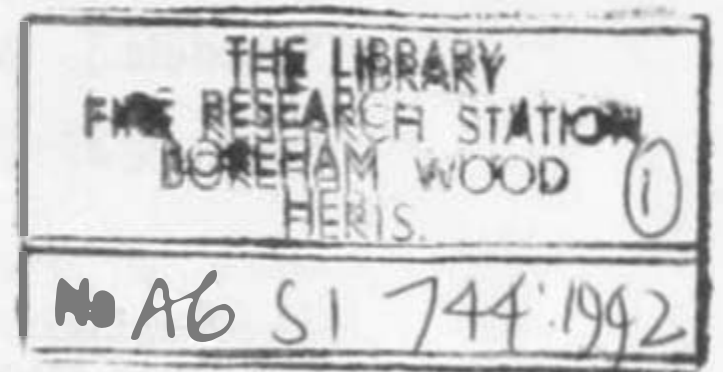


1992 No. 744

HEALTH AND SAFETY



The Road Traffic (Training of Drivers of Vehicles Carrying Dangerous Goods) Regulations 1992

<i>Made</i> - - - -	<i>12th March 1992</i>
<i>Laid before Parliament</i>	<i>13th March 1992</i>
<i>Coming into force</i>	
<i>for the purposes of all regulations except regulation 5 insofar as it applies to any carriage such as is specified in regulation 2(1)(b) or (d)</i>	<i>1st July 1992</i>
<i>for the purposes of regulation 5 insofar as it applies to any carriage such as is specified in regulation 2(1)(b) or (d)</i>	<i>1st January 1995</i>

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The Secretary of State, in exercise of the powers conferred on him by sections 15(1), (2), (3)(c), (4), (5)(b) and (6)(b), 43(2) to (6) and 82(3)(a) of, and paragraphs 3, 4, 6, 14 and 16 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Road Traffic (Training of Drivers of Vehicles Carrying Dangerous Goods) Regulations 1992 and, subject to paragraph (2), shall come into force on 1st July 1992.

(2) These Regulations shall come into force for the purposes of regulation 5 insofar as it applies to any carriage such as is specified in regulation 2(1)(b) or (d) on 1st January 1995.

(3) In these Regulations, unless the context otherwise requires—

“ADR” means the European Agreement concerning the International Carriage of Dangerous Goods by Road signed at Geneva on 30th September 1957, as revised or re-issued from time to time;

“agriculture” has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992(b);

“approved” means approved in writing for the purposes of these Regulations;

“approved list” has the same meaning as in regulation 4 of the Classification, Packaging and Labelling of Dangerous Substances Regulations 1984(c);

“attendant” means a person who accompanies the driver of a vehicle carrying explosives to help ensure their safety and security;

“break-down vehicle” has the same meaning as in regulation 3(1) of the Goods Vehicles (Plating and Testing) Regulations 1988(d);

“carriage” means carriage arising out of or in connection with work and shall be construed in accordance with regulations 1(7) and 2(3); and related words shall be construed accordingly;

“Compatibility Group” and “Compatibility Group letter” have the same meanings as in regulation 2(1) of the Classification and Labelling of Explosives Regulations 1983(e);

“Contracting Party” means a country which is a signatory to ADR;

“the Council Directive” means Council Directive 89/684/EEC on vocational training for certain drivers carrying dangerous goods by road(f), as revised from time to time;

“dangerous goods” means any substance, liquid or material which is specified in regulation 2(1);

(a) 1974 c. 37, section 15(1) was substituted by the Employment Protection Act 1975 (“the 1975 Act”) [c. 71], section 116 and paragraph 6 of Schedule 15; section 43(3) was amended 12 of Schedule 15 and Schedule 18; section 43(6) was substituted for the original section 43(6) and (7) by the 1975 Act, section 116 16(3) of Schedule 15.

(b) S.I. 1992/742.

(c) S.I. 1984/1244, amended by S.I. 1986/1922, S.I. 1987/1922, S.I. 1988/1478.

(d) S.I. 1988/1478.

(e) S.I. 1983/1140, to which there are amendments not relevant to these Regulations.

(f) OJ No. L 398, 30.12.89, p. 33.

“ dangerous substance ” (where used in or in relation to regulation 2(1)(a)) has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992(a) and (where used in or in relation to regulation 2(1)(b)) has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992;

“ Division ” and “ Division number ” have the same meanings as in regulation 2(1) of the Classification and Labelling of Explosives Regulations 1983;

“ explosives ”, “ explosive article ” and “ explosive substance ” have the same meanings as in regulation 2(1) of the Road Traffic (Carriage of Explosives) Regulations 1989(b);

“ flammable gas ” has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992;

“ flash point ” has the same meaning as in regulation 2(1) of the Classification, Packaging and Labelling of Dangerous Substances Regulations 1984;

“ freight container ” means a container as defined in regulation 2(1) of the Freight Containers (Safety Convention) Regulations 1984(c);

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

“ military explosive ” has the same meaning as in regulation 2(1) of the Classification and Labelling of Explosives Regulations 1983;

“ motor vehicle ” has the same meaning as in the Table contained in regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986(d);

“ organic peroxide ” has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992;

“ operator ” shall be construed in accordance with regulation 3;

“ packing group ” has the same meaning as in regulation 2(3)(c) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992;

“ permissible maximum weight ”, in relation to a road tanker or other vehicle, has the same meaning as it does in section 108(1) of the Road Traffic Act 1988(e) in relation to a goods vehicle as defined by section 192(1) of that Act;

“ petroleum licensing authority ” has the same meaning as in regulation 25(2) of the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992;

“ radioactive material ” has the same meaning as in section 1(1) of the Radioactive Material (Road Transport) Act 1991(f);

“ receptacle ” has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992;

“ road ” means—

(a) as respects England and Wales, a road within the meaning of section 192(1) of the Road Traffic Act 1988;

(b) as respects Scotland, a road within the meaning of the Roads (Scotland) Act 1984(g);

“ road tanker ” has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992;

“ semi-trailer ” has the same meaning as in the Table contained in regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986;

(a) S.I. 1992/743.

(b) S.I. 1989/615.

(c) S.I. 1984/1890.

(d) S.I. 1986/1078, to which there are amendments not relevant to these Regulations.

(e) 1988 c.52.

(f) 1991 c.27.

(g) 1984 c.54.

“tank container” has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992;

“toxic gas” has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992;

“trailer” has the same meaning as in regulation 2(1) of the Road Traffic (Carriage of Explosives) Regulations 1989.

(4) Where a vehicle which is engaged in the carriage of dangerous goods is—

- (a) being driven by a person undergoing training under the supervision of an instructor; or
- (b) being towed or otherwise moved by a break-down or recovery vehicle and the driver of the break-down or recovery vehicle is accompanied by the driver of the vehicle which is being towed or otherwise moved,

the instructor or (as the case may be) the driver of the vehicle which is being towed or otherwise moved shall be regarded as the driver of the vehicle concerned for the purposes of these Regulations.

(5) Any requirement imposed by regulations 4 to 9 on or in respect of the driver of a vehicle which is engaged in the carriage of explosives shall be taken to include a like requirement imposed on, or as the case may be, in respect of an attendant.

(6) A combination of a motor vehicle and one or more trailers or semi-trailers shall be deemed for the purposes of these Regulations to be a single vehicle for as long as the constituent parts of such a combination remain attached, and dangerous goods contained in different parts of the combination shall be deemed to be contained in the same vehicle.

(7) Without prejudice to the generality of regulation 2(3), a trailer or semi-trailer containing dangerous goods shall not be considered to be engaged in the carriage of dangerous goods for the purposes of these Regulations unless it forms part of a combination deemed to be a single vehicle in accordance with paragraph (6).

(8) For the purposes of these Regulations, a vehicle shall be deemed to be registered in the United Kingdom where the relevant motor vehicle is registered under the Vehicles (Excise) Act 1971(a) or any enactment repealed thereby.

(9) 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;
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears;
- (c) the driver of a vehicle does not include a reference to a person whose work does not involve his driving the vehicle concerned on a road; or
- (d) the particular substance identification number of a dangerous substance is a reference to the corresponding number set out in Part III of the list referred to in regulation 4(1) of the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992, as revised from time to time in accordance with regulation 4(2) thereof.

Application

2.—(1) These Regulations shall apply—

(a) to the carriage of any dangerous substance in—

- (i) a road tanker having (subject to paragraph (2) in the case of the application of regulation 4 to such carriage) a capacity greater than 3,000 litres or a permissible maximum weight exceeding 3.5 tonnes, or
- (ii) a tank container carried on a vehicle, regardless of the permissible maximum weight of the vehicle concerned,

except where specified in Schedule 1 or Part 1 of Schedule 2;

(a) 1971 c.10.

- (b) to the carriage in or, as the case may be, on a vehicle having (subject to paragraph (2) in the case of the application of regulation 4 to the carriage concerned) a permissible maximum weight exceeding 3.5 tonnes—
- (i) of any dangerous substance in bulk,
 - (ii) (in a receptacle, regardless of its capacity), of any organic peroxide which is subject to regulation 11(2) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992,
 - (iii) (in a receptacle, regardless of its capacity) of any flammable solid which is subject to regulation 11(3) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992,
 - (iv) (in a receptacle with a capacity of 5 litres or more) of any organic peroxide (other than one which is subject to regulation 11(2) of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992), any flammable or toxic gas or any other dangerous substance being within packing group I,
 - (v) (in a receptacle with a capacity of 5 litres or more) of any asbestos falling within sub-paragraph (a) of the definition of dangerous substance or any substance such as is specified in sub-paragraph (d) of that definition,
 - (vi) (in a receptacle with a capacity of 5 litres or more) of any dangerous substance both listed in the approved list as "hazardous waste" and designated as "special waste" by regulation 2(1)(a)(i) of the Control of Pollution (Special Waste) Regulations 1980(a),
 - (vii) (in a receptacle with a capacity of 200 litres or more) of any dangerous substance not specified in heads (ii) to (vi) of this sub-paragraph, or
 - (viii) (in a transformer or capacitor, regardless of its capacity), of any dangerous substance not specified in heads (ii) to (v) of this sub-paragraph, except where specified in Schedule 1 or Part II of Schedule 2;
- (c) to the carriage of any explosives in or on a vehicle not also being used to carry passengers for hire or reward (regardless of the permissible maximum weight of the vehicle concerned), except where specified in paragraph 1 of Schedule 1 or Part III of Schedule 2; and
- (d) to the carriage of any radioactive material in or on a vehicle having (subject to paragraph (2) in the case of the application of regulation 4 to such carriage) a permissible maximum weight exceeding 3.5 tonnes, except where specified in Schedule 1 or under the conditions set out in Schedules 1 to 4 of marginal 2704 of ADR;

and, unless the context otherwise requires, any reference in these Regulations to the carriage of dangerous goods shall be construed as a reference to any carriage to which these Regulations apply by virtue of this paragraph.

(2) Neither the capacity nor the permissible maximum weight of the road tanker or other vehicle concerned shall be taken into account in ascertaining whether or not regulation 4 applies to any carriage by virtue of sub-paragraph (a)(i), (b) or (d) of paragraph (1).

(3) A vehicle shall be deemed to be engaged in—

- (a) such carriage to which these Regulations apply by virtue of paragraph (1)(a)(i), from the commencement of loading the road tanker with the dangerous substance concerned for the purpose of carrying it on a road until the carrying tank of the road tanker and (where appropriate) any compartment of that carrying tank have been cleaned or purged so that any of the dangerous substance or its vapour which remains therein is not sufficient to create a risk to the health or safety of any person, regardless of whether or not the road tanker is on a road at the material time;
- (b) such carriage to which these Regulations apply by virtue of paragraph (1)(a)(ii)—
 - (i) (in the case where the tank container has been loaded with the dangerous substance concerned before being placed on the vehicle) from the time the tank container is placed on the vehicle for the purpose of carrying the dangerous substance on a road, or

(a) S.I. 1980/1709.

(ii) (in the case where the tank container has been placed on the vehicle before the commencement of loading) from the commencement of loading the tank container with the dangerous substance concerned for the purpose of carrying it by road,

until in either case—

(a.i) the tank container is removed from the vehicle, or

(b) the tank container and (where appropriate) any compartment of the tank container have been cleaned or purged so that any of the dangerous substance or its vapour which remains therein is not sufficient to create a risk to the health or safety of any person,

and, in either of the cases referred to in this sub-paragraph, regardless of whether or not the road tanker or other vehicle is on a road at the material time;

(c) such carriage to which these Regulations apply by virtue of paragraph (1)(b)—

(i) in the case of a vehicle carrying a dangerous substance in bulk other than in a freight container, from the commencement of loading the relevant vehicle with the dangerous substance concerned for the purpose of carrying that substance on a road until the vehicle has been unloaded (and where necessary cleaned or purged) so that any of the dangerous substance or its vapour which remains in the vehicle is not sufficient to create a risk to the health or safety of any person, or

(ii) in the case of a vehicle carrying a dangerous substance in a freight container, receptacle, transformer or capacitor—

(aa) (if the relevant freight container, receptacle, transformer or capacitor has been loaded with the dangerous substance concerned before being placed on the vehicle) from the time the freight container, receptacle, transformer or capacitor is placed on the vehicle for the purpose of carrying the dangerous substance on a road, or

(bb) (if the relevant freight container, receptacle, transformer or capacitor has been placed on the vehicle before the commencement of loading) from the commencement of loading the freight container, receptacle, transformer or capacitor with the dangerous substance concerned for the purpose of carrying it by road,

until—

(aaa) the freight container, receptacle, transformer or capacitor is removed from the vehicle, or

(bbb) the freight container, receptacle, transformer or capacitor (and, where necessary, the vehicle carrying same) have been emptied (and where necessary cleaned or purged) so that any of the dangerous substance or its vapour which remains therein is not sufficient to create a risk to the health or safety of any person,

and, in either of the cases referred to in this sub-paragraph, regardless of whether or not the vehicle is on a road at the material time;

(d) such carriage to which these Regulations apply by virtue of paragraph (1)(c), from the commencement of loading the vehicle with the explosives concerned for the purpose of carrying them on a road until all the explosives have been unloaded from the vehicle, regardless of whether or not the vehicle concerned is on a road at the material time; and

(e) such carriage to which these Regulations apply by virtue of paragraph (1)(d), from the commencement of loading the vehicle with the radioactive material concerned for the purpose of carrying it on a road until the vehicle has been unloaded and where necessary cleaned so that any of the material which remains on or in the vehicle is not sufficient to create a risk to the health or safety of any person, regardless of whether or not the vehicle is on a road at the material time;

(4) For the purposes of paragraph (1)(b)(i), the carriage in bulk of a dangerous substance shall, unless the context otherwise requires, include the unconfined carriage of such a substance in a freight container, but shall not include the carriage of such a substance—

(a) in a receptacle (whether or not the receptacle is carried in a freight container);

- (b) in a road tanker;
- (c) in a tank container; or
- (d) in a transformer or capacitor.

(5) In this regulation, "carrying tank" means a tank which is referred to thus in the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992 by virtue of the definition of "road tanker" contained in regulation 2(1) thereof.

Meaning of operator

3.—(1) The operator of any vehicle which is engaged in the carriage of dangerous goods shall be—

- (a) the person who holds an operator's licence (granted under Part V of the Transport Act 1968(a)) for the use of that vehicle for the carriage of goods on a road, except that where by virtue of regulation 32(1) to (3) of the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984(b) the vehicle is included in a licence held by a holding company and that company is not operating the vehicle at the relevant time, the "operator" shall be the subsidiary company specified in the application made under the said regulation 32(1) or, if more than one subsidiary company is so specified, whichever one is operating the vehicle at the relevant time, and in this regulation, "holding company" and "subsidiary company" have the same meanings as in the said Regulations of 1984; or
- (b) where no such licence is held—
 - (i) (in the case of a vehicle which is not registered in the United Kingdom) the driver of the vehicle, and
 - (ii) (in the case of any other vehicle, but subject to paragraph (2)) the keeper of the vehicle; and for this purpose, where the vehicle is on hire or lease to any person, that person shall be treated as its keeper.

(2) Where an employee who would otherwise be the operator of a vehicle in accordance with sub-paragraph (b)(ii) of paragraph (1) uses that vehicle for the carriage of dangerous goods on behalf of his employer, that employer shall, notwithstanding that sub-paragraph, be regarded as the operator of the vehicle for the purposes of these Regulations.

Instruction and training for drivers

4.—(1) The operator of any vehicle registered in the United Kingdom which is engaged in the carriage of dangerous goods shall ensure that the driver of the vehicle has received—

- (a) adequate instruction and training to enable him to understand—
 - (i) the nature of the dangers to which the particular dangerous goods being carried may give rise and the action to be taken in an emergency concerning them, and
 - (ii) his duties under the Health and Safety at Work etc. Act 1974; and
- (b) (in respect of any carriage to which these Regulations apply by virtue of regulation 2(1)(a)) adequate instruction and training to enable him to understand his duties under the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992;
- (c) (in respect of any carriage to which these Regulations apply by virtue of regulation 2(1)(b)) adequate instruction and training to enable him to understand his duties under the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992; or
- (d) (in respect of any carriage to which these Regulations apply by virtue of regulation 2(1)(c)) adequate instruction and training to enable him to understand his duties under the Road Traffic (Carriage of Explosives) Regulations 1989.

(2) Each operator shall keep a record of any training provided by him in accordance with paragraph (1) to the driver of a vehicle who is his employee and shall make available a copy of that record to the driver concerned.

(a) 1968 c.73, section 60(1) was modified by S.I. 1980/637.

(b) S.I. 1984/176, to which there are amendments not relevant to these Regulations.

Vocational training certificates

5.—(1) Subject to regulations 6 and 7, the operator of any vehicle which is engaged in the carriage of dangerous goods shall ensure that the driver of that vehicle holds a valid certificate applicable to that carriage (to be known as a "vocational training certificate") issued by the Secretary of State.

(2) A driver may only be issued with a vocational training certificate in accordance with paragraph (1) where—

- (a) he has successfully completed such training in the carriage of the dangerous goods concerned as the Secretary of State has from time to time approved;
- (b) he has passed an examination (the syllabus of which shall cover the training referred to in sub-paragraph (a) of this paragraph) which has been approved by the Secretary of State; and
- (c) a fee of £2.50 has been paid to the Secretary of State.

(3) Each vocational training certificate issued in accordance with paragraph (1) shall be in a form approved by the Secretary of State.

(4) The training referred to in paragraph (2)(a) shall be given in the form of a theoretical course accompanied by practical exercises and shall cover at least the subjects specified in Schedule 3.

(5) Each vocational training certificate shall be valid for a period of 5 years from the date of issue, but its validity may be extended for periods of up to 5 years by the Secretary of State where, within the period of 12 months which precede the expiry of the original certificate or any extension of it granted in accordance with this paragraph—

- (a) the holder can show to the satisfaction of the Secretary of State that he has—
 - (i) successfully completed a refresher course in the carriage of dangerous goods which has been approved by the Secretary of State, and
 - (ii) passed the examination referred to in paragraph (2)(b); and
- (b) a fee of £2.50 has been paid to the Secretary of State.

(6) Schedule 4 shall have effect under this regulation as are specified in paragraph 1 of that Schedule.

(7) Any current certificate in the form set out in Appendix B.6 to ADR (regardless of whether or not that certificate has been extended in the manner described by Article 5.2 of the Council Directive) which is held by a driver and which was issued to him under national provisions giving effect to Article 1 of that Directive in a member state or in Northern Ireland shall be deemed to be a vocational training certificate issued in conformity with the foregoing provisions of this regulation valid for the carriage of those dangerous goods to which it is applicable.

Provisional vocational training certificates

6.—(1) It shall be sufficient compliance with regulation 5(1) insofar as it applies to any carriage such as is specified in regulation 2(1)(a) or (c) where the driver of the relevant vehicle holds a certificate (to be known as a "provisional vocational training certificate")—

- (a) applicable to the carriage concerned;
- (b) issued by the Secretary of State;
- (c) in a form approved by the Secretary of State; and
- (d) stating its expiry date.

(2) The Secretary of State may not issue a provisional vocational training certificate in accordance with paragraph (1) unless he—

- (a) is satisfied that the driver concerned has, without having completed the training or passed the examination referred to in regulation 5(2), been working as a driver of vehicles engaged in the carriage to which it will be applicable for the 5 years preceding 1st July 1992; and
- (b) has received a fee of £5.00.

(3) In ascertaining whether or not a driver has been working for the length of time specified in paragraph (2)(a), no account shall be taken of any seasonal lay-offs or breaks between employment of up to 6 months in any 12-month period or totalling up to 18 months, during that time.

(4) Each provisional vocational training certificate issued in accordance with paragraph (1) shall expire on 1st January 1995.

(5) Any current certificate which is held by a driver and which was issued to him under national provisions giving effect to Article 4.2 of the Council Directive in Northern Ireland shall be deemed to be a provisional vocational training certificate issued in conformity with the foregoing provisions of this regulation valid for the carriage of those dangerous goods to which it is applicable.

Existing training certificates

7. It shall be sufficient compliance with regulation 5(1) where the driver of the relevant vehicle holds a training certificate applicable to the dangerous goods being carried which was issued to him by the appropriate national authority before the coming into force of that provision as respects the carriage concerned on the basis of existing national provisions which the Commission of the European Communities has confirmed satisfy the corresponding requirements of the Council Directive; provided that such compliance shall cease—

- (a) on 1st July 1997, insofar as the certificate concerned relates to such carriage as is specified in regulation 2(1)(a) or (c);
- (b) on 1st January 2000, insofar as the certificate concerned relates to such carriage as is specified in regulation 2(1)(b) or (d); or
- (c) at the end of the period of validity of the certificate concerned, where that date is earlier than the relevant date specified in sub-paragraph (a) or (b) above.

Fees for issue of certificates

8. Nothing in regulation 5(2)(c) or (5)(b) or 6(2)(b) shall be construed as making a fee payable by a person in any of the capacities specified in section 43(4) of the Health and Safety at Work etc. Act 1974.

Certificates to be available during carriage

9. The driver of any vehicle which is engaged in the carriage of dangerous goods shall ensure that the relevant certificate he holds in accordance with regulation 5, 6 or 7 is so kept by him that it is immediately available during the whole of the carriage.

Certificates to be produced to police constables, etc.

10.—(1) The driver of any vehicle which is engaged in the carriage of dangerous goods shall on request produce to any police constable or goods vehicle examiner the relevant certificate he holds in accordance with regulation 5, 6 or 7.

(2) The driver of any vehicle which is engaged in the carriage of any radioactive material shall on request produce to any inspector appointed in accordance with section 1(3)(a) of the Radioactive Material (Road Transport) Act 1991 the relevant certificate he holds in accordance with regulation 5, 6 or 7.

(3) In this regulation, "goods vehicle examiner" has the meaning assigned to it by section 68(2) of the Road Traffic Act 1988.

Enforcement

11. Notwithstanding the Health and Safety (Enforcing Authority) Regulations 1989^(a), the enforcing authority for these Regulations shall—

- (a) insofar as they apply to the carriage of explosives, be the Health and Safety Executive; and

^(a)S.I. 1989/1903.

- (b) insofar as they apply to the carriage of petrol (and that carriage is also carriage which is subject to the provisions of Schedule 4 to the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992), be the relevant petroleum licensing authority ascertained in accordance with regulation 25(2)(a) of the said Regulations.

Exemption certificates

12.—(1) The Health and Safety Executive may, by a certificate in writing, exempt the operator of a vehicle from any requirement imposed upon him by regulation 4; and any such exemption may be granted subject to conditions and to a limit of time and may in any event be revoked at any time by the Health and Safety Executive by a further certificate in writing.

(2) The Health and Safety Executive shall not grant any exemption in accordance with 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 Health and Safety Executive may, by a certificate in writing, issue exemptions from regulation 5(1) in accordance with the criteria laid down by Article 3 of the Council Directive.

(4) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt the operator of—

- (a) any home forces' vehicle; or
 - (b) any vehicle in the service of a visiting force or a headquarters,
- from—
- (i) the requirements in paragraphs (a) and (b) respectively of regulation 4(1) insofar as they apply to the carriage of any military explosive, or
 - (ii) the requirement in regulation 5(1),

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

(5) In this regulation—

- (a) "headquarters" has the same meaning as in article 3(2) of the Visiting Forces and International Headquarters (Application of Law) Order 1965(a);
- (b) "home forces' vehicle" has the same meaning as in the Table contained in regulation 3(2) of the Road Vehicles Lighting Regulations 1989(b); and
- (c) "visiting force" has the same meaning as it does for the purposes of any provision of Part I of the Visiting Forces Act 1952(c).

Defence

13. In any proceedings for an offence under regulation 4 or (where the driver of the vehicle is specified in paragraph 1(c) or (d) of Schedule 1 but the carriage of the dangerous goods concerned is not thereby excluded from the application of these Regulations) regulation 5(1), it shall be a defence for the operator to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

(a) S.I. 1965/1536; article 3 was amended by section 4(4) of the Pakistan Act 1973 (c.48) and by S.I. 1987/928 and S.I. 1989/1330.

(b) S.I. 1989/1796.

(c) 1952 c.67.

Revocations

14. The following provisions are revoked by these Regulations—

- (a) regulation 14 of the Road Traffic (Carriage of Explosives) Regulations 1989;
- (b) regulation 7 of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992; and
- (c) regulation 26 of the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992.

Signed by Authority of the Secretary of State for Transport.

Christopher Chope
Parliamentary Under Secretary of State,
Department of Transport

12th March 1992

**CASES WHERE THE CARRIAGE OF DANGEROUS SUBSTANCES,
EXPLOSIVES AND RADIOACTIVE MATERIAL IS NOT CARRIAGE TO
WHICH THESE REGULATIONS APPLY**

1. These Regulations shall not apply to any such carriage as is specified in regulation 2(1) where—

- (a) the dangerous goods concerned are used solely in connection with the operation of the vehicle carrying them;
- (b) the vehicle concerned is being towed or otherwise moved by a break-down or recovery vehicle, and—
 - (i) both vehicles are being escorted by a vehicle used for police or fire brigade purposes, and
 - (ii) the vehicle being towed or otherwise moved as aforesaid is being driven to the nearest suitable safe place or depot with a view to it (or any tank container or other vessel which it is carrying) being repaired, cleaned or purged prior to its safe removal;
- (c) the vehicle concerned is being driven for the purpose of testing the vehicle by a fitter, vehicle tester or any other similar person, and that person has received adequate instruction to enable him to understand the nature of the dangers to which the dangerous goods being carried may give rise and the action to be taken in an emergency concerning them; or
- (d) the vehicle concerned is being driven by a police constable in an emergency and that constable has received adequate instruction to enable him to understand the nature of the dangers to which the dangerous goods being carried may give rise and the action which it is appropriate to take to reduce the risks arising out of the emergency;
- (e) the vehicle concerned is delivering dangerous goods—
 - (i) between private premises and another vehicle situated in the immediate vicinity of those premises, or
 - (ii) between one part of private premises and another part of those premises situated in the immediate vicinity of that first part.

2. These Regulations shall not apply to any such carriage as is specified in regulation 2(1)(a), (b) or (d)—

- (a) where—
 - (i) the vehicle concerned is engaged in international transport within the meaning of Article 1(c) of ADR, and
 - (ii) such carriage conforms in every respect with the provisions of ADR;
- (b) where the transport of the dangerous goods concerned is subject to a special bilateral or multilateral agreement made under the terms of Article 4.3 of ADR to which the United Kingdom is a signatory and conforms with any conditions attached to such an agreement; or
- (c) where the vehicle concerned is not, for the time being, subject to the provisions of ADR by reason only that it is a vehicle belonging to or under the orders of the armed forces of a Contracting Party.

SCHEDULE 2

Regulation 2(1)(a), (b) and (c)

PART I

**CASES WHERE THE CARRIAGE OF DANGEROUS SUBSTANCES IN ROAD
TANKERS OR TANK CONTAINERS CARRIED ON VEHICLES IS NOT CARRIAGE
TO WHICH THESE REGULATIONS APPLY BY VIRTUE OF REGULATION 2(1)(a)**

These Regulations shall not apply to any such carriage as is specified in regulation 2(1)(a) where—

- (a) (in the case of carriage in a tank container carried on a vehicle) the substance being carried, other than any liquid nitrogen in the jacket of the tank container which is being carried exclusively for the purpose of insulating any liquid helium or liquid hydrogen which is also being carried in that tank container, is being used solely in connection with the operation of the tank container concerned;

- (b) where the vehicle carrying the dangerous substance is a road construction vehicle engaged in the repair or construction of a road; and in this sub-paragraph—
- (i) the reference to a road construction vehicle does not include a reference to such a vehicle which is also a road tanker being used for the carriage of liquid tar (including road asphalt and oils, bitumen and cutbacks) which has the substance identification number 1999 or 7033,
 - (ii) "built-in road construction machinery" means road construction machinery built-in as part of a road construction vehicle or permanently attached to it,
 - (iii) "road construction machinery" means a machine or contrivance suitable for use in the repair and construction of roads, and
 - (iv) "road construction vehicle" means a vehicle constructed or adapted for the carriage of built-in road construction machinery and not constructed or adapted for the carriage of any other load except articles and material used for the purposes of that machinery;
- (c) where any petroleum-fuel is being carried in a volumetric prover and that volumetric prover—
- (i) is not moved, driven or kept on a road other than when it is nominally empty,
 - (ii) before having been taken onto the road was last filled with kerosene or some other liquid with a flash point not lower than 32°C or was purged with nitrogen, and
 - (iii) during its carriage has every valve (except 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 opening closed,
- and in this sub-paragraph "nominally empty" has the same meaning as in regulation 17(2) of the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992, and "petroleum-fuel" and "volumetric prover" have the same meanings as in regulation 2(1) of those Regulations; or
- (d) where the dangerous substance being carried is a pesticide (other than dilute sulphuric acid or a wood preservative) and is diluted ready for use or is otherwise in a condition ready for use, and 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); and in this sub-paragraph "pesticide" has the same meaning as in section 16(15) of the Food and Environment Protection Act 1985(b) and "wood preservative" means a pesticide used for preserving wood; or
- (e) where the dangerous substance being carried is radioactive material.

PART II

CASES WHERE THE CARRIAGE OF DANGEROUS SUBSTANCES IN RECEPTACLES, ETC., IS NOT CARRIAGE TO WHICH THESE REGULATIONS APPLY BY VIRTUE OF REGULATION 2(1)(b)

These Regulations shall not apply to any such carriage such as is specified in regulation 2(1)(b)—

- (a) where the dangerous substance being carried is radioactive material;
- (b) where the dangerous substance being carried has been classified (as defined by regulation 2(1) of the Classification and Labelling of Explosives Regulations 1983) in pursuance of regulation 3(2)(a) of those Regulations and assigned to Class 1 (also as defined by the said regulation 2(1));
- (c) where the dangerous substance being carried (in each case in a cylinder) is commercial butane, commercial propane, any mixture thereof or (for the purposes of regulation 5(1) only) acetylene, and—
 - (i) the vehicle concerned has been designed for a purpose which includes the use of any such substance and the substance concerned is being carried in connection with the operation of the vehicle, or
 - (ii) the cylinder is part of equipment carried on the vehicle concerned,
 provided that the number of cylinders carried thus (including any spare cylinder) does not exceed two;

(a) S.I. 1986/1510.

(b) 1985 c.48.

- (d) where the vehicle which is being used for the carriage of a dangerous substance is passing from one part of an agricultural unit to another part of that unit and the dangerous substance is diluted ready for use or is otherwise in a condition ready for use; and in this sub-paragraph "agricultural unit" means a self-contained parcel of land which is occupied (whether or not by a single occupier) for agriculture; or
- (c) where the dangerous substance being carried is specified in sub-paragraphs (c) to (i) of regulation 3(1) of the Classification, Packaging and Labelling of Dangerous Substances Regulations 1984.

PART III

CASES WHERE THE CARRIAGE OF EXPLOSIVES IS NOT CARRIAGE TO WHICH THESE REGULATIONS APPLY BY VIRTUE OF REGULATION 2(1)(c)

These Regulations shall not apply to the carriage—

- (a) of any explosives specified in Part I of Schedule I to the Road Traffic (Carriage of Explosives) Regulations 1989 ("the 1989 Regulations");
- (b) of gunpowder or smokeless powder (or a mixture of them), where the total quantity of such explosives does not exceed 5 kilograms;
- (c) of any explosives specified in Part II of Schedule I to the 1989 Regulations, where the total quantity of such explosives does not exceed 50 kilograms (except that where explosives carried in accordance with this sub-paragraph are being carried in conjunction with explosives carried in accordance with sub-paragraph (b) of this Schedule, the total quantity of explosives so carried shall not exceed 50 kilograms); or
- (d) (for the purposes of regulation 5(1) only)—
 - (i) of any explosives within a Division whose Division number is 1.4 and a Compatibility Group whose Compatibility Group letter is E,
 - (ii) of any explosives within a Division whose Division number is 1.4 and a Compatibility Group whose Compatibility Group letter is B, C, D, E, F or G, where the total quantity of such explosives does not exceed 500 kilograms,
 - (iii) of any explosives (consisting of explosive articles only) within—
 - (a.) a Division whose Division number is 1.1 and a Compatibility Group whose Compatibility Group letter is B, C, D, G or J,
 - (bb) a Division whose Division number is 1.2 and a Compatibility Group whose Compatibility Group letter is B, C, D, E, F, H or J, or
 - (cc) a Division whose Division number is 1.3 and a Compatibility Group whose Compatibility Group letter is C, G, H or J,
 where the total quantity of such articles does not exceed 50 kilograms.
 - (iv) of any explosives (consisting of explosive substances only) within a Division whose Division number is 1.3 and a Compatibility Group whose Compatibility Group letter is C or G, where the total quantity of such substances does not exceed 20 kilograms, or
 - (v) of any explosives within a Division whose Division number is 1.1 and a Compatibility Group whose Compatibility Group letter is G, where the total quantity of such explosives does not exceed 5 kilograms.

SCHEDULE 3

Regulation 5(4)

MINIMUM TRAINING REQUIREMENTS FOR ISSUE OF VOCATIONAL TRAINING CERTIFICATES

1. Any training approved by the Secretary of State for Transport in accordance with regulation 5(2)(a) must cover at least the following subjects:
 - (a) general requirements concerning the carriage of dangerous goods;
 - (b) main types of hazard;
 - (c) information on environmental protection in the control or transfer of wastes;
 - (d) preventive and safety measures appropriate to the various types of hazard;
 - (e) what to do after an accident (first aid, road safety, basic knowledge about the use of protective equipment, etc.);

- (f) labelling and marking to indicate danger;
- (g) what a vehicle driver should and should not do during the carriage of dangerous goods;
- (h) the purpose and method of operation of technical equipment on vehicles used for the carriage of dangerous goods;
- (i) prohibitions on mixed loading in the same vehicle or container;
- (j) precautions to be taken during loading and unloading of dangerous goods;
- (k) general information concerning civil liability; and
- (l) information on multi-modal transport operations.

2. For drivers of vehicles carrying dangerous goods in packages, the training required to be approved must also cover handling and stowage of packages.

3. For drivers of road tankers or vehicles carrying dangerous goods in tank containers, the training required to be approved must also cover the behaviour of such vehicles on roads, including the movement of the loads they are carrying.

SCHEDULE 4

Regulation 5(6)

FEES ON APPLICATIONS FOR APPROVALS

1. On the making of an application to the Secretary of State—

- (a) for the approval of training under regulation 5(2)(a); or
- (b) for the approval of a refresher course under regulation 5(5)(a),

there shall be payable by the applicant to the Secretary of State in connection with the determination by him of that application a fee or fees to be determined in accordance with the following paragraphs of this Schedule.

2. On receipt of the application, the Secretary of State shall prepare and send to the applicant an estimate of the cost of the work necessary for the determination of the application; and the amount so estimated shall, subject to paragraph 4, be the amount of the initial fee payable and shall be paid forthwith.

3. On determination of the application, the Secretary of State shall prepare a detailed statement of the work carried out in relation to the determination of the application and of the cost reasonably incurred by him or any person acting on his behalf in carrying out that work—

4. If the cost so stated differs from the amount estimated in accordance with paragraph 2—

- (a) if it is greater, the amount of the difference shall be notified by the Secretary of State to the applicant, shall be the amount of the final fee payable and shall be paid forthwith; and
- (b) if it is less, the initial fee shall be re-determined accordingly and the amount of the difference shall be paid forthwith to the applicant by the Secretary of State.

5. In estimating or stating the cost of carrying out any work, the Secretary of State may take into account the cost to him or any person acting on his behalf of employing an officer for any period to perform the work concerned and shall determine that cost by reference to the average cost of employing an officer of the relevant grade for that period.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations (except to the extent specified below) give effect as respects Great Britain to the provisions of Council Directive 89/684/EEC on vocational training for certain drivers of vehicles carrying dangerous goods by road (OJ No. L398, 30.12.89, p.33).

2. Regulation 2 and Schedules 1 and 2 determine the scope of the Regulations and, in so doing, reflect Article 1 of the above Council Directive ("the Directive"), except that—

(a) the thresholds specified in regulation 2(1)(b) (exceptions for small quantities of dangerous substances carried in receptacles) are different from the corresponding thresholds laid down in the Directive;

(b) by virtue of the definition of "dangerous substance" in regulation 2(1), the Regulations do not (unlike the Directive) apply to the carriage of any—

(i) flammable liquid having a flash point between 55°C and 100°C and not being otherwise dangerous, or

(ii) infectious and obnoxious substance;

(c) by virtue of sub-paragraph (e) of Part II of Schedule 2, the Regulations do not (unlike the Directive) apply to the carriage of any food, medicine, dangerous drug, disease-producing organism or sample taken for enforcement purposes; and

(d) (unlike the Directive) the Regulations apply to vehicles carrying explosives and belonging to or coming under the responsibility of the armed forces of the Crown.

3. Regulation 2 (together with regulation 1(7)) also specifies when a vehicle is considered to be engaged in the carriage of dangerous goods for the purposes of the Regulations.

4. It should also be noted when comparing the Regulations with the Directive that—

(a) Article 1 of the Directive refers only to the drivers of vehicles properly so-called, whereas regulation 1(4) provides that certain other persons are to be regarded as the drivers of vehicles in their stead, and

(b) the Directive refers to the 1988 edition of the European Agreement concerning the International Carriage of Dangerous Goods by Road; the Regulations refer to the current version thereof.

5. The principal requirements imposed by the Regulations are expressed in terms of the operators of vehicles. Regulation 3 defines what is meant by such persons.

6. Regulation 4 imposes duties on the operator of a vehicle carrying dangerous goods with respect to the provision of instruction and training to the driver of the vehicle concerned.

7. Regulation 5 both imposes a duty on the operator of a vehicle carrying dangerous goods with respect to the possession by the driver of that vehicle of a training certificate (known as a "vocational training certificate") issued pursuant to paragraph (1) thereof and applicable to the carriage concerned and (together with Schedules 3 and 4) imposes ancillary requirements with regard to the issue, renewal and validity of any such certificate. Regulation 5 also provides that vocational training certificates issued in Northern Ireland or in the other member states of the European Communities under national provisions giving effect to the Directive are to be regarded as vocational training certificates issued pursuant to that regulation valid for the carriage of those dangerous goods to which they are applicable.

8. Regulation 6 provides that in certain circumstances a training certificate issued pursuant to paragraph (1) thereof (known as a "provisional vocational training certificate") will be regarded as a vocational training certificate issued pursuant to regulation 5(1). Regulation 6 also provides that provisional vocational training certificates issued in

Northern Ireland are to be regarded as provisional vocational training certificates for the purposes of that regulation valid for the carriage of those dangerous goods to which they are applicable. Provisional vocational training certificates will (by virtue of regulation 6(4)) all expire on 1st January 1995; this is 2 years earlier than the corresponding date specified in the Directive.

9. Regulation 7 provides that in certain circumstances a training certificate issued under existing national legislation will be regarded as a vocational training certificate issued pursuant to regulation 5(1).

10. Regulation 8 provides that no person in any of the capacities referred to in section 43(4) of the Health and Safety at Work etc. Act 1974 (c.37) shall be compelled to pay the relevant fee fixed by the Regulations for the issue of a certificate to him under regulation 5(1) or 6(1) or the renewal (under regulation 5(5)) of a certificate already held by him.

11. Regulation 9 imposes a duty on the driver of a vehicle carrying dangerous goods with respect to the keeping of any certificate he holds in pursuance of the Regulations.

12. Regulation 10 imposes a duty on the driver of a vehicle carrying dangerous goods with respect to the production, to the officials named in that provision, of any certificate he holds in pursuance of the Regulations.

13. Regulation 11 provides that the Health and Safety Executive is to be the enforcing authority for the Regulations insofar as they apply to the carriage of explosives and that the petroleum licensing authority for the premises in question is to be the enforcing authority for the Regulations insofar as they apply to the delivery of petrol at petroleum filling stations and other premises for which a petroleum-spirit licence under the Petroleum (Consolidation) Act 1928 (c.32) is in force.

14. Regulation 12 enables both the Health and Safety Executive and the Secretary of State for Defence to grant exemptions from these Regulations.

15. Regulation 13 provides a defence in proceedings for an offence under regulation 4 or (in certain cases) under regulation 5(1) where the defendant can prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

16. Regulations 4, 8, 9, 10, 11, 12(4) and (5) and 13 do not give effect to any substantive provision of the Directive.

17. Regulation 14 revokes the following regulations—

- (a) regulation 14 of the Road Traffic (Carriage of Explosives) Regulations 1989 (S.I. 1989/615);
- (b) regulation 7 of the Road Traffic (Carriage of Dangerous Substances in Packages etc.) Regulations 1992 (S.I. 1992/742); and
- (c) regulation 26 of the Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992 (S.I. 1992/743).

18. The current edition of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ISBN 0 11 550901 1) may be obtained from Her Majesty's Stationery Office.

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