
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 131

**Carriage of Dangerous Goods by Rail
Regulation (Northern Ireland) 1998**

Part I

Interpretation and Application

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Carriage of Dangerous Goods by Rail Regulations (Northern Ireland) 1998 and shall come into operation on 1st June 1998.

(2) In these Regulations—

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978;

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

“Approved Carriage List” means the list referred to in regulation 3(1)(a) as revised in accordance with regulation 3(2);

“approved documents” means the documents published by the Health and Safety Commission and approved by the Department in accordance with regulation 3(1) as revised in accordance with regulation 3(2);

“Approved Methods” means the document entitled “Approved Requirements and Test Methods for the Classification and Packaging of Dangerous Goods for Carriage” published by the Health and Safety Commission and approved by the Department under regulation 4(1)(b) of the CDGCPL Regulations as revised in accordance with regulation 4(2) of those Regulations;

“approved person” means a person approved by the competent authority for the purpose of carrying out functions in connection with the examination, testing and certification of tanks, as specified by the competent authority in the approval;

“Approved Tank Requirements” means the document referred to and described in regulation 3(1)(b) as revised in accordance with regulation 3(2);

“the CDGCPL Regulations” means the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997(1);

“carriage” means carriage by rail and shall be construed in accordance with regulation 2(8);

“Carriage Information” means the information referred to and described in regulation 11(1) and (2);

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

“classification code” in relation to dangerous goods means the code referred to in regulation 4(1)(a)(i)(cc) of the CDGCPL Regulations and any reference to “classification

code” or “class” followed by a number means the particular classification code for those goods specified in the Approved Carriage List;

“competent authority” means a person or organisation in any country which is for the time being a competent authority for the purposes of—

- (a) the examination, testing and certification of tanks; and
 - (b) the approval of persons to carry out such examinations, tests and certifications,
- and for Northern Ireland the competent authority means the Secretary of State;

“computer” means a computer system including its software;

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

“consignor’s declaration” means the declaration referred to and described in regulation 11(2)(b)(v);

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

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

“COTIF” means the Convention concerning International Carriage by Rail as revised or re-issued from time to time⁽²⁾;

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

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

“the Department” means the Department of Economic Development;

“designation” means the designation for dangerous goods ascertained in accordance with regulation 5(4)(a) of the CDGCPL Regulations;

“emergency action code” means the code, ascertained in accordance with the Approved Carriage List, required to be displayed on tank containers and tank wagons which are being used for the carriage of certain dangerous goods;

“explosives” means explosive articles or explosive substances which—

- (a) have been assigned on classification to Class 1 in accordance with the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991⁽³⁾; or
- (b) are unclassified;

“explosive article” means an article containing one or more explosive substances;

“explosive substance” means—

- (a) a solid or liquid substance; or
- (b) a mixture of solid or liquid substances or both,

which is capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings or which is designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as a result of non-detonative self-sustaining exothermic chemical reactions;

“facility owner” means any person—

- (a) who has an estate or interest in, or right over, a railway facility; and
- (b) whose permission to use that railway facility is needed by another before that other may use it,

(2) Cmnd. 5897

(3) S.R. 1991 No. 516

and any reference to a facility owner’s railway facility is a reference to the railway facility by reference to which he is a facility owner;

“factory” has the meaning assigned to it by section 175 of the Factories Act (Northern Ireland) 1965(4);

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

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

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

“food” means food within the meaning of Article 2(2) of the Food Safety (Northern Ireland) Order 1991(5);

“fragile package” means a package containing a fragile receptacle which—

- (a) is made of glass, porcelain, stoneware or similar materials; and
- (b) is not enclosed in a packaging with complete sides protecting it effectively against shock;

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

“harbour area” has the meaning assigned to it in regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991(6);

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

“hazard warning panel” means the panel referred to and described in paragraph 7 of Schedule 5;

“the Health and Safety Commission” means the Health and Safety Commission established under section 10 of the Health and Safety at Work etc. Act 1974(7);

“IMDG Code” means the International Maritime Dangerous Goods Code, as revised or re-issued from time to time by the International Maritime Organisation(8);

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

“infrastructure controller” means a person who controls railway infrastructure;

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

“large container” means a container having an internal volume of more than 3 cubic metres;

“light maintenance depot” means any land or other property which is normally used for or in connection with the provision of light maintenance services, whether or not it is also used for other purposes;

“light maintenance services” means services of any of the following descriptions, that is to say—

- (a) the refuelling, or the cleaning of the exterior, of locomotives or other rolling stock;
- (b) the carrying out to locomotives or other rolling stock of maintenance work of a kind which is normally carried out at regular intervals of twelve months or less to prepare the locomotives or other rolling stock for service;

(4) 1965 c. 20 (N.I.)

(5) S.I. 1991/762 (N.I. 7)

(6) S.R. 1991 No. 509

(7) 1974 c. 37

(8) Volumes I to IV ISBN 92 801 1314 3; Supplement ISBN 92 801 1316 X

“locomotive” means any railway vehicle which has the capacity for self-propulsion (whether or not the power by which it operates is derived from a source external to the vehicle);

“military establishment” means an establishment intended for use for naval, military or airforce purposes or the purposes of the department of the Secretary of State having responsibility for Defence;

“mine” means a mine within the meaning of the Mines Act (Northern Ireland) 1969⁽⁹⁾;

“multi-load” means a load consisting of two or more types of dangerous goods carried other than in packages in—

(a) separate containers or tanks of tank wagons; or

(b) separate compartments of a container or tank of a tank wagon,

whether or not carried in conjunction with goods which are not dangerous goods;

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

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

“orange-coloured” means that colour which has the same colour and luminance properties as that of an orange-coloured panel;

“orange-coloured panel” means a non-reflectorised orange-coloured panel having the same colour and luminance properties as those specified in relation to orange-coloured plates in marginal 1800(1) of Appendix VIII of the Annex to Council Directive 96/49/EC⁽¹⁰⁾ on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail;

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

“organic peroxide, type b or c” means dangerous goods whose designation includes the phrase “ORGANIC PEROXIDE TYPE B” or the phrase “ORGANIC PEROXIDE TYPE C”, when classified in accordance with regulation 5 of the CDGCPL Regulations;

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

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

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

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

“packing group” has the meaning assigned to it in regulation 2(1) of the CDGCPL Regulations and any reference to the phrase “packing group” followed by “I”, “II”, or “III”, in relation to certain dangerous goods, means the particular packing group for those goods ascertained in accordance with regulation 5 of those Regulations;

“piggyback transport” means the carriage of a road vehicle on a wagon;

“quarry” means a quarry within the meaning of the Quarries (Northern Ireland) Order 1983⁽¹¹⁾;

“radioactive material” has the meaning assigned to it in Article 3 of the Radioactive Material (Road Transport) (Northern Ireland) Order 1992⁽¹²⁾;

⁽⁹⁾ 1969 c. 6 (N.I.)

⁽¹⁰⁾ O.J. No. L235, 17.9.96, p. 25

⁽¹¹⁾ S.I. 1983/150 (N.I. 4)

⁽¹²⁾ S.I. 1992/234 (N.I. 2)

“rail vehicle” means any conveyance which is used for the carriage of dangerous goods on a railway;

“railway” means a system of transport employing parallel rails which provide support and guidance for vehicles carried on flanged wheels, except any such system which—

- (a) is a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails and which are laid wholly or mainly along a street or in any place to which the public has access (including a place to which the public has access only on making a payment); or
- (b) is operated wholly within a factory, harbour area, military establishment, mine or quarry;

“railway facility” means any track, station or light maintenance depot;

“railway infrastructure” means fixed assets used for the operation of a railway including its permanent way and plant used for signalling or exclusively for supplying electricity for operational purposes to the railway, but it does not include a station;

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

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

“risk group” means one of the risk groups referred to in the Approved Methods to which infectious substances are assigned and any reference to a risk group followed by a number means the specific risk group to which an infectious substance has been assigned in accordance with the said Approved Methods;

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

“road vehicle” means any conveyance which is used for the carriage of dangerous goods on a road;

“rolling stock” means any carriage, wagon or other vehicle used on track and includes a locomotive;

“self-reactive substance” means dangerous goods whose designation includes the phrase “SELF-REACTIVE” when classified in accordance with regulation 5 of the CDGCPL Regulations;

“small container” means a container having an internal volume of not more than 3 cubic metres;

“spontaneously combustible substance” means dangerous goods so classified in accordance with regulation 5 of the CDGCPL Regulations;

“station” means any land or other property which consists of premises used as, or for the purposes of, or otherwise in connection with, a railway passenger station or railway passenger terminal (including any approaches, forecourt, cycle store or car park), whether or not the land or other property is, or the premises are, also used for other purposes;

“storage tank” means a tank used or intended to be used solely for the storage of dangerous goods;

“street” means the whole or any part of the following, irrespective of whether it is a thoroughfare—

- (a) any road, highway, lane, footway, alley or passage,
- (b) any square or court, and
- (c) any land laid out as a way whether or not it is for the time being formed as a way or not, together with any land on the verge of a street or between two carriageways, and where a street passes over a bridge or through a tunnel, references to a street shall include that bridge or tunnel;

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

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

“surveillance inspection” means an inspection of such premises, equipment and documents and the making of such enquiries as the person carrying out the inspection thinks appropriate for the purpose of verifying compliance by an approved person with regulation 9(12);

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

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

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

“temperature controlled substance” means dangerous goods whose designation includes the phrase “TEMPERATURE CONTROLLED”, when classified in accordance with regulation 5 of the CDGCPL Regulations;

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

“toxic goods” means dangerous goods which, in accordance with regulation 5 of the CDGCPL Regulations, are either classified as “TOXIC SUBSTANCE” or have the subsidiary hazard “TOXIC”;

“track” means any land or other property comprising the permanent way of any railway, taken together with the ballast, sleepers and metals laid thereon, whether or not the land or other property is also used for other purposes, and any reference to track includes a reference to—

- (a) any level crossings, bridges, viaducts, tunnels, culverts, retaining walls or other structures used for the support of, or otherwise in connection with, track; and
- (b) any walls, fences or other structures bounding the railway or bounding any adjacent or adjoining property;

“train” means—

- (a) two or more items of rolling stock coupled together, at least one of which is a locomotive; or
- (b) a locomotive not coupled to any other rolling stock;

“train operator” in relation to any train, means any person who has the management of that train for the time being;

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

“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;

“wagon” means a railway vehicle, other than a tank wagon, used for the carriage of goods.

(3) For the purposes of these Regulations—

- (a) the operator of a container, tank container, tank wagon or wagon shall be either—
 - (i) the person who, having a place of business in Northern Ireland, owns the container, tank container, tank wagon or wagon concerned,
 - (ii) if a person does not satisfy the requirements of head (i), the person who, having a place of business in Northern Ireland, acts as agent for the owner of the said container, tank container, tank wagon or wagon, or

- (iii) if a person does not satisfy the requirements of either head (i) or head (ii), the operator of the train on which the container or tank container is carried or of which the tank wagon or wagon forms part;
 - (b) the members of the crew of a train shall include the driver, guard and any other person on board who has responsibilities in connection with the carriage of dangerous goods on that train;
 - (c) “carriage in bulk” means the carriage of solid dangerous goods without packagings; and
 - (d) any reference to dangerous goods being carried in a wagon or large container under sole use shall be a reference to the carriage of a load of dangerous goods which originate from one consignor in respect of which—
 - (i) the use of the wagon or large container concerned is exclusively reserved; and
 - (ii) all operations for the loading and unloading are carried out in conformity with the instructions of the consignor or the consignee.
- (4) For the purposes of paragraph (3)(a), a person to whom a container, tank container, tank wagon or wagon is leased or hired shall be deemed to be the owner thereof unless the lessor or, as the case may be, the hirer has made a written agreement with the person to whom he has leased or hired the container, tank container, tank wagon or wagon to the effect that the lessor or hirer shall assume the responsibilities of the owner imposed by or under these Regulations.
- (5) In these Regulations—
- (a) “a train owned by the armed forces” means a train which is owned by—
 - (i) Her Majesty’s Forces,
 - (ii) visiting forces within the meaning of Part I of the Visiting Forces Act 1952(13), or
 - (iii) any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(14);
 - (b) “a train under the control of the armed forces” means a train on board which there is, as a member of its crew—
 - (i) a member of Her Majesty’s Forces,
 - (ii) a member of a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952, or
 - (iii) a civilian who is an employee of Her Majesty’s Forces, acting in the course of his duties.

Application

2.—(1) Subject to paragraphs (2) to (4), these Regulations shall apply to and in relation to the carriage of any dangerous goods in a container, package, tank container, tank wagon, or wagon, except where—

- (a) the goods (other than any liquid nitrogen in the jacket of the tank of a tank container or tank wagon which is being carried exclusively for the purpose of insulating any liquid helium or liquid hydrogen) are being carried in a locomotive, container, tank container, tank wagon or wagon solely for use in connection with the operation of the locomotive, container, tank container, tank wagon or wagon concerned;
- (b) the goods are being carried in a road vehicle and are intended for use solely in connection with the operation of that vehicle;

(13) 1952 c. 67

(14) 1964 c. 5

- (c) the goods are commercial butane, commercial propane, or any mixture thereof, and are being carried in a cylinder either—
- (i) in a rail vehicle designed for a purpose which includes the use of such goods and the goods concerned are being carried in connection with the operation of that vehicle, or
 - (ii) as part of the equipment carried on that vehicle,
- provided that the number of cylinders carried thus (including any spare cylinders) does not exceed two;
- (d) the goods are—
- 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,
- being carried on a train owned by the armed forces or on a train under the control of the armed forces;
- (e) the goods are petroleum spirit, intended for use as fuel in any internal combustion engine and not wholly or partly for the purposes of sale, and are being carried in a receptacle which conforms with the requirements of—
- (i) the Petroleum-spirit (Motor Vehicles, &c.) Regulations (Northern Ireland) 1930(15), or
 - (ii) regulations 3 to 6 of the Petroleum-Spirit (Plastic Containers) Regulations (Northern Ireland) 1983(16);
- (f) the goods are a pesticide or a plant protection product, (other than sulphuric acid or a wood preservative), diluted ready for use or otherwise in a condition ready for use and in relation to which there has been given an approval under regulation 5, and a consent under regulation 6, of the Control of Pesticides Regulations (Northern Ireland) 1987(17) or an approval under regulation 5 of the Plant Protection Products Regulations (Northern Ireland) 1995(18); and in this sub-paragraph “pesticide” has the meaning assigned to it in section 16(15) of the Food and Environment Protection Act 1985(19), “plant protection product” has the meaning assigned to it in regulation 2(1) of the Plant Protection Products Regulations (Northern Ireland) 1995 and “wood preservative” means a pesticide for preserving wood;
- (g) the goods are radioactive material;
- (h) the goods are being carried solely for use in connection with the provision of train catering facilities;
- (i) the carriage commences and terminates within the same factory, harbour area, military establishment, mine or quarry;
- (j) the goods are substances to which the Explosives Acts (Northern Ireland) 1875 to 1970(20) or the Explosives (Northern Ireland) Order 1972(21) applies.
- (2) Regulations 3 to 14 and 16 to 19 shall not apply to the carriage of dangerous goods where—

(15) S.R. & O. (N.I.) 1930 No. 11 (p. 330)

(16) S.R. 1983 No. 43

(17) S.R. 1987 No. 414 as amended by S.R. 1997 No. 469

(18) S.R. 1995 No. 371 as amended by S.R. 1996 No. 456 and S.R. 1997 No. 471

(19) 1985 c. 48

(20) 1875 c. 17; 1924 c. 5 (N.I.); 1970 c. 10 (N.I.)

(21) S.I. 1972/730 (N.I. 3)

- (a) the carriage forms part of an international transport operation which is subject to any bilateral or multilateral special agreement made under the terms of Article 4.3 of ADR to which the United Kingdom is a signatory and conforms with any conditions attached to that agreement;
 - (b) the carriage forms part of an international transport operation within the meaning of COTIF and conforms in every respect with the provisions of RID; or
 - (c) the carriage forms part of an international transport operation which is subject to any bilateral or multilateral special agreement made under the terms of COTIF to which the United Kingdom is a signatory and conforms with any conditions attached to that agreement.
- (3) Regulation 4(a) to (c) and regulation 9 and paragraph 1 of Schedule 1 shall not apply to or in relation to the carriage of a storage tank which is nominally empty, provided—
- (a) in the case where the tank is subject to the Pressure Systems and Transportable Gas Containers Regulations (Northern Ireland) 1991⁽²²⁾, it has been examined by a competent person and there is in existence a valid report of that examination in accordance with those Regulations;
 - (b) as much of the pipe-work which was connected to the tank as it was reasonably practicable to remove from it has been so removed;
 - (c) a suitable pressure relief valve, which shall remain operational during the carriage, is fitted to the tank; and
 - (d) subject to sub-paragraph (c), all openings in the tank and in any pipe-work attached thereto have been sealed to prevent the escape of any dangerous goods, insofar as it is reasonably practicable to do so.
- (4) Regulations 5 to 10, 16 and 19 shall not apply to or in relation to the carriage of dangerous goods in a road vehicle where, prior to being carried by rail, that road vehicle carried those goods by road in accordance with the Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997⁽²³⁾.
- (5) Regulation 7(2) and (3) shall not apply to or in relation to the carriage of tanks constructed before 1st January 1999.
- (6) Regulations 11 to 14 shall not apply to or in relation to the carriage of dangerous goods from a container, tank container, tank wagon or wagon which has been damaged as the result of an accident on a railway or has broken down on a railway, (other than on the siding on which it was loaded), to the nearest suitable, safe place with a view to that container, tank container, tank wagon or wagon or any other receptacle which is carrying those goods being repaired, cleaned or purged prior to the safe removal of those goods provided—
- (a) all reasonable steps have been taken to prevent any leakage of those goods; and
 - (b) the prior consent is obtained of the train operator and each infrastructure controller on whose railway the goods are to be carried.
- (7) Schedule 1 shall only apply to or in relation to the carriage of the tanks of tank containers and tank wagons manufactured before 1st January 1999.
- (8) For the purposes of these Regulations, a container, package, tank container, tank wagon or wagon shall be deemed to be engaged in the carriage of dangerous goods throughout the period commencing—
- (a) in the case where the relevant container, package, tank container, tank wagon or wagon has been loaded with the dangerous goods concerned before being brought onto the railway,

⁽²²⁾ S.R. 1991 No. 471, as amended by S.R. 1997 No. 247

⁽²³⁾ S.R. 1997 No. 248

from the time when the container, package, tank container, tank wagon or wagon is brought onto the railway for the purpose of carrying those goods; or

- (b) in the case where the relevant container, package, tank container, tank wagon or wagon has been brought onto the railway before the commencement of loading, from the commencement of loading the container, package, tank container, tank wagon or wagon with the dangerous goods concerned for the purpose of carrying them,

until the time when either—

- (c) the container, package, tank container, tank wagon or wagon is removed from the railway; or
- (d) the container, package, tank container, tank wagon or wagon and, where appropriate, any compartment of the same has been unloaded and, where necessary, cleaned, purged or decontaminated so that any of the goods or their vapours which remain therein are not sufficient to create a significant risk to the health and safety of any person.