

2011 No. 2634

PUBLIC PASSENGER TRANSPORT

**The Public Service Vehicles (Community Licences) Regulations
2011**

<i>Made</i> - - - -	<i>1st November 2011</i>
<i>Laid before Parliament</i>	<i>7th November 2011</i>
<i>Coming into force</i> - -	<i>4th December 2011</i>

The Secretary of State for Transport makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State has been designated(b) for the purposes of section 2(2) in relation to the carriage of passengers and goods by road.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Public Service Vehicles (Community Licences) Regulations 2011 and come into force on 4th December 2011.

(2) These Regulations do not extend to Northern Ireland.

Revocation

2. The following are revoked—

- (a) the Public Service Vehicles (Community Licences) Regulations 1999(c); and
- (b) the Road Transport (Passenger Vehicles Cabotage) Regulations 1999(d).

Purpose and interpretation

3.—(1) These Regulations implement Regulation 1073/2009.

(2) In these Regulations—

“the 1981 Act” means the Public Passenger Vehicles Act 1981(e);

“authorisation” means an authorisation issued under Article 8 of Regulation 1073/2009, except in regulation 6(3) of these Regulations;

(a) 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51).

(b) S.I. 1996/266, to which there are amendments not relevant to these Regulations.

(c) S.I. 1999/1322.

(d) S.I. 1999/3413.

(e) 1981 c.14. Section 4 was amended by the Transport Act 1985 (c.67) section 3(2) and by the Local Transport Act 2008 (c.26) section 2(1) to (6). Section 82(1) was amended by the Local Transport Act 2008, section 2(7) and by the Transport Act 1985, section 3(5) and Schedule 2, Part II, paragraphs (1) and (20).

“Community licence” means a licence issued under Article 4 of Regulation 1073/2009;
“Council Regulation 684/92” means Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus(a);
“PSV operator’s licence”, “restricted licence” and “standard licence” have the meaning given by section 82(1) of the 1981 Act;
“Regulation 1071/2009” means Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the occupation of road transport operator(b);
“Regulation 1073/2009” means Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services(c);
“UK cabotage operations” means cabotage operations within the meaning of Article 2(7) of Regulation 1073/2009, in Great Britain or between Great Britain and Northern Ireland,

and subject to this, expressions which are also used in Regulation 1073/2009 have the same meaning which they bear in that Regulation.

Use of public service vehicle without Community licence

4. A person who uses a vehicle in Great Britain in contravention of Article 4(1) of Regulation 1073/2009 (requirement to possess a Community licence) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Competent authorities

5.—(1) Subject to paragraphs (2) and (3), where a person holds or has applied for a PSV operator’s licence that authorises international operations, the competent authority for the purposes of Regulation 1073/2009 and of these Regulations is—

- (a) for a Community licence, a traffic commissioner appointed under the 1981 Act; and
- (b) for an authorisation, the Secretary of State.

(2) Paragraph (3) has effect until the coming into force of section 2 of the Local Transport Act 2008(d) in relation to a person who holds or has applied for a PSV operator’s licence under the 1981 Act.

(3) A traffic commissioner for the purposes of paragraph (1)(a) is the traffic commissioner for the traffic area in which the licence was granted, or (as the case may be) the traffic commissioner who falls to consider the application for the PSV operator’s licence.

Issue of a Community licence and authorisation

6.—(1) Subject to regulation 13(1) (supply of information), a person is entitled to be issued by the competent authority with a Community licence if the person holds a PSV operator’s licence which—

- (a) authorises international operations(e); and
- (b) is used for operating a vehicle adapted to carry more than eight passengers.

(2) From 4th December 2011 a licence issued under Article 3a of Council Regulation 684/92 is treated as a Community licence.

(a) OJ No L74, 20.03.92, p1.
(b) OJ No L 300, 14.11.09, p51.
(c) OJ No L 300, 14.11.09, p88.
(d) 2008 c.26.
(e) See section 13(2) of the Public Passenger Vehicles Act 1981 (c.14).

(3) From 4th December 2011 an authorisation issued under Article 5 of Council Regulation 684/92 is treated as an authorisation issued under Article 8 of Regulation 1073/2009.

Withdrawal of a Community licence

7.—(1) This paragraph applies where the holder of a Community licence is guilty of an infringement in Great Britain of Community road transport legislation which may lead to the loss of good repute—

- (a) in accordance with Article 6(1) and (2) of Regulation 1071/2009 or in accordance with paragraph 1 of Schedule 3 to the 1981 Act in the case of standard licence holders;
- (b) in accordance with paragraph 1 of Schedule 3 to the 1981 Act in the case of restricted licence holders^(a).

(2) Where paragraph (1) applies, the competent authority may impose the following penalties—

- (a) the temporary or permanent withdrawal of some or all of the certified true copies of the Community licence;
- (b) the temporary or permanent withdrawal of the Community licence.

Rights of appeal

8.—(1) A person who—

- (a) applies for a Community licence; and
 - (b) wishes to dispute a decision of a traffic commissioner to refuse to issue the person with such a licence,
- may appeal against that decision.

(2) A person who—

- (a) is the holder of a Community licence; and
 - (b) wishes to dispute a decision of a traffic commissioner to withdraw it or any certified true copies of it,
- may appeal against that decision.

(3) The right of appeal conferred by each of paragraphs (1) and (2) is a right of appeal to the Upper Tribunal^(b).

Cabotage without a Community licence or control document

9.—(1) A person commits an offence if the person—

- (a) uses a vehicle for the purpose of UK cabotage operations without a valid Community licence, or
- (b) causes or permits a vehicle to be so used.

(2) A person who is guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

10.—(1) A person commits an offence if the person causes or permits a vehicle to be used for the purpose of UK cabotage operations which—

- (a) take the form of occasional services in Great Britain or between Great Britain and Northern Ireland, and

(a) Restricted licence holders are outside the scope of Regulation 1071/2009, but they are required to meet the requirement of good repute by virtue of section 14(1) of the Public Passenger Vehicles Act 1981 (c.14).

(b) See the Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I. 2008/2698). Relevant amending instruments are S.I. 2009/274, 2009/1975, 2010/43, 2010/747 and the Constitutional Reform Act 2005 (c.4).

(b) are carried out in contravention of Article 17(1) of Regulation 1073/2009 (requirement for a control document).

(2) A person who is guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Authorised inspecting officers

11. The following are authorised inspecting officers for the purposes of Regulation 1073/2009—

- (a) police constables in uniform;
- (b) examiners appointed under section 66A(1) of the Road Traffic Act 1988(a).

Supply of information

12.—(1) The competent authority may refuse to issue a Community licence or authorisation to an applicant if the applicant fails to supply any information that the competent authority may reasonably request pursuant to Articles 4(5) or 7(3) of Regulation 1073/2009 for the purpose of verifying whether the applicant satisfies the conditions laid down in Article 3(1) of that Regulation.

(2) The holder of a Community licence or authorisation must supply such information as the competent authority may reasonably require from time to time to enable the authority to decide whether the holder is entitled to retain the licence or authorisation.

(3) A person who fails to supply any information required under paragraph (2) may have the Community licence or authorisation, and any certified true copies of it, withdrawn by the competent authority.

Power to stop

13.—(1) Paragraph (2) applies if it appears to a stopping officer that a vehicle is being used in circumstances such that a Community licence could be required.

(2) The stopping officer may direct the driver to stop the vehicle so that an authorised inspecting officer can conduct checks as to whether an offence has been committed under regulation 4.

(3) Paragraph (4) applies if it appears to a stopping officer that a vehicle could be being used for the purpose of UK cabotage operations.

(4) The stopping officer may direct the driver to stop the vehicle for the purpose of enabling an authorised inspecting officer to inspect the documents which are required by Regulation 1073/2009 to be kept on board the vehicle and presented at the request of an authorised inspecting officer(b).

(5) In this regulation “stopping officer” means an officer appointed under section 66B of the Road Traffic Act 1988(c).

Death, bankruptcy etc of holder of Community licence

14. Where a person is authorised to carry on the business of the holder of a PSV operator’s licence by virtue of an authorisation under section 57(4)(b) of the 1981 Act, that person is to be treated as the holder of any Community licence and any authorisation issued under Regulation 1073/2009 held by the holder of the PSV operator’s licence, for the same period as is specified in the authorisation under the 1981 Act.

(a) 1988 c.52; section 66A(1) was inserted by section 9 of the Road Traffic Act 1991 (c.40).

(b) These requirements are laid down in Article 4(3) and 17(1) of Regulation 1073/2009, which relate to Community licences and journey forms respectively.

(c) 1988 c.52; section 66B was inserted by S.I. 2011/996.

Bodies corporate

15.—(1) Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with that member's functions of management as if that member were a director of the body corporate.

(3) Where an offence under these Regulations has been committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and is liable to be proceeded against and punished accordingly.

Amendment of certain enactments

16.—(1) The Road Traffic (Foreign Vehicles) Act 1972^(a) is amended as follows.

(2) In Schedule 1 (provisions conferring functions on examiners)—

- (a) omit the entry relating to regulation 7 of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999;
- (b) for the entry relating to Article 3a(3) of Council Regulation (EEC) No 684/92 substitute—

“Article 4(3) of Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services. To require the presentation of a certified true copy of a Community licence, which is required to be kept on board certain passenger vehicles.”

Article 17(1) of Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services. To require the presentation of certain control documents, which are required to be kept on board certain passenger vehicles.”

(3) In Schedule 2 (provisions relating to vehicles and their drivers)—

- (a) for the entry relating to regulations 3 and 7 of the Public Service Vehicles (Community Licences) Regulations 1999, substitute—

“Regulation 4 of the Public Service Vehicles (Community Licences) Regulations 2011. To impose a penalty for contravention of the requirement to possess a Community licence when using certain passenger vehicles.”

- (b) for the entry relating to regulations 3, 4 and 7 of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999, substitute—

“Regulation 10 of the Public Service Vehicles (Community Licences) Regulations 2011. To impose a penalty for contravention of certain requirements relating to national passenger services by a carrier registered in a

(a) 1972 c.27.

foreign Member State.”

17.—(1) The 1981 Act is amended as follows.

(2) In section 65 (forgery and misuse of documents), in paragraph (ea) of subsection (1), for “Article 6 of Council Regulation (EC) No 12/98 of 11 December 1997” substitute “Article 12(4) or 17(3) of Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009”.

(3) In section 66 (false statements to obtain licence etc), in paragraph (f), for “article 6 of Council Regulation (EC) No 12/98 of 11 December 1997” substitute “Article 12(4) or 17(3) of Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009”.

Modification of certain enactments in relation to UK cabotage operations

18. The 1981 Act has effect, in relation to a vehicle being used for the purposes of UK cabotage transport operations, as if sections 6, 12 and 18 were omitted.

19. Parts II to V of the Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations 1981^(a) do not have effect in relation to a vehicle which is being used for the purposes of UK cabotage operations.

Review

20.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Regulation 1073/2009 (which is implemented by means of these Regulations) is implemented in other Member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State

1st November 2011

Mike Penning
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Regulations specified in *regulation 2*. They give effect to aspects of Regulation (EC) No 1073/2009 of 21 October 2009 (“Regulation 1073/2009”), which

(a) S.I. 1981/257.

provides for a Community licence allowing buses and coaches access to the market in the carriage of passengers by road between Member States, a requirement for an authorisation for the purpose of carrying out regular services, and a requirement for control documents when carrying out occasional services.

Regulation 1073/2009, which is directly applicable in Member States, recasts existing European Regulations and governs the conditions for the issue and use of Community licences and authorisations. It prescribes the form of the Community licence (Article 4(2) and Annexes I and II), that the Commission shall establish the format of authorisations (Article 6(4)), and the period of validity for both Community licences and authorisations (Articles 4(4) and 6(2) respectively).

Regulation 6 confers entitlement to a Community licence on the basis of the relevant Great Britain licence. It also provides that existing Community licences and authorisations which meet certain conditions are to be treated as Community licences and authorisations respectively for the purposes of Regulation 1073/2009 and of these Regulations. The competent authorities for the purposes of these Regulations and Regulation 1073/2009 are the Secretary of State and traffic commissioners, as provided for in *regulation 5*.

These Regulations establish various offences, punishable on summary conviction by a fine up to the level prescribed (*regulations 4, 9 and 10*). They provide stopping officers with a power to stop vehicles for the purpose of checks in relation to regulations 4 and 10 (*regulation 13*); and authorised inspecting officers are designated for the purpose of carrying out any necessary inspections (*regulation 11*). Provision is also made for administrative penalties in certain circumstances – in particular the refusal to issue and the withdrawal of documents (*regulation 7*). The Regulations confer rights of appeal against administrative penalties (*regulation 8*).

Regulation 12 requires the holder of a Community licence or authorisation to supply information in certain circumstances, and provides that such documents may be withdrawn in the event of failure to comply.

Provision is made for the automatic transfer of a Community licence and an authorisation following the death, bankruptcy or incapacity of the holder (*regulation 14*) and for offences which may be committed by a body corporate (*regulation 15*). In addition provision is made for the amendment or modification of other relevant legislation (*regulations 16 to 19*).

Regulation 20 requires the Secretary of State to review the operation and effect of these Regulations, and to publish a report within 5 years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke or to amend them.

A full impact assessment of the effect that Regulation 1073/2009 (along with two other related EU Road Transport Regulations) will have on the costs of business and the voluntary sector, and a transposition note for Regulation 1073/2009, are available from the Buses and Taxis Division at the Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR. They are published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk. Regulation 1073/2009 can be viewed on the EUR-Lex website at www.eur-lex.europa.eu.

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