

1990 No. 1849

ROAD TRAFFIC

The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1990

<i>Made - - - -</i>	<i>30th August 1990</i>
<i>Laid before Parliament</i>	<i>20th September 1990</i>
<i>Coming into force</i>	<i>11th October 1990</i>

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

1. These Regulations may be cited as the Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1990 and shall come into force on 11th October 1990.

2.—(1) The Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984 (c) shall be amended in accordance with the following provisions of these Regulations.

(2) These Regulations shall not apply in the case of an application for a licence made before the date of coming into force of these Regulations.

(3) The amendment made by regulation 7(b) of these Regulations shall apply only in relation to a licence issued on or after the day on which these Regulations come into force other than a licence issued to a person who has continuously held a licence since before that day and up to the time when the new licence is issued.

3. In regulation 3 (Interpretation), in paragraph (1)-

(a) for the definition of "relevant conviction" there shall be substituted the following definition:-

" "relevant conviction" means

- (i) any conviction mentioned in section 69(4) or any conviction of contravening any provision of the law of Northern Ireland or of a country or territory outside the United Kingdom corresponding to any such conviction, or
- (ii) any other conviction of an offence which is a serious offence as defined in paragraph 1(4) or a road transport offence as defined in paragraph 1(5) of Schedule 6,

not being in either case a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974 (d);"

(a) S.I. 1975/1707.

(b) 1972 c.68.

(c) S.I. 1984/176; the relevant amending instrument is S.I. 1986/666.

(d) 1974 c.53.

- (b) at the end of the definition of "the 1974 Council Directive" there shall be added the words "and, except in paragraph 7 of Schedule 6, as amended by Council Directive (EEC) No. 438/89 of 21st June 1989(a)"; and
- (c) at the end of the definition of "the 1977 Council Directive" there shall be added the words "as amended by Council Directive (EEC) No. 438/89 of 21st June 1989".

4. In regulation 5 (Qualifications of applicants) paragraph (3) shall be deleted.

5. In regulation 10 (Death, bankruptcy etc of licence holder or applicant), in subparagraph (c)(iii) of paragraph (5) for the words "satisfies, as regards the firm, the requirements of professional competence" there shall be substituted the words "manages the road transport business carried on by the partnership" and after that regulation there shall be inserted the following regulation:—

"Partnerships

10A.—(1) The provisions of paragraph (1) of regulation 5 shall apply in any case where an applicant for a standard licence is persons in partnership so that the licensing authority is required to satisfy himself that—

- (a) every one of such persons is of good repute,
- (b) the firm satisfies the requirement of appropriate financial standing, and
- (c) either—
 - (i) if one or more of those persons manage the road transport business carried on by the firm, he, or if more than one each of them, is professionally competent, or
 - (ii) the firm employs a transport manager or transport managers who, or if more than one each of whom, is of good repute and professionally competent.

(2) The provisions of paragraph (1) of regulation 9 shall apply in any case where the holder of a licence is persons in partnership if—

- (a) any one or more of those persons cease to satisfy the requirement to be of good repute, or
- (b) the firm ceases to satisfy the requirement to be of appropriate financial standing, or
- (c) when the requirement as to professional competence is satisfied by one or more of those persons who manage the road transport business carried on by the firm, he, or if more than one each of them, ceases to do so, or when the firm employs a transport manager or transport managers such manager, or if more than one any of them, ceases to be of good repute, or when the firm relies upon the employment of a single transport manager to satisfy the requirement as to professional competence, that transport manager ceases to be employed by the firm.

(3) In Schedule 6—

- (a) the provision in paragraph 2 as regards determining whether the applicant for, or the holder of, a licence is of appropriate financial standing shall apply, in the case of persons in partnership, to the financial standing of the firm;
- (b) the provision in paragraph 3A that a company satisfies the requirement as to professional competence if, and so long as, it has a transport manager or transport managers of its road transport business who, or if more than one each of whom, is of good repute and professionally competent shall apply in the case of persons in partnership so that the firm satisfies the said requirement if, and so long as, each of such persons is of good repute, and either—
 - (i) if one or more of those persons manage the road transport business carried on by the partnership, he, or if more than one each of them, is professionally competent, or

(a) OJ No. L212, 22.7.89, p. 101.

- (ii) the firm employs a transport manager or transport managers of its road transport business who, or if more than one each of whom, is of good repute and professionally competent; and
- (c) in a case where one or more persons in partnership manage the road transport business carried on by the firm or the firm employs a transport manager or transport managers the provision in paragraph 5 shall apply—
 - (i) as regards one such person or a single transport manager employed by the firm as it applies as regards a single transport manager employed by a company, and
 - (ii) as regards two or more such persons or two or more transport managers employed by the firm as it applies as regards two or more transport managers employed by a company.

(4) In this regulation “firm” has the same meaning as in section 4 of the Partnership Act 1890(a)”.

6. After regulation 34 (Classes of vehicle for which a licence is not required) there shall be inserted the following regulation:—

“34A Notwithstanding section 60(1), before the consultations referred to in Article 2(2) of the 1974 Council Directive are completed a licensing authority for any area may, for the purpose of enabling an emergency to be dealt with or otherwise enabling a special need to be met, by notice in writing grant a temporary exemption from the requirement for a standard licence for the use of a vehicle, or a vehicle of any class, for hire or reward on national transport operations by a person engaged exclusively in such operations having only a minor impact on the transport market because of the nature of the goods carried or the short distance involved.”

7. In Schedule 6 (Qualifications for Licence)—

(a) at the end of paragraph 1 there shall be inserted the following sub-paragraphs—

“(3) A licensing authority shall determine that an individual is not of good repute if he—

- (a) has been convicted of serious offences; or
- (b) has been repeatedly convicted of road transport offences.

(4) For the purposes of sub-paragraph (3)(a) above a serious offence is—

- (a) an offence under the law in force in any part of the United Kingdom for which a sentence of imprisonment for a term exceeding three months, a fine exceeding level 4 on the standard scale or a community service order for more than sixty hours was imposed; and
- (b) any corresponding offence under the law of a country or territory outside the United Kingdom for which a corresponding punishment was imposed.

(5) For the purposes of sub-paragraph (3)(b) above a road transport offence is—

- (a) an offence under the law in force in any part of the United Kingdom relating to road transport, including in particular drivers’ hours and rest periods, the weights and dimensions of commercial vehicles and road and vehicle safety; and
- (b) any corresponding offence under the law of a country or territory outside the United Kingdom.

(6) In sub-paragraph (4)(a) above “a sentence of imprisonment” includes any form of custodial sentence or order other than one under the enactments relating to mental health and “a community service order” means an order under section 14 of the Powers of Criminal Courts Act 1973(b) or the Community Service by Offenders (Scotland) Act 1978(c).

(7) In sub-paragraphs (4)(a) and (5)(a) above references to an offence under the law in force in any part of the United Kingdom include a reference to a civil offence (wherever committed) within the meaning of the Army Act 1955(d), the Air Force Act 1955(e) or the Naval Discipline Act 1957(f).

(a) 1890 c.39.
(d) 1955 c.18.

(b) 1973 c.62.
(e) 1955 c.19.

(c) 1978 c.49.
(f) 1957 c.53.

(8) For the purposes of sub-paragraph (3) above spent convictions shall be disregarded; and a licensing authority may also disregard an offence if such time as he considers appropriate has elapsed since the date of the conviction.

(9) Sub-paragraph (3) above is without prejudice to the power of a licensing authority to determine that an individual is not of good repute for reasons other than convictions of the kind there mentioned.

(10) In this paragraph references to an individual include references to a transport manager as well as to an individual who is an applicant for, or the holder of, a licence."

(b) the existing provisions of paragraph 2 shall become sub-paragraph (1) of that paragraph and after that sub-paragraph there shall be inserted the following sub-paragraphs:-

"(2) An applicant for, or holder of, a licence authorising the use of vehicles for international transport operations shall not be considered to be of appropriate financial standing unless he has available capital and reserves of an amount equal to at least-

(a) 3,000 European Currency Units multiplied by the number of vehicles which are to be or are used under the licence; or

(b) 150 European Currency Units multiplied by the number of tonnes of the aggregate of the relevant maximum weights of such vehicles,

whichever is the less.

(3) In sub-paragraph (2) above "relevant maximum weight" has the same meaning as in section 108(1) of the Road Traffic Act 1988(a).

(c) in paragraph 3A for the words ", or such number of them as the licensing authority may require" there shall be substituted the words "or managers, and such number of them as the licensing authority may require";

(d) in paragraph 5 for the words "relies on a transport manager", there shall be substituted the words "relies on a single transport manager"; and

(e) the existing paragraph 5, as amended by sub-paragraph (d) above, shall become sub-paragraph (1) of that paragraph and after that sub-paragraph there shall be inserted-

"(2) Where the holder of a standard licence is a company with two or more transport managers and any of them ceases to be of good repute the company shall nevertheless not be treated as failing to satisfy the requirement as to professional competence until the expiry of such period as in the opinion of the licensing authority is reasonably required for his removal or the appointment of a transport manager in his place."

30th August 1990

Cecil Parkinson
Secretary of State for Transport

(a) 1988 c.52.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984. They implement Council Directive (EEC) No. 438/89 of 21st June 1989 (OJ No. L212, 22.7.89, p. 101) amending Council Directive (EEC) No. 561/74 of 12th November 1974 on admission to the occupation of road haulage operator in national and international transport operations (OJ No. L308, 19.11.74, p.18).

The principal changes made by the Regulations are—

(1) the introduction of a new definition of “relevant conviction” to which the licensing authority is to have regard in relation to operator licensing to include convictions of the serious offences and the road transport offences specified in paragraph 1 of Schedule 6 to the 1984 Regulations as so amended (regulation 3);

(2) the introduction of further provision to take account of the implementation of the Directives in the case of persons in partnership (regulations 4 and 5);

(3) the insertion of a new regulation empowering the licensing authorities to grant temporary exemptions from the requirement for a standard licence for the use of vehicles for hire or reward on national transport operations in certain circumstances (regulation 6);

(4) an amendment to paragraph 1 of Schedule 6 to the 1984 Regulations to require the licensing authority to determine that an individual is not of good repute if he

- (a) has been convicted of serious offences; or
- (b) repeatedly convicted of road transport offences.

A “serious offence” is one for which a sentence of imprisonment of more than three months, a fine exceeding level 4 on the standard scale or a community service order was imposed and a “road transport offence” is an offence under the law relating to road transport, in particular drivers' hours and rest periods, the weights and dimensions of commercial vehicles and road and vehicle safety (regulation 7(a) and Article 1.4 of the 1989 Directive);

(5) an amendment to paragraph 2 of Schedule 6 to the 1984 Regulations specifying the minimum capital and reserves that must be available to an applicant for, or holder of, a standard operator's licence authorising the use of vehicles for international transport operations if he is to be considered to be of appropriate financial standing (regulation 7(b) and Article 1.5 of the 1989 Directive);

(6) an amendment to paragraph 3A of Schedule 6 to the 1984 Regulations to require a company which is an applicant for, or holder of, a standard operator's licence in order to satisfy the requirement of professional competence to have a transport manager who is, or where it has more than one transport manager, each of whom is, of good repute and professionally competent (regulation 7(c) and Article 1.3).