

1991 No. 257

EUROPEAN COMMUNITIES

TRANSPORT

**The Road Transport (Qualifications of Operators)
(Amendment) Regulations (Northern Ireland) 1991***Made* 19th June 1991*Coming into operation* 22nd July 1991

The Department of the Environment, being a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the regulation and supervision of qualifications of persons engaged in road transport, in exercise of the powers conferred by that section, and by section 45 of the Transport Act (Northern Ireland) 1967(c) and of all other powers enabling it in that behalf, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Road Transport (Qualifications of Operators) (Amendment) Regulations (Northern Ireland) 1991 and shall come into operation on 22nd July 1991.

Interpretation

2.—(1) In these Regulations “the Act of 1967” means the Transport Act (Northern Ireland) 1967.

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to a measure of the Northern Ireland Assembly.

Amendments of the Act of 1967

3.—(1) The Act of 1967 shall have effect subject to the following provisions of these Regulations.

(2) The amendments specified in these Regulations shall not affect applications for licences made before the coming into operation of these Regulations.

Amendment of Part III of the Act of 1967 (road freight operators' licences)

4. In section 15A(1)(a)(e) (conditions of operators' licences) for the words “may attach to the licence” substitute “may attach conditions to the licence and in particular”.

(a) S.I. 1975/1707

(b) 1972 c. 68

(c) 1967 c. 37 (N.I.)

(d) 1954 c. 33 (N.I.)

(e) Section 15A was inserted by regulation 4 of S.R. 1977 No. 327 and amended by regulation 3(2) of S.R. 1981 No. 2

Amendment of Part IV of the Act of 1967 (general provisions relating to licences)

5. Section 46A(a) (interpretation of certain expressions) shall be amended as follows:

(1) For subsection (2) substitute—

“(2) (a) “conviction” means—

(i) any conviction mentioned in section 29(1) or any conviction of contravening any provision of the law of Great Britain or of a country or territory outside the United Kingdom corresponding to any such conviction, or

(ii) any other conviction of an offence which is a serious offence as defined in subsection (3B) or a road transport offence as defined in subsection (3C),

not being in either case a spent conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978(b); and a reference to a person being convicted of an offence shall be construed accordingly;

(b) “a sentence of imprisonment” includes any form of custodial sentence or order other than one under the enactments relating to mental health and “a community service order” means an order under Article 7 of the Treatment of Offenders (Northern Ireland) Order 1976(c); and

(c) references to an offence under the law in force in any part of the United Kingdom include a reference to a civil offence within the meaning of the Army Act 1955(d), the Air Force Act 1955(e) or the Naval Discipline Act 1957(f).”

(2) After subsection (3) insert the following subsections—

“(3A) The Department shall determine that a person or any partner, employee or agent of the person or, in the case of a company, any officer of the company is not of good repute if he—

(a) has been convicted of serious offences; or

(b) has been repeatedly convicted of road transport offences.

(3B) For the purposes of subsection (3A)(a) a serious offence is—

(a) an offence under the law in force in any part of the United Kingdom for which a sentence of imprisonment for a term exceeding 3 months, a fine exceeding level 4 on the standard scale or a community service order for more than 60 hours was imposed; and

(a) Section 46A was inserted by regulation 5 of S.R. 1977 No. 327 and amended by regulation 3 of S.R. 1981 No. 2

(b) S.I. 1978/1908 (N.I. 27) as amended by the Armed Forces Act 1981 c. 55 Sch. 4 and S.I. 1986/595 (N.I. 4) Sch. 5 Part II

(c) S.I. 1976/226 (N.I. 4)

(d) 1955 c. 18

(e) 1955 c. 19

(f) 1957 c. 53

(b) any corresponding offence under the law of a country or territory outside the United Kingdom for which a corresponding punishment was imposed.

(3C) For the purposes of subsection (3A)(b) a road transport offence is—

(a) an offence under the law in force in any part of the United Kingdom relating to road transport, including in particular drivers' hours and rest periods, the weights, dimensions and taxation of commercial vehicles and road and vehicle safety; and

(b) any corresponding offence under the law of a country or territory outside the United Kingdom.

(3D) For the purposes of subsection (3A) spent convictions shall be disregarded.

(3E) Subsection (3A) is without prejudice to the Department to determine that a person is not of good repute for reasons other than convictions of the kind there mentioned."

(3) After subsection (4) insert the following subsections—

"(4A) Subject to subsection (4C) an applicant for, or the holder of, a road service licence authorising the use of vehicles for international operations shall not be considered to be of appropriate financial standing unless he has available capital and reserves of an amount equal to at least—

(a) 3,000 European Currency Units multiplied by the number of vehicles which are to be used or are used under the licence; or

(b) 150 European Currency Units multiplied by the number of passenger seats in that number of vehicles,

whichever is the less.

(4B) Subject to subsection (4C) an applicant for, or the holder of, an operator's licence authorising the use of vehicles for international operations shall not be considered to be of appropriate financial standing unless he has available capital and reserves of an amount equal to at least—

(a) 3,000 European Currency Units multiplied by the number of vehicles which are to be used or are used under the licence; or

(b) 150 European Currency Units multiplied by the number of tonnes of the aggregate of the relevant maximum weights of such vehicles,

whichever is the less.

(4C) The provisions of subsections (4A) and (4B) shall apply only in relation to a licence issued on or after 22nd July 1991 other than a licence issued to a person who has continuously held a licence since before that date and up to the time when the new licence is issued.

(4D) In subsection (4B) “relevant maximum weight” has the same meaning as in Article 19D of the Road Traffic (Northern Ireland) Order 1981(a).”.

(4) Subsections (5)(b), (5A)(b), (6)(b) and (6A)(b) shall cease to have effect.

(5) In subsections (5)(c)(ii) and (6)(c)(ii) after the words “12th November 1974” insert “as amended by Council Directive (EEC) 89/438 of 21st June 1989”(b).

(6) In subsections (5)(e) and (6)(e) the words “or been employed” to the end shall cease to have effect.

(7) In subsections (5A) and (6A) the words “or was so employed at that time” shall cease to have effect.

Amendment of Regulations

6. In the Road Transport (Qualifications of Operators) (Amendment) Regulations (Northern Ireland) 1981(c) in regulation 4(1) after the words “Council Directive (EEC) 74/561” and “Council Directive (EEC) 74/562” and in regulation 4(2) after the words “Council Directive (EEC) 77/796 of 12th December 1977” insert, in each case, “as amended by Council Directive (EEC) 89/438 of 21st June 1989”.

Sealed with the Official Seal of the Department of the Environment on 19th June 1991.

(L.S.)

Trevor Pearson

Assistant Secretary

(a) S.I. 1981 No. 154 (N.I. 1); Article 19D was inserted by Sch. 1 to the Road Traffic (Amendment) (Northern Ireland) Order 1991 (S.I. 1991/197 (N.I. 3))

(b) O.J. No. L212, 22.7.89, p. 101

(c) S.R. 1981 No. 2

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend Part III of the Transport Act (Northern Ireland) 1967 (the Act of 1967) in relation to road freight operators' licences and Part IV of the Act of 1967 to implement Articles 1(4) and (5) and 2(3) and (4) of Council Directive (EEC) No. 438/89 of 21st June 1989 (O.J. No. L212, 22.7.89, p. 101) amending Council Directive (EEC) No. 561/74 of 12th November 1974 on admission to the occupation of road haulage operator in national and international transport operations (O.J. No. L308, 19.11.74, p. 18) and Council Directive (EEC) No. 562/74 of 12th November 1974 on admission to the occupation of road passenger transport operator in national and international transport operations (O.J. No. L308, 19.11.74, p. 23).

The principal changes made by the Regulations are—

- (1) Regulation 4 amends section 15A of the Act of 1967 to enable the Department to attach conditions to a road freight operator's licence in addition to the conditions already specified in the Act.
- (2) Regulation 5(2) inserts into section 46A of the Act of 1967 new subsections (3A), (3B), (3C), (3D) and (3E) which require the Department to determine that an individual is not of good repute if he—
 - (a) has been convicted of serious offences; or
 - (b) has been repeatedly convicted of road transport offences.

A "serious offence" is one for which a sentence of imprisonment of more than 3 months, a fine exceeding level 4 on the standard scale (currently £1,000) or a community service order is imposed and a "road transport offence" is an offence under the law relating to road transport, in particular drivers' hours and rest periods, the weights, dimensions and taxation of commercial vehicles and road and vehicle safety.

- (3) Regulation 5(3) inserts into section 46A of the Act of 1967 new subsections (4A) and (4B) which specify the minimum capital and reserves that must be available to an applicant for, or holder of, a road service licence or an operator's licence authorising the use of vehicles for international operations if he is to be considered to be of appropriate financial standing (Articles 1.5 and 2.4 of the 1989 Directive). These provisions shall apply only to licences issued on or after these Regulations come into operation, but not to renewals of existing licences.

Copies of the EEC Directives referred to in these Regulations may be obtained from Her Majesty's Stationery Office.