
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 131

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

Part VIII

Miscellaneous and General

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.