

2002 No. 116

EUROPEAN COMMUNITIES

ROAD TRAFFIC AND VEHICLES

**Road Service Licensing (Community Licences) Regulations
(Northern Ireland) 2002**

Made 19th March 2002

Coming into operation 1st May 2002

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 international carriage of passengers and goods by road, and in particular any scheme (including a quota scheme) for making it possible for carriers in Member States to conduct road transport operations on routes between Member States, in exercise of the powers conferred by that section and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Road Service Licensing (Community Licences) Regulations (Northern Ireland) 2002 and shall come into operation on 1st May 2002.

(2) In these Regulations—

“the 1967 Act” means the Transport Act (Northern Ireland) 1967(c);

“the 1981 Order” means the Road Traffic (Northern Ireland) Order 1981(d);

“constable” does not include a member of the Naval, Military or Royal Air Force Police;

“the Council Regulation” means Council Regulation (EEC) No. 684/92 of 16th March 1992 on common rules for the international carriage of passengers by coach and bus(e) as amended by Council Regulation (EC) No. 11/98 of 11th December 1997(f);

“the Department” means the Department of the Environment;

“international operation” means a passenger transport operation starting or terminating in the United Kingdom and involving an international

(a) S.I. 1972/1811
(b) 1972 c. 68
(c) 1967 c. 37 (N.I.) as amended by S.R. & O. (N.I.) 1972 No. 359, Article 5(4), S.R. 1977 No. 327, S.R. 1981 No. 2 and S.I. 1984/1986 (N.I. 15), Articles 10 to 14
(d) S.I. 1981/154 (N.I.): *see* Article 2(2) for the definition of “Department”
(e) O.J. No. L74, 20.3.92, p. 1
(f) O.J. No. L4, 8.1.98, p. 1

journey by the vehicle concerned, whether or not any driver enters or leaves the United Kingdom with that vehicle;

“national operation” means a passenger transport operation wholly within the United Kingdom;

“public service vehicle” has the meaning assigned to it by Article 2(2) of the 1981 Order;

“road service licence” means a road service licence within the meaning of section 4 of the 1967 Act,

and other expressions which are also used in the Council Regulation have the meaning which they bear in that Regulation.

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

Use of public service vehicles without Community licence

2. A person who uses a vehicle in Northern Ireland in contravention of Article 3a(1) of the Council Regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Competent authority

3. As respects Northern Ireland, the competent authority for the purposes of Article 3a of the Council Regulation and of these Regulations shall be the Department.

Entitlement to the issue of a Community licence

4. A person shall be entitled to be issued with a Community licence under Article 3a(2) of the Council Regulation if he holds a road service licence which authorises use on both national and international operations.

Right of appeal

5. A person who—

(a) is aggrieved by the refusal of the Department to issue a Community licence to him; or

(b) being the holder of a Community licence, is aggrieved by the decision of the Department to withdraw it,

may appeal to a county court, giving notice of the appeal to the Department.

Effect of failure to comply with conditions governing use of Community licence

6. A person who uses a vehicle in Northern Ireland under a Community licence and, without reasonable excuse, fails to comply with any of the conditions governing the use of that licence under the Council Regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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

Authorised inspecting officers

7. Authorised inspecting officers for the purposes of the Council Regulation shall be examiners appointed under Article 74 of the Road Traffic (Northern Ireland) Order 1995^(a) and constables authorised so to act by or on behalf of the Chief Constable.

Return of documents

8.—(1) Where a Community licence is withdrawn by the Department in accordance with condition 5 of the model Community licence set out in the Annex to the Council Regulation, the holder of that licence shall within 7 days of such withdrawal return to the Department the original licence and all certified true copies of it.

(2) The holder of a Community licence shall return to the Department such certified true copies of the licence as the Department may require pursuant to any decision of the Department under the condition 5 referred to in paragraph (1) to withdraw certified true copies of the Community licence.

(3) A person who, without reasonable excuse, fails to comply with any provision of paragraph (1) or (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Supply of information

9.—(1) The holder of a Community licence shall furnish such information as the Department may reasonably require from time to time to enable it to decide whether the holder is entitled to retain that licence.

(2) A person who, without reasonable excuse, fails to supply any information required under paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Death, bankruptcy etc. of holder of Community licence

10. Where a person holds a road service licence as the successor referred to in regulation 7 of the Road Service Licensing Regulations (Northern Ireland) 1989^(b), such person shall also be treated as the holder of any Community licence held by the grantee of that road service licence, for the same period as is specified or determined by that regulation.

Amendment of the Road Traffic (Northern Ireland) Order 1981

11.—(1) At the end of Schedule 1 to the 1981 Order there shall be added—

“Article 3a(3) of Council Regulation (EEC) No. 684/92 of 16th March 1992 on common rules for the international carriage of passengers by bus and coach as amended by

To require the production of a certain document which is required to be kept on board certain passenger vehicles.”.

(a) S.I. 1995/2994 (N.I. 18)
(b) S.R. 1989 No. 440

Council Regulation (EC) No.
11/98 of 11th December 1997.

(2) At the end of Schedule 2 to the 1981 Order, there shall be added—
“Regulations 2 and 6 of the Road Service Licensing (Community Licences) Regulations (Northern Ireland) 2002. To impose a penalty for contravention of certain requirements relating to international passenger services.”.

Sealed with the Official Seal of the Department of the Environment on
19th March 2002.

(L.S.)

Dermot Nesbitt
Minister of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations give effect in Northern Ireland to Article 3a of Council Regulation (EEC) No. 684/92 of 16th March 1992 (“the Council Regulation”) on common rules for the international carriage of passengers by coach and bus, as amended by Council Regulation (EC) No. 11/98 of 11th December 1997. The Council Regulation establishes a Community-wide licence allowing carriers operating public service vehicles access to the market for the international carriage of passengers by road.

The Council Regulation, which has direct effect in Member States, prohibits the carriage of passengers in public service vehicles between Member States without a Community licence (Article 3a(1)). These Regulations enforce the prohibition by imposing a penalty for breach (regulation 2) and designating the Department of the Environment (“the Department”) as the competent authority for the purposes of the Council Regulation (regulation 3).

The Council Regulation lays down the conditions for the issue and use of such licences. Each Member State is to issue a Community licence to any carrier established in that State who is entitled to carry out international passenger transport operations. In Northern Ireland such entitlement is signified by the issue under section 4 of the Transport Act (Northern Ireland) 1967 of a road service licence covering both national and international transport operations. The Regulations accordingly confer entitlement to a Community licence on the basis of the Northern Ireland licence (regulation 4).

The form of the Community licence is prescribed in the Council Regulation (Article 3a(1)) and the Annex), as is the period of validity (Article 3a(4)) and the grounds for refusal or withdrawal of the licence (Article 3a(7) and condition 5 of the model licence set out in the Annex). The holder of a licence must keep the original, and a certified copy must be kept in each public service vehicle carrying out an international transport operation (Article 3a(2) and condition 6 of the model licence). The original licence or a certified true copy must be produced to an authorised inspecting officer on demand (Article 3a(3) and condition 7 of the model licence). Regulation 7 designates authorised officers for this purpose. Regulation 6 makes it an offence to fail to comply with any of the conditions governing the use of the licence.

The Regulations implement Article 3a(8) of the Council Regulation by conferring a right of appeal against refusal or withdrawal of the licence (regulation 5). They also require a holder to return the Community licence and all certified true copies if it is withdrawn, and to return certified true copies if they are withdrawn (regulation 8). Regulation 9 provides for the holder to supply information to the Department, and makes it an offence to fail to comply without reasonable excuse.

Provision is made for the automatic transfer of a Community licence in certain circumstances following the death, bankruptcy or incapacity of the holder (regulation 10).

Regulation 11 amends the Road Traffic (Northern Ireland) Order 1981, so that an authorised inspecting officer may—

- (a) require the production of a certified copy of a Community licence, which must be kept on board certain passenger vehicles;
- (b) restrict or prohibit the driving of a vehicle on the road without a Community licence or in contravention of any of the conditions governing the use of that licence.

Copies of the Council Regulations referred to in these Regulations can be obtained from The Stationery Office Bookshop, 16 Arthur Street, Belfast, BT1 4GD.

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