
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 171

HEALTH AND SAFETY

**The Transport of Explosives (Safety Advisers) Regulations
(Northern Ireland) 2000**

Made 10th May 2000

Coming into operation 30th June 2000

To be laid before Parliament

ARRANGEMENT OF REGULATIONS

1. Citation and commencement.
2. Interpretation.
3. Application.
4. Duty to appoint safety advisers.
5. Functions and duties of safety advisers.
6. Keeping of reports.
7. Vocational training certificates.
8. Mutual recognition of vocational training certificates.
9. Information to be provided to the Secretary of State or vehicle examiners.
10. Exemptions.
11. Amendment to the Carriage of Explosives by Road Regulations (Northern Ireland) 1997.

SCHEDULE 1. The disapplication of these Regulations

SCHEDULE 2. Functions of safety advisers

SCHEDULE 3. Form of vocational training certificate

SCHEDULE 4. Subjects to be covered in examination

The Secretary of State, in pursuance of Articles 17(1), (2), 5(b), 49, 54(1) and (5) and 55(2), of and paragraphs 5, 14(1) and 15 of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978(a) as applied and modified by Article 53 of that Order and after consulting in accordance with

(a) S.I. 1978/1039 (N.I. 9) was modified by the Health and Safety at Work Order (Application to Environmentally Hazardous Substances) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 525) as amended by the Health and Safety at Work Order (Application to Environmentally Hazardous Substances) (Amendment) Regulations (Northern Ireland) 2000 (S.R. 2000 NO. 86)

Article 46 of that Order as so applied and modified, the Health and Safety Executive for Northern Ireland and such other bodies as appear to him to be appropriate, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Transport of Explosives (Safety Advisers) Regulations (Northern Ireland) 2000 and shall come into operation on 30th June 2000.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Directive” means Council Directive 96/35/EC on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway^(a);

“explosives” means explosive articles or substances which—

(a) have been assigned on classification to Class 1, or

(b) are unclassified;

“explosive article” means an article containing one or more explosive substances;

“explosive substance” means—

(a) a solid or liquid substance, or

(b) a mixture of solid or liquid substances or both;

which is capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings or which is designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as a result of non-detonative self-sustaining exothermic chemical reactions;

“factory” has the meaning assigned to it by section 175 of the Factories Act (Northern Ireland) 1965^(b);

“harbour area” has the meaning assigned to it in regulation 2(1) of the Explosives in Harbour Areas Regulations (Northern Ireland) 1995^(c);

“inland waterway” includes rivers, their estuaries and adjoining harbours, canals and lakes, but does not include an inland waterway which is not connected to the inland waterways of a member state;

“member state” means a country (other than the United Kingdom) which is a member of the European Communities;

“military establishment” means an establishment intended for use for naval, military or air force purposes or the purposes of the Department of the Secretary of State having responsibility for Defence;

(a) O.J. No. L 145, 19.6.96, p. 10

(b) 1965 c. 20 (N.I.)

(c) S.R. 1995 No. 87

“mine” has the meaning assigned to it by section 156 of the Mines Act (Northern Ireland) 1969(a);

“quarry” has the meaning assigned to it by Article 2 of the Quarries (Northern Ireland) Order 1983(b);

“railway” means a system of transport employing parallel rails which provide support and guidance for vehicles carried on flanged wheels, except any such system which—

(a) is a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails and which are laid wholly or mainly along a street or in any place to which the public has access (including a place to which the public has access only on making a payment); or

(b) is operated wholly within a factory, harbour area, military establishment, mine or quarry;

“railway vehicle” means any wagon used for the transport of explosives by railway;

“road” has the meaning assigned to it in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995(c);

“road vehicle” means any conveyance used for the transport of explosives by road;

“safety adviser” means a person appointed for the purposes of these Regulations and holding a valid vocational training certificate;

“UN number” means United Nations Serial Number, that is to say, one of the four digit numbers devised by the United Nations and allocated by the Health and Safety Executive or the Secretary of State to an explosive article or explosive substance as a means of identification;

“vehicle” means a road vehicle or a railway vehicle;

“vehicle owned by the armed forces” means a vehicle which is owned by—

(a) Her Majesty’s Forces,

(b) visiting forces within the meaning of Part I of the Visiting Forces Act 1952(d); or

(c) any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(e),

and includes a vehicle which has been provided to the armed forces under any agreement or arrangement under which payments are, or are to be, made for the provision of the vehicle, including a conditional-sale agreement, a credit-sale agreement, a hire purchase agreement and a contract for sale;

(a) 1969 (c. 6) (N.I.)
(b) S.I. 1983/150 (N.I. 4)
(c) S.I. 1995/2994 (N.I. 18)
(d) 1952 c. 67
(e) 1964 c. 5

“vehicle under the control of the armed forces” means—

- (a) a vehicle on board which there is, as a member of the crew—
 - (i) a member of Her Majesty’s Forces,
 - (ii) a member of a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952, or
 - (iii) a civilian who is an employee of Her Majesty’s Forces, acting in the course of his duties; or
- (b) a vehicle in a convoy escorted by a vehicle of the type referred to in head (i) of sub-paragraph(a);

“vocational training certificate” has the meaning assigned to it by regulation 7(1).

(2) For the purposes of these Regulations—

- (a) a combination of a motor vehicle and a trailer or semi-trailer shall be deemed to be a single vehicle for as long as the constituent parts of such a combination remain attached; and
- (b) explosives contained in different constituent parts of such a vehicle shall accordingly be considered to be contained in the same vehicle,

and in this paragraph “motor vehicle” shall have the same meaning as in Article 3(1) of the Road Traffic (Northern Ireland) Order 1995.

(3) Any reference in these Regulations to the transport of explosives is a reference to—

- (a) the transport;
- (b) the related loading; or
- (c) the related unloading,

of explosives.

Application

3.—(1) These Regulations shall apply to a self-employed person as they apply to an employer.

(2) Subject to the provisions of Schedule 1, these Regulations shall apply to and in relation to the transport of explosives by road, railway and inland waterway.

Duty to appoint safety advisers

4.—(1) An employer shall not transport explosives by road, rail or inland waterway unless—

- (a) he has appointed a person as a safety adviser for the purpose of advising him as to health, safety and environmental matters in connection with the transport of those explosives by the mode or modes of transport concerned; and
- (b) that safety adviser has functions and duties, which relate to that mode of transport and those explosives.

(2) A self-employed person may appoint himself as a safety adviser under paragraph (1).

(3) Where an employer appoints more than one individual in accordance with paragraph (1), he shall make arrangements for ensuring adequate co-operation between them.

(4) The employer shall ensure that the number of individuals appointed under paragraph (1) is sufficient to ensure that their functions and duties can be carried out effectively.

(5) The employer shall ensure that the time available for any safety adviser, whom he appoints, and the means at his disposal to fulfil his functions and duties are adequate having regard to those functions and duties.

(6) The employer shall provide any safety adviser whom he appoints with adequate information and facilities for the performance of his functions and duties.

(7) Where two or more persons are together carrying on business in partnership, it shall be sufficient compliance with paragraph (1) if one of them complies with it and each partner ensures that a safety adviser has been appointed by one of them.

Functions and duties of safety advisers

5.—(1) Subject to regulation 7(10) a safety adviser shall, for the period of his appointment, have such functions as are necessary to enable him to achieve the purpose referred to in regulation 4(1), including those functions set out in Schedule 2, in connection with the transport of explosives by the employer who has appointed him.

(2) A safety adviser shall ensure the preparation of a report on any accident which affects the health or safety of any person or causes damage to the environment or to property and which occurs during the transport of explosives by the employer who has appointed him.

(3) The safety adviser shall provide a copy of the report referred to in paragraph (2) to the employer who has appointed him.

Keeping of reports

6. The employer shall keep reports required by regulation 5(2) and by paragraph (c) of Schedule 2 for a minimum of 5 years.

Vocational training certificates

7.—(1) An employer shall not appoint nor continue the appointment of a person as a safety adviser unless that person holds a valid certificate (in these Regulations referred to as a “vocational training certificate”) issued by the Secretary of State or by a person designated by the Secretary of State for the purpose of issuing vocational training certificates.

(2) A vocational training certificate may only be issued to a person in accordance with paragraph (1) where he has—

(a) completed training;

(b) passed an examination which has been approved in writing by the Secretary of State; and

(c) paid a fee of £170.00 to the Secretary of State or the person designated by the Secretary of State for the purpose of issuing vocational training certificates.

(3) Each vocational training certificate issued in accordance with paragraph (1) shall be:

(a) in the form set out in Schedule 3; and

(b) valid for a period of 5 years from the date of issue.

(4) Where, within the period of 12 months which precedes the expiry of the certificate referred to in paragraph (3)(b) or of any extension of it granted in accordance with this paragraph, the holder can show to the satisfaction of the Secretary of State that he has—

(a) passed an examination, which has been approved in writing by the Secretary of State,

(b) paid a fee of £170.00 to the Secretary of State or the person designated by the Secretary of State for the purpose of issuing vocational training certificates,

the validity of that certificate shall be extended by the Secretary of State for a period of 5 years.

(5) The training referred to in paragraph (2)(a) shall include the risks inherent in the transport of explosives, the requirements of the relevant statutory provisions in so far as they relate to the transport of explosives, the duties of a safety adviser pursuant to regulation 5(2) and (3) and the functions of a safety adviser as set out in Schedule 2.

(6) The examinations referred to in paragraphs (2)(b) and (4) shall include the subjects specified in Schedule 4.

(7) The training referred to in paragraph (2) and the examination referred to in paragraph (5) shall relate to—

(a) one or more of the following modes of transport—

(i) road,

(ii) railway,

(iii) inland waterway; and

(b) the transport of explosives.

(8) Where the training and examination are limited to one or more of the modes of transport referred to in paragraph (7)(a), that limitation shall be clearly indicated on the vocational training certificate issued in accordance with regulation 7(1).

(9) Where the vocational training certificate held by a safety adviser in accordance with paragraph (1) indicates that it has been limited, in accordance with paragraph (8), to one or more of the specified modes of transport, the functions and duties of that safety adviser shall be limited to the modes of transport so specified.

Mutual recognition of vocational training certificates

8. Any current certificate in the form set out in Schedule 3, which is held by a safety adviser and which was issued to him by a competent authority under national provisions giving effect to the Directive, shall be deemed to be a vocational training certificate issued in accordance with regulation 7 and, where that certificate indicates that it is limited to one or more modes of transport, it shall be so limited. In this regulation “competent authority” means the authority appointed or body designated, in a Member State or Great Britain, for the purposes of issuing vocational training certificates in accordance with Article 5 of the Directive.

Information to be provided to the Secretary of State or vehicle examiners

9.—(1) Any employer, who is required by these Regulations to appoint a safety adviser, shall when requested to do so by the Secretary of State or by any vehicle examiner inform him of the name of that safety adviser.

(2) Every employer shall, when requested to do so by the Secretary of State or by any vehicle examiner, provide him with a copy of any accident and annual reports which have been prepared in accordance with regulation 5(2) or paragraph (c) of Schedule 2.

(3) A safety adviser shall on request produce to any vehicle examiner the relevant certificate he holds in accordance with regulation 7.

(4) In this regulation, “vehicle examiner” means a person appointed under Article 74 of the Road Traffic (Northern Ireland) Order 1995(a).

Exemptions

10.—(1) Subject to paragraph (2), the Secretary of State may, by a certificate in writing, exempt any person or class of persons from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by the Secretary of State at any time by a further certificate in writing.

(2) The Secretary of State shall not grant any exemption under paragraph (1) unless having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which he proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

he is satisfied that neither the health and safety of persons who are likely to be affected by the exemption nor the environment will be prejudiced in consequence of it.

(3) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing, exempt any person from all or any of the requirements or prohibitions imposed by these Regulations in so far as they

(a) S.I. 1995/2994 (N.I. 18)

relate to the transport of any explosives in or on any vehicle owned by or 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.

Amendment to the Carriage of Explosives by Road Regulations (Northern Ireland) 1997

11. In paragraph 7 of Schedule 4 of the Carriage of Explosives by Road Regulations (Northern Ireland) 1997^(a), after the words “Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997” insert “as amended by the Transport of Dangerous Goods (Safety Advisers) Regulations (Northern Ireland) 2000^(b)”.

Northern Ireland Office
10th May 2000

Peter Mandelson
One of Her Majesty's
Principal Secretaries of State

(a) S.R. 1997 No. 474
(b) S.R. 2000 No. 119

Disapplication of these Regulations

1. These Regulations shall not apply to or in relation to the transport by road of explosives—

(a) in a vehicle which is being used to transfer the explosives between—

(i) private premises and another vehicle situated in the immediate vicinity of those premises, or

(ii) one part of private premises and another part of those premises situated in the immediate vicinity of that first part where both parts are occupied by the same person, notwithstanding that those parts may be separated by a road; and

(b) in a vehicle exempted from excise duty by the Secretary of State under paragraph 21 of Schedule 2 to the Vehicle Excise and Registration Act 1994(a);

(c) these Regulations shall not apply to or in relation to the transport from a container vehicle—

(i) which has been damaged as the result of an accident on a road or has broken down on a road, or

(ii) which has been damaged or derailed or has broken down on a railway, other than the siding on which it was loaded,

to the nearest suitable, safe place, and in this sub-paragraph, “container” has the meaning assigned to it in regulation 2(1) of the CDGCPL Regulations;

2. Regulation 4(1) shall not apply to or in relation to the transport in a vehicle by road or by railway of any explosives specified in paragraph 15 of Part II of Schedule 5 to the Carriage of Explosives by Road Regulations (Northern Ireland) 1997(b).

3. Regulation 4(1) shall not apply to an employer—

(a) to whom explosives are consigned and whose only involvement in the transport of those explosives is in unloading them;

(b) whose main or secondary activity is not the transport of explosives; and

(c) who occasionally engages in the transport of explosives within the United Kingdom and that transport does not create a significant risk to the health and safety of persons and to the environment.

(a) 1994 c. 22

(b) S.R. 1997 No. 474

Functions of safety advisers

(This Schedule reproduces the provisions of Annex I to the Directive.)

The functions of safety advisers shall include in particular the following—

- (a) monitoring compliance with the rules governing the transport of explosives;
- (b) advising the employer on the transport of explosives;
- (c) ensuring that an annual report to the employer is prepared on the activities of the employer concerning the transport of explosives;
- (d) monitoring the following practices and procedures relating to the activities of the employer which concern the transport of explosives—
 - (i) the procedures for compliance with the rules governing the identification of explosives being transported,
 - (ii) the practice of the employer in taking into account, when purchasing means of transport, any special requirements in connection with the explosives to be transported,
 - (iii) the procedures for checking the equipment used in connection with the transport of explosives,
 - (iv) proper training of the employer's employees and the maintenance of records of such training,
 - (v) the implementation of proper emergency procedures in the event of any accident or incident that may affect safety during the transport of explosives,
 - (vi) the investigation of and, where appropriate, preparation of reports on serious accidents, incidents or serious infringements recorded during the transport of explosives,
 - (vii) the implementation of appropriate measures to avoid the recurrence of accidents, incidents or serious infringements,
 - (viii) taking account of the legal prescriptions and special requirements for the transportation of explosives in the choice and use of sub-contractors or third parties,
 - (ix) verification that employees involved in the transport of explosives have detailed operational procedures and instructions,
 - (x) the introduction of measures to increase awareness of the risks inherent in the transport of explosives,
 - (xi) the implementation of verification procedures to ensure the presence on board the means of transport of the documents and safety equipment which must accompany transport and the compliance of such documents and equipment with health and safety regulations, and
 - (xii) the implementation of verification procedures to ensure compliance with legislation governing loading and unloading of explosives.

Form of vocational training certificate

(This Schedule reproduces Annex III to the Directive)

**EC CERTIFICATE OF TRAINING AS SAFETY ADVISER FOR THE
TRANSPORT OF EXPLOSIVES**

Certificate No:

Distinctive sign of the Member State issuing the certificate:

Surname:

Forename(s):

Date and place of birth:

Nationality:

Signature of holder:

Valid until for undertakings which transport explosives and for
undertakings which carry out related loading or unloading:

- by road
- by rail
- by inland waterway

Issued by:

Date:

Signature:

Extended until:

By:

Date:

Signature:

Subjects to be covered in examination

1. Any examination approved by the Secretary of State in accordance with regulation 7(2)(b) and 7(4) must cover at least the subjects set out in the following paragraphs of this Schedule (which reproduce the provisions set out in Annex II of the Directive).

General preventive and safety measures

2. Knowledge of the different consequences of an accident involving explosives.
3. Knowledge of the main causes of accidents.

Provisions relating to the mode of transport used

4. Provisions under national law relating to the mode of transport used, Community standards, international conventions and agreements, with regard to the following in particular—

- (a) the classification of explosives—
 - (i) the procedure for classifying explosives,
 - (ii) the structure of the description of substances,
 - (iii) the nature of explosives transported,
 - (iv) the physical, chemical and toxicological properties of the explosives transported;
- (b) general packaging requirements—
 - (i) types of packaging, codification and marking,
 - (ii) packaging requirements and prescriptions for testing packaging,
 - (iii) the state of packaging and periodic checks;
- (c) danger markings and labels—
 - (i) the markings on danger labels,
 - (ii) the placing and removal of danger labels,
 - (iii) placarding and labelling;
- (d) references in transport documents—
 - (i) information in the transport document,
 - (ii) the consignor's declaration of conformity;
- (e) the method of consignment and restrictions on dispatch—
 - (i) full load,
 - (ii) bulk transport,
 - (iii) transport in large bulk containers,
 - (iv) container transport;
- (f) the transport of passengers;
- (g) prohibitions and precautions relating to mixed loading;
- (h) the segregation of substances;
- (i) limits of the quantities transported and quantities exempt;
- (j) handling and stowage—

- (i) loading and unloading (filling ratios),
- (ii) stowage and segregation;
- (k) cleaning and/or degassing before loading and after unloading;
- (l) the vocational training of crews;
- (m) vehicle papers—
 - (i) the transport document,
 - (ii) written instructions,
 - (iii) the vehicle-approval certificate,
 - (iv) the vehicle driver's training certificate,
 - (v) the attestation of training in inland waterway transport,
 - (vi) copies of any derogations,
 - (vii) other documents;
- (n) safety instructions, implementation of the instructions and driver-protection equipment;
- (o) surveillance obligations for parking;
- (p) traffic and navigation regulations and restrictions;
- (q) operational and accidental discharges of pollutants;
- (r) requirements relating to transport equipment.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. These Regulations implement Council Directive 96/35/EC on the appointment and vocational qualification of safety advisers in so far as it relates to explosives by road, rail and inland waterway (O.J. No. L145, 19.6.96, p. 10).

2. Terms and expressions used in the Regulations are defined in regulation 2; references in the Regulations to the transport of explosives are references to the transport, the related loading or the related unloading of them. The scope of the Regulations is defined in regulation 3 and Schedule 1; the Regulations apply to a self-employed person as they apply to an employer.

3. The Regulations—

- (a) prohibit the transport of explosives by road, railway and inland waterway by an employer unless he has appointed a safety adviser (regulation 4(1));
- (b) require an employer to make arrangements for ensuring adequate co-operation between the safety advisers he appoints, impose requirements with respect to the number of advisers to be appointed and ensuring any such adviser has adequate time and means to fulfil his functions and duties, and require an employer to provide any adviser with adequate information and facilities to perform his function and duties (regulations 4(2) to (7));
- (c) require a safety adviser to have the functions necessary to advise the employer who appointed him as to health, safety environmental matters in connection with the transport of explosives, to include specified functions (including the preparation of annual reports) (regulation 5(1) and Schedule 2);
- (d) require a safety adviser to prepare a report on specified accidents (regulation 5(2));
- (e) require the keeping of reports (regulation 6);
- (f) prohibit the appointment of an individual as a safety adviser unless he holds a vocational training certificate appropriate to the modes of transport used by the employer and to the explosives transported by the employer, and impose ancillary requirements with regard to the issue, form, validity and renewal of such certificates (regulation 7 and Schedules 3 and 4);
- (g) provide for the payment of a fee for the issue of a vocational training certificate (regulation 7(2)(c));
- (h) provide for the mutual recognition of vocational training certificates issued in other Member States of the Community or in Great Britain (regulation 8);

- (i) impose requirements to provide the Secretary of State or any vehicle examiner on request with the name of any safety adviser, a copy of any accident and annual reports and any vocational training certificate (regulation 9);
- (j) provide that the Secretary of State and the Secretary of State for Defence may grant exemptions from any requirement or prohibition of the Regulations in specified circumstances (regulation 10); and
- (k) make a minor amendment to the Carriage of Explosives by Road Regulations (Northern Ireland) 1997 (S.R. 1997 No. 474) (regulations 11 to 13).

4. In Great Britain the corresponding Regulations are the Transport of Dangerous Goods (Safety Advisers) Regulations 1999 (S.I. 1999/257). The Health and Safety Executive has prepared a cost benefit assessment in relation to these Regulations. A copy of the assessment, together with a Northern Ireland Supplement prepared by the Department of Economic Development, are held at the offices of the Health and Safety Executive for Northern Ireland at 83 Ladas Drive, Belfast BT6 9FJ, from where copies may be obtained.

5. A person who contravenes the Regulations or any requirement or prohibition imposed under them is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction, to a fine not exceeding the statutory maximum (currently £5,000) or, on conviction on indictment, to a fine.

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