
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 131

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

Part VIII

Miscellaneous and General

Exemption certificates

25.—(1) Subject to paragraph (2), and to any provisions imposed by the Communities in respect of the transport of dangerous goods by rail, the Department may, by a certificate in writing, exempt—

- (a) any person or class of persons;
- (b) any dangerous goods or class of dangerous goods; or
- (c) any container, package, tank container, tank wagon or wagon,

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 Department by a further certificate in writing.

(2) The Department shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to—

- (a) any conditions which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any statutory provisions 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 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 and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by the said Secretary of State at any time by a further certificate in writing.

Defence

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

(2) The person charged shall not be entitled to rely upon the defence referred to in paragraph (1) without leave of the court unless, within a period ending seven clear days before the hearing, 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) Where a contravention of any of the provisions of these Regulations by any person is due to the act or default of the other person, that other person shall be guilty of the offence which would, but for any defence under these Regulations available to the first mentioned person, be constituted by the act or default.

International provisions

27.—(1) Where, in relation to the carriage of any dangerous goods, any provision of regulations 3 to 14 or 16 to 19 applies to a matter to which any specified international provision applies, it shall be sufficient compliance, in relation to that matter, with the provision of the particular regulation if the specified international provision is satisfied in respect of that matter.

(2) For the purposes of paragraph (1), the specified international provision means any provision of—

- (a) ADR;
- (b) the IMDG Code; or
- (c) the Technical Instructions for the Safe Transport of Dangerous Goods by Air, as revised or re-issued from time to time by the International Civil Aviation Organisation⁽¹⁾.

(1) Current edition and supplement (1995-1996): Doc 9284-AN/905