EXPLANATORY MEMORANDUM TO

THE CARRIAGE OF DANGEROUS GOODS AND USE OF TRANSPORTABLE PRESSURE EQUIPMENT (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2020

S.R. 2020 No. 222

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of these Regulations is to reinstate the Department of Agriculture, Environment and Rural Affairs (DAERA) as the competent authority for Northern Ireland with responsibility in relation to the carriage of class 7 goods (radioactive) by road under the European Agreement concerning the International Carriage of Dangerous Goods by Road (known as the ADR Treaty).

2.2. Accordingly they appropriately amend regulations 9 (authorisations), 21 (competent authority) and 28 (enforcement) of The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010 ("the 2010 Regulations").

3. Background

3.1. The 2010 Regulations give effect in domestic legislation to European Directive 2008/68/EC on the inland transport of dangerous goods. The Directive seeks to harmonise the conditions under which dangerous goods are transported inland, including the carriage of dangerous goods by road. The Directive does this by directly referencing the ADR Treaty. The United Kingdom is a contracting party to the ADR Treaty.

3.2. The competent authorities for the purposes of the ADR Treaty in Northern Ireland are set out in regulation 21 of the 2010 Regulations. For the most part this is the Health and Safety Executive for Northern Ireland (HSE (NI)). Initially the Department of the Environment (DoE) was also designated as a competent authority in relation to the inspection of vehicles, the issue of certain related certificates and the carriage of radioactive (ADR class 7) goods by road. These functions were performed by DoE agencies, namely the Driver Vehicle Agency (DVA) and the NI Environment Agency (NIEA).

3.3. Following the dissolution of the DoE by the Departments Act (Northern Ireland) 2016, the Road Traffic and Vehicles Waterways (Amendment) Regulations (Northern Ireland) 2019 replaced all references to DoE in the 2010 Regulations, with references to the Department for Infrastructure (DfI).

3.4. However those amendments overlooked the transfer, via the Departments (Transfer of Functions) Order (Northern Ireland) 2016, of the functions carried out by NIEA, including in relation to the carriage of radioactive (ADR class 7) goods by road, to DAERA.

3.5. These Regulations amend the 2010 Regulations to correct that error and to provide for DAERA's role as competent authority in relation to the carriage of radioactive (ADR class 7) goods by road.

4. Consultation

4.1. As there is no change in policy, public consultation is not required. The Department has engaged with DAERA and the Department for the Economy (DfE) on the matter and has obtained their support for the making of this Statutory Rule.

5. Equality Impact

5.1. The Statutory Rule does not impact on equality of opportunity in relation to any of the groups specified in section 75 of the Northern Ireland Act 1998 and the completion of an Equality Impact Assessment is therefore not considered necessary.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been completed as the Statutory Rule does not contain any provisions that will result in an increased or adverse impact on business, charities or the community or voluntary sectors.

7. Financial Implications

7.1. No financial implications have been identified.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered the matter of Convention Rights and Community Law and is satisfied that the proposed legislation is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. None.

10. Parity or replicatory measure

10.1 Not applicable.

11. Additional information

11.1. Not applicable.