EXPLANATORY MEMORANDUM TO

THE CARRIAGE OF EXPLOSIVES (AMENDMENT) (EU EXIT) REGULATIONS (NORTHERN IRELAND) 2020
S.R. 2020 No. 000

1. Introduction

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

1.2 The Statutory Rule is made under the power in paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018 ("the 2018 Act") and is subject to the draft affirmative procedure.

1.3 The Rule is due to come into operation at the end of the Implementation Period, which is scheduled for 11 p.m. on 31 December 2020 ("IP completion day").

2. Purpose

2.1 This Rule is being made to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union, thus ensuring that the Carriage of Explosives Regulations (Northern Ireland) 2010 (S.R. 2010 No. 59) ("the 2010 Regulations") continue to function appropriately in respect of NI on IP completion day.

2.2 In particular, it will amend certain references in the 2010 Regulations and maintain the dangerous goods regulatory framework and the international process behind it, including the power for Department of Justice to grant authorisations and implement new exceptions to and apply existing derogations from the standards imposed by Directive 2008/68/EC of the European Parliament and of the council of 24 September 2008 on the inland transport of dangerous goods (class one goods) ("the Dangerous Goods Directive").

2.3 This Rule also makes provision in consequence of the 2018 Act and restates retained EU law in a clearer or more accessible way, pursuant to paragraph 21(b) of Schedule 7 to the 2018 Act.

2.4 The requirements for those involved in the carriage of dangerous goods (class one goods) by road and rail within Northern Ireland are not being changed by this Rule.

3. Background

3.1 The 2010 Regulations transposed Directive 2008/68/EC in relation to class one goods. Minor amendments and an updated reference to the Transportable Pressure Equipment Directive [1] were made by the Carriage of Explosives (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012 No. 177). The Dangerous Goods Directive, implemented, in the EU, the dangerous goods agreements that are negotiated at the United Nations (under the United Nations Economic Commission for Europe).

3.2 The Dangerous Goods Directive provides for the safe and secure transport of dangerous goods by road and rail and allows for the application of derogations.

3.3 The 2010 Regulations, as amended, adopted, with some variations, Annexes A and B to the European Agreement concerning the International Carriage of Dangerous Goods by Road (commonly known as and referred to in the Regulations as "ADR")[2] and the Annex to the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID).[3] They also implement, to a limited extent, the Regulations annexed to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterway,[4] where this relates to the training and examination systems for safety advisers and the connected issuing and renewal of vocational driver certificates.

3.4 The Withdrawal Act 2018 (c. 16) (as amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1)) ("the Withdrawal Act") will make provision for repealing the European Communities Act 1972, convert EU law as it stood immediately before IP completion day into domestic law, and preserve laws made in the UK to implement EU obligations. The Withdrawal Act also contains powers to make secondary legislation to enable Ministers of the Crown and devolved authorities to fix deficiencies in retained EU law in order to ensure that the UK's legal system continues to function properly outside the EU.

3.5 The 2010 Regulations, as amended by this Rule, will continue to function as before by ensuring that the regulatory framework for the

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[1] Directive 2010/35/EC of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC.

[2] http://www.unece.org/trans/danger/publi/adr/adr2019/19contentse.html. A copy can be purchased from The Stationery Office (https://www.tsoshop.co.uk or 0333 200 2425) or made available for inspection at The Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR.

[3] http://otif.org/fileadmin/new/3-Reference-Text/3B-RID/RID%202019%20E.pdf. A copy can be purchased from The Stationery Office or made available for inspection at the address identified in footnote 4.

[4] http://www.unece.org/trans/danger/publi/adn/adn2017/19files_e.html. A copy can be purchased from The Stationery Office or made available for inspection at the address identified in footnote 4.

carriage of dangerous goods by road and rail will remain in place on IP completion day. The amendments made by this Rule will revise references predicated on the UK being a member State of the EU and retain the power for the Department of Justice to grant authorisations, apply existing derogations approved prior to IP completion day and issue new exceptions from the requirements and prohibitions arising under Part 2 of the 2010 Regulations.

4. Consultation

4.1 No consultation has been completed, as it is not a requirement of the Withdrawal Act. Any changes in the draft Regulations are limited to addressing failures of retained EU law in relation to the Dangerous Goods Directive to operate effectively or other legislative deficiencies arising from the withdrawal of the United Kingdom from the European Union.

5. Equality Impact

5.1 The Statutory Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified.

6. Regulatory Impact

6.1 Since any overall costs or savings would be negligible, a Northern Ireland Regulatory Impact Assessment has not been required.

7. Financial Implications

7.1 As the proposed Regulations deal with maintaining existing regulatory standards it is anticipated that there will be no, or no significant, financial implications for business, charities, social economy enterprises or voluntary bodies.

8. Section 24 of the Northern Ireland Act 1998

8.1 It is the view of the Departments that these Regulations are compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Any changes in the draft Regulations are limited to addressing failures of retained EU law in relation to the Dangerous Goods Directive to operate effectively and other legislative deficiencies arising from the withdrawal of the United Kingdom from the European Union.

10. Parity or Replicatory Measure

10.1 In Great Britain the corresponding Statutory Instrument is the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment

(Amendment) (EU Exit) Regulations 2020, which is due to come into force on IP completion day. The proposed Statutory Rule will mirror its amendments in relation to class one goods only. The Regulations in Great Britain will address legislative inoperabilities and deficiencies in relation to the carriage of dangerous goods and transportable pressure equipment following the transition period for the UK's exit from the EU.

11. Additional Information

11.1 Not applicable.

Department of Justice
27 November 2020