STATUTORY RULES OF NORTHERN IRELAND

2003 No. 217

EUROPEAN COMMUNITIES TRANSPORT

The Road Transport (Qualifications of Operators) (Amendment) Regulations (Northern Ireland) 2003

Made - - - -	*7th April 2003*
Coming into operation	*21st May 2003*

The Department of the Environment, being a department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the regulation and supervision of qualifications of persons engaged in road transport, in exercise of the powers conferred by that section, and by section 45 of the Transport Act (Northern Ireland) 1967(**3**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Road Transport (Qualifications of Operators) (Amendment) Regulations (Northern Ireland) 2003 and shall come into operation on 21st May 2003.

(2) In these Regulations "the Act of 1967" means the Transport Act (Northern Ireland) 1967.

(3) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Act of 1967

2. The Act of 1967 shall have effect subject to the following provisions of these Regulations.

Amendment of section 6A of the Act of 1967

3. In subsections (2) and (3) of section 6A(**5**) of the Act of 1967 (refusal of road service licence in certain cases), the words "full-time" shall be omitted.

(**1**) S.I. 1975/1707
(**2**) 1972 c. 68
(**3**) 1967 c. 37 (N.I.)
(**4**) 1954 c. 33 (N.I.)
(**5**) Section 6A was inserted by S.R. 1977 No. 327, regulation 3(3) and amended by S.R. 1981 No. 2, regulation 3(2)

Conditions as to matters required to be notified

4. After section 7 of the Act of 1967 there shall be inserted –

"**Conditions as to matters required to be notified**

7A.—(1) On granting a road service licence, the Department shall attach to it the following conditions, namely –

(a) a condition requiring the holder of the licence to inform the Department of any event which could affect the fulfilment by the holder of the licence of any of the requirements of section 6A, and to do so within 28 days of the event; and

(b) a condition requiring the holder of the licence to inform the Department of any event which could affect the fulfilment by a relevant transport manager of the requirements mentioned in section 6A(1)(a) or (c), and to do so within 28 days of the event coming to the knowledge of the holder of the licence.

(2) In subsection (1)(b) the reference to a "relevant transport manager" is a reference to the person employed by the holder of the licence who is relied on by the holder of the licence to fulfil the requirements of section 6A(1)(c).

(3) Any person who contravenes any condition attached under this section to a licence of which he is the holder is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.".

Amendment of section 28A of the Act of 1967

5. In subsections (2) and (3) of section 28A(**6**) of the Act of 1967 (refusal of operators' licences in certain cases) the words "full-time" shall be omitted.

Amendment of section 46A of the Act of 1967

6. For section 46A(**7**) of the Act of 1967 (interpretation of certain expressions) there shall be substituted –

"**46A.**—(1) The following provisions of this section and sections 46B to 46F shall have effect for the interpretation of certain expressions used in sections 5, 6A, 7, 10, 15, 15A, 28A and 29.

(2) "conviction" means –

(i) any conviction mentioned in section 29(1) or any conviction of contravening any provision of the law of Great Britain or of a country or territory outside the United Kingdom corresponding to any such conviction, or

(ii) any other conviction of an offence which is a serious offence as defined in section 46B(3) or a road transport offence as defined in section 46B(4),

not being in either case a spent conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978(**8**); and a reference to a person being convicted of an offence shall be construed accordingly;

(b) "a sentence of imprisonment" includes any form of custodial sentence or order other than one under the enactments relating to mental health and "a community

(**6**) Section 28A was inserted by S.R. 1977 No. 327, regulation 4(5) and amended by S.R. 1981 No. 2, regulation 3(2)
(**7**) Section 46A was inserted by S.R. 1977 No. 327, regulation 5 and amended by S.R. 1981 No. 2, regulation 3 and S.R. 1991 No. 257, regulation 5
(**8**) S.I. 1978/1908 (N.I. 27)

service order" means an order under Article 7 of the Treatment of Offenders (Northern Ireland) Order 1976(**9**); and

(c) references to an offence under the law in force in any part of the United Kingdom include a reference to a civil offence within the meaning of the Army Act 1955(**10**), the Air Force Act 1955(**11**) or the Naval Discipline Act 1957(**12**).

Good repute of road freight and road passenger transport operators

46B.—(1) For the purpose of determining whether a person is or is not of good repute regard shall be had in particular to the existence and number of any convictions (within the meaning of section 46A(2)) relating to the person or any partner, employee or agent of the person or, in the case of a company, any officer of the company during the period of 5 years ending with the date on which the matter falls to be determined.

(2) The Department shall determine that a person, or any partner, employee or agent of the person, or, in the case of a company, any officer of the company, is not of good repute if he has –

(a) more than one conviction of a serious offence; or

(b) been convicted of road transport offences.

(3) For the purposes of subsection (2)(a) a serious offence is –

(a) an offence under the law in force in any part of the United Kingdom for which a sentence of imprisonment for a term exceeding 3 months, a fine exceeding level 4 on the standard scale or a community service order for more than 60 hours was imposed; and

(b) any corresponding offence under the law of a country or territory outside the United Kingdom for which a corresponding punishment was imposed.

(4) For the purposes of subsection (2)(b) a road transport offence is –

(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, dimensions and taxation of commercial vehicles, road or vehicle safety or the protection of the environment, and

(ii) any other offence concerning professional liability; or

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

(5) For the purposes of subsection (2) spent convictions shall be disregarded.

(6) Subsection (2) is without prejudice to the power of the Department to determine that a person is not of good repute for reasons other than convictions of the kind there mentioned.

Financial standing of road freight and road passenger transport operators

46C.—(1) A person applying for or holding a road service licence or an operator's licence shall be regarded as having appropriate financial standing if he has available, or will have available, to him sufficient financial resources to ensure the launching and proper

(**9**) S.I. 1976/226 (N.I. 4)
(**10**) 1955 c. 18
(**11**) 1955 c. 19
(**12**) 1957 c. 53

administration of the service or undertaking operated or to be operated by him under that licence.

(2) An applicant for, or the holder of, a road service licence or an operator's licence authorising the use of vehicles for international operations shall not be considered to be of the appropriate financial standing unless he has available to him capital and reserves of at least –

(a) 9,000 Euro for the first or only vehicle which is to be or is authorised under the licence; and

(b) 5,000 Euro for each additional vehicle which is to be or is so authorised.

Professional competence of road passenger transport operators

46D.—(1) In relation to an applicant for, or a holder of, a road service licence "exempt person" means a person who held, or was one of the holders of, a relevant licence before 1st January 1978 and, subject to subsection (2), for the purposes of a road service licence a person shall be regarded as professionally competent if –

(a) he held, or was one of the holders of, a relevant licence before 1st January 1975; or

(b) he has demonstrated that he possesses 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

(c) he is the holder of any other certificate of competence, diploma or other qualification recognised for the purposes of this section by the Department; or

(d) before 1st January 1980 he has held a relevant licence for not less than 3 years continuously.

(2) A person shall not be regarded, for the purposes of subsection (1)(a), as the holder, or one of the holders of, a relevant licence, other than a road service licence, at any time unless he is the holder of a certificate issued by the Department for Transport or the competent authority of any Member State other than the United Kingdom to the effect that he held such a licence.

(3) In subsections (1) and (2), "relevant licence" means –

(a) a road service licence; or

(b) a licence or other authorisation granted in a Member State which authorises the holder to provide a service for the carriage of passengers by road for reward.

(4) The written examination mentioned in subsection (1)(b) may be supplemented by an oral examination organised by the approved body in the form set out in Annex I to Council Directive No.96/26/EC(**13**);

(b) the certificate mentioned in subsection (1)(b) must take the form of the certificate set out in Annex Ia to that Directive;

(c) in subsection (1)(b), "approved body" means –

(i) a body approved by the Department for the purposes of that subsection, or

(ii) a body approved by the Secretary of State for the purposes of paragraph 6 of Schedule 3 to the Public Passenger Vehicles Act 1981(**14**), or

(iii) a body or authority designated by another Member State for the purposes of Article 3(4) of Council Directive No. 96/26/EC; and

(**13**) O.J. No. L124, 23.5.96, p. 1 as amended by Council Directive 98/76/EC, O.J. No. L277, 14.10.98, p. 17
(**14**) 1981 c. 14