

Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (Text with EEA relevance)

CHAPTER II

CONDITIONS TO BE MET TO SATISFY THE REQUIREMENTS LAID DOWN IN ARTICLE 3

Article 6

Conditions relating to the requirement of good repute

1 Subject to paragraph 2 of this Article, [^{F1}the Minister must] determine the conditions to be met by undertakings and transport managers in order to satisfy the requirement of good repute laid down in Article 3(1)(b).

In determining whether an undertaking has satisfied that requirement, [^{F2}the competent authority may] consider the conduct of the undertaking, its transport managers and any other relevant person as may be determined by the [^{F3}competent authority]. Any reference in this Article to convictions, penalties or infringements shall include convictions, penalties or infringements of the undertaking itself, its transport managers and any other relevant person as may be determined by the [^{F3}competent authority] .

The conditions referred to in the first subparagraph shall include at least the following:

- a that there be no compelling grounds for doubting the good repute of the transport manager or the transport undertaking, such as convictions or penalties for any serious infringement of national rules in force in the fields of:
 - (i) commercial law;
 - (ii) insolvency law;
 - (iii) pay and employment conditions in the profession;
 - (iv) road traffic;
 - (v) professional liability;
 - (vi) trafficking in human beings or drugs; and
- b that the transport manager or the transport undertaking have not ^{F4}... been convicted of a serious criminal offence or incurred a penalty for a serious infringement ^{F4}... relating in particular to:
 - (i) the driving time and rest periods of drivers, working time and the installation and use of recording equipment;
 - (ii) the maximum weights and dimensions of commercial vehicles used in international traffic;
 - (iii) the initial qualification and continuous training of drivers;

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- (iv) the roadworthiness of commercial vehicles, including the compulsory technical inspection of motor vehicles;
- (v) access to the market in international road haulage or, as appropriate, access to the market in road passenger transport;
- (vi) safety in the carriage of dangerous goods by road;
- (vii) the installation and use of speed-limiting devices in certain categories of vehicle;
- (viii) driving licences;
- (ix) admission to the occupation;
- (x) animal transport.

2 For the purposes of point (b) of the third subparagraph of paragraph 1:

[^{F5}a the transport manager or the transport undertaking has in the United Kingdom, or in one or more Member States, been convicted of a serious criminal offence or incurred a penalty for one of the most serious infringements of rules as set out in Annex 4, the competent authority must carry out in an appropriate and timely manner a duly completed administrative procedure, which may include, if appropriate, a check at the premises of the undertaking concerned.]

The procedure shall determine whether, due to specific circumstances, the loss of good repute would constitute a disproportionate response in the individual case. Any such finding shall be duly reasoned and justified.

If the competent authority finds that the loss of good repute would constitute a disproportionate response, it may decide that good repute is unaffected. In such case, the reasons shall be recorded in the national register. The number of such decisions shall be indicated in the [^{F6}annual reports which the traffic commissioners make under section 55 of the Public Passenger Vehicles Act 1981].

[^{F7}b If the competent authority does not find that the loss of good repute would constitute a disproportionate response, the conviction or penalty shall lead to the loss of good repute; the competent authorities must take into account any information on the categories, types and degrees of seriousness of any infringements referred to in Annex IV and Commission Regulation (EU) 2016/403, including information received from Member States, when setting the priorities for checks pursuant to Article 12(1).

Additional measures, designed to amend non-essential elements of this Regulation by supplementing it and which relate to this list, may be adopted by the Minister.]

To this end, the [^{F8}Minister may by regulations]:

- (i) lay down the categories and types of infringement which are most frequently encountered;
- (ii) define the degree of seriousness of infringements according to their potential to create a risk of fatalities or serious injuries; and
- (iii) provide the frequency of occurrence beyond which repeated infringements shall be regarded as more serious, by taking into account the number of drivers used for the transport activities managed by the transport manager.

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3 The requirement laid down in Article 3(1)(b) shall not be satisfied until a rehabilitation measure or any other measure having an equivalent effect has been taken pursuant to the relevant provisions of national law.

[^{F9}4 Regulations under this Article may—

- a include supplementary, incidental, consequential, transitional, transitory or saving provision: and
- b make different provision for different cases.]

Textual Amendments

- F1** Words in Art. 6(1) substituted (31.12.2020) by [The Licensing of Operators and International Road Haulage \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/708\)](#), regs. 1(1), **9(7)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 6(1) substituted (31.12.2020) by [The Licensing of Operators and International Road Haulage \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/708\)](#), regs. 1(1), **9(7)(a)(ii)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 6(1) substituted (31.12.2020) by [The Licensing of Operators and International Road Haulage \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/708\)](#), regs. 1(1), **9(7)(a)(ii)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 6(1)(b) omitted (31.12.2020) by virtue of [The Licensing of Operators and International Road Haulage \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/708\)](#), regs. 1(1), **9(7)(a)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 6(2)(a) substituted (31.12.2020) by [The Licensing of Operators and International Road Haulage \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/708\)](#), regs. 1(1), **9(7)(aa)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 6(2)(a) substituted (31.12.2020) by [The Licensing of Operators and International Road Haulage \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/708\)](#), regs. 1(1), **9(7)(b)(i)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 6(2)(b) substituted (31.12.2020) by [The Licensing of Operators and International Road Haulage \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/708\)](#), regs. 1(1), **9(7)(aa)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 6(2)(b) substituted (31.12.2020) by [The Licensing of Operators and International Road Haulage \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/708\)](#), regs. 1(1), **9(7)(b)(ii)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Art. 6(4) inserted (31.12.2020) by [The Licensing of Operators and International Road Haulage \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/708\)](#), regs. 1(1), **9(7)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EC) No 1071/2009 of the European Parliament and of the Council, Article 6.