

2012 No. 177

HEALTH AND SAFETY

**The Carriage of Explosives (Amendment) Regulations
(Northern Ireland) 2012**

Made - - - - - *25th April 2012*

Coming into operation - - - - - *28th May 2012*

The Department of Justice being the Department concerned (a) makes the following Regulations in exercise of the powers conferred by Articles 17(1) to (6), 20(2), 54 and 55 (2) of and paragraphs 1(1) and (4), 2, 3(1), 5 and 14 of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978.

In accordance with Article 46(1) of that Order it has consulted with the Health and Safety Executive for Northern Ireland and such other bodies as appeared to it to be appropriate.

Citation and commencement

1. These Regulations may be cited as the Carriage of Explosives (Amendment) Regulations (Northern Ireland) 2012 and come into operation on 28 May 2012.

Amendment of Regulations

2. The Carriage of Explosives Regulations (Northern Ireland) 2010 (b) are amended as provided for in regulations 3 to 9.

Interpretation – General

3.—(1) In regulation 2, the Table in paragraph (5) is amended as follows.

(2) After the row in which the expression “the 2006 Regulations(2)” is given a meaning, insert—

““the 2010 Regulations (1)”	The Carriage of Explosives Regulations (Northern Ireland) 2010.
“the 2010 Regulations (2)”	The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010(c).”

(3) The row in which the expression “conformity mark” is given expression is removed.

(4) For the meaning of “the Transportable Pressure Equipment Directive” in column 2 substitute—

(a) See Article 2(2) of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)).
(b) S.R. 2010 No. 59.
(c) S.R. 2010 No.160.

	<p>“Directive 2010/35/EU(a) of the European Parliament and the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC(b), 84/525/EEC(c), 84/526/EEC(d), 84/527/EEC(e), and 1999/36/EC(f).”</p>
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Interpretation of ADR, RID and ADN

- 4.—(1) Regulation 3 is amended as follows.
- (2) In paragraphs (b) and (c), for “Communities” substitute “EU”.
 - (3) Omit paragraph (f).
 - (4) In paragraph (i) at the end omit “and”.
 - (5) In paragraph (j) at the end for “.” substitute—
 - “(k) Sub-sections 2.2.1.1.2, 2.2.1.1.3 and 2.2.1.1.4 of ADR apply as if the words “by the competent authority of a “Contracting Party” were included after the word “assigned”; and
 - (l) Sub-sections 2.2.1.1.2, 2.2.1.1.3 and 2.2.1.1.4 of RID apply as if the words “by the competent authority of a member State of COTIF” were included after the word “assigned”.”

Classification of goods

5. Regulation 6 (Classification of goods) is revoked.

Derogations and transitional provisions

- 6.—(1) Regulation 12 is amended as follows.
- (2) In paragraph (3)—
 - (a) Substitute “shall be” for “is”.
 - (b) Remove the reference to the words “to be”.
 - (c) Before “Dangerous”, insert “Carriage of”.

Old pressure receptacles

- 7.—(1) Regulation 14 is amended as follows.
- (2) In paragraph (4)(b)(i) for “29(1) of the 2006 ” substitute “25(2) of the 2010 ”.
 - (3) In paragraph (6)(d) for “article 5” substitute “article 13 and Annex 3” and for “(including regulation 40 of the 2006” substitute “(including regulation 17 of the 2010”.

Competent authority

8. For regulation 17(9) substitute—
- “(9) “Military explosive” means any class 1 goods—
 - (i) under the control of the Secretary of State for Defence;

(a) OJ L 165, 30.6.2010.
(b) 31976L0767.
(c) 31984L0525.
(d) 31984L0526.
(e) 31984L0527.
(f) OJ L 138, 1.6.1999, p.20.

- (ii) held for the service of the Crown for the purpose of the Ministry of Defence;
- (iii) under the control of the armed forces, or
- (iv) the carriage of which is certified by the Secretary of State for Defence to be in connection with the execution of a contract with the Secretary of State for Defence or with one of the armed forces.”.

Enforcement

9. For Regulation 22 substitute—

- “22.—(1) The enforcing authority for these Regulations is—
- (a) the Department of Justice in relation to road, rail and inland waterways;
 - (b) the Chief Constable in relation to road; and
 - (c) the Secretary of State for Defence in relation to road, rail and inland waterways but only in connection with those functions for which the Secretary of State for Defence is the Northern Ireland competent authority.”

Revocations

10. The Classification and Labelling of Explosives Regulations (Northern Ireland) 1991(a) are revoked.

Consequential amendments

11. The statutory provisions specified in the Table in the Schedule are amended in accordance with the provisions of that Table.

Sealed with the Official Seal of the Department of Justice on 25th April 2012

(L.S.)

David Ford
Minister of Justice

SCHEDULE 1

Regulation 11

Amendments

Enactments to be amended	Articles and Regulations to be	Amendments to be made
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(a) S.R. 1991 No. 516.

	amended	
The Explosives in Harbour Areas Regulations (Northern Ireland) 1995 (a)	Regulation 2(1)	Omit the definition of “the 1991 Regulations”. For the definition of “military explosive” substitute ““military explosive” has the same meaning as in regulation 17(9) of the Carriage of Explosives Regulations (Northern Ireland) 2010(b).”
The Placing on the Market and Supervision of Transfers of Explosives Regulations (Northern Ireland) 1993 (c)	Regulation 2(1)	Omit the definition of “the 1991 Regulations”. In the definition of “explosives”, for “assigned on classification in accordance with the 1991 Regulations to” substitute “classified in accordance with the UN Recommendations as falling within” At the end of the definition of “notified body” insert “and “UN Recommendations” means the United Nations Recommendations on the Transport of Dangerous Goods (based on those originally prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods considered by the Economic and Social Committee of Experts at its twenty-third session (resolution 645G (XXIII) of 26th April 1957))(d) as revised or re-issued from time to time.
The Marking of Plastic Explosive for Detection Regulations (Northern Ireland) 1996 (e)	Regulation 2(1)	For the definition of “explosive article” and “explosive substance” substitute— ““explosive article” means an article containing one or more explosive substances; “explosive substance” means a substance or preparation in a wholly gaseous form or in the form of a vapour, which is— Capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such speed as could cause damage to surroundings; or Designed to produce an effect by heat, light, wound, gas or smoke, or a combination of these as a result of a non-detonative, self- sustaining, exothermic chemical reaction.”
Dangerous Substances and Explosive Atmospheres	Schedule 5	Omit “Classification and Labelling of Explosives Regulations (Northern

(a) S.R. 1995 No. 87.

(b) S.R. 2010 No. 59.

(c) S.R. 1993 No. 488.

(d) Current edition (1997): ISBN 92-1-139057 5.

(e) S.R. 1996 No. 262.

Regulations (Northern Ireland) 2003 (a)		Ireland) 1991 (S.R 1991 No. 516)”
The Pyrotechnic Articles (Safety) Regulations 2010(b)	Regulation 46 and 47	In regulations 46(5) insert at the end “or the Carriage of Explosives Regulations (Northern Ireland) 2010(c) on or after 28 May 2012.” Regulation 47 is amended as follows. In paragraph (5)(b) substitute ““on or after 4th July 2013” with “28 May 2012”.” In regulation 47(5)(b) omit “or”. In regulation 47(5)(c) for “.” substitute “;or”. Insert after 47(5)(c) “(d) for the purposes of the Carriage of Explosives Regulations (Northern Ireland) 2010 before or after the 4th July 2013.”
The Explosives (Fireworks) Regulations (Northern Ireland) 2002 (d)	Regulation 9(2)	For regulation 9(2) substitute “ (2) In paragraph 1 “classified” means classified in accordance with regulation 5 of the Carriage of Explosives Regulations (Northern Ireland) 2010.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make fairly minor amendments to The Carriage of Explosives Regulations (Northern Ireland) 2010 (“the 2010 Regulations (1)”) as a result of Directive 2010/35/EU of the European Parliament and of 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 (OJ L165, 30.6.2010, p.1). These Regulations also include a provision prohibiting the carriage of explosives unless they have been classified by an appropriate authority.

Regulation 3 amends the Table in regulation 2 of the 2010 Regulations (1) by inserting new defined terms, removing an unnecessary definition and updating the meaning of the “Transportable Pressure Equipment Directive” so that it refers to the 2010 Directive.

Regulation 4 amends regulation 3 of the 2010 Regulations (1) in respect of the interpretation of ADR, RID and ADN for the purpose of those Regulations. A redundant provision is removed and “EU” is substituted for “Communities” to reflect European institutional reform. References to “competent authority” are inserted in ADR and RID text relating to the classification of class 1 goods. This latter change allows for the revocation of the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991.

Regulation 5 revokes regulation 6 (Classification of Goods) of the 2010 Regulations (1).

Regulation 6 amends regulation 12(3) of the 2010 Regulations (1) to reflect the fact that the name of the document will be changed.

Regulation 7 amends regulation 14 to reflect the fact that the Department of Trade and Enterprise have made the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment

(a) S.R. 2003 No. 152.

(b) S.R. 2010 No. 1554.

(c) S.R. 2010 No. 59.

(d) S.R. 2002 No. 147

Regulations (Northern Ireland) 2010 and to update references to refer to the new EU Directive 2010/35/EU.

Regulation 8 amends regulation 17 of the 2010 Regulations (1) to provide a definition for military explosives and clarifies that the Department of Justice is responsible for the classification of commercial explosives.

Regulation 9 amends regulation 22 of the 2010 Regulations (1) to name the Chief Constable as enforcing authority in respect of carriage by roads and adds the Secretary to State for Defence as an enforcing authority.

Regulation 10 revokes the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991.

Regulation 11 provides for consequential amendments as the result of the revocation of the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991.

The Explanatory Memorandum is available alongside this instrument at www.legislation.gov.uk (this will be available when the Regulations have been made). An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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