1977 No. 327

EUROPEAN COMMUNITIES

TRANSPORT

The Road Transport (Qualifications of Operators) Regulations (Northern Ireland) 1977

Made . . . . . *9th November* 1977

Coming into operation . . . 1*st January* 1978

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 and by section 45 of the Transport Act (Northern Ireland) 1967(c), hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Road Transport (Qualifications of Operators) Regulations (Northern Ireland) 1977 and shall come into operation on 1st January 1978.

Interpretation

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

Qualifications for holders of road service licences

3.—(1) Part II of the Act of 1967 (carriage of passengers by road) shall have effect subject to the following provisions of this Regulation.

(2) Section 5 of the Act of 1967 (particulars to be provided by applicants for road service licences) shall be renumbered as subsection (1) of that section and after that subsection there shall be added the following subsections—

"(2) A person applying for a road service licence to which this subsection applies shall in addition to the information referred to in subsection (1) give the Department such information as may reasonably be required to enable the Department to exercise the functions conferred on it by section 6A, and in particular shall give—

(*a*) particulars of any convictions during the five years preceding the making of the application, and at any time thereafter until the disposal of the application, of the applicant and of any person specified in the application in pursuance of section 6A(2) or (3);

(*b*) particulars of the financial resources which are, or are likely to be, available to the applicant;

(*c*) particulars of the professional competence qualifications of the applicant and of any person specified in the application in pursuance of section 6A(2) or (3);

(a) S.I. 1975/1707 (1975 III, p. 5814)
(b) 1972 c. 68
(c) 1967 c. 37 (N.I.)

(*d*) a statement indicating whether or not the applicant intends to use vehicles operated under the licence to provide a service for the carriage of passengers by road elsewhere than in the United Kingdom.

(3) Subsection (2) applies to a road service licence covering motor vehicles so constructed and equipped as to be suitable for carrying more than nine persons including the driver and intended for that purpose, other than—

(*a*) motor vehicles constructed or adapted for the carriage of not more than 17 persons including the driver and used, or intended to be used, in the course of a business whose main object is other than that of carrying passengers; and

(*b*) motor vehicles used by an Education and Library Board in the carrying out of the functions of that Board under the Education and Libraries (Northern Ireland) Order 1972(**d**).

(4) Subsection (2)(*a*) and (*b*) shall not apply in relation to an application for a road service licence by a person who satisfies the Department that he is an exempt person.".

(3) After section 6 of the Act of 1967 there shall be inserted the following section—

"Refusal of road service licence in certain cases.

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

(*a*) of good repute,

(*b*) of appropriate financial standing, and

(*c*) professionally competent.

(2) In the case of an applicant being a body corporate the requirements of subsection (1)(*a*) and (*c*) shall be satisfied by one of the persons in the full-time employment of the applicant who is to be responsible for the operation of the motor vehicles to be used under the licence and who is specified in the application.

(3) In the case of an applicant not being a body corporate, the requirements of subsection (1)(*c*) may also be regarded as satisfied where there is specified in the application a person in the full-time employment of the applicant who is to be responsible for the operation of the motor vehicles to be used under the licence and who, the Department is satisfied, is of good repute and professionally competent.

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

(5) There shall be specified in a licence granted by the Department in pursuance of an application to which either subsection (2) or (3) applies, the person who is to be responsible for the operation of the motor vehicles to be used under the licence and who is specified in the application.".

(**d**) S.I. 1972/1263 (N.I. 12)

(4) In section 7 of the Act of 1967 (conditions of road service licences)—

(*a*) after subsection (1) there shall be inserted the following subsections—

"(1A) Without prejudice to the generality of subsection (1), the Department, when granting a road service licence to which section 5(2) applies—

(*a*) may attach to the licence a condition prohibiting the holder from using vehicles operated under the licence for providing a service for the carriage of passengers by road elsewhere than in the United Kingdom; and

(*b*) shall attach to the licence conditions for requiring the holder of the licence to inform the Department, in writing within 28 days, if during the currency of the licence—

(i) the holder of the licence or the person, if any, specified in the licence in pursuance of section 6A(5) is convicted of any offence;

(ii) the holder of the licence becomes bankrupt or goes into liquidation or an order of seizure is made against his property or a receiver or manager is appointed in relation to his trade or business; or

(iii) the person, if any, specified in the licence in pursuance of section 6A(5) ceases for whatever reason to be responsible for the operation of the motor vehicles used under the licence.

(1B) Where a road service licence to which section 5(2) applies is granted by the Department to a person who satisfies the Department that he is an exempt person, paragraph (*b*) of subsection (1A) shall not require the Department to attach to the licence the conditions specified in sub-paragraphs (i) and (ii) of that paragraph.";

(*b*) in subsection (2) after the words "to the licence" there shall be inserted the words "(other than a condition attached under subsection (1A)(*b*))";

(*c*) after subsection (2) there shall be inserted the following subsection—

"(2A) Where the holder of a road service licence to which is attached the condition referred to in subsection (1A)(*a*) applies for the omission of that condition, he shall include in his application such particulars as to his professional competence or that of the person, if any, specified in the licence in pursuance of section 6A(5), as the Department may require.".

(5) In section 10 of the Act of 1967 (revocation and suspension of road service licences)—

(*a*) in subsection (2) for the words from the beginning to "road service licence" there shall be substituted the words "Where the condition broken is a condition attached to the road service licence otherwise than under section 7(1A) the Department shall not revoke or suspend the licence under subsection (1)";

(*b*) after subsection (3) there shall be inserted the following subsections—

"(3A) Subject to subsections (3B) to (3E) where at any time during the currency of a road service licence to which section 5(2) applies, it appears to the Department that the holder of the licence is not—

(*a*) of good repute,

(*b*) of appropriate financial standing, or

(*c*) professionally competent,

the Department shall revoke the licence.

(3B) In the case of the holder of a licence being a body corporate, subsection (3A) shall apply as if in relation to paragraphs (*a*) and (*c*), it referred to the person who is responsible for the operation of the motor vehicles used under the licence and who is specified in the licence in pursuance of section 6A(5).

(3C) In the case of the holder of a licence not being a body corporate, where there is specified in the licence in pursuance of section 6A(5) a person who is responsible for the operation of the motor vehicles used under the licence, subsection (3A) shall apply as if in relation to paragraph (*a*) it referred to that person as well as the holder of the licence and as if in relation to paragraph (*c*) it referred to that person.

(3D) In the event of the death or physical or mental incapacity of the holder of a licence or of a person specified in the licence in pursuance of section 6A(5) or in the event of the person so specified ceasing for some other reason to be employed by the holder of the licence, subsection (3A) shall not require the Department to revoke the licence during such period, not exceeding one year from the occurrence of the event in question, as the Department may determine, or during such further period not exceeding 6 months, as the Department may, in exceptional circumstances, determine.

(3E) The Department shall not be required by subsection (3A) to revoke a licence on a ground mentioned in paragraph (*a*) or (*b*) of that subsection if the holder of the licence satisfies the Department that he is an exempt person.".

Qualifications for holders of road freight operators' licences

4.—(1) Part III of the Act of 1967 (carriage of goods by road) shall have effect subject to the following provisions of this Regulation.

(2) In section 14 the words "in Northern Ireland" shall cease to have effect.

(3) Section 15 of the Act of 1967 (applications for operators' licences) shall be renumbered as subsection (1) of that section and—

(*a*) in that subsection for the words "section 28" there shall be substituted the words "sections 28 and 28A" and at the end there shall be added the following paragraphs—

"(*f*) particulars of any convictions during the five years preceding the making of the application, and at any time thereafter until the disposal of the application, of the applicant and of any person specified in the application in pursuance of section 28A(2) or (3);

(*g*) particulars of the financial resources which are, or are likely to be, available to the applicant;

(*h*) particulars of the professional competence qualifications of the applicant and of any person specified in the application in pursuance of section 28A(2) or (3);

(*i*) a statement indicating whether or not the applicant intends to use goods vehicles operated under the licence to carry goods by road for reward elsewhere than in the United Kingdom.";

(*b*) after subsection (1) there shall be added the following subsection—

"(2) Subsection (1)(*f*) and (*g*) shall not apply in relation to an application for an operator's licence by a person who satisfies the Department that he is an exempt person.".

(4) After section 15 of the Act of 1967 there shall be inserted the following section—

"Conditions of operators' licences.

15A.—(1) The Department when granting an operator's licence—

(*a*) may attach to the licence a condition prohibiting the holder from using goods vehicles operated under the licence for carrying goods by road for reward elsewhere than in the United Kingdom; and

(*b*) shall attach to the licence conditions for requiring the holder of the licence to inform the Department, in writing within 28 days, if during the currency of the licence—

(i) the holder of the licence or the person, if any, specified in the licence in pursuance of section 28A(5) is convicted of any offence;

(ii) the holder of the licence becomes bankrupt or goes into liquidation or an order of seizure is made against his property or a receiver or manager is appointed in relation to his trade or business; or

(iii) the person, if any, specified in the licence in pursuance of section 28A(5) ceases for whatever reason to be responsible for the operation of the goods vehicles used under the licence.

(2) Where an operator's licence is granted by the Department to a person who satisfies the Department that he is an exempt person, paragraph (*b*) of subsection (1) shall not require the Department to attach to the licence the conditions specified in sub-paragraphs (i) and (ii) of that paragraph.

(3) On the application of the holder of an operator's licence to which is attached the condition referred to in subsection (1)(*a*) and on his production of such particulars as to his professional competence or that of the person, if any, specified in the licence in pursuance of section 28A(5) as the Department may require, the Department may remove that condition from the licence.

(4) Where the holder of an operator's licence, or any person acting with his knowledge or consent, fails to comply with a condition of that licence, the holder of the licence shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £100.".

(5) After section 28 of the Act of 1967 there shall be inserted the following section—

"Refusal of operators' licences in certain cases.

28A.—(1) Subject to the following provisions of this section, the Department shall refuse to grant to an applicant an operator's licence unless, having regard, in addition to the matters specified in section 28, to the information given to it in pursuance of section 15(1)(*f*) to (*h*), it is satisfied that the applicant is—

(*a*) of good repute,

(*b*) of appropriate financial standing, and

(*c*) professionally competent.

(2) In the case of an applicant being a body corporate the requirements of subsection (1)(*a*) and (*c*) shall be satisfied by one of the persons in the full-time employment of the applicant who is to be responsible for the operation of the goods vehicles to be used under the licence and who is specified in the application.