1981 No. 2

EUROPEAN COMMUNITIES

TRANSPORT

The Road Transport (Qualifications of Operators) (Amendment) Regulations (Northern Ireland) 1981

Made	*5th January 1981*
Coming into operation . . .	*30th January 1981*

The Department of the Environment, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the regulation and supervision of qualifications of persons engaged in road transport, in exercise of the powers conferred by that section, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Road Transport (Qualifications of Operators) (Amendment) Regulations (Northern Ireland) 1981 and shall come into operation on 30th January 1981.

Interpretation

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

Amendment of Act of 1967

3.—(1) The Act of 1967 shall have effect subject to the following provisions of this Regulation.

(2) In sections 6A(2), (3), (5). 7(1A)(*b*)(iii). 10(3B), (3C), 15A(1)(*b*)(iii). 28A(2), (3), (5), 29(2C), (2D) and 46A(7) for the word "responsible" there shall be substituted the words "continuously and effectively responsible".

(3) In section 8 after subsection (2) there shall be inserted the following subsection—

"(2A) If on the date of the expiration of a road service licence the licence is. by virtue of regulations made under section 33, held by a person other than the person to whom the licence was granted, the licence shall continue in force until the application by that other person for a new road service licence is disposed of in accordance with those regulations.".

(4) At the end of subsection (3A) of section 10 and subsection (2B) of section 29 there shall be added the words "as from such time as the Department may determine".

(5) In section 16 after subsection (1) there shall be inserted the following subsections—

"(1A) If on the date of the expiration of an operator's licence an application is before the Department for the grant of a new operator's licence in substitution for an existing operator's licence held by the applicant. the existing operator's licence shall continue in force until the application is disposed of.

(**a**) S.I. 1975/1707
(**b**) 1972 c. 68
(**c**) 1967 c. 37 (N.I.)

(1B) If on the date of the expiration of an operator's licence the licence is, by virtue of regulations made under section 33, held by a person other than the person to whom the licence was granted. the licence shall continue in force until the application by that other person for a new operator's licence is disposed of in accordance with those regulations.''.

(6) In section 33(2) after paragraph (*d*) there shall be added the following paragraph—

''or

(*e*) in the case of a road service licence or operator's licence, the licence has been revoked under section 10(3A) or 29(2B), as the case may be, as from some future date.''.

(7) In section 46A for subsection (2) there shall be substituted the following subsection—

''(2) ''Conviction'' means a conviction by or before a court in a member State, not being a spent conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978(**a**), and a reference to a person being convicted of an offence shall be construed accordingly.''.

(8) In section 46A(3) for the words ''convictions relating to him'' there shall be substituted the words ''convictions (within the meaning of subsection (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''.

(9) In section 46A(5)—

(*a*) at the beginning there shall be inserted the words—

''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 (5A),'';

(*b*) in paragraphs (*a*), (*b*) and (*e*) for the words ''road service licence'' wherever they occur there shall be substituted the words ''relevant licence'';

(*c*) in paragraph (*b*) for the words ''had responsibility'' there shall be substituted the words ''was continuously and effectively responsible'';

(*d*) for paragraph (*c*) there shall be substituted the following paragraph—

''(*c*) if he is the holder of a certificate issued—

(i) by a body approved for the purposes of this section by the Department, or for the purposes of paragraph 6 of Schedule 3 to the Transport Act 1980(**b**) by the Minister of Transport, or

(ii) by a body or authority designated by any member State other than the United Kingdom in pursuance of Article 2(4) of the Council Directive (EEC) 74/562 of 12th November 1974(**c**) on admission to the occupation of road passenger transport operator in national and international transport operations.

to the effect that he possesses skills in the subjects listed in Part A of the Annex to that Directive and, in the case of a licence to which the condition referred to in section 7(1A)(*a*) is not attached, also to the effect that he possesses skills in the subjects listed in Part B of the Annex to that Directive (the subjects all being subjects recognised by that body or authority as required by the said Article 2(4))'';

(*e*) in paragraph (*e*) for the words from the beginning to ''or by that date'' there shall be substituted the words ''if before 1st January 1980 he'' and for the

(**a**) S.I. 1978/1908 (N.I. 27)
(**b**) 1980 c. 34
(**c**) O.J. No. L308/23 of 19.11.74

words ''had responsibility'' there shall be substituted the words ''been continuously and effectively responsible'';

(*f*) at the end of the subsection there shall be added the words—

''In this subsection and subsection (5A) ''relevant licence'' means—

(i) a road service licence, or

(ii) 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.''.

(10) In section 46A after subsection (5) there shall be inserted the following subsection—

''(5A) A person shall not be regarded—

(*a*) for the purposes of subsection (5)(*a*) as the holder, or one of the holders of, a relevant licence, other than a road service licence, at any time;

(*b*) for the purposes of subsection (5)(*b*) as being employed in a position where he was continuously and effectively responsible for the operation of motor vehicles used under a relevant licence, other than a road service licence, at any time;

unless he is the holder of a certificate issued by the Minister of Transport or the competent authority of any member State other than the United Kingdom to the effect that he held such a licence or was so employed at that time.''.

(11) In section 46A(6)—

(*a*) at the beginning there shall be inserted the words—

''In relation to an applicant for, or a holder of, a road freight operator's 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 (6A),'';

(*b*) in paragraphs (*a*), (*b*) and (*e*) for the words ''road freight operator's licence'' wherever they occur there shall be substituted the words ''relevant licence'';

(*c*) in paragraph (*b*) for the words ''had responsibility'' there shall be substituted the words ''was continuously and effectively responsible'';

(*d*) for paragraph (*c*) there shall be substituted the following paragraph—

''(*c*) if he is the holder of a certificate issued—

(i) by a body approved for the purposes of this section by the Department, or for this section by the Department, or for the purposes of Regulation 9 of the Goods Vehicle Operators (Qualifications) Regulations 1977(**a**) by the Minister of Transport, or

(ii) by a body or authority designated by any member State other than the United Kingdom in pursuance of Article 3(4) of the Council Directive (EEC) 74/561 of 12th November 1974(**b**) on admission to the occupation of road haulage operator in national and international transport operations,

to the effect that he possesses skills in the subjects listed in Part A of the Annex to that Directive and, in the case of a licence to which the condition referred to in section 15A(1)(*a*) is not attached, also to the effect that he possesses skills in the subjects listed in Part B of the Annex to that Directive (the subjects all being subjects recognised by that body or authority as required by the said Article 3(4));'';

(**a**) S.I. 1977/1462 as amended by S.I. 1980/1787
(**b**) O.J. No. L308/18 of 19.11.74.