
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019

PART 3

International Road Haulage

Amendment of the Road Traffic (Foreign Vehicles) Act 1972

10. In Schedule 1 to the Road Traffic (Foreign Vehicles) Act 1972(1) (provisions conferring functions on examiners), in column 1, in the entry relating to Article 4(6) of Regulation (EC) No 1072/2009, after “haulage market” insert “as it has effect in EU law(2)”.

Amendment of the HGV Road User Levy Act 2013

11. In section 4(8) of the HGV Road User Levy Act 2013(3) (liability for a levy from Community licence holders), after “haulage market” insert “as it has effect in EU law(4)”.

Amendment of the Road Traffic (Northern Ireland) Order 1981

12.—(1) The Road Traffic (Northern Ireland) Order 1981(5) is amended as follows.

(2) In Schedule 1, in column 1, in the entry relating to Article 4(6) of Regulation (EC) No 1072/2009(6), after “haulage market” insert “as it has effect in EU law”.

(3) In Schedule 2, in column 2, in the entry relating to regulation 3 of the Goods Vehicles (Community Licence) Regulations (Northern Ireland) 2013(7), for “Community licence” substitute “UK licence for the Community, Community licence, driver attestation or an EU driver attestation”.

Amendment of Regulation (EC) 1072/2009

13.—(1) Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market is amended as follows.

(2) In Article 1—

(a) for paragraph 1 and 2, substitute—

(1) 1972 c. 27. A relevant amendment to column 1 of Schedule 1 was made by regulation 16(2)(b) of the Goods Vehicles (Community Licences) Regulations 2011 (S.I. 2011/2633).

(2) OJNo. L 300, 14.11.2009, p. 72.

(3) 2013 c. 7.

(4) OJ No. L 300, 14.11.2009, p. 72.

(5) S.I. 1981/154 (N.I. 1).

(6) Entry inserted by S.R. 2013 No. 115.

(7) Entry inserted by S.R. 2013 No. 115.

“1. This Regulation applies to the international carriage of goods by road for hire or reward for journeys partly carried out within the United Kingdom.

2. In the event of carriage from the United Kingdom to a Member State or to a third country and vice versa, this Regulation applies to any part of the journey within the territory of the United Kingdom.”;

- (b) omit paragraph 3;
 - (c) in paragraph 5, in the words before point (a), before “Community licence” insert “UK licence for the Community or a”;
 - (d) in paragraph 6, for “Member State authorises its nationals to” substitute “UK nationals may”.
- (3) In Article 2—
- (a) in paragraph 1, after each occurrence of the words “registered in” insert “the United Kingdom or”;
 - (b) in paragraph 2, for points (a) to (d) substitute—
 - “(a) a laden journey undertaken by a vehicle where the point of departure is in the United Kingdom and the point of arrival is in a Member State, or vice versa, with or without transit through the United Kingdom or one or more Member States or third countries;
 - (b) a laden journey undertaken by a vehicle from the United Kingdom to a third country or vice versa with or without transit through the United Kingdom or one or more Member States or third countries;
 - (c) a laden journey undertaken by a vehicle where the point of departure is a Member State and the point of arrival is a third country, or vice versa, with transit through the United Kingdom;
 - (d) a laden journey undertaken by a vehicle between third countries, with transit through the United Kingdom;
 - (e) a laden journey undertaken by a vehicle between two Member States, with transit through the United Kingdom; or
 - (f) an unladen journey in conjunction with the carriage referred to in points (a) to (e);”;
 - (c) for paragraph 3, substitute—
 - “3. ‘host State’ means a State, including the United Kingdom or a Member State, in which the haulier operates other than the haulier’s State of establishment;”;
 - (d) in paragraph 4 and 6, omit “Member”;
 - (e) in paragraph 7—
 - (i) for “Community road transport legislation” substitute “retained EU law”;
 - (ii) before “Community licence” insert “UK licence for the Community or a”;
 - (f) after paragraph 7, insert—
 - “8. ‘Community licence’ means a licence issued under Article 4 of Regulation (EC) No 1072/2009⁽⁸⁾ of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market as it applies in EU law as amended from time to time;

(8) OJ No. L 300, 14.11.2009, p. 72.

9. ‘the Northern Ireland department’ means the Department for Infrastructure;

10. ‘competent authority’ means in Great Britain, a traffic commissioner, and in Northern Ireland, the Northern Ireland department;

11. ‘EU driver attestation’ means a driver attestation issued under Article 5 of Regulation (EC) No 1072/2009⁽⁹⁾ of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market as it has effect in EU law as amended from time to time;

12. ‘Minister’ means—

(a) in relation to England, Scotland or Wales, the Secretary of State;

(b) in relation to Northern Ireland, the Northern Ireland department;

13. ‘traffic commissioner’ has the same meaning as in the Public Passenger Vehicles Act 1981⁽¹⁰⁾;

14. ‘Regulation (EC) No 1071/2009’ means 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.”.

(4) For the paragraph in Article 3, substitute—

“International carriage shall be carried out subject to possession of a UK licence for the Community or a Community licence issued by a Member State and, if the driver is a national of a third country, in conjunction with a driver attestation issued in accordance with this Regulation or an EU driver attestation.”.

(5) In Article 4—

(a) in the heading, for “Community licence” substitute “UK licence for the Community”;

(b) for paragraphs 1 to 3, substitute—

“1. The UK licence for the Community must be issued by a competent authority in accordance with this Regulation to any haulier carrying goods by road for hire or reward who:

(a) is established in the area, region, or country within the UK for which that competent authority exercises its powers in accordance with UK legislation; and

(b) is entitled, in accordance with UK legislation concerning admission to the occupation of road haulage operator, to carry out the international carriage of goods by road.

2. A UK licence for the Community must be issued for renewable periods of up to 10 years.

Community licences and certified copies issued to hauliers established in the United Kingdom under Regulation (EC) 1071/2009⁽¹¹⁾ and valid before the exit day will remain valid and treated as a UK licence for the Community until the date of their expiry.

The Minister may by regulations adjust the period of validity of the UK licence for the Community to take account of technical progress, in particular, in the national electronic registers of road transport undertakings as provided for in Article 16 of Regulation (EC) No 1071/2009.

⁽⁹⁾ OJ No. L 300, 14.11.2009, p. 72.

⁽¹⁰⁾ 1981 c. 14.

⁽¹¹⁾ OJ No. L 300, 14.11.2009, p. 51.

- 3.** A competent authority must issue the holder with the original of the UK licence for the Community, which must be kept by the haulier, and the number of certified true copies corresponding to the number of vehicles at the disposal of the holder of the UK licence for the Community, whether those vehicles are wholly owned or, for example, held under a hire purchase, hire or leasing contract.”;
- (c) in paragraph 4—
- (i) in the first subparagraph, for “Community licence” substitute “UK licence for the Community”;
- (ii) for the second subparagraph substitute—
- “The Minister may by regulations adapt Annexes 1 and 2 to take account of technical progress.”;
- (d) in paragraph 5, for every occurrence of “Community licence” substitute “UK licence for the Community” and for “issuing authority” substitute “competent authority”;
- (e) in paragraph 6, for every occurrence of “Community licence” substitute “UK licence for the Community”;
- (f) after paragraph 6, insert—
- “7. Regulations under this Article may—
- (a) include supplementary, incidental, consequential, transitional, transitory or saving provision: and
- (b) make different provision for different cases.”.
- (6) In Article 5—
- (a) omit paragraph 1 and after it insert—
- “1A. A driver attestation must be issued by the Minister in accordance with this Regulation to any haulier who:
- (a) is the holder of a UK licence for the Community;
- (b) employs a driver who is lawfully permitted to seek employment in the United Kingdom; and
- (c) has employed that driver in compliance with any conditions of employment and vocational training laid down in the United Kingdom.”;
- (b) omit paragraph 2 and after it insert—
- “2A. The driver attestation must be issued, at the request of the holder of the UK licence for the Community, for each driver who is not a national of the United Kingdom, a Member State or the EEA, nor a person lawfully in the United Kingdom who has a right to work in the United Kingdom whom that haulier lawfully employs, or who is put at the disposal of the haulier. Each driver attestation must certify that the driver named therein is employed in accordance with the conditions laid down in paragraph 1.”;
- (c) for paragraph 4, substitute—
- “4. The Minister may by regulation adapt Annex 3 to take account of technical progress.”;
- (d) for paragraphs 6 and 7, substitute—
- “6. The driver attestation shall belong to the haulier, who puts it at the disposal of the driver designated therein when that driver drives a vehicle using a UK licence for the Community issued to that haulier. A certified true copy of the driver attestation issued

under this Regulation shall be kept at the haulier's premises. An EU driver attestation shall be presented to any authorised inspecting officer if that officer requests it.

7. The Minister must determine the period of validity of a driver attestation, subject to a maximum validity of 5 years.

The driver attestation must be valid only as long as the conditions under which it was issued are satisfied. If those conditions are no longer satisfied, the Minister may require the haulier to return the driver attestation immediately.”;

(e) after paragraph 7, insert—

“8. Regulations under this Article may—

(a) include supplementary, incidental, consequential, transitional, transitory or saving provision: and

(b) make different provision for different cases.”.

(7) In Article 6—

(a) in paragraph 1—

(i) for each reference to “Community licence” substitute “UK licence for the Community”;

(ii) for “authorities of the Member State of establishment” substitute “authority”;

(b) in paragraph 2—

(i) for “competent authorities of the Member State of establishment shall” substitute “Minister must”;

(ii) omit the words “in that Member State”.

(8) In Article 7—

(a) in the heading, for “Community licence” substitute “UK licence for the Community”;

(b) for paragraph 1 substitute—

“1. If the conditions laid down in Article 4(1) are not satisfied, the competent authority must reject an application for the issue or renewal of a UK licence for the Community by means of a reasoned decision in each case. If the conditions referred to in Article 5(1) are not satisfied, the Minister must reject an application to issue a driver attestation by means of a reasoned decision in each case.”;

(c) in paragraph 2—

(i) for the words before point (a) substitute—

“2. A competent authority must withdraw a UK licence for the Community, or the Secretary of State or the Northern Ireland department must withdraw a driver attestation, where the holder.”;

(ii) in point (b), for “Community licence” substitute “UK licence for the Community”.

(9) In Article 8—

(a) in paragraph 1, after “operations” insert “within the United Kingdom”;

(b) in paragraph 2—

(i) in the first subparagraph, for every reference to “host Member State” substitute “United Kingdom”;

(ii) for the second subparagraph substitute—

“Within the time limit referred to in the first subparagraph, hauliers are limited to carrying out one cabotage operation out of the three cabotage operations permitted

- in the United Kingdom within 3 days of the unladen entry into the territory of the United Kingdom.”;
- (c) in the first subparagraph of paragraph 3, for “host Member State” substitute “United Kingdom”.
- (10) In Article 9—
- (a) in paragraph 1—
- (i) in the words before point (a)—
- (aa) for “Community legislation” substitute “retained EU law”; and
- (bb) for “host Member State” substitute “United Kingdom”;
- (ii) for the second subparagraph, substitute—
- “The weights and dimensions referred to in point (b) of the first subparagraph may, where appropriate, exceed those applicable in the haulier’s Member State of establishment, but they may under no circumstances exceed the limits set by the United Kingdom.”;
- (b) in paragraph 2, for “host Member State” substitute “United Kingdom”.
- (11) In Article 10—
- (a) for paragraph 1, substitute—
- “**1.** In the event of serious disturbance of the national transport market in a given geographical area due to, or aggravated by, cabotage, the Secretary of State may consider whether or not safeguard measures are necessary and may by Order provide for measures as regards operations carried on by resident or non-resident hauliers.”;
- (b) in paragraph 2, for the definition of “geographical area” substitute—
- “‘geographical area’ means an area covering all or part of the territory of any part of the United Kingdom.”;
- (c) in paragraph 3—
- (i) for subparagraph 1, substitute—
- “**3.** The Secretary of State may consider whether or not safeguard measures are necessary with a view to adopting them if they are necessary.”;
- (ii) omit subparagraph 4;
- (d) for paragraph 4, substitute—
- “**4.** The Secretary of State must consult the competent authority and such other persons as the Secretary of State thinks fit before making any Order under paragraph 1.”
- (e) omit paragraph 5;
- (f) before paragraph 6, insert—
- “**5A.** Where the Secretary of State considers that the measures adopted by Order pursuant to paragraph 1 need to be prolonged beyond the period provided for in the third subparagraph of paragraph 3, the Secretary of State must publish a consultation document relating to the proposal to so extend the measures. The proposals must set out:
- (a) the reasons why it is necessary to extend the measures;
- (b) the forecasted economic impact of the measures on hauliers;
- (c) the expected time after which the need for measures to continue must be reviewed.”;
- (g) omit paragraph 6;

(h) after paragraph 6, insert—

“7. If after considering the responses to the consultation carried out in accordance with paragraph 5A, the Secretary of State decides that it is appropriate to continue the safeguard measures beyond the period provided in paragraph 3, or to institute alternative measures, the Secretary of State may by regulations continue those measures or adopt alternative measures.

8. The powers conferred by this Article on the Secretary of State shall be exercisable by statutory instrument except in the case of any Order made under paragraph 1 or renewed under paragraph 3.

9. Any regulations under this Article may—

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

(12) Omit Article 11.

(13) In Article 12—

(a) in the heading, delete “by the Member State of establishment”;

(b) in paragraph 1—

(i) for the words before point (a), substitute—

“1. In the event that a competent authority is notified of a serious infringement of this Regulation, or Regulation (EC) 1072/2009(12) as it applies in the EU and amended from time to time, by any haulier who is established in the United Kingdom, the appropriate competent authority for that haulier must take appropriate action which may include a warning to pursue the matter which may lead, inter alia, to the imposition of the following administrative penalties:”;

(ii) from point (a) to the end of paragraph 1, for each reference to “Community licence” substitute “UK licence for the Community”;

(c) in paragraph 2—

(i) for the first words before point (a), substitute—

“2. In the event that the Minister, is notified of a serious infringement regarding any misuse whatsoever of driver attestations by a haulier who is established in the UK, the Minister must impose appropriate penalties, such as:”;

(ii) from point (d) to the end of paragraph 2, for each reference to “Community licence” substitute “UK licence for the Community”;

(d) in paragraph 3—

(i) in the first subparagraph, for “competent authorities of the Member State of establishment shall communicate to the competent” substitute “relevant UK authorities must communicate to the relevant”;

(ii) in the second subparagraph, for “competent authorities of the Member State of establishment shall” substitute “relevant UK authorities must”;

(e) in paragraph 4, for “competent authorities shall” substitute “relevant UK authorities must”;

(f) for paragraph 5, substitute—

“5. The relevant UK authority may also bring proceedings against the haulier before a competent national court or tribunal. The relevant UK authority must inform the relevant authority of the host Member State of any decisions taken to this effect.”;

- (g) in paragraph 6, for “Member States shall ensure that hauliers” substitute “Hauliers”;
- (h) after paragraph 6, insert—

“7. In this Article, ‘relevant UK authority’ means:

- (a) a competent authority dealing with any matter for the purposes of paragraph 1;
- (b) the Minister dealing with any matter for the purposes of paragraph 2.”.

(14) In Article 13—

(a) in paragraph 1—

(i) for the words before point (a), substitute—

“1. Where the Minister is aware of a serious infringement of this Regulation or of any retained direct EU legislation attributable to a non-resident haulier, the Minister must transmit to the relevant authorities of the haulier’s Member State of establishment, as soon as possible and at the latest within 6 weeks of the Minister’s final decision on the matter, the following information.”;

(ii) in the second subparagraph—

- (aa) for “competent authorities of the host Member State may request the competent”, substitute “Minister may request the relevant”;
- (bb) after “Article 12” insert “of Regulation (EC) 1072/2009 as it has effect in EU law”;

(b) omit paragraphs 2 and 3.

(15) For the paragraph in Article 14, substitute—

“The Minister must ensure that serious infringements of United Kingdom or EU road transport legislation committed by hauliers established in the United Kingdom, which have led to the imposition of a penalty by the United Kingdom or any Member State, as well as any temporary or permanent withdrawal of a UK licence for the Community or of a certified true copy thereof, are recorded in the national electronic register of road transport undertakings. Entries in the register which concern a temporary or permanent withdrawal of a UK licence for the Community must remain in the database for 2 years from the time of the expiry of the period of withdrawal, in the case of temporary withdrawal, or from the date of withdrawal, in the case of permanent withdrawal.”.

(16) Omit Article 15.

(17) After Article 15, insert—

“Article 15A

Regulations made by the Secretary of State: consultation and procedure

1. Any power to make regulations conferred on the Secretary of State by this Regulation is exercisable by statutory instrument.

2. Before the Secretary of State makes regulations under Article 4, Article 5 or Article 10, which apply to Great Britain, the Secretary of State must consult—

- (a) the traffic commissioners for England, Scotland and Wales;
- (b) such other persons as the Secretary of State considers appropriate.

3. Before the Secretary of State makes regulations under Article 4, Article 5 or Article 10, which apply to Northern Ireland, the Secretary of State must consult—

- (a) the Northern Ireland department;
- (b) such other persons as the Secretary of State considers appropriate.

4. A statutory instrument containing regulations under these Regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Article 15B

Regulations made by the Northern Ireland department: consultation and procedure

1. Any power to make regulations conferred on the Northern Ireland department by this Regulation is exercisable by statutory rule for the purpose of the Statutory Rules (Northern Ireland) Order 1979(13).

2. Before the Northern Ireland department makes regulations under Article 4 or Article 5, the Northern Ireland department must consult such other persons as that department considers appropriate.

3. Regulations may not be made by the Northern Ireland department under these Regulations unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.”.

(18) Omit Articles 16, 17 and 19.

(19) In the heading to Annex I and in Annex I, before each occurrence of “Community licence” insert “UK licence for the Community”.

(20) For Annex II and III substitute Annex 2 and 3 in Schedule 2.