
STATUTORY INSTRUMENTS

1996 No. 2095

The Carriage of Dangerous Goods by Road Regulations 1996

PART VII

MISCELLANEOUS AND GENERAL

Exemption certificates

25.—(1) Subject to paragraph (2), and to any provisions imposed by the Communities in respect of the transport of dangerous goods by road, the Health and Safety Executive may, by a certificate in writing, exempt—

- (a) any person or class of persons;
- (b) any dangerous goods or class of dangerous goods;
- (c) any container, tank or vehicle or class thereof,

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 at any time.

(2) The Health and Safety Executive shall not grant any exemption under paragraph (1) unless having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not 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 dangerous goods in or on—

- (a) any vehicle owned by the armed forces; or
- (b) any vehicle under the control of the armed forces,

and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the said Secretary of State by a further certificate in writing.

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—

- (a) before the hearing to determine the mode of trial, where the proceedings are in England or Wales; or
- (b) before the trial, where the proceedings are in Scotland,

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) For the purpose of enabling the other person to be charged with and convicted of the offence by virtue of section 36 of the Health and Safety at Work etc. Act 1974, a person who establishes a defence under this regulation shall nevertheless be treated for the purposes of that section as having committed the offence.

International provisions

27.—(1) Where, in relation to the carriage of any dangerous goods, any provision of these Regulations 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) the Convention concerning International Carriage by Rail, as revised or re-issued from time to time⁽¹⁾ or any regulations made under it;
- (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⁽²⁾.

Transitional defence

28. In any proceedings for an offence consisting of a contravention of any of the provisions of these Regulations prior to 1st January 1997 it shall be a defence for the accused to prove that the goods were carried, or in the case of an alleged contravention of regulation 13 intended to be carried, before 1st January 1997 in—

- (a) a road tanker in accordance with the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992⁽³⁾ as in force immediately before these Regulations came into force; or
- (b) in bulk or in packages in accordance with the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992⁽⁴⁾ as in force immediately before these Regulations came into force.

Revocations and amendments

29.—(1) The Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992 are hereby revoked.

(2) The Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992 are hereby revoked.

(1) Cmnd 5897.

(2) Current edition and supplement (1995—1996): Doc 9284—AN/905.

(3) S.I.1992/743.

(4) S.I. 1992/742.

(3) The Dangerous Substances in Harbour Areas Regulations 1987⁽⁵⁾ shall be amended as follows—

(a) for regulation 24(a)(i) substitute the following—

“(i) in the case of a portable tank to which the [Carriage of Dangerous Goods by Road Regulations 1996 \(S.I. 1996 No. 2095\)](#) applies, and

(aa) the tank was constructed before 1st January 1999, complies with the requirements of paragraph 1 of Schedule 3 to those Regulations, or

(bb) the tank was constructed after 31st December 1998, complies with the Approved Tank Requirements, as defined in regulation 2(1) of those Regulations, insofar as they relate to the carriage of dangerous goods in portable tanks, is suitable to be used for the carriage of dangerous goods and has been adequately maintained; or”;

(b) for regulation 25(2)(a) substitute the following sub-paragraph—

“(a) the Carriage of Dangerous Goods by Road Regulations 1996;”.