Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2012 No. 257

ROAD TRAFFIC AND VEHICLES

The Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012

Made - - - -	*28th June 2012*
Coming into operation	*1st July 2012*

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 goods by road.

In accordance with section 57(11) of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 the Department has consulted such representative organisations as it thinks fit.

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 Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012 and shall come into operation on 1st July 2012.

(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 2010 Act" means the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 [F4];

[[F5]"the Department" means the Department for Infrastructure;**]**

"Regulation 1071/2009" 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;

"other relevant person" means in the case of an individual, an employee or agent of the individual and in the case of a company means any officer, agent or employee of the company.

(4) Expressions used in Regulation 1071/2009 have the same meaning when used in these Regulations.

F3 1954 c.33 (N.I.)
F4 2010 c.2 (N.I.)
F5 Words in reg. 1(3) inserted (18.2.2019) by The Road Traffic and Vehicles and Waterways (Amendment) Regulations (Northern Ireland) 2019 (S.R. 2019/6), regs. 1(1), **15**

Competent authority

2. The competent authority for the purposes of Regulation 1071/2009 is the Department.

Authorisations to pursue the occupation of road transport operator

3. A standard licence granted under the 2010 Act constitutes an authorisation to pursue the occupation of road transport operator in the capacity of road haulage operator.

Notification of changes to data

4. The period within which a change to data is to be notified under Article 11.5 of Regulation 1071/2009 by an undertaking holding a standard licence granted under the 2010 Act is 28 days commencing on the date of the change.

Good repute

5.—(1) In determining whether an individual is of good repute, the Department may have regard to any matter but shall, in particular, have regard to—

(a) any convictions or penalties incurred by the individual or any other relevant person; and

(b) any other information in its possession which appears to the Department to relate to the individual's fitness to hold a licence.

(2) In determining whether a company is of good repute, the Department shall have regard to all the material evidence including, in particular—

(a) any convictions or penalties incurred by the company, company employees or any other relevant person; and

(b) any other information in its possession as to the previous conduct of the company or any other relevant person if that conduct appears to the Department to relate to the company's fitness to hold a licence.

(3) For the purposes of these Regulations, any convictions or penalties incurred by any person include —

(a) any conviction or penalty incurred by that person of an offence under the law of any part of the United Kingdom or any corresponding offence under the law of any country or territory outside the United Kingdom;

(b) any conviction of that person of a serious offence within the meaning given in regulation 7; and

(c) any conviction of that person of a road transport offence within the meaning given in regulation 8.

Modifications etc. (not altering text)

C1 Reg. 5 applied (1.7.2012) by The Goods Vehicles (Licensing of Operators) Regulations (Northern Ireland) 2012 (S.R. 2012/261), regs. 1, **27(12)(a)**

Determination that an individual is not of good repute

6. Without prejudice to the generality of the Department's power under regulation 5 to determine that a person is not of good repute, the Department shall determine that an individual is not of good repute if that individual has—

(a) been convicted of a serious offence; or

(b) been convicted of road transport offences.

Serious Offences

7.—(1) A person has a conviction of a "serious offence" if—

(a) that person has been convicted of any offence under the law of any part of the United Kingdom or under the law of a country or territory outside the United Kingdom; and

(b) on such conviction there was imposed on that person for that offence a punishment falling within paragraph (2).

(2) The punishments are—

(a) a sentence of imprisonment for a term exceeding three months;

(b) a fine exceeding level 4 on the standard scale;

(c) a community service order or community payback order requiring a person to perform work for more than 60 hours; and

(d) in the case of an offence committed under the law of a country or territory outside the United Kingdom, any punishment corresponding to those mentioned in sub-paragraphs (a) to (c).

(3) In paragraph (2) —

(a) the reference to a sentence of imprisonment includes a reference to any form of custodial sentence or order, other than one imposed under the enactments relating to mental health;

(b) "community service order" means an order under Article 13 of the Criminal Justice (Northern Ireland) Order 1996 [F6]; and

(c) "community payback order" means an order under section 227A of the Criminal Procedure (Scotland) Act 1995 [F7].

F6 S.I. 1996/3160 (N.I. 24)
F7 1995 c. 46

Road Transport offences

8. "Road transport offence" means—

(a) an offence under the law of any part of the United Kingdom relating to road transport including, in particular—

(i) an offence relating to drivers' hours of work or rest periods, the weights or dimensions of commercial vehicles, road or vehicle safety or the protection of the environment; and

(ii) any other offence concerning professional liability;

(b) any corresponding offence under the law of a country or territory outside the United Kingdom.

Further provisions for the purposes of regulations 5 to 8

9. For the purposes of regulations 5 to 8—

(a) convictions which are spent for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978 [F8] shall be disregarded; and

(b) the Department may also disregard an offence if such time as it thinks appropriate has elapsed since the date of the conviction.

F8 S.I. 1978/1908 (N.I. 27)

Professional Competence

10.—(1) The requirement of professional competence falls to be satisfied by an individual.

(2) Where an individual is not themselves professionally competent, that person shall be regarded as satisfying the requirement of professional competence if and so long as that person has as the transport manager of the transport undertaking which they carry on an individual who is—

(a) of good repute; and

(b) professionally competent.

(3) Where a company is required to satisfy that requirement, it does so if and so long as—

(a) it has in respect of its road transport undertaking a transport manager, and such number of them as the Department may require; and

(b) that transport manager, is—

(i) of good repute, and

(ii) professionally competent.

Modifications etc. (not altering text)

C2 Reg. 10(3) applied (1.7.2012) by The Goods Vehicles (Licensing of Operators) Regulations (Northern Ireland) 2012 (S.R. 2012/261), **regs. 1**, 27(12)(b)

11.—(1) An individual shall be regarded as professionally competent if, and only if—

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

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

(2) The approved body may exempt an individual from certain parts of the examination mentioned in paragraph (3)(a) if the individual 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 (3)(a) may be supplemented by an oral examination organised by the approved body in the form set out in Annex I to Regulation 1071/2009.

(4) In this regulation—

"approved body" mentioned in paragraph (4) means—

(a) a body approved by the Secretary of State for the purposes of paragraph 13(3) of Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995 [F9]; or

(b) **[**[F10]a body approved by the Department for Infrastructure for the purposes of Article 8(3) of Regulation 1071/2009; 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 Regulation 1071/2009 in the subjects there listed.

F9 1995 c. 23

F10 Words in reg. 11(4) substituted (31.1.2020) by The Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/708), regs. 1(1), **7(3)**; 2020 c. 1, Sch. 5 para. 1(1)

12. In determining the good repute of a transport manager regulations 5 to 9 shall apply as they apply to an individual with the omission of the words "or any other relevant person".

13.—(1) The Department may grant a transport manager an exemption from the requirements of section 12(1) of the 2010 Act for the purposes of compliance with the requirement of section 12A(3)(b) of that Act (professional competence) [F11].

(2) The Department may grant an exemption under paragraph (1) only if satisfied that the transport manager has continuously managed a road haulage undertaking or a road passenger transport undertaking (within the meaning of Article 9 of the 2009 Regulation) in one or more member States for the period of ten years ending on 4th December 2009.

(3) The Department may grant an exemption under paragraph (1) on an application or without an application being made for it.

(4) The power conferred by paragraph (1) may not be exercised after 4th December 2013.

(5) If an application is made for an exemption under paragraph (1) and the Department refuses the application, the applicant may request a redetermination of the application by the Department.

F11 Section 12A(3)(b) is inserted by regulation 17(5) of these Regulations

Issue of notice to transport manager

14.—(1) The Department shall not make a finding that a transport manager is not of good repute unless the Department is satisfied that the transport manager has been served with a notice—

(a) stating that the question whether the transport manager is of good repute is an issue;

(b) setting out the nature of the allegations against the transport manager;

(c) stating that the transport manager is entitled to make representations under this paragraph within 28 days beginning with the date on which the notice is served on them; and