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STATUTORY RULES OF NORTHERN IRELAND

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**1997 No. 247**

**Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997**

**Part IV**

**Miscellaneous**

**Exemption certificates**

**18.**—(1) Subject to paragraph (2) and to any of the 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; or
- (c) any type or class of transportable pressure receptacle,

from all or any of the requirements or prohibitions imposed by or under 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 such exemption 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 requirements imposed by or under any statutory provision which applies to the case,

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

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

**Enforcement**

**19.**—(1) The enforcing authority for these Regulations, other than the provisions specified in paragraph (2), shall—

- (a) notwithstanding regulation 4 of the Health and Safety (Enforcing Authority) Regulations 1997<sup>(1)</sup>; and
- (b) without prejudice to the operation of those Regulations with regard to the provisions specified in paragraph (2),

be the Department.

- (2) For the purposes of paragraph (1) the specified provisions are as follows—
  - (a) regulations 14 and 16;
  - (b) paragraphs 3(2), 4(1) and (2), and 21(2) and 10(2) of Schedule 8; and
  - (c) regulations 12(3), 13 and 17, insofar as they relate to owners of transportable pressure receptacles.

### **Defences**

**20.**—(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) 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 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.

### **Transitional defences**

**21.**—(1) In any proceedings for an offence consisting of a contravention of these Regulations before 1st January 1999, it shall be a defence for the accused to prove that the goods were classified, packaged and labelled for carriage prior to 1st July 1996 in accordance with the 1993 Regulations, and that—

- (a) the goods have not been removed from their package or receptacle since they were packaged;
- (b) the label has not been altered or removed since the goods were packaged; and
- (c) it was not reasonably practicable either—
  - (i) to repackage and re-label the goods before they were consigned for carriage; or
  - (ii) to consign the goods for carriage on a date earlier than they were in fact consigned.

(2) In any proceedings for an offence consisting of a contravention of these Regulations on or after 1st November 1997 and before 1st January 1999, it shall be a defence for the accused to prove that the goods were classified, packaged and labelled for carriage prior to 1st November 1997 in accordance with the 1995 Regulations as in operation immediately before the commencement of these Regulations and that the requirements specified in paragraph (1)(a) to (c) are satisfied, in relation to those goods.

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(1) S.R. 1997 No.

(3) In any proceedings for an offence consisting of a contravention of these Regulations before 1st November 1997 it shall be a defence for the accused to prove that the goods were classified, packaged and labelled in accordance with the 1995 Regulations as in operation immediately before the commencement of these Regulations.

(4) In any proceedings for an offence consisting of a contravention of regulation 6(1)(e) in relation to the consignment of goods for carriage in metallic intermediate bulk containers or stainless steel or aluminium drums it shall be a defence for the accused to prove that the containers, or drums, whichever is the case, were manufactured less than 15 years prior to the date of consignment of the goods and before 1st July 1996.

(5) In any proceedings for an offence consisting of a contravention of regulation 6(1)(e) before 1st January 1999, in relation to the consignment of goods for carriage in plastic packagings or metal packagings other than those specified in paragraph (6), it shall be a defence for the accused to prove that the packagings were manufactured less than 5 years prior to the date of consignment of the goods and before 1st July 1996.

(6) In any proceedings for an offence consisting of a contravention of regulation 8(1) in relation to the consignment of goods for carriage in transportable pressure receptacles, it shall be a defence for the accused to prove that the packages were labelled for carriage before 1st July 1996 in accordance with the 1993 Regulations and that the label has not been altered since then.

(7) In any proceedings for an offence consisting of a contravention of regulation 8(1), on or after 1st November 1997, in relation to the consignment of goods for carriage in transportable pressure receptacles, it shall be a defence for the accused to prove that the packages were labelled for carriage prior to 1st November 1997 in accordance with the 1995 Regulations as in operation immediately before the commencement of these Regulations and the label has not been altered since then.

## Amendments

**22.**—(1) In the Highly Flammable Liquids and Liquefied Petroleum Gases Regulations (Northern Ireland) 1975(2) for regulation 7(7) there shall be substituted—

“(7) In this regulation “cylinder” means a transportable pressure receptacle—

- (a) in the case of a cylinder manufactured before 1st January 1999, a cylinder which complies with the conditions specified in paragraph 3(3)(a) or (b) of Schedule 8 of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997; and
- (b) in the case of a cylinder manufactured after that date, a cylinder in relation to which the evidence specified in regulation 13(a) of those Regulations exists or the conditions specified in regulation 13(b) of those Regulations are satisfied.”

(2) In the Control of Asbestos at Work Regulations (Northern Ireland) 1988(3)—

(a) for regulation 18(3)(a) there shall be substituted—

“(a) where the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 apply, in accordance with those Regulations;” and

(b) in Schedule 2, for paragraph 1(1)(a) there shall be substituted—

“(a) raw asbestos (together with the labelling required under the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 60) and the Carriage of Dangerous Goods

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(2) S.R. 1975 No. 256; regulation 7(7) was substituted by S.R. 1991 No. 471, regulation 25(4) and Schedule 6

(3) S.R. 1988 No. 74; the relevant amending Regulations are S.R. 1995 No. 47, regulation 17(2) and S.R. 1995 No. 60, regulation 18(2)

(Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247);”;

(3) The Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991(4) shall be amended in accordance with Schedule 5.

(4) The Pressure Systems and Transportable Gas Containers Regulations (Northern Ireland) 1991(5) shall be amended in accordance with Schedule 6.

(5) The Dangerous Substances (Notification and Marking of Sites) Regulations (Northern Ireland) 1992(6) shall be amended as follows—

(a) in regulation 2(1)—

(i) for the definition of “the 1995 Regulations” there shall be substituted—

““the 1997 Regulations” means the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247);”;

(ii) in the definition of “classification” for “regulation 5 of the 1995 Regulations” there shall be substituted “regulation 5 of the 1997 Regulations”; and

(iii) in the definition of “dangerous substance” for “falls within the definition of “dangerous goods” in regulation 2(1) of the 1995 Regulations” there shall be substituted “falls within the definition of “dangerous goods” in regulation 2(1) of the 1997 Regulations”; and

(b) in Schedule 1 for paragraph 1(d), there shall be substituted—

“(d) aerosol dispensers unless they are labelled in accordance with the 1997 Regulations, or would be so labelled if they were carried by road.”.

(6) In the Road Traffic (Carriage of Explosives) Regulations (Northern Ireland) 1993(7) in regulation 7(3) for the words “falls within the definition of “dangerous goods” in regulation 2(1) of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 47)” there shall be substituted “falls within the definition of “dangerous goods” in regulation 2(1) of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247)”.

(7) In the Packaging of Explosives for Carriage Regulations (Northern Ireland) 1993(8) in regulation 2(1) for sub-paragraph (b) of the definition of “explosives” there shall be substituted—

“(b) have not been classified under the 1991 Regulations or under regulation 5 of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247);”.

(8) In the supply Regulations in regulation 9(1), for “the Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995” there shall be substituted “the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247)”.

(9) In the Health and Safety (Safety Signs and Signals) Regulations (Northern Ireland) 1996(9), in regulation 2(1) in the definition of “dangerous goods” for “Carriage of Dangerous Goods by Road

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(4) S.R. 1991 No. 509; the relevant amending Regulations are S.R. 1995 No. 47, regulation 17(3) and Schedule 4 and S.R. 1995 No. 60, regulation 18(3)

(5) S.R. 1991 No. 471

(6) S.R. 1992 No. 71; the relevant amending Regulations are S.R. 1995 No. 47, regulation 17(4)

(7) S.R. 1993 No. 83 as amended by S.R. 1995 No. 47, regulation 17(8)

(8) S.R. 1993 No. 268 as amended by S.R. 1995 No. 47, regulation 17(10)

(9) S.R. 1996 No. 119

and Rail (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995” there shall be substituted “Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 (S.R. 1997 No. 247)”.

### **Revocations**

**23.**—(1) The Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations (Northern Ireland) 1995(**10**) are hereby revoked.

(2) Regulation 18(6) of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995(**11**) is hereby revoked.

(3) The instruments specified in Schedule 7 are hereby revoked.

### **Particulars deemed to satisfy the requirements of certain enactments**

**24.** Where a package is required to show particulars in accordance with these Regulations and shows such particulars, those particulars shall be deemed to satisfy the requirements of—

- (a) section 5 of the Petroleum (Consolidation) Act (Northern Ireland), 1929(**12**) including that section as applied to any dangerous substance by an Order in Council made under section 19 of that Act; and
- (b) regulations 6 and 7 of the Highly Flammable Liquids and Liquefied Petroleum Gases Regulations (Northern Ireland) 1975,

insofar as those requirements require the package to be marked or labelled.

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(10) S.R. 1995 No. 47 as amended by S.R. 1997 No. 247, regulation 6 and Schedule 3

(11) S.R. 1995 No. 60

(12) 1929 c. 13 (N.I.), to which there are amendments not relevant to this regulation