

Regulation (EU) 2020/2224 of the European Parliament and of the Council of 23 December 2020 on common rules ensuring basic road freight and road passenger connectivity following the end of the transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Text with EEA relevance)

REGULATION (EU) 2020/2224 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 23 December 2020

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁽¹⁾,

Whereas:

- (1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community⁽²⁾ (the ‘Withdrawal Agreement’) was concluded by the Union by means of Council Decision (EU) 2020/135⁽³⁾ and entered into force on 1 February 2020. The transition period referred to in Article 126 of the Withdrawal Agreement, during which Union law continues to apply to and in the United Kingdom of Great Britain and Northern Ireland (United Kingdom) in accordance with Article 127 of the Withdrawal Agreement, ends on 31 December 2020. On 25 February 2020, the Council adopted Decision (EU, Euratom) 2020/266⁽⁴⁾ authorising the opening of negotiations with the United Kingdom for a new partnership agreement. As implied by the negotiation directives, the authorisation covers inter alia the elements needed to address comprehensively the road transport relationship with the United Kingdom after the end of the transition period. However, it is uncertain whether an agreement between the Union and the United

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Kingdom governing their future relationship in the area of the transport of goods and passengers by road will have entered into force by the end of that period.

- (2) At the end of the transition period, and in the absence of any special provision, all rights and obligations ensuing from Union law in respect of market access, as established by Regulations (EC) No 1072/2009⁽⁵⁾ and (EC) No 1073/2009⁽⁶⁾ of the European Parliament and of the Council will end, insofar as the relationship between the United Kingdom and the Union and its Member States is concerned.
- (3) In such a situation, the international transport of goods and passengers by road between the Union and the United Kingdom would be severely disrupted.
- (4) Gibraltar is not included in the territorial scope of this Regulation and any reference to the United Kingdom therein does not include Gibraltar.
- (5) The multilateral quota system of the European Conference of Ministers of Transport (ECMT) is the only other available legal framework that could provide a basis for the carriage of goods by road between the Union and the United Kingdom. However, due to the limited number of permits currently available under the ECMT system and its limited scope as regards the types of road transport operations covered, the system is currently inadequate to fully address the road freight transport needs between the Union and the United Kingdom.
- (6) Serious disruptions are also expected to occur, including in respect of public order, in the context of road passenger transport services. The Agreement on the international, occasional carriage of passengers by coach and bus⁽⁷⁾ (the ‘Interbus Agreement’) is the only available legal framework that could provide a basis for the carriage of passengers by bus and coach between the Union and the United Kingdom after the end of the transition period. The United Kingdom will become a Contracting Party in its own right to the Interbus Agreement on 1 January 2021. However, the Interbus Agreement covers only occasional services and is, therefore, inadequate to address the disruptions related to international coach and bus services between the United Kingdom and the Union resulting from the end of the transition period. A Protocol to the Interbus Agreement regarding the international regular and special regular carriage of passengers by coach and bus was negotiated and the United Kingdom is expected to ratify it as soon as possible. However, it is not expected that the Protocol will enter into force in time to offer a viable alternative solution for the period immediately after the end of the transition period. Therefore, the available instruments do not meet the needs of regular and special regular passenger transport services by bus and coach between the Union and the United Kingdom.
- (7) In order to prevent ensuing serious disruptions, including in respect of public order, it is therefore necessary to establish a temporary set of measures enabling road haulage operators and coach and bus service operators licensed in the United Kingdom to carry goods and passengers by road between the United Kingdom and the Union, or from the territory of the United Kingdom to the territory of the United Kingdom transiting one or more Member States. In order to ensure a proper equilibrium between the United Kingdom and the Union, the rights thus conferred should be conditional upon

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the conferral of equivalent rights and be subject to certain conditions ensuring fair competition.

- (8) The right to carry out transport operations within the territory of a Member State and between Member States is a fundamental achievement of the internal market and should, after the end of the transition period and in the absence of any special provision to the contrary, no longer be available to United Kingdom road haulage operators. However, in the immediate aftermath of the transition period and in the absence of a future agreement governing the carriage of goods by road between the Union and the United Kingdom, disruptions to traffic flows and ensuing threats to public order are likely to occur in particular at the border crossing points which are few in number and where additional controls of vehicles and their cargo are to be carried out. Increased congestion at border crossing points with the United Kingdom already occurred before the end of the transition period. The crisis linked to the COVID-19 pandemic also had negative effects on road transport, with an increase of empty loads, a trend which might be exacerbated if there is no flexibility allowing United Kingdom road haulage operators to carry out, even to a very limited extent, operations within the Union for a strictly limited period of time. Such disruptions could lead to situations with a negative impact on critical supply chains which are deemed to be necessary to manage the ongoing COVID-19 pandemic. To reduce the extent of such disruptions, United Kingdom road haulage operators should temporarily be allowed to perform a limited number of additional operations within the territory of the Union in the context of operations between the United Kingdom and the Union. Their vehicles would then not have to return to the United Kingdom immediately and would be less likely to be empty when returning to the United Kingdom, which would reduce the overall number of vehicles and hence the pressure at the border crossing points. The right to perform such additional operations should be proportionate, should not replicate the same level of rights as those enjoyed by Union road haulage operators under the rules of the internal market and should be progressively phased out.
- (9) Cross-border coach and bus services between Ireland and Northern Ireland are of particular importance for the communities living in the border regions, with a view to ensuring basic connectivity between communities inter alia as part of the Common Travel Area. Therefore, the picking up and setting down of passengers by United Kingdom coach and bus service operators should continue to be authorised in the border regions of Ireland in the course of international passenger transport services by coach and bus between Ireland and Northern Ireland.
- (10) In order to reflect their temporary character, while not setting a precedent, the set of measures provided for in this Regulation should apply for a short period. In respect of road haulage operations, that short period is designed to enable possible arrangements for basic connectivity to be made in the ECMT system, and is without prejudice to the entry into force of a future agreement governing the carriage of goods by road between the Union and the United Kingdom and future Union rules on transport. As far as passenger transport by bus and coach is concerned, that short period is designed to enable the Protocol to the Interbus Agreement regarding the international regular and special regular carriage of passengers by coach and bus to enter into force and to apply

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to the United Kingdom, either by the United Kingdom's ratification of or accession to that Protocol, and is without prejudice to a possible future agreement on the matter between the Union and the United Kingdom.

- (11) Since the objective of this Regulation, namely to lay down provisional measures governing road freight and passenger transport between the Union and the United Kingdom in the event of the absence of an agreement governing their future relationship in the field of road transport at the end of the transition period, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (12) In view of the urgency entailed by the end of the transition period, it is considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union (TFEU) and the Treaty establishing the European Atomic Energy Community.
- (13) This Regulation should enter into force as a matter of urgency and should apply from the day following the end of the transition period established by the Withdrawal Agreement unless an agreement governing road transport concluded with the United Kingdom has entered into force, or as the case may be, provisionally applies by that date. This Regulation should apply until the day before the entry into force or until the day before the provisional application of an international agreement governing road transport for both Parties. With the exception of the specific provisions applying in the border region of Ireland in the course of international regular and special regular services between Ireland and Northern Ireland, the right to conduct regular and special regular coach and bus services should cease to apply on the date of entry into force for the Union and for the United Kingdom of the Protocol to the Interbus agreement regarding the international regular and special regular carriage of passengers by coach and bus. This Regulation should in any event cease to apply on 30 June 2021.
- (14) Where necessary to address market needs, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of restoring the equivalence of rights granted by the Union to United Kingdom road haulage operators and to United Kingdom coach and bus service operators with those granted by the United Kingdom to Union road haulage operators and to Union coach and bus service operators, including where the rights granted by the United Kingdom are granted on the basis of the Member State of origin or otherwise are not equally available to all Union operators, and in respect of remedying occurrences of unfair competition that are to the detriment of Union road haulage operators and Union coach and bus service operators.
- (15) Those delegated acts should comply with the principle of proportionality, and their terms should therefore be commensurate with the problems arising as a result of the failure to grant equivalent rights or as a result of unfair conditions of competition. Suspension of the application of this Regulation should be envisaged by

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the Commission only in the most severe cases, where no equivalent rights are granted to Union road haulage operators or to Union coach and bus service operators by the United Kingdom, or where the rights so granted are minimal, or where the conditions of competition for United Kingdom road haulage operators or United Kingdom coach and bus service operators differ so much from those of Union operators that the provision of the services in question by Union operators is, for them, not economically viable.

- (16) When adopting those delegated acts, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽⁸⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. The Commission should ensure that any such delegated acts adopted do not unduly affect the proper functioning of the internal market.
- (17) To ensure that rights granted by the United Kingdom to Union road haulage operators and to Union coach and bus service operators equivalent to those granted by this Regulation to United Kingdom road haulage operators and United Kingdom coach and bus service operators are equally available to all Union operators, the scope of Regulations (EC) No 1072/2009 and (EC) No 1073/2009 should be temporarily extended. Those Regulations already cover the part of a journey between a Member State and a third country on the territory of any Member State crossed in transit. It is, however, necessary to ensure, in such cases, that Regulation (EC) No 1072/2009 also applies to the part of the journey on the territory of the Member State of loading or unloading, and that Regulation (EC) No 1073/2009 applies to the part of the journey on the territory of the Member State of picking up or setting down passengers. Such an extension aims to ensure that Union operators can perform cross-trade operations to or from the United Kingdom, as well as additional stops in their operation of passenger transport,

HAVE ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down temporary measures governing the carriage of goods by road, as well as the provision of regular and special regular passenger transport services by coach and bus between the Union and the United Kingdom following the end of the transition period referred to in Article 126 of the Withdrawal Agreement.