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STATUTORY RULES OF NORTHERN IRELAND

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**2003 No. 533**

**Packaging, Labelling and Carriage of Radioactive  
Material by Rail Regulations (Northern Ireland) 2003**

**PART VI  
MISCELLANEOUS**

**Keeping of information**

**26.**—(1) For a period of two years from the date of the commencement of the carriage in question, a consignor of radioactive material shall retain any information in his possession derived from measurements of contamination taken to ensure that he complies with the duty imposed on him by virtue of regulation 9(9).

(2) For a period of two years from the date of the commencement of the carriage in question, an operator of a wagon, a container, a tank container, a portable tank or a tank wagon which is used to carry the radioactive material shall retain any information in his possession derived from measurements of contamination taken to ensure that he complies with the duty imposed on him by virtue of regulation 12(8).

(3) For a period of two years from the date of the commencement of the carriage in question –

- (a) a consignor of radioactive material;
- (b) the infrastructure controller on whose railway is carried the radioactive material;
- (c) the operator of the train which carries the radioactive material; and
- (d) the operator of any wagon, container, tank container, portable tank or tank wagon which is used for such carriage,

shall each keep a record of the relevant information relating to the carriage and the consignment.

(4) The designer, manufacturer and consignor of –

- (a) a packaging;
- (b) a package; or
- (c) special form radioactive material,

as the case may be, shall retain all information in their possession relating to the design, manufacture, testing and maintenance of the package, packaging or special form radioactive material in question, including (without prejudice to the generality of the foregoing) specifications, calculations, test results, quality assurance programmes and manufacturing records, for so long as the package, packaging or special form radioactive material in question is in use for the carriage of radioactive material.

(5) In this regulation, “relevant information” means –

- (a) the information and data; and
- (b) the consignment notes and accompanying documents,

referred to in regulation 9(2).

### **Exemption certificates**

**27.**—(1) Subject to paragraph (2) and to any of the provisions imposed by the Community in respect of the free movement of radioactive materials by rail, the Executive may, by a certificate in writing, exempt –

- (a) any person or class of persons;
- (b) any radioactive material; or
- (c) any package, packaging, overpack, wagon, container, tank container, portable tank or tank wagon,

from all or any of the requirements or prohibitions imposed by these Regulations.

(2) The Executive shall not grant an exemption pursuant to paragraph (1) unless, having regard to the circumstances of the case, and in particular to –

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

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

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

(4) An exemption granted pursuant to paragraph (1) or paragraph (3) may be granted subject to conditions and to a limit of time.

(5) An exemption granted pursuant to –

- (a) paragraph (1) may be revoked by the Executive; and
- (b) paragraph (3) may be revoked by the Secretary of State for Defence,

at any time by a further certificate in writing.

### **Defence**

**28.**—(1) In any proceedings for an offence for a contravention of any of the provisions of these Regulations, it shall be a defence, subject to paragraphs (2) and (3), 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 (hereafter in this regulation 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 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, 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 any of the provisions of these Regulations by any person is due to the act or default of the other person, the other person shall be guilty of the offence which would, but for any defence under this regulation available to the first-mentioned person, be constituted by the act or default.

## **Maritime or air carriage**

**29.**—(1) This regulation applies to the carriage of radioactive material prior to or following maritime carriage or air carriage.

(2) Subject to paragraph (3), where any provision of regulations 6 to 19 applies to a matter to which the ICAO Technical Instructions or, as the case may be, the IMDG Code apply, the provisions of the regulation in question shall be deemed to be sufficiently complied with in relation to that matter, if –

- (a) the provisions of the ICAO Technical Instructions or, as the case may be, of the IMDG Code; and
- (b) such of the conditions specified in paragraph (4) as are relevant to the matter,

are satisfied in relation to that matter.

(3) Paragraph (2) shall not apply where the radioactive material in question is not considered to be dangerous goods in accordance with the provisions of the ICAO Technical Instructions or, as the case may be, the IMDG Code.

(4) The conditions referred to in paragraph (2) are –

- (a) if packages are not marked, placarded and labelled in accordance with RID, then they shall bear markings and danger labels in accordance with the ICAO Technical Instructions or, as the case may be, the IMDG Code;
- (b) the ICAO Technical Instructions or, as the case may be, the IMDG Code shall apply to mixed packing within a package;
- (c) containers, portable tanks, or tank containers and wagons containing a full load of packages shall be marked, placarded and labelled in accordance with Chapter 5.3 of the IMDG Code, unless they are marked, placarded and labelled in accordance with RID Chapter 5.3; and
- (d) portable tanks and tank containers which are empty and uncleaned shall be marked, placarded and labelled in accordance with Chapter 5.3 of the IMDG Code, unless they are marked, placarded and labelled in accordance with RID Chapter 5.3.

(5) In this regulation –

- (a) “the ICAO Technical Instructions” means the Technical Instructions for the Safe Transport of Dangerous Goods by Air, as revised or re-issued from time to time by the International Civil Aviation Organisation<sup>(1)</sup>; and
- (b) “the IMDG Code” means the International Maritime Dangerous Goods Code for the Carriage of Dangerous Goods, as revised or re-issued from time to time by the International Maritime Organisation<sup>(2)</sup>.

## **Amendments to the Transport of Dangerous Goods (Safety Advisers) Regulations (Northern Ireland) 2000**

**30.** For sub-paragraph (a) of paragraph 2 of Schedule 1 to the Transport of Dangerous Goods (Safety Advisers) Regulations (Northern Ireland) 2000<sup>(3)</sup>, there shall be substituted the following sub-paragraph –

“(a) excepted packages, and in this sub-paragraph –

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(1) ICAO Doc 9284-AN/905 ISBN 92-9194-010-0. Copies may be purchased from Westward Documedia, 37 Windsor Street, Cheltenham, Gloucestershire GL52 2DG

(2) Current edition; ISBN 92 801 5090 1; supplement ISBN 92 801 5093 6

(3) [S.R. 2000 No. 119](#)

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- (i) “excepted package” means a package which satisfies the provisions of paragraph 2.2.7.9 of RID; and
- (ii) “package” and “RID” have the meanings assigned to them in regulation 2(1) of the Packaging, Labelling and Carriage of Radioactive Material by Rail Regulations (Northern Ireland) 2003;”.

**Amendments to the Radiation (Emergency Preparedness and Public Information) Regulations (Northern Ireland) 2001**

**31.** The Radiation (Emergency Preparedness and Public Information) Regulations (Northern Ireland) 2001(4) shall be amended in accordance with Schedule 3.