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STATUTORY RULES OF NORTHERN IRELAND

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**1998 No. 132**

**Packaging, Labelling and Carriage of Radioactive  
Material by Rail Regulations (Northern Ireland) 1998**

**Part IX**

**Miscellaneous**

**Evaluation of radiation emissions**

**40.** For the purpose of ensuring that the carriage of radioactive material does not cause any injury to health or any damage to the environment, the Secretary of State shall arrange for periodic assessments to be carried out to evaluate the radiation emissions arising from such carriage.

**Exemption certificates**

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

- (a) any person or class of persons;
- (b) any radioactive material; or
- (c) any package, overpack, freight container, 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 by the Department by a certificate in writing at any time.

(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 neither the health or safety of persons who are likely to be affected by the exemption will 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 radioactive material 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**

**42.**—(1) Subject to paragraphs (2) and (3), in any proceedings for an offence consisting of a contravention of any of the provisions of these Regulations 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 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**

**43.**—(1) Where, in relation to the carriage of any radioactive material, any provision of regulations 3 to 29, 34 to 38 and 40 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<sup>(1)</sup>.

## **Transitional defence**

**44.** In any proceedings for an offence consisting of a contravention of any of the provisions of these Regulations prior to 1st October 1998, it shall be a defence for the accused to prove that the radioactive material was carried or, in the case of an alleged contravention of regulation 35, intended to be carried before 1st October 1998, in a package, freight container, tank container, tank wagon or wagon in accordance with the Carriage of Dangerous Goods by Rail Regulations (Northern Ireland) 1998<sup>(2)</sup>.

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

(2) S.R. 1998 No. 131