1976 No. 375

EUROPEAN COMMUNITIES

The Carriage of Goods (Prohibition of Discrimination) Regulations (Northern Ireland) 1976

Made . . . . . *8th December* 1976

Coming into operation . . . *1st February* 1977

The Department of the Environment, as the designated Department under the European Communities (Designation) Order 1972(a), in exercise of the powers conferred on it by Section 2 of the European Communities Act 1972(b) and of all other powers enabling it in that behalf, hereby makes the following regulations:—

1. These regulations may be cited as the Carriage of Goods (Prohibition of Discrimination) Regulations (Northern Ireland) 1976 and shall come into operation on 1st February 1977.

2.—(1) In these regulations—

"the Department" means the Department of the Environment;

"driver" where a separate person acts as steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of it and any reference to the driver of a vehicle shall, in relation to a trailer, be construed as a reference to the driver of the motor vehicle by which the trailer is drawn;

"examiner" means—

(i) an inspector appointed under section 37 of the Transport Act (Northern Ireland) 1967(c); or

(ii) an inspector of vehicles within the meaning of section 190(1) of the Road Traffic Act (Northern Ireland) 1970(d).

"goods vehicle" means a motor vehicle constructed or adapted for use for the carriage or haulage by road of goods or burden of any description, or a trailer so constructed or adapted;

"goods" means any goods other than goods listed in Annexes I and III to the ECSC Treaty;

"the principal Regulation" means Council Regulation (EEC) No. 11 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79(3) of the Treaty establishing the European Economic Community(e);

"transport undertaking" means any undertaking whose business includes the carriage of goods for hire or reward whether by rail, road or inland waterway, being carriage to which these regulations apply.

(a) S.I. 1972/1811 (1972 III, p. 5216)
(b) 1972 c. 68
(c) 1967 c. 37 (N.I.)
(d) 1970 c. 2 (N.I.)
(e) O.J. No. 52, 16.8.1960, p. 1121 (S.E. 1959-1962, p. 60)

(2) References in these regulations to a numbered article shall, unless the reference specifies the instrument containing that article, be construed as references to the article bearing that number in the principal Regulation.

(3) The Interpretation Act (Northern Ireland) 1954(f) shall apply for the interpretation of these regulations as it applies for the interpretation of a Measure of the Northern Ireland Assembly.

(4) These regulations apply to the carriage in Northern Ireland of all goods by rail, road or inland waterway being carriage to which by virtue of Articles 1 to 3 the principal Regulation applies.

3.—(1) Any person who carries on a transport undertaking shall be guilty of an offence under this regulation if that person fails, without reasonable excuse, to notify the Department, in accordance with paragraph (2) of any measure of the kind referred to in Article 5(2) (that is to say, any tariff, or formal or other agreement on transport rates and conditions whereby the rates and conditions for carrying the same goods over the same transport links vary according to the country of origin or of destination of the goods in question) being such a measure presently in force or subsequently introduced.

(2) The notification referred to in paragraph (1) shall be given, in the case of a measure presently in force, within one month of the coming into operation of these regulations, and, in the case of a measure subsequently introduced, within one month of its introduction.

(3) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding £200 and if the offence in respect of which he is convicted under this regulation is continued after the conviction, he shall be guilty of a further offence and be liable in respect thereof on summary conviction to a fine not exceeding £5 for each day on which the offence is so continued.

4.—(1) Except where by virtue of Article 8 or 9 the provisions of Article 6 (concerning transport documents) do not apply to the carriage of goods to which these regulations apply, and subject to the provisions of the next following paragraph, any person who, in relation to any consignment of goods within the Economic Community, is the carrier of those goods within Northern Ireland, whether by rail, road or inland waterway, shall be guilty of an offence under this regulation if—

(*a*) no transport document giving the details specified in Article 6(1) has at the time when the carriage within Northern Ireland of the goods so consigned first commences, been properly prepared in duplicate and numbered as required by Article 6, or

(*b*) one copy of such document does not accompany the goods to which it relates, or

(*c*) the other copy thereof is not retained by the carrier for the period, in the manner and showing the charges and other particulars required by Article 6(2).

(2) The provisions of paragraph (1) do not apply to any person where existing documents give all the details specified in Article 6(1) and, in conjunction with that person's recording and accounting systems, enable a full check to be made of transport rates and conditions so as to abolish or avoid certain forms of discrimination as mentioned in Article 6(3).

(f) 1954 c. 33 (N.I.)

(3) A person guilty of an offence under sub-paragraph (*a*), or (*b*) or (*c*) of the said paragraph (1), shall be liable, on summary conviction to a fine not exceeding £200 for each such offence.

5.—(1) Paragraph (2) applies to undertakings concerned with the carriage within Northern Ireland of goods by road whether as carriers or as such agents or providers of services as are mentioned in Article 13, and paragraph (3) applies to undertakings concerned with the carriage within Northern Ireland of goods by rail and by inland waterway whether as carriers or as such agents or providers as aforesaid.

(2) An examiner, on production if so required of his authority, may—

(*a*) at any time require the driver of a goods vehicle belonging to an undertaking to which this paragraph applies, to produce, and permit him to inspect and copy any consignment note or other transport document (including a document which is an existing document within the meaning of Article 6(3)) or any copy thereof which accompanies any goods on or carried by that vehicle, and

(*b*) at any time which is reasonable having regard to the circumstances of the case, enter any premises occupied by a person carrying on an undertaking to which this paragraph applies and on which he has reason to believe that such a vehicle is kept or that there are to be found—

(i) any consignment notes or other transport documents (including the said existing documents and any recording or accounting systems associated therewith) relating to goods carried or to be carried by that person or any copies of such notes or documents or

(ii) any document containing particulars which relate to any measure which falls to be notified by that person to the Department under Article 5(2) or which has been so notified by him, or which relate to information which falls to be sent or furnished to the Department by that person or has been so sent or furnished by him in accordance with either of the two next following regulations or any copy of a document containing such particulars,

and inspect any such vehicle and inspect and copy any such notes, documents or copies or any recording or accounting systems which he finds there.

(3)(*a*) The Department may appoint any one or more persons for the purpose of checking compliance with the obligations imposed by the principal Regulation in relation to the carriage of goods by rail or by inland waterway and any person so appointed (in this regulation called "an inspector") may exercise the powers conferred on an inspector by the next following sub-paragraph.

(*b*) An inspector, on production if so required of his authority in that behalf, may at any time which is reasonable having regard to the circumstances of the case, enter any premises occupied by a person carrying on an undertaking to which this paragraph applies and on which he has reason to believe that there are to be found in connection with the carriage of goods by rail or inland waterway:—

(i) any consignment notes or other transport documents (including the said existing documents and any recording or accounting systems associated therewith) relating to goods carried or to be carried by that person or any copies of such notes or documents or