



STATUTORY INSTRUMENTS.

S.I. No. 197 of 2023



EUROPEAN COMMUNITIES (CARRIAGE OF DANGEROUS GOODS BY
ROAD AND USE OF TRANSPORTABLE PRESSURE EQUIPMENT)
(AMENDMENT) REGULATIONS 2023

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EUROPEAN COMMUNITIES (CARRIAGE OF DANGEROUS GOODS BY ROAD AND USE OF TRANSPORTABLE PRESSURE EQUIPMENT) (AMENDMENT) REGULATIONS 2023

I, SIMON COVENEY, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) (as amended by section 2 of the European Communities Act 2007 (No. 18 of 2007)) and for the purpose of giving further effect to the 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, Directive (EU) 2022/1999 on uniform procedures for checks on the transport of dangerous goods by road¹, and Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008² (insofar as that Directive relates to the transport of dangerous goods by road), as amended by Commission Implementing Decision (EU) 2022/1095 of 29 June 2022³ and Commission Delegated Directive (EU) 2022/2407 of 20 September 2022⁴, hereby make the following regulations:

1. (a) These Regulations may be cited as the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) (Amendment) Regulations 2023.
- (b) The European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 to 2021 and these Regulations may be cited together as the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 to 2023.
2. In these Regulations “Principal Regulations” means the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 (S.I. No. 349 of 2011).
3. Regulation 2 of the Principal Regulations is amended —
 - (a) in paragraph (1) —
 - (i) by inserting after the definition of “accreditation body” the following definition:

¹ OJ L 274, 24.10.2022, p. 1.

² OJ L 260, 30.09.2008, p. 13.

³ OJ L 176, 1.7.2022, p. 33.

⁴ OJ L 317, 9.12.2022, p. 64.

“‘Act of 2012’ means the Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012 (No. 16 of 2012);”

(ii) in the definition of “ADR” by substituting “1 January 2023” for “1 January 2021”,

(iii) by inserting after the definition of “Annexes” the following definition:

“‘appropriate authorisation’ means in the case of an authorised tester or a CVR tester, that the authorised tester or CVR tester, as the case may be, is authorised to test heavy CVR vehicles as defined in and in accordance with the 2013 Regulations;”

(iv) by substituting for the definition of “authorised tester” the following:

“‘authorised tester’ means a person who:

(a) has an appropriate authorisation in accordance with sections 9, 14 or 15 of the Act of 2012;

(b) has:

(i) a CVR tester authorised under section 17 of the Act of 2012 appropriately qualified and trained to discharge the functions under these Regulations; or

(ii) access to the personnel listed at clause (i), and

(c) is authorised for the purposes of Regulation 41, 43, 52 and subsection 9.1.2.3 of the ADR;”

(v) by inserting after the definition of “contravention notice” the following definitions:

“‘CVR’ means commercial vehicle roadworthiness;”

“‘CVR tester’ means a person authorised under section 17 of the Act of 2012;”

“‘CVR Test Regulations of 2013’ means the Authorisation of Commercial Vehicle Roadworthiness Test Operators and Testers Regulations 2013 (S.I. No. 107 of 2013) (as amended);”

(vi) by inserting after the definition of “Forfas” the following definition:

“‘heavy CVR vehicle’ means a CVR vehicle having a design gross weight exceeding 3,500 kilograms;”

(vii) by amending the definition of “relevant road transport statutory provisions”:

in subparagraph (c), by substituting “Directive (EU) 2022/1999,” for “Council Directive 95/50/EC”,

(viii) by substituting for the definition of “risk category” the following:

“‘risk category’ in relation to Regulation 28, means the category of offence classified in accordance with risk as set out in Annex II of Directive (EU) 2022/1999”, and

(ix) by substituting for the definition of “the Directive” the following:

“‘the Directive’ means Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 as amended by Commission Implementing Decision (EU) 2022/1095 of 29 June 2022 and Commission Delegated Directive (EU) 2022/2407 of 20 September 2022;”.

(b) in paragraph (4)(a):

by substituting “Directive (EU) 2022/1999” for “Directive 95/50/EC”,

(c) in paragraph (5):

by substituting “Directive (EU) 2022/1999” for “Council Directive 95/50/EC of 6 October 1995”.

4. Regulation 10 of the Principal Regulations is amended —

(a) in paragraph (1) —

(i) by substituting for subparagraph (a) the following:

“(a) the Road Safety Authority, pursuant to its functions, responsibilities and powers under the relevant road transport statutory provisions which, without prejudice to the generality of the foregoing, include, but are not limited to:

- (i) the technical examination of vehicles;
- (ii) the issue of annual certificates of approval for such vehicles;
- (iii) the provision of ADR training courses for authorised testers;
- (iv) the grant and revocation of authorisations or appointments to perform functions under the relevant road transport statutory provisions;
- (v) the supervision of persons authorised or appointed to perform functions under the relevant road transport statutory functions; and

- (vi) premises, facilities and equipment inspections in relation to authorised testers or applicants seeking to become authorised testers;”,
- (b) by substituting for paragraphs (3) and (4) the following:
 - “(3) A competent authority appointed for the purposes of these Regulations may from time to time:
 - (a) 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; and
 - (b) issue guidelines in relation to the performance of those functions by the person.
 - (4) A person appointed under paragraph (3) shall–
 - (a) make adequate arrangements for the performance of those functions;
 - (b) perform any other functions conferred upon the person by any of the relevant road transport provisions;
 - (c) have regard to any guidelines issued by a competent authority under Regulation 10(3)(b);
 - (d) comply with the instructions of a competent authority in relation to the performance of such functions conferred on the person; and
 - (e) comply with any conditions contingent on the appointment of a person to perform functions under the relevant road transport provisions.”,
- (c) in paragraph (7):
 - by substituting “Directive (EU) 2022/1999 on uniform procedures for checks on the transport of dangerous goods by road –” for “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 –”, and
- (d) in paragraph (8):
 - by substituting “Directive (EU) 2022/1999” for “Council Directive 95/50/EC”.

5. The Principal Regulations are amended by substituting for Regulation 41(2)(b) the following:

- “(b) performance of an annual technical inspection of a vehicle by both:

- (i) the competent authority, in relation to the initial document check carried out prior to the technical examination; and
- (ii) an authorised tester, in relation to the technical examination, for the purposes of Chapter 9.1 of the ADR and issuing a vehicle certificate of approval for the purpose of those provisions,”

6. The Principal Regulations are amended by the deletion of Regulation 57(i).

7. Regulation 59(1) of the Principal Regulations is amended by substituting “(1.8.6, 1.8.7, Chapters 6.2 and 6.8)” for “(Subsections 1.8.6, 1.8.7, 6.2.2.11, 6.2.3.6 to 6.2.3.8, and TA4 and TT9 of 6.8.4)”.

8. Regulation 60(1) of the Principal Regulations is amended by substituting “(1.8.6, 1.8.7, Chapters 6.2 and 6.8)” for “(Subsections 1.8.6, 1.8.7, 6.2.2.11, 6.2.3.6 to 6.2.3.8, and TA4 and TT9 of 6.8.4)”.

9. The Principal Regulations are amended by substituting for Part 3 of Schedule 2 the following:

“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	TC	Tank container/portable tank operator

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/L	I	Dangerous goods are prohibited for transport
3	A	I	Dangerous goods not classified and authorised for carriage in accordance with the ADR
4	A/P	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 or permitted periods of use for 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 or not in compliance with the ADR or these Regulations
8	A	I	Bulk container is not permitted or not in compliance with the ADR
9	A/C	I	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 /P/TC	I	Labelling, marking, placarding or plating not in compliance with the ADR
12	C	II	Instructions in writing were not provided or were not in compliance with the ADR
13	C	I	Prescribed documentation not carried in the vehicle or was not in compliance with the ADR
14	C	I	Leakage of dangerous substances or other visual defects not checked
15	C	I	Transport equipment is not in compliance with the ADR or these Regulations
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
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/F/TC	I	Tank used was not inspected or tested or checked within the specified time
25	L	I	Damaged or package that was not leakproof was loaded onto the vehicle
26	A/C/L/D	I	Dangerous goods were not properly stowed and secured
27	L	I	Mixed loading not in compliance with the ADR
28	L/D	II	Foodstuffs, other articles of consumption or animal feedstuffs not loaded in compliance with the ADR
29	P	I	Overpack or package was not correctly marked or labelled
30	P	I	Mixed packing not in compliance with the ADR
31	TC	I	Tank-container/portable tank not in compliance with the ADR
32	A/P/F	I	Tank or package was not filled or packed in compliance with the ADR
33	D	III	Driver did not have a driver training certificate with him or her while driving the vehicle
34	D	III	Required instructions in writing were not kept readily identifiable in driver's cab
35	A/C/D/ S/TC	III	Documents were not made available to an inspector or member of the Garda Síochána or were not produced within 10 days
36	D	II	Outlet valves, manlids or dip tube openings were open during transport

37	D/L/F/UL	II	Good electrical connection to earth was not made prior to filling or emptying the transport equipment
38	D	III	A passenger, other than a member of the vehicle crew, was carried in the vehicle
39	D	III	Driver did not shut off the engine during loading or unloading operations
40	D	III	Driver did not apply the parking brakes while the vehicle was parked
41	D	II	Vehicle not properly supervised or parked
42	D/V	III	No photographic identification available
43	A/C/D/V/ L/F/UL	I	Smoking during handling operations in vicinity of vehicle or in the vehicle
44	A/C/D/V/ L/F/UL	I	Fire or unprotected light being used during handling operations in vicinity of vehicle or in the vehicle
45	D/UL	I	Failure to verify the correct dangerous goods were unloaded
46	D/UL	II	Failure to remove dangerous residues after unloading
47	S	I	Functions of appointed safety adviser were not performed by him or her
48	S	II	Annual report was not prepared by the appointed safety adviser
49	S	II	Accident report was not prepared by the appointed safety adviser
50	A/C/L/P/F /UL/TC	I	Non-compliance with relevant safety obligation in Chapter 1.4 of the ADR
51	A/C	II	Security training was not given in compliance with the ADR
52	A/C	II	Security plan was not available or was not adequate
53	A/C/L/P/F /UL	I	Safety adviser was not appointed
54	A/C/S/L/P /F/UL	I	Appointed safety adviser did not hold a valid vocational training certificate
55	A/C/S	II	Competent authority was not informed of identity of safety adviser
56	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

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GIVEN under my Official Seal,
17 April, 2023.

SIMON COVENEY,
Minister for Enterprise, Trade and Employment.

EXPLANATORY NOTE

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

These Regulations transpose the provisions of Commission Delegated Directive (EU) 2022/2407 of 20 September 2022 amending the Annexes to Directive 2008/68/EC of the European Parliament and of the Council on the inland transport of dangerous goods to take into account scientific and technical progress (insofar as that Directive relates to the transport of dangerous goods by road) to give effect to the provisions of the ADR applicable from 1 January 2023. The Regulations give further effect to Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008, as well as Directive (EU) 2022/1999 on uniform procedures for checks on the transport of dangerous goods by road and Commission Implementing Decision (EU) 2022/1095 of 29 June 2022 amending Directive 2008/68/EC of the European Parliament and of the Council on the inland transport of dangerous goods to authorise certain national derogations.

These Regulations may be cited as the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) (Amendment) Regulations 2023.

These Regulations amend for the tenth time the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 (S.I. No. 349 of 2011) and can be cited together with all previous amending statutory instruments as the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 to 2023.

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