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STATUTORY INSTRUMENTS

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**1992 No. 3077**

**ROAD TRAFFIC**

**The Goods Vehicles (Community Authorisations) Regulations 1992**

<i>Made</i>	- - - -	<i>8th December 1992</i>
<i>Laid before Parliament</i>		<i>9th December 1992</i>
<i>Coming into force</i>	- -	<i>1st January 1993</i>

The Secretary of State for Transport, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the international carriage of passengers and goods by road, and in particular any scheme (including a quota scheme) for making it possible for carriers in member States to conduct road transport operations on routes between member States, in exercise of the powers conferred by that section, hereby makes the following Regulations:—

**Commencement and citation**

1. These Regulations may be cited as the Goods Vehicles (Community Authorisations) Regulations 1992 and shall come into force on 1st January 1993.

**Purpose and interpretation**

2.—(1) These Regulations implement the Council Regulation.

(2) In these Regulations—

“actual holder”, in relation to a person established as a haulier in Great Britain, has the meaning which it bears in regulation 32A(1) of the 1984 Regulations;

“Community authorisation” means a Community authorisation issued under the Council Regulation;

“competent authority” has the meaning given by regulation 4 of these Regulations;

“the Council Regulation” means Council Regulation (EEC) No. 881/92 of 26th March 1992 on access to the market in the carriage of goods by road within the Community to or from the territory of a member State or passing across the territory of one or more member States;

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(1) S.I.1972/1811.  
(2) 1972 c. 68.

“the First Council Directive” means the First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road(3);

“operating centre” has the meaning which it bears in section 92(1) of the Transport Act 1968(4);

“operator’s licence” means an operator’s licence within the meaning of section 60(1) of the Transport Act 1968 or section 14 of the Transport Act (Northern Ireland) 1967(5);

“standard operator’s licence” means an operator’s licence which is a standard licence within the meaning of regulation 3(2) of the 1984 Regulations;

“the 1984 Regulations” means the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984(6); and

“traffic area” means a traffic area constituted for the purposes of the Public Passenger Vehicles Act 1981(7),

and, subject thereto, expressions used which are also used in the Council Regulation have the meaning which they bear in that Regulation.

### **Use of goods vehicle without Community authorisation**

3. A person who uses a vehicle in the United Kingdom in contravention of Article 3.1 of the Council Regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Competent authorities**

4. The competent authority for the purposes of the Council Regulation and of these Regulations shall be—

- (a) in relation to a haulier with an operating centre in a traffic area in Great Britain, the traffic commissioner for that area, and
- (b) in relation to a haulier established in Northern Ireland, the Department of the Environment for Northern Ireland.

### **Entitlement to the issue of Community authorisation**

5.—(1) A person shall be entitled to be issued with a Community authorisation under Article 3.2 of the Council Regulation if—

- (a) in the case of a person established as a haulier in Great Britain, he holds a standard operator’s licence covering international transport operations; or
- (b) in the case of a person established as a haulier in Northern Ireland, he holds an operator’s licence covering international transport operations.

(2) For the purposes of paragraph (1)(a) above, “international transport operations” has the meaning which it bears in regulation 3(2) of the 1984 Regulations.

### **Rights of appeal**

6. A person who—

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(3) O.J. No. L 70, 6.8.1962, p.2005/62, as amended by Directives of 2.4.1972, 11.6.1972, and Directives 426/72 (EEC), 149/74 (EEC), 158/77 (EEC), 175/78 (EEC), 49/80 (EEC), 50/82 (EEC), 572/83 (EEC) and 647/84 (EEC), and Regulation (EEC) No. 881/92.

(4) 1968 c. 73; the definition of centre was amended by 1982 c. 49, section 52(1).

(5) 1967 c. 37 (N.I.).

(6) S.I. 1984/176; regulation 3(2) was amended by S.I. 1986/1391, and regulation 32A(1) inserted by S.I. 1991/2239.

(7) 1981 c. 14, as amended by S.I. 1983/1714 and 1991/288.

- (a) being entitled to be issued with a Community authorisation under regulation 5 above, is aggrieved by the refusal of the competent authority to issue such authorisation to him, or
- (b) being the holder of a Community authorisation, is aggrieved by the decision of the competent authority who issued it to withdraw it,

may appeal—

- (i) if he is established as a haulier in Great Britain, to the Transport Tribunal; or
- (ii) if he is established as a haulier in Northern Ireland, to the Northern Ireland Operator and Vehicle Licensing Review Body.

### **Effect of failure to comply with conditions governing use of Community authorisation**

7. A person who uses a vehicle in the United Kingdom under a Community authorisation and, without reasonable excuse, fails to comply with any of the conditions governing the use of that authorisation under the Council Regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Authorised inspecting officers**

8. Authorised inspecting officers for the purposes of the Council Regulation shall be police constables and—

- (a) in Great Britain, examiners appointed under section 56(1) of the Road Traffic Act 1972<sup>(8)</sup> or section 66A(1) of the Road Traffic Act 1988<sup>(9)</sup>, and
- (b) in Northern Ireland, inspectors appointed under section 37 of the Transport Act (Northern Ireland) 1967<sup>(10)</sup> and inspectors of vehicles, as defined in Article 2(2) of the Road Traffic (Northern Ireland) Order 1981<sup>(11)</sup>.

### **Return of documents**

9.—(1) The holder of a Community authorisation which is withdrawn by the competent authority in accordance with Article 8.2 of the Council Regulation shall within 7 days of such withdrawal return to the competent authority which issued it the original authorisation and all certified true copies of it.

(2) The holder of a Community authorisation shall return to the competent authority which issued it such certified true copies of the authorisation as the authority may require pursuant to any reduction in the number of vehicles at the disposal of the holder or any decision of the authority under Article 8.3 of the Council Regulation to suspend certified true copies of that authorisation.

(3) A person who, without reasonable excuse, fails to comply with any provision of paragraphs (1) or (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Supply of information**

10.—(1) The holder of a Community authorisation shall furnish such information as the competent authority which issued it may reasonably require from time to time to enable the authority to decide whether the holder is entitled to retain that authorisation.

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<sup>(8)</sup> 1972 c. 20.

<sup>(9)</sup> 1988 c. 52; section 66A(1) was inserted by 1991 c. 40, section 9.

<sup>(10)</sup> 1967 c. 37 (N.I.).

<sup>(11)</sup> S.I. 1981/154 (N.I.1). 3

(2) A person who, without reasonable excuse, fails to supply any information required under paragraph (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Death, bankruptcy etc. of holder of Community authorisation**

**11.** Where a person is treated as the holder of an operator's licence by virtue of a direction under Regulation 32A of the 1984 Regulations or by virtue of regulations made under section 33(2) of the Transport Act (Northern Ireland) 1967, such person shall also be treated as the holder of any Community authorisation held by the actual holder of that operator's licence, for the same period as is specified in that direction or under such regulations.

### **Bodies corporate**

**12.—(1)** Where an offence under these Regulations has been committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under these Regulations has been committed by a Scottish partnership and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

### **Amendment of the Goods Vehicles (International Road Haulage Permits) Regulations 1975**

**13.—(1)** The Goods Vehicles (International Road Haulage Permits) Regulations 1975(**12**) shall be amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), in the definition of "international road haulage permit", the words "a Community instrument relating to the carriage of goods by road between member States or" shall be omitted.

(3) In regulation 4 (journeys to which Regulations apply), in paragraph (2), the words "The Republic of France, The Federal Republic of Germany, The Republic of Italy" shall be omitted.

(4) In regulation 5 (exceptions), in the Table, items 2, 3 and 4 and the entries relating to those items in columns (2), (3) and (4) shall be omitted.

### **Amendment of the Transport Act 1968**

**14.—(1)** Section 60 of the Transport Act 1968 (users of certain goods vehicles to hold operators' licences) shall be amended as follows.

(2) At the end of subsection (2) there shall be added—

“; or

(c) to the use of a goods vehicle for international carriage by a haulier established in a member State other than the United Kingdom and not established in the United Kingdom;  
or

- (d) to the use of a goods vehicle for international carriage by a haulier established in Northern Ireland and not established in Great Britain.”.
- (3) After subsection (4) there shall be inserted—
- “(4A) In subsection (2)(c) and (d) of this section “established,”“haulier” and “international carriage” have the same meaning as in Council Regulation (EEC) No. 881/92 of 26th March 1992 on access to the market in the carriage of goods by road within the Community to or from the territory of a member State or passing across the territory of one or more member States;”.

### **Amendment of the Goods Vehicles (Operators' Licences) (Temporary Use in Great Britain) Regulations 1980**

15.—(1) The Goods Vehicles (Operators' Licences) (Temporary Use in Great Britain) Regulations 1980(13) shall be amended as follows.

- (2) In regulation 3 (interpretation), in paragraph (1)—
- (a) after the definition of “Community cabotage authorisation”, there shall be inserted—
- ““Council Regulation No. 881/92” means Regulation (EEC) No. 881/92 of 26th March 1992 on access to the market in the carriage of goods by road within the Community to or from the territory of a member State or passing across the territory of one or more member States;”;
- (b) in the definition of “foreign goods vehicle”, after paragraph (a), there shall be inserted—
- “(aa) which is not being used for international carriage by a haulier established in a member State other than the United Kingdom and not established in the United Kingdom;”;
- (c) after the definition of “foreign goods vehicle”, there shall be inserted—
- ““international carriage” has the meaning which it bears in the Council Regulation; and
- (d) in the definition of “Northern Ireland goods vehicle”, after paragraph (a), there shall be inserted—
- (aa) which is not being used for international carriage by a haulier established in Northern Ireland and not established in Great Britain;”.
- (3) For regulation 6 (exemptions for Northern Ireland or foreign goods vehicles with international authorisations or licences), there shall be substituted—

#### **“Exemptions for Northern Ireland or foreign goods vehicles with international licences**

6. Notwithstanding anything in Regulations 7 to 33, section 60(1) of the Act shall not apply to the use in Great Britain of a Northern Ireland or foreign goods vehicle for the carriage of goods for hire or reward if the vehicle is being used by virtue of a licence issued pursuant to the scheme adopted by Resolution of the Council of Ministers of Transport on 14th June 1973 and the licence is carried on the vehicle or, if the vehicle is a trailer, on the motor vehicle by which it is drawn.”

- (4) Regulations 8, 12, 14, 15, 16, 17, 19, 20, 21, 23, 27 and 29 are hereby revoked.

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Signed by authority of the Secretary of State for Transport

8th December 1992 5

*Kenneth Carlisle*  
Parliamentary Under Secretary of State,  
Department of Transport

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give effect in the United Kingdom to Council Regulation (EEC) No. 881/92 of 26th March 1992 (“the EC Regulation”), which establishes a Community-wide authorisation allowing goods vehicles access to the market in the carriage of goods by road between member States.

The EC Regulation, which has direct effect in member States, prohibits the carriage of goods by road between member States without Community authorisation (Article 3.1). These Regulations enforce the prohibition by imposing a penalty for breach (regulation 3) and designating competent authorities for the purposes of the EC Regulation (regulation 4).

The EC Regulation lays down the conditions for the issue and use of such authorisations. Each member State is to issue a Community authorisation to any haulier established in that State who is entitled to carry out international carriage of goods by road for hire or reward. In Great Britain such entitlement is signified by the issue under section 60 of the Transport Act 1968 of a standard operator’s licence covering both international and national transport operations, and in Northern Ireland by the issue under section 14 of the Transport Act (Northern Ireland) 1967 of an operator’s licence covering international transport operations. The Regulations accordingly confer entitlement to Community authorisation on the basis of the relevant United Kingdom licence (regulation 5).

The form of the Community authorisation document is prescribed in the EC Regulation (Article 5.3 and Annex I), as is the period of validity (Article 6) and the grounds for refusal or withdrawal of authorisation (Article 8). The holder of an authorisation must keep the original, and a certified copy must be kept in each goods vehicle being used on a journey of international carriage. These documents must be produced to an authorised inspecting officer on demand (Article 5.3 and 5.4). Regulation 8 designates authorised inspecting officers for this purpose.

The Regulations implement the EC Regulation by conferring rights of appeal against refusal or withdrawal of authorisation (regulation 6). They also require a holder to return the authorisation and all certified true copies if it is withdrawn, and to return certified true copies if they are suspended or if the number of vehicles in use is reduced (regulation 9). Provision is made for the automatic transfer of an authorisation in certain circumstances following the death, bankruptcy or incapacity of the holder (regulation 11).

Regulations 13 to 15 make consequential amendments to other legislation, as follows:

Regulation 13 revises the Goods Vehicles (International Road Haulage Permits) Regulations 1975 to remove the need for permits under the International Road Haulage Permits Act 1975 for journeys to other member States, since under the EC Regulation such journeys require Community authorisation alone. The 1975 Regulations will now apply only to journeys to Austria.

Regulation 14 amends section 60 of the Transport Act 1968 so as to exempt any haulier established in another member State or in Northern Ireland from the need to obtain an operator’s licence under that Act to use a goods vehicle for international carriage in Great Britain, since under the EC Regulation he will require a Community authorisation based on obtaining an equivalent qualification in the State where he is established. A haulier established in Northern Ireland will require a Community authorisation issued in that province.

Regulation 15 revises the Goods Vehicles (Operators’ Licences) (Temporary Use in Great Britain) Regulations 1980 to remove international carriage by hauliers established in other member States

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or in Northern Ireland from their scope, in view of the general exemption afforded such carriage by the amendment made to the Transport Act 1968 by the preceding regulation.