
STATUTORY INSTRUMENTS

1996 No. 2092

**The Carriage of Dangerous Goods (Classification,
Packaging and Labelling) and Use of Transportable
Pressure Receptacles Regulations 1996**

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 Health and Safety Executive 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 package or 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 Executive by a further certificate in writing.

(2) The Executive 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 enactments which apply 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 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.

Defences and enforcement

19.—(1) In any proceedings for an offence for a contravention of any of the provisions of these Regulations and, subject to paragraphs (2) and (3), it shall 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—

- (a) before the hearing to determine mode of trial, where the proceedings are in England or Wales; or
- (b) before the trial, where the proceedings are in Scotland,

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) For the purpose of enabling the other person to be charged with and convicted of the offence by virtue of section 36 of the Health and Safety at Work etc. Act 1974, a person who establishes a defence under this regulation shall nevertheless be treated for the purposes of that section as having committed the offence.

(4) The enforcing authority for these Regulations, other than the provisions specified in paragraph (5), shall—

- (a) notwithstanding regulation 3 of the Health and Safety (Enforcing Authority) Regulations 1989⁽¹⁾; and
- (b) without prejudice to the operation of those Regulations with regard to the provisions specified in paragraph (5),

be the Executive.

(5) For the purposes of paragraph (4) the specified provisions are as follows—

- (a) regulations 14 and 16;
- (b) paragraphs 3(b), 4(a) and (d), 5(a) and (c) and 10(b) of Schedule 8; and
- (c) regulations 12(3) 13 and 17, insofar as they relate to owners of transportable pressure receptacles.

Transitional defences

20.—(1) In any proceedings for an offence consisting of a contravention of these Regulations prior to 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 1995 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 January 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 January 1997 in accordance with the 1994 Regulations as in force immediately before these Regulations came into force, and

(1) [S.I. 1989/1903](#).

that the requirements specified in sub-paragraphs (a) to (c) of paragraph (1) are satisfied, in relation to those goods.

(3) In any proceedings for an offence consisting of a contravention of these Regulations prior to 1st January 1997 it shall be a defence for the accused to prove that the goods were classified, packaged and labelled in accordance with the 1994 Regulations as in force immediately before these Regulations came into force.

(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 prior to 1st July 1995.

(5) In any proceedings for an offence consisting of a contravention of regulation 6(1)(e) prior to 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 1995.

(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 prior to 1st July 1995 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 January 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 January 1997 in accordance with the 1994 Regulations as in force immediately before these Regulations came into force and that the label has not been altered since then.

Amendments and revocations

21.—(1) The Dangerous Substances in Harbour Areas Regulations 1987(2) shall be amended in accordance with Schedule 5.

(2) In the Control of Asbestos at Work Regulations 1987(3)—

(a) in regulation 18(3) for sub-paragraph (a) substitute the following sub-paragraph—

“(a) where the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996 apply, in accordance with those Regulations;” and

(b) in paragraph 1(1)(a) of Schedule 2, for the words “Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations 1994” there shall be substituted the words “the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996,”.

(3) The Dangerous Substances (Notification and Marking of Sites) Regulations 1990(4) shall be amended as follows—

(a) In regulation 2(1)—

(i) for the definition of “the 1994 Regulations” substitute the following definition—

(2) [S.I. 1987/37](#).

(3) [S.I. 1987/2115](#), to which there are amendments not relevant to these Regulations.

(4) [S.I. 1990/304](#), amended by [S.I. 1993/1746](#).

“the 1996 Regulations” means the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996”,

- (ii) in the definition of “classification” for the words “the 1994 Regulations” substitute the words “the 1996 Regulations”, and
- (iii) in the definition of “dangerous substance” for the words “the 1994 Regulations” substitute the words “the 1996 Regulations”; and

- (b) in sub-paragraph (d) of paragraph 1 of Schedule 1 for the words “the 1994 Regulations” substitute the words “the 1996 Regulations”.

(4) For sub-paragraph (b) of the definition of “explosives” in regulation 2(1) of the Packaging of Explosives for Carriage Regulations 1991(5) substitute the following sub-paragraph—

- “(b) have not been classified under the 1983 Regulations or under regulation 5 of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996;”.

(5) In regulation 9(1) of the supply Regulations for the words “the Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations 1994” substitute the words “the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996”.

(6) The Pressure Systems and Transportable Gas Containers Regulations 1989(6) shall be amended in accordance with Schedule 6.

(7) Part I of Schedule 2 to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995(7) shall be amended as follows—

- (a) in each of paragraphs 16 and 17—
 - (i) in sub-paragraph (1) delete the second occurrence of the word “a”, and for the words “dangerous substance”, wherever they occur, substitute the words “dangerous goods”, and

- (ii) delete sub-paragraph (2); and

- (b) after paragraph 17 insert the following paragraph—

“17A. In paragraphs 16 and 17 above—

- (a) “road tanker” and “tank container” have the same meanings as in regulation 2(1) of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996 (“the 1996 Regulations”);
- (b) “carriage” has the same meaning as in regulation 2(1) of the Carriage of Dangerous Goods by Road Regulations 1996; and
- (c) “dangerous goods” means any goods which fall within the definition of “dangerous goods” in regulation 2(1) of the 1996 Regulations, other than—
 - (i) explosives, or
 - (ii) radioactive material (other than that which is being carried in accordance with the conditions specified in Schedules 1 to 4 of marginal 2704 to ADR),

and in this sub-paragraph “ADR” has the meaning assigned to it by regulation 2(1) of the 1996 Regulations.”.

(5) S.I. 1991/2097.

(6) S.I. 1989/2169, amended by S.I. 1992/743.

(7) S.I. 1995/3163.

(8) In the definition of “dangerous goods” in regulation 2(1) of the Health and Safety (Safety Signs and Signals) Regulations 1996⁽⁸⁾, for the words “the Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations 1994” substitute the words “the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996”.

(9) In regulation 7 of the Highly Flammable Liquids etc. Regulations 1972⁽⁹⁾ substitute the following for paragraph (7)—

“(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 1996; 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 paragraph (b) of that regulation are satisfied.”.

(10) The instruments specified in Schedule 7 shall be revoked on 1st January 1999.

(11) The 1994 Regulations are revoked.

Requirements of other Acts etc.

22. 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 1928 including that section as applied to any dangerous goods 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 1972⁽¹⁰⁾,

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

⁽⁸⁾ S.I. 1996/341.

⁽⁹⁾ S.I. 1972/917.

⁽¹⁰⁾ S.I. 1972/917; relevant amending instrument is S.I. 1989/2169.