
STATUTORY INSTRUMENTS

1996 No. 2094

HEALTH AND SAFETY

**The Carriage of Dangerous Goods by
Road (Driver Training) Regulations 1996**

<i>Made</i>	- - - -	<i>8th August 1996</i>
<i>Laid before Parliament</i>		<i>9th August 1996</i>
<i>Coming into force</i>	- -	<i>1st September 1996</i>

The Secretary of State, in exercise of the powers conferred on him by sections 15(1), (2), (3)(c), (4), (5)(b) and (6)(b), 43(2) to (6) and 82(3)(a) of, and paragraphs 3, 4(1), 6, 14 and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974⁽¹⁾, and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the said Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Carriage of Dangerous Goods by Road (Driver Training) Regulations 1996 and shall come into force on 1st September 1996.

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

“the 1983 Regulations” means the Classification and Labelling of Explosives Regulations 1983⁽²⁾;

“the 1986 Regulations” means the Road Vehicles (Construction and Use) Regulations 1986⁽³⁾;

“the 1992 Regulations” means the Road Traffic (Training of Drivers of Vehicles Carrying Dangerous Goods) Regulations 1992⁽⁴⁾;

(1) 1974 c. 37; section 1(1)(c) was modified by the Health and Safety at Work etc Act 1974 (Application to Environmentally Hazardous Substances) Regulations 1996 (S.I. 1996/2075.); section 15(1) was substituted by the [Employment Protection Act 1975](#) (“the 1975 Act”) [c.71], section 116 and paragraph 6 of Schedule 15; section 43(3) was amended by the 1975 Act, sections 116 and 125(3) and paragraph 12 of Schedule 15 and Schedule 18; section 43(6) was substituted for the original section 43(6) and (7) by the 1975 Act, section 116 and paragraph 12 of Schedule 15; section 50(3) was amended by the 1975 Act, section 116 and paragraph 16(3) of Schedule 15.

(2) S.I. 1983/1140, to which there are amendments not relevant to these Regulations.

(3) S.I. 1986/1078.

(4) S.I. 1992/744, as amended by S.I. 1992/1213 and S.I. 1993/1122.

“ADR” means the European Agreement concerning the International Carriage of Dangerous Goods by Road signed at Geneva on 30th September 1957⁽⁵⁾, as revised or re-issued from time to time;

“the ADR Directive” means Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road⁽⁶⁾;

“agricultural or forestry tractor” has the same meaning as in regulation 2(1) of the Carriage of Dangerous Goods by Road Regulations 1996;⁽⁷⁾

“agriculture” has the same meaning as in regulation 2(1) of the Carriage of Dangerous Goods by Road Regulations 1996;

“approved” means approved in writing for the purposes of these Regulations;

“Approved Carriage List” means the list described in regulation 4(1)(a) of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996⁽⁸⁾, as revised in accordance with regulation 4(2) of those Regulations;

“attendant” has the same meaning as in regulation 2(1) of the Carriage of Explosives by Road Regulations 1996⁽⁹⁾;

“break-down vehicle” has the same meaning as in regulation 3(1) of the Goods Vehicles (Plating and Testing) Regulations 1988⁽¹⁰⁾;

“carriage” means carriage by road and shall be construed in accordance with regulations 1(6) and 2(4);

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

“Compatibility Group” and “Compatibility Group letter” have the same meanings as in regulation 2(1) of the 1983 Regulations;

“the Council Directive” means Council Directive 89/684/EEC on vocational training for certain drivers carrying dangerous goods by road⁽¹¹⁾ and any reference in these Regulations to anything done under that Directive shall have effect notwithstanding any subsequent revocation of that Directive;

“dangerous goods” has the same meaning as in regulation 2(1) of the CDGCPL Regulations;

“Division” and “Division number” have the same meanings as in regulation 2(1) of the 1983 Regulations;

“explosives” means explosive articles or substances which—

- (a) have been assigned on classification in accordance with the 1983 Regulations to Class 1; or
- (b) have not been classified under the 1983 Regulations (other than any such articles or substances which have been classified as an organic peroxide or a flammable solid under regulation 5 of the CDGCPL Regulations);

“explosive article” and “explosive substance” have the same meanings as in regulation 2(1) of the Carriage of Explosives by Road Regulations 1996⁽¹²⁾;

⁽⁵⁾ Current edition (1995): ISBN 0 11 551265 9 (UK version); ISBN 92 1 139043 5 (UN version).

⁽⁶⁾ OJ No. L319, 12.12.94, p. 7.

⁽⁷⁾ S.I. 1996/2095.

⁽⁸⁾ S.I. 1996/2095.

⁽⁹⁾ S.I. 1996/2093.

⁽¹⁰⁾ S.I. 1988/1478.

⁽¹¹⁾ OJ No. L398, 30.12.89, p. 33.

⁽¹²⁾ S.I. 1996/2093.

“fire authority” has the meaning assigned to it by section 38(1) of the Fire Services Act 1947⁽¹³⁾;

“flammable gas” means dangerous goods so classified in accordance with regulation 5 of the CDGCPL Regulations;

“flash point” has the same meaning as in regulation 2(1) of the CDGCPL Regulations;

“gunpowder” means the explosive substances allocated on classification the UN number 0027 or 0028;

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

“motor vehicle” has the same meaning as in the Table contained in regulation 3(2) of the 1986 Regulations;

“nominally empty” in relation to a vehicle or receptacle, means that it is not in fact empty but that as much of the dangerous goods which the vehicle or receptacle contained as it was reasonably practicable to discharge therefrom has been so discharged;

“operator” has the same meaning as in regulation 2(1) of the Carriage of Dangerous Goods by Road Regulations 1996;

“package” has, in relation to dangerous goods other than radioactive material, the same meaning as in regulation 2(1) of the CDGCPL Regulations;

“package” has, in relation to radioactive material, the same meaning as in regulation 2(1) of the Radioactive Material (Road Transport) (Great Britain) Regulations 1996⁽¹⁴⁾;

“packagings” has the meaning assigned to it in regulation 2(1) of the CDGCPL Regulations;

“permissible maximum weight” has, in relation to a road tanker or other vehicle, the same meaning as it does in section 108(1) of the Road Traffic Act 1988⁽¹⁵⁾ in relation to a goods vehicle, as defined by section 192(1) of that Act;

“petroleum fuel” includes petrol, kerosene, diesel and liquefied petroleum gas;

“petroleum licensing authority” has the same meaning as in regulation 20(2)(c) of the Carriage of Dangerous Goods by Road Regulations 1996;

“radioactive material” has the same meaning as in section 1(1) of the Radioactive Material (Road Transport) Act 1991⁽¹⁶⁾;

“road” has the same meaning as in regulation 2(1) of the CDGCPL Regulations;

“road tanker” has the same meaning as in regulation 2(1) of the CPL Regulations;

“semi-trailer” has the same meaning as in the Table contained in regulation 3(2) of the 1986 Regulations;

“smokeless powder” means the explosive substance allocated on classification the UN number 0160 or 0161;

“tank” has the same meaning as in regulation 2(1) of the CDGCPL Regulations;

“tank container” has the same meaning as in regulation 2(1) of the CDGCPL Regulations;

“trailer” has the same meaning as in the Table contained in regulation 3(2) of the 1986 Regulations;

“Transport Index” has the same meaning as in regulation 2(1) of the Radioactive Material (Road Transport) (Great Britain) Regulations 1996;

⁽¹³⁾ 1952 c. 67.

⁽¹⁴⁾ S.I. 1947 10 & 11 Geo 6 c.41.

⁽¹⁵⁾ S.I. 1996/1350.

⁽¹⁶⁾ S.I. 1988 c. 52.

“UN number” has the meaning assigned to it in regulation 2(1) of the CDGCPL Regulations and any reference to the letters “UN” followed by a number, in relation to certain dangerous goods, means the particular UN number for those goods specified in the Approved Carriage List;

“vehicle” has the same meaning as in regulation 2(1) of the Carriage of Dangerous Goods by Road Regulations 1996;

“vocational training certificate” has the meaning assigned to it by regulation 4(1); and

“volumetric prover” means a tank or prover pipe with a capacity not exceeding 10 cubic metres intended to be used for the calibration of metering equipment or the measurement of petroleum fuel deliveries and which is structurally attached to, or is an integral part of, the frame of a vehicle.

(3) Where a vehicle which is engaged in the carriage of dangerous goods is—

- (a) being driven by a person undergoing training under the supervision of an instructor; or
- (b) being towed or otherwise moved by a break-down or recovery vehicle and the driver of the break-down or recovery vehicle is accompanied by the driver of the vehicle which is being towed or otherwise moved,

the instructor or (as the case may be) the driver of the vehicle which is being towed or otherwise moved shall be regarded as the driver of the vehicle concerned for the purposes of these Regulations.

(4) Any requirement imposed by regulations 3 to 6 on or in respect of the driver of a vehicle which is engaged in the carriage of explosives shall be taken to include a like requirement imposed on, or as the case may be, in respect of, any attendant.

(5) 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) dangerous goods contained in different constituent parts of such a vehicle shall accordingly be considered to be contained in the same vehicle.

(6) Without prejudice to the generality of regulation 2(4), a trailer or semi-trailer containing dangerous goods shall not be considered to be engaged in the carriage of dangerous goods for the purposes of these Regulations unless it forms part of a combination deemed to be a single vehicle in accordance with paragraph (5).

(7) For the purposes of these Regulations any reference to a motor vehicle which is registered outside the United Kingdom is a reference to a motor vehicle which is not registered in the United Kingdom but is registered in another country in accordance with that country’s rules governing the registration of such vehicle.

(8) Any reference in these Regulations to the carriage of dangerous goods in bulk shall be a reference to the carriage of solid dangerous goods without packaging.

(9) Any reference in these Regulations to the driver of a vehicle does not include a reference to a person whose work does not involve his driving the vehicle concerned on a road.

(10) Any reference in these Regulations to the net mass of any explosive shall be construed as a reference to the net mass of explosive substance.

(11) In these Regulations—

- (a) any reference to a vehicle under the control of the armed forces is a reference to—
 - (i) a vehicle on board which there is, as a member of its crew, a member of the armed forces acting in the course of his duties, or
 - (ii) a vehicle in a convoy escorted by a vehicle of the type referred to in sub-paragraph (i), where “a member of the armed forces” means—

- (iii) a member of Her Majesty's Forces,
 - (iv) a member of a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(17), or
 - (v) a civilian who is an employee of Her Majesty's Forces; and
 - (b) any reference to a vehicle owned by the armed forces is a reference to a vehicle owned by—
 - (i) Her Majesty's Forces,
 - (ii) visiting forces within the meaning of Part I of the Visiting Forces Act 1952, or
 - (iii) any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(18),and includes a vehicle which has been provided to the armed forces under any kind of 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.
- (12) Any reference in these Regulations to—
- (a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered;
 - (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

Application

- 2.—(1) These Regulations shall apply to the carriage of—
- (a) the dangerous goods specified in paragraph (2)—
 - (i) in—
 - (aa) a road tanker with a capacity greater than 1000 litres, or
 - (bb) a tank container with a capacity greater than 3000 litres,except where specified in Schedule 1 or paragraphs 1 or 2 of Part I of Schedule 2, and
 - (ii) (subject to paragraph (3)) in or on a vehicle having a permissible maximum weight exceeding 3.5 tonnes—
 - (aa) in bulk,
 - (bb) in a road tanker with a capacity of 1000 litres or less,
 - (cc) in a tank container with a capacity of 3000 litres or less,
 - (dd) where any of the goods are in transport category 0,
 - (ee) where the goods carried are in packages, none of the goods are in transport category 0 and the total mass or volume of packaged dangerous goods is greater than 20,
 - (ff) where the goods carried are in packages, none of the goods are in transport category 0 or 1 and the total mass or volume of packaged dangerous goods is greater than 200, or

(17) S.I. 1991 c. 27.

(18) 1964 c. 5.

(gg) where the goods carried are in packages, none of the goods are in transport category 0, 1 or 2 and the total mass or volume of packaged dangerous goods is greater than 500,

except where specified in Schedule 1 or Part I of Schedule 2;

(b) explosives in or on a vehicle not also being used to carry passengers for hire or reward, except where specified in Schedule 1 or Part II of Schedule 2; and

(c) radioactive material (other than that which is being carried in accordance with the conditions specified in Schedules 1 to 4 of marginal 2704 of ADR)—

(i) in a road tanker with a capacity greater than 1000 litres,

(ii) in a tank container with a capacity greater than 3000 litres, or

(iii) in or on any other vehicle,

except where specified in Schedule 1,

and, unless the context otherwise requires, any reference in these Regulations to the carriage of dangerous goods shall be construed as a reference to any carriage to which these Regulations apply by virtue of this paragraph.

(2) The dangerous goods referred to in paragraph (1)(a) are dangerous goods other than—

(a) explosives;

(b) those dangerous goods in category 4;

(c) radioactive material (other than that which is being carried in accordance with the conditions specified in Schedules 1 to 4 of marginal 2704 of ADR).

(3) The permissible maximum weight of the vehicle concerned shall not be taken into account in ascertaining whether or not regulation 3 applies to any carriage by virtue of sub-paragraph (a) (ii) of paragraph (1).

(4) A vehicle shall be deemed to be engaged in the carriage of dangerous goods from the commencement of loading it with the dangerous goods concerned for the purpose of carrying those goods by road until the said vehicle and, where appropriate, any compartment thereof has been unloaded and, where necessary, cleaned or purged so that any of the goods or their vapours which remain in or on the vehicle are not sufficient to create a significant risk to the health or safety of any person, regardless of whether or not the vehicle is on a road at the material time.

(5) These Regulations shall not apply to or in relation to the carriage of any of the following dangerous goods—

UN 2900	INFECTIOUS SUBSTANCE, AFFECTING ANIMALS* only
UN 3077	ENVIRONMENTALLY HAZARDOUS SUBSTANCE, SOLID, N.O.S*
UN 3082	ENVIRONMENTALLY HAZARDOUS SUBSTANCE, LIQUID, N.O.S*
UN 3245	GENETICALLY MODIFIED MICRO-ORGANISMS,

where those goods are being carried in—

(a) an agricultural or forestry tractor;

(b) mobile machinery;

- (c) a vehicle with less than 4 wheels;
 - (d) a vehicle with a maximum design speed of 25km/h or less; or
 - (e) a vehicle owned by the armed forces or a vehicle under the control of the armed forces.
- (6) In this regulation—
- (a) “transport category” shall have the meaning assigned to it by regulation 2(1) of the Carriage of Dangerous Goods by Road Regulations 1996;
 - (b) “total mass volume of packaged dangerous goods” shall have the meaning assigned to it by regulation 2(4)(a) and shall be construed in accordance with regulation 2(4)(a) and (5) of those Regulations.

Instruction and training for drivers

3.—(1) The operator of any motor vehicle (other than a motor vehicle registered outside the United Kingdom) which is engaged in the carriage of dangerous goods shall ensure that the driver of the vehicle has received—

- (a) adequate instruction and training to enable him to understand—
 - (i) the nature of the dangers to which the particular dangerous goods being carried may give rise and the action to be taken in an emergency concerning them, and
 - (ii) his duties under the Health and Safety at Work etc. Act 1974;
- (b) (in respect of any carriage to which these Regulations apply by virtue of regulation 2(1)(a)) adequate instruction and training to enable him to understand his duties under the Carriage of Dangerous Goods by Road Regulations 1996;
- (c) (in respect of any carriage to which these Regulations apply by virtue of regulation 2(1)(b)) adequate instruction and training to enable him to understand his duties under the Carriage of Explosives by Road Regulations 1996; and
- (d) (in respect of any carriage to which these Regulations apply by virtue of regulation 2(1)(c)) adequate instruction and training to enable him to understand his duties under the Radioactive Material (Road Transport) (Great Britain) Regulations 1996.

(2) Each operator shall keep a record of any training provided by him in accordance with paragraph (1) to the driver of a vehicle, where that driver is employed by him, and shall make available a copy of that record to the driver concerned.

Vocational training certificates

4.—(1) Subject to paragraphs (2) and (9) and regulation 5, the operator of any vehicle which is engaged in the carriage of dangerous goods shall ensure that the driver of that vehicle holds a valid certificate applicable to that carriage (to be known as a “vocational training certificate”) issued by the Secretary of State.

- (2) Without prejudice to the generality of paragraph (1), in the case of any carriage referred to—
- (a) in regulation 2(1)(a)(i), 2(1)(c)(i) or 2(1)(c)(ii), the vocational training certificate shall be appropriate to the carriage of dangerous goods in road tankers or tank containers; and
 - (b) in regulation 2(1)(a)(ii), 2(1)(b) or 2(1)(c)(iii), the vocational training certificate shall be appropriate to the carriage of dangerous goods in packages, and in this sub-paragraph “packages” shall be construed in accordance with “package” as defined in regulation 2(1) of the CDGCPL Regulations.

(3) A driver may only be issued with a vocational training certificate in accordance with paragraph (1) where—

- (a) he has successfully completed such training in the carriage of the dangerous goods concerned as the Secretary of State has from time to time approved; and
 - (b) he has passed an examination (the syllabus of which shall cover the training referred to in sub-paragraph (a) of this paragraph) which has been approved by the Secretary of State.
- (4) Each vocational training certificate issued in accordance with paragraph (1) shall be in a form approved by the Secretary of State.
- (5) The training referred to in paragraph (3)(a) shall be given in the form of a theoretical course accompanied by practical exercises and shall cover at least the subjects specified in Schedule 3.
- (6) Each vocational training certificate issued in accordance with paragraph (1) shall be valid for a period of 5 years from the date of issue, but its validity may be extended for periods of up to 5 years by the Secretary of State where, within the period of 12 months which precede the expiry of the original certificate or 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) successfully completed a refresher course in the carriage of the dangerous goods concerned which has been approved by the Secretary of State; and
 - (b) passed the examination referred to in paragraph (3)(b).
- (7) Schedule 4 shall have effect with respect to fees for applications for such approvals under this regulation as are specified in paragraph 1 of that Schedule.
- (8) Any current certificate in the form set out in Appendix B.6 to ADR (regardless of whether or not that certificate has been extended in the manner described by Article 5.2 of the Council Directive or marginal 10315(3) of ADR) which is held by a driver and which was issued to him under national provisions giving effect to Article 1 of the Council Directive or the ADR Directive, in a member state or in Northern Ireland shall be deemed to be a vocational training certificate issued in conformity with the foregoing provisions of this regulation valid for the carriage of those dangerous goods to which it is applicable.
- (9) Notwithstanding paragraph (1), the driver shall not be required to hold a vocational training certificate solely by virtue of the fact that the dangerous goods being carried are radioactive material where—
- (a) the said material is of a type specified in Schedule 9 of marginal 2704 of ADR and is contained in packages;
 - (b) the total number of such packages on the vehicle is not more than 10, and the sum of the Transport Indexes for the packages is not more than 3; and
 - (c) the driver holds a certificate provided by his employer (or, in the case of self-employment, by himself) confirming that he has received the instruction and training specified in regulation 3(1)(a) and (d).

Existing training certificates

5.—(1) It shall be sufficient compliance with regulation 4(1) if the driver of the relevant vehicle holds a training certificate applicable to the dangerous goods being carried which was issued to him by the appropriate national authority before the coming into force of the 1992 Regulations existing at that time as respects the carriage concerned, on the basis of national provisions which the Commission of the European Communities has confirmed satisfy the corresponding requirements of the Council Directive; provided that such compliance shall cease—

- (a) on 1st July 1997, insofar as the certificate concerned relates to the carriage of explosives or carriage in tanks with a capacity greater than 3000 litres;
- (b) on 1st January 2000, insofar as the certificate concerned relates to carriage other than that specified in subparagraph (a) above; or

(c) at the end of the period of validity of the certificate concerned, where that date is earlier than the relevant date specified in sub-paragraph (a) or (b) above.

(2) Any vocational training certificate issued in accordance with regulation 5(1) of the 1992 Regulations shall be deemed to be a vocational training certificate issued in accordance with regulation 4(1) of these Regulations and shall remain valid until the date of expiry stated therein, subject to any extension of the validity of the certificate in accordance with regulation 5(5) of the 1992 Regulations or regulation 4(6) of these Regulations.

Certificates to be available during carriage

6. The driver of any vehicle which is engaged in the carriage of dangerous goods shall ensure that the relevant certificate he holds in accordance with regulation 4 or 5 is so kept by him that it is immediately available during the whole of the carriage.

Certificates to be produced to police constables, etc.

7.—(1) The driver of any vehicle which is engaged in the carriage of dangerous goods shall on request produce to any police constable or goods vehicle examiner the relevant certificate he holds in accordance with regulation 4 or 5.

(2) The driver of any vehicle which is engaged in the carriage of any radioactive material shall on request produce to any inspector appointed in accordance with section 1(3)(a) of the Radioactive Material (Road Transport) Act 1991⁽¹⁹⁾ the relevant certificate he holds in accordance with regulation 4 or 5.

(3) In this regulation, “goods vehicle examiner” has the meaning assigned to it by section 66(2) of the Road Traffic Act 1988⁽²⁰⁾.

Enforcement

8. Notwithstanding the Health and Safety (Enforcing Authority) Regulations 1989⁽²¹⁾ the enforcing authority for these Regulations shall—

- (a) insofar as they apply to the carriage of explosives, be the Health and Safety Executive; and
- (b) insofar as they apply to the carriage of petrol (and that carriage is also carriage which is subject to the provisions of Schedule 12 to the Carriage of Dangerous Goods by Road Regulations 1996), be the relevant petroleum licensing authority ascertained in accordance with regulation 20(2)(c) of the said Regulations.

Exemption certificates

9.—(1) Subject to paragraph (2) and to any 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 any person or class of person 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 at any time by the Health and Safety Executive by a further certificate in writing.

(2) The Health and Safety Executive shall not grant any exemption in accordance with paragraph (1) 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

⁽¹⁹⁾ 1991 c. 27.

⁽²⁰⁾ 1988 c. 52; section 66A was inserted by section 9(1) of the Road Traffic Act 1991 (c. 40) and amended by paragraph 11 of Schedule 7 to the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23).

⁽²¹⁾ S.I. 1989/1903.

(b) any other requirements imposed by or under any enactments which apply to the case, it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not 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 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.

Defence

10.—(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) unless, within a period ending seven clear days—

- (a) before the hearing to determine the 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.

Transitional defence

11.—(1) In any proceedings for an offence consisting of a contravention of regulation 3 or 4(1) of these Regulations prior to 1st January 1997 in relation to the carriage of dangerous goods other than radioactive material it shall be a defence for the accused to prove that, as regards the carriage concerned, he has complied with the relevant requirements (if any) of regulation 4 or 5(1), respectively, of the 1992 Regulations, as in force immediately before these Regulations came into force.

(2) Without prejudice to the availability of the defence in paragraph (1), in any proceedings for an offence—

- (a) consisting of a contravention of regulations 3 or 4(1) of these Regulations prior to 1st July 1997; and
- (b) in relation to the carriage of radioactive material,

it shall be a defence for the accused to prove that, as regards the carriage concerned, he has complied with the relevant requirements (if any) of regulation 4 or 5(1), respectively, of the 1992 Regulations, as in force immediately before these Regulations came into force.

Amendments to the Health and Safety (Fees) Regulations 1995

- 12.** In the Health and Safety (Fees) Regulations 1995(22)—
- (a) for the heading to regulation 13, substitute the following—

*“Vocational training certificates under the Carriage of
Dangerous Goods by Road (Driver Training) Regulations 1996”;*

- (b) in regulation 13(1), for the words “paragraph (1) of regulation 5 of the Road Traffic (Training of Drivers of Vehicles Carrying Dangerous Goods) Regulations 1992” substitute the words “paragraph (1) of regulation 4 of the Carriage of Dangerous Goods by Road (Driver Training) Regulations 1996”;
- (c) in regulation 13(2), for the words “paragraph (5) of regulation 5 of the Road Traffic (Training of Drivers of Vehicles Carrying Dangerous Goods) Regulations 1992” substitute the words “paragraph (6) of regulation 4 of the Carriage of Dangerous Goods by Road (Driver Training) Regulations 1996”; and
- (d) for the heading of Schedule 11 substitute the following—

“VOCATIONAL TRAINING CERTIFICATES UNDER THE CARRIAGE OF
DANGEROUS GOODS BY ROAD (DRIVER TRAINING) REGULATIONS 1996.”

Revocations

- 13.** The 1992 Regulations are revoked.

Signed by Authority of the Secretary of State for Transport.

Department of Transport.
8th August 1996

John Bowis
Parliamentary Under Secretary of State,

SCHEDULE 1

Regulation 2(1)

**CASES WHERE THE CARRIAGE OF DANGEROUS GOODS IS
NOT CARRIAGE TO WHICH THESE REGULATIONS APPLY**

These Regulations shall not apply to any such carriage as is specified in regulation 2(1) where—

- (a) the motor vehicle concerned is registered outside the United Kingdom and the carriage is confined to Great Britain but nevertheless conforms to the provisions of ADR as if it were part of an international transport operation;
- (b) the vehicle concerned is not being used for, or in connection with, work;
- (c) the goods concerned are intended for use solely in connection with the operation of the vehicle, road tanker or tank container in which the goods are being carried or the operation of any on-board equipment intended to ensure the safety of the load, vehicle, road tanker or tank container;
- (d) the vehicle concerned is being towed or otherwise moved by a break-down or recovery vehicle, and—
 - (i) both vehicles are being escorted by a vehicle used for the purposes of the police or a fire-brigade maintained by a fire authority, and
 - (ii) the vehicle being towed or otherwise moved as aforesaid is being driven to the nearest suitable safe place with a view to it (or any tank container or other vessel which it is carrying) being repaired, cleaned, purged or decontaminated;
- (e) the vehicle concerned is being driven by a fitter, vehicle tester or any other similar person, for the purpose of testing the vehicle, and that person has received adequate instruction and training to enable him to understand the nature of the dangers to which the dangerous goods being carried may give rise and the action to be taken in an emergency concerning them;
- (f) the vehicle concerned is being driven by—
 - (i) a police constable, as a result of an emergency, or
 - (ii) a member of a fire brigade maintained by a fire authority, as a result of an emergency, and that constable or member of a fire brigade, as the case may be, has received adequate instruction and training to enable him to understand the nature of the dangers to which the dangerous goods being carried may give rise and the action which it is appropriate to take to reduce the risks arising out of the emergency;
- (g) the goods concerned are being carried—
 - (i) between private premises and another vehicle situated in the immediate vicinity of those premises, or
 - (ii) between 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;
- (h) the vehicle concerned is a road construction vehicle engaged in the repair or construction of a road; and in this sub-paragraph—
 - (i) “road construction vehicle” means a vehicle constructed or adapted for the carriage of built-in road construction machinery and not constructed or adapted for the carriage of any other load except articles and material used for the purposes of that machinery,
 - (ii) “built-in road construction machinery” means road construction machinery built-in as part of a road construction vehicle or permanently attached to it, and

- (iii) “road construction machinery” means a machine or contrivance suitable for use in the repair and construction of roads;
- (i) the vehicle concerned is engaged in carriage which is part of an international transport operation within the meaning of article 1(c) of ADR and that carriage—
 - (i) complies with the provisions of Annex A or Annex B or both to that Agreement, or
 - (ii) is in a vehicle under the control of the armed forces or a vehicle owned by the armed forces, where they are the armed forces of a country which is a contracting party to ADR;
- (j) the carriage of the dangerous goods concerned is subject to a bilateral or multilateral special agreement made under the terms of Article 4.3 of ADR to which the United Kingdom is a contracting party and conforms to any conditions attached to such an agreement.

SCHEDULE 2

Regulation 2(1)(a) and (b)

PART I

CASES WHERE THE CARRIAGE OF DANGEROUS GOODS (OTHER THAN EXPLOSIVES AND RADIOACTIVE MATERIAL) IS NOT CARRIAGE TO WHICH THESE REGULATIONS APPLY BY VIRTUE OF REGULATION 2(1)(a)

1. Subject to paragraph 4, these regulations shall not apply to any such carriage as is specified in regulation 2(1)(a) where that carriage is in or on an agricultural or forestry tractor or any trailer being drawn thereby and the dangerous goods are—

- (a) listed in column 1 of the Approved Carriage List under the proper shipping name “DIESEL FUEL or GAS OIL or HEATING OIL, LIGHT”;
- (b) of a total volume not more than 5000 litres; and
- (c) being carried from one piece of land occupied for the purpose of agriculture to another piece of land occupied for the purpose of agriculture within a radius of 50 km.

2. These Regulations shall not apply to any such carriage as is specified in regulation 2(1)(a) where—

- (a) either a flammable liquid with a flash point of not less than 32°C is being carried in a volumetric prover or a flammable liquid with a flash point of less than 32°C is being carried in a volumetric prover which has been purged with nitrogen, and that volumetric prover—
 - (i) is not moved, driven or kept on a road, other than when it is nominally empty, and
 - (ii) has every opening and every valve closed during carriage, other than those valves which need to be kept open to allow for liquid expansion on volumetric provers used for the measurement of liquefied petroleum gas; or
- (b) subject to paragraph 4, that carriage is in or on an agricultural or forestry tractor or any trailer being drawn thereby, the dangerous goods are being carried from one piece of land occupied for the purpose of agriculture to another piece of land occupied for the purpose of agriculture within a radius of 50 km and those goods are—
 - (i) a pesticide or a plant protection product (other than sulphuric acid, whether or not dilute, or a wood preservative),
 - (ii) diluted ready for use or otherwise in a condition ready for use, and

- (iii) goods in relation to which there has been given an approval under regulation 5 of, and a consent under regulation 6 of, the Control of Pesticides Regulations 1986⁽²³⁾ (or, as the case may be, an approval under regulation 5 of the Plant Protection Products Regulations 1995⁽²⁴⁾),

and in this sub-paragraph “pesticide” has the same meaning as in section 16(15) of the Food and Environment Protection Act 1985⁽²⁵⁾, “plant protection product” has the same meaning as in regulation 2(1) of the Plant Protection Products Regulations 1995 and “wood preservative” means a pesticide used for preserving wood.

3. These Regulations shall not apply to any such carriage as is specified in regulation 2(1)(a)(ii) where—

- (a) subject to paragraph 4, that carriage is in or on an agricultural or forestry tractor or any trailer being drawn thereby, the dangerous goods are being carried from one piece of land occupied for the purpose of agriculture to another piece of land occupied for the purpose of agriculture within a radius of 12 km and those goods are—
- (i) in packages and are diluted or otherwise ready for use and with a net mass of not more than 1 tonne, or
- (ii) (aa) listed in column 1 of the Approved Carriage List under the proper shipping name “AMMONIUM NITRATE FERTILIZER, NOS” or “AMMONIUM NITRATE FERTILIZERS”, and
- (bb) being carried other than in a tank and with a net mass of not more than 10 tonnes; or
- (b) the dangerous goods being carried are specified in sub-paragraph (k) of regulation 3(1) of the CDGCPL Regulations.

4. Paragraphs 1, 2(b) and 3(a) shall only apply if the driver of the vehicle concerned has received instruction and training of the type specified in regulation 3(1)(a)(i).

PART II

CASES WHERE THE CARRIAGE OF EXPLOSIVES IS NOT CARRIAGE TO WHICH THESE REGULATIONS APPLY BY VIRTUE OF REGULATION 2(1)(b)

These Regulations shall not apply to any such carriage as is specified in regulation 2(1)(b), where the explosives carried are—

- (a) any explosives specified in Part I of Schedule 1 to the Carriage of Explosives by Road Regulations 1996;
- (b) gunpowder or smokeless powder (or a mixture of them), where the net mass of such explosives is not more than 5 kilograms;
- (c) any explosives specified in Part II of Schedule 1 to the Carriage of Explosives by Road Regulations 1996, where the net mass of such explosives is not more than 50 kilograms (except that where explosives carried in accordance with this sub-paragraph are being carried in conjunction with explosives carried in accordance with sub-paragraph (b) of this Part, the net mass of explosives so carried shall not exceed 50 kilograms); or
- (d) (for the purposes of regulation 4(1) only)—

⁽²³⁾ S.I. 1986/1510.

⁽²⁴⁾ S.I. 1995/887.

⁽²⁵⁾ 1985 c. 48.

- (i) any explosives within a Division whose Division number is 1.4 and a Compatibility Group whose Compatibility Group letter is S,
- (ii) any explosives within a Division whose Division number is 1.4 and a Compatibility Group whose Compatibility Group letter is B, C, D, E, F or G, where the net mass of such explosives is not more than 500 kilograms,
- (iii) of any explosives (consisting of explosive articles only) within—
 - (aa) a Division whose Division number is 1.1 and a Compatibility Group whose Compatibility Group letter is B, C, D, E, F, G, J or L,
 - (bb) a Division whose Division number is 1.2 and a Compatibility Group whose Compatibility Group letter is B, C, D, E, F, G, H, J or L, or
 - (cc) a Division whose Division number is 1.3 and a Compatibility Group whose Compatibility Group letter is C, G, H, J or L,where the net mass of such articles is not more than 50 kilograms,
- (iv) any explosives (consisting of explosive substances only) within—
 - (aa) a Division whose Division number is 1.1 and a Compatibility Group whose Compatibility Group letter is C, D, G or L,
 - (bb) a Division whose Division number is 1.2 and a Compatibility Group whose Compatibility Group letter is L, or
 - (cc) a Division whose Division number is 1.5 and a Compatibility Group whose Compatibility Group letter is D and of the type allocated on classification in accordance with the 1983 Regulations the UN number 0482,where the net mass of such substances is not more than 5 kilograms,
- (v) any explosives (consisting of explosive substances only) within a Division whose Division number is 1.3 and a Compatibility Group whose Compatibility Group letter is C, G or L, where the net mass of such substances is not more than 20 kilograms, or
- (vi) any explosives (consisting of explosive substances only) within a Division whose Division number is 1.5 and a Compatibility Group whose Compatibility Group letter is D and of the type allocated on classification in accordance with the 1983 Regulations the UN number 0331 or 0332, where the net mass of such substances is not more than 50 kilograms.

SCHEDULE 3

Regulation 4(5)

MINIMUM TRAINING REQUIREMENTS FOR ISSUE OF VOCATIONAL TRAINING CERTIFICATES

1. Any training approved by the Secretary of State in accordance with regulation 4(3)(a) must cover at least the following subjects—

- (a) general requirements concerning the carriage of dangerous goods;
- (b) main types of hazard;
- (c) information on environmental protection in the control of the transfer of wastes;
- (d) preventive and safety measures appropriate to the various types of hazard;
- (e) what to do after an accident (first aid, road safety, basic knowledge about the use of protective equipment, etc.);
- (f) labelling and marking to indicate danger;

- (g) what a vehicle driver should and should not do during the carriage of dangerous goods;
 - (h) the purpose and method of operation of technical equipment on vehicles used for the carriage of dangerous goods;
 - (i) prohibitions on mixed loading in the same vehicle or container;
 - (j) precautions to be taken during loading and unloading of dangerous goods;
 - (k) general information concerning civil liability; and
 - (l) information on multi-modal transport operations.
2. For drivers of vehicles carrying dangerous goods in packages, the training required to be approved must also cover handling and stowage of packages.
3. For drivers of road tankers or vehicles carrying dangerous goods in tank containers, the training required to be approved must also cover the behaviour of such vehicles on roads, including the movement of the loads they are carrying.

SCHEDULE 4

Regulation 4(7)

FEES FOR APPLICATIONS FOR APPROVALS

1. On the making of an application to the Secretary of State—
- (a) for the approval of training under regulation 4(3)(a); or
 - (b) for the approval of a refresher course under regulation 4(6)(a),
- there shall be payable by the applicant to the Secretary of State in connection with the determination by him of that application a fee or fees to be determined in accordance with the following paragraphs of this Schedule.
2. On receipt of the application, the Secretary of State shall prepare and send to the applicant an estimate of the cost of the work necessary for the determination of the application; and the amount so estimated shall, subject to paragraph 4, be the amount of the initial fee payable and shall be paid forthwith.
3. On determination of the application, the Secretary of State shall prepare a detailed statement of the work carried out in relation to the determination of the application and of the cost reasonably incurred by him or any person acting on his behalf in carrying out that work.
4. If the cost so stated differs from the amount estimated in accordance with paragraph 2—
- (a) if it is greater, the amount of the difference shall be notified by the Secretary of State to the applicant, shall be the amount of the final fee payable and shall be paid forthwith; and
 - (b) if it is less, the initial fee shall be re-determined accordingly and the amount of the difference shall be paid forthwith to the applicant by the Secretary of State.
5. In estimating or stating the cost of carrying out any work, the Secretary of State may take into account the cost to him or any person acting on his behalf of employing an officer for any period to perform the work concerned and shall determine that cost by reference to the average cost of employing an officer of the relevant grade for that period.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations impose duties on the operator and driver of a vehicle carrying dangerous goods with respect to the provision of instruction and training to the driver of the vehicle concerned. They re-enact, with modifications, the Road Traffic (Training of Drivers of Vehicles Carrying Dangerous Goods) Regulations 1992 (S.I.1992/744) (“the 1992 Regulations”) as amended. These Regulations also implement Council Directive 94/55/EC (O.J. No. L319, 12.12.94, p.7) on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road, insofar as the Directive concerns the instruction and training of drivers. This Directive seeks to apply the European Agreement concerning the International Carriage of Dangerous Goods by Road signed at Geneva on 30th September 1957, as amended (“ADR”) (Current edition: (1995): ISBN 92 1 139043 5.

2. Regulation 2 and Schedules 1 and 2 specify the carriage of dangerous goods to which these Regulations apply. These Regulations bring into scope the carriage of certain environmentally hazardous substances, radioactive material and flammable liquids to which the 1992 Regulations did not apply. In addition, the limited quantity provisions in the 1992 Regulations have been made consistent with the Carriage of Dangerous Goods by Road Regulations 1996, Carriage of Explosives by Road Regulations 1996 and the Packaging, Labelling and Carriage of Radioactive Material by Rail Regulations 1996. Regulation 2 (together with regulation 1(6)) also specifies when a vehicle is considered to be engaged in the carriage of dangerous goods for the purposes of the Regulations.

3. Regulation 3 imposes duties on the operator of a vehicle carrying dangerous goods with respect to the provision of adequate instruction and training to the driver of the vehicle concerned.

4. Regulation 4 imposes a duty on the operator of a vehicle carrying dangerous goods with respect to the possession by the driver of that vehicle of a training certificate (known as a “vocational training certificate”) issued pursuant to paragraph (1) thereof. This regulation provides that the vocational training certificate shall be appropriate according to the type of dangerous goods carried and the mode of carriage. In addition this regulation (together with Schedules 3 and 4) imposes ancillary requirements with regard to the issue, renewal and validity of any such certificate.

5. Regulation 5 provides that in certain circumstances a training certificate issued under existing national legislation will be regarded as a vocational training certificate issued pursuant to regulation 4(1). It further provides that any vocational training certificate issued in accordance with the 1992 Regulations will be deemed to be a vocational training certificate issued in accordance with regulation 4 of these Regulations.

6. Regulation 6 imposes a duty on the driver of a vehicle carrying dangerous goods with respect to the keeping of any certificate he holds in pursuance of these Regulations.

7. Regulation 7 imposes a duty on the driver of a vehicle carrying dangerous goods with respect to the production, to the officials named in that provision, of any certificate he holds in pursuance of these Regulations.

8. Regulation 8 provides that the Health and Safety Executive is to be the enforcing authority for the Regulations insofar as they apply to the carriage of explosives and that the petroleum licensing authority for the premises in question is to be the enforcing authority for the Regulations insofar as they apply to the delivery of petrol at the petroleum filling stations and other premises for which the petroleum-spirit licence under the Petroleum (Consolidation) Act 1928 (c. 28) is in force.

9. Regulation 11 provides transitional defences in relation to contraventions of certain provisions of these Regulations prior to 1st January 1997 with regard to the carriage of dangerous goods to which the Regulations apply, and prior to 1st July 1997 with regard to the carriage of radioactive material.

10. The Approved Carriage List and the current edition of ADR may be obtained from Her Majesty's Stationery Office.

11. A copy of the cost benefit assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Safety Policy Directorate, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy has been placed in the Library of each House of Parliament.