

## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 11/98**  
**of 11 December 1997**  
**amending Regulation (EEC) No 684/92 on common rules for the international**  
**carriage of passengers by coach and bus**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 (1) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(2)</sup>,

Acting in accordance with the procedure referred to in Article 189c of the Treaty <sup>(3)</sup>,

- (1) Whereas, in accordance with Article 75 (1) (a) of the Treaty, the establishment of a common transport policy entails, *inter alia*, laying down common rules applicable to the international carriage of passengers by road;
- (2) Whereas such rules are contained in Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus <sup>(4)</sup>;
- (3) Whereas Article 20 of Regulation (EEC) No 684/92 lays down that before 1 July 1995 the Commission shall report to the Council on the application of the Regulation and that the Council shall adopt before 1 January 1997, on a proposal from the Commission, rules on the simplification of procedures including — in the light of the report's conclusions — the abolition of authorizations;
- (4) Whereas the definition of the various international coach and bus services should be simplified and

improved; whereas those may be classed as regular services, special regular services and occasional services; whereas, therefore, the concept of shuttle service can be abolished;

- (5) Whereas a system of market access exempt from authorization should be introduced for all occasional services, special regular services and all own-account transport operations;
- (6) Whereas the system of authorization for regular services should be maintained, although a degree of flexibility should be introduced as regards the operating conditions for such services;
- (7) Whereas in order to preserve intermodal competition, the railways should after a certain period no longer have priority in the context of the establishment of a coach or bus service;
- (8) Whereas, in order to facilitate the inspection of transport operations, the international carriage of passengers by road for hire or reward should be subject to a Community licence drawn up in accordance with a harmonized model and issued under a swift and efficient administrative procedure;
- (9) Whereas certain time limits involved in the procedure for the issue of authorizations should be made more flexible;
- (10) Whereas Member States must take the necessary measures to implement this Regulation, in particular as regards effective, proportionate and dissuasive penalties;
- (11) Whereas provision should be made for the Commission to be assisted by an advisory committee when adopting measures implementing the Regulation as regards transport documents;
- (12) Whereas an appropriate deadline should be laid down for introducing the Community licence;

<sup>(1)</sup> OJ C 203, 13. 7. 1996, p. 11, and OJ C 107, 5. 4. 1997, p. 3.

<sup>(2)</sup> OJ C 66, 3. 3. 1997, p. 3.

<sup>(3)</sup> Opinion of the European Parliament of 28 November 1996 (OJ C 380, 16. 12. 1996, p. 40), Council common position of 14 April 1997 (OJ C 164, 30. 5. 1997, p. 1) and Decision of the European Parliament of 16 July 1997 (OJ C 286, 22. 9. 1997, p. 85).

<sup>(4)</sup> OJ L 74, 20. 3. 1992, p. 1.

(13) Whereas the application of this Regulation must be monitored on the basis of a report to be presented by the Commission,

member of the staff of the natural or legal person or by the natural person himself.’

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EEC) No 684/92 is hereby amended as follows:

(1) In Article 2:

- the following subparagraph shall be added to point 1.1: ‘The regular nature of the service shall not be affected by any adjustment to the service operating conditions.’,
- paragraph (d) of point 1.2 shall be deleted,
- in point 1.3 the words ‘the use of additional vehicles and shorter intervals’ shall be deleted,
- point 2 shall be deleted,
- point 3.1 shall be replaced by the following:

‘3.1. Occasional services are services which do not meet the definition of regular services, including special regular services and which are characterized above all by the fact that they carry groups of passengers assembled on the initiative of the customer or the carrier himself.

The organization of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to authorization in accordance with the procedure laid down in Section II.’

- point 3.2 shall be deleted,
- in point 3.4, second subparagraph, the terms ‘after consulting the Member States’ shall be replaced by ‘in accordance with the procedure laid down in Article 16a’,
- point 4 shall be replaced by the following:

#### **‘4. Own-account transport operations**

Own-account transport operations are those carried out for non-commercial and non-profit-making purposes by a natural or legal person, provided that:

- the transport activity is only an ancillary activity for that natural or legal person,
- the vehicles used are the property of that natural or legal person or have been obtained on deferred terms by them or have been the subject of a long-term leasing contract and are driven by a

(2) The first indent of Article 3 (1) shall be replaced by the following:

‘— is authorized in the State of establishment to undertake carriage by means of regular services including special regular services or occasional services by coach and bus.’

(3) The following Article shall be added:

#### *Article 3a*

#### **Community licence**

1. In order to carry out international passenger transport operations by coach and bus, any carrier meeting the criteria laid down in Article 3 (1) must hold as Community licence issued by the competent authorities of the Member State of establishment in accordance with the model set out in the Annex.
2. The competent authorities of the Member State of establishment shall issue the holder with the original of the Community licence, which shall be kept by the carrier, and the number of certified true copies corresponding to the number of vehicles used for the international carriage of passengers at the disposal of the holder of the Community licence, either in full ownership, or in another form, notably by virtue of an instalment-purchase contract, a hire contract or a leasing contract.
3. The Community licence shall be established in the name of the carrier and shall be non-transferable. A certified true copy of the Community licence shall be carried on the vehicle and shall be presented at the request of any authorized inspecting officer.
4. The Community licence shall be issued for a period of five years which shall be renewable.
5. The Community licence shall replace the document issued by the competent authorities of the Member State of establishment certifying that the carrier has access to the market for the international carriage of passengers by road.
6. When an application for a licence is submitted, and at least every five years thereafter, the competent authorities of the Member State of establishment shall verify whether the carrier meets or continues to meet the conditions laid down in Article 3 (1).
7. Where the conditions referred to in Article 3 (1) are not met, the competent authorities of the Member State of establishment shall refuse to issue or renew a Community licence by means of a reasoned decision.
8. Member States shall guarantee the right of the applicant for, or holder of, a Community licence to appeal against a decision by the competent authorities of the Member State of establishment to refuse or withdraw this licence.

9. Member States shall inform the Commission no later than 31 January of every year of the number of carriers holding a Community licence as at 31 December of the previous year and of the number of certified true copies corresponding to the number of vehicles in circulation on that date.

10. Member States may decide that the Community licence shall also be valid for national transport operations.’

(4) Article 4 shall be replaced by the following:

*Article 4*

**Access to the market**

1. Occasional services as defined in Article 2 (3.1) shall not require authorization.

2. Special regular services defined in Article 2 (1.2) shall not require authorization if they are covered by a contract concluded between the organizer and the carrier.

3. Empty journeys by vehicles in connection with the transport operations referred to in paragraphs 1 and 2 shall likewise not require authorization.

4. Regular services as defined in the first subparagraph of Article 2 (1.1) and special regular services not covered by a contract between the organizer and the carrier shall require authorization in accordance with Articles 5 to 10.

5. Arrangements for own-account transport operations are set out in Article 13.’

(5) The title of Section II shall be replaced by the title **‘REGULAR SERVICES SUBJECT TO AUTHORIZATION’**.

(6) In Article 5:

— in the second subparagraph of paragraph 1, the first sentence shall be replaced by the following:

‘In the case of undertakings associated for the purpose of operating a regular service, the authorization shall be issued in the names of all the undertakings.’

— in paragraph 2, the first sentence shall be replaced by the following:

‘2. The period of validity of an authorization shall not exceed five years.’

— paragraph 3 (d) shall be replaced by the following:

‘(d) the stops and the timetable.’

— in paragraph 4, the terms ‘after consultation of the Member States’ shall be replaced by ‘in accordance with the procedure laid down in Article 16a’

— paragraph 5 shall be replaced by the following:

‘5. Authorizations shall entitle their holder(s) to operate regular services in the territories of all

Member States over which the routes of the service pass.’

— the following paragraph shall be added:

‘6. The operator of a regular service may use additional vehicles to deal with temporary and exceptional situations.

In this case, the carrier must ensure that the following documents are carried on the vehicle:

— a copy of the authorization of the regular service,

— a copy of the contract between the operator of the regular service and the undertaking providing the additional vehicles or an equivalent document,

— a certified true copy of the Community licence issued to the operator of the regular service.’

(7) Article 6 shall be amended as follows:

— paragraph 1 shall be replaced by the following:

‘1. Applications for authorization of regular services shall be submitted to the competent authorities of the Member State in whose territory the place of departure is situated, hereinafter referred to as the “authorizing authority”. The place of departure shall mean “one of the termini of the service”.’

— in paragraph 2, the terms ‘after consultation of the Member States’ shall be replaced by ‘in accordance with the procedure laid down in Article 16a’

— paragraph 3 shall be replaced by the following:

‘3. Persons applying for authorization shall provide any further information which they consider relevant or which is requested by the authorizing authority, in particular a driving schedule making it possible to monitor compliance with Community legislation on driving and rest periods and a copy of the Community licence for international carriage of passengers by road for hire or reward provided for in Article 3a.’

(8) Article 7 shall be replaced by the following:

*Article 7*

**Authorizing procedure**

1. Authorizations shall be issued in agreement with the authorities of all the Member States in whose territories passengers are picked up or set down. The authorizing authority shall forward to such authorities — as well as to the competent authorities of Member States whose territories are crossed without passengers being picked up or set down — a copy of the application, together with copies of any other relevant documentation, and its assessment.

2. The competent authorities of the Member States whose agreement has been requested shall notify the authorizing authority of their decision on the application within two months. This time limit shall be calculated from the date of receipt of the request for an opinion which is shown in the acknowledgement of receipt. If within this period the authorizing authority has received no reply, the authorities consulted shall be deemed to have given their agreement and the authorizing authority shall grant the authorization.

The authorities of the Member States whose territories are crossed without passengers being picked up or set down may notify the authorizing authority of their comments within the time limits laid down in the first subparagraph.

3. Subject to paragraphs 7 and 8, the authorizing authority shall take a decision on the application within four months of the date of submission of the application by the carrier.

4. Authorization shall be granted unless:

- (a) the applicant is unable to provide the service which is the subject of the application with equipment directly available to him;
- (b) in the past the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorizations for international road passenger services, or has committed serious breaches of legislation in regard to road safety, in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers;
- (c) in the case of an application for renewal of authorization, the conditions of authorization have not been complied with;
- (d) it is shown that the service in question would directly compromise the existence of regular services already authorized, except in cases in which the regular services in question are carried out by a single carrier or group of carriers only;
- (e) it appears that the operation of services covered by the application is aimed only at the most lucrative of the services existing on the links concerned;
- (f) a Member State decides on the basis of a detailed analysis that the said service would seriously affect the viability of a comparable rail service on the direct sections concerned. Any decision pursuant to this provision, together with the reasons therefor, shall be notified to the carriers affected.

As from 1 January 2000, in the event that an existing international bus service is seriously

affecting the viability of a comparable rail service on the direct sections concerned, a Member State may, with the agreement of the Commission, suspend or withdraw the authorization to run the international bus service after having given six months' notice to the carrier.

The fact that a carrier offers lower prices than are offered by other road carriers or the fact that the link in question is already operated by other road carriers may not in itself constitute justification for rejecting the application.

5. The authorizing authority and the competent authorities of all the Member States involved in the procedure to reach the agreement provided for in paragraph 1 may refuse applications only on the basis of reasons compatible with this Regulation.

6. If the procedure for reaching the agreement referred to in paragraph 1 does not enable the authorizing authority to decide on an application, the matter may be referred to the Commission within the time limit of five months calculated from the date of submission of the application by the carrier.

7. After consulting the Member States concerned, the Commission shall within ten weeks take a decision which shall take effect within thirty days of the notification of the Member States concerned.

8. The Commission decision shall continue to apply until such time as agreement is reached between the Member States concerned.

9. Having completed the procedure laid down in this Article, the authorizing authority shall inform all the authorities referred to in paragraph 1 of its decision, sending them a copy of any authorization; the competent authorities of the transit Member States may indicate that they do not wish to be so informed.'

(9) In Article 8 (3), second subparagraph the words 'of intervals' shall be added after the word 'adjustment'.

(10) Article 9 (4) shall be deleted.

(11) The title of Section III shall be replaced by the title '**OCCASIONAL SERVICES AND OTHER SERVICES EXEMPT FROM AUTHORIZATION**'.

(12) Article 11 shall be replaced by the following:

*Article 11*

#### **Journey form**

1. The services referred to in Article 4 (1) shall be carried out under cover of a journey form.

2. A carrier operating occasional services shall fill out a journey form before each journey.

3. The journey form shall contain at least the following information:

- (a) the type of service;
- (b) the main itinerary;
- (c) the carrier(s) involved.

4. The books of journey forms shall be supplied by the competent authorities of the Member State where the transport undertaking is established or by bodies appointed by those authorities.

5. The Commission shall, in accordance with the procedure provided for in Article 16a, lay down the model for the journey form and the way in which it is to be used.

(13) In Article 12, first paragraph, the terms 'of an international shuttle service with accommodation, or' shall be deleted.

(14) In Article 13:

- paragraph 2 shall be deleted,
- in paragraph 3, the term 'after consultation of the Member States' shall be replaced by 'in accordance with the procedure laid down in Article 16a'.

(15) In Article 14:

- the following shall be deleted from the introductory part of paragraph 1: 'or a shuttle service',
- the last indent of paragraph 1 shall be replaced by the following: '— the price of transport.'

(16) Article 16 shall be replaced by the following:

*Article 16*

#### **Penalties and mutual assistance**

1. The competent authorities of the Member State where the carrier is established shall withdraw the Community licence provided for in Article 3a where the holder:

- no longer meets the conditions laid down in Article 3 (1),
- has supplied inaccurate information concerning the data which were required for the issue of the Community licence.

2. The authorizing authority shall withdraw an authorization if the holder no longer fulfils the conditions on the basis of which the authorization was issued under this Regulation, in particular where

the Member State in which the carrier is established so requests. The authority shall immediately inform the competent authorities of the Member State concerned.

3. In the case of a serious breach or repeated minor breaches of road safety regulations, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the provision without authorization of parallel or temporary services, as referred to in Article 2 (1.3), the competent authorities of the Member State of establishment of the carrier who committed the breach may *inter alia* withdraw the Community licence or make temporary and/or partial withdrawals of the certified true copies of the Community licence.

These penalties shall be determined in accordance with the seriousness of the breach committed by the holder of the Community licence and with the total number of certified true copies that he possesses in respect of his international trade.

4. The competent authorities of the Member States shall prohibit a carrier from operating on their territory an international passenger service under this Regulation if he repeatedly commits serious breaches of the regulations governing road safety, in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers. They shall immediately inform the competent authorities of the Member State concerned.

5. Member States shall on request provide each other with any relevant information in their possession concerning:

- breaches of this Regulation and of any other Community rules applicable to the international carriage of passengers by coach and bus committed in their territory by a carrier from another Member State, and the penalties imposed,
- the penalties imposed on their own carriers in respect of breaches committed in the territory of another Member State.

(17) The following Article shall be inserted:

*Article 16a*

Where the procedure referred to in this Article is to be followed the Commission shall be assisted by the advisory committee set up by Council Regulation (EC) No 12/98 of 11 December 1997, laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State (\*) and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

(\*) OJ No L 4, 8. 1. 1998, p. 10<sup>7</sup>.

- (18) The second paragraph of Article 19 shall be replaced by the following:

'Member States shall adopt measures relating in particular to the means of carrying out checks and the system of penalties applicable to infringements of the provisions of this Regulation, and take all the measures necessary to ensure that those penalties are applied. The penalties thus provided for shall be effective, proportionate and dissuasive. Member States shall notify the relevant measures to the Commission within 12 months of the date on which this Regulation comes into force and shall notify any subsequent changes as soon as possible. They shall

ensure that all such measures are applied without discrimination as to the nationality or place of establishment of the carrier.'

- (19) The Annex shall be replaced by that contained in the Annex to this Regulation.

#### *Article 2*

Before 11 December 1998, the Member States shall, after consulting the Commission, adopt the measures necessary for the implementation of this Regulation and notify such measures to the Commission.

#### *Article 3*

No later than 31 December 1999, the Commission shall report to the European Parliament and the Council on the results of applying this Regulation.

#### *Article 4*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

It shall apply from 11 December 1998, except for Article 1 (3), which shall apply from 11 June 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 December 1997.

*For the Council*

*The President*

M. DELVAUX-STEHRÉS

ANNEX

'ANNEX

EUROPEAN COMMUNITY

(a)

(Heavy-duty, blue — dimension DIN A4)

(First page of the licence)

(Text in the official language(s) or one of the official languages of the Member State issuing the licence)

Distinctive symbol of the Member State (1) issuing the licence

Designation of the competent authority or body

LICENCE No. . . .

for the international carriage of passengers by coach and bus for hire or reward

The holder of this licence (2) .....

is authorized to carry out international carriage of passengers by road for hire or reward in the territory of the Community pursuant to the conditions laid down by Council Regulation (EEC) No 684/92 of 16 March 1992, as amended by Regulation (EC) No 11/98 and in accordance with the general provisions of this licence.

Comments: .....

This licence is valid from ..... to .....

Issued in ....., on .....

..... (3)

(1) (B) Belgium, (DK) Denmark, (D) Germany, (GR) Greece, (E) Spain, (F) France, (IRL) Ireland, (I) Italy, (L) Luxembourg, (NL) Netherlands, (A) Austria, (P) Portugal, (FIN) Finland, (S) Sweden, (UK) United Kingdom.

(2) Full name or business name of the carrier.

(3) Signature and stamp of the competent authority or body issuing the licence.

### General provisions

1. This licence is issued pursuant to Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus, as amended by Regulation (EC) No 11/98.
2. This licence is issued by the competent authorities of the Member State of establishment of the carrier for hire or reward who:
  - is authorized in the Member State of establishment to undertake carriage by means of regular services, including special regular services or occasional services by coach and bus,
  - satisfies the conditions laid down in accordance with Community rules on admission to the occupation of road passenger transport operator in national and international transport operations,
  - meets legal requirements on road safety as far as the standards for drivers and vehicles are concerned.

3. This licence permits the international carriage of passengers by coach and bus for hire or reward on all transport links for journeys carried out in the territory of the Community:
  - where the place of departure and place of destination are situated in two different Member States, with or without transit through one or more Member States or third countries,
  - from a Member State to a third country and vice versa, with or without transit through one or more Member States or third countries,
  - between third countries crossing the territory of one or more Member States in transit,

and empty journeys in connection with transport operations under the conditions laid down by Regulation (EEC) No 684/92.

In the case of a transport operation from a Member State to a third country and vice versa, Regulation (EEC) No 684/92, is applicable, for the journey made in the territory of the Member State of picking up or setting down, once the necessary agreement between the Community and the third country in question has been concluded.

4. This licence is personal and non-transferable.
5. This licence may be withdrawn by the competent authority of the Member State of issue in particular where the carrier:
  - no longer meets the conditions laid down in Article 3 (1) of Regulation (EEC) No 684/92,
  - has supplied inaccurate information regarding the data required for the issue or renewal of the licence,
  - has committed a serious breach or repeated minor breaches of road safety regulations, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the provision, without authorization, of parallel or temporary services as referred to in Article 2 (1.3) of Regulation (EEC) No 684/92. The competent authorities of the Member State of establishment of the carrier who committed the breach may, *inter alia*, withdraw the Community licence or make temporary and/or partial withdrawals of the certified true copies of the Community licence.

These penalties are determined in accordance with the seriousness of the breach committed by the holder of the Community licence and with the total number of certified true copies that he possesses in respect of his international trade.

6. The original of the licence must be kept by the carrier. A certified true copy of the licence must be carried on the vehicle carrying out an international transport operation.
7. This licence must be presented at the request of any inspecting officer.
8. The holder must, on the territory of each Member State, comply with the laws, regulations and administrative measures in force in that State, particularly with regard to transport and traffic.



9. 'Regular services' means services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. Regular services shall be open to all, subject, where appropriate, to compulsory reservation.

The regular nature of the service shall not be affected by any adjustment to the service operating conditions.

Regular services require authorization.

'Special regular services' means regular services which provide for the carriage of specified categories of passengers, to the exclusion of other passengers, at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points.

Special regular services shall include:

- (a) the carriage of workers between home and work;
- (b) carriage to and from the educational institution for school pupils and students;
- (c) the carriage of soldiers and their families between their homes and the area of their barracks.

The fact that a special service may be varied according to the needs of users shall not affect its classification as a regular service.

Special regular services do not require authorization if they are covered by a contract between the organizer and the carrier.

The organization of parallel or temporary services, serving the same public as existing regular services, requires authorization.

'Occasional services' means services which do not fall within the definition of regular services, including special regular services, and whose main characteristic is that they carry groups constituted on the initiative of a customer or of the carrier himself. The organization of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to authorization in accordance with the procedure with the procedure laid down in Section II of Regulation (EEC) No 684/92. These services shall not cease to be occasional services solely because they are provided at certain intervals.

Occasional services do not require authorization.'

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