

1999 No. 257

HEALTH AND SAFETY

**The Transport of Dangerous Goods (Safety Advisers)
Regulations 1999**

<i>Made - - - - -</i>	<i>4th February 1999</i>
<i>Laid before Parliament</i>	<i>5th February 1999</i>
<i>Coming into force - -</i>	
<i>For the purposes of regulation 4</i>	<i>31st December 1999</i>
<i>For all other purposes</i>	<i>1st March 1999</i>

The Secretary of State, in exercise of the powers conferred on him by sections 15(1), (2), (4), (5)(b), and 43(2) of, and paragraphs 1(1)(c), 3(1), 6, 14, 15(1), 16 and 20 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(a) and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the said Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Transport of Dangerous Goods (Safety Advisers) Regulations 1999 and shall come into force—
 - (a) for the purposes of regulation 4 on 31st December 1999; and
 - (b) for all other purposes on 1st March 1999.

Interpretation

- 2.—(1) In these Regulations, unless the context otherwise requires—

“Approved Carriage List” means the list described in regulation 4(1)(a) of the CDGCPL Regulations as revised in accordance with regulation 4(2) of those Regulations;

“the CDGCPL Regulations” means the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996(b);

(a) 1974, c. 37; section 1(1)(c) was modified by the Health and Safety at Work etc. Act 1974 (Application to Environmentally Hazardous Substances) Regulations 1996 (S.I. 1996/2075) as amended by the Health and Safety at Work etc. Act 1974 (Application to Environmentally Hazardous Substances) (Amendment) Regulations 1999 (S.I. 1999/40); sections 15(1) and 50(3) were amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 6 and 16(3) respectively.

(b) S.I. 1996/2092.

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

“dangerous goods” has the meaning assigned to it in regulation 2(1) of the CDGCPL Regulations;

“the Directive” means Council Directive 96/35/EC on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway(b);

“explosives” has the meaning assigned to it in regulation 2(1) of the CDGCPL Regulations;

“factory” has the meaning assigned to it by section 175 of the Factories Act 1961(c);

“harbour area” has the meaning assigned to it in regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations 1987(d);

“inland waterway” includes rivers, their estuaries and adjoining harbours, canals and lakes, but does not include an inland waterway which is not connected to the inland waterways of a member State;

“member State” means a State (other than the United Kingdom) which is a member of the Communities;

“military establishment” means an establishment intended for use for naval, military or air force purposes or the purposes of the department of the Secretary of State having responsibility for Defence;

“mine” and “quarry” have the meanings assigned to them by section 180 of the Mines and Quarries Act 1954(e);

“radioactive material” has the meaning assigned to it by section 1(1) of the Radioactive Material (Road Transport) Act 1991(f);

“railway” means a system of transport employing parallel rails which provide support and guidance for vehicles carried on flanged wheels, except any such system which—

- (a) is a tramway within the meaning of section 67(1) of the Transport and Works Act 1992(g); or
- (b) is wholly operated within a factory, harbour area, military establishment, mine or quarry;

“railway vehicle” means any conveyance which is used for the transport of dangerous goods on a railway;

“road” means—

- (a) in relation to England and Wales, a road within the meaning of section 192(1) of the Road Traffic Act 1988(h); and
- (b) in relation to Scotland, a road within the meaning of the Roads (Scotland) Act 1984(i);

“road vehicle” means any conveyance used for the transport of dangerous goods by road;

“safety adviser” means an individual appointed for the purposes of these Regulations and holding a valid vocational training certificate;

“tank” has the meaning assigned to it in regulation 2(1) of the CDGCPL Regulations;

“UN number” means United Nations Serial Number, that is to say, one of the four digit numbers devised by the United Nations and specified in the Approved Carriage List as a means of identification for dangerous goods, and any reference to the letters “UN” followed by a number, in relation to certain dangerous goods, means the particular UN number for those goods specified in the Approved Carriage List;

“vehicle” means a road vehicle or a railway vehicle;

(a) S.I. 1996/2095.

(b) OJ No. L 145, 19.6.96, p.10.

(c) 1961 c. 34.

(d) S.I. 1987/37.

(e) 1954 c. 70; section 180 was modified by S.I. 1974/2013, and S.I. 1993/1897.

(f) 1991 c. 27.

(g) 1992 c. 42.

(h) 1988 c. 52.

(i) 1984 c. 54; the definition of “road” in section 151(1) was amended by the New Roads and Street Works Act 1991 (c. 22), s. 168(1) and Sch. 8.

“vehicle owned by the armed forces” means a vehicle which is owned by—

- (a) Her Majesty’s Forces;
- (b) a visiting force within the meaning of Part I of the Visiting Forces Act 1952^(a); or
- (c) any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964^(b), and includes a vehicle which has been provided to the armed forces under any agreement or arrangement under which payments are, or are to be, made for the provision of the vehicle, including a conditional-sale agreement, a credit-sale agreement, a hire purchase agreement and a contract for sale;

“vehicle under the control of the armed forces” means—

- (a) a vehicle on board which there is, as a member of its crew—
 - (i) a member of Her Majesty’s Forces,
 - (ii) a member of a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952, or
 - (iii) a civilian who is an employee of Her Majesty’s Forces, acting in the course of his duties; or
- (b) a vehicle in a convoy escorted by a vehicle of the type referred to in subparagraph (a) of this definition;

“vocational training certificate” has the meaning assigned to it by regulation 7(1).

(2) For the purposes of these Regulations—

- (a) a combination of a motor vehicle and a trailer or semi-trailer shall be deemed to be a single vehicle for as long as the constituent parts of such a combination remain attached; and
- (b) dangerous goods contained in different constituent parts of such a vehicle shall accordingly be considered to be contained in the same vehicle,

and in this paragraph “motor vehicle” shall have the same meaning as in the Table contained in regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986^(c).

(3) Any reference in these Regulations to the transport of dangerous goods is a reference to—

- (a) the transport;
- (b) the related loading; or
- (c) the related unloading,

of dangerous goods.

(4) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered; and
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

Application

3.—(1) These Regulations shall apply to a self-employed person as they apply to an employer.

(2) Subject to the provisions of Schedule 1, these Regulations shall apply to and in relation to the transport of dangerous goods by road, railway and inland waterway.

Duty to appoint safety advisers

4.—(1) No employer shall transport dangerous goods by road, railway or inland waterway unless—

- (a) he has appointed an individual as a safety adviser for the purpose of advising him as to health, safety and environmental matters in connection with the transport of those dangerous goods by the mode or modes of transport concerned; and

(a) 1952 c. 67.

(b) 1964 c. 5.

(c) S.I. 1986/1078.

- (b) that safety adviser has functions and duties which relate to that mode of transport and those goods.
- (2) A self-employed person may appoint himself as a safety adviser under paragraph (1).
- (3) Where an employer appoints more than one individual in accordance with paragraph (1), he shall make arrangements for ensuring adequate co-operation between them.
- (4) The employer shall ensure that the number of individuals appointed under paragraph (1) is sufficient to ensure that their functions and duties can be carried out effectively.
- (5) The employer shall ensure that the time available for any safety adviser whom he appoints and the means at his disposal to fulfil his functions and duties are adequate having regard to those functions and duties.
- (6) The employer shall provide any safety adviser whom he appoints with adequate information and facilities for the performance of his functions and duties.
- (7) Where two or more individuals are together carrying on business in partnership, it shall be sufficient compliance with paragraph (1) if one of those individuals complies with paragraph (1) and each partner shall ensure that a safety adviser has been appointed by one of those individuals in accordance with paragraph (1).

Functions and duties of safety advisers

5.—(1) Subject to regulation 7(10), a safety adviser shall, for the period of his appointment, have such functions as are necessary to enable him to achieve the purpose referred to in regulation 4(1), including those functions set out in Schedule 2, in connection with the transport of dangerous goods by the employer who has appointed him.

(2) A safety adviser shall ensure the preparation of a report on any accident which affects the health or safety of any person or causes damage to the environment or to property and which occurs during the transport of dangerous goods by the employer who has appointed him.

(3) The safety adviser shall provide a copy of the report referred to in paragraph (2) to the employer who has appointed him.

Keeping of reports

6. The reports referred to in regulation 5(2) and paragraph (c) of Schedule 2 shall be kept by the employer for a minimum of 5 years.

Vocational training certificates

7.—(1) No employer shall appoint or continue the appointment of an individual to be a safety adviser unless that individual holds a valid certificate (in these Regulations referred to as a “vocational training certificate”) issued by the Secretary of State or by a person designated by the Secretary of State for the purpose of issuing vocational training certificates.

(2) An individual may only be issued with a vocational training certificate in accordance with paragraph (1) where he has—

- (a) completed training; and
- (b) passed an examination which has been approved in writing by the Secretary of State.

(3) Each vocational training certificate issued in accordance with paragraph (1) shall be in the form set out in Schedule 3.

(4) Each vocational training certificate issued in accordance with paragraph (1) shall be valid for a period of 5 years from the date of issue.

(5) Where, within the period of 12 months which precede the expiry of the certificate referred to in paragraph (4) or of any extension of it granted in accordance with this paragraph, the holder can show to the satisfaction of the Secretary of State that he has passed an examination which has been approved in writing by the Secretary of State, the validity of that certificate shall be extended by the Secretary of State for a period of 5 years.

(6) The training referred to in paragraph (2)(a) shall include the risks inherent in the transport of dangerous goods, the requirements of the relevant statutory provisions insofar as they relate to the transport of dangerous goods, the duties of a safety adviser pursuant to regulation 5(2) and (3), and the functions of a safety adviser as set out in Schedule 2.

(7) The examinations referred to in paragraphs (2)(b) and (5) shall include the subjects specified in Schedule 4.

(8) The training and examination referred to in paragraph (2) and the examination referred to in paragraph (5) shall relate to—

- (a) one or more of the following modes of transport—
 - (i) road,
 - (ii) railway,
 - (iii) inland waterway; and—
- (b) the transport of—
 - (i) all dangerous goods, or
 - (ii) one or more of the following groups of dangerous goods, namely—
 - (aa) explosives,
 - (bb) gases,
 - (cc) radioactive material,
 - (dd) UN 1202 DIESEL FUEL or GAS OIL or HEATING OIL, LIGHT, flash point $\leq 61^{\circ}\text{C}$
UN 1203 PETROL or MOTOR SPIRIT or GASOLINE
UN 1223 KEROSENE includes aviation jet A1 fuel,
 - (ee) all dangerous goods except those goods listed in paragraphs (aa) to (cc) above.

(9) Where the training and examination are limited to one or more of the modes of transport or groups of dangerous goods referred to in paragraph (8)(a) and (b)(ii) respectively, that limitation shall be clearly indicated on the vocational training certificate issued in accordance with paragraph (1).

(10) Where the vocational training certificate held by a safety adviser in accordance with paragraph (1) indicates that it has been limited, in accordance with paragraph (9), to one or more of the specified modes of transport or to one or more of the specified groups of dangerous goods, the functions and duties of that safety adviser shall be limited to—

- (a) the mode or modes of transport indicated on that certificate;
- (b) the group or groups of dangerous goods indicated on that certificate; and
- (c) goods which appear in or have a classification which is specified in column 1 of Schedule 3 to the CDGCPL Regulations insofar as those goods are—
 - (i) within the packing group, if any, specified in the corresponding entry in column 2 of that Schedule, and
 - (ii) contained in individual receptacles containing quantities not exceeding those specified in the corresponding entry in column 3 of that Schedule (or, in the case of a gas, contained in individual receptacles not exceeding the volumes specified in that column),

provided that the total gross mass of any package containing any receptacles such as are referred to above shall not exceed 30 kilogrammes, and in this paragraph “classification”, “package”, “packing group” and “receptacle” shall have the meanings assigned to them in regulation 2(1) of the CDGCPL Regulations.

Mutual recognition of vocational training certificates

8. Any current certificate in the form set out in Schedule 3 which is held by a safety adviser and which was issued to him by a competent authority under national provisions giving effect to the Directive shall be deemed to be a vocational training certificate issued in accordance with regulation 7 and, where that certificate indicates that it is limited to one or more modes of transport or to one or more groups of dangerous goods or to both, shall be so limited, and in this regulation “competent authority” means the authority appointed or body designated, in a member State or in Northern Ireland, for the purposes of issuing vocational training certificates in accordance with Article 5 of the Directive.

Information to be provided to the Secretary of State or goods vehicle examiners

9.—(1) Any employer who is required by these Regulations to appoint a safety adviser shall when requested to do so by the Secretary of State or by any goods vehicle examiner inform him of the name of that adviser.

(2) Every employer shall when requested to do so by the Secretary of State or by any goods vehicle examiner provide him with a copy of any accident and annual reports which have been prepared in accordance with regulation 5(2) or paragraph (c) of Schedule 2 respectively.

(3) A safety adviser shall on request produce to any goods vehicle examiner the relevant certificate he holds in accordance with regulation 7.

(4) In this regulation, “goods vehicle examiner” has the meaning assigned to it by section 66A of the Road Traffic Act 1988(a).

Exemptions

10.—(1) Subject to paragraph (2), the Health and Safety Executive may, by a certificate in writing, exempt any person or class of persons 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 by the Health and Safety Executive at any time by a further certificate in writing.

(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 neither the health and safety of persons who are likely to be affected by the exemption nor the environment will be prejudiced in consequence of it.

(3) The Secretary of State having responsibility 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 transport 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.

Amendments to the CDGCPL Regulations

11. In the CDGCPL Regulations—

- (a) in paragraph (4) of regulation 3, after the words “at work,” insert “or carried or intended to be carried at work,”;
- (b) at the end of sub-paragraph (c) of regulation 4(1), insert the words “and of aerosols”;

(a) 1988 c. 52; section 66A was inserted by section 9(1) of the Road Traffic Act 1991 (c. 40) and amended by paragraph 11 of Schedule 7 to the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23).

- (c) at the end of regulation 14, add the words “and for the purposes of this regulation, in determining whether a further periodic examination is overdue, no account shall be taken of any period when the transportable pressure receptacle is being carried for the sole purpose of such examination”; and
- (d) in regulation 19(5), for sub-paragraph (b) substitute the following sub-paragraph—
“(b) paragraphs 3(2), 4(1), (2) and (4), 5 and 10(2) of Schedule 8; and”.

Amendments to the CDG Road Regulations

12. In the CDG Road Regulations—

- (a) in sub-paragraph (f) of regulation 2(3), at the end add the words “other than a liquid in which a compressed gas is dissolved”;
- (b) in sub-paragraph (a) of regulation 2(4), for the words “each package whose” substitute “dangerous goods in each receptacle where that” and for the words “package concerned” substitute “receptacle concerned”;
- (c) for the Note to Table 1 of Schedule 1, substitute the following paragraph—
“The transport categories in column 2 appear in descending order from 0 (highest) to 4 (lowest).”;
- (d) in the heading to column 2 of Table 2 of Schedule 1, for the words “*Individual package mass or volume*” substitute “*Mass or volume of individual article or receptacle*”;
- (e) for the Notes to Table 2 of Schedule 1, substitute the following paragraphs—

1. The numbers in—

- (a) column 2 relate to the mass or volume of dangerous goods, determined in accordance with regulation 2(3);
- (b) column 3 relate to the total mass or volume of packaged dangerous goods, determined in accordance with regulation 2(4)(a), as applied in accordance with regulation 2(5);
- (c) column 4 relate to the total mass or volume of dangerous goods, determined in accordance with regulation 2(4)(b), as applied in accordance with regulation 2(5),

measured in units represented by—

- (d) the gross mass, measured in kg, of articles;
- (e) the net mass, measured in kg, of compressed gases dissolved in a solvent or the solvent in which compressed gases are dissolved, solids and liquefied gases; and
- (f) the nominal capacity, measured in litres, of any receptacle containing compressed gases (other than those dissolved in a solvent) and any receptacle containing liquids (other than those in which a compressed gas is dissolved).

2. For the purpose of calculating the total mass or volume of packaged dangerous goods or the total mass or volume of dangerous goods where the load comprises a mixture of liquids and solids, 1 kg gross or net mass shall equate to 1 litre.”; and

- (f) for paragraph 8 of Schedule 2, substitute the following paragraph—

“8.—(1) Subject to sub-paragraph (2), regulations 12(1) and 13 shall only apply to and in relation to the carriage of dangerous goods in a receptacle in any package where the mass or volume of dangerous goods in that receptacle exceeds the number specified in column 2 of Table 2 in Schedule 1 opposite the entry in column 1 of that Table for the appropriate transport category of those goods.

(2) Where the dangerous goods are being carried in a receptacle which is a package, regulations 12(1) and 13 shall only apply to and in relation to the carriage of dangerous goods in any package where the mass or volume of that package exceeds the number specified in column 2 of Table 2 in Schedule 1 opposite the entry in column 1 of that Table for the appropriate transport category of those goods.”

Amendment to the Carriage of Explosives by Road Regulations 1996

13. In paragraph 7 of Schedule 4 to the Carriage of Explosives by Road Regulations 1996(a), after the words “Carriage of Dangerous Goods by Road Regulations 1996” insert “(as amended by the Transport of Dangerous Goods (Safety Advisers) Regulations 1999(b))”.

Amendments to the Health and Safety (Fees) Regulations 1997

14. In the Health and Safety (Fees) Regulations 1997(c)—

(a) after regulation 13 insert the following regulation—

“Vocational training certificates under the Transport of Dangerous Goods (Safety Advisers) Regulations 1999

13A.—(1) An individual may only be issued with a vocational training certificate in accordance with paragraph (1) of regulation 7 of the Transport of Dangerous Goods (Safety Advisers) Regulations 1999(d) where a fee of the sum specified in Schedule 11A has been paid to the Secretary of State or the person designated by the Secretary of State for the purpose of issuing vocational training certificates.

(2) The validity of a vocational training certificate may only be extended in accordance with paragraph (5) of regulation 7 of the Transport of Dangerous Goods (Safety Advisers) Regulations 1999 where, within the period of 12 months which precede the expiry of the original certificate or any extension of it granted in accordance with that paragraph, a fee of the sum specified in Schedule 11A has been paid to the Secretary of State or the person designated by the Secretary of State for the purpose of issuing vocational training certificates.

(3) Nothing in this regulation shall be construed as making a fee payable by a person in any of the capacities specified in section 43(4) of the 1974 Act.”; and

(b) after Schedule 11 insert Schedule 5 to these Regulations.

Signed by authority of the Secretary of State.

Larry Whitty

Parliamentary Under Secretary of State

4th February 1999

Department of the Environment, Transport and the Regions

(a) S.I. 1996/2093.
(b) S.I. 1999/257.
(c) S.I. 1997/2505.
(d) S.I. 1999/257.

DISAPPLICATIONS TO THESE REGULATIONS

1. These Regulations shall not apply to or in relation to the transport—
- (a) of dangerous goods (other than radioactive material or explosives) in machinery or equipment which is not named individually in the Approved Carriage List and which happens to contain dangerous goods in its internal or operational equipment;
 - (b) of dangerous goods (other than radioactive material or explosives) from a container, tank or vehicle—
 - (i) which has been damaged as the result of an accident on a road or has broken down on a road, or
 - (ii) which has been damaged or derailed or has broken down on a railway, other than the siding on which it was loaded,to the nearest suitable, safe place, and in this sub-paragraph, “container” has the meaning assigned to it in regulation 2(1) of the CDGCPL Regulations;
 - (c) of luminous devices worn by a person or luminous devices as part of the vehicle;
 - (d) of no more than 500 smoke detectors for domestic use with an individual activity not exceeding 40 kilobecquerels in any one vehicle;
 - (e) of gaseous tritium light devices with an individual activity not exceeding 10 gigabecquerels when no more than five such devices are transported in the vehicle;
 - (f) by road of dangerous goods (other than radioactive material) in a vehicle which is being used to transfer the goods between—
 - (i) private premises and another vehicle situated in the immediate vicinity of those premises, or
 - (ii) one part of private premises and another part of those premises situated in the immediate vicinity of that first part where both parts are occupied by the same person, notwithstanding that those parts may be separated by a road;
 - (g) of dangerous goods (other than radioactive material or explosives) in a road construction vehicle engaged in the repair or construction of a road; and in this sub-paragraph—
 - (i) “built-in road construction machinery” means road construction machinery built in as part of a road construction vehicle or permanently attached to it,
 - (ii) “road construction machinery” means a machine or contrivance suitable for the repair and construction of roads, and
 - (iii) “road construction vehicle” means a vehicle constructed or adapted for the transport of built-in road construction machinery and not constructed or adapted for the transport of any other load, except articles and materials used for the purposes of that machinery;
 - (h) of live animals;
 - (i) of radioactive material contained in the body of any person as a result of the implantation in that person of a radioisotopic cardiac pacemaker or other device, or the diagnosis or treatment of that person with radiopharmaceuticals;
 - (j) in an agricultural vehicle of—
 - (i) the goods listed in column 1 of the Approved Carriage List under the proper shipping name “DIESEL FUEL or GAS OIL or HEATING OIL, LIGHT”—
 - (aa) with a total volume not exceeding 5,000 litres, and
 - (bb) from one piece of land occupied for the purpose of agriculture to another piece of land occupied for that purpose within a radius of 50 kilometres,
 - (ii) the goods listed in column 1 of the Approved Carriage List under the proper shipping name “AMMONIUM NITRATE FERTILIZER, NOS” or “AMMONIUM NITRATE FERTILIZERS”—
 - (aa) otherwise than in a tank,
 - (bb) with a total mass not exceeding 10 tonnes, and
 - (cc) from one piece of land occupied for the purpose of agriculture to another piece of land occupied for that purpose within a radius of 12 kilometres,
 - (iii) by road of a pesticide or a plant protection product (other than sulphuric acid, whether or not dilute, or a wood preservative)—
 - (aa) which is diluted ready for use or is otherwise in a condition ready for use,
 - (bb) in relation to which there has been given an approval under regulation 5, and a consent under regulation 6, of the Control of Pesticides Regulations 1986(a) or an approval under regulation 5 of the Plant Protection Products Regulations 1995(b), or

(a) S.I. 1986/1510, amended by S.I. 1997/188.

(b) S.I. 1995/887, amended by S.I. 1996/1940, 1997/7, 1997/2499.

(iv) goods where—

(aa) the goods are carried in packages and are diluted ready for use,

(bb) the total mass of the goods does not exceed 1 tonne, and

(cc) the goods are being carried from one piece of land occupied for the purpose of agriculture to another piece of land occupied for that purpose within a radius of 12 kilometres,

and in this sub-paragraph, “agriculture” and “agricultural vehicle” have the meanings assigned to them in regulation 2(1) of the CDG Road Regulations, “pesticide” has the meaning assigned to it in section 16(15) of the Food and Environment Protection Act 1985(a), “plant protection product” has the meaning assigned to it in regulation 2(1) of the Plant Protection Products Regulations 1995, and “wood preservative” means a pesticide for preserving wood;

(k) by road of a flammable liquid with a flash point of not less than 32°C which is being transported in a volumetric prover or flammable liquid with a flash point of less than 32°C which is being transported in a volumetric prover which has been purged with nitrogen, and that volumetric prover—

(i) is not moved, driven or kept on a road, other than when it is nominally empty, and

(ii) has every opening and every valve closed during transport, other than those valves which need to be kept open to allow for liquid expansion on volumetric provers used for the measurement of liquefied petroleum gas,

and in this sub-paragraph “volumetric prover” means a tank or prover pipe with a capacity not exceeding 10 m³ intended to be used for the calibration of metering equipment or the measurement of petroleum fuel deliveries and which is structurally attached to, or is an integral part of, the frame of a road vehicle;

(l) by road of explosives in a vehicle exempted from excise duty by the Secretary of State under paragraph 21 of Schedule 2 to the Vehicle Excise and Registration Act 1994(b);

(m) by road of radioactive material which—

(i) is or forms part of an instrument of war or is required for research into or development or production of any such instrument or part of such an instrument or is produced in the course of or in connection with such a development or production, when the transport is on behalf of a Department of the Government of the United Kingdom or is in connection with the execution of a contract made with any such Department, or

(ii) is or forms part of an instrument of war when the transport is on behalf of a visiting force within the meaning of Part I of the Visiting Forces Act 1952(c) or is in connection with the execution of a contract made with any such force;

(n) of any of the following dangerous goods—

UN 2900 INFECTIOUS SUBSTANCES, AFFECTING ANIMALS only

UN 3077 ENVIRONMENTALLY HAZARDOUS SUBSTANCE, SOLID, N.O.S.

UN 3082 ENVIRONMENTALLY HAZARDOUS SUBSTANCE, LIQUID, N.O.S.

UN 3245 GENETICALLY MODIFIED MICRO-ORGANISMS,

where the goods are being transported in—

(i) an agricultural or forestry tractor,

(ii) mobile machinery for use on a road,

(iii) a road vehicle with fewer than 4 wheels,

(iv) a road vehicle with a maximum design speed of 25 kilometres per hour or less, or

(v) a vehicle owned by the armed forces or under the control of the armed forces,

and in this sub-paragraph, “agricultural or forestry tractor” has the meaning assigned to it in regulation 2(1) of the CDG Road Regulations;

(o) of dangerous goods where those goods are being carried as a result of an emergency, with the intention of saving human life or protecting the environment, provided that all measures are taken to ensure that such transport is carried out safely.

2. Regulation 4(1) shall not apply to or in relation to the transport in a vehicle by road or by railway of—

(a) any explosives the transport of which is in compliance with the requirements of paragraph 15 of Part II of Schedule 5 to the Carriage of Explosives by Road Regulations 1996(d);

(a) 1985 c. 48.

(b) 1994 c. 22.

(c) 1952 c. 67.

(d) S.I. 1996/2093.

- (b) excepted packages, and in this sub-paragraph “excepted package” shall have the meaning assigned to it in regulation 1(2) of the Packaging, Labelling and Carriage of Radioactive Material by Rail Regulations 1996(a);
- (c) dangerous goods (other than explosives and radioactive material)—
 - (i) in a receptacle in any package where the mass or volume of dangerous goods in that receptacle does not exceed the number specified in column 2 of Table 2 in Schedule 1 to the CDG Road Regulations opposite the entry in column 1 of that Table for the appropriate transport category of those goods,
 - (ii) in a receptacle which is a package, where the mass or volume of that package does not exceed the number specified in column 2 of Table 2 in Schedule 1 to the CDG Road Regulations opposite the entry in column 1 of that Table for the appropriate transport category of those goods,
 - (iii) in packages where the total mass or volume of packaged dangerous goods does not exceed the number specified in column 3 of Table 2 in Schedule 1 to the CDG Road Regulations opposite the entry in column 1 of that Table for the appropriate transport category of those goods,

and in this sub-paragraph “mass or volume” has the meaning assigned to it in regulation 2(3) of the CDG Road Regulations, “package” and “receptacle” have the meanings assigned to them in regulation 2(1) of the CDGCPL Regulations, “total mass or volume of packaged dangerous goods” has the meaning assigned to it in regulation 2(4) of the CDG Road Regulations, and “transport category” has the meaning assigned to it in regulation 2(1), as applied in accordance with regulation 2(5), of the CDG Road Regulations.

- 3. Regulation 4(1) shall not apply to an employer to whom dangerous goods are consigned and whose only involvement in the transport of those goods is in unloading those goods.
- 4. Regulation 4(1) shall not apply to an employer—
 - (a) whose main or secondary activity is not the transport of dangerous goods; and
 - (b) who occasionally engages in the transport of dangerous goods within the United Kingdom, and that transport does not create a significant risk to the health and safety of persons and to the environment.

SCHEDULE 2 Regulations 5(1), 6, 7(6) and 9(2)

FUNCTIONS OF SAFETY ADVISERS

(This Schedule reproduces the provisions of Annex I to the Directive.)

The functions of safety advisers shall include in particular the following—

- (a) monitoring compliance with the rules governing the transport of dangerous goods;
- (b) advising the employer on the transport of dangerous goods;
- (c) ensuring that an annual report to the employer is prepared on the activities of the employer concerning the transport of dangerous goods;
- (d) monitoring the following practices and procedures relating to the activities of the employer which concern the transport of dangerous goods—
 - (i) the procedures for compliance with the rules governing the identification of dangerous goods being transported,
 - (ii) the practice of the employer in taking into account, when purchasing means of transport, any special requirements in connection with the dangerous goods to be transported,
 - (iii) the procedures for checking the equipment used in connection with the transport of dangerous goods,
 - (iv) proper training of the employer’s employees and the maintenance of records of such training,
 - (v) the implementation of proper emergency procedures in the event of any accident or incident that may affect safety during the transport of dangerous goods,
 - (vi) the investigation of and, where appropriate, preparation of reports on serious accidents, incidents or serious infringements recorded during the transport of dangerous goods,
 - (vii) the implementation of appropriate measures to avoid the recurrence of accidents, incidents or serious infringements,
 - (viii) the account taken of the legal prescriptions and special requirements associated with the transport of dangerous goods in the choice and use of sub-contractors or third parties,

(a) S.I. 1996/2090.

- (ix) verification that employees involved in the transport of dangerous goods have detailed operational procedures and instructions,
- (x) the introduction of measures to increase awareness of the risks inherent in the transport of dangerous goods,
- (xi) the implementation of verification procedures to ensure the presence, on board the means of transport, of the documents and safety equipment which must accompany transport and the compliance of such documents and equipment with health and safety regulations, and
- (xii) the implementation of verification procedures to ensure compliance with legislation governing loading and unloading of dangerous goods.

SCHEDULE 3

Regulation 7(3)

FORM OF VOCATIONAL TRAINING CERTIFICATE

(This Schedule reproduces Annex III to the Directive.)

EC certificate of training as safety adviser for the transport of dangerous goods

Certificate No:.....

Distinctive sign of the member State issuing the certificate:

Surname:.....

Forename(s):.....

Date and place of birth:

Nationality:.....

Signature of holder.....

Valid until
for undertakings which transport dangerous goods and for undertakings which carry out related loading or unloading:

- by road
- by rail
- by inland waterway

Issued by:

Date:

Signature:.....

Extended until:.....

By:.....

Date:

Signature:.....

SUBJECTS TO BE COVERED IN EXAMINATION

1. Any examination approved by the Secretary of State in accordance with regulation 7(2)(b) or 7(5) must cover at least the subjects set out in the following paragraphs of this Schedule (which reproduce the provisions set out in Annex II of the Directive).

General preventive and safety measures

2. Knowledge of the types of consequences which may be caused by an accident involving dangerous goods.

3. Knowledge of the main causes of accidents.

Provisions relating to the mode of transport used

4. Provisions relating to the mode of transport used under national law, Community standards, international conventions and agreements, with regard to the following in particular—

- (a) the classification of dangerous goods—
 - (i) the procedure for classifying solutions and mixtures,
 - (ii) the structure of the description of substances,
 - (iii) the classes of dangerous goods and the principles of their classification,
 - (iv) the nature of the dangerous substances and articles transported,
 - (v) the physical, chemical and toxicological properties of the dangerous goods transported;
- (b) general packaging requirements, including tankers and tank-containers—
 - (i) types of packaging, codification and marking,
 - (ii) packaging requirements and prescriptions for testing packaging,
 - (iii) the state of packaging and periodic checks;
- (c) danger markings and labels—
 - (i) the markings on danger labels,
 - (ii) the placing and removal of danger labels,
 - (iii) placarding and labelling;
- (d) references in transport documents—
 - (i) information in the transport document,
 - (ii) the consignor's declaration of conformity;
- (e) the method of consignment and restrictions on dispatch—
 - (i) full load,
 - (ii) bulk transport,
 - (iii) transport in large bulk containers,
 - (iv) container transport,
 - (v) transport in fixed and removable tanks;
- (f) the transport of passengers;
- (g) prohibitions and precautions relating to mixed loading;
- (h) the segregation of substances;
- (i) limits on the quantities transported and quantities exempt;
- (j) handling and stowage—
 - (i) loading and unloading (filling ratios),
 - (ii) stowage and segregation;
- (k) cleaning and/or degassing before loading and after unloading;
- (l) the vocational training of crews;

- (m) vehicle papers—
 - (i) the transport document,
 - (ii) written instructions,
 - (iii) the vehicle-approval certificate,
 - (iv) the vehicle driver's training certificate,
 - (v) the attestation of training in inland waterway transport,
 - (vi) copies of any derogations,
 - (vii) other documents;
- (n) safety instructions, implementation of the instructions and driver-protection equipment;
- (o) surveillance obligations for parking;
- (p) traffic and navigation regulations and restrictions;
- (q) operational and accidental discharges of pollutants;
- (r) requirements relating to transport equipment.

SCHEDULE 5

Regulation 14

AMENDMENTS TO THE HEALTH AND SAFETY (FEES) REGULATIONS 1997

SCHEDULE 11A

Regulation 13A

FEES FOR VOCATIONAL TRAINING CERTIFICATE UNDER THE
TRANSPORT OF DANGEROUS GOODS (SAFETY ADVISERS)
REGULATIONS 1999

<i>1</i> <i>Description</i>	<i>2</i> <i>Fee</i>
Issue or extension of vocational training certificate	£170.00

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations implement Council Directive 96/35/EC on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway (OJ No. L 145, 19.6.96, p. 10).

2. Terms and expressions used in the Regulations are defined in regulation 2; references in the Regulations to the transport of dangerous goods are references to the transport, the related loading or the related unloading of those goods. The scope of the Regulations is defined in regulation 3 and Schedule 1; the Regulations apply to a self-employed person as they apply to an employer.

3. The Regulations—

- (a) prohibit the transport of dangerous goods by road, railway and inland waterway by an employer unless he has appointed a safety adviser (*regulation 4(1)*);
- (b) require an employer to make arrangements for ensuring adequate co-operation between the safety advisers he appoints, impose requirements with respect to the number of advisers to be appointed and ensuring any such adviser has adequate time and means to fulfil his functions and duties, and require an employer to provide any adviser with adequate information and facilities to perform his functions and duties (*regulations 4(2) to (7)*);
- (c) require a safety adviser to have the functions necessary to advise the employer who appointed him as to health, safety and environmental matters in connection with the transport of dangerous goods, to include specified functions (including the preparation of annual reports) (*regulation 5(1) and Schedule 2*);
- (d) require a safety adviser to prepare a report on specified accidents (*regulation 5(2)*);
- (e) require the keeping of reports (*regulation 6*);
- (f) prohibit the appointment of an individual as a safety adviser unless he holds a vocational training certificate appropriate to the modes of transport used by the employer and to all dangerous goods or one or more of the groups of dangerous goods specified and transported by the employer, and impose ancillary requirements with regard to the issue, form, validity and renewal of such certificates (*regulation 7 and Schedules 3 and 4*);
- (g) provide for the mutual recognition of vocational training certificates issued in other member States of the Community or in Northern Ireland (*regulation 8*);
- (h) impose requirements to provide the Secretary of State or any goods vehicle examiner on request with the name of any safety adviser, a copy of any accident and annual reports, and any vocational training certificate (*regulation 9*);
- (i) provide that the Executive and the Secretary of State for Defence may grant exemptions from any requirement or prohibition of the Regulations in specified circumstances (*regulation 10*);
- (j) make minor amendments to the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996 (S.I. 1996/2092), the Carriage of Dangerous Goods by Road Regulations 1996 (S.I. 1996/2095) and the Carriage of Explosives by Road Regulations 1996 (S.I. 1996/2093) (*regulations 11 to 13*); and
- (k) provide, by amendment of the Health and Safety (Fees) Regulations 1997 (S.I. 1997/2505) for the payment of fees for the issue of vocational training certificates (*regulation 14 and Schedule 5*).

4. Copies of the Approved Carriage List (ISBN 0-7176-1223-6) are available from HSE Books, PO Box 1999, Sudbury, Suffolk, CO10 6FS; Dillons; Rymans the Stationer; and good booksellers.

5. A copy of the cost benefit assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Economic Advisers Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. Copies have been placed in the Library of each House of Parliament.

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HEALTH AND SAFETY

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Regulations 1999**

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