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STATUTORY RULES OF NORTHERN IRELAND

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**2006 No. 173**

**The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2006**

**PART VI**

**MISCELLANEOUS**

**Fees**

- 50.**—(1) On the making of an application to the Northern Ireland competent authority—
- (a) for the appointment or the amendment of an appointment as an appointed person in accordance with regulation 29(2);
  - (b) for the recognition of a standard in accordance with regulation 30(3);
  - (c) for the appointment or the amendment of an appointment as a notified body or an approved body under regulation 44(2);
  - (d) for the appointment or the amendment of an appointment as an inspection body under paragraph 3(1)(a) of Schedule 1;
  - (e) for the approval or amendment of an approval as a person under paragraph 3(2) of Schedule 2; or
  - (f) for the appointment or the amendment of an appointment as an inspection body under paragraph 4(1)(b) of Schedule 2,

there shall be payable by the applicant in connection with the performance by or on behalf of the Northern Ireland competent authority in respect of its functions in relation to that application the relevant fee referred to in paragraph (3).

- (2) The Northern Ireland competent authority may charge a fee for—
  - (a) determining the suitability of a body to carry out Northern Ireland competent authority functions; and
  - (b) the monitoring of such a body.
- (3) The fees referred to in paragraph (1) are—
  - (a) in respect of sub-paragraph (a), (c), (e) or (f)—
    - (i) a fee of £305 for processing the application; and
    - (ii) such fee as is reasonable in light of the actual work performed in respect of the determination of the suitability of the applicant for appointment or the amendment of an existing appointment; and
  - (b) in respect of sub-paragraphs (b) or (d) such fee as is reasonable in light of the actual work performed.

(4) A fee which shall be reasonable in light of the actual work performed shall be payable by the relevant notified body, approved body or appointed person in respect of any inspection undertaken by or on behalf of the Northern Ireland competent authority in accordance with regulation 44(5).

(5) Subject to paragraph (6), where an application has been made to—

- (a) a notified body, an approved body, an inspection body or an approved person in accordance with these Regulations; or
- (b) an appointed person in compliance with the provisions of ADR or of RID referred to in regulations 21 and 22,

the notified body, the approved body, the inspection body, the approved person or the appointed person may charge such fees in connection with, or incidental to, carrying out its duties in relation to the procedures and tasks referred to in regulation 44(3)(c), paragraph 8(3)(c) of Schedule 1 or paragraph 9(3)(c) of Schedule 2 as it may determine.

(6) The fees referred to in paragraph (5) shall not exceed—

- (a) the costs incurred or to be incurred by the notified body, approved body, inspection body, approved person or appointed person in performing the relevant function; and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
  - (i) the character and extent of the work done or to be done by that body or person on behalf of the applicant; and
  - (ii) the commercial rate normally charged on account of profit for that work or similar work.

(7) The power in paragraph (4) includes the power to require payment of fees or a reasonable estimate thereof in advance of carrying out the work requested by the applicant.

(8) Subject to paragraph (10), the fee for the provision of inspection facilities, including the carrying out of an inspection, and the administrative work carried out upon receipt of an application for an ADR certificate in respect of a vehicle shall be £82.

(9) Subject to paragraph (10), where a vehicle fails to pass an inspection carried out in respect of an application for an ADR certificate, an application for a further inspection shall be treated for the purpose of these Regulations as a separate application for an ADR certificate.

(10) Where a vehicle fails to pass an inspection and within 21 days thereafter arrangements are made for a further inspection to be carried out within that period, paragraph (9) shall not apply but a further fee of £42 shall be payable in respect of such arrangements.

(11) The fees paid in pursuance of paragraph (10) or (13) shall be repaid—

- (a) if no appointment for an examination of the vehicle is made or the appointment made is subsequently cancelled by the Northern Ireland competent authority;
- (b) if the person for whom the appointment is made gives to the Northern Ireland competent authority notice cancelling the appointment of not less than one clear day before the date of the appointment;
- (c) if the person for whom the appointment is made keeps the appointment but the examination does not take place, or is not completed, for a reason not specified in Schedule 10; or
- (d) if the person for whom the appointment is made satisfies the Northern Ireland competent authority that the vehicle cannot, or, as the case may be, could not, reasonably be presented for examination on the date of the appointment due to exceptional circumstances occurring not more than seven days before the said date and of which notice is given within three days of the occurrence thereof to the Northern Ireland competent authority at the vehicle testing centre where the examination is or, as the case may be, was to be held.

(12) The fee for the issue of a copy of an ADR certificate which has been lost or destroyed shall be £12.

(13) An application made to the Northern Ireland competent authority for an ADR certificate shall be accompanied by the appropriate fee determined in accordance with paragraph (8).

(14) The fee payable under paragraph (10) in respect of arrangements for a further inspection of a vehicle shall be paid on or before the date arranged for such further inspection.

(15) Where applications are made for inspections to be carried out in respect of ADR certificates for a vehicle and trailer at the same time or consecutively, separate applications, each accompanied by the appropriate fee, shall be submitted.

(16) Subject to paragraph (17), an application for an ADR certificate shall be accompanied by an application for a test made under regulation 10 of the Goods Vehicle (Testing) Regulations (Northern Ireland) 2003<sup>(1)</sup> (a “goods vehicle test”).

(17) An application for an ADR certificate need not be accompanied by an application for a goods vehicle test where—

- (a) a motor vehicle having a maximum gross weight exceeding 3,500 kilograms which has not yet reached the end of the month in which falls the first anniversary of the date on which it was registered;
- (b) a trailer which has not yet reached the end of the month in which falls the first anniversary of the date on which it was first sold or supplied by retail; or
- (c) it has a current goods vehicle test certificate.

(18) In this regulation—

- (a) “ADR certificate” means a certificate of approval issued for a vehicle following inspection of the vehicle in pursuance of section 9.1.3.1 of Annex B to ADR, and references to an inspection of a vehicle or the issue of a certificate or a copy thereof are references to such an inspection, or issue of a certificate or copy, by the Northern Ireland competent authority;
- (b) “exceptional circumstances” means an accident, a fire, industrial action, a failure in the supply of essential services or other unexpected happening (excluding a breakdown or mechanical defect in a vehicle or non-delivery of spare parts therefor); and
- (c) save in paragraphs (10) and (11)(d) (insofar as it relates to seven days), no period of time shall include any day which is a Saturday, Sunday or public holiday and “public holiday” shall not include Good Friday and shall include Easter Tuesday.

### **Transitional defence**

**51.** In any proceedings for an offence consisting of a contravention of regulation 18 in relation to the packing of goods in metal—

- (a) IBCs; or
- (b) drums,

exceeding 50 litres in capacity, it shall be a defence for the person charged to prove that the IBCs or drums in question were manufactured less than fifteen years prior to the date of consignment and prior to 1st July 1995.

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(1) [S.R. 2003 No. 304](#) to which there are amendments not relevant to these Regulations

## **Defence and enforcement**

**52.**—(1) In any proceedings for an offence for 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 that—

- (a) the commission of the offence was due to the act or default of another person, not being one of his employees (“the other person”); and
- (b) he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) The person charged shall not be entitled, without leave of the court, to rely on the defence referred to in paragraph (1) unless, at least seven clear days before the hearing to determine the mode of trial, 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, then that other person shall be guilty of the offence, which would, but for the defence in paragraph (1), be constituted by the act or default.

(4) Notwithstanding anything to the contrary in regulation 4 of the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999<sup>(2)</sup> and subject to regulation 5 of those Regulations, the enforcing authority for these Regulations shall be the Executive.

## **Amendments to the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002**

**53.** The Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002<sup>(3)</sup> shall be amended in accordance with Schedule 11.

## **Amendments to the Health and Safety (Fees) Regulations (Northern Ireland) 2005**

**54.** The Health and Safety (Fees) Regulations (Northern Ireland) 2005<sup>(4)</sup> shall be amended in accordance with Schedule 12.

## **Consequential amendments**

**55.** The statutory provisions referred to in Schedule 13 shall be amended as set out in that Schedule.

## **Revocations and savings**

**56.**—(1) Schedule 14 shall have effect.

(2) For the purposes of the interpretation of the Approved Tank Requirements<sup>(5)</sup>, expressions defined in the Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997<sup>(6)</sup> or the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997<sup>(7)</sup> shall have the meaning assigned to them in those Regulations as if those Regulations were still in operation.

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(2) S.R. 1999 No. 90

(3) S.R. 2002 No. 301

(4) S.R. 2005 No. 523

(5) ISBN 0-7176-1226-0

(6) S.R. 1997 No. 248 as amended by S.R. 2002 No. 34 and to which there are amendments not relevant to these Regulations

(7) S.R. 1997 No. 247 as amended by S.R. 2003 No. 386 and to which there are amendments not relevant to these Regulations

(3) Any appointment of a person as a notified or an approved body under regulation 10 of the Transportable Pressure Vessels Regulations (Northern Ireland) 2003<sup>(8)</sup> in force immediately before the coming into operation of these Regulations, shall be deemed to be an appointment as a notified or approved body under regulation 44 of these Regulations but shall remain subject to any terms specified in the appointment under the said 2003 Regulations.

(4) Any approval of a person under paragraph 2(4)(a) of Schedule 8 to the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997 in force immediately before the coming into operation of these Regulations shall be deemed to be an approval under paragraph 3(2)(a) of Schedule 2 to these Regulations but shall remain subject to the terms of the approval under the said 1997 Regulations.

(5) Any cylinder, tube or cryogenic receptacle which complied with the provisions of regulations 4 to 6 of the Transportable Pressure Vessels Regulations (Northern Ireland) 2003 immediately before the coming into operation of these Regulations shall be deemed to comply with regulations 38 to 40 of these Regulations.

(6) Any periodic inspection of a cylinder, tube or cryogenic receptacle made in accordance with regulation 7 of the Transportable Pressure Vessels Regulations (Northern Ireland) 2003 shall be taken to be a periodic inspection under regulation 41 of these Regulations and accordingly shall be taken into account in calculating the time for the next periodic inspection of such equipment pursuant to regulation 41.