EXPLANATORY MEMORANDUM TO

The Health and Safety at Work Order (Application to Environmentally Hazardous Substances) (Amendment) Regulations (Northern Ireland) 2009

S.R 2009 No. 296

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment 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 negative resolution procedure.

1.3 The Rule is due to come into operation on 21 September 2009.

2. Purpose

2.1 The Regulations, which are technical in nature, amend the Health and Safety at Work Order (Application to Environmentally Hazardous Substances) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 52) ("the 2003 Regulations"). The 2003 Regulations extend the reference to dangerous substances in Article 3(1)(c) of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)) ("the 1978 Order"). The purpose of the 2003 Regulations is to enable Regulations to be made under Article 17 of the 1978 Order to implement the Directives referred to in regulation 2(1) of the 2003 Regulations.

2.2 Although the Regulations do not in themselves implement European Directives they amend regulation 2(1) of the 2003 Regulations to add a reference to Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (O.J. No. L260, 30.09.08, p. 13) so that Regulations can be made under Article 17 of the 1978 Order to implement this Directive. It is proposed that the provisions of Directive 2008/68/EC will be transposed by Regulations to be called the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2009 ("the Carriage Regulations"). It is expected that the Carriage Regulations will be made later this year.

3. Background

3.1 Under Article 2 of, and the Schedule to, the European Communities (Designation) Order 1996 (S.I. 1996/266), the Department of Enterprise, Trade and Investment is designated in relation to measures relating to the transport of dangerous or environmentally hazardous goods by road or rail. Under Article 2 of, and the Schedule to, the European Communities (Designation) (No. 3) Order 1997 (S.I. 1997/2563), the designation was extended to the transport of such goods by water.

4. Consultation

4.1 The Regulations have been made under the European Communities Act 1972, therefore there is no statutory obligation to consult.

5. Equality Impact

5.1 The proposals have no equality implications.

6. Regulatory Impact

6.1 An Impact Assessment has not been prepared for this Statutory Rule as it has no impact on business, charities or voluntary bodies. No Impact Assessment was prepared for the Great Britain Statutory Instrument on which the Rule has been based, namely, S.I. 2009/318.

7. Financial Implications

7.1 The Regulations would have no effect on business and there are no cost implications for the Health and Safety Executive.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered the matter of Convention Rights and is satisfied that there are no matters of concern.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 In Great Britain the corresponding Statutory Instrument is the Health and Safety at Work etc. Act 1974 (Application to Environmentally Hazardous Substances) (Amendment) Regulations 2009 (S.I. 2009/318), which were made on 17 February 2009 and came into operation on 23 March 2009.

11. Additional Information

11.1 Not applicable.

Department of Enterprise, Trade and Investment
18 August 2009