

2013 No. 287

ROAD TRANSPORT

**The Road Service Licensing (Community Licences) Regulations
(Northern Ireland) 2013**

Made - - - - *5th December 2013*

Coming into operation - *13th January 2014*

The Department of the Environment makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and section 56(1) and (5) of the Finance Act 1973(b).

The Department of the Environment has been designated(c) for the purposes of section 2(2) in relation to the carriage of passengers and goods by road.

In accordance with section 56(1) and (5) of the Finance Act 1973, the Department of Finance and Personnel consents to the making of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Road Service Licensing (Community Licences) Regulations (Northern Ireland) 2013 and shall come into operation on 13th January 2014.

Interpretation

2.—(1) In these Regulations—

“the 1967 Act” means the Transport Act (Northern Ireland) 1967(d);

“authorisation” except as otherwise defined in regulation 5(3) means an authorisation issued under Article 8 of Regulation 1073/2009;

“Community licence” means a licence issued under Article 4 of Regulation 1073/2009;

“Council Regulation 684/92” means Council Regulation (EEC) No 684/92(e) of 16 March 1992 on common rules for the international carriage of passengers by coach and bus;

“Department” means the Department of the Environment;

“Regulation 1073/2009” means Regulation (EC) No. 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services(f);

(a) 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51).

(b) 1973 c.51

(c) S.I. 1996/266; to which there are amendments not relevant to these Regulations.

(d) 1967 c. 37 (N.I.)

(e) OJ No L 074, 20.03.92, p1

(f) OJ No L 300, 14.11.09, p88

“road service licence” means a road service licence within the meaning of section 4 of the 1967 Act.

(2) Expressions used in these Regulations which are also used in Regulation 1073/2009 have the same meaning as in Regulation 1073/2009.

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

Use of public service vehicle without Community licence

3. Contravention of Article 4(1) of Regulation 1073/2009 (requirement to possess a Community licence) is an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Competent authority

4. Where a person holds or has applied for a road service licence that authorises international operations, the competent authority for the purposes of Regulation 1073/2009 is the Department.

Issue of a Community licence and authorisation

5.—(1) Subject to regulation 10 (supply of information), a person is entitled to be issued by the Department with a Community licence if the person holds a road service licence which—

- (a) authorises international operations; and
- (b) is used for operating a vehicle adapted to carry more than eight passengers.

(2) A licence issued under Article 3a of Council Regulation 684/92 since 4th December 2011 is treated as a Community licence.

(3) An authorisation issued under Article 5 of Council Regulation 684/92 since 4th December 2011 is treated as an authorisation issued under Article 8 of Regulation 1073/2009.

Withdrawal of a Community licence

6.—(1) This paragraph applies where the holder of a Community licence is guilty of a serious infringement in Northern Ireland of Community road transport legislation, in accordance with Article 6(1) and (2) of 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 (b) which may lead to the loss of good repute.

(2) Where paragraph (1) applies, the Department may impose either or both of the following penalties—

- (a) the temporary or permanent withdrawal of some or all of the certified true copies of the Community licence;
- (b) the temporary or permanent withdrawal of the Community licence.

Rights of appeal

7.—(1) A person who—

- (a) applies for a Community licence; and
- (b) wishes to dispute a decision of the Department to refuse to issue the person with such a licence,

may appeal against that decision.

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

(b) OJ No L 300, 14.11.09, p51

(2) A person who—

- (a) is the holder of a Community licence; and
- (b) wishes to dispute a decision of the Department to withdraw it or any certified true copies of it,

may appeal against that decision.

(3) The right of appeal conferred by each of paragraphs (1) and (2) is a right of appeal to the County Court.

Production of Documents

8.—(1) The driver of a vehicle which is required under Article 4(3) of Regulation 1073/2009 to have on board a certified true copy of a Community licence shall be guilty of an offence if he fails to present the licence or a certified true copy of it when requested to do so by an authorised inspecting officer.

(2) The driver of a vehicle which is required under Article 19 of Regulation 1073/2009 to have on board an authorisation or control document shall be guilty of an offence if he fails to present the authorisation or control document when requested to do so by an authorised inspecting officer.

(3) A person who is guilty of an offence under paragraph (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Authorised inspecting officers

9. The following are authorised inspecting officers for the purposes of Regulation 1073/2009—

- (a) constables in uniform;
- (b) vehicle examiners appointed under Article 74 of the Road Traffic (Northern Ireland) Order 1995(a).

Supply of information

10. The Department may refuse to issue a Community licence or authorisation to an applicant if the applicant fails to supply any information that the Department may reasonably request pursuant to Article 4(5) or 7(3) of Regulation 1073/2009 for the purpose of verifying whether the applicant satisfies the conditions laid down in Article 3(1) of that Regulation.

Death, bankruptcy etc. of holder of Community licence

11. Where a person holds a road service licence as the successor referred to in regulation 7 of the Road Service Licensing Regulations (Northern Ireland) 1989(b), such person shall also be treated as the holder of any Community licence and any authorisation (issued under Regulation 1073/2009) held by the grantee of that road service licence, for the same period as is specified or determined by that regulation.

Bodies corporate

12. For the purposes of these Regulations section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(a) S.I. 1995/2994 (N.I. 18)

(b) S.R. 1989 No. 440

Amendment of the Road Traffic (Northern Ireland) Order 1981

13.—(1) The Road Traffic (Northern Ireland) Order 1981^(a) is amended in accordance with paragraphs (2) and (3).

(2) In Schedule 1 (statutory provisions conferring functions on authorised officers)—

(a) for the entry relating to Article 3a(3) of Council Regulation (EEC) No 684/92 substitute—

“Article 4(3) of Regulation (EC) No.1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services.	To require the presentation of a certified true copy of a Community licence issued in accordance with Regulation (EC) No. 1073/2009 and which is required to be kept on board certain passenger vehicles.
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Article 17(1) of Regulation (EC) No.1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services.	To require the presentation of a journey form issued in accordance with Regulation (EC) No. 1073/2009 and which is required to be kept on board certain passenger vehicles.”;
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(b) omit the entry relating to regulation 6 of the Road Transport (Passenger Vehicles Cabotage) Regulations (Northern Ireland) 2005^(b).

(3) In Schedule 2 (statutory provisions relating to vehicles and their drivers)

(a) for the entry relating to regulations 2 and 6 of the Road Service Licensing (Community Licences) Regulations (Northern Ireland) 2002^(c) substitute—

“Regulation 3 of the Road Service Licensing (Community Licences) Regulations (Northern Ireland) 2013	To impose a penalty for contravention of the requirement to possess a Community licence issued in accordance with Regulation (EC) No. 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services when using certain passenger vehicles.”;
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(b) for the entry relating to regulation 2, 3 and 6 of the Road Transport (Passenger Vehicles Cabotage) Regulations (Northern Ireland) 2005 substitute—

“Regulation 8 of the Road Service Licensing (Community Licences) Regulations (Northern Ireland) 2013.	To impose a penalty for contravention of certain requirements relating to national passenger services by a carrier registered in another Member State.”.
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Amendment of the European Communities (International Passenger Services) Regulations (Northern Ireland) 1987

14. In regulation 14 (applications for, issue of, and fees payable in respect of, authorisations for international passenger services) of the European Communities (International Passenger Services) Regulations (Northern Ireland) 1987^(d)—

(a) for paragraph (5) substitute—

(a) 1981/154 (N.I. 1)
(b) S.R. 2005 No. 212
(c) S.R. 2002 No. 116
(d) S.R. 1987 No. 383

“(5) An applicant for a control document referred to in regulation 15(1) shall pay to the Department, on application, a fee of £5.50 for a single waybill or £13.00 for a book of 25 waybills.”;

(b) after paragraph (5) add—

“(5A) An applicant for an own account certificate shall pay to the Department, on application, a fee of £6.00 in respect of each year of validity of the certificate.

(6) An own account certificate means a certificate issued in respect of an own-account transport operation under Article 5 of Regulation (EC) No. 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services.”.

Modification of enactments

15.—(1) The provisions of the 1967 Act shall have effect, in relation to a vehicle used to carry out cabotage transport operations, as if section 4 was omitted.

(2) None of the provisions of the Public Service Vehicles Regulations (Northern Ireland) 1985^(a) and the Public Service Vehicles (Conditions of Fitness, Equipment and Use) Regulations (Northern Ireland) 1995^(b) shall have effect in relation to a vehicle which is carrying out a cabotage transport operation in Northern Ireland in accordance with Regulation 1073/2009.

Revocations

16. The following are revoked—

- (a) the Road Service Licensing (Community Licences) Regulations (Northern Ireland) 2002^(c);
- (b) the Road Transport (Passengers Vehicles Cabotage) Regulations (Northern Ireland) 2005^(d).

(a) S.R. 1985 No. 123
(b) S.R. 1985 No. 447
(c) S.R. 2002 No. 116
(d) S.R. 2005 No. 212

Sealed with the Official Seal of the Department of the Environment on 5th December 2013



Iain Greenway
A senior officer of the
Department of the Environment

Sealed with the Official Seal of the Department of Finance and Personnel on 5th December 2013



John McKibben
A senior officer of the
Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to aspects of Regulation (EC) No. 1073/2009 of 21 October 2009 (“Regulation 1073/2009”), which provides for a Community licence allowing buses and coaches access to the market in the carriage of passengers by road between Member States, a requirement for an authorisation for the purpose of carrying out regular services, and a requirement for control documents when carrying out occasional services.

Regulation 1073/2009, which has direct effect in Member States, recasts existing European Regulations and governs the conditions for the issue and use of Community licences and authorisations. It prescribes the form of the Community licence (Article 4.2 and Annexes I and II), that the Commission shall establish the format of authorisations (Article 6.4), and the period of validity for both Community licences and authorisations (Articles 4.4 and 6.2 respectively).

Regulation 5 confers entitlement to a Community licence on the basis of the relevant Northern Ireland licence. It also provides that existing Community licences and authorisations which meet certain conditions are deemed to be Community licences and authorisations respectively for the purposes of Regulation 1073/2009 and of these Regulations. The competent authority for the purposes of Regulation 1073/2009 is the Department of the Environment (regulation 4).

These Regulations establish various offences, punishable on summary conviction by a fine up to level 4 on the standard scale (regulation 3) and level 3 on the standard scale (regulation 8). Authorised inspecting officers are designated for the purpose of carrying out any necessary inspections (regulation 9). Provision is also made for administrative penalties in certain circumstances which includes the refusal to issue and the withdrawal of documents (regulation 6). The Regulations confer the right of appeal to the county court against administrative penalties (regulation 7).

Regulation 10 requires the applicant for a Community licence or authorisation to supply information.

Provision is made for the automatic transfer of a Community licence and an authorisation following the death, bankruptcy or incapacity of the holder (regulation 11) and for offences which may be committed by a body corporate (regulation 12). In addition provision is made for the amendment or modification of other relevant legislation (regulations 13 and 14).

A full impact assessment of the effect that Regulation 1073/2009 (along with two other related EU Road Transport Regulations) will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside this Regulation on www.legislation.gov.uk. Regulation 1073/2009 can be viewed on the EUR-Lex website at www.eur-lex.europa.eu.

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STATUTORY RULES OF NORTHERN IRELAND

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£5.75

N6002 12/2013 436002T 19585

ISBN 978-0-337-99233-9



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