
DRAFT STATUTORY INSTRUMENTS

2022 No.

The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022

PART 6

Amendment of the Goods Vehicles (Licensing of Operators) Act 1995

Amendment of Schedule 3 (qualifications for standard licence)

- 54.**—(1) In the heading to Schedule 3, in the shoulder reference, after “Sections” insert “3A, 8,”.
(2) In Schedule 3, before the italic heading before paragraph 1, insert—

“Effective and stable establishment

A1.—(1) A person has an effective and stable establishment in Great Britain under section 13A(2)(a) if the person satisfies, or will satisfy on the issuing of an operator’s licence, the requirements set out in sub-paragraph (2).

(2) The requirements are that the person—

- (a) has premises in Great Britain at which the person—
 - (i) is able to access, in electronic or any other form, the originals of the person’s core business documents, and
 - (ii) carries out effectively and continuously, with appropriate equipment and facilities, the administration of the person’s transport service,
- (b) has access to one or more goods vehicles that are authorised to be used under the person’s operator’s licence,
- (c) has at a place or places in Great Britain—
 - (i) a number of goods vehicles referred to in paragraph (b) that is proportionate to the national or international transport operations carried out from each place, and
 - (ii) a number of drivers that is proportionate to the number of goods vehicles operating from that place,
- (d) has, if required under the Value Added Tax Act 1994(1) to charge value added tax on the supply of the person’s transport service, a VAT registration number,
- (e) is within the charge to income tax or corporation tax under the Tax Acts on income generated through the person’s transport service, and
- (f) is, if a company, a company within the meaning given in section 1(1) of the Companies Act 2006(2).

(1) 1994 c. 23.
(2) 2006 c. 46.

- (3) In sub-paragraph (2)—
- “core business documents” includes—
- (a) contracts relating to the transport service;
 - (b) documents relating to the goods vehicles authorised to be used under the person’s operator’s licence;
 - (c) accounting documents;
 - (d) personnel management documents;
 - (e) employment contracts;
 - (f) national insurance documents;
 - (g) documents containing data—
 - (i) on the dispatching and posting of drivers, and
 - (ii) relating to journeys, driving time and rest periods;
 - (h) any other document that a traffic commissioner may require to verify a person’s compliance with any requirement or obligation imposed by or under this Act;
- “VAT registration number” means the number allocated by the Commissioners for Her Majesty’s Revenue and Customs to a person registered under the Value Added Tax Act 1994.”.

- (3) In Schedule 3, after paragraph 1(3), insert—

“(4) For the purposes of determining in accordance with paragraph 14A whether a transport manager is of good repute, the reference in sub-paragraph (1)(a) to servants or agents is to be disregarded.”.

- (4) In Schedule 3, in paragraph 5(2)—

- (a) in the words before paragraph (a), for “paragraphs 1 to 4” substitute “determining under this Act whether a person is of good repute,”; and
- (b) in paragraph (b), for “if such time as he thinks appropriate has elapsed since the date of the conviction” substitute—
 - “if—
 - (i) such time as the commissioner thinks appropriate has elapsed since the date of the conviction, or
 - (ii) the commissioner, having considered the number of offences committed by a person, determines that due to specific circumstances a negative determination of good repute for the person would constitute a disproportionate response”.

- (5) In Schedule 3, before the italic heading before paragraph 7 insert—

“**6A.**—(1) An operator has appropriate financial standing under section 13A(2)(c) if the operator is able to demonstrate that it has at its disposal at all times capital and reserves—

- (a) for goods vehicles authorised to be used under a heavy goods vehicle licence, of—
 - (i) £8,000 for the first heavy goods vehicle,
 - (ii) £4,500 for each additional heavy goods vehicle and
 - (iii) £800 for each light goods vehicle (if any), or
- (b) for goods vehicles authorised to be used under a light goods vehicle licence, of—
 - (i) £1,600 for the first light goods vehicle, and

- (ii) £800 for each additional light goods vehicle.
- (2) The operator must demonstrate appropriate financial standing—
 - (a) on the basis of the operator’s annual accounts if certified by a qualified auditor, or
 - (b) by producing other evidence to the satisfaction of a traffic commissioner that the operator has, in the name of the operator, the necessary capital and reserves, such as—
 - (i) a bank guarantee,
 - (ii) a document issued by a financial institution establishing access to credit, or
 - (iii) any other binding document.
- (3) In this paragraph—
 - “operator” means an applicant for, or a holder of, an operator’s licence in relation to which appropriate financial standing is required under section 13A(2)(c);
 - “qualified auditor” means a person who is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006.”.
- (6) In Schedule 3, omit paragraphs 7 to 9 and 12.
- (7) In Schedule 3, in paragraph 13(3), for “Department of the Environment for Northern Ireland for the purposes of section 46A(5)(c) of the Transport Act (Northern Ireland) 1967” substitute “department in Northern Ireland that, by order made under the Departments (Northern Ireland) Order 1999(3), is responsible for exercising the functions of a department under the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010”.
- (8) In Schedule 3, before the italic heading before paragraph 15 insert—

“Requirements for a transport manager

- 14A.**—(1) A transport manager must be—
- (a) a resident of the United Kingdom,
 - (b) of good repute (as determined in accordance with paragraphs 1 to 5),
 - (c) professionally competent (as determined in accordance with paragraph 13), and
 - (d) able to manage effectively and continuously the operator’s transport service.
- (2) An individual designated under section 13A(3)(a)(ii), in addition to meeting the requirements set out in sub-paragraph (1), must be—
- (a) the operator,
 - (b) an employee, director, owner, or shareholder of the operator, or
 - (c) any other individual a traffic commissioner is satisfied has a genuine link to the operator.
- (3) An individual designated under section 13A(3)(b), in addition to meeting the requirements set out in sub-paragraph (1), must—
- (a) be a party to a transport management contract linking the individual to the operator,
 - (b) be able to—
 - (i) exercise the individual’s responsibilities as a transport manager independently of the operator, and

(3) [S.I. 1999/283 \(N.I. 1\)](#); there are amending instruments, but none are relevant.

- (ii) perform the tasks set out in the transport management contract solely in the interests of the operator, and
 - (c) not be, subject to sub-paragraph (4), at the same time designated under—
 - (i) section 13A(3)(a)(ii) or (b) in relation to any other operator’s licence, or
 - (ii) any corresponding law of Northern Ireland in relation to a Northern Ireland-issued licence.
- (4) A traffic commissioner may, if the commissioner considers it appropriate, allow an individual to be designated in relation to an operator’s licence despite sub-paragraph (3)(c) provided the individual is designated in relation to no more than four operators’ licences and Northern Ireland-issued licences authorising the use of a combined total fleet of no more than 50 motor vehicles or vehicle combinations.
- (5) In this paragraph—
- “Northern Ireland-issued licence” means a licence issued under the law of Northern Ireland that is equivalent to an operator’s licence;
 - “the operator” means the person who designated the individual under section 13A(3)(a)(ii) or (b);
 - “transport management contract” means a contract that—
 - (a) indicates the individual’s responsibilities as a transport manager, and
 - (b) specifies the tasks the individual is to perform as a transport manager for the operator, including those relating to—
 - (i) vehicle maintenance,
 - (ii) vehicle management,
 - (iii) verification of contracts and documents relating to the transport service;
 - (iv) basic accounting,
 - (v) the assignment of drivers and vehicles to transport services, and
 - (vi) the verification of safety procedures.”.
- (9) In Schedule 3, in paragraph 16—
- (a) in sub-paragraph (1), after “commissioner must” insert “, in accordance with paragraph 5(2) (if applicable),”;
 - (b) in sub-paragraph (3)—
 - (i) in paragraph (a), for “for any road transport undertaking” substitute “in relation to any operator’s licence”;
 - (ii) omit paragraph (b).
- (10) In Schedule 3, in paragraph 17—
- (a) in sub-paragraph (1), for “sub-paragraph” substitute “sub-paragraphs (1A) and”;
 - (b) after sub-paragraph (1) insert—
 - “(1A) If the disqualification order was made because a traffic commissioner determined that the disqualified person ceased to be of good repute, the order may be cancelled—
 - (a) not before the end of the period of one year beginning with the day on which the order was made, and
 - (b) only if the disqualified person has, after the order was made—
 - (i) passed the written examination referred to in paragraph 13(1)(a), or

- (ii) for no less than three months undertaken training a traffic commissioner considers appropriate.”.