

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 5

Conditions relating to the requirement of establishment

[^{F1}1] In order to satisfy the requirement laid down in Article 3(1)(a), an undertaking [^{F2}that engages in the occupation of road passenger transport operator][^{F3}must]:

- (a) have an establishment situated in [^{F4}the United Kingdom] with premises in which it keeps its core business documents, in particular its accounting documents, personnel management documents, documents containing data relating to driving time and rest and any other document to which the competent authority must have access in order to verify compliance with the conditions laid down in this Regulation. [^{F5}The Minister] may require that establishments ^{F6}... also have other documents available at their premises at any time;
- (b) once an authorisation is granted, have at its disposal one or more vehicles which are registered or otherwise put into circulation ^{F7}... whether those vehicles are wholly owned or, for example, held under a hire-purchase agreement or a hire or leasing contract;
- (c) conduct effectively and continuously with the necessary administrative equipment its operations concerning the vehicles mentioned in point (b) and with the appropriate technical equipment and facilities at an operating centre situated in [^{F8}the United Kingdom].

[^{F9}2] In order to satisfy the requirement laid down in Article 3(1)(a), an undertaking that engages in the occupation of road haulage operator must satisfy the requirements set out in:

- a) if the undertaking is established in Great Britain, paragraph A1 of Schedule 3 to the 1995 Act; or
- b) if the undertaking is established in Northern Ireland, any regulations made for the purposes of section 12A(2)(a) of the 2010 Act.]

Textual Amendments

- F1** [Art. 5](#) renumbered as Art. 5(1) (17.3.2022) by [The Goods Vehicles \(Licensing of Operators\) \(Amendment\) Regulations 2022 \(S.I. 2022/293\)](#), regs. 2(1), **8(1)**
- F2** Words in [Art. 5\(1\)](#) inserted (17.3.2022) by [The Goods Vehicles \(Licensing of Operators\) \(Amendment\) Regulations 2022 \(S.I. 2022/293\)](#), regs. 2(1), **8(2)**

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- F3** Word in Art. 5 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(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 5(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(6)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 5(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(6)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 5(a) 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(6)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 5(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(6)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 5(c) 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(6)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Art. 5(2) inserted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), **8(3)**

Article 6

Conditions relating to the requirement of good repute

1 Subject to paragraph 2 of this Article, [^{F10}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, [^{F11}the competent authority may] consider the conduct of the undertaking, its transport managers and any other relevant person as may be determined by the [^{F12}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 [^{F12}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 ^{F13}... been convicted of a serious criminal offence or incurred a penalty for a serious infringement ^{F13}... relating in particular to:

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- (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;
- (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:

[^{F14}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 [^{F15}annual reports which the traffic commissioners make under section 55 of the Public Passenger Vehicles Act 1981].

[^{F16}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 [^{F17}Minister may by regulations]:

- (i) lay down the categories and types of infringement which are most frequently encountered;

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- (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.

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.

[^{F18}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

- F10** 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)
- F11** 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)
- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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)
- F16** 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)
- F17** 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)
- F18** 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)

Article 7

Conditions relating to the requirement of financial standing

1 In order to satisfy the requirement laid down in Article 3(1)(c), an undertaking [^{F19}that engages in the occupation of road passenger transport operator] shall at all times be able to meet its financial obligations in the course of the annual accounting year. To this end, the undertaking shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal capital and reserves totalling at least [^{F20}£8,000] when only one vehicle is used and [^{F20}£4,500] for each additional vehicle used.

F21
...

The accounting items referred to in the first subparagraph shall be understood as those defined in Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3) (g) of the Treaty on the annual accounts of certain types of companies⁽¹⁾.

2 By way of derogation from paragraph 1, the competent authority may agree or require that an undertaking demonstrate its financial standing by means of a certificate such as a bank guarantee or an insurance, including a professional liability insurance from one or more banks or other financial institutions, including insurance companies, providing a joint and several guarantee for the undertaking in respect of the amounts specified in the first subparagraph of paragraph 1.

3 The annual accounts referred to in paragraph 1, and the guarantee referred to in paragraph 2, which are to be verified, are those of the economic entity established in the [^{F22}UK and not those of any entity established in any other country].

4 [^{F23}In order to satisfy the requirement laid down in Article 3(1)(c), an undertaking that engages in the occupation of road haulage operator must satisfy the requirements set out in:

- a) if the undertaking is established in Great Britain, paragraph 6A of Schedule 3 to the 1995 Act; or
- b) if the undertaking is established in Northern Ireland, any regulations made for the purposes of section 12A(2)(c) of the 2010 Act.]

Textual Amendments

- F19** Words in Art. 7(1) inserted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), **9(1)**
- F20** Sums in Art. 7(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(8)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in Art. 7(1) 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(8)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in Art. 7(3) 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(8)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F23** Art. 7(4) inserted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), **9(2)**

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, CHAPTER II. (See end of Document for details)

Article 8

Conditions relating to the requirement of professional competence

1 In order to satisfy the requirement laid down in Article 3(1)(d), the person or persons concerned shall possess knowledge corresponding to the level provided for in Part I of Annex I in the subjects listed therein. That knowledge shall be demonstrated by means of a compulsory written examination which ^{F24}... may be supplemented by an oral examination. Those examinations shall be organised in accordance with Part II of Annex I. [^{F25}The person concerned may require] training prior to the examination.

[^{F26}2 The persons concerned must sit the examination in the United Kingdom if this is where they have their normal residence when working.]

‘Normal residence’ shall mean the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who, consequently, lives in turn in different places situated in [^{F27}the United Kingdom and one] or more Member States, shall be regarded as being in the place of his personal ties, provided that such person returns there regularly. This last condition shall not be required where the person is living in [^{F28}the United Kingdom or] a Member State in order to carry out a task of a definite duration. Attendance at a university or school shall not imply transfer of normal residence.

[^{F29}3 Only the authorities or bodies duly authorised for this purpose in the United Kingdom, in accordance with defined criteria, may organise and certify the written and oral examinations referred to in paragraph 1. A competent authority must regularly verify that the conditions under which those authorities or bodies organise the examinations are in accordance with Annex I.]

4 [^{F30}A competent authority may duly authorise, in accordance with criteria defined by it], bodies to provide applicants with high-quality training to prepare them for the examinations and transport managers with continuous training to update their knowledge if they wish to do so. [^{F31}A competent authority must] regularly verify that these bodies at all times fulfil the criteria on the basis of which they were authorised.

5 [^{F32}A competent authority] may promote periodic training on the subjects listed in Annex I at 10-year intervals to ensure that transport managers are aware of developments in the sector.

6 [^{F33}A competent authority] may require persons who possess a certificate of professional competence, but who have not managed a road haulage undertaking or a road passenger transport undertaking in the last 5 years, to undertake retraining in order to update their knowledge regarding the current developments of the legislation referred to in Part I of Annex I.

7 [^{F34}A competent authority] may exempt the holders of certain higher education qualifications or technical education qualifications issued in [^{F34}the United Kingdom], specifically designated to this end and entailing knowledge of all the subjects listed in Annex I from the examination in the subjects covered by those qualifications. The exemption shall only apply to those sections of Part I of Annex I for which the qualification covers all subjects listed under the heading of each section.

[^{F34}A competent authority] may exempt from specified parts of the examinations holders of certificates of professional competence valid for national transport operations in [^{F34}the United Kingdom].

8 A certificate issued by the authority or body referred to in paragraph 3 shall be produced as proof of professional competence. That certificate shall not be transferable to any other person. It shall be drawn up in accordance with the security features and the model certificate set out in Annexes II and III and shall bear the seal of the duly authorised authority or body which issued it.

[^{F35}8A A certificate issued to a person under paragraph 8 is not valid for the duration of any order disqualifying the person from acting as a transport manager under:

- a) paragraph 16(2) of Schedule 3 to the 1995 Act; or
- b) regulation 15(2) of the Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012.]

[^{F36}9 The Minister may by regulations adapt Annexes 1, 2 and 3 due to technical progress.]

[^{F37}9A Regulations under this Article may—

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

^{F38}10

Textual Amendments

- F24** Words in Art. 8(1) 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(9)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F25** Words in Art. 8(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(9)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F26** Words in Art. 8(2) 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(9)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in Art. 8(2) 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(9)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in Art. 8(2) 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(9)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F29** Art. 8(3) 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(9)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F30** Words in Art. 8(4) 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(9)(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F31** Words in Art. 8(4) 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(9)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F32** Words in Art. 8(5) 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(9)(e)**; 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, CHAPTER II. (See end of Document for details)

- F33** Words in Art. 8(6) 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(9)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in Art. 8(7) 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(9)(f)**; 2020 c. 1, Sch. 5 para. 1(1)
- F35** Art. 8(8A) inserted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), **10**
- F36** Art. 8(9) 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(9)(g)**; 2020 c. 1, Sch. 5 para. 1(1)
- F37** Art. 8(9A) 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(9)(h)**; 2020 c. 1, Sch. 5 para. 1(1)
- F38** Art. 8(10) 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(9)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F39 Article 9

Exemption from examination

Textual Amendments

- F39** Art. 9 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(10)**; 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, CHAPTER II. (See end of Document for details)

(1) OJ L 222, 14.8.1978, p. 11.

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, CHAPTER II.