and (b) apply to the identified sections of those Annexes to the Dangerous Goods Directive, and are that any reference to a member State is to be read as a reference to—

- (a) the UK, or
- (b) a member State of the EU.”.

(4) Omit paragraphs (4) and (5).

(5) In paragraph (7) after “under regulation 13(1)” insert “or an exception under regulation 12A(1)”.

5. After regulation 12 insert—

“Exceptions

12A.—(1) The Department of Justice may issue an exception from the requirements and prohibitions arising under Part 2 of these Regulations when satisfied that safety would not be compromised and either—

- (a) the carriage is of small quantities of dangerous goods and the substances have neither a medium nor high level of radioactivity;
- (b) the carriage is national carriage over short distances; or
- (c) the carriage is national carriage by rail on routes designated by the Department of Justice as—
 - (i) forming part of a defined industrial process; and
 - (ii) being closely controlled under clearly specified conditions.

(2) An exception issued under paragraph (1) must not be for a period exceeding six years from the date of issue.

(3) Prior to issuing an exception, the Department of Justice—

- (a) must consult the Northern Ireland competent authority; and
- (b) may consult—
 - (i) the authorities identified in regulation 22 as being enforcing authorities for the carriage concerned, where that authority is not consulted pursuant to sub-paragraph (a); and
 - (ii) such other bodies as appear to the Department of Justice to be appropriate.

(4) The Department of Justice may renew, and in doing so may amend, an exception issued under paragraph (1) for a further period not exceeding six years from the date of renewal.

(5) The Department of Justice shall not bring to an end, or substantially alter, an exemption unless those who might be affected have been consulted.

(6) This regulation does not limit the power to issue an authorisation under regulation 13(1).

Documentation of exemptions and exceptions

12B.—(1) Where any—

- (a) exemption is granted pursuant to regulation 12(1); or
- (b) exception is issued pursuant to regulation 12A(1),

that exemption or exception is to be set out in a document called “Carriage of Dangerous Goods: Approved Derogations, Transitional Provisions and Exceptions” (in this regulation referred to as “the document”).

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

(3) In the document the Department of Justice must set out—

- (a) the types of carriage to which the exemption or exception applies;
- (b) the circumstances in which the exemption or exception applies;
- (c) the requirements and prohibitions that do not apply pursuant to regulations 12(1) or 12A;
- (d) any requirements and prohibitions that apply instead; and

(e) in the case of an exception, the date upon which it was first issued, the dates of any renewals under regulation 12A(4) and the date the exception is due to expire.”.

6. In regulation 14(6)(d) (Old pressure receptacles) for “or other EEA State” substitute “or an EEA State”.

Sealed with the Official Seal of the Department of Justice on 00th November 2020



Naomi Long
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 1(1), of Schedule 2 to the European Union (Withdrawal) Act 2018 (“the 2018 Act”) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under sections 8(2)(a), (b), (d), (e), (g) and section 8(6)) arising from the withdrawal of the UK from the European Union.

In addition, these Regulations make provision in consequence of the 2018 Act and restate retained EU law in a clearer or more accessible way, pursuant to paragraph 21(b) of Schedule 7 to the 2018 Act.

These Regulations make amendments to secondary legislation in the field of the carriage of dangerous goods (class one goods) by road and rail. They amend the Carriage of Explosives Regulations (Northern Ireland) 2010 ([S.R. 2010 No. 59](#)) and allow for the Department of Justice to issue new exceptions to these regulations.

A full impact assessment has not been prepared for this instrument as no, or no significant impact on the private, voluntary or public sectors is foreseen.

An Explanatory Memorandum has been prepared for these Regulations and is available alongside this instrument at www.legislation.gov.uk.