STATUTORY RULES OF NORTHERN IRELAND

2014 No. 206

ROAD TRAFFIC AND VEHICLES

The Road Passenger Transport (Qualifications of Operators) Regulations (Northern Ireland) 2014

Made - - - -	*3rd July 2014*
Coming into operation	*18th August 2014*

The Department of the Environment makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 [F1].

The Department of the Environment has been designated [F2] for the purposes of section 2(2) of the European Communities Act 1972 in relation to the carriage of passengers by road.

F1 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51).

F2 S.I. 1996/ 266; to which there are amendments not relevant to these Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Road Passenger Transport (Qualifications of Operators) Regulations (Northern Ireland) 2014 and shall come into operation on 18th August 2014.

(2) The Interpretation Act (Northern Ireland) 1954 [F3] shall apply to these Regulations as it applies to an Act of the Assembly.

(3) In these Regulations—

"the 1967 Act" means the Transport Act (Northern Ireland) 1967 [F4];

"the 2009 Regulation" 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[F5]; and

[[F6]"the 2009 Regulation (EU)" 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, as that Regulation has effect in EU law;**]**

"the Department" means the **[**[F7]Department for Infrastructure**]** .

(4) Unless the context otherwise requires, expressions used in the 2009 Regulation have the same meaning when used in these Regulations.

F3 1954 c.33 (N.I.)
F4 1967 c. 37 (N.I.); section 6A was inserted by regulation 3(3) of S.R. 1997 No. 327 and amended by S.R. 1981 No. 2 and S.R. 2003 No. 217; section 7A was inserted by regulation 4 of S.R. 2003 No. 217; section 46A was inserted by regulation 6 of S.R. 1977 No. 327 and substituted by regulation 6 of S.R. 2003 No. 217 and sections 46B to 46F were inserted by regulation 6 of S.R. 2003 No. 217.
F5 O.J. No. L 124, 23.5.96, p 1
F6 Words in reg. 1(3) inserted (31.12.2020) by The International Road Passenger Transport (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/973), regs. 1(2), **4(2)**; 2020 c. 1, Sch. 5 para. 1(1)
F7 Words in reg. 1(3) substituted (18.2.2019) by The Road Traffic and Vehicles and Waterways (Amendment) Regulations (Northern Ireland) 2019 (S.R. 2019/6), regs. 1(1), **19**

Competent authority

2. The competent authority for the purposes of the 2009 Regulation is the Department.

Authorisation to pursue the occupation of road transport operator

3. A road service licence granted to a person under the 1967 Act constitutes an authorisation to pursue the occupation of road passenger transport operator for the purposes of the 2009 Regulation.

Notification of changes to data

4.—(1) The period within which a change to data is to be notified under Article 11.5 of the 2009 Regulation is 28 days commencing on the date of the change.

(2) The obligation imposed by that Article on such an operator constitutes a condition attached to the licence under section 7 of the 1967 Act.

Professional competence: transport managers

5.—(1) In accordance with Article 4.2 of the 2009 Regulation, where an applicant does not satisfy the requirement of professional competence, the Department may regard that requirement as satisfied if, and so long as, the applicant has—

(a) designated a transport manager or managers in accordance with that Article, and such number of them as the Department may require; and

(b) that transport manager, or (as the case may be) each such manager, is—

(i) of good repute; and

(ii) professionally competent.

(2) The good repute of a transport manager shall be determined in accordance with section 46B of the 1967 Act [F8].

F8 Section 46B is substituted by regulation 9(9) of these Regulations

Professional competence: certification

6.—(1) A person shall only be regarded as professionally competent if—

(a) that person has demonstrated that he possesses the requisite skills by passing a written examination organised by an approved body and is the holder of an original certificate to that effect issued by that body; or

(b) that person is the holder of any other equivalent certificate of competence, diploma or other qualification recognised for the purposes of this paragraph by the Department.

(2) The approved body may exempt a person from certain parts of the examination mentioned in paragraph (1)(a) if the person is the holder of a certificate of competence, diploma or other qualification which covers those parts and which is recognised for the purposes of this paragraph by the Department.

(3) The written examination mentioned in paragraph (1)(a) may be supplemented by an oral examination organised by the approved body in the form set out in Annex I to the 2009 Regulation.

(4) In this regulation—

"approved body" has the same meaning as in section 46D(4) of the 1967 Act; and

"the requisite skills" means knowledge corresponding to the level of training, for either national or international transport operations as the case may be, provided for in Annex I to the 2009 Regulation in the subjects there listed.

[F9(5) In the case of an examination organised or a certificate issued by an approved body specified in section 46D(4)(c)(iii) of the 1967 Act, references to the 2009 Regulation in paragraphs (3) and (4) are references to the 2009 Regulation (EU).**]**

F9 Reg. 6(5) added (31.12.2020) by The International Road Passenger Transport (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/973), regs. 1(2), **4(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Determination in respect of a transport manager: disqualification orders

7.—(1) If the Department determines that a person is no longer of good repute or (as the case may be) professionally competent, the Department shall, by notice served on the person, order that person to be disqualified ("a disqualification order"), either indefinitely or for such period as the Department thinks fit, from acting as a transport manager.

(2) While a disqualification order is in force—

(a) the person may not act as transport manager for any road transport operator; and

(b) a certificate issued to the person in accordance with **[**F10Article 8.8**]** of the 2009 Regulation **[**F11or the 2009 Regulation (EU)**]** (certificate of professional competence) is not valid.

(3) A person in respect of whom a disqualification order has been made (a "disqualified person") may, within 28 days from the service of the order, appeal to the county court against the order, at the same time as giving written notice of the appeal to the Department.

(4) The Department may direct that a disqualification order is not to take effect until 28 days have elapsed from the date on which the disqualification order was served or, if an appeal is made, until the appeal has been disposed of.

(5) If the Department refuses to give a direction under paragraph (4), the disqualified person may, within the time period mentioned in paragraph (3), apply to the county court for such a direction, at the same time as giving written notice of the application to the Department.

(6) On an appeal under paragraph (3) the county court, if it is satisfied that the Department was not justified in making a disqualification order, shall quash the Department's order, stating the reasons for its decision.

F10 Words in reg. 7(2)(b) substituted (28.3.2019) by The Public Service Vehicles (International Passenger Services) Regulations (Northern Ireland) 2019 (S.R. 2019/27), regs. 1, **15**

F11 Words in reg. 7(2)(b) inserted (31.12.2020) by The International Road Passenger Transport (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/973), regs. 1(2), **4(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Transport manager: revocation or variation of disqualification order

8.—(1) Where a disqualification order is made under regulation 7(1) the Department may, subject to paragraph (2), at any time, by notice served on the person, revoke the order or, with the consent of the disqualified person, vary the order.

(2) Where a disqualification order has been made, the Department may specify measures with which the disqualified person must comply before the order is revoked or varied.

(3) Measures specified under paragraph (2) may be varied—

(a) on the written application of the disqualified person to the Department; or

(b) by the Department of its own motion, by notice served on the person.

Amendments to the 1967 Act

9.—(1) The 1967 Act is amended in accordance with paragraphs (2) to (13).

(2) In section 5 (particulars to be provided by applicants for road service licences)—

(a) in subsection (2)—

(i) in paragraph (a) omit "or (3)";

(ii) in paragraph (c) omit "or (3)"; and

(iii) after paragraph (d) add—

"(e) particulars of a fixed penalty notice or conditional offer in respect of a serious infringement of Community rules as specified in Article 6.1(b) of the 2009 Regulation for the applicant and for any person specified in the application in pursuance of section 6A(2); and

(f) particulars to satisfy the Department that the applicant has an effective and stable establishment in Northern Ireland."; and

(b) after subsection (4) add—

"(5) In this section "fixed penalty notice or conditional offer" means a notice or offer under Part 4 of the Road Traffic Offenders (Northern Ireland) Order 1996 [F12] or Part 3 of the Road Traffic Offenders Act 1988 [F13]."

(3) For section 6A (refusal of road service licence in certain cases) substitute—

"**6A Refusal of road service licence in certain cases**

(1) Subject to the following provisions of this section, the Department shall refuse to grant to an applicant a road service licence, unless, having regard to the matters specified in section 6 and to the information given to it in pursuance of section 5(2), it is satisfied that the applicant—

(a) has an effective and stable establishment in Northern Ireland (as determined in accordance with Article 5 of the 2009 Regulation);

(b) is of good repute (as determined in accordance with section 46B);

(c) has appropriate financial standing (as determined in accordance with section 46C); and

(d) has the requisite professional competence (as determined in accordance with section 46D).

(2) The requirements of subsection (1)(b) and (d) may also be regarded as satisfied where there is designated in the application a transport manager who satisfies the requirements of subsection (1)(b) and (d) and who, in the case of a transport manager designated in accordance with Article 4.2 of the 2009 Regulation, is not designated to act as transport manager for a greater number of road passenger or road freight transport operators or in respect of a greater number of vehicles than the Department considers appropriate, having regard to the upper limits in Article 4.2(c) of the 2009 Regulation, or such smaller number as the Department considers appropriate having regard to Article 4.3 of the 2009 Regulation.

(3) In considering whether the requirements of this section are satisfied, the Department may take into account any undertaking given by the applicant (or procured by the applicant to be given) for the purposes of the application and may assume those undertakings will be fulfilled.

(4) Where the Department grants a road service licence, any undertaking taken into account by the Department under subsection (3) that the Department considers to be material to the granting of the licence shall be recorded on the licence issued to the applicant.

(5) The Department shall not be required by subsection (1) to refuse to grant a road service licence on the ground mentioned in paragraph (b) or (c) of that subsection if the applicant satisfies the Department that he is an exempt person.

(6) There shall be specified in a licence granted by the Department the person who is to be continuously and effectively responsible for the operation of the vehicles to be used under the licence and who is specified as such in the application.

(7) Where the Department refuses to grant a road service licence, it shall serve notice on the applicant stating the reason for the decision.

(8) An applicant for a road service licence who is aggrieved by the decision not to grant a road service licence may, within 28 days from the service of the notice under subsection (7), appeal to the county court, giving written notice of the appeal to the Department.

(9) On an appeal under subsection (8) the county court, if it is satisfied that the Department was not justified in deciding not to grant a road service licence, shall quash the Department's decision, stating the reasons for its decision and that decision shall be final.".

(4) In section 7 (conditions of road service licences), for "section 6A(5)", in each place where it occurs, substitute " section 6A(6) ".

(5) In section 7A (conditions as to matters required to be notified)—

(a) in subsection (1)(b) omit "relevant" and for "section 6A(1)(a) or (c)" substitute " section 6A(1)(b) or (d) "; and

(b) omit subsection (2).

(6) In section 10 (revocation and suspension of road service licences)—

(a) for subsection (1) substitute—

"(1) Subject to subsection (2), a road service licence may be revoked or suspended by the Department on the ground that—

(a) any condition subject to which the licence was granted has not been complied with, or

(b) any undertaking given pursuant to section 6A(3) has not been fulfilled.".