

2017 No. 874

ROAD TRAFFIC

**The Goods Vehicles (Licensing of Operators) (Amendment)
Regulations 2017**

<i>Made</i>	- - - -	<i>6th September 2017</i>
<i>Laid before Parliament</i>		<i>8th September 2017</i>
<i>Coming into force</i>	- -	<i>5th October 2017</i>

The Secretary of State for Transport, in exercise of the powers conferred by sections 2(2)(d), 12(2) and (3), 46(1), (2) and (3), 47, 48(2) to (6), and 57(1), (2)(a) and (7) of the Goods Vehicles (Licensing of Operators) Act 1995(a), makes the following Regulations.

The Secretary of State has consulted with such representative organisations as thought fit in accordance with section 57(12) of that Act.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2017 and come into force on 5th October 2017.

(2) In these Regulations “the principal Regulations” means the Goods Vehicles (Licensing of Operators) Regulations 1995(b).

Amendments to the principal Regulations

2. The principal Regulations are amended as specified in regulations 3 to 10.

3. In regulation 3 (interpretation), in paragraph (2)—

(a) after the definition of “the 1995 Act” insert—

““the 2009 Regulation” means Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21st 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(c);”;

(b) in the definition of “company”, for “section 735 of the Companies Act 1985” substitute “section 1 of the Companies Act 2006”(d);

(a) 1995 c.23; section 46(3) was amended by S.I. 2011/2632, regulation 8(1) and Schedule 2, paragraphs 1 and 16, section 48(2) was amended by the Mental Capacity Act 2005 (c. 9), section 67(1) and Schedule 6, paragraph 40(1) and (3)(a) and section 48(2) and (3) were amended by S.I. 2013/1644, article 3 and Schedule 1. There are other amendments not relevant to these Regulations.

(b) S.I. 1995/2869, regulations 22(1), 30(1), (4) and (5) and 31(4) were amended by S.I. 2013/1644, article 3 and Schedule 2. There are other amendments not relevant to these Regulations.

(c) OJ No L 300, 14.11.09, p.51.

(d) 2006 c.46.

- (c) omit the definitions of “visiting force”, “headquarters” and “vehicle in the service of a visiting force or a headquarters”.
- 4.** In regulation 10 (prescribed trade unions and associations), in paragraph (2) for “The General and Municipal Workers’ Union” substitute “GMB”.
- 5.** In regulation 22 (notification of decisions), in paragraph (1) after “Subject to paragraph (2)” insert “and Articles 6.2(a) and 15.1 of the 2009 Regulation”.
- 6.** In regulation 29 (partnerships)—
- (a) in paragraph (3)—
- (i) for “section 13(3)” substitute “section 13A(2)”, and
- (ii) for sub-paragraph (b) substitute—
- “(b) the firm satisfies the requirements to have an effective and stable establishment in Great Britain and to have appropriate financial standing;”;
- (b) in paragraph (4), for “section 13(4)” substitute “section 13B” and for “section 34(a) or (b)” substitute “section 13B(a) or (b)”;
- (c) in paragraph (5), for “section 13(6)” substitute “section 13D”;
- (d) for paragraph (7) substitute—
- “(7) The provisions of section 27(1) shall apply in any case where the licence holder is a firm if—
- (a) the firm ceases to have an effective and stable establishment in Great Britain (as determined in accordance with Article 5 of the 2009 Regulation);
- (b) any partner of the firm ceases to satisfy the requirements of section 13A(2)(b) (good repute);
- (c) the firm ceases to have appropriate financial standing (as determined in accordance with Article 7 of the 2009 Regulation); or
- (d) neither the requirement of sub-paragraph (i) nor that of sub-paragraph (ii) of regulation 29(3)(c) (professional competence) is fulfilled.”;
- (e) in paragraph (12), insert the word “and” after paragraph (a), omit sub-paragraphs (b) and (d) and omit the word “and” after paragraph (c).
- 7.** In regulation 30 (holding companies and subsidiaries), in paragraph (7)(a) after “any” insert “establishment and any” and after “an” insert “establishment or”.
- 8.** In regulation 31 (continuance of licence on death, bankruptcy etc), after paragraph (5) insert—
- “(5A) In the case of a standard licence, paragraphs (4) and (5) are subject to Article 13.1 of the 2009 Regulation (time limits for rectification).”.
- 9.** In Schedule 2 (modifications in relation to holding companies and subsidiaries), in paragraph 2(e) after “any” insert “establishment and any” and after “an” insert “establishment or”.
- 10.** In Schedule 3, Part I (classes of vehicles for which a licence is not required), in paragraph 10, at the end insert “within the meaning of article 8(9) of the Visiting Forces and International Headquarters (Application of Law) Order 1999(a)”.

Review

- 11.—**(1) The Secretary of State must from time to time —
- (a) carry out a review of the regulatory provision contained in these Regulations, and

(a) S.I. 1999/1736.

- (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 5th October 2022.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(a) requires that a report published under this regulation must, in particular —
 - (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
 - (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State

Jesse Norman
Parliamentary Under Secretary of State
Department for Transport

6th September 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Goods Vehicles (Licensing of Operators) Regulations 1995 (S.I. 1995/2869) (“the principal Regulations”) which, with the exception of those made by regulations 3(c), 4 and 10, are consequential on the making of related legislation, in particular Regulation (EC) No. 1071/2009 of 21st October 2009 which established common rules concerning the conditions to be complied with to pursue the occupation of road transport operator (“Regulation 1071/2009”) and the provisions of the Road Transport Operator Regulations 2011 (S.I. 2011/2632) which give effect to that Regulation in relation to Great Britain and make consequential changes to the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23) (“the 1995 Act”).

The amendments made by regulation 3 to regulation 3 of the principal Regulations (interpretation) include the omission of the definitions of “visiting force”, “headquarters” and “vehicle in the service of a visiting force or a headquarters”. Instead, regulation 10 amends Schedule 3, paragraph 10 of the principal Regulations to apply the definitions of the first and third of those terms appearing in the Visiting Forces and International Headquarters (Application of Law) Order 1999 (S.I. 1999/1736).

Regulation 4 substitutes the new name (“GMB”) of the former General and Municipal Workers’ Union.

Regulation 5 amends regulation 22 of the principal Regulations (notification of decisions) to reflect the fact that Articles 6.2(a) and 15.1 of Regulation 1071/2009 also require the giving of reasons.

Regulation 6 amends regulation 29 of the principal Regulations (partnerships) to reflect the amendments made to the 1995 Act by S.I. 2011/2632. Regulations 7 and 9 amend regulation 30

(a) 2015 c.26.

and Schedule 2 respectively (holding companies and subsidiaries) to reflect the requirement in Article 3.1(a) of Regulation 1071/2009 for undertakings to have an effective and stable establishment in a Member State.

Regulation 8 makes clear that the provisions of regulation 31(4) (powers to issue directions in the event of death, bankruptcy etc.) are subordinate to the time limits set by Article 13.1 of Regulation 1071/2009 for rectifying non-compliance with the requirements of Article 3 of Regulation 1071/2009.

Regulation 11 requires the Secretary of State to review the operation and effect of these Regulations and to publish a report within five 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 these Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke or to amend them.

A full impact assessment has not been produced specifically for this instrument as no impact on the costs of business or voluntary sectors is foreseen. However, the effect that Regulation 1071/2009 (along with two related EU Road Transport Regulations, Regulations (EC) 1072/2009 and 1073/2009) will have on those costs is available from the Operator Licensing and Roadworthiness Division at the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR and from the following website https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/2450/impactassessment.pdf

It is also published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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