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STATUTORY INSTRUMENTS

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**2009 No. 1348**

**The Carriage of Dangerous Goods and Use of  
Transportable Pressure Equipment Regulations 2009**

**PART 3**

**EXEMPTIONS**

**Derogations and transitional provisions**

**11.**—(1) The Secretary of State for Transport may exempt the carriage of dangerous goods from requirements and prohibitions arising under Part 2 of these Regulations.

(2) But paragraph (1) only applies for the purposes of—

- (a) implementing a derogation authorised under article 6(2) to (4) of the Dangerous Goods Directive;
- (b) maintaining a transitional provision permitted by article 7 of the Dangerous Goods Directive; or
- (c) ensuring that carriage to which these Regulations apply, but the Dangerous Goods Directive, ADR or RID does not apply, is carried out in a manner consistent with a derogation or transitional provision referred to at sub-paragraph (a) or (b).

(3) Where any exemption is granted pursuant to paragraph (1), that exemption is to be set out in a document to be called “Dangerous Goods: Approved Derogations and Transitional Provisions”.

(4) The document may be revised in whole or in part from time to time.

(5) In the document the Secretary of State must set out—

- (a) the types of carriage to which the exemption applies;
- (b) the circumstances in which the exemption applies;
- (c) the requirements and prohibitions that do not apply pursuant to paragraph (1); and
- (d) any requirements and prohibitions that apply instead.

(6) The Secretary of State may not bring to an end, or substantially alter, an exemption unless those who might be affected have been consulted.

(7) This regulation does not limit the power to issue an authorisation under regulation 12(1).

**Authorisations**

**12.**—(1) A person referred to in column 1 of the Table may issue an authorisation to a person or class of persons to carry dangerous goods in circumstances which are contrary to prohibitions and requirements arising under Part 2 of these Regulations providing the conditions specified in column 2 are satisfied in respect of that carriage.

<i>Column 1</i>	<i>Column 2</i>
The Secretary of State for Transport	The carriage is national carriage
The Secretary of State for Defence	<p>The conditions are as follows—</p> <p>(a) (i) the carriage is national carriage; and  (ii) either—</p> <p>(aa) the authorisation relates to prohibitions and requirements arising out of functions for which the Secretary of State for Defence is the GB competent authority; or</p> <p>(bb) it is in the interests of national security to disapply the prohibitions and requirements that are the subject of the authorisation; or</p> <p>(b) the carriage is by a vehicle or wagon belonging to or under the responsibility of one of the armed forces and it is not reasonably practicable for operational, training or security reasons related to the role of the armed forces for the prohibitions and requirements disapplied by the authorisation to apply to the carriage.</p>
The Health and Safety Executive	The carriage is national carriage and the authorisation relates to prohibitions and requirements arising out of functions for which the Health and Safety Executive is the GB competent authority.

(2) An authorisation issued pursuant to paragraph (1) must be in writing and must set out—

- (a) the carriage that is covered by the authorisation;
- (b) the reason that the authorisation is being issued; and
- (c) any time limit applicable to the validity of the authorisation.

(3) An authorisation issued pursuant to paragraph (1) may be—

- (a) made subject to conditions; and
- (b) withdrawn at any time by the provision of a notice in writing to that effect to the person authorised and that notice must set out whether the withdrawal of the authorisation has effect immediately or whether the withdrawal has effect from a specified date.

(4) Any authorisation granted, or deemed to be granted, pursuant to regulation 9(2) or 10(13) of the 2007 Regulations that was in force immediately before the coming into force of these Regulations is deemed to be an authorisation issued pursuant to paragraph (1) of this regulation and subject to the same conditions as were in force immediately before the coming into force of these Regulations.

### **Reference temperatures and standards**

**13.—**(1) This regulation applies where the GB competent authority has recognised reference temperatures or standards in accordance with regulation 28(1) or (2).

(2) Part 2 does not apply in relation to national carriage to the extent that it imposes requirements on that carriage that conflict with the reference temperatures or standards recognised in accordance with regulation 28(1) or (2).

(3) The exemption set out in paragraph (2) only applies if the tank or pressure receptacle being used for carriage —

- (a) is clearly marked or labelled to show that it is suitable for national carriage only; and
- (b) does not carry the conformity mark.

### **Old pressure receptacles**

**14.**—(1) This regulation applies in relation to national carriage.

(2) This regulation applies in relation to the carriage of dangerous goods which is not permitted under Part 2 of these Regulations because the old pressure receptacle used for that carriage cannot, by virtue of its design or construction, satisfy the requirements for the use of pressure receptacles set out in ADR or RID.

(3) Subject to paragraph (5), the requirements in ADR or RID which cannot be complied with are to be disregarded for the purposes of Part 2 of these Regulations if the requirements of paragraph (4) are satisfied.

(4) The requirements are—

- (a) the old pressure receptacle has not been subject to modification, major repair or re-rating which has put it outside the scope of the design standard or design specification to which it was originally constructed;
- (b) the old pressure receptacle—
  - (i) has been approved by a person appointed pursuant to regulation 29(2) as being safe for use;
  - (ii) was found to be safe by an inspection body in accordance with paragraph 5(4) of Schedule 3 to the 2007 Regulations and marked accordingly; or
  - (iii) was found to be safe by an inspection body or a competent person in accordance with paragraph 4(2) of Schedule 2 to the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004(1) and marked accordingly,and the time elapsed since the approval or the finding that the receptacle was safe does not exceed the intervals for periodic inspection specified in Tables 1 to 3 of Packaging Instruction P200 and Packing Instruction P203 in Section 4.1.4; and
- (c) in respect of old pressure receptacles used for the carriage of acetylene, the operator has a written record of—
  - (i) the tare weight of the old pressure receptacle, including the porous substance and, where relevant, the acetone or other solvent;
  - (ii) the nature of solvent used; and
  - (iii) the maximum safe operating pressure of the old pressure receptacle.

(5) An old pressure receptacle which is of seamless construction or has contained acetylene and in relation to which a modification, major repair or re-rating has been undertaken may not be used for the carriage of dangerous goods.

(6) In this regulation “old pressure receptacle” means a cylinder, tube, pressure drum, closed cryogenic receptacle or bundle of cylinders—

- (a) constructed—

- (i) in the case of cylinders, tubes and cryogenic receptacles, on or before 30th June 2003; and
- (ii) in the case of other pressure receptacles, on or before 9th May 2004;
- (b) which did not meet the design and construction requirements applicable to that receptacle that were set out in ADR or RID as in force on the date construction was completed;
- (c) which did comply with the design and construction requirements imposed under the law of the United Kingdom in force on the date construction was completed; and
- (d) which has not been subject to a reassessment of conformity pursuant to a provision of the law of United Kingdom or another EEA State giving effect to article 5 of the Transportable Pressure Equipment Directive (including regulation 21 of these Regulations).

#### **Carriage within the perimeter of an enclosed area**

15. Part 2 of these Regulations does not apply in relation to the carriage of dangerous goods where such carriage is wholly performed within the perimeter of an enclosed area.

#### **Carriage by road other than by vehicles**

16.—(1) This regulation applies in relation to carriage by road.

(2) Part 2 of these Regulations does not apply in relation to carriage where that carriage is not undertaken by a vehicle.

#### **Instruments of war and related material**

17. Part 2 of these Regulations does not apply in relation to the carriage of class 7 goods by a vehicle or wagon belonging to, or under the responsibility of, one of the armed forces where those goods—

- (a) are, or form part of, an instrument of war;
- (b) are required for research into, or the development or production of, any such instrument or part of such instrument; or
- (c) are produced in the course of, or in connection with, such research, development or production.

#### **Nuclear material**

18.—(1) Part 2 does not apply in relation to the carriage of Category I/II nuclear material or Category III nuclear material to the extent that it requires compliance with the security provisions.

(2) In this regulation—

- (a) “Category I/II nuclear material” has the meaning given in regulation 3(3) of the Nuclear Industries Security Regulations 2003(2); and
- (b) “Category III nuclear material” has the meaning given in regulation 3(4) of the Nuclear Industries Security Regulations 2003.