
STATUTORY RULES OF NORTHERN IRELAND

2014 No. 206

The Road Passenger Transport (Qualifications of Operators) Regulations (Northern Ireland) 2014

Amendments to the 1967 Act

- 9.—(1) The 1967 Act is amended in accordance with paragraphs (2) to (13).
- (2) In section 5 (particulars to be provided by applicants for road service licences)—
- (a) in subsection (2)—
 - (i) in paragraph (a) omit “or (3)”;
 - (ii) in paragraph (c) omit “or (3)”; and
 - (iii) after paragraph (d) add—
 - “(e) particulars of a fixed penalty notice or conditional offer in respect of a serious infringement of Community rules as specified in Article 6.1(b) of the 2009 Regulation for the applicant and for any person specified in the application in pursuance of section 6A(2); and
 - (f) particulars to satisfy the Department that the applicant has an effective and stable establishment in Northern Ireland.”; and
 - (b) after subsection (4) add—
 - “(5) In this section “fixed penalty notice or conditional offer” means a notice or offer under Part 4 of the Road Traffic Offenders (Northern Ireland) Order 1996(1) or Part 3 of the Road Traffic Offenders Act 1988(2).”.
- (3) For section 6A (refusal of road service licence in certain cases) substitute—

“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, unless, having regard to the matters specified in section 6 and to the information given to it in pursuance of section 5(2), it is satisfied that the applicant—

- (a) has an effective and stable establishment in Northern Ireland (as determined in accordance with Article 5 of the 2009 Regulation);
- (b) is of good repute (as determined in accordance with section 46B);
- (c) has appropriate financial standing (as determined in accordance with section 46C); and
- (d) has the requisite professional competence (as determined in accordance with section 46D).

(2) The requirements of subsection (1)(b) and (d) may also be regarded as satisfied where there is designated in the application a transport manager who satisfies the requirements of subsection (1)(b) and (d) and who, in the case of a transport manager designated in accordance with Article 4.2 of the 2009 Regulation, is not designated to act as transport manager for a greater number of road passenger or road freight transport operators or in respect of a greater number of vehicles than the Department considers appropriate, having regard to the upper limits in Article 4.2(c) of the 2009 Regulation, or such smaller number as the Department considers appropriate having regard to Article 4.3 of the 2009 Regulation.

(3) In considering whether the requirements of this section are satisfied, the Department may take into account any undertaking given by the applicant (or procured by the applicant to be given) for the purposes of the application and may assume those undertakings will be fulfilled.

(4) Where the Department grants a road service licence, any undertaking taken into account by the Department under subsection (3) that the Department considers to be material to the granting of the licence shall be recorded on the licence issued to the applicant.

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

(6) There shall be specified in a licence granted by the Department the person who is to be continuously and effectively responsible for the operation of the vehicles to be used under the licence and who is specified as such in the application.

(7) Where the Department refuses to grant a road service licence, it shall serve notice on the applicant stating the reason for the decision.

(8) An applicant for a road service licence who is aggrieved by the decision not to grant a road service licence may, within 28 days from the service of the notice under subsection (7), appeal to the county court, giving written notice of the appeal to the Department.

(9) On an appeal under subsection (8) the county court, if it is satisfied that the Department was not justified in deciding not to grant a road service licence, shall quash the Department's decision, stating the reasons for its decision and that decision shall be final."

(4) In section 7 (conditions of road service licences), for "section 6A(5)", in each place where it occurs, substitute "section 6A(6)".

(5) In section 7A (conditions as to matters required to be notified)—

(a) in subsection (1)(b) omit "relevant" and for "section 6A(1)(a) or (c)" substitute "section 6A(1)(b) or (d)"; and

(b) omit subsection (2).

(6) In section 10 (revocation and suspension of road service licences)—

(a) for subsection (1) substitute—

"(1) Subject to subsection (2), a road service licence may be revoked or suspended by the Department on the ground that—

(a) any condition subject to which the licence was granted has not been complied with, or

(b) any undertaking given pursuant to section 6A(3) has not been fulfilled."

(b) for subsection (3A)(3) substitute—

"(3A) Subject to subsections (3D) to (3G), where at any time during the currency of a road service licence, it appears to the Department that—

- (a) the holder of the licence no longer satisfies the requirements of section 6A(1), or
 - (b) the transport manager designated in accordance with subsection (2) of section 6A no longer satisfies the requirements of that subsection,
- the Department shall revoke the licence as from such time as the Department shall determine .”;
- (c) omit subsections (3B) and (3C);
 - (d) in subsection (3D)—
 - (i) for “section 6A(5)” substitute “section 6A(6)”;
 - (ii) for “one year” substitute “6 months”; and
 - (iii) for “6 months” substitute “3 months”;
 - (e) in subsection (3E) for “paragraph (a) or (b) of that subsection” substitute “section 6A(1) (b) or (c)”;
 - (f) after subsection (3E) insert—
 - “(3F) Before revoking a road service licence under subsection (3A), the Department shall serve a notice on the holder of the licence setting a time limit not exceeding 6 months for the holder to rectify the situation.
 - (3G) If the Department is satisfied that the holder of the licence has rectified the situation within the time limit set under subsection (3F), the Department shall not revoke the licence.”.
- (7) In section 35 (false statements), in subsection (e) for “section 46A(5) or (6)” substitute “section 46D”.
- (8) Section 46A (interpretation of certain expressions in Parts 2 and 3) is omitted.
- (9) For section 46B (good repute of road freight and road passenger transport operators) substitute—

“Good repute

46B.—(1) In determining whether a person is of good repute, the Department shall have regard to any relevant matter but shall, in particular, have regard to—

- (a) a conviction or penalty incurred by that person, or any partner, employee or agent of the person, or in the case of a company, any officer of the company, as specified in Article 6.1(b) of the 2009 Regulation; and
- (b) any other compelling grounds for doubting the good repute of the person, or any partner, employee or agent of the person, or in the case of a company, any officer of the company, which appear to the Department to relate to the person’s fitness to hold a licence.

(2) For the purposes of this Act, a conviction or penalty incurred by a person engaged in the transport of passengers includes a conviction or penalty incurred for an offence under the law of any part of the United Kingdom or any corresponding offence under the law of any country or territory outside the United Kingdom.

(3) In determining whether a person is of good repute the Department must consider whether a finding that the person is no longer of good repute would constitute a disproportionate response.

(4) Without prejudice to the generality of the Department’s powers under subsection (1), to determine that a person engaged in the transport of passengers is not of good repute, the Department shall determine that that person is not of good repute if that person has—

- (a) been convicted of a serious offence (within the meaning given in subsection (5));
 - (b) incurred a conviction or penalty for one of the most serious infringements of Community rules as set out in Annex IV of the 2009 Regulation; or
 - (c) been convicted of, or incurred a penalty for, a road transport offence.
- (5) A person engaged in the transport of passengers has a conviction for a “serious offence” if—
- (a) that person has been convicted of any offence under the law of any part of the United Kingdom or under the law of a country or territory outside the United Kingdom; and
 - (b) on such conviction there was imposed on that person for that offence a punishment falling within subsection (6).
- (6) The punishments are—
- (a) a sentence of imprisonment for a term exceeding 3 months;
 - (b) a fine exceeding level 4 on the standard scale;
 - (c) a community service order or community payback order requiring a person to perform work for more than 60 hours; and
 - (d) in the case of an offence committed under the law of a country or territory outside the United Kingdom, any punishment corresponding to those mentioned in paragraphs (a) to (c).
- (7) In this section—
- (a) “a sentence of imprisonment” includes a reference to any form of custodial sentence or order, other than one imposed under the Mental Health (Northern Ireland) Order 1986(4), or any corresponding statutory provision in any part of the United Kingdom or any corresponding provision in any country or territory outside the United Kingdom;
 - (b) “community service order” means an order under Article 13 of the Criminal Justice (Northern Ireland) Order 1996(5);
 - (c) “community payback order” means an order under section 227A of the Criminal Procedure (Scotland) Act 1995(6);
 - (d) “road transport offence” means—
 - (i) an offence under the law of any part of the United Kingdom relating to road transport including, in particular an offence in the field described in Article 6.1(a)(iv), or relating to the matters described in Article 6.1(b) of the 2009 Regulation; or
 - (ii) any corresponding offence under the law of a country or territory outside the United Kingdom.
- (8) A reference to an offence under the law of any part of the United Kingdom includes a reference to an offence under section 42 of the Armed Forces Act 2006(7).
- (9) For the purposes of this section—
- (a) convictions which are spent for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978(8) shall be disregarded; and

(4) S.I. 1986/595 (N.I. 4)
 (5) S.I. 1996/3160 (N.I. 24)
 (6) 1995 c. 46
 (7) 2006 c. 52
 (8) S.I. 1978/1908 (N.I. 27)

(b) the Department may also disregard an offence if such time as it thinks appropriate has elapsed since the date of the conviction.”.

(10) In section 46C (financial standing of road freight and road passenger transport operators) in subsection (2), for the words from “has available to him” to the end substitute “meets the conditions relating to financial standing set out in Article 7 of the 2009 Regulation.”.

(11) In section 46D(4) (professional competence of road passenger transport operators)—

(a) in paragraph (a) for “in the form set out in Annex I to Council Directive No. 96/26/EC” substitute “in accordance with Part II of Annex I to the 2009 Regulation”;

(b) in paragraph (b) for “Annex Ia to that Directive” substitute “Annex III to the 2009 Regulation and contain the security features as set out in Annex II to that Regulation”;

(c) in paragraph (c)(iii) for “Article 3(4) of Council Directive No. 96/26/EC” substitute “Article 8 of the 2009 Regulation”; and

(d) in paragraph (d) for “that Directive” substitute “the 2009 Regulation”.

(12) Section 46F (savings) is omitted.

(13) In section 81 (interpretation)—

(a) before the definition of “appointed day” insert—

““the 2009 Regulation” means 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) after the definition of “subsidiary” add—

““transport manager” means a person who effectively and continuously manages the transport activities of a road passenger transport operator.”.