

Conclusion of: The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations 2011

Thank you to all who responded to the Department's recent public consultation on *The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations 2011* – Statutory Instrument 2011 number 1885 (CDG 2011) .

Having considered your comments, changes have been made to the version laid before Parliament on 29 September, which has a coming into force date of 24 October 2011. It is unfortunate that the process has taken longer than envisaged, for which we can only apologise.

To clarify – although for ease of reference the acronym used for this instrument is CDG 2011 - these regulations amend and don't replace CDG 2009 (Statutory Instrument 2009 number 1348).

Background

In order to meet its obligations under EU law, the UK is required to transpose Directive 2010/35/EU on transportable pressure equipment into domestic legislation. CDG 2011 does that for Great Britain. Parallel legislation for implementation in Northern Ireland is now being prepared and should come into force by the year end.

Separately, a review by the Health and Safety Executive of health and safety legislation found that the classification and labelling provisions within the *Classification and Labelling of Explosives Regulations 1983*, as amended, had become redundant as a result of more recent legislation. And as its revocation would remove an unnecessary burden on industry a revocation regulation was included.

Public Consultation

The Department deemed that as the subject matter of these changes was technical and specialised, and not of general interest to the public, an informal eight week public consultation was appropriate. Over 250 organisations were e-mailed to alert them and relevant documentation was published on DfT's website. Responses were received from 30 interested parties.

Consultation Outcome

Reference temperatures for new tanks - in view of UKLPG's and some of its members' concerns on whether CDG 2011 would unnecessarily force operators to comply with a more costly reference temperature standard for the construction of new tanks used to transport liquefied gases we reviewed the draft. In-line with the commitment in our Impact Assessment that our intention is to ensure no unnecessary regulatory burdens are introduced or retained, the result was that the proposed change to regulation 28 of CDG 2009 was withdrawn to enable the current reference temperature provisions for new tanks used in Great Britain to transport liquefied gases to continue unchanged.

Other minor clarification changes to the instrument have been made for the benefit of industry including:

Reassessment of conformity (CDG 2011 regulation 9) has been revised to ensure relevant internationally agreed provisions are accurately reflected.

The final Impact Assessment at legislation.gov.uk provides a more detailed analysis of the consultation responses.

Guidance

Guidelines on the technical provisions of Directive 2010/35 are currently being prepared by the European Commission.

An Industry Guide and Code of Practice for the Classification and Labelling of Explosives has been prepared by the CBI Explosives Industries Group in association with HSE:

The Industry Guide is at <http://www.eig.org.uk/eig2007/?p=271> and this website will provide a link to the EC guidelines when published.

Other issues raised by consultees'

Consultation: The concerns raised on improving consultation with interested parties prior to the UK formally agreeing to apply internationally agreed requirements for transportable pressure equipment (and the carriage of dangerous goods in general which strictly speaking is outside the scope of this consultation) are being carefully considered by the Department. An existing mechanism (the Working Party on the Transport of Dangerous Goods) is available now for those who wish to influence UK negotiating positions and to receive reports back on decisions made by international land transport modal bodies. This is open to any UK entity that wishes to be included. If you would like more information on these arrangements please email dangerousgoods@dft.gsi.gov.uk

Conformity assessment: ADR sections 1.8.6 and 1.8.7 were written to replace as much as possible the conformity assessment provisions in Directive 2010/35's predecessor (Council Directive 1999/36/EC on transportable pressure equipment) and the conformity system that is outlined there should be followed in all cases applying to Directive 2010/35;

except that ADR 6.2.2.5 can be followed for UN pressure receptacles or 6.2.2.10 can be used to apply 1.8.7.

ADR driver training: a practical exercise is being mandated in the fire prevention module of the ADR driver training course to include the demonstration by an approved Instructor and the practice by trainees of extinguishing a fire. *This exercise can be conducted using a live fire, a fire simulator or a fire tray.* The intended outcome is that candidates have knowledge on the safe handling and operation of a fire extinguisher for use with fires in (lorry) cabs and tyres.

'Old tanks' database – Northern Ireland; although outside the scope of CDG 2011 (which covers Great Britain) it was suggested that for Northern Ireland a national database of 'old tanks' should be introduced. We plan to consider this idea further in liaison with HSENI (Northern Ireland).

Classification and Labelling of Explosives Regulations 1983, as amended; as all respondents were in favour of revoking this instrument the relevant revocation provision has been retained (regulation 16). The legislative consequential effects of this revocation have been taken into account in regulation 17 (and the associated Schedule). For further information please contact the HSE Explosives Policy Team at explosives.policy@hse.gsi.gov.uk.

Special Provision CV1(1)

This special provision provides an unnecessary burden on industry to notify and the competent authority to permit, the loading and unloading of certain goods under certain circumstances. We have concluded that it is inappropriate to include a regulation in CDG 2011 to overcome this problem. The Department is considering other ways to address this issue and will make the outcome of these considerations publicly available.

Duty to Review

In line with Government policy on regulations of this type, this instrument now contains (at regulation 14) a detailed Duty to Review.

Restructuring of the Nuclear Regulatory Framework

This instrument includes amendments to the 2009 Regulations (see regulations 6, 11 and 13) to allow responsibility for the functions in relation to the carriage of class 7 (radioactive material) to be undertaken by the Secretary of State for Energy and Climate Change. The legislative changes are part of the wider Government objective, announced in February 2011, to restructure the regulation of the civil nuclear industry in the UK. This

entails consolidating the relevant regulatory responsibilities of HSE and DfT into one body – the Office for Nuclear Regulation. Connected to this reform, this instrument amends the 2009 Regulations to make the Secretary of State for Energy and Climate Change the main competent authority for class 7 goods and an enforcing authority for their movement.

Conclusion

This instrument - available at [legislation.gov.uk](https://www.legislation.gov.uk) - is intended to:

- Maintain the safe movement of dangerous goods by road and rail in this global market.
- Ensure the 'level playing field' continues for British operators involved in the manufacture and sale of new transportable pressure equipment, nationally and internationally.
- Enable British operators to continue to compete effectively and competitively in this global market.

Thank you again to all who responded to the public consultation.