
STATUTORY INSTRUMENTS

1996 No. 2093

The Carriage of Explosives by Road Regulations 1996

PART V MISCELLANEOUS & GENERAL

Duration of carriage and delivery

27.—(1) The operator and the driver of a vehicle which is being used for the carriage of explosives shall ensure—

- (a) that the carriage is completed within a reasonable length of time having regard to the distance involved;
- (b) that the explosives are delivered to—
 - (i) the consignee or his agent, or
 - (ii) any other person who is authorised by the consignee to accept custody of the explosives for onward despatch, provided that they are delivered to either a safe and secure place (within the meaning of regulation 20(5)) or a designated parking area in an airport, a railway transhipment depot or siding, a harbour or a harbour area, and, that if they cannot be so delivered, they are returned to the consignor or his agent; and
- (c) that any trailer, semi-trailer or container containing explosives is not detached from the vehicle except—
 - (i) in either a safe and secure place (within the meaning of regulation 20(5)) or a designated parking area in an airport, a railway transhipment depot or siding, a harbour or a harbour area, or
 - (ii) in an emergency.

(2) The operator, driver and any attendant of a vehicle which is being used for the carriage of explosives shall ensure that any explosives intended to be delivered to a particular place are unloaded from the vehicle as soon as is reasonably practicable after it arrives at that place.

(3) In this regulation—

- (a) “harbour” and “harbour area” have the meanings assigned to them in regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations 1987(1);
- (b) “designated parking area” means—
 - (i) in relation to an airport or railway transhipment depot or siding, an area allocated by the occupier as an area for parking vehicles carrying explosives,
 - (ii) in relation to a harbour or harbour area, a parking area designated for the purposes of regulation 32 of the Dangerous Substances in Harbour Areas Regulations 1987.

(4) The operator of a vehicle used for the carriage of explosives shall not remove any explosives from the consignor's premises unless he is ready immediately to despatch them to the consignee or other person referred to in paragraph (1)(b)(ii).

Minimum age limits for persons engaged in the carriage of explosives

- 28.**—(1) Subject to paragraph (2) no person under the age of 18 years shall—
(a) use any vehicle for the carriage of explosives;
(b) be employed as the driver or attendant of such a vehicle;
(c) be made responsible for the security of the explosives;
(d) be allowed to go on or in such a vehicle except in the presence and under the supervision of a competent person who is at least 18 years of age.
- (2) Paragraph (1) shall not apply to the carriage of—
(a) any explosives specified in Part I of Schedule 1; or
(b) any explosives specified in Part II of Schedule 1, if the total quantity of such explosives does not exceed 50 kilograms.

Exemption certificates

29.—(1) Subject to paragraph (2) and to any provisions imposed by the Communities in respect of the transport of explosives by road, the Health and Safety Executive may, by a certificate in writing, exempt any—

- (a) person or class of person;
(b) any explosive or class of explosive;
(c) any vehicle or container or class thereof,

from all or any 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 at any time, by a further certificate in writing by the Health and Safety Executive.

(2) The Health and Safety 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 other requirements imposed by or under any enactment which apply to the case,

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

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

- (a) military explosive;
(b) person engaged in the carriage of military explosive;
(c) vehicle used for the carriage of military explosive,

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

30. Notwithstanding regulation 3 of the Health and Safety (Enforcing Authority) Regulations 1989(2), the enforcing authority for these Regulations shall be the Health and Safety Executive.

Defence

31.—(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) above 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(1) 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.

Transitional provision

32. Until 1st January 1997 it shall be sufficient compliance with the requirements of these Regulations if the requirements of the 1989 Regulations are complied with as if they had been in force.

Miscellaneous amendments

33.—(1) The 1983 Regulations shall be amended in accordance with Schedule 9.

(2) In regulation 5(10) of the Coal and Other Safety-Lamp Mines (Explosives) Regulations 1993(3) for the words “Road Traffic (Carriage of Explosives) Regulations 1989” there shall be substituted the words “Carriage of Explosives by Road Regulations 1996”.

Revocations

34. The 1989 Regulations are hereby revoked.

(2) S.I. 1987/37.

(3) S.I. 1989/1903.