

**EXPLANATORY MEMORANDUM TO**  
**THE CARRIAGE OF DANGEROUS GOODS AND USE OF**  
**TRANSPORTABLE PRESSURE EQUIPMENT (AMENDMENT)**  
**REGULATIONS (NORTHERN IRELAND) 2011**

**S.R. 2011 No. 365**

**1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment (“DETI”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers in the Health and Safety at Work (Northern Ireland) Order 1978 (“the 1978 Order”) as read with the Health and Safety at Work Order (Application to Environmentally Hazardous Substances) Regulations (Northern Ireland) 2003 (last amended by S.R. 2009 No. 296) (which extends the meaning of “dangerous” under the Order for certain purposes). The Statutory Rule is subject to negative resolution procedure.

**2. Purpose**

- 2.1 This Statutory Rule amends *The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010 (S.R. 2010 No. 160)* (“the 2010 regulations”), which relate to the carriage of dangerous goods by road and by rail, and in so far as they relate to safety advisers, by inland waterway. It transposes Directive 2010/35/EU of the European Parliament and of the Council on transportable pressure equipment, which also repeals five earlier Directives:

- Council Directive 76/767/EEC on common provisions for pressure vessels and methods for inspecting them.
- Council Directive 84/525/EEC on seamless, steel gas cylinders.
- Council Directive 84/526/EEC on seamless, unalloyed aluminium and aluminium alloy gas cylinders.
- Council Directive 84/527/EEC on welded unalloyed steel gas cylinders.
- Council Directive 1999/36/EC on transportable pressure equipment.

**3. Background**

- 3.1 The 2010 Regulations regulate the carriage of dangerous goods by road and rail in NI, and in so far as it relates to the training, examining and certification of dangerous goods safety advisers also regulate the carriage of dangerous goods by inland waterway. They transpose Directive 2008/68/EC (known as ‘the Dangerous Goods Directive’ as it consolidated and replaced five directives relevant to dangerous goods). They also transpose Directive 1999/36/EC relating to common provisions for transportable pressure

equipment and methods for inspection and parts of Directives 89/618/Euratom and 96/29/ Euratom which relate to measures to be taken for a radiological emergency.

- 3.2 On 16 June 2010 the European Parliament and the Council of the European Union adopted Directive 2010/35/EU on transportable pressure equipment. This equipment includes pressurised cylinders and tanks used to transport dangerous goods by road and rail, such as liquefied petroleum gas (LPG.). These Regulations and Directive 2010/35/EU harmonise and remove possible conflicts on the requirements for the approval and certification of this equipment arising from Directive 1999/36/EC on transportable pressure equipment and more recent agreements on the transport of dangerous goods by road (ADR), rail (RID) and inland waterways (ADN).
- 3.3 Directive 2010/35/EU requires Member States to implement the Directive by 30 June 2011. The Directive repeals five earlier directives relevant to transportable pressure equipment - 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC, with effect from 1 July 2011.
- 3.4 The proposed Regulations will implement the Directive in Northern Ireland. and, in so doing, will update the technical provisions, conformity requirements and responsibilities of economic operators, in order to enhance safety and ensure the free movement of transportable pressure equipment within, to and from Northern Ireland. Some clarification to the 2010 regulations is also made for the benefit of industry.

#### **4. Consultation**

- 4.1 As the subject matter of these changes is technical and specialised, and not of general interest to the public, an eight week public consultation on the proposed Carriage of Dangerous Goods (Amendment) Regulations (Northern Ireland) 2011 was appropriate. The consultation ran from 25 February 2011 to 22 April 2011. There were approximately 600 consultees, including individuals and bodies representative of section 75 of the Northern Ireland Act 1998 and other organisations with an interest in equality and related issues (including each member of the Northern Ireland Assembly). In total there were 3 responses with no adverse comments from Northern Ireland respondents in relation to the proposed 2011 Regulations.
- 4.2 Representations were made by the Liquid Petroleum Gas Industry, in response to the equivalent GB consultation, as to whether the new Directive would force operators to comply with a more costly reference temperature standard for new tanks to be used to transport LPG by road and rail. Following the consultation, industry was advised of the intention to ensure no unnecessary regulatory burdens were introduced or retained and that the relevant directives were being re-examined to secure this. As it is essential that the same legal requirements for health and safety apply throughout the United Kingdom this approach is also reflected in these Regulations.

## **5. Equality Impact**

- 5.1 The Statutory Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified.

## **6. Regulatory Impact**

- 6.1 There are no options other than to transpose the Directive into Northern Ireland legislation. The Northern Ireland costs and benefits are based on the Great Britain assessment for the GB Regulations. There is no reason to doubt that, where appropriate and on a proportionate basis, the costs and benefits for Northern Ireland would be similar to those for GB.

## **7. Financial Implications**

- 7.1 Based on the Great Britain impact assessment (copy attached), the cost to Northern Ireland industry is anticipated to be minor with little or no additional impact on small firms.
- 7.2 As the Regulations now do not alter the current arrangements in relation to reference temperature standards the cost to industry in NI, which was previously calculated at approximately £16,500 over 20 years, will not be incurred.

## **8. Section 24 of the NI Act 1998**

- 8.1 The Department has considered the matter of Convention rights and is satisfied that there are no matters of concern.

## **9. EU Implications**

- 9.1 The Statutory Rule will implement European Directive 2010/35/EU as respects Northern Ireland. This Directive repeals 5 earlier Directives relevant to transportable pressure equipment as from 1 July 2011. A transposition note has been prepared and is attached.

## **10. Parity or Replicatory Measure**

- 10.1 In Great Britain the corresponding Regulations are the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations 2011 (S.I. 2011 No. 1885), which were made on 26 September 2011 with a coming into force date of 24 October 2011.
- 10.2 The Great Britain and Northern Ireland proposals, taken together, are intended to ensure that the UK meets the necessary requirements to implement Directive 2010/35/EU. It is essential that the same legal requirements apply throughout the United Kingdom.

## **11. Additional Information**

- 11.1 A guidelines document on the technical provisions of Directive 2010/35 is currently being prepared by the European Commission.

Department of Enterprise, Trade and Investment

October 2011



Department of

**Enterprise, Trade  
and Investment**

[www.detini.gov.uk](http://www.detini.gov.uk)

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**NOTE ON COSTS AND BENEFITS**

1. I declare that:
  - (a) the purpose of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations (Northern Ireland) 2011 is to implement, in Northern Ireland, the provisions of European Directive 2010/35/EU of the European Parliament and of the Council on transportable pressure equipment; and
  - (b) I am satisfied that the analysis and considerations set out in the GB impact assessment can be applied directly to Northern Ireland. The transposition of Directive 2010/35/EU will impose only minimal costs on industry such as familiarisation costs in terms of time to ensure the requirements are understood and appropriately implemented.
2. An estimate of the costs and benefits associated with the draft Great Britain Regulations, together with the effect on the Northern Ireland costs and benefits is appended to this Note.
3. There is no impact on charities, social enterprise or voluntary bodies.

M. BOHILL

Department of Enterprise, Trade and Investment

18 October 2011

## **PART I**

### **GREAT BRITAIN IMPACT ASSESSMENT (FINAL)**

(Prepared by the Health and Safety Executive)

#### **The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations 2011 (S.I. 2011/1885) (“the GB Regulations”)**

1. A copy of the Impact Assessment, prepared by the Great Britain Health and Safety Executive, in respect of the GB Regulations is attached.
2. The Impact Assessment concluded that there are no major monetised costs to the main affected groups. The non-monetised costs consist of a small familiarisation cost to all involved in implementing these amendment regulations due to the time involved to ensure they understand the changes made and that they are appropriately implemented. There are several non-monetised benefits. The regulations are essential to maintaining the safe movement of dangerous goods by road and rail. They also enable British manufacturers of transportable pressure equipment to continue in business as otherwise certification and approval for their products within the UK and EU markets would not be possible.

## **PART II**

### **NORTHERN IRELAND COSTS AND BENEFITS**

#### **THE CARRIAGE OF DANGEROUS GOODS AND USE OF TRANSPORTABLE PRESSURE EQUIPMENT (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2011**

##### **General**

1. The Department of Enterprise, Trade and Investment is of the opinion that the analysis and considerations set out in the Great Britain Impact Assessment can be applied proportionately to Northern Ireland.

##### **Costs**

2. The pre-consultation impact assessment indicated costs to Industry associated with a proposed amendment to the Regulations which would have required operators to comply with a more costly reference temperature standard for new tanks to be used for the national carriage of liquefied gas by road and rail (regulation 24(2) of the 2010 Regulations refers). Following consultation this measure was removed since it was determined to be a 'non-essential requirement' of the Directive. The revised Great Britain Impact Assessment concluded that there are no major monetised costs to the main affected groups arising from the Regulations.
3. The non-monetised costs consist of a small familiarisation cost to all involved in implementing these amendment Regulations due to the time involved to ensure they understand the changes made and that they are appropriately implemented.

##### **Benefits**

4. The impact assessment indicated several non-monetised benefits. The Regulations are essential to maintaining the safe movement of dangerous goods by road and rail. They also enable manufacturers of transportable pressure equipment in Northern Ireland to continue in business as otherwise certification and approval for their products within the UK and EU markets would not be possible.
5. The Regulations achieve implementation of Directive 2010/35/EU, thus avoiding the risk of infraction proceedings with the potential for significant financial penalties.

##### **Conclusion**

6. Overall it is considered that the impact on NI business would be beneficial. The costs and benefits were indicated in the consultation

document relating to the NI Regulations and consultees were asked for their comments. No adverse comments to the proposals were received from Northern Ireland respondents. The subsequent revision of the impact assessment in relation to economic costs associated with the proposals (see paragraph 2 above) reflects an improved position in relation to the burden on Industry.



**Transposition Note for Directive 2010/35/EU of the European Parliament and the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC.**

The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations (Northern Ireland) 2011 implement Directive 2010/35/EU by amending The Carriage of Dangerous Goods and Use of Transportable Equipment Regulations (Northern Ireland) 2010. They do no more than is necessary to implement the Directive. The main elements of the Transportable Pressure Equipment Directive are as follows:

<b>Articles</b>	<b>Objectives</b>	<b>Implementation</b>	<b>Responsibility</b>
4 & 6-11	To enhance safety for transportable pressure equipment approved for the inland transport of dangerous goods and ensure free movement within the EU, obligations of economic operators (those involved in the supply chain) are set out in detail, to increase clarity for those operators and the requirements to be fulfilled by the relevant equipment.	Regulation 5 replaces regulation 15 (conformity assessment) with regulations 15 to 15F. Regulation 15 sets out the scope of the obligations. Regulation 15A sets out the general obligations that apply to manufacturers, importers, distributors, owners and operators when transportable pressure equipment is placed or made available on the market, put into service or used. Regulations 15B to 15F set out specific obligations on manufacturers, importers, distributors, owners and operators.	The Health and Safety Executive for Northern Ireland

<b>Articles</b>	<b>Objectives</b>	<b>Implementation</b>	<b>Responsibility</b>
5	To enhance the common framework for the marketing of products within the EU – including transportable pressure equipment – the national carriage conformity assessment provision has been removed. And to enhance safety, the obligations of transportable pressure equipment manufacturers in delegating certain specific tasks to authorised representatives are to be specified, and obligations are also specified for authorised representatives.	Regulation 6 replaces regulation 16 (conformity assessment – national carriage), which is no longer allowed under the Directive, with a new regulation allowing manufacturers to appoint authorised representatives to carry out some of their obligations and setting out the responsibilities of authorised representatives.	The Health and Safety Executive for Northern Ireland
12-16	To ensure a uniform level of performance throughout the EU, conformity assessment procedures – including detailed operational requirements - are provided	Regulations 7 and 8 amend regulations 17 and 18 of the 2010 Regulations to reflect the changes made by the Directive to the procedures for re-assessment of conformity, periodic inspection and repeated use.	The Health and Safety Executive for Northern Ireland
20-26	To eliminate unnecessary costs and administration - whilst also ensuring consistent and uniform levels of performance - common rules for notifying authorities, notified bodies and inspection bodies are provided.	Regulation 9 amends regulation 25 of the 2010 Regulations to update the procedure for appointing a person to carry out the functions of a notified body.	The Health and Safety Executive for Northern Ireland