STATUTORY INSTRUMENTS

1979 No. 415

ROAD TRAFFIC

The International Carriage of Perishable Foodstuffs Regulations 1979

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**To be laid before Parliament*

Coming into Operation *1st October* 1979

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The Secretary of State for Transport in exercise of his powers under sections 1, 2, 3, 4(6) and 20 of the International Carriage of Perishable Foodstuffs Act 1976(**a**) and of all other enabling powers hereby makes the following Regulations:—

PART I

PRELIMINARY

Commencement and Citation

1. These Regulations shall come into operation on 1st October 1979, and may be cited as the International Carriage of Perishable Foodstuffs Regulations 1979.

Interpretation

2.—(1) In these Regulations—

"the 1976 Act" means the International Carriage of Perishable Foodstuffs Act 1976;

"ATP" means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such Carriage (ATP) as concluded in Geneva on 1st September 1970(**b**);

"certifying officer" has the same meaning as in section 2(1) of the 1976 Act;

"designated station" means premises designated by the Secretary of State as a station where examination and testing may be carried out;

"examination"—

(*a*) in relation to insulated equipment, means the procedure for checking the insulating capacity of equipment specified in ATP, Annex 1, Appendix 2, paragraphs 29 and 30, and

(*b*) in relation to refrigerated, mechanically refrigerated and heated equipment, means the procedures for checking the insulating capacity of equipment specified in ATP, Annex 1, Appendix 2, paragraphs 29 and 30, and for verifying the efficiency of thermal appliances specified in ATP, Annex 1, Appendix 2, paragraph 49, and

"examined" shall be construed accordingly;

"K coefficient" has the same meaning as in ATP, Annex 1, Appendix 2, paragraphs 1 to 6 inclusive;

"prescribed fee" means a fee prescribed by Regulations made under the 1976 Act;

"prescribed standard", in relation to transport equipment, means the standard prescribed for the transport equipment specified in Regulation 6;

"qualified person" has the same meaning as in Section 2(1) of the 1976 Act;

"road" has the same meaning as in section 11(8) of the 1976 Act;

(**a**) 1976 c. 58.

(**b**) Cmnd. 6441.

"test"—

(*a*) as to measuring the K coefficient, means the procedures specified in ATP, Annex 1, Appendix 2, paragraphs 7 to 27 (inclusive), and

(*b*) as to determining the efficiency of thermal appliances, means—

(i) in relation to refrigerated equipment, the procedure specified in paragraphs 32 to 36 (inclusive) of the said Appendix,

(ii) in relation to mechanically refrigerated equipment the procedure specified in paragraphs 37 to 42 (inclusive) of the said Appendix, and

(iii) in relation to heated equipment, the procedure specified in paragraphs 43 to 47 (inclusive) of the said Appendix; and

"tested" shall be construed accordingly; and

"transport equipment" has the same meaning as in section 19 (1) of the 1976 Act.

(2) A reference in these Regulations to a numbered Regulation is a reference to the Regulation so numbered in these Regulations.

Application of Regulations

3. These Regulations apply to insulated, refrigerated, and heated transport equipment used or intended to be used for the international carriage of perishable foodstuffs where the journey is, or is to be, effected by road or rail, or by a sea crossing of less than 150 kilometres, or by any combination thereof.

PART II

PERISHABLE FOODSTUFFS

Foodstuffs prescribed as perishable foodstuffs

4. The foodstuffs and classes of foodstuffs specified in ATP, Annexes 2 and 3 are hereby prescribed as perishable foodstuffs for the purposes of the 1976 Act and of these Regulations.

Temperature conditions prescribed for the carriage of perishable foodstuffs in transport equipment

5. The temperature conditions for the international carriage of the various classes of perishable foodstuffs are those specified in relation to each class—

(*a*) in ATP, Annex 2, where the carriage is of quick-frozen or frozen foodstuffs, or

(*b*) in ATP, Annex 3, where the carriage is of foodstuffs which are neither quick-frozen nor frozen.

PART III

TRANSPORT EQUIPMENT

Standards prescribed for transport equipment

6. Transport equipment to which these Regulations apply shall be classified in the classes defined in paragraphs 1 to 4 (inclusive) of ATP, Annex 1, and the prescribed standard for any transport equipment shall,

subject, until 21st November 1979, to the provisions of ATP, Annex 1, paragraph 5, be the standard specified for its class in whichever of the said paragraphs 1 to 4 (inclusive) is or are appropriate to transport equipment of the class to which it belongs.

Transport equipment prescribed for the international carriage of perishable foodstuffs

7. The transport equipment to be used for the carriage of perishable foodstuffs on an international journey shall be equipment which can secure compliance throughout the journey with the temperature conditions prescribed by Regulation 5 applicable to the perishable foodstuffs being carried in the equipment.

PART IV

Designated Stations

Conditions to be complied with as respects designated stations

8.—(1) Every designated station, and all the apparatus thereat for carrying out tests of transport equipment, shall, on due notice being given, make provision and be available for—

(*a*) carrying out tests of such classes and types of transport equipment as are specified in the designation of the premises as a designated station, and

(*b*) such inspection as the Secretary of State may from time to time require to be carried out.

(2) The Secretary of State may at any time and in his unfettered discretion withdraw a designation of premises as a designated station.

PART V

Tests and Examinations of Transport Equipment and Other Matters Relating to Transport Equipment

Tests required for new transport equipment

9. Except as provided in section 4 (3) of the 1976 Act (which relates to the approval of type equipment) and in Regulation 11, a certificate of compliance shall not be issued in respect of transport equipment which is first brought into service after the date on which these Regulations come into operation unless it first satisfies a test.

Tests and examinations of transport equipment

10.—(1) Any person wishing to have transport equipment tested shall, at least 28 days before the date on which such person proposes that the test should take place, make an application for that purpose to a qualified person, and any person wishing to have transport equipment examined shall, at least 14 days before such person proposes that the examination should take place, make an application for that purpose to a qualified person.

(2) Every such application shall be made on a form approved by the Secretary of State, and shall contain the particulars required by that form.

(3) Every test of transport equipment shall be carried out at a designated station by or under the direction of a qualified person and in accordance with the relevant provisions of ATP, Annex 1, Appendix 2.

(4) Every examination of transport equipment shall be carried out by or under the direction of a qualified person at a place (whether a designated station or not) approved for that purpose by that person and in accordance with the relevant provisions of ATP, Annex 1, Appendix 2.

Transitional provisions as to tests

11. If at any time before 21st November 1980 it is impracticable, owing to lack of facilities for carrying out tests in the United Kingdom, to obtain a test of transport equipment which is required to be tested for the purpose of issuing a certificate of compliance, a certificate of compliance in respect of of such transport equipment may be issued as a result of an examination, and any certificate of compliance which is so issued shall indicate that it has been issued in accordance with the transitional provisions of ATP.

The results of tests

12.—(1) On completion of a test of transport equipment the qualified person shall complete a Test Report in the form of a Test Report Model contained in ATP, Annex 1, Appendix 2.

(2) If as a result of a test of transport equipment a certifying officer is satisfied that the equipment complies with the prescribed standards for the class of equipment in respect of which the application for the test was made, he shall issue a certificate of compliance for that equipment in that class.

(3) If as a result of a test transport equipment is found not to comply with the prescribed standards for the class in respect of which the application was made, the qualified person shall in writing inform the applicant of the respects in which the equipment is found not to comply with such standards.

(4) If as a result of a test transport equipment is found not to comply with the prescribed standards for the class in respect of which the application was made, but a certifying officer is satisfied that the equipment complies with the prescribed standards for another class he shall, if the applicant so desires, issue a certificate of compliance for that equipment in that other class.

(5) In this Regulation "the qualified person" means the qualified person by whom or under whose direction the test is carried out.

The results of examinations

13.—(1) On the completion of an examination of transport equipment the qualified person shall reach a conclusion as to whether the result is favourable or unfavourable.

(2) If the conclusion referred to in paragraph (1) above is favourable a certifying officer shall, unless he sees reason to the contrary, issue a certificate of compliance.

(3) If the conclusion referred to in paragraph (1) above is unfavourable, the qualified person shall in writing inform the applicant—

(i) of the grounds on which that conclusion was reached, and

(ii) that a certificate cannot be issued in respect of the equipment unless it is submitted for a test, and the result of the test is as specified in Regulation 12 (2) or (4).

(4) In this Regulation "the qualified person" means the qualified person by whom or under whose direction the examination is carried out.

Requirements as to the maintenance of transport equipment and as to alterations made to transport equipment

14.—(1) The operator of transport equipment in respect of which there is a certificate of compliance shall maintain the said equipment so that it continues to conform with the prescribed standard.

(2) The operator of transport equipment in respect of which there is a certificate of compliance shall, on any alteration being made to the transport equipment which may affect its thermal efficiency, forthwith give notice of the alteration to a certifying officer.

PART VI

CERTIFICATES OF COMPLIANCE AND DESIGNATED MARKS

The issue of a certificate of compliance

15.—(1) A certificate of compliance shall not be issued in respect of transport equipment unless—

(*a*) as a result of a test of the equipment it is found by a qualified person to comply with the relevant prescribed standards; or

(*b*) as a result of an examination of the equipment it is found by a qualified person to comply with the relevant prescribed standards; or

(*c*) the equipment is certified by its manufacturer as conforming to a type approved in accordance with the provisions of section 4 of the 1976 Act not more than three years before the date of the issue of the certificate of compliance, and a certifying officer is satisfied that the equipment does so conform.

(2) A certificate of compliance shall not be issued by any person except a certifying officer.

The form of and particulars to be contained in a certificate of compliance

16. A certificate of compliance shall be in a form approved by the Secretary of State and shall contain the particulars specified in ATP, Annex 1, Appendix 3.

The duration of a certificate of compliance

17. A certificate of compliance shall, unless previously cancelled or surrendered, be valid—

(*a*) if it is issued as a result of a test of the transport equipment to which it relates, for six years from the date on which it is issued;

(*b*) if it is issued as a result of an examination of the transport equipment to which it relates, for three years from the date on which it is issued;

(*c*) if it is issued on the basis of compliance with an approved type, for six years from the date on which it was issued.

The custody of a certificate of compliance

18.—(1) Where perishable foodstuffs are being carried in transport equipment on an international journey which is to be effected entirely by road, or entirely by road and by sea crossing, and there is to be no transloading during such journey, the certificate of compliance in respect of that equipment shall be carried—

(*a*) if the transport equipment is a motor vehicle or a container borne on a motor vehicle, by the driver of the motor vehicle,

(*b*) if the transport equipment is a trailer or a container borne on a trailer, by the driver of the motor vehicle by which the trailer is drawn.

(2) Where perishable foodstuffs are being carried in transport equipment on an international journey which is to be effected by any means other than those specified in paragraph (1) above, the certificate of compliance in respect of that equipment shall be in the custody of the operator of that equipment.

The issue of a certified copy of a certificate of compliance

19.—(1) If a certificate of compliance has been lost, destroyed or defaced, the operator of the transport equipment shall forthwith in writing inform a certifying officer of the loss, destruction or defacement.

(2) If—

(*a*) a certifying officer is satisfied that a certificate of compliance has been lost, destroyed or defaced during the currency thereof and,

(*b*) in the case of any such certificate which has been defaced, such certificate is surrendered to a certifying officer

the certifying officer shall, on receipt of the prescribed fee, issue a copy of such certificate.

(3) Where a certificate of compliance has been lost and after a copy has been issued the lost certificate is found and comes into the possession of the operator of the transport equipment, such operator shall forthwith return to a certifying officer the certificate which has been found.

(4) In the event of any person to whom a certificate of compliance has been issued—

(*a*) requesting a certifying officer to issue a copy of that certificate, and

(*b*) paying the prescribed fee

a certifying officer shall issue a copy of that certificate to such person.

(5) Every copy of a certificate of compliance issued in accordance with the above provisions of this Regulation shall—

(*a*) be certified, by the certifying officer by whom it is issued, as a copy, and

(*b*) have effect as the certificate of which it is a copy.

The transfer of a certificate of compliance

20. In the event of a person to whom a certificate of compliance has been issued desiring the certificate to be transferred to another person who has become the owner or operator of the transport equipment to which the certificate relates, the person to whom the certificate has been issued may

submit it to a certifying officer with a request that he amend and transfer the certificate accordingly.

The surrender of a certificate of compliance

21. A person to whom a certificate of compliance has been issued may surrender it by submitting it to a certifying officer with a written statement by such person that he wishes to surrender the certificate.

The cancellation of a certificate of compliance

22. A certifying officer who, following an inspection of transport equipment in respect of which a certificate of compliance issued in the United Kingdom is in force, holds the opinion that the equipment does not comply with the prescribed standard for the class of equipment to which the certificate relates may decide to cancel the certificate, and if he so decides—

(*a*) shall in writing inform the holder of the certificate of his intention to cancel it, and

(*b*) may require the said holder to deliver the certificate to him for cancellation.

The recognition of documents as certificates of compliance

23. The following documents shall, during the period for which they were issued and are not cancelled, or in the case of a document which has not been issued for a period, during the period from the date of its issue until the third anniversary of that date or the earlier cancellation of the document, be recognised as prescribed documents pursuant to section 3(3) of the 1976 Act:—

(*a*) a certificate issued by the competent authority of a foreign State which is a Contracting Party to ATP or, if not such a party, which is a member State of the European Economic Community;

(*b*) a certificate issued by the competent authority of a foreign State with which Her Majesty's Government has made an arrangement for the mutual recognition of such certificates;

(*c*) a certificate issued, before the coming into operation of these Regulations, by the Shipowners Refrigerated Cargo Research Association in respect of insulated, refrigerated, mechanically refrigerated, or heated transport equipment used for the international carriage of perishable foodstuffs by land;

(*d*) a certificate issued, before the coming into operation of these Regulations, by Lloyd's Register of Shipping in respect of transport equipment consisting of an insulated, refrigerated, mechanically refrigerated or heated container;

(*e*) a certificate issued at any time in respect of transport equipment by any of the following organisations—

(i) Transfrigoroute Europe,

(ii) Interfrigo, and

(iii) Transfesa;

(*f*) a copy of a certificate issued by any authority or body referred to in sub-paragraphs (*a*) to (*e*) (inclusive) above and certified by that authority or body as a copy of a certificate issued by it.

The form of and particulars to be contained in designated marks

24. Markings in the form and of the colour and size specified in ATP, Annex 1, Appendix 4 are hereby prescribed as designated marks to be affixed to transport equipment in respect of which there exists a certificate of compliance, such markings to be appropriate to the class of equipment to which the certificate relates.

PART VII

APPEALS

Appeals to the Secretary of State in respect of a decision by a certifying officer

25. If a certifying officer decides—

(*a*) not to issue a certificate of compliance in respect of transport equipment either in any class or in the class in respect of which the application for a certificate was made, or

(*b*) not to approve a vehicle as a type vehicle in accordance with the provisions of section 4 of the 1976 Act, or

(*c*) to cancel a certificate of compliance,

he shall notify the applicant for the certificate or for approval of the vehicle as a type vehicle under the said section 4 or the person who was the operator of the transport equipment immediately before the certificate was cancelled, as the case may be, that an appeal in respect of that decision may be made to the Secretary of State within a period of six weeks from the date of such notification by giving a written notice of appeal to the Secretary of State at the address specified for that purpose in such notification.

29th March 1979.

William Rodgers,
Secretary of State for Transport.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

For the purposes of the International Carriage of Perishable Foodstuffs Act 1976 (an Act to enable the United Kingdom to accede to the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage (ATP)) and for purposes connected therewith these Regulations: —

1. prescribe—
   (1) the foodstuffs specified in ATP, Annexes 2 and 3, as perishable foodstuffs (Regulation 4),
   (2) temperature conditions for the international carriage of perishable foodstuffs so prescribed (Regulation 5), and
   (3) standards of thermal efficiency for transport equipment for the international carriage of perishable foodstuffs so prescribed (Regulations 6 and 7); and
2. make provisions as to—
   (1) conditions to be complied with as respects premises designated as designated stations for tests and examinations of transport equipment (Part IV),
   (2) tests and examinations of transport equipment and other matters relating to transport equipment (Part V),
   (3) certificates of compliance in respect of transport equipment approved for the international carriage of perishable foodstuffs and the recognition of documents as certificates of compliance (Part VI),
   (4) the form of and the particulars to be contained in designated marks to be affixed to transport equipment in respect of which a certificate of compliance subsists (Regulation 24), and
   (5) appeals to the Secretary of State against decisions by certifying officers appointed or authorised by the Secretary of State to issue certificates of compliance in respect of transport equipment (Part VII).

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