



STATUTORY INSTRUMENTS.

S.I. No. 349 of 2011



EUROPEAN COMMUNITIES (CARRIAGE OF DANGEROUS GOODS
BY ROAD AND USE OF TRANSPORTABLE PRESSURE EQUIPMENT)
REGULATIONS 2011

(Prn. A11/1181)

S.I. No. 349 of 2011

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BY ROAD AND USE OF TRANSPORTABLE PRESSURE EQUIPMENT)
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EUROPEAN COMMUNITIES (CARRIAGE OF DANGEROUS GOODS
BY ROAD AND USE OF TRANSPORTABLE PRESSURE EQUIPMENT)
REGULATIONS 2011

I, RICHARD BRUTON, Minister for Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) as amended by the European Communities Act 2007 (No. 18 of 2007), and for the purpose of giving effect to the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR), and the protocol of signature thereto done at Geneva on 30 September 1957, and the amending protocol thereto adopted at Geneva on 28 October 1993, and Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008¹ on the inland transport of dangerous goods, adapted by Commission Directive 2010/61/EU (insofar as that Directive relates to the transport of dangerous goods by road)², to enable effect to be given to Council Directive 95/50/EC of 6 October 1995³, on uniform procedures for checks on the transport of dangerous goods by road, Directive 2001/26/EC of the European Parliament and of the Council of 7 May 2001 amending Council Directive 95/50/EC, and Commission Directive 2004/112/EC of 13 December 2004 adapting to technical progress Council Directive 95/50/EC, and for the purpose of giving effect to Directive 2010/35/EU of the European Parliament and the Council of 16 June 2010⁴ on transportable pressure equipment, and to provide for the repeal of certain other enactments hereby make the following regulations:

PART 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011.

Interpretation

2. (1) In these Regulations—

“accident” means an accident arising out of or in the course of which, in the case of the carriage of dangerous goods by road, results in injury to persons or environmental damage;

¹OJ L260, 30.09.2008, p.13

²OJ L233, 03.09.2010, p.27

³OJ L249, 17.10.1995, p.35

⁴OJ L165, 30.06.2010, p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 8th July, 2011.*

“accreditation” means accreditation in accordance with IS/EN/ISO/IEC/17020;

“Accreditation and Market Surveillance Regulation” means Regulation (EC) No. 765/2008⁵ of the European Parliament and of the Council of 9 July 2008 setting out the requirement for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93;

“accreditation body” means a body appointed for that purpose recognised by the European Co-operation for Accreditation (EA) and provides accreditation services in accordance with the relevant International Organisation for Standardisation ISO 17000 series of standards and guides and the harmonised EN 45000 series of European standards;

“ADR” means the European Agreement Concerning the International Carriage of Dangerous Goods by Road, the Annexes to it and the protocol of signature thereto done at Geneva on 30 September 1957, as amended, in the version applicable as from 1 January 2011;

“Annexes” means Annexes A and B to the ADR referred to in Annex 1 to Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods, as adapted by Commission Directive 2010/61/EU of 2 September 2010 adapting for the first time the Annexes to Directive 2008/68 of the European Parliament and of the Council on the inland transport of dangerous goods to technical progress;

“approved” means approved in writing for the time being by a competent authority or conforming with a specification in writing by a competent authority;

“article” means—

- (a) any plant, machine, machinery, appliance, apparatus, tool or any other work equipment for use or operation (whether exclusively or not) by persons in the carriage of dangerous goods by road,
- (b) any article designed for use as a component in, part of or to control any such plant, machine, machinery, appliance, apparatus, work equipment, tool or any other work equipment, and
- (c) any other product used by persons in the carriage of dangerous goods by road;

“authorisation” means an authorisation, exemption, approval, derogation as the case may be, issued by a competent authority under these regulations;

“authorised tester” means a person appointed by a competent authority for the purpose of Regulation 52 and subsection 9.1.2.3 of the ADR, who has, or who has access to, trained personnel;

“Authority” means the Health and Safety Authority;

⁵O.J. L218, 13.8.2008, p.30

“carriage of dangerous goods by road” means any road transport operation performed by a vehicle wholly or partly on public roads, including the activity of loading and unloading, packing and filling, covered by the ADR, but does not include transport wholly performed within the perimeter of an enclosed area not open to the public;

“carrier” shall be read in accordance with paragraph (7);

“Class” means the class of dangerous goods according to Part 2 of the ADR;

“competent authority” means a person appointed under Regulation 10(1) as a competent authority or a person appointed under Regulation 10(3);

“competent person” shall be read in accordance with paragraph (2);

“confidential information” includes—

- (a) information that is expressed by a competent authority or a person appointed under Regulation 10(3), as the case may be, to be confidential either as regards particular information or as regards information of a particular class or description, and
- (b) proposals of a commercial nature or tenders submitted to a competent authority or a person appointed under Regulation 10(3), as the case may be, by contractors, consultants or any other person;

“conformity assessment” means the assessment and the procedure for assessment of conformity set out in the Directives;

“consignor” shall be read in accordance with paragraph (9);

“Contracting Party” means a state that is a party to the ADR;

“contravention notice” means a notice served under Regulation 14;

“dangerous goods” means those substances and articles the transport by road of which is prohibited, or authorised only in certain circumstances, by the ADR and includes wastes (being any dangerous goods or solution or mixture of dangerous goods for which no direct use is envisaged but which is or are transported for reprocessing, dumping, elimination by incineration or other methods of disposal);

“the Directive” means Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods, adapted by Directive 2010/61/EU (insofar as that Directive relates to the carriage of dangerous goods by road);

“the Directives” means Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods, adapted by Directive 2010/61/EU (insofar as that Directive relates to the carriage of dangerous goods by road) and Directive 2010/35/EU of the European

Parliament and the Council of 16 June 2010 on transportable pressure equipment;

“economic operator” means the manufacturer, the authorised representative, the importer, the distributor, the owner or the operator, acting in the course of a commercial or public service activity, whether in return for payment or free of charge;

“employee” means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and includes a fixed-term employee and a temporary employee and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer;

“employer”, in relation to an employee—

- (a) means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment,
- (b) includes a person (other than an employee of that person) under whose control and direction an employee works, and
- (c) includes where appropriate, the successor of the employer or an associated employer of the employer;

“existing enactments” means—

- (a) the enactments specified in Part 1 of Schedule 1, and
- (b) the regulations made under the European Communities Act 1972 for the time being in force specified in Part 2 of Schedule 1;

“first registration” means the first registration of a vehicle by the entry of its particulars—

- (a) in the State, in the register of vehicles established under section 131 of the Finance Act 1992 (No. 9 of 1992),
- (b) in a state outside of the State, in a register established under a law that corresponds or substantially corresponds to the provisions of section 131 of the Finance Act 1992 (No. 9 of 1992);

“Forfas” means the body of that name established by the Industrial Development Act 1993 (No. 19 of 1993);

“IMDG code” means the International Maritime Dangerous Goods Code, for the implementation of Chapter VII, Part A, of the International Convention for the Safety of Life at Sea, 1974 (SOLAS Convention), published by the International Maritime Organization (IMO), London;

“high consequence dangerous goods” are those which have the potential for misuse in a terrorist incident and which may, as a result, produce serious consequences such as mass casualties or mass destruction, which are listed in Chapter 1.10 of the ADR;

“INAB” means the Irish National Accreditation Board being the Committee of that name established by resolution of the Board of Forfas pursuant to Section 10 of the Industrial Development Act 1993 (No. 19 of 1993) as amended by Section 46 of the Industrial Development (Enterprise Ireland) Act 1998 (No. 34 of 1998);

“inspection body” means an inspection body, appointed by a competent authority for that purpose and which shall be accredited to carry out the inspections, checks and tests in accordance with IS/EN/ISO/IEC/17020 entitled ‘General criteria for the operation of various types of bodies performing inspection’ and published by the International Organisation for Standards (ISO);

“inspector” means a person appointed under Regulation 11 by a competent authority;

“intoxicant” includes alcohol and drugs and any combination of drugs or of drugs and alcohol;

“making available on the market” means any supply of transportable pressure equipment for distribution or use on the Union market in the course of a commercial or public service activity, whether in return for payment or free of charge;

“market surveillance” means the activities carried out and measures taken by public authorities to ensure that transportable pressure equipment during its life cycle complies with the requirements set out in Directive 2008/68/EC and these regulations and does not endanger health, safety or any other aspect of public interest protection;

“market surveillance authority” means, in relation to transportable pressure equipment, for the purposes of Part 9 of these Regulations, the Health and Safety Authority;

“Minister” means the Minister for Jobs, Enterprise and Innovation;

“national accreditation body” means, in relation to transportable pressure equipment, the Irish National Accreditation Board, the sole body that performs accreditation with authority derived from the State;

“notified body” means an inspection body meeting the requirements set out in the ADR and the conditions set out in Articles 20 and 26 of the TPE Directive and notified in accordance with Article 22 of the TPE Directive;

“notifying authority” means, in relation to transportable pressure equipment for the purposes of Part 9 of these Regulations, the Health and Safety Authority;

“NSAI” means the National Standards Authority of Ireland;

“participant” means any person or enterprise involved in the carriage of dangerous goods by road and associated loading, unloading, packing and filling and includes consignor, carrier, consignee, driver, filler, loader, packer, unloader, tank-container or portable tank operator, vehicle crew, safety adviser, inspection body or person with a duty under the relevant transport statutory provisions;

“place” means any transport equipment, structure, premises, land or other location or part of such place, and includes any container, vessel, motor or other vehicle;

“placing on the market” means the first making available of transportable pressure equipment on the Union market;

“premises” includes any building, dwelling, temporary construction or vehicle;

“prohibition notice” has the meaning assigned to it by Regulation 15;

“public road” means any street, road or other place within the State to which the public has access whether subject to or free of charge;

“reasonably practicable” has the meaning assigned by paragraph (3);

“record” includes any memorandum, book, report, statement, register, plan, chart, map, drawing, specification, diagram, pictorial or graphic work or other document, any photograph, film or recording (whether of sound or images or both), any form in which data (within the meaning of the Data Protection Acts 1988 and 2003) are held, any form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically, and anything that is a part or copy, in any form, of any of, or any combination of, the foregoing;

“registered medical practitioner” means a person whose name is entered in the General Register of Medical Practitioners;

“relevant road transport statutory provisions” means as appropriate—

- (a) the Directives,
- (b) these Regulations,
- (c) Council Directive 95/50/EC,
- (d) the existing enactments;

“risk category” in relation Regulation 28, means the category of offence classified in accordance with risk as set out in Annex II of Council Directive 95/50/EC;

“safety adviser for the transport of dangerous goods”, hereinafter referred to as “safety adviser”, shall mean any person appointed in writing by the head of an undertaking whose role is to carry out the tasks and fulfill the functions specified

in the ADR and as may be prescribed and who holds the appropriate training certificate for dangerous goods safety advisers (DGSA);

“special report” means a report made under Regulation 17;

“training certificate” means a certificate issued by a competent authority to a person who has passed an examination approved by a competent authority on the transport of dangerous goods by road;

“transport equipment” includes vehicles, tanks, tank containers, portable tanks, demountable tanks, tank swap bodies, tube trailers, bulk containers, intermediate bulk containers, containers, packaging, packages, receptacles and aerosols and any other item used or intended for use in the carriage of dangerous goods by road;

“transportable pressure equipment” has the meaning as provided in Article 2(1) and Annex I of Directive 2010/35/EC on transportable pressure equipment;

“the TPE Directive” means Directive 2010/35/EU of the European Parliament and the Council of 16 June 2010 on transportable pressure equipment;

“type A notified body” means an inspection body conforming to ADR 1.8.6.2, 1.8.6.4, 1.8.6.5 and 1.8.6.8, and accredited to standard EN ISO/IEC 17020:2004 type A;

“undertaking” means a person being an individual, a body corporate or an unincorporated body of persons that transports, loads or unloads dangerous goods including the associated activities of packing and filling (whether carried on by him or her for profit or not);

“use” includes—

- (a) in the case of transport equipment, the manufacture, supply, operation, setting, repair, cleaning and maintenance of the transport equipment,
- (b) in the case of dangerous goods, the process, operation, storage, treatment, mixing, packing, conveyance, supply, handling, filling or emptying, loading and unloading of the dangerous goods, and
- (c) in the case of transportable pressure equipment, the filling, temporary storage linked to carriage, emptying and refilling;

“vehicle” means any motor vehicle intended for use on the road, having at least four wheels and a maximum design speed exceeding 25 km/h, and any trailer, with the exception of vehicles which run on rails, mobile machinery and agricultural and forestry tractors that do not travel at a speed exceeding 40 km/h when transporting dangerous goods;

“vehicle certificate of approval” means the certificate of approval, in the format laid down in subsection 9.1.3.5 of the ADR;

“vehicle certificate of approval (national transport only)” means the certificate of approval, issued for a vehicle (for the carriage of the dangerous goods by road only in the State) and set out in Part 1 or Part 2 of Schedule 3.

(2) (a) For the purposes of the relevant road transport statutory provisions, a person is deemed to be a competent person where, having regard to the task he or she is required to perform and taking account of the size or hazards (or both of them) of the undertaking or establishment in which he or she undertakes work, the person possesses sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken.

(b) Account shall be taken, as appropriate, for the purposes of paragraph (a) of the framework of qualifications referred to in the Qualifications (Education and Training) Act 1999.

(3) For the purposes of the relevant road transport statutory provisions, “reasonably practicable”, in relation to the duties of an employer, means that an employer has exercised all due care by putting in place the necessary protective and preventive measures to prevent risk of injury to person or damage to property or to the environment in the transport of dangerous goods by road and where the putting in place of any further measures would be grossly disproportionate having regard to the unusual, unforeseeable and exceptional nature of any circumstance or occurrence that may result in an injury in the carriage of dangerous goods by road or damage to property or to the environment.

(4) In these Regulations a reference to—

(a) Directive 95/50/EC shall be read as a reference to that instrument as amended or adapted,

(b) Directive 2010/35/EU shall be read as a reference to that instrument as amended or adapted, and

(c) Directive 2008/68/EC shall be read as a reference to that instrument as amended or adapted.

(5) A word or expression that is used in these Regulations and is also used in Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods, Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road and Directive 2010/35/EU of the European Parliament and the Council of 16 June 2010 on transportable pressure equipment has, unless the contrary intention appears, the same meaning in these Regulations that it has in those Directives.

(6) A word or expression that is used in these Regulations and is also used in the ADR has, unless the contrary intention appears, the same meaning in these Regulations that it has in the ADR.

(7) Notwithstanding paragraph (6), in these Regulations “carrier” means the person who carries out a transport operation with or without a transport contract and shall be construed as—

(a) in the case of transport in a container or vehicle—

- (i) the person who, having a place of business in the State, has the management of the container or the vehicle for the time being, or
- (ii) if no person satisfies the requirements of clause (i), the driver of the vehicle or of the vehicle in which the container is carried (as the case may be), and

(b) in the case of transport in a tank—

- (i) the person (other than a tank-container or portable tank operator) who, having a place of business in the State, owns the tank,
- (ii) if no person satisfies the requirements of clause (i), the person (other than a tank-container or portable tank operator) who, having a place of business in the State, acts as agent for the owner of that tank,
- (iii) if no person satisfies the requirements of either clause (i) or (ii), the person (other than a tank-container or portable tank operator) who, having a place of business in the State, has the management of that tank for the time being, or
- (iv) if no person satisfies the requirements of clause (i), (ii) or (iii), the driver of the vehicle on which the tank is carried.

(8) Notwithstanding paragraph (6), a person to whom a tank, container or vehicle is leased or hired shall be taken to be the owner of that tank, container or vehicle unless the lessor or, as the case may be, the hirer has made an agreement in writing with the person to whom he or she has leased or hired the tank, container or vehicle to the effect that the lessor or hirer (as the case may be) shall assume responsibilities as the owner imposed by or under these Regulations.

(9) Notwithstanding paragraph (6), in these Regulations “consignor” means the person who consigns dangerous goods either on that person’s own behalf or for a third party and shall be construed as—

- (a) a person who, having a place of business in the State supplies, whether as a principal or agent for another, dangerous goods for transport by road, or
- (b) if no person satisfies the requirements of clause (a), the consignee of those goods in so far as that person has control over the transport of those dangerous goods in the State,

(c) the consignor according to the contract for transport if the transport operation is carried out under a contract for transport.

(10) A reference in the ADR to “competent military authority” or “Contracting Party” or “national authorities” shall be treated as a reference to “competent authority” unless the context requires otherwise.

(11) The words “competent authorities” shall be read as “emergency services” in subsection 1.1.3.1(d) of the ADR.

(12) The official ADR language for the purposes of the application of these Regulations is English.

Service of notices

3. (1) A notice or other document required or authorised to be served on, sent or given to a person under the relevant road transport statutory provisions shall, subject to paragraph (2), be addressed to the person concerned by name, and may be served on, sent or given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (d) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the notice or other document relates to any place of business, by delivering it to a person over the age of 16 years resident or employed at the place of business or by affixing it in a conspicuous position at or near the place of work;
- (e) if the person concerned has agreed to service of notices by means of an electronic communication (within the meaning assigned by section 2 of the Electronic Commerce Act 2000), service by such means, provided that there is a facility for confirming receipt of electronic communication and that such receipt has been confirmed;
- (f) where there is a facility for receiving a facsimile of the notice by electronic means at the address at which the person ordinarily resides or carries on business, by transmitting a facsimile of the notice by such means to that address, or
- (g) by any other means that may be prescribed.

(2) Where a notice or other document required or authorised under the relevant road transport statutory provisions to be served on, sent or given to a person who is the owner or occupier of a place of business and the name of the

person cannot be ascertained by reasonable inquiry, such notice or document may be addressed to the person by using the words “the owner” or, as the case may require, “the occupier”.

(3) For the purposes of this Regulation, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Revocations

4. (1) The Carriage of Dangerous Goods by Road Regulations 2010 (S.I. No. 617 of 2010), Carriage of Dangerous Goods by Road Act 1998 (Appointment of Competent Authorities) Order 2010 (S.I. No. 618 of 2010), Carriage of Dangerous Goods by Road Act 1998 (Fees) Regulations 2010 (S.I. No. 619 of 2010), European Communities (Carriage of Dangerous Goods by Road) (ADR Miscellaneous Provisions) Regulations 2010 (S.I. No. 620 of 2010) and the European Communities (Transportable Pressure Equipment) Regulations 2004 (S.I. No. 374 of 2004) are hereby revoked.

(2) Where any document refers to any of the Regulations revoked by paragraph (1), and provision is made by these Regulations corresponding to that enactment, then, unless the context otherwise requires, that reference shall be construed as, or, as the case may be, as including, a reference to the corresponding provision of these Regulations.

(3) Subject to paragraph (2), in so far as any instrument (including any order or regulation) made or issued and any other thing done under an existing enactment set out in Part 1 or Part 2 of Schedule 1 is in force immediately before the revocation of such enactment by paragraph (1) could have been made, issued or done under a corresponding provision of these Regulations, it shall not be invalidated by the repeals effected by paragraph (1) but, except in so far as these Regulations otherwise provides, shall continue in force as if made, issued or done under these Regulations.

(4) Notwithstanding paragraph (1) any authorisation or certificate issued pursuant to the provisions of the revoked enactments shall remain valid until their expiry dates.

(5) Notwithstanding paragraph (4) the additional transitional provisions laid down in Annex 1, Section 1.2 of the Directive shall apply.

(6) Notwithstanding paragraph (4) for the purpose of the existing derogations set out in Annex 1, Section 1.3 of the Directive the date of authorisation shall be deemed to be 30 June 2011 and, unless otherwise indicated, derogations shall be valid for a period of six years.

Application and authorisations

5. (1) These Regulations shall apply to—

- (a) the carriage of dangerous goods by road within or between the State and other Member States or Contracting Parties to ADR, whether on

international transport or national transport only, in or on a vehicle, including the activities of loading and unloading, and

- (b) the carriage of dangerous goods by road within the State or between the State and third countries, whether on international transport or national transport only, in or on a vehicle, including the activities of loading and unloading.

(2) These Regulations shall not apply to the carriage of dangerous goods by road:

- (a) by vehicles under the responsibility of the Defence Forces or the armed forces of a Contracting Party, or
- (b) wholly performed within the perimeter of an enclosed area with restricted public access,
- (c) where a vehicle is being used to transfer dangerous goods—
 - (i) between private premises and another vehicle situated in the immediate vicinity of those premises, or
 - (ii) between one part of a private premises and another part of the premises situated in the immediate vicinity of that first mentioned part, where both parts are occupied by the same person, notwithstanding that those parts may be separated by a public road,

provided that the transfer of the dangerous goods is carried out by means of the most direct and shortest route between a private premises and a vehicle or the two parts of a private premises, as appropriate.

(3) If a competent authority, in the event of an accident or incident within the State, considers that the safety provisions applicable have been found to be insufficient to limit the hazards involved in transport operations and if there is an urgent need to take action, it shall, at the planning stage, notify the Commission of the measures which it proposes to take and shall implement them in accordance with any Commission authorisation granted pursuant to Article 9(2) of the Directive and for the duration of that authorisation.

- (4) (a) A competent authority may with the consent of the Minister, exceptionally and provided that safety is not compromised, issue individual authorisations to carry out transport operations of dangerous goods within the State which are prohibited by the Directives or to carry out such operations under conditions different from those laid down in the Directives, provided that those transport operations are clearly defined and limited in time.
- (b) A participant availing of an authorisation in accordance with paragraph (3) or 4(a) shall ensure that a copy of the authorisation

accompanies the load of dangerous goods at all times, while it is being carried by road.

Application of Explosives Act 1875

6. (1) Section 75 of the Explosives Act 1875 shall not apply in relation to the transport of explosives by road.

(2) The Minister may by order revoke any bye-law made under section 37 of the Explosives Act 1875, in so far as it relates to the transport of explosives by road.

(3) Any bye-law made under section 37 of the Explosives Act 1875 after the commencement of this Regulation shall not apply to the transport of explosives by road.

Period of transport

7. (1) For the purposes of the relevant road transport statutory provisions, a transport unit is taken to be engaged in the carriage of dangerous goods by road throughout the period—

- (a) in the case of a vehicle or tank, other than those used for the transport of radioactive material of ADR Class 7, from the commencement of loading or filling it with the dangerous goods concerned for the purpose of the transport of those goods by road until the said vehicle or tank has been unloaded and, in the case of a tank, cleaned and purged, or subjected to other action, to nullify the hazard, if necessary;
- (b) in the case of a container, other than those used for the transport of radioactive material of ADR Class 7, where—
 - (i) it has been loaded with the dangerous goods before being placed on the vehicle which is to be used for its transport, from the time when it is placed on the vehicle for the purpose of its transport by road until the time when it has been removed from the vehicle, or
 - (ii) it has been placed on the vehicle which is to be used for its transport before the commencement of loading, from the commencement of loading of the said item with dangerous goods for the purpose of transport by road until the time when either it is removed from the relevant vehicle or it has been unloaded;
- (c) in the case of radioactive material of ADR Class 7, for all operations and conditions associated with and involved in the transport of radioactive material by road, including—
 - (i) design, fabrication and maintenance of packaging,
 - (ii) preparation, consigning, handling, transport, storage in transit and receipt at the final destination of packages,

- (iii) normal and accident conditions of transport by road encountered in transport and storage during transit, and
- (iv) transport by road which is incidental to the use of the radioactive material.

PART 2

GENERAL DUTIES

Carriage of dangerous goods by road

Safe carriage of dangerous goods by road

8. (1) A participant shall—
 - (a) take all practical steps to prevent risk of injury to persons or damage to property or to the environment in or resulting from the carriage of dangerous goods, and
 - (b) ensure that the relevant road transport statutory provisions that apply are complied with.
- (2) Without prejudice to the generality of paragraph (1), the duties of a participant includes—
 - (a) providing the information, instruction, training and supervision necessary to ensure, to prevent risk of injury to persons, or damage to property or to the environment in or resulting from such transport;
 - (b) the keeping of required training records;
 - (c) preparing and revising, as appropriate, adequate plans and procedures to be followed and measures to be taken in the case of an emergency or serious and imminent danger and taking the appropriate measures required to avoid damage or injury;
 - (d) the notification of emergency services of any immediate risk to public safety, property or the environment;
 - (e) ensuring that he or she is not under the influence of an intoxicant to the extent that he or she is in such a state as to create risk of injury to persons or damage to property or to the environment in or resulting from such transport;
 - (f) not misrepresenting himself or herself, on entering into a contract of employment, to an employer with regard to the level of training as may be prescribed;
 - (g) ensuring all practicable steps are taken that transport equipment and as appropriate, associated fittings—

- (i) are properly designed, of adequate strength, good construction and free from patent defect,
 - (ii) are constructed of materials that are not chemically incompatible with or liable to react dangerously with the dangerous goods being carried,
 - (iii) are designed, constructed and maintained so as to prevent any of the contents escaping except that this requirement shall not prevent the fitting of a suitable safety device,
 - (iv) comply, as appropriate, with Part 6, Part 9 and the associated provisions of the ADR, and
 - (v) are suitable for the purpose for which they are being used and in compliance with Part 4 and the associated provisions of the ADR;
- (h) shall ensure that transportable pressure equipment—
- (i) is safe and suitable for its purpose,
 - (ii) meets the relevant provisions of the Directives,
 - (iii) has been assessed by an inspection body, in accordance with the prescribed relevant conformity assessment procedures, and
 - (iv) bears the conformity marking, the identification number of the notified body and any marking required pursuant to the ADR.
- (i) shall ensure consignment procedures are in accordance with Part 5 of the ADR.
- (j) shall ensure the provisions concerning the conditions of carriage, loading, unloading and handling are in accordance with Part 7 of the ADR.
- (k) shall ensure the requirements for vehicle crews, equipment, operation and documentation are in accordance with Part 8 of the ADR.

(3) Without prejudice to the generality of paragraph (2) and subject to any derogations, an undertaking shall not engage in the carriage of high consequence dangerous goods unless a security plan as required by Chapter 1.10 of the ADR is available and the security plan, devices, equipment and arrangements are in place to comply with the requirements of that Chapter.

(4) Subject to Regulation 5(2) and any derogations made under these Regulations, dangerous goods shall not be supplied for transport by road and shall not be carried by road unless their transport is permitted and in accordance with the ADR.

(5) Dangerous goods shall be classified in accordance with Part 2 and the associated provisions of the ADR.

(6) A person shall not procure the carriage of dangerous goods by road without disclosing their precise nature or that they are dangerous.

(7) A person shall comply with the relevant duties in accordance with section 1.4.1, 1.4.2, 1.4.3, 1.7.6, 1.8.3 and chapter 8.3 and the associated provisions of the ADR.

(8) An undertaking shall comply with the requirement to appoint a safety adviser as specified in section 1.8.3 of the ADR. This requirement shall not apply to those undertakings whose activities meet those described in sub-section 1.8.3.2, indents (a) and (b), 1.7.1.4, 2.2.62.1.5, and chapters 3.3, 3.4 and 3.5 of the ADR.

Prohibitions relating to transport equipment and documentation

9. A person shall not—

(a) in applying for a certificate granted under these Regulations or in giving any information required of him or her under these Regulations, make a statement which he or she knows to be false in a material respect, or make any such false statement reckless as to its truth or otherwise;

(b) forge, alter or use with intent to deceive any—

(i) transport document,

(ii) instructions in writing,

(iii) certificate or authorisation granted under these Regulations,

or, with intent to deceive, make or possess any document resembling such a transport document, instructions in writing, certificate or authorisation; or

(c) without authority interfere with transport equipment being used or intended to be used for the carriage of dangerous goods by road or remove, obliterate or alter any labeling on such equipment which denotes the dangerous nature of the goods being carried or intended to be carried or any safety instructions to be followed in relation thereto.

PART 3

COMPETENT AUTHORITIES

Competent authorities

10. (1) The following persons are appointed to be competent authorities to perform the functions conferred on competent authorities by or under the relevant road transport statutory provisions, and the functions to be performed by them are set out as follows, namely—

- (a) the Road Safety Authority, in respect of the technical examination of vehicles and the issue of annual certificates of approval for such vehicles required under the relevant road transport statutory provisions and pursuant to its functions, responsibilities and powers under the Road Safety Authority Act (Conferral of Functions) Order 2006 (S.I. No. 477 of 2006);
- (b) the National Standards Authority of Ireland, in respect of such inspections and conformity assessment relating to compliance with requirements for the construction and testing of receptacles, type approval and conformity assessment of receptacles, vehicles, tanks and tank-containers, design type testing and approval of packaging and the design type testing and approval of intermediate bulk containers as may be required under Parts 6 and 9 of the ADR;
- (c) INAB, as the accreditation body in respect of accreditation of inspection bodies or persons required under the relevant road transport statutory provisions;
- (d) the Minister for Justice and Equality, in respect of matters relating to the carriage by road of explosive substances and articles of ADR Class 1, including, vehicle and premises inspections, requirements for the construction and use of vehicles intended for the transport of explosive substances and articles and Mobile Explosive Manufacturing Units (MEMU's), the approval of specialisation training courses for the training of drivers of vehicles carrying explosives of the ADR Class 1, and the examination of persons who have participated in those courses required under the relevant road transport statutory provisions;
- (e) the Radiological Protection Institute of Ireland, in respect of matters relating to the carriage by road of radioactive materials of the ADR Class 7, including, vehicle and premises inspections, the approval of specialisation courses for the training of drivers of vehicles carrying radioactive material of the ADR Class 7 and the examination of persons who have participated in those courses required under the relevant road transport statutory provisions;
- (f) the National Roads Authority, in respect of matters relating to the carriage by road of dangerous goods through the following tunnels required under the relevant road transport statutory provisions—
 - (i) Dublin Port Tunnel;
 - (ii) Jack Lynch Tunnel, Cork;
 - (iii) Limerick Tunnel; and
 - (iv) any other tunnel on a national road subject to the provisions of the European Communities (Minimum Safety Requirements for

Tunnels in the Trans-European Road Network) Regulations 2006 (S.I. No. 213 of 2006); and

- (g) the Health and Safety Authority, in respect of all other functions required to be performed by a competent authority pursuant to the relevant road transport statutory provisions, including matters relating to transportable pressure equipment, other than those functions specified in paragraphs (a) to (f) of this Regulation, and which functions, without prejudice to the generality of the foregoing, include—
 - (i) vehicle and premises inspections,—
 - (ii) the approval of—
 - (I) basic training courses, and
 - (II) specialisation training courses for transport in tanks for the carriage of dangerous goods by road other than those goods referred to in subparagraph (d) or (e),
 - (iii) the examination of persons who have participated in the courses to which clause (ii) refers, required under the relevant road transport statutory provisions,
 - (iv) the issue of driver training certificates, and
 - (v) the administration of the Safety Adviser examination scheme as provided in Chapter 1.8 of the ADR.
- (2) A competent authority shall—
 - (a) keep such records, and
 - (b) furnish such information in relation to its functions under these Regulations to the Minister and to any other Minister whose functional responsibility may be concerned,

as the Minister or other relevant Minister may, from time to time, require.

(3) A competent authority appointed for the purposes of these Regulations may appoint in writing a person to perform some or all of its functions under the relevant road transport statutory provisions, which appointment may be revoked by the competent authority at any time.

- (4) A person appointed under paragraph (3) shall, in accordance with any guidelines given to the person by the competent authority—
- (a) make adequate arrangements for the performance of those functions,
 - (b) perform any other functions conferred on the person by any of the relevant road transport statutory provisions.

(5) A person appointed under paragraph (3) shall have all the powers of a competent authority under these Regulations in respect of the performance of its functions.

(6) The duties falling to each of the bodies appointed under paragraph (1) as a competent authority for the purposes of the relevant road transport statutory provisions and the functions to be performed by them, may be kept under review by a National Co-ordination Committee which may be established by the Minister and which, if established, will comprise representatives of the Minister and the competent authorities and representatives of such other bodies or groups as the Minister may, from time to time, decide.

(7) The Minister for Justice and Equality, the Radiological Protection Institute of Ireland and the Authority, in respect of their areas of responsibility as defined under this Regulation shall, for the purposes of Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road as amended by Directive 2001/26/EC of the European Parliament and of the Council of 7 May 2001 amending Council Directive 95/50/EC and Commission Directive 2004/112/EC of 13 December 2004 adapting to technical progress Council Directive 95/50/EC—

- (a) fulfill the checks requirements in paragraphs 1 and 2 of Article 3 of that Directive,
- (b) carry out checks in accordance with paragraphs 1 to 5 of Article 4 of that Directive,
- (c) co-operate with competent authorities in other Member States of the European Union in fulfilling the requirements of paragraph 2 of Article 7 and Article 8 of that Directive, and
- (d) supply such information to the Commission as is required by paragraph 1 of Article 9 of that Directive.

(8) Where an inspector carries out a check for the purposes of paragraph (7)(a), a certificate containing the particulars showing the result of the check as required by paragraph 1 of Article 4 of Directive 95/50/EC shall be drawn up by the inspector and given to the driver of the vehicle.

- (9) (a) A competent authority may recognise different reference temperatures from those set out in Part 4 to the ADR, paragraphs (5)(b) and (c) of packing instructions P200 of section 4.1.4 or sub-sections 4.2.2.7.2, 4.3.3.2.2 or 4.3.3.2.3, in relation to the filling of pressure receptacles and tanks intended to be used only for the national carriage of liquefied gas.
- (b) A competent authority may recognise standards for the construction of a shell of a tank intended to be used only for the national carriage of liquefied gas which specify—

- (i) A different design reference temperature for the shell of the tank from that set out in sub-section 6.7.3.1; or
- (ii) A different test pressure for the shell of the tank from that set out in sub-sections 4.3.3.2.2 and 4.3.3.2.3,

provided that the temperature or pressure specified in the standard is such that it will ensure that the shell is safe and suitable for its intended use.

- (10) (a) In respect of transport equipment which under these Regulations may not be used in connection with the carriage of dangerous goods unless it has been approved for that use, a competent authority may appoint such persons as it thinks fit to determine whether the transport equipment should be approved and if so, to approve that equipment for use.
- (b) Where it is a function of a competent authority by virtue of this Part, to approve, appoint or authorise a body or expert to carry out, witness, supervise or decide to waive an inspection, examination, test or approval in respect of transport equipment used in connection with the carriage of dangerous goods, that function is to be performed by the appointment of a person pursuant to paragraph (a).
- (c) Notwithstanding Part 8 of these Regulations the inspections, tests and checks required to be performed or witnessed by a person appointed by the competent authority, shall when carried out in the State be performed or witnessed by an inspection body or expert who shall be accredited in accordance with the Directives.

PART 4

ENFORCEMENT

Chapter 1

Enforcement

Appointment of inspectors

11. (1) Each of the following shall be an appointing authority for the purposes of this Regulation:

- (a) the Minister;
- (b) the Road Safety Authority,
- (c) the Minister for Justice and Equality,
- (d) the Authority,
- (e) the Radiological Protection Institute of Ireland,

(f) the National Standards Authority of Ireland,

(g) a person appointed under Regulation 10(3).

(2) An appointing authority may appoint such and so many persons as it considers appropriate to be inspectors for the purposes of the enforcement of all or any of the relevant road transport statutory provisions within its relevant area of responsibility in accordance with Regulation 10.

(3) An inspector appointed under this Regulation shall be furnished with a certificate of his or her appointment as an inspector by that competent authority.

(4) When exercising a power conferred on him or her by this Regulation, an inspector shall, if requested by a person affected, produce the certificate of his or her appointment or a copy of it to that person and a form of personal identification.

(5) An appointment under this Regulation shall cease when the appointing authority that made the appointment revokes the appointment.

(6) An inspector appointed immediately before the commencement of these Regulations under section 6 of the Carriage of Dangerous Goods by Road Act 1998 continues to be an inspector as if appointed under this Regulation.

Powers of inspectors

12. (1) An inspector shall, for the purposes of the relevant road transport statutory provisions, have power to do any one or more of the following:

(a) subject to paragraph (5), at any time enter, inspect, examine and search any place to which the inspector has reasonable grounds for believing that the relevant road transport statutory provisions apply or which is used for a purpose connected with the carriage of dangerous goods by road and/or the supply of transportable pressure equipment;

(b) inquire into, search, examine and inspect—

(i) any place referred to in paragraph (a),

(ii) any activity, installation, process, procedure, matter or thing at that place,

(iii) any transport equipment, transportable pressure equipment or any dangerous goods or records relating to them, to ascertain whether the relevant road transport statutory provisions have been or are being complied with and, for that purpose, take with him or her and use any equipment or materials he or she considers necessary,

(iv) any transport equipment, transportable pressure equipment, together with its load, if any, whether stationary or otherwise, and

inspect any documents, goods, records or recording equipment being carried in or on the vehicle or by any member of the crew, which are kept or used for a purpose connected with the carriage of dangerous goods by road, and

- (v) for the purposes of sub-paragraph (1)(b)(iii) and (1)(b)(iv) stop a vehicle when in the presence of a member of An Garda Síochána;
- (c) require that that place and anything at it be left undisturbed for so long as is reasonably necessary for the purpose of any search, examination, investigation, inspection or inquiry under the relevant road transport statutory provisions;
- (d) require the person in charge to produce to the inspector—
 - (i) any transport equipment, transportable pressure equipment or goods to which the relevant road transport statutory provisions apply which is in the possession or under the control of such person, and
 - (ii) any records and, in the case of such information in a non-legible form, to reproduce it in a legible form and to give to the inspector such information as the inspector may reasonably require in relation to any entries in those records;
- (e) inspect and take copies of or extracts from any such records or any electronic information system at that place, including in the case of information in a non-legible form, copies of or extracts from such information in a permanent legible form or require that such copies be provided;
- (f) require a person at that place by whom or on whose behalf a computer is or has been used to produce or store records or any person having control of, or otherwise concerned with the operation of the computer, to afford the inspector access thereto and all reasonable assistance as the inspector may require;
- (g) remove from that place and retain the records (including documents stored in a non-legible form) and copies taken and detain the records for such period as the inspector reasonably considers to be necessary for further examination or until the conclusion of any legal proceedings;
- (h) require that records at that place be maintained for such period as may be reasonable;
- (i) require the person in charge to give the inspector such information as the inspector may reasonably require for the purposes of any search, examination, investigation, inspection or inquiry under the relevant road transport statutory provisions;

- (j) require the person in charge to give the inspector such assistance and facilities within the person's power or control as are reasonably necessary to enable the inspector to exercise any of his or her powers under the relevant road transport statutory provisions;
- (k) require by notice, at a time and place specified in the notice, any person (including the person in charge) to give the inspector any information that the inspector may reasonably require in relation to the place, any dangerous goods, transport equipment, transportable pressure equipment, activity, installation or procedure at the place, and to produce to the inspector any records that are under that person's power or control;
- (l) examine any person whom the inspector reasonably believes to be able to give to the inspector information relevant to any search, examination, investigation, inspection or inquiry under the relevant road transport statutory provisions and require the person to answer such questions as the inspector may ask relative to the search, examination, investigation, inspection or inquiry and to sign a declaration of the truth of the answers;
- (m) require that any procedure be followed for the purposes of any search, examination, investigation, inspection or inquiry under the relevant road transport statutory provisions;
- (n) take any measurements or photographs or make any tape, electrical or other recordings that the inspector considers necessary for the purposes of any search, examination, investigation, inspection or inquiry under the relevant road transport statutory provisions;
- (o) in relation to sub-paragraph (a), take samples of air, soil, water or waste at or near that place;
- (p) where appropriate, install, use and maintain at that place monitoring instruments, systems and seals for the purposes of the relevant road transport statutory provisions;
- (q) in relation to sub-paragraph (a), there, or at any other place, carry out, or have carried out, such testing, examination or analysis of any dangerous goods, transportable pressure equipment or transport equipment found at that place, as he or she reasonably considers to be necessary, and for that purpose—
 - (i) require the person in charge to supply the inspector without charge any such goods, equipment or samples thereof, or
 - (ii) remove any such goods, equipment or samples thereof;
- (r) cause any dangerous goods, transportable pressure equipment or transport equipment found at that place in respect of which there has been or there appears to the inspector to have been a contravention

of the relevant road transport statutory provisions, to be subjected to any testing, examination or analysis in accordance with paragraph (g) (but not so as to damage or destroy it unless this is necessary for the purposes of the relevant road transport statutory provisions) and where an inspector proposes to exercise the power conferred by this paragraph in the case of dangerous goods or transport equipment found at any place, he or she shall, if so requested by the person in charge, cause anything that is to be done by virtue of that power to be done in the presence of that person;

- (s) remove and retain for such period as is necessary any dangerous goods, transportable pressure equipment or transport equipment found at that place for all or any of the following purposes:
 - (i) to examine or arrange for its examination, testing or analysis;
 - (ii) to ensure that it is not tampered with before the examination of it under subparagraph (i) is completed;
 - (iii) to ensure that it is available for use as evidence in any proceedings;
- (t) where necessary—
 - (i) require the disposal of dangerous goods or equipment in respect of which there has been or there appears to the inspector to have been a contravention of the relevant road transport statutory provisions at the expense of the person in charge, or remove the dangerous goods and arrange for it to be disposed of at the expense of the person in charge, and
 - (ii) require that such disposal shall be—
 - (I) such as will prevent the dangerous goods or equipment from being used or placed on the market, and
 - (II) in compliance with requirements under the Waste Management Acts 1996 to 2003;
- (u) require the removal from the market of dangerous goods, transportable pressure equipment or transport equipment by the person who has placed those dangerous goods, transportable pressure equipment or transport equipment on the market, where it appears to the inspector that, in relation to those dangerous goods, transportable pressure equipment or transport equipment, the relevant road transport statutory provisions have been contravened;
- (v) require that any transport equipment be operated or set in motion or that a procedure be carried out that may be relevant to any search, examination, investigation, inspection, or inquiry under the relevant road transport statutory provisions;

(w) investigate any accident involving transportable pressure equipment or the carriage of dangerous goods by road.

(2) Where dangerous goods, transportable pressure equipment or transport equipment are found at a place, and an inquiry is made by an inspector in the course of a search, examination, investigation or inspection as to the identity of the person who supplied the dangerous goods, transportable pressure equipment or transport equipment, the person in charge shall give the inspector the name and address of the supplier from whom the dangerous goods, transportable pressure equipment or transport equipment was purchased or otherwise obtained.

(3) Before exercising any of the powers conferred by paragraphs (q) to (t) of paragraph (1), an inspector shall, in so far as it is practicable, consult such persons as appear to him or her to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing what he or she proposes to do under those paragraphs.

(4) Where under the powers conferred by paragraph (1)(s), an inspector removes and retains any dangerous goods or equipment found at a place, he or she shall, in so far as is practicable, take a sample thereof and give it to the person in charge, marked by the inspector in a manner sufficient to identify it.

(5) An inspector shall not enter a dwelling other than—

(a) with the consent of the occupier, or

(b) in accordance with a warrant of the District Court issued under paragraph (8) authorising such entry.

(6) A competent authority or a person appointed under Regulation 10(3) may authorise any other person as it considers appropriate to accompany an inspector in the performance of his or her functions.

(7) Where an inspector in the exercise of his or her powers under this Regulation is prevented from entering any place, an application may be made to the District Court for a warrant under paragraph (8) authorising such entry.

(8) Without prejudice to the powers conferred on an inspector by or under any other provision of this Regulation, if a judge of the District Court is satisfied by information on oath of an inspector that there are reasonable grounds for believing that—

(a) there are any dangerous goods, transportable pressure equipment or transport equipment at any place or any records (including documents stored in a non-legible form) or information held at any place relating to a place that the inspector requires to inspect for the purposes of the relevant road transport statutory provisions, or

(b) there is, or such an inspection is likely to disclose, evidence of a contravention of the relevant road transport statutory provisions;

the judge may issue a warrant authorising an inspector, accompanied by such other inspectors or such other competent persons as may be appropriate or members of An Garda Síochana as may be necessary, at any time or times, within one month from the date of issue of the warrant, on production of the warrant if requested, to enter the place, if necessary by the use of reasonable force, and perform the functions conferred on an inspector by or under the relevant road transport statutory provisions.

(9) Where an inspector has reasonable grounds for apprehending any serious obstruction in the performance of his or her functions or otherwise considers it necessary, he or she may be accompanied by a member of An Garda Síochana or any other person authorised by a competent authority or a person appointed under Regulation 10(3), when performing any functions conferred on him or her by or under the relevant road transport statutory provisions.

(10) A statement or admission made by a person pursuant to a requirement under paragraph (1)(i), (k) or (l) shall not be admissible in proceedings brought against that person for an offence (other than an offence under Regulation 26(8)).

(11) Where an inspector, upon reasonable grounds, believes that a person has committed an offence under the relevant road transport statutory provisions the inspector may require that person to provide his or her name and the address at which he or she ordinarily resides.

(12) In this Regulation “person in charge” means, in relation to a place—

- (a) the person under whose direction and control the activities at that place are being conducted, or
- (b) the person whom the inspector has reasonable grounds for believing is in control of that place.

Directions for improvement plan

13. (1) Where an inspector is of the opinion that there is occurring or likely to occur in the carriage of dangerous goods by road any activity that involves or is likely to involve a risk of injury to person, or damage to property or to the environment, he or she may give a direction to a person whom the inspector considers to be in control of the activity to which a duty under the relevant road transport statutory provisions applies, requiring submission of an improvement plan to the inspector (in this Regulation and in Regulation 14 referred to as a “plan”).

(2) A direction given under paragraph (1) shall—

- (a) identify the activity which is or is likely to be a risk,
- (b) require the submission to the inspector, not later than one month after the giving of the directions, of a plan specifying the remedial action proposed to be taken, and

(c) include any other requirements that the inspector considers necessary.

(3) An inspector shall, not later than one month after receiving a plan submitted under subsection (1) or a revised improvement plan submitted pursuant to a direction under subsection (4), confirm by notice to the person who submitted the plan whether or not the inspector is satisfied that the plan is adequate.

(4) If an inspector is not satisfied that a plan is adequate he shall, not later than one month after receiving the plan, require, by direction in writing, the person who prepared the plan to—

(a) revise the plan in such manner as is specified in the direction, and

(b) resubmit the plan as so revised to the inspector not later than the date of the expiration of such period as is specified in the direction.

(5) Where an inspector confirms by notice under subsection (3) that he is satisfied that a plan is adequate the person concerned shall implement the plan forthwith.

(6) A person to whom a direction under this section applies shall comply with the direction.

(7) A direction or notice under this section shall be signed and dated by the inspector.

Contravention notice

14. (1) An inspector who is of the opinion that a person—

(a) is contravening or has contravened any of the relevant road transport statutory provisions, or

(b) has failed to comply with a direction under Regulation 13. or

(c) has submitted a plan in relation to which an inspector has confirmed by notice under section 13(4) that he or she is not satisfied as to the adequacy of that plan, or

(d) has failed to implement the plan,

may serve a notice (in these Regulations referred to as a “contravention notice”) on the person who has or may reasonably be presumed to have control over the activity concerned.

(2) A contravention notice shall—

(a) state that the inspector is of the opinion referred to in paragraph (1),

(b) state the reasons for that opinion,

(c) identify the relevant road transport statutory provision in respect of which that opinion is held,

(d) direct the person to—

- (i) remedy the contravention or the matters occasioning that notice, and/or
- (ii) take the action to be specified by the inspector in accordance with Regulations 75 and 76, as being appropriate,

by a date specified in the notice, that shall not be earlier than the end of the period within which an appeal may be made under paragraph (6),

- (e) include information regarding the making of an appeal under paragraph (6),
- (f) include any other requirement that the inspector considers appropriate, and
- (g) be signed and dated by the inspector.

(3) A contravention notice may include directions—

- (a) as to the measures to be taken to remedy any contravention or matter to which the notice relates, or to otherwise comply with the notice, and
- (b) to bring the notice to the attention of any person who may be affected by it, or to the public generally.

(4) A person on whom a contravention notice has been served and who is of the opinion that the contravention notice has been complied with shall confirm in writing to the inspector that the matters referred to in the notice have been so remedied.

(5) Where a person on whom a contravention notice has been served confirms in writing to the inspector in accordance with paragraph (4) that the matters referred to in the contravention notice have been remedied, the inspector shall, on being satisfied that the matters have been so remedied, within one month of receipt of such confirmation, give notice to the person concerned of compliance with the contravention notice.

(6) A person aggrieved by a contravention notice may, within 14 days beginning on the day on which the notice is served on him, appeal against the notice to a judge of the District Court in the district court district in which the notice was served and, in determining the appeal, the judge may, if he or she is satisfied that it is reasonable to do so, confirm, vary or cancel the notice.

(7) A person who appeals under paragraph (6) shall at the same time notify the relevant competent authority, or a person appointed under Regulation 10(3), of the appeal and the grounds for the appeal and the relevant authority or

person shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(8) Where an appeal under paragraph (6) is taken, and the contravention notice is not cancelled, the notice shall take effect on the later of—

- (a) the day next following the day on which the notice is confirmed on appeal or the appeal is withdrawn, or
- (b) the day specified in the notice.

(9) Where there is no appeal under paragraph (6), the contravention notice shall take effect on the later of—

- (a) the end of the period for making an appeal, or
- (b) the day specified in the notice.

(10) An inspector may—

- (a) withdraw a contravention notice at any time, or
- (b) where no appeal is made or pending under paragraph (6), extend the period specified under paragraph (2)(d).

Prohibition notice

15. (1) Where an inspector or a member of An Garda Síochána is of the opinion that there is occurring or likely to occur in the carriage of dangerous goods by road any activity (whether by reference to any transport equipment or dangerous goods or otherwise) that involves or is likely to involve a risk of serious injury to persons or damage to property or to the environment, such as but not limited to, acts or omissions contravening a contravention notice, the inspector or a member of An Garda Síochána may serve a notice (in these Regulations referred to as a “prohibition notice”) on the person who is or who may reasonably be presumed to be in control of the activity concerned.

(2) A prohibition notice shall—

- (a) state that the inspector or a member of An Garda Síochána is of the opinion referred to in paragraph (1),
- (b) state the reasons for that opinion,
- (c) specify the activity in respect of which that opinion is held,
- (d) where in the opinion of the inspector the activity involves a contravention, or likely contravention, of any of the relevant road transport statutory provisions, specify the provision or provisions in question,
- (e) prohibit the carrying on of the activity concerned until the matters that give rise or are likely to give rise to the risk are remedied, and

(f) be signed and dated by the inspector or a member of An Garda Síochána.

(3) A prohibition notice may include directions—

(a) as to the measures to be taken to remedy any contravention or matter to which the notice relates, or to otherwise comply with the notice, and

(b) to bring the notice to the attention of any person who may be affected by it, or to the public generally.

(4) A prohibition notice shall take effect—

(a) when the notice is received by the person on whom it is served, or

(b) where an appeal is brought against the prohibition notice, on the day immediately following—

(i) the day on which the notice is confirmed on appeal or the appeal is withdrawn, or

(ii) the day specified in the notice,

whichever occurs later.

(5) The bringing of an appeal against a prohibition notice shall not have the effect of suspending the operation of the notice but the appellant may apply to the court to have the operation of the notice suspended until the appeal is disposed of and, on such application, the court may, if it thinks proper to do so, direct that the operation of the notice be suspended until the appeal is disposed of.

(6) A person on whom a prohibition notice is served may, within 7 days beginning on the day on which the notice is served on him, appeal against the notice to a judge of the District Court in the district court district in which the notice was served and in determining the appeal the judge may, if he is satisfied that it is reasonable to do so, confirm, vary or cancel the notice.

(7) Where, on the hearing of an appeal under this Regulation, a prohibition notice is confirmed, notwithstanding paragraph (4), the judge by whom the appeal is heard may, on the application of the appellant, suspend the operation of the prohibition notice for such period as in the circumstances of the case the judge considers appropriate.

(8) A person who—

(a) brings an appeal under paragraph (6), or

(b) brings an appeal and applies for the suspension of the operation of a prohibition notice under paragraph (7),

shall at the same time notify the relevant competent authority, or person appointed under Regulation 10(3), of the appeal or the appeal and application, and the grounds for the appeal or appeal and application.

(9) A person on whom a prohibition notice has been served who is of the opinion that the matters referred to in the notice have been remedied by the date specified in the notice shall confirm in writing to the inspector or a member of An Garda Síochána, as appropriate, that those matters have been so remedied.

(10) Where a person on whom a prohibition notice has been served confirms in writing to the inspector or a member of An Garda Síochána, as appropriate, in accordance with paragraph (9) that the matters referred to in the prohibition notice have been remedied, the inspector or a member of An Garda Síochána, as appropriate, shall, on being satisfied that the matters have been so remedied, within one month of receipt of such confirmation, give notice to the person concerned of such compliance with the prohibition notice.

(11) An inspector or a member of An Garda Síochána, as appropriate, may at any time withdraw a prohibition notice if—

- (a) the inspector or the member of An Garda Síochána, as appropriate, is satisfied that the activity to which the notice relates no longer involves a risk of serious injury to person, or damage to property or to the environment, or
- (b) the inspector or a member of An Garda Síochána, as appropriate, is satisfied that the notice was issued in error or is incorrect in some material respect.

Contravention of prohibition notice — application to High Court

16. (1) Where a person contravenes a prohibition notice an inspector or a member of An Garda Síochána, as appropriate, may apply *ex parte* to the High Court for an order prohibiting the continued contravention of the notice.

(2) The High Court may, upon an application under this Regulation, order the person on whom the prohibition notice concerned was served to cease doing such acts as the High Court directs.

Investigations and special reports

17. (1) A competent authority or a person appointed under Regulation 10(3) may at any time direct any of its staff or any other person to—

- (a) investigate the causes and circumstances surrounding any risk of serious injury to person or damage to property or to the environment or any other activity to which the relevant road transport statutory provisions relate, and
- (b) submit a report (in these Regulations referred to as a “special report”) of the investigation to that authority or person.

(2) A person, who is not an inspector, carrying out an investigation under this Regulation shall, for the purposes of the investigation, have all the powers of an inspector under these Regulations.

(3) In the case of a person referred to in paragraph (2), appointed by a competent authority or a person appointed under Regulation 10(3) to carry out an investigation and make a special report (other than a member of the staff of a competent authority or a person appointed under Regulation 10(3)), the appointing authority or person may pay to the person charged with carrying out the investigation such fees and expenses as the Minister or any relevant Minister may, with the approval of the Minister for Finance, determine.

(4) A competent authority or a person appointed under Regulation 10(3) may, to the extent that the Minister or any relevant Minister may determine, discharge the costs, other than those to which paragraph (3) applies, if any, incurred in the preparation of a special report.

(5) A copy of a special report shall be submitted as soon as practicable after the completion of an investigation to the Minister and to any relevant Minister.

(6) A competent authority or a person appointed under Regulation 10(3) may publish a special report, and, if the Minister, upon consultation with a relevant Minister, directs, it shall publish the special report.

Application to High Court regarding activities involved in the carriage of dangerous goods by road

18. (1) Where a competent authority or a member of An Garda Síochána or a person appointed under Regulation 10(3) considers that any activity which involves or is likely to involve a contravention of the relevant road transport statutory provisions and the risk therefrom to health or damage to property or to the environment is so serious that that activity should be restricted to reduce the risk to a reasonable level, the competent authority or a member of An Garda Síochána or a person appointed under Regulation 10(3) may apply *ex parte* to the High Court for an order restricting or prohibiting that activity.

(2) The High Court may, upon an application under paragraph (1), make such order as it considers appropriate.

(3) An order under this Regulation shall have effect notwithstanding the terms of any permission given under any other enactment for the activity to which the application under this Regulation relates.

(4) On an application by any person for the revocation or variation of an order under paragraph (1), a relevant competent authority or a member of An Garda Síochána or a person appointed under Regulation 10(3) shall be entitled to be heard.

Arrest without warrant for certain offences where summons may not be satisfactory to ensure appearance

19. (1) Where a member of An Garda Síochána has reasonable grounds—

- (a) for believing that an offence resulting from a contravention of these Regulations has been or is being committed in connection with the operation on a public road of transport equipment, and
- (b) for doubting that an address provided as an address for service by the person whom the member believes to have committed or to be committing the offence is a satisfactory address for service of a summons on the person for the prosecution of the offence,

the member may, without warrant, arrest the person.

(2) For the purposes of paragraph (1)(b), an address is a satisfactory address for service if it appears to the member of An Garda Síochána that—

- (a) the person will be at the address for a sufficiently long period for it to be possible to serve the person with a summons; or
- (b) that some other person specified by the first-mentioned person will accept service of a summons for the first-mentioned person at the address.

Search warrants

20. (1). If a judge of the District Court is satisfied on the sworn information of an inspector that there are reasonable grounds for suspecting that—

- (a) a premises is used for a purpose connected with the carriage of dangerous goods by road,
- (b) transport equipment used for that purpose is at the premises,
- (c) there is information or material relating to the carriage of dangerous goods by road required by an inspector for examination held in any premises or part of any premises dwelling, or
- (d) an offence under these Regulations has been or is being committed therein,

the judge may issue a warrant authorising an inspector, accompanied by other inspectors or members of An Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production if so required of the warrant, to enter that premises, if need be by reasonable force, and exercise all or any of the powers conferred on an inspector under Regulation 12.

Chapter 2

Obtaining and Disclosure of Information

Power to require information

21. (1) A competent authority or a person appointed under Regulation 10(3) may, by notice (in these Regulations referred to as an “information notice”) served on a person, require the person to give to that authority or person, within

such period and in such form as may be specified in the notice, any information specified in the notice that the relevant authority or person may reasonably require for the proper performance by it of its functions under the relevant road transport statutory provisions.

(2) The period specified in the information notice may be extended at the discretion of the relevant authority or person on the application of the person on whom the notice is served.

(3) A person on whom an information notice is served may, within 7 days beginning on the day on which the notice is served on him or her, appeal against the notice to a judge of the District Court in the district court district in which the notice was served and in determining the appeal the judge may, if he or she is satisfied that it is reasonable to do so, confirm, vary or cancel the notice.

(4) Where, on the hearing of an appeal under paragraph (3), an information notice is confirmed or varied, the judge of the District Court by whom the appeal is heard may, on the application of the appellant, suspend the operation of the notice for such period as in the circumstances of the case the judge considers appropriate.

(5) A person on whom an information notice is served shall comply with the notice before—

- (a) the day immediately following the day on which the notice is confirmed or varied or the appeal is withdrawn, or
- (b) the end of the period specified in the notice, or
- (c) where the period referred to in (b) is extended under paragraph (2), the end of that extended period, or
- (d) where the operation of the notice has been suspended under paragraph (4), the end of the period of suspension,

whichever occurs latest.

Prohibition on unauthorised disclosure of information

22. (1) A person shall not, save as otherwise provided for by law, disclose information obtained by him while performing functions as—

- (a) a member or member of staff of a competent authority or a person appointed under Regulation 10(3),
- (b) an inspector,
- (c) a person (other than a member of staff of a competent authority or a person appointed under Regulation 10(3)) appointed to carry out an investigation under Regulation 17,

- (d) a consultant or adviser to a competent authority or a person appointed under Regulation 10(3) or a person employed by him or her,

unless he or she is duly authorised to so do by the competent authority or person concerned.

(2) Paragraph (1) shall not prevent the disclosure of information where that disclosure is—

- (a) for the purpose of the discharge of functions under the relevant road transport statutory provisions,
- (b) made with the consent of the person to whom the information applies, or
- (c) for the purposes of—
- (i) any legal proceedings (including by means of a report to a coroner holding an inquest under the Coroners Acts 1962 and 2005 on the body of a person whose death may have been caused through personal injury), or
- (ii) any investigation or special report under Regulation 17.

Disclosure of information

23. (1) The Revenue Commissioners may, where they consider it appropriate for the purpose of facilitating the exercise or performance by a competent authority or a person appointed under Regulation 10(3) of any of their powers or duties under the relevant road transport statutory provisions, authorise the disclosure to a competent authority or to an inspector of an authority or a person appointed under Regulation 10(3) of any information obtained by the Revenue Commissioners in relation to transport equipment or dangerous goods imported into the State.

(2) A member of An Garda Síochána may give to a competent authority or a person appointed under Regulation 10(3) such information in relation to personal injury to a person resulting from the carriage of dangerous goods by road as may be necessary for enforcement of the relevant road transport statutory provisions.

(3) The Minister, following consultation with any other Minister of the Government that he considers appropriate, may prescribe persons requiring them to give to a competent authority or a person appointed under Regulation 10(3) such information in relation to injury to persons or damage to property or to the environment in the carriage of dangerous goods by road as may be necessary for promoting the prevention of risk of injury to persons or damage to property or to the environment in or resulting from the transport of dangerous goods by road.

Disclosure of information by inspector in certain circumstances

24. (1) An inspector shall not disclose any information relating to any manufacturing, trade or commercial secrets or work processes that was obtained by the inspector in the performance of his or her functions under these Regulations.

(2) An inspector shall not disclose any information relating to any manufacturing, trade or commercial secrets or work processes that was obtained by the inspector in the performance of his or her functions under these Regulations.

(3) Paragraphs (1) and (2) do not prevent the disclosure of information where that disclosure is—

- (a) for the purpose of his or her functions under these Regulations,
- (b) made with the relevant consent, or
- (c) for the purposes of any legal proceedings or of any investigation or special report under Regulation 17.

Compilation of names of certain persons

25. A competent authority or a person appointed under Regulation 10(3) may from time to time compile a list of names and addresses of every participant—

- (a) on whom a fine or other penalty was imposed by a court under any of the relevant road transport statutory provisions,
- (b) on whom a prohibition notice was served under Regulation 15, or
- (c) in respect of whom an order was made under Regulation 16 or 18.

PART 5

OFFENCES AND PENALTIES

Offences

26. (1) A person who contravenes a provision of the ADR that applies to him or her shall be guilty of an offence.

(2) A person who contravenes a provision of Regulations 8 or 9 shall be guilty of an offence.

(3) A person who contravenes a provision of relevant road transport statutory provisions that is declared in those provisions to be a penal provision shall be guilty of an offence.

(4) A person who contravenes a requirement in a prohibition notice shall be guilty of an offence.

(5) A person who forges or utters knowing it to be forged—

- (a) a register, record, licence, authorisation, direction, or permit under the relevant road transport statutory provisions or a document purporting to be an extract therefrom, or
- (b) a contravention notice, a prohibition notice or an information notice, (in this Regulation referred to as a “forged document”)

shall be guilty of an offence.

(6) A person who alters, with intent to defraud or deceive, or who utters knowing it to be so altered—

- (a) a register, record, licence, authorisation, direction, or permit under the relevant road transport statutory provisions or a document purporting to be an extract therefrom, or
- (b) a contravention notice, a prohibition notice or an information notice, (in this Regulation referred to as an “altered document”)

shall be guilty of an offence.

(7) A person who has, without lawful authority, a forged document or an altered document in his or her possession shall be guilty of an offence.

(8) Any person who obstructs or interferes with an inspector or a member of An Garda Síochána in the course of exercising a power conferred on him or her by these Regulations or a warrant under Regulation 12 or impedes the exercise by the inspector or member, as the case may be, of such power, or fails or refuses to comply with a request or requirement of, or to answer a question asked by, an inspector or such a member pursuant to a power conferred by these Regulations, or in purported compliance with such request or requirement or in answer to such question gives information to the inspector or member that he or she knows to be false or misleading in any material respect, shall be guilty of an offence.

(9) Any person who obstructs or interferes with an officer of customs and excise in the course of exercising a power conferred on him by these Regulations shall be guilty of an offence.

(10) A person who falsely represents himself or herself to be an inspector shall be guilty of an offence.

(11) A person who, at any time during the period of 3 months immediately following the affixing of a notice in accordance with Regulation 3(1)(d), removes, alters, damages or defaces the notice without lawful authority shall be guilty of an offence.

(12) A person who states to a competent authority or a person appointed under Regulation 10(3) that another person has committed an offence under this Regulation or has failed to comply with a provision of the relevant road

transport statutory provisions knowing the statement to be false shall be guilty of an offence.

(13) A person who, in purported compliance with a requirement in an information notice, furnishes information to a competent authority or a person appointed under Regulation 10(3) that he or she knows to be false or misleading in a material respect shall be guilty of an offence.

(14) A person who contravenes any requirement of an information notice under Regulation 21, shall be guilty of an offence.

(15) A person who fails to comply with or who contravenes a requirement or provision in Part 8 is guilty of an offence.

(16) A person who fails to comply with or who contravenes a requirement or provision in Part 9 is guilty of an offence.

Penalties

27. (1) A person found guilty of an offence under Regulation 26 (other than paragraph (14)) shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years or both.

(2) A person guilty of an offence under Regulation 26(14) shall be liable on summary conviction to a class A fine.

(3) Where a person is convicted of an offence under the relevant road transport statutory provisions in proceedings brought by a competent authority or a member of An Garda Síochána or a person appointed under Regulation 10(3), the court may order the person to pay to that competent authority or An Garda Síochána or person appointed under Regulation 10(3) the costs and expenses measured by the court, incurred by the competent authority or An Garda Síochána or person appointed under Regulation 10(3) in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees, consultants and advisers engaged by the competent authority or An Garda Síochána or person appointed under Regulation 10(3).

Fixed payment notice

28. (1) Where an inspector has reasonable grounds for believing that a participant has committed an offence listed in Part 1 to Schedule 2 and is liable to summary prosecution in respect thereof, the inspector may give to the participant a notice in writing (in these Regulations referred to as a “fixed payment notice”) in the form set out in Schedule 2 stating that—

- (a) the participant is alleged to have committed that offence,

- (b) the participant may during the period of 21 days beginning on the date of the notice make to the competent authority or person appointed under Regulation 10(3) concerned at the address specified in the notice, and accompanied by the notice, a payment of—
 - (i) €100 in relation to each risk category III alleged offence,
 - (ii) €250 in relation to each risk category II alleged offence, or
 - (iii) €500 in relation to each risk category I alleged offence,
 - (c) the participant is not obliged to make the payment specified in the notice, and
 - (d) a prosecution of the participant to whom the notice is given in respect of the alleged offence will not be instituted during the period of 21 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.
- (2) Where a fixed payment notice is given under paragraph (1)—
- (a) the determination of the risk category to be applied where an option is indicated in Schedule 2, Part 3, is at the discretion of the inspector and, in doing so, the inspector shall take account of the particular circumstances.
 - (b) the participant to whom it applies may, during the period of 21 days beginning on the date of the notice, make to the competent authority or person appointed under Regulation 10(3) concerned at the address specified in the notice the payment specified in the notice accompanied by the notice,
 - (c) the competent authority or person appointed under Regulation 10(3) may, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the participant who made it, and
 - (d) a prosecution in respect of the alleged offence(s) shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.
- (3) In summary proceedings for an offence under the relevant road transport statutory provisions it shall be a defence for the defendant to prove that he has made a payment, in accordance with this Regulation, pursuant to a fixed payment notice issued in respect of that offence.
- (4) Moneys received pursuant to the giving of a fixed payment notice shall be disposed of in a manner determined—

- (a) by the Authority, with the prior consent of the Minister and the Minister for Finance,
- (b) by a competent authority or person appointed under Regulation 10(3) (other than the Authority or a Minister of the Government), with the prior consent of the relevant Minister and the Minister for Finance, or
- (c) by a competent authority who is a Minister of the Government, with the prior consent of the Minister for Finance.

Offences by body corporate

29. Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Onus of proof

30. In any proceedings for an offence under any of the relevant road transport statutory provisions consisting of a failure to comply with a duty or requirement to do something so far as is practicable or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.

Prosecution of offences

31. (1) Subject to paragraphs (2) and (3), summary proceedings in relation to an offence under the relevant road transport statutory provisions may be brought and prosecuted by a competent authority or a member of An Garda Síochána or a person appointed under Regulation 10(3).

(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851 and subject to paragraph (3), summary proceedings for any offence under these Regulations may be instituted at any time within 12 months from the date on which the offence was committed or alleged to have been committed.

(3) Where a special report is submitted under Regulation 17 to a competent authority or a person appointed under Regulation 10(3) and it appears from the report that one or more of the relevant road transport statutory provisions was contravened during any period to which the report relates, summary proceedings for an offence consisting of the contravention concerned may be instituted at any time within 6 months of the submission of the report under Regulation 17 or 12 months after the date of the contravention, whichever occurs later.

Appeals to Circuit Court from certain orders of District Court

32. For the avoidance of doubt, an order of the District Court confirming, varying or cancelling a notice under Regulation 14(6), 15(6) or 21(3) is a decision

of a judge of the District Court for the purposes of section 84 of the Courts of Justice Act 1924.

Evidence in proceedings

33. (1) In proceedings for an offence under these Regulations, any document purporting to have been prepared or kept—

- (a) pursuant to a requirement in the relevant road transport statutory provisions, or
- (b) in the ordinary course of business by a person who had, or may reasonably be considered to have had, personal knowledge of the matters specified in the document, shall be admissible as evidence of the matters specified in the document.

(2) In proceedings for an offence under these Regulations, a document purporting to be a reproduction in legible form of a document stored in non-legible form to which paragraph (1) applies shall be admissible as evidence of the matters specified therein, if the court before which the proceedings have been brought is satisfied that it was reproduced in the course of the normal operation of the reproduction system concerned.

(3) This Regulation shall not apply to—

- (a) a document containing information that is privileged from disclosure in proceedings for an offence,
- (b) a document prepared by a person who would not be compellable to give evidence at the instance of the party seeking to have the document admitted as evidence of the matters specified in the document,
- (c) a document (other than a technical document) prepared for the purposes, or in contemplation, of—
 - (i) the investigation of any offence,
 - (ii) an investigation or inquiry carried out pursuant to or under any enactment,
 - (iii) any proceedings whether civil or criminal, or
 - (iv) proceedings of a disciplinary nature, or
- (d) a document (other than a technical document) prepared after the alleged commission of the offence concerned.

(4) Nothing in this Regulation shall operate to render inadmissible in proceedings under these Regulations any document as evidence of any matter specified therein, that is so admissible by virtue of any rule of law or enactment other than these Regulations.

(5) In this Regulation—

“business” includes any trade, profession or other occupation carried on—

- (a) for reward or otherwise, and
- (b) either in the State or outside the State;

“technical document” means—

- (a) a map, plan, drawing or photograph (including any explanatory material in or accompanying the document concerned),
- (b) a record of a direction given by an inspector or a member of An Garda Síochana pursuant to any enactment,
- (c) a record of the receipt, handling, transmission, examination or analysis of any thing by any person acting on behalf of any party to the proceedings for the offence concerned, or
- (d) a record by a registered medical practitioner of an examination of a living or dead person.

PART 6

MISCELLANEOUS

Immunity and indemnification

34. (1) None of the following persons, that is to say, a competent authority, an inspector, or a member or a member of staff of a competent authority or a person or a member or a member of staff of a person appointed under Regulation 10(3) shall be liable in damages in respect of any act done or omitted to be done by it or him or her in the performance, or purported performance, of that person’s functions, unless the act or omission concerned was done in bad faith.

(2) A competent authority or a person appointed under Regulation 10(3) shall, subject to the provisions of any enactment or rule of law, indemnify an inspector appointed by that competent authority, or a member or member of staff of that competent authority or person, in respect of any act done or omitted to be done by him or her in the performance, or purported performance, of his or her functions as such inspector, member or member of staff, unless the act or omission concerned was done in bad faith.

Powers of detention of an officer of customs and excise

35. For the purpose of the performance by a competent authority or a person appointed under Regulation 10(3) of any functions conferred on it or him or her under any of the relevant road transport statutory provisions, an officer of customs and excise, following a request in that behalf by that competent authority or person, may detain any dangerous goods being exported or imported for so long as is reasonably necessary for an inspector to examine it for the

purposes of the relevant road transport statutory provisions, which period shall not in any case exceed 72 hours from the time when the dangerous goods concerned are detained.

Consultants and advisers

36. (1) A competent authority or a person appointed under Regulation 10(3) may, from time to time, engage consultants or advisers that it, him or her considers necessary or expedient for the performance by it, him or her of its, his or her functions.

(2) Any fees payable by a competent authority or a person appointed under Regulation 10(3) to a consultant or adviser engaged under this Regulation shall be paid by it out of moneys at its, his or her disposal and taking account of guidelines issued from time to time by the Minister or the Minister for Finance.

(3) A competent authority or a person appointed under Regulation 10(3) shall comply with any directions with regard to consultants or advisers engaged under this Regulation that the Minister, following consultation with any other Minister of the Government that he or she considers appropriate, may give to it, him or her with the consent of the Minister for Finance.

Notice or direction to be in writing

37. Any notice or direction under these Regulations shall be in writing.

ADR Contracting Parties

38. (1) In accordance with Article 7(2) of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) and following the State having deposited its instrument of accession with the United Nations on 12 October 2006 the Agreement entered into force in the State on 12 November 2006.

(2) The Minister may, after consultation with the Minister for Foreign Affairs and Trade, by notice in the *Iris Oifigiúil*, declare that—

(a) any state specified in the notice is a Contracting Party, or

(b) a declaration (the text of which shall be set out in the notice) has been made pursuant to Article 10 or 12 of the ADR to the Secretary-General of the United Nations, and the notice shall be evidence of the facts declared.

(3) The Minister may, after consultation with the Minister for Foreign Affairs and Trade, by notice in the *Iris Oifigiúil*, amend or revoke a notice under paragraph (2).

PART 7

FEES

Fees for services

39. (1) Subject to the approval of the Minister and the Minister for Finance and in consultation with any other relevant Minister, a competent authority or a person appointed under Regulation 10(3), as the case may be, may—

- (a) determine the amount of such fees as it considers appropriate in consideration of—
 - (i) the performance by that competent authority or a person appointed under Regulation 10(3), as the case may be, of its functions,
 - (ii) the provision by it of services (other than a service consisting of the provision of advice to the Minister, to another Minister of the Government or to another competent authority), and
 - (iii) the carrying on by it of activities,
- (b) exempt from the payment of fees in different circumstances or classes of circumstances or for different cases or classes of cases, or for the waiver, remission or refund (in whole or in part) of fees,
- (c) sell anything produced, published or developed by it, or in co-operation with another competent authority, and
- (d) enter into contracts upon such terms and conditions as it considers appropriate (including terms and conditions relating to payments to another national authority) for the further development and commercial exploitation of anything produced, published or developed by it,

and shall record receipts from such fees, sales or payments as income.

(2) A competent authority or a person appointed under Regulation 10(3), as the case may be, shall make available on request and free of charge, details of fees determined under this Regulation.

(3) Fees, prices and payments referred to in this Regulation in respect of functions performed, services provided, activities carried on or things sold, shall not, save with the prior approval of the Minister, in consultation with any other relevant Minister, be less than the cost of the performance of the function, the provision of the service, the carrying on of the activity or the production, publication or development of the thing, as the case may be.

(4) A competent authority or a person appointed under Regulation 10(3), as the case may be, may recover any amount due and owing to it, him or her under this Regulation from the person by whom it is payable as a simple contract debt in any court of competent jurisdiction.

Prescription of persons by whom fees are payable

40. Persons referred to in Regulation 41, 43, 44, 45 or 46 as being persons by whom fees are to be paid in respect of the performance by a competent authority of a function referred to in the Regulation concerned, are prescribed as the persons by whom the fees referred to in the relevant Regulation in respect of the performance of the function concerned are to be paid for the purpose of the relevant road transport statutory provisions.

Fees payable in respect of services provided

41. (1) A competent authority, or an authorised examiner or an accreditation body or inspection body engaged for the purpose of the relevant road transport statutory provisions, may charge and is entitled to be paid for the performance by it of a function conferred on it by or under the relevant road transport statutory provisions, by the person who requests the performance of that function, a fee (which shall include all costs incurred by the competent authority, authorised examiner, accreditation body or inspection body, as the case may be, in the performance of that function including administrative costs).

(2) Functions referred to in paragraph (1) shall include the following:

- (a) accreditation of an inspection body by an accreditation body for the purposes of Part 6 of the ADR,
- (b) performance of an annual technical inspection of a vehicle by a competent authority or the authorised examiner appointed by the competent authority for the purposes of Chapter 9.1 of the ADR and issuing a vehicle certificate of approval for the purpose of those provisions,
- (c) performance of periodic and intermediate technical inspections of tanks by a competent authority or the authorised examiner appointed by the competent authority for the purposes of Part 6 of the ADR,
- (d) approval of courses for the training of drivers by a competent authority for the purposes of Chapter 8.2 of the ADR,
- (e) continual inspection and validation of approved training courses by a competent authority,
- (f) organisation and supervision of examinations, issue of a driver training certificate, extension of the validity of a driver training certificate or the replacement of a driver training certificate, in the event of the original certificate being lost or destroyed, by a competent authority or body appointed by the competent authority for the purposes of Chapter 8.2 of the ADR,
- (g) recognition or approval, or both, of procedures for testing the design types of packagings, IBC's and large packagings, by a competent authority or body appointed by the competent authority for the purposes of Chapters 6.1 to 6.6 of the ADR,

- (h) performance of design type approval or issue of a certificate of type approval of transport equipment for the purposes of Chapters 6.7 to 6.12 of the ADR by a competent authority or an inspection body as the case may be,
- (i) issue of replacement vehicle certificates of approval by a competent authority or the authorised examiner appointed by the competent authority, in the event of the original certificate being lost, destroyed or mutilated,
- (j) organisation and supervision of examinations, issue of dangerous goods safety adviser vocational training certificate, extension of validity or the replacement of a dangerous goods safety adviser training certificate, in the event of the original certificate being lost or destroyed, for the purposes of Chapter 1.8 of the ADR, by the competent authority or body appointed by the competent authority, or
- (k) performance of inspection body functions in accordance with Chapter 1.8 of the ADR.

Fees payable — INAB

42. (1) The fees charged by the INAB, in relation to the accreditation of a body as an inspection body accredited by an accreditation body recognised by the European Co-operation for Accreditation (EA), to carry out the inspections and tests in accordance with ISO/IEC/17020 entitled ‘General criteria for the operation of various types of bodies performing inspection’, shall be so charged in accordance with the INAB Schedule of Fees which is published annually.

(2) Forfas, acting on behalf of the INAB, is hereby prescribed as the person to whom fees in respect of the performance of functions referred to in paragraph (1) are payable for the purposes of the relevant road transport statutory provisions.

(3) Fees referred to in paragraph (1) are payable in accordance with any terms or conditions stated on the invoice issued by Forfas.

Fees payable in connection with vehicle annual technical inspection

43. A competent authority and or authorised examiner engaged for the purposes of the relevant road transport statutory provisions by a competent authority, may charge and is entitled to be paid for the performance by it of a function conferred on it under the relevant road transport statutory provisions, by the owner of the vehicle who requests the performance of that function, a fee (which shall include all costs incurred by the competent authority and or authorised examiner in the performance of the function including administrative costs) as follows:

- (a) a fee of €151.25 in respect of an application for a vehicle technical inspection for the purposes of Part 9 of the ADR,
- (b) a fee of €14.40 in respect of the validity of a vehicle certificate of approval being extended, or

- (c) a fee of €30 in respect of the issue of a replacement vehicle certificate of approval by the authorised examiner, in the event of the original certificate being lost, destroyed or mutilated.

Fees payable by training provider

44. A competent authority may charge and is entitled to be paid for the performance by it of a function conferred on it under the relevant road transport statutory provisions, by the training provider who requested the performance of the function, a fee (which shall include all costs incurred by the competent authority in the performance of the function including administrative costs) as follows:

- (a) a fee of €2,300 in respect of an application for approval of an initial training course by the competent authority, being in this case the Authority for the purposes of Chapter 8.2 of the ADR,
- (b) a fee of €680 in respect of an application for approval of a refresher training course by the competent authority, being in this case the Authority for the purposes of Chapter 8.2 of the ADR,
- (c) a fee of €680 in respect of an application of an initial tank specialisation course by the competent authority, being in this case the Authority for the purposes of Chapter 8.2 of the ADR,
- (d) a fee of €680 in respect of an application for approval of a refresher tank specialisation course by the competent authority, being in this case the Authority for the purposes of Chapter 8.2 of the ADR,
- (e) a fee of €50 in respect of an application for approval of an additional or replacement trainer by the competent authority, being in this case the Authority for an approved course for the purposes of Chapter 8.2 of the ADR,
- (f) a fee of €680 in respect of an application for approval of an initial Class 1 specialisation training course by the competent authority, being in this case the Minister of Justice and Equality for the purposes of Chapter 8.2 of the ADR,
- (g) a fee of €680 in respect of an application for approval of a refresher Class 1 specialisation training course by the competent authority, being in this case the Minister of Justice and Equality for the purposes of Chapter 8.2 of the ADR,
- (h) a fee of €680 in respect of an application for approval of an initial Class 7 specialisation training course by the competent authority, being in this case the Radiological Protection Institute of Ireland for the purposes of Chapter 8.2 of the ADR,
- (i) a fee of €680 in respect of an application for approval of a refresher Class 7 specialisation training course by the competent authority,

being in this case the Radiological Protection Institute of Ireland for the purposes of Chapter 8.2 of the ADR,

- (j) an annual fee of €900 in respect of the continual inspection and validation of a training course by the competent authority, being in this case the Authority,
- (k) an annual fee of €500 in respect of the continual inspection and validation of a training course by the competent authority being, in this case the Minister of Justice and Equality,
- (l) an annual fee of €500 in respect of the continual inspection and validation of a training course by the competent authority being, in this case the Radiological Protection Institute of Ireland, and
- (m) a late submission fee of €250 in respect of (j), (k) and (l) where submissions by a training provider are provided outside a due date set by the competent authority.

Fees payable by examination candidates

45. A competent authority or the Minister, as the case may be, may charge and is entitled to be paid for the performance by the competent authority or the Minister, as the case may be, of a function conferred on it or the Minister under the relevant road transport statutory provisions, by the examination candidate who requests the performance of the function, a fee (which shall include all costs incurred by the competent authority or the Minister, as the case may be, in the performance of the function including administrative costs) as follows:

- (a) a fee of €110 in respect of an application for an initial basic or initial specialisation examination to be carried out with the approval of the competent authority being, in this case, the Authority or the Minister for Justice and Equality, as the case may be, for the purposes of subsection 8.2.2.7 of the ADR,
- (b) a fee of €110 in respect of an application for a refresher basic or refresher specialisation examination to be carried out with the approval of a competent authority being, in this case the Authority or the Minister for Justice and Equality, as the case may be, for the purposes of subsection 8.2.2.7 of the ADR,
- (c) a fee of €110 in respect of an application for a specialisation examination, not taken with a basic examination, to be carried out with the approval of the competent authority being, in this case, the Radiological Protection Institute of Ireland for the purposes of subsection 8.2.2.7 of the ADR,
- (d) a fee of €15 in respect of an application for a grant of a driver training certificate, an amended driver training certificate, or an extension in respect of a driver training certificate in accordance with subsection 8.2.2.8 of the ADR, as the case may be, or

- (e) a fee of €15 in respect of an application for a replacement driver training certificate, in the event of the original certificate being lost or destroyed.

Fees payable in connection with recognition and approval

46. The NSAI may charge and is entitled to be paid for the performance by it of a function conferred on it under the relevant road transport statutory provisions, by the person who requests the performance of that function, a fee (which shall include all costs incurred by the NSAI in the performance of the function including administrative costs) as follows:

- (a) a fee for the conformity assessment or approval of procedures for testing the design types of packagings, IBC's and large packagings, tanks and vehicles for the purposes of Chapters 6.1 to 6.12 of the ADR and
- (b) a fee for amendment to, or re-validation or replacement of, an approval referred to in paragraph (a).

Fees payable in connection with tanks, bulk containers and receptacle type approval and testing and in connection with transportable pressure equipment

47. (1) The competent authority or inspection body may charge and is entitled to be paid for the performance by it of a function conferred on it under the relevant road transport statutory provisions, by the person who requests the performance of that function, a fee (which shall include all costs incurred by the competent authority or inspection body in the performance of the function including administrative costs) as follows:

- (a) a fee for the issue of an ADR type approval certificate for tanks and bulk containers for the purpose of Chapters 6.7 to 6.12 of the ADR, and
 - (b) a fee for amendment to, or re-validation or replacement of, an ADR type approval certificate referred to in paragraph (a).
- (2) (a) On the making of an application to a notifying authority and/or accreditation body for the—
- (i) appointment of a notified body, or
 - (ii) amendment of an existing appointment of such a body;

there shall be payable by the applicant in connection with the performance by or on behalf of the notifying authority or accreditation body of its functions in relation to that application the relevant fee.

- (b) The fees referred to in respect of subparagraphs (i) or (ii) of paragraph (2)(a) are—
 - (i) a fee for processing an application, and

- (ii) such fee as is reasonable in relation to the actual work to be performed in respect of the determination of the suitability of the applicant for appointment or for the amendment of an existing appointment.
- (c) A fee, which shall be reasonable in relation to the actual work performed, shall be payable by the relevant notified body in respect of any inspection undertaken by or on behalf of the notifying authority and or accreditation body.
- (d) A notifying authority and or accreditation body may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable, any amount due and owing to it under this Regulation.

(3) Subject to subparagraph (a), where an application has been made to a notified body in accordance with these Regulations, the notified body may charge such fees in connection with, or incidental to, carrying out its duties according to sections 1.8.6, 1.8.7, subsections 6.2.2.10 and 6.2.3.6 to 6.2.3.8 of the ADR.

- (a) The fees shall not exceed—
 - (i) the costs incurred or to be incurred by the notified body in performing the relevant function; and
 - (ii) an amount on account of profit which is reasonable in the circumstances having regard to the—
 - (I) character and extent of the work done or to be done by that body on behalf of the applicant, and
 - (II) commercial rate normally charged on account of profit for that work or similar work.
- (b) In relation to paragraph (a) a notified body may require the payment of fees or a reasonable estimate thereof in advance of carrying out the work requested by the applicant.
- (c) A notified body may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable, any amount due and owing to it under this Regulation.

Payment Deadline

48. The fees referred to in Regulations 46 and 47 shall be paid by a person referred to in those Regulations as the person who requests the performance of a function by a competent authority, notifying authority or inspection body, not later than 30 days from the day on which the competent authority, notifying authority or inspection body furnishes an invoice to the person in respect of the performance of the function concerned.

Miscellaneous

49. (1) Fees received by the Minister or the Minister for Justice and Equality under these Regulations shall be paid into the Exchequer in accordance with the directions of the Minister for Finance.

(2) Any fees prescribed by these Regulations are not inclusive of Value Added Tax.

(3) Any fees payable under this Part shall not include any costs connected with a criminal investigation or prosecution under these Regulations.

PART 8

NATIONAL TRANSPORT EXEMPTIONS

Application of Exemptions in Regulations 51 to 57

50. The exemptions set out in Regulations 51 to 57 apply only to the carriage of dangerous goods by road in the State.

Existing vehicles

51. (1) Notwithstanding Part 2 of these Regulations, and by derogation from Part 9 of the ADR relating to anti-lock braking systems and endurance braking, vehicles not fitted with anti-lock brakes and endurance braking and first registered before 1 April 2002 shall be taken to comply with these Regulations as respects the requirements for braking equipment in subsection 9.2.3.1 of the ADR.

(2) Notwithstanding Part 2 of these Regulations, tank-vehicles meeting the ADR requirements for the base vehicle but fitted with a tank to which Regulation 54 applies, shall be taken to comply with Part 9 of the ADR.

(3) Notwithstanding Part 2 of these Regulations, and by derogation from Part 9 of the ADR, vehicles first registered before 1 April 2002 which do not comply with Part 9 of the ADR and in particular Chapter 9.3 may be used to carry explosives of ADR Class 1 Division 1.1 in quantities not exceeding 5,000 kg, provided that—

- (a) a quick action cut-off is fitted to the fuel feed pipe in an accessible position,
- (b) the cab is separated from the body of the vehicle by a clear space of at least 152 mm and the whole of the exhaust pipe is protected from the body by a fire resisting screen carried down to within 304 mm of the ground,
- (c) the body of the vehicle, including the floor is completely covered externally with sheet metal and lined internally with wood so treated as to be rendered non-flammable or with such other material as may be approved in writing by an inspector,

- (d) the floorboards and side doors of the cab, if of wood, are so treated as to be rendered non-flammable, and
- (e) there is no opening in the body of the vehicle except the door, which shall fit closely and shall be at the back unless another position is approved in writing by an inspector.

Issue of vehicle certificate of approval (national transport only)

52. (1) Notwithstanding Regulation 51 and following the examination of a vehicle referred to in that Regulation in accordance with Part 9 of the ADR, where a competent authority or its appointed authorised tester is satisfied that the vehicle complies with the requirements of Part 9 of the ADR, that authority or tester shall, in the case of—

- (a) a vehicle referred to in paragraph (1) or (2) of Regulation 51, issue a vehicle certificate of approval (national transport only) for that vehicle in the format set down in Part 1 of Schedule 3, or
- (b) a vehicle referred to in paragraph (3) of Regulation 51, issue a vehicle certificate of approval (national transport only) for that vehicle in the format set down in Part 2 of Schedule 3.

(2) A tank-vehicle constructed since 1 July 2003, or in the case of mobile explosive manufacturing units, since 1 July 2009, otherwise in compliance with ADR, when used exclusively in the State for the carriage of dangerous goods by road, may be treated, as appropriate, in accordance with Regulation 54, and the competent authority or their appointed authorised tester may issue a vehicle certificate of approval (national transport only) for that vehicle in the format set down in Part 1 of Schedule 3.

Vehicle certificate of approval offences

53. (1) (a) The carrier and the driver of a vehicle referred to in Regulation 52(1) and 52(2) shall ensure that the vehicle certificate of approval (national transport only) is carried in the cab of the vehicle whenever the vehicle is being used for the transport of dangerous goods.

(b) Notwithstanding—

- (i) subparagraph (a), and in the case of a vehicle referred to in Regulation 51, where the vehicle consists of a drawing vehicle coupled to a trailer or a semi-trailer and is being used for the transport of dangerous goods, the vehicle certificate of approval (national transport only), or
- (ii) Part 2 of these Regulations, and by derogation from subsection 8.1.2.2(a) of the ADR, where the vehicle consists of a drawing vehicle coupled to a trailer or a semi-trailer and is being used for the transport of dangerous goods within the State only,

the vehicle certificate of approval, for the trailer or semi-trailer component need not be carried on the transport unit but shall be produced, on request, at an agreed location to an inspector or a member of An Garda Síochána, as appropriate, within 10 days of such request.

- (2) (a) A carrier or a driver who fails to comply with paragraph (1)(a) is guilty of an offence and shall be liable on summary conviction to a class D fine.
- (b) A carrier who fails to comply with a request under paragraph (1)(b) is guilty of an offence and is liable on summary conviction to a class D fine.

Old Tanks

54. Notwithstanding Part 2 of these Regulations, a tank and its respective fittings, that is not fully in compliance with Chapter 6.7, 6.8, 6.9, 6.10 or 6.12, as the case may be, and that was constructed before 1 July 2003, or in the case of mobile explosive manufacturing units, before 1 July 2009, shall be taken to comply with the ADR and as necessary, with Regulations 7 to 9 of the Air Pollution Act 1987 (Petroleum Vapour Emissions) Regulations 1997 (S.I. No. 375 of 1997) where—

- (a) all practicable steps are taken to ensure that the tank and its fittings meet the requirements specified in Schedule 4,
- (b) the tank is fitted with a corrosion-resistant metal plate or plates permanently attached to the tank in a place readily accessible for inspection, and
- (c) the following particulars, regarding the tank are marked on the plate or plates referred to in paragraph (b), by stamping into the metal or other similar method—
- (i) its serial number,
 - (ii) its water capacity in litres,
 - (iii) its maximum safe working pressure,
 - (iv) the month and year of its most recent thorough examination,
 - (v) the month and year of its most recent periodic test, if appropriate,
 - (vi) the month and year of its most recent leakproofness test,
 - (vii) its operating temperature range, if appropriate, and
 - (viii) the identification mark of the competent person who carried out the most recent thorough examination, periodic inspection or leakproofness test, as appropriate.

Gas receptacles constructed before 1 July 2003

55. Notwithstanding Part 2 of these Regulations, a receptacle used for the transport of gases of the ADR Class 2 and its fittings, that is not fully in compliance with Chapter 6.2 of the ADR and that was constructed before 1 July 2003 is taken to comply with the ADR where—

- (a) all practicable steps are taken to ensure that the receptacle and its fittings are—
 - (i) properly designed, of adequate strength, good construction and free from obvious defect,
 - (ii) constructed of materials that are not chemically incompatible with or liable to react dangerously with the dangerous goods being carried,
 - (iii) suitable for the purpose for which they are being used,
 - (iv) designed, constructed and maintained so as to prevent any of the contents escaping except in the interests of safety, where the contents may be released using a suitable safety device, and
 - (v) thoroughly examined externally and internally by a competent person at the intervals specified in the ADR and after any major repairs which may affect the integrity or safety of the receptacle,

and
- (b) the receptacle has the following particulars stamped either into the metal on a reinforced part of the receptacle or on a ring or disc immovably affixed to the receptacle—
 - (i) the name of the owner,
 - (ii) its serial number,
 - (iii) its year of manufacture,
 - (iv) its water capacity in litres,
 - (v) its test pressure,
 - (vi) (I) the year and, subject to sub-clause (II), the month of its last thorough examination,
 - (II) where a receptacle is used to carry gases of the ADR Class 2 for which the interval between periodic inspections is 10 years or more the month of the last thorough examination need not be indicated,
 - (vii) (I) the tare weight of the receptacle without fittings and accessories, or

(II) in the case where the receptacle is a liquefied petroleum gas (LPG) (propane, butane or mixtures of propane and butane of the ADR Class 2, with UN numbers 1978, 1011 and 1965 respectively) cylinder the tare weight inclusive of fittings and accessories,

and

(viii) the identification mark of the competent person who carried out the test or examination.

Exemption relating to private premises

56. Notwithstanding Part 2, these Regulations do not apply where a vehicle is being used to transfer dangerous goods—

- (a) between private premises and another vehicle situated in the immediate vicinity of those premises, or
- (b) between one part of a private premises and another part of the premises situated in the immediate vicinity of that first mentioned part, where both parts are occupied by the same person, notwithstanding that those parts may be separated by a public road,

provided that the transfer of the dangerous goods is carried out by means of the most direct and shortest route between a private premises and a vehicle or the two parts of a private premises, as appropriate.

Other miscellaneous exemptions

57. The following exemptions (subject to the conditions therein referred to) apply to the provisions of Part 2 of these Regulations namely—

- (a) where kerosene bearing UN number 1223, diesel fuel bearing UN number 1202 or liquefied petroleum gas bearing UN number 1965 is being carried for delivery to the end user the transport document which, pursuant to Chapter 5.4 of the ADR, is required at the start of the transport operation is not required to contain the name and address of a consignee,
- (b) in the case of the transport of empty uncleaned tanks, the transport document for the last load shall be sufficient,
- (c) notwithstanding the provisions of subsection 7.5.11 of the ADR, the loading and unloading of dangerous goods in a public place to which special provision CV1 of that Chapter applies, is permitted without special permission from a competent authority,
- (d) flexible hose reels (including fixed pipelines associated with them) attached to tank vehicles engaged in the retail distribution of petroleum products with UN numbers 1011, 1202, 1223, 1863, 1965 or 1978 are not required to be empty during transport by road where

adequate measures are taken by the carrier to prevent any loss of contents;

- (e) a transport document as referred to in Chapter 5.4 of the ADR is not required for the transport of pesticides of ADR Class 3, with the Classification Code FT2, and pesticides of ADR Class 6, with the Classification Code T6, where the quantity of the dangerous goods being carried does not exceed the quantities set out in subsection 1.1.3.6 of the ADR;
- (f) subject to paragraph (g), the transport of marine distress pyrotechnical articles of ADR Class 1, with UN numbers 0092, 0093, 0191, 0195, 0197, 0240, 0312, 0403, 0404 or 0453, to a military barracks or range is exempt from—
 - (i) the requirement for a transport document in accordance with subsection 8.1.2.1(a),
 - (ii) the packaging requirements of Chapters 4.1 and 6.1, and
 - (iii) the package marking and labelling requirements of Chapter 5.2;
- (g) paragraph (f) applies to the article referred to in that paragraph pursuant to subsection 4.1.1.1 and 4.1.1.2 of the ADR where—
 - (i) the transport of the articles is for their disposal following the expiry of their shelf life,
 - (ii) they are packaged by one of the methods listed in the packing instruction P135 of section 4.1.4 of the ADR,
 - (iii) their packagings are—
 - (I) of good quality,
 - (II) strong enough to withstand the shocks and loadings normally encountered during transport,
 - (III) constructed and closed so as to prevent loss of contents during transport, and
 - (IV) not affected or significantly weakened by the pyrotechnical articles,
 - (iv) they are not packed together with any other article or substance,
 - (v) each package is clearly marked with the following inscription, namely—
 - “Time Expired Pyrotechnics”,

- (vi) the transport is in compliance with—
 - (I) subsection 1.1.3.6 of the ADR,
 - (II) the exemptions related to quantities carried per transport unit, and
 - (III) the conditions to which the exemptions are subject pursuant to paragraph (f),
- (vii) the load is accompanied by a transport document containing—
 - (I) the name and address of the consignor,
 - (II) the name and address of the military barracks or range to which the load is being consigned,
 - (III) a description of the articles being consigned, including their UN number, name and classification code,
 - (IV) the number of packages and total mass of the load of them, and
 - (V) the following inscriptions—
 - (A) “Time Expired Pyrotechnics”, and
 - (B) “Load not exceeding the exemption limits prescribed in subsection 1.1.3.6 of the ADR”,
- (viii) their transport is to a military barracks or range, and
- (ix) a complete itemised list of the articles is provided to the military barracks or range at least two days prior to the delivery of the articles;
- (h) in the case of the transport in bulk of ammonium nitrate based fertiliser with UN number 2067, from a port where it is being unloaded from a ship, where the transport involves multiple loads in the same vehicle of that fertiliser only on the same or consecutive days—
 - (i) the transport document, required by section 5.4.1 of the ADR to be provided in respect of the first load, shall be sufficient for subsequent loads in respect of the same vehicle on the same or subsequent consecutive days, and
 - (ii) the special provision CV24, of section 7.5.11 of the ADR, shall not apply, provided that it is complied with before the first load and after the last load in respect of the same vehicle;
- (i) the requirements of Chapters 5.3 and 5.4 and Parts 7, 8 and 9 of the ADR and the provisions of Chapter 3.2 that relate to transport of

gases to be used as dispensing agents for beverages do not apply to the transport of gases of ADR Class 2 in cylinders, provided that as respects beverages for which the gases being carried are to be used as dispensing agents where the gases and beverages are being carried in the same vehicle—

- (i) they are so carried on the same vehicle as the beverages,
 - (ii) the gases are dispensing agents for the beverages, and
 - (iii) the beverages are not classified as dangerous according to the ADR;
- (j) the provisions of Chapters 4.1, 6.2 and Columns (8), (9a) and (9b) of Chapter 3.2 of the ADR do not apply to the transport of gases of ADR Class 2 in cylinders or pressure drums in the case of a multimodal transport, that includes transport by sea, of the gases, provided that—
- (i) consignors comply with the provisions of Chapters 4.1, 6.2 and the relevant provisions of Chapter 3.2 of the IMDG Code,
 - (ii) the transport within the State consists of a single journey and is completed within a single day,
 - (iii) the cylinders or pressure drums are not refilled in the State,
 - (iv) the empty cylinders or pressure drums, whether uncleaned or cleaned, are returned to the country of origin, from where they originated, and
 - (v) small quantities are carried per load, and
- (k) (i) this Regulation applies where the competent authority has recognised reference temperatures or standards in accordance with regulation 10(9)(a) or (b).
- (ii) Part 2 of these Regulations 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 10(9)(a) or (b).

PART 9

TRANSPORTABLE PRESSURE EQUIPMENT

Scope

58. (1) Subject to paragraph (2), these Regulations apply to:—

- (a) new transportable pressure equipment, within the meaning of Article 1(2)(a) of the TPE Directive;

- (b) for the purposes of periodic inspections, intermediate inspections, exceptional checks and use, transportable pressure equipment that is within the meaning of Article 1(2)(b) of the TPE Directive, and
 - (c) for the purposes of reassessment of conformity, transportable pressure equipment that is within the meaning of Article 1(2)(c) of the TPE Directive
- (2) These Regulations do not apply to transportable pressure equipment:
- (a) that is within the meaning of Article 1(3) of the TPE Directive;
 - (b) used exclusively for the transport of dangerous goods between a Member State and third countries carried out in accordance with Article 4 of Directive 2008/68/EC.

Assessment of conformity

59. (1) Transportable pressure equipment within the scope of Article 1(2)(a) of the TPE Directive shall meet the conformity assessment, periodic inspection, intermediate inspection and exceptional checks requirements set out in the ADR (Subsections 1.8.6, 1.8.7, 6.2.2.10 and 6.2.3.6 to 6.2.3.8) and in Chapters 3 and 4 of the TPE Directive.

(2) The marking requirements applicable to the assessment of conformity set out in Articles 14 and 15 of the TPE Directive are to be complied with in relation to the equipment.

(3) A separate conformity assessment may be carried out for demountable parts of refillable transportable pressure equipment.

Periodic inspection and repeated use

60. (1) If the transportable pressure equipment within the scope of Article 1(2)(b) of the TPE Directive bears a marking referred to in Articles 14 and 15 of that Directive, it shall be subject to periodic inspection, intermediate inspection and exceptional checks in accordance with the requirements as set out in the ADR (Subsections 1.8.6, 1.8.7, 6.2.2.10 and 6.2.3.6 to 6.2.3.8) and Chapters 3 and 4 of the TPE Directive.

(2) The marking requirements applicable to periodic inspections set out in Articles 14 and 15 of the TPE Directive are to be complied with in relation to the equipment.

Reassessment of conformity

61. (1) Transportable pressure equipment within the scope of Article 1(2)(c) of the TPE Directive may be reassessed for conformity in accordance with this regulation.

(2) The equipment shall be—

- (a) reassessed by a type A notified body in accordance with the procedure set out in Annex III to the TPE Directive; and

- (b) marked in accordance with the requirements of Articles 14 and 15 of the TPE Directive that are applicable to the reassessment of conformity.

(3) If the equipment has been manufactured in series to a design type which has been reassessed by a type A notified body in accordance with paragraph (2)(a), the procedure set out in Annex III to the TPE Directive may be undertaken by a notified body notified for periodic inspection of that equipment and references in that Annex to “type A notified body” are to be treated as references to a notified body notified for periodic inspection of that equipment.

Obligations of economic operators

62. (1) Equipment may only be placed or made available on the market, put into service or used by an economic operator if that operator—

- (a) ensures that the equipment meets the requirements as set out in the Directives; and
- (b) if it is a manufacturer, complies with Regulation 63;
- (c) if it is an importer, complies with Regulation 64;
- (d) if it is a distributor, complies with Regulation 65;
- (e) if it is an owner, complies with Regulation 66; or
- (f) if it is an operator, complies with Regulation 67.

(2) On receipt of a request from the market surveillance authority an economic operator shall identify to the authority any economic operators who have supplied it with, or to whom it has supplied, transportable pressure equipment over at least the previous 10 years.

(3) Where the market surveillance authority is of the opinion that the transportable pressure equipment presents a risk, the relevant economic operator shall cooperate as necessary with the authority, including granting access to its premises and providing samples as required.

(4) Where the market surveillance authority, upon evaluation of transportable pressure equipment, finds that the equipment is not in compliance with the Directives, the relevant economic operator shall take the recommended corrective action in respect of the equipment placed or made available on the market.

(5) Where the market surveillance authority, upon evaluation of transportable pressure equipment, finds that the equipment is in compliance with the Directives, but still presents a risk, the relevant economic operator shall take the recommended corrective action in respect of the equipment placed or made available on the market.

Obligations of manufacturers

63. (1) A manufacturer shall—
- (a) ensure that equipment has been designed, manufactured and documented in accordance with the requirements as set out in the Directives.
 - (b) ensure a conformity assessment is carried out by a type A notified body in accordance with the provisions of the Directives;
 - (c) mark equipment in accordance with Articles 14 and 15 of the TPE Directive;
 - (d) keep the technical documentation specified in the Directives for the period specified in the Directives.
- (2) Where a manufacturer knows or has reason to believe that equipment that it has placed on the market does not comply with the Directives, that manufacturer shall—
- (a) take immediate corrective measures to ensure that the equipment complies with the Directives, and/or
 - (b) withdraw the equipment from the market, and/or
 - (c) issue a recall of the equipment from the end user.
- (3) Where a manufacturer considers that equipment it has placed on the market presents a risk, that manufacturer shall immediately inform the competent authorities of the Member States on whose markets equipment has been placed or made available of the risk, including details of any non-compliance with the Directives and any action taken in accordance with paragraph (2).
- (4) A manufacturer shall record all instances of non-compliance with the Directives and any corrective measures taken.
- (5) On receipt of a reasoned request from the competent authority, a manufacturer shall—
- (a) provide the competent authority, all information and documents necessary to show that the equipment meets the requirements of the Directives; and
 - (b) cooperate with the competent authority in any action it takes to eliminate risks posed by that equipment.
- (6) A manufacturer shall only provide to operators information that complies with the requirements of the Directives.
- (7) This Regulation applies to an importer or a distributor as if it were a manufacturer where it—

- (a) places transportable pressure equipment on the market under its own name or trademark, or
- (b) modifies transportable pressure equipment already placed on the market in such a way that compliance with the Directives may be affected.

(8) Manufacturers may, by written mandate, appoint an authorised representative to perform specific tasks in accordance with Article 5 of the TPE Directive.

(9) Regulation 2(12) applies to all documentation and information to be provided in this Regulation.

Obligations of importers

64. (1) An importer shall ensure that—

- (a) the manufacturer has complied with conformity assessment and drawn up the technical documentation in accordance with the Directives;
- (b) equipment has been marked in accordance with Articles 14 and 15 of the TPE Directive;
- (c) the certificate of conformity for the equipment either contains or has its name and address attached to it;
- (d) the conditions in which equipment under its responsibility is stored and transported do not jeopardise its compliance with the Directives; and
- (e) the technical documentation specified in the Directives is kept for the period set out in the Directives and can be made available to the market surveillance authorities on request.

(2) Where an importer considers or has reason to believe that transportable pressure equipment is not in compliance with the Directives, it shall not place the equipment on the market until it has been brought into compliance.

(3) Where an importer considers that equipment presents a risk before it has been placed on the market, that importer shall inform the manufacturer and the market surveillance authority of the risk.

(4) Where an importer knows or has reason to believe that equipment it has placed on the market does not comply with the Directives, that importer shall—

- (a) take immediate corrective measures to ensure that the equipment complies with the Directives, and/or
- (b) withdraw the equipment from the market, and/or
- (c) issue a recall of the equipment from the end user.

(5) Where an importer considers that equipment it has placed on the market presents a risk, that importer shall immediately inform the manufacturer and the competent authorities of the Member States on whose markets equipment has been placed or made available of the risk, including details of any non-compliance with the Directives and any action taken in accordance with paragraph (2).

(6) An importer shall record all instances of non-compliance with the Directives and any corrective measures taken.

(7) On receipt of a reasoned request from the competent authority, an importer shall—

- (a) provide that competent authority, all information and documents necessary to show that the transportable pressure equipment meets the requirements of the Directives; and
- (b) cooperate with that competent authority in any action taken to eliminate risks posed by that equipment.

(8) An importer shall only provide to operators information that complies with the requirements of the Directives.

(9) Regulation 2(12) applies to all documentation and information to be provided in this Regulation.

Obligations of distributors

65. (1) A distributor shall ensure that—

- (a) the equipment has been marked in accordance with Articles 14 and 15 of the TPE Directive;
- (b) the certificate of conformity for the equipment contains or has attached to it the name and address of the importer where relevant; and
- (c) the conditions in which equipment under its responsibility is stored and transported do not jeopardise its compliance with the Directives.

(2) Where a distributor considers or has reason to believe that transportable pressure equipment is not in compliance with the Directives, it shall not make the equipment available on the market until the equipment has been brought into compliance.

(3) Where a distributor considers that transportable pressure equipment presents a risk before it has been made available on the market, that distributor shall inform the manufacturer or the importer and the market surveillance authority of the risk.

(4) Where a distributor knows or has reason to believe that equipment he or she made available on the market does not comply with the Directives, that distributor shall—

- (a) take immediate corrective measures to ensure that the equipment complies with the Directives, and/or
- (b) withdraw the equipment from the market, and/or
- (c) issue a recall of the equipment from the end user.

(5) Where a distributor considers that transportable pressure equipment it has made available on the market presents a risk, that distributor shall immediately inform the manufacturer, the importer and the competent authorities of the Member States on whose markets equipment has been placed or made available of the risk, including details of any non-compliance with the Directives and any action taken in accordance with paragraph (2).

(6) A distributor shall record all instances of non-compliance with the Directives and any corrective measures taken.

(7) On receipt of a reasoned request from the competent authority, a distributor shall—

- (a) provide the competent authority, all information and documents necessary to show that the equipment meets the requirements of the Directives; and
- (b) cooperate with the competent authority in any action taken to eliminate risks posed by that equipment.

(8) A distributor shall only provide to operators information that complies with the requirements of the Directives.

(9) Regulation 2(12) applies to all documentation and information to be provided in this Regulation.

Obligations of owners

66. (1) Where an owner considers or has reason to believe that transportable pressure equipment is not in compliance with the Directives, that owner shall not make the equipment available or use it until it has been brought into compliance.

(2) An owner shall ensure that the conditions in which transportable pressure equipment under its responsibility is stored and transported do not jeopardise its compliance with the Directives.

(3) Where an owner considers that its transportable pressure equipment presents a risk, that owner shall inform the manufacturer, importer or distributor and the market surveillance authority of the risk.

(4) An owner shall record all instances of non-compliance with the Directives and any corrective measures taken.

(5) An owner shall only provide to operators information that complies with the requirements of the Directives.

Obligations of operators

67. Where an operator considers that equipment presents a risk, that operator shall inform the owner and the market surveillance authority of the risk.

Misleading and other markings

68. (1) No person is to affix a marking on transportable pressure equipment which is likely to mislead third parties with regard to the meaning or the graphics of the conformity mark.

(2) Any other marking may be affixed to transportable pressure equipment provided that the visibility and legibility of the conformity mark is not reduced.

Notifying authority

69. For the purposes of these Regulations, the notifying authority shall—

- (a) develop and carry out the necessary procedures for the notification and monitoring (in conjunction with the accreditation body) of notified bodies;
- (b) ensure that decisions in relation to the notification of notified bodies are taken by competent persons independent of the assessment procedure;
- (c) refrain from providing any commercial services related to those performed by notified bodies;
- (d) ensure confidentiality of information obtained; and
- (e) be responsible for monitoring the ongoing notified activities, both in the State and in other Member States, of notified bodies appointed in the State.

Accreditation body

70. For the purposes of these Regulations, the accreditation body is responsible for the development and carrying out of procedures for the assessment and monitoring of notified bodies.

Notified bodies

71. For the purposes of these Regulations, a notified body is a legal body appointed by a Member State, and whose appointment has been communicated by the notifying authority of that Member State to the Commission and the other Member States pursuant to Article 22 of the TPE Directive

Information obligation of notified bodies

72. Notified bodies shall—

- (a) keep the notifying authority informed;
 - (i) of any refusal, restriction, suspension or withdrawal of a type approval certificate issued to an applicant,
 - (ii) of any circumstances affecting the scope of and conditions for notification,
 - (iii) on request, of activities performed, both within and outside the scope of their notification, including subcontracted tasks and cross-border activities, or
 - (iv) of any requests for information received from market surveillance authorities,

and

- (b) provide other notified bodies carrying out activities on the same transportable pressure equipment with relevant information relating to conformity assessment and inspection results.

Appointment of notified bodies by the notifying authority

73. (1) The notifying authority may appoint such persons as it thinks fit to be notified bodies for the purposes of these Regulations.

(2) A person shall not be appointed as a notified body unless, in the opinion of the notifying authority, he or she meets the minimum criteria specified in subsection 1.8.6.8 of the ADR.

Coordination of Notified Bodies

74. (1) The notifying authority and accreditation body shall ensure that the bodies notified by them participate, either directly or by designated representatives, in the work of a coordinating group of notified bodies, set up to ensure appropriate cooperation between such bodies.

(2) Notified bodies shall participate in the activities of the co-ordination group referred to in paragraph (1), or ensure that their assessment personnel are kept informed of the relevant guidance and standardisation procedures arising from the work of the group.

Market Surveillance

75. (1) Where there is sufficient reason to believe that transportable pressure equipment presents a risk to the health and safety of persons or to other aspects of public interest protection, the market surveillance authority may carry out an evaluation of the transportable pressure equipment covering all the requirements laid down in the Directives.

(2) In cases where the transportable pressure equipment is found not to comply with the Directives, the market surveillance authority shall—

- (a) require the economic operator, within a reasonable period, to:
 - (i) take all appropriate corrective action to bring the equipment into compliance with the Directives, in accordance with Article 21 of the Accreditation and Market Surveillance Regulation, and/or
 - (ii) withdraw the equipment from the market, and/or
 - (iii) issue a recall of the equipment from the end user.
- (b) inform the relevant notified body.
- (c) inform the Commission and other Member States in cases where the non-compliance has cross-border effects.

(3) In cases where the transportable pressure equipment is found not to comply with the Directives, and the economic operator does not take adequate corrective action within the meaning of paragraph (2)(a), the market surveillance authority shall—

- (a) take provisional measures to:
 - (i) prohibit or restrict the transportable pressure equipment from being made available on the market, and/or
 - (ii) withdraw the equipment from the market, and/or
 - (iii) issue a recall from the end user.
- (b) inform the Commission and other Member States of measures taken.

(4) The information to be provided to the Commission and other Member States referred to in paragraph (3)(b) shall include all available details necessary for the identification and origin of the non-complaint transportable pressure equipment, the nature of the risk, the national measures already taken and all communications with the relevant economic operator.

(5) Without prejudice to the generality of paragraph (4), the market surveillance authority shall indicate, in particular, whether the non-compliance of transportable pressure equipment is due to:

- (a) failure of the equipment to meet the requirements of the Directives, or
- (b) shortcomings in the standards and technical codes provided in the Directives.

Restriction or prohibition by a Competent Authority

76. (1) Where the results of the evaluation carried out under Regulation 75 indicate that, although the transportable pressure equipment is found to comply

with the Directives, it still represents a risk to the health and safety of persons or to other aspects of public interest protection, the competent authority may require the economic operator by notice, within a reasonable period, to:

- (a) take all appropriate corrective action to ensure that the equipment no longer presents a risk before placing it or making it available on the market, and/or
- (b) withdraw the equipment from the market, and/or
- (c) issue a recall of the equipment from the end user.

(2) Where a competent authority establishes that the conformity marking has been affixed to a product unduly, the technical documentation is not available or is incomplete, or the requirements of the Directives have not been complied with, it may direct the relevant economic operator to bring the equipment into conformity with the Directives. Where non-conformity persists, the competent authority may require the relevant economic operator, within a reasonable period, to:

- (a) take all appropriate corrective action to bring the equipment into compliance with the Directives before placing it or making it available on the market, and/or
- (b) withdraw the equipment from the market, and/or
- (c) issue a recall of the equipment from the end user.

Notifications to the Commission and other Member States in respect of application of Regulation 76

77. (1) The competent authority concerned shall forthwith notify the Commission and other Member States of any restriction, prohibition, requirement or direction made, imposed or given by it under Regulation 76.

(2) The information to be provided to the Commission and other Member States referred to in paragraph (1) shall include all available details necessary for the identification and origin of the transportable pressure equipment concerned, the nature of the risk and the national measures already taken.

Publication of information on action taken regarding non-compliant products

78. Subject to Regulation 24, a competent authority may publish information in respect of action taken by a Member State in respect of non-conformity of transportable pressure equipment with the requirements of the Directives.

Sharing of information on application of the Directives

79. A competent authority may provide information to any EU information network, the Commission or a competent authority of another Member State for the purpose of sharing information related to the application of the Directives.

SCHEDULE 1

EXISTING ENACTMENTS

PART 1

ENACTMENTS

Number and Year (1)	Title (2)
S.I. No. 617 of 2010	Carriage of Dangerous Goods by Road Regulations 2010
S.I. No. 618 of 2010	Carriage of Dangerous Goods by Road Act 1998 (Appointment of Competent Authorities) Order 2010
S.I. No. 619 of 2010	Carriage of Dangerous Goods by Road Act 1998 (Fees) Regulations 2010

*PART 2*REGULATIONS MADE UNDER THE EUROPEAN COMMUNITIES ACT 1972 WHICH ARE
EXISTING ENACTMENTS

Year	Title
2004	European Communities (Transportable Pressure Equipment) Regulations 2004 (S.I. No. 374 of 2004)
2010	European Communities (Carriage of Dangerous Goods by Road) (ADR Miscellaneous Provisions) Regulations 2010 (S.I. No. 620 of 2010)
2010	European Communities (Carriage of Dangerous Goods by Road Act 1998) (Amendment) Regulations 2010 (S.I. No. 616 of 2010)

SCHEDULE 2

FIXED PAYMENT NOTICES

PART 1

OFFENCE NUMBER AND SUMMARY TO WHICH REGULATION 28 APPLIES

No.	Offence Summary
1	Transport document was not given or was not in compliance with the ADR
2	Dangerous goods are prohibited for transport
3	Approval authorising transport was not given
4	Packaging used is not in compliance with applicable packing provision or applicable packing instructions
5	Non compliance with test and inspection dates and use periods of packaging, IBC's or large packaging
6	Use of damaged packaging, IBC's or large packaging
7	Tank used is not permitted
8	Bulk container is not structurally serviceable
9	Vehicle did not have an appropriate vehicle certificate of approval
10	Driver did not have an appropriate driver training certificate
11	Incorrect labeling, marking or placarding
12	Instructions in writing were not given or were not in compliance with the ADR
13	Transport document or Instructions in writing were not carried in the vehicle
14	Leakage of dangerous substances
15	Vehicle is no longer in compliance and presents an immediate danger (otherwise risk category II)
16	Transport unit was not provided with sufficient suitable portable fire extinguishers
17	Portable fire extinguisher provided on the transport unit did not have a seal, or other indication, verifying that it had not been used
18	Transport unit was not provided with suitable chock
19	Transport unit was not provided with 2 reflective cones, triangles or flashing amber lights (independent of transport unit)
20	Suitable warning vest was not provided for each crew member
21	Suitable pocket lamp was not provided for each crew member
22	Suitable respirators were not provided for each crew member, where required by the instructions in writing
23	Additional equipment, specified in instructions in writing, was not carried in the vehicle
24	Tank used was not inspected or tested or checked within the specified time
25	ADR placards or orange-coloured plates were not affixed on the vehicle or tank or were not in compliance with the ADR
26	Damaged or not leakproof package was loaded onto the vehicle
27	Required ADR placards or orange-coloured plates were not displayed on container
28	Dangerous goods were not properly stowed and secured
29	Mixed loading not in compliance with the ADR
30	Foodstuffs, other articles of consumption or animal feedstuffs not loaded in compliance with the ADR

No.	Offence Summary
31	Packaging used is not permitted or does not conform to the design type
32	Overpack or package was not correctly marked or labelled
33	Packaging did not bear the UN code marking
34	Tank used was not inspected or tested or checked within the specified time
35	Tank or package was not filled in compliance with the ADR
36	ADR placards or orange-coloured plates were not affixed on vehicle, tank or container
37	Driver did not have a driver training certificate with him or her while driving the vehicle
38	Required instructions in writing were not kept readily identifiable in driver's cab
39	Documents were not made available to an inspector or member of An Garda Síochána
40	Outlet valves, manlids or dip tube openings were open during transport
41	Good electrical connection to earth was not made prior to filling or emptying the tank
42	A passenger, other than a member of the vehicle crew, was carried in the vehicle
43	Driver did not shut off the engine during loading or unloading operations
44	Driver did not apply the parking brakes while the vehicle was parked
45	Vehicle not properly supervised or parked
46	No photographic identification available
47	Smoking during handling operations in vicinity of vehicle or in the vehicle
48	Fire or unprotected light being used during handling operations in vicinity of vehicle or in the vehicle
49	Failure to verify the correct dangerous goods are unloaded
50	Failure to remove dangerous residues after unloading
51	Functions of appointed safety adviser were not performed by him or her
52	Annual report was not prepared by the appointed safety adviser
53	Accident report was not prepared by the appointed safety adviser
54	Appointed safety adviser did not have a valid vocational training certificate
55	Security training was not given in compliance with the ADR
56	Security plan was not available or was not adequate
57	Safety adviser was not appointed
58	Appointed safety adviser did not hold a valid vocational training certificate
59	Competent authority was not informed of identity of safety adviser
60	Annual report or accident report was not available

PART 2

PRESCRIBED FORM FOR THE PURPOSES OF REGULATION 28 — FIXED PAYMENT NOTICE

Competent Authority¹

Notice under Regulation 28 of the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011

Fixed Payment Notice

Participant Identifier: Serial No.:

Name of Participant:

Address of Participant:

.....

Road Check Location:

Date of Road Check: Vehicle Registration Number:

It is alleged that you, as a participant in the transport of dangerous goods on the vehicle with the above registration number, at the above location and on the above date, have committed the offence(s) indicated below, to which Regulation 28 of the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 applies.

You may pay without delay the total amount of €..... in respect of the alleged offence(s), which should be accompanied by this Notice, to the inspector named below.

Offence No.

A prosecution in respect of the alleged offence(s) will not be instituted if the amount above is paid to the inspector named in this Notice within 21 days from the date hereunder.

Signed:.....

Date:.....

Inspector of the [name of the competent authority to be inserted here]

¹ insert name of competent authority

PART 3

PARTICIPANT IDENTIFIER, OFFENCE NUMBER, IDENTIFICATION AND RISK CATEGORY
AND FIXED PAYMENT TABLE

Participant Identifier

Letter	Participant	Letter	Participant
A	Consignor	UL	Unloader
C	Carrier	D	Driver
F	Filler	V	Vehicle Crew (other than driver)
L	Loader	S	Safety Adviser
P	Packer		

Offence Identification

No.	Identifier	Highest risk category that may be assigned	Offence Summary
1.	A	I	Transport document was not given or was not in compliance with the ADR
2.	A/C	I	Dangerous goods are prohibited for transport
3.	A	I	Approval authorising transport was not given
4.	A	I	Packaging used is not in compliance with applicable packing provision or applicable packing instructions
5.	A	II	Non-compliance with test and inspection dates and use periods of packaging, IBC's or large packaging
6.	A	II	Use of damaged packaging, IBC's or large packaging
7.	A	I	Tank used is not permitted
8.	A	I	Bulk container is not structurally serviceable
9.	A/C	II	Vehicle did not have an appropriate vehicle certificate of approval
10.	A/C	I	Driver did not have an appropriate, driver training certificate
11.	A/L/F/C/D	II	Incorrect labeling, marking or placarding
12.	C	II	Instructions in writing were not given or were not in compliance with the ADR
13.	C	II	Transport document or instructions in writing were not carried in the vehicle
14.	C	I	Leakage of dangerous substances
15.	C	I	Vehicle is no longer in compliance and presents an immediate danger (otherwise risk category II)
16.	C	II	Transport unit was not provided with sufficient suitable portable fire extinguishers
17.	C	III	Portable fire extinguisher provided on the transport unit did not have a seal, or other indication, verifying that it had not been used
18.	C	II	Transport unit was not provided with suitable chock

No.	Identifier	Highest risk category that may be assigned	Offence Summary
19.	C	II	Transport unit was not provided with 2 reflective cones, triangles or flashing amber lights (independent of transport unit)
20.	C	II	Suitable warning vest was not provided for each crew member
21.	C	II	Suitable pocket lamp was not provided for each crew member
22.	C	II	Suitable respirators were not provided for each crew member, where required by the instructions in writing
23.	C	II	Additional equipment, specified in instructions in writing, was not carried in the vehicle
24.	C	I	Tank used was not inspected or tested or checked within the specified time
25.	C	I	ADR placards or orange-coloured plates were not affixed on the vehicle or tank or were not in compliance with the ADR
26.	L	I	Damaged or not leakproof package was loaded onto the vehicle
27.	L	II	Required ADR placards or orange-coloured plates were not displayed on container
28.	L/D	II	Dangerous goods were not properly stowed and secured
29.	L	II	Mixed loading not in compliance with the ADR
30.	L	II	Foodstuffs, other articles of consumption or animal feedstuffs not loaded in compliance with the ADR
31.	P	I	Packaging used is not permitted or does not conform to the design type
32.	P	II	Overpack or package was not correctly marked or labelled
33.	P	I	Packaging did not bear the UN code marking
34.	F	I	Tank used was not inspected or tested or checked within the specified time
35.	F	I	Tank or package was not filled in compliance with the ADR
36.	F	I	ADR placards or orange-coloured plates were not affixed on vehicle, tank or container
37.	D	III	Driver did not have a driver training certificate with him or her while driving the vehicle
38.	D	III	Required instructions in writing were not kept readily identifiable in driver's cab
39.	D	III	Documents were not made available to an inspector or member of An Garda Síochána
40.	D	II	Outlet valves, manlids or dip tube openings were open during transport
41.	D/L/UL	II	Good electrical connection to earth was not made prior to filling or emptying the tank
42.	D	III	A passenger, other than a member of the vehicle crew, was carried in the vehicle

No.	Identifier	Highest risk category that may be assigned	Offence Summary
43.	D	III	Driver did not shut off the engine during loading or unloading operations
44.	D	III	Driver did not apply the parking brakes while the vehicle was parked
45.	D	II	Vehicle not properly supervised or parked
46.	D/V	III	No photographic identification available
47.	D/V/L/F/UL	I	Smoking during handling operations in vicinity of vehicle or in the vehicle
48.	D/V/L/F/UL	I	Fire or unprotected light being used during handling operations in vicinity of vehicle or in the vehicle
49.	D/UL	I	Failure to verify the correct dangerous goods are unloaded
50.	D/UL	II	Failure to remove dangerous residues after unloading
51.	S	II	Functions of appointed safety adviser were not performed by him or her
52.	S	II	Annual report was not prepared by the appointed safety adviser
53.	S	II	Accident report was not prepared by the appointed safety adviser
54.	S	II	Appointed safety adviser did not have a valid vocational training certificate
55.	A/C	II	Security training was not given in compliance with the ADR
56.	A/C	II	Security plan was not available or was not adequate
57.	A/C	I	Safety adviser was not appointed
58.	A/C/S	I	Appointed safety adviser did not hold a valid vocational training certificate
59.	A/C/S	II	Competent authority was not informed of identity of safety adviser
60.	A/C/S	II	Annual report or accident report was not available

Fixed Payment in relation to the Risk Category associated with an alleged offence

Risk Category	Fixed Payment
I	€500
II	€250
III	€100

SCHEDULE 3

Regulation 52.

FORM OF VEHICLE CERTIFICATE OF APPROVAL (NATIONAL TRANSPORT ONLY)

Part 1

VEHICLE CERTIFICATE OF APPROVAL (NATIONAL TRANSPORT ONLY)

The vehicle certificate of approval (national transport only) shall have the same layout as the model in this Schedule. Its dimensions shall be 210 mm x 297 mm (format A4). Both front and back may be used. The colour shall be white. The certificate for a vacuum-operated waste tank-vehicle shall bear the following remark: "vacuum-operated waste tank-vehicle".

Front of Certificate

CERTIFICATE OF APPROVAL FOR VEHICLES (NATIONAL TRANSPORT ONLY) CARRYING CERTAIN DANGEROUS GOODS			
This certificate testifies that the vehicle specified below fulfils the conditions prescribed in the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011.			
1. Certificate No.:	2. Vehicle Manufacturer:	3. Vehicle Identification No.:	4. Registration No.: (if any)
5. Name and business address of carrier, operator or owner:			
6. Description of vehicle:¹			
7. Vehicle designation(s) according to Chapter 9.1.1.2 of the ADR:²			
EX/II EX/III FL OX AT MEMU			
8. Endurance braking system:³ <input type="checkbox"/> Not applicable <input type="checkbox"/> The effectiveness according to Chapter 9.2.3.1.2 of the ADR is sufficient for a total mass of the transport unit oft. ⁴			
9. Description of fixed tank(s)/battery-vehicle (if any): 9.1 Manufacturer of tank: 9.2 Approval number (if any) of tank/battery-vehicle: 9.3 Tank manufacturer's serial number/Identification of elements of battery-vehicle: 9.4 Year of manufacture 9.5 Tank code according to Chapters 4.3.3.1 or 4.3.4.1 of the ADR: 9.6 Special provisions according to Chapter 6.8.4 of the ADR:			
10. Dangerous goods authorised for transport: The vehicle fulfils the conditions required for the transport of dangerous goods assigned to the vehicle designation(s) in No. 7. 10.1 In the case of an EX/II or EX/III vehicle ³ <input type="checkbox"/> goods of Class 1 including compatibility group J <input type="checkbox"/> goods of Class 1 excluding compatibility group J 10.2 In the case of a tank-vehicle/battery-vehicle ³ <input type="checkbox"/> only the substances permitted under the tank code and any special provision specified in No. 9 may be carried ⁵ , or <input type="checkbox"/> only the following substances (Class, UN number, and if necessary packing group and proper shipping name) may be carried: Only substances which are not liable to react dangerously with the materials of the shell, gaskets, equipment and protective linings (if applicable) may be carried.			
11. Remarks:			
12. Valid until:			
Place,		Stamp of issuing service	
Date,			
Signature			

¹According to the definitions for power-driven vehicles and for trailers of categories N and O as defined in Annex 7 of the Consolidated Resolution on the Construction of Vehicles (R.E.3) or in Directive 97/27/EC.

²Strike out what is not appropriate.

³Mark the appropriate.

⁴Enter appropriate value. A value of 44 tonnes will limit the "registration/in-service maximum permissible mass" indicated in the registration document(s).

⁵Substances assigned to the tank code specified in No. 9 or to another tank code permitted under the hierarchy in Chapters 4.3.3.1.2 or 4.3.4.1.2 of the ADR, taking account of the special provision(s), if any.

Back of Certificate

13. Extensions of validity:

Note: This certificate shall be returned to the issuing service when the vehicle is taken out of service; if the vehicle is transferred to another carrier, operator or owner, as specified in No. 5; on expiry of the validity of the certificate; and if there is a material change in one or more essential characteristics of the vehicle.

Part 2

CERTIFICATE OF APPROVAL FOR VEHICLES

Carrying Certain Dangerous Goods under Regulation 51(3) of the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011

This certificate testifies that the vehicle specified below fulfils the conditions prescribed by Regulation 51(3) of the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 concerning the transport of substances of Class 1 up to a maximum of 5,000 kg.

1. Certificate No:	2. Vehicle Manufacturer:	3. Vehicle Identification No:	4. Registration No./Trailer Mark:		
Name and business address of carrier, operator or owner:					
6. Description of vehicle:					
7. Dangerous goods authorised for transport: The vehicle fulfils the conditions required for the transport of dangerous goods Class 1 up to a maximum of 5,000 Kg.					
8. Remarks: This approval only applies to vehicles first registered before 1 April 2002.					
9. Valid until:	Place	Date	Signature	Stamp of issuing body	Service

SCHEDULE 4

Regulation 54.

SPECIFIC REQUIREMENTS RELATING TO TANKS

Part 1

MISCELLANEOUS GENERAL PROVISIONS

1. All practicable steps shall be taken to ensure that a tank (fixed tank, demountable tank, portable tank, tank-container or multi-element gas container (MEGC)) and its fittings—

- (a) are properly designed, of adequate strength, good construction and free from patent defect,
- (b) are constructed of materials that are not chemically incompatible with or liable to react dangerously with the dangerous goods being carried,
- (c) are suitable for the purpose for which they are being used,
- (d) are designed, constructed and maintained so as to prevent any of the contents escaping except that this requirement shall not prevent the fitting of a suitable safety device,
- (e) comply, as appropriate, with ADR—
 - (i) subsection 6.7.2.5, 6.7.3.5, 6.7.4.5, 6.7.5.3 concerning items of equipment (portable tanks and MEGC's),
 - (ii) subsection 6.8.2.1.28, concerning protection of fittings mounted on the upper part of the tank,
 - (iii) subsection 6.8.2.2, 6.8.3.2 and section 6.8.4(b), concerning items of equipment (shells made of metallic materials),
 - (iv) section 6.9.3, concerning items of equipment (shells made of fibre-reinforced plastics),
 - (v) section 6.10.3, concerning items of equipment (vacuum-operated waste tanks), and
 - (vi) section 6.12.5, concerning items of equipment (MEMU's)

Sections 2, 3, 4 and 6 of the LPG ITA Code of Practice 2 of January 1974.

2. A fixed tank or tank-container, complying with Sections 2, 3, 4 and 6 of the LPG ITA Code of Practice 2 of January 1974, issued by the United Kingdom Liquefied Petroleum Gas Industry Technical Association, and used for the carriage of propane, butane or mixtures of propane and butane of the ADR Class 2 with the UN Numbers UN 1978, UN 1011 and UN 1965, is deemed to comply with paragraph 1 (a), (b), (c) and (e) where the tank has been designed, constructed and initially tested in accordance with—

- (a) one of the following standards of the ‘British Standards Institution’—
- (i) BS 1500: 1958, entitled ‘Fusion Welded Pressure Vessels for General Purpose’,
 - (ii) BS 1515: 1965, entitled ‘Fusion Welded Pressure Vessels for Use in the Chemical, Petroleum and Allied Industries’, or
 - (iii) BS 5500: 1976, entitled ‘Specification for Unfired Fusion Welded Pressure Vessels’;
- or
- (b) the ‘ASME Boiler and Pressure Vessel Code: 1962: Section VIII, Pressure Vessels’ of the ‘American Society of Mechanical Engineers’.

Examinations, inspections and tests.

3. All practicable steps shall be taken to ensure that a tank and its fittings—
- (a) in the case of a fixed tank used for the carriage of substances with the UN Numbers UN 1202, UN 1203 or UN 1223, is thoroughly examined both internally and externally by a competent person every 6 years and after any major repairs which affect the integrity or safety of the said tank, or
 - (b) subject to subparagraph (a), undergoes a periodic inspection by a competent person, in the manner (subject to any conditions or requirements of the competent person) set out in and at the intervals specified, as appropriate, in subsections 6.7.2.19, 6.7.3.15, 6.7.4.14, 6.7.5.12, 6.8.2.4, 6.8.3.4, sections 6.8.4(d), 6.9.5, 6.10.4 and subsection 6.12.3.2.6 of the ADR and after any major repairs which affect the integrity or safety of the said tank,
 - (c) in the case of a fixed tank used for the carriage of substances with the UN Numbers UN 1202, UN 1203 or UN 1223, is subjected to a leakproofness test by a competent person every 3 years in the manner (subject to any conditions or requirements of the competent person) set out in subsection 6.8.2.4 of the ADR, or
 - (d) subject to subparagraph (c), is subjected to a leakproofness test by a competent person, in the manner (subject to any conditions or requirements of the competent person) set out in and at the intervals specified, as appropriate, in subsections 6.7.2.19, 6.7.3.15, 6.7.4.14, 6.7.5.12, 6.8.2.4, 6.8.3.4, and section 6.8.4(d), 6.9.5, 6.10.4 of the ADR.

Certificates of examinations, inspections and tests.

4. A certificate of the results of every examination, inspection or test referred to below shall be kept available and produced to an inspector on request and to an authorised examiner, in respect of a—

- (a) thorough examination carried out in accordance with paragraph 3(a) and containing the prescribed particulars as set out in Part 2 of this Schedule and signed by the person making the examination,
- (b) periodic inspection carried out in accordance with paragraph 3(b) and containing the prescribed particulars as set out in Part 3 of this Schedule and signed by the person carrying out the periodic inspection, and
- (c) leakproofness test carried out in accordance with paragraph 3(c) or (d) and containing the prescribed particulars set out in Part 4 of this Schedule and signed by the person carrying out the leakproofness test.

Part 2

PARTICULARS TO BE INCLUDED IN CERTIFICATE OF THOROUGH EXAMINATION OF A
TANK

1. Name of owner
2. Address of owner
3. Serial number
4. Vehicle registration number or, where the certificate is required in respect of a trailer or semi-trailer, the chassis number
5. Year of manufacture (if known)
6. Name of manufacturer (if known)
7. Water capacity in litres
8. Results of examinations carried out
9. Any repairs or modifications required before being put back into service
10. Other observations
11. Dangerous substances for which the tank is suitable

I/We certify that on (date) I/we—

- (a) thoroughly examined the tank described above externally and internally
- (b) carried out a leakproofness test*—
 - (i) of the tank, after assembly of equipment, and
 - (ii) of all items of equipment of the tank

and I/we am/are satisfied that the tank and its equipment are operating satisfactorily.

Signed Date

Company

Address

**The leakproofness test shall be carried out separately on each compartment of a compartmented shell.*

Part 3

PARTICULARS TO BE INCLUDED IN CERTIFICATE OF PERIODIC INSPECTION OF TANK

1. Name of owner
2. Address of owner
3. Serial number
4. Vehicle registration number or where the certificate is required in respect of a trailer or semi-trailer the chassis number
5. Year of manufacture (if known)
6. Name of manufacturer (if known)
7. Tare weight including equipment and fittings
8. Maximum gross weight in kilograms
9. Water capacity in litres
10. Design temperature (if above +50°C or below -20°C)
11. Maximum working pressure of the tank
12. Description of pressure relief devices (if fitted)
13. Operating pressure of relief devices
14. Results of examinations carried out
15. Any repairs or modifications required before being put back into service
16. Other observations
17. Dangerous substances for which the tank is suitable

I/We certify that on (date) I/we—

- (a) thoroughly examined the tank described above externally and internally,

(b) subjected the tank to a pressure test at a pressure of.....*,

(c) carried out a leakproofness test**—

(i) of the tank, after assembly of equipment, and

(ii) of all items of equipment of the tank,

(d) examined the condition of the lining of the tank*

and I/we am/are satisfied that the tank, its equipment, and the lining of the tank*, are operating satisfactorily.

Signed Date.....

Company

Address.....

.....

.....

**Delete if not applicable*

***The leakproofness test shall be carried out separately on each compartment of a compartmented shell.*

Part 4

PARTICULARS TO BE INCLUDED IN CERTIFICATE OF LEAKPROOFNESS OF A TANK

1. Name of owner
2. Address of owner
3. Serial number
4. Vehicle registration number or where the certificate is required in respect of a trailer or tank semi-trailer the chassis number
5. Test pressure applied
6. Results of leakproofness test
7. Other observations

I/We certify that on (date) I/we—

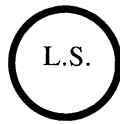
- (a) carried out a leakproofness test* of the tank described above together with all items of equipment, and
- (b) tested all items of equipment of the tank for satisfactory operation, and I/We am/are satisfied that the tank and its equipment are operating satisfactorily.

Signed Date.....

Company

Address

**The leakproofness test shall be carried out separately on each compartment of a compartmented shell.*



Given under my Official Seal,
1 July 2011.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations retranspose into Irish law Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (insofar as that Directive relates to the carriage of dangerous goods by road) as amended by Commission Directive 2010/61/EU of 2 September 2010 adapting for the first time the Annexes to Directive 2008/68/EC of the European Parliament and of the Council on the inland transport of dangerous goods to scientific and technical progress and Directive 2010/35/EU of the European Parliament and the Council of 16 June 2010 on transportable pressure equipment, but in so far only as that Directive relates to the carriage of dangerous goods by road.

From 30 June 2009, Directive 2008/68/EC, inter alia, repealed and replaced—

- (i) Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road,
- (ii) Council Directive 96/35/EC of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, and
- (iii) Directive 2000/18/EC of the European Parliament and of the Council of 17 April 2000 on minimum examination requirements for safety advisers for the transport of dangerous goods by road, rail or inland waterway.

Directive 2010/61/EU adapting for the first time the Annexes to Directive 2008/68/EC of the European Parliament and of the Council on the inland transport of dangerous goods to scientific and technical progress gives effect to the changes to the ADR agreement and that came into force from 1 January 2011.

The Regulations also transpose and/or retranspose into Irish law—

- (a) the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), the Annexes to it and the protocol of signature thereto done at Geneva on 30 September 1957, as amended from time to time by reference to Directive 2008/68/EC and amendments thereto, and
- (b) the requirements of Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road, as amended by Directive 2001/26/EC of the European Parliament and of the Council of 7 May 2001 amending Council Directive 95/50/EC and Commission Directive 2004/112/EC of 13 December 2004 adapting to technical progress Council Directive 95/50/EC.

The Regulations revoke and replace—

- (i) the European Communities (Transportable Pressure Equipment) Regulations 2004 (S.I. No. 374 of 2004),
- (ii) the Carriage of Dangerous Goods by Road Regulations 2010 (S.I. No. 617 of 2007),
- (iii) the Carriage of Dangerous Goods by Road Act 1998 (Appointment of Competent Authorities) Order 2010 (S.I. No. 618 of 2010),
- (iv) the Carriage of Dangerous Goods by Road Act 1998 (Fees) Regulations 2010 (S.I. No. 619 of 2010), and
- (v) the European Communities (Carriage of Dangerous Goods by Road) (ADR Miscellaneous Provisions) Regulations 2010 (S.I. No. 620 of 2010).

The Regulations apply to the transport by road, in tanks, in bulk and in packages, of dangerous goods, including the packing, loading, filling and unloading of the dangerous goods in relation to their carriage. They apply the provisions of Annexes A and B to the “European Agreement Concerning the International Carriage of Dangerous Goods by Road” (ADR), as amended, referred to in Annex 1 to Directive 2008/68/EC (as adapted by Commission Directive 2010/61/EU) of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods.

The Regulations and the ADR place duties on the various participants associated with the transport by road of dangerous goods. They contain requirements for the vehicles, tanks, tank containers, receptacles and packages containing the dangerous goods during their transport. The Regulations and ADR require that the drivers, and others involved in the transport by road of the dangerous goods, be adequately trained and, in the case of drivers, hold certificates of such training. The Regulations also contain provisions on an EU harmonised approach to the road checks aspect of their enforcement.

BAILE ÁTHA CLIATH
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