

EXPLANATORY MEMORANDUM TO
THE CARRIAGE OF DANGEROUS GOODS (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2019

S.R. 2019 No. 111

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for the Economy (“DfE”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Regulations are made under Articles 17(1), (2), and (4) of, and paragraphs 1(1), (2) and (4), 2, 8, 12 and 13 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978 and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and are subject to the negative resolution procedure.
- 1.3. The Rule is due to come into operation on 18th June 2019.

2. Purpose

- 2.1. The Statutory Rule amends the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010 (S.R. 2010 No. 160) in order to transpose, in part, in Northern Ireland, the radiological emergency preparedness and response requirements contained in the Euratom Basic Safety Standards Directive (2013/59/Euratom) (the “Directive”) in relation to the transport of radioactive materials in the UK by road, rail and inland waterway.

3. Background

- 3.1. The Rule is made principally to transpose new requirements set out in the Directive. The Directive consolidates and updates five directives and a European Commission recommendation, including the 1996 Basic Safety Standards Directive (Council Directive 96/29/Euratom¹). The Directive incorporates subsequent publications from the International Commission on Radiological Protection, which were published in 2007², and increases harmonisation between the Euratom regime and the International Basic Safety Standards issued by the International Atomic Energy Agency (IAEA)³.
- 3.2. The Directive sets out standards in respect of radiation protection in different areas, including in relation to workers (“occupational exposures”), the public (“public exposures”) medical and dental patients (“medical exposures”), as well as for nuclear emergency preparedness and response. Much of the Directive has already been implemented into NI legislation, including by

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1502202246211&uri=CELEX:31996L0029>

² <http://www.icrp.org/publication.asp?id=ICRP%20Publication%20103>

³ http://www-pub.iaea.org/MTCD/Publications/PDF/Pub1578_web-57265295.pdf

means of the Ionising Radiations Regulations (Northern Ireland) 2017⁴ and the Ionising Radiation (Medical Exposures) Regulations (Northern Ireland) 2017⁵.

- 3.3 As this Rule only transposes new requirements contained in the Directive concerning emergency preparedness and response arrangements for the transport of radioactive materials, the Department intends to make a further set of regulations – to be known as the Radiation (Emergency Preparedness and Public Information) Regulations (Northern Ireland) 2019 (REPPIRNI) – to implement the remaining emergency preparedness and response aspects of the Directive i.e. in relation to sites that hold radioactive material. These regulations are intended to be laid in mid 2019.
- 3.4 The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010 (CDGNI) are the main regulations governing the transport of radioactive materials in Northern Ireland. The CDGNI regulates the transport of dangerous goods, but there are specific sections which deal with class 7 goods (radioactive) material. Regulation 20 of, and Schedule 2 to, the CDGNI sets out the current regulatory requirements in relation to preparing for and responding to radiological emergencies which occur during the carriage of radioactive material. This Rule substitutes a new regulation 20 of, and Schedule 2 to, the CDGNI.
- 3.5 The policy objective is to ensure that members of the public are protected from exposure to ionising radiation in line with the requirements of the Directive and that the required standard of protection is achieved efficiently.
- 3.6 The amendments include broadening the definition of ‘emergency’ to be more explicit and include risks to quality of life, property and the environment, reflecting the IAEA definition.
- 3.7 This Rule introduces the definition of an ‘emergency worker’ for the first time in NI law where the key requirement is for appropriate information and training, proportionate to their role. The Rule introduces a National Reference Level of no greater than 100mSv over a year which means emergency plans will need to prioritise keeping doses below this level. Requirements for emergency plans have been updated to include a duty to provide a handover report in the transition from an emergency exposure situation to the recovery phase and introduce the requirement for the Northern Ireland competent authority to provide prior information to the public about the nature and effect of a radiation emergency. There will be a 12-month implementation period for compliance with these new requirements.
- 3.8 This Rule will strengthen Northern Ireland’s emergency preparedness and response arrangements for transport of radiological materials. It will improve

⁴ <http://www.legislation.gov.uk/nisr/2017/229/made>

⁵ <http://www.legislation.gov.uk/nisr/2018/17/contents/made>

public protection and reduce adverse consequences in the event of an emergency. It also consolidates emergency preparedness and response requirements for the transport of radioactive materials into the CDGNI.

3.9 A Transposition Note is submitted with this Explanatory Memorandum.

4. Consultation

4.1 A consultation exercise ran in Northern Ireland from 29 March 2018 to 25 May 2018. There were approximately 450 consultees, including individuals, bodies representative of section 75 of the Northern Ireland Act 1998 and other organisations with an interest in equality and related issues (including each member of the Northern Ireland Assembly).

4.2 One response was received which contained no adverse comments in relation to the proposals. The consultation document was also downloaded 85 times.

5. Equality Impact

5.1 The Statutory Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998. No practical implications are anticipated.

6. Regulatory Impact

6.1 An Impact Assessment was not carried out in respect of the corresponding GB Statutory Instrument because of the low level of impact per business. However, a De Minimis assessment has been prepared and is available from the Department for Business, Energy and Industrial Strategy Better Regulation Unit.

6.2 There are around 12 carriers and consignors that are involved with the transport of radioactive substances in Northern Ireland.

6.3 DfE is of the opinion that the analysis and considerations set out in the GB De Minimis assessment can be applied, generally and on a proportionate basis, to Northern Ireland. The impact to Northern Ireland industry would be mainly restricted to one off familiarisation with the revised provisions and costs to individual dutyholders would be negligible. In the circumstances a full Regulatory Impact Assessment is not considered necessary.

6.4 Industry will have a 12-month transitional period to familiarise itself with the amendments and become compliant.

7. Financial Implications

7.1 Familiarisation costs will include reading and understanding the legislative changes; providing advice to others in the organisation where necessary; assessing compliance against new arrangements; and making necessary revisions to emergency arrangements. The familiarisation process will allow businesses to revise their emergency plans to include the new National

Reference Level. The duty to provide prior information is being placed on the Northern Ireland competent authority and therefore will not impact businesses at all. These regulatory changes will be in line with existing emergency arrangements guidance. It is assumed that businesses already comply with this guidance because failure to do so may result in regulatory action that could damage their ability to trade and operate. Therefore, any associated cost of complying with these regulatory changes, beyond familiarisation, will be negligible. There is no significant impact on charities or voluntary bodies.

8. Section 24 of the NI Act 1998

- 8.1 The Department has considered the matter of Convention rights and is satisfied that there are no matters of concern.

9. EU Implications

- 9.1 The Statutory Rule implements EU Directive 2013/59/EURATOM.

10. Parity or Replicatory Measure

- 10.1 In Great Britain the corresponding Regulations are the Carriage of Dangerous Goods (Amendment) Regulations 2019 (S.I. 2019 No. 598), which were made on 12th March 2019 with a coming into force date of 21st April 2019.

11. Additional Information

- 11.1 N/a.

Department for the Economy

21 May 2019