
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 257

The Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012

[^{F1}PART 2

Provisions relating to the 2010 Act

F1 Pt. 2 and cross-heading inserted (17.3.2022) by [The Goods Vehicles \(Licensing of Operators\) \(Amendment\) Regulations 2022 \(S.I. 2022/293\)](#), regs. 2(1), **112**

Effective and stable establishment

Determination of effective and stable establishment in Northern Ireland

4A.—(1) A person has an effective and stable establishment in Northern Ireland under section 12A(2)(a) of the 2010 Act if the person satisfies, or will satisfy on the issuing of an operator's licence, the requirements set out in paragraph (2).

(2) The requirements are that the person—

- (a) has premises in Northern Ireland at which the person—
 - (i) is able to access, in electronic or any other form, the originals of the person's core business documents; and
 - (ii) carries out effectively and continuously, with appropriate equipment and facilities, the administration of the person's transport service;
- (b) has access to one or more goods vehicles that are authorised to be used under the person's operator's licence;
- (c) has at a place or places in Northern Ireland—
 - (i) a number of goods vehicles referred to in sub-paragraph (b) that is proportionate to the national or international transport operations carried out from each place; and
 - (ii) a number of drivers that is proportionate to the number of goods vehicles operating from that place;
- (d) has, if required under the Value Added Tax Act 1994 (c. 23) to charge value added tax on the supply of the person's transport service, a VAT registration number;
- (e) is within the charge to income tax or corporation tax under the Tax Acts on income generated through the person's transport service; and
- (f) is, if a company, a company within the meaning given in section 1(1) of the Companies Act 2006 (c. 46).

(3) In paragraph (2)—

“core business documents” includes—

- (a) contracts relating to the transport service;
- (b) documents relating to the goods vehicles authorised to be used under the person's operator's licence;
- (c) accounting documents;
- (d) personnel management documents;
- (e) employment contracts;
- (f) national insurance documents;
- (g) documents containing data—
 - (i) on the dispatching and posting of drivers; and
 - (ii) relating to journeys, driving time and rest periods;
- (h) any other document the Department may require to verify a person's compliance with any requirement or obligation imposed by or under the 2010 Act;

“VAT registration number” means the number allocated by the Commissioners for Her Majesty's Revenue and Customs to a person registered under the Value Added Tax Act 1994 (c. 23).

Good repute]

[^{F2}Determination of good] repute

5.—(1) In determining whether an individual is of good repute [^{F3}under section 12A(2)(b) of the 2010 Act or regulation 13A(1)(b)] , the Department may have regard to any matter but shall, in particular, have regard to—

- (a) any convictions or penalties incurred by the individual or any other relevant person; and
- (b) any other information in its possession which appears to the Department to relate to the individual's fitness to hold a licence.

(2) In determining whether a company is of good repute [^{F4}under section 12A(2)(b) of the 2010 Act] , the Department shall have regard to all the material evidence including, in particular—

- (a) any convictions or penalties incurred by the company, company employees or any other relevant person; and
- (b) any other information in its possession as to the previous conduct of the company or any other relevant person if that conduct appears to the Department to relate to the company's fitness to hold a licence.

(3) For the purposes of these Regulations, any convictions or penalties incurred by any person include —

- (a) any conviction or penalty incurred by that person of 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;
- (b) any conviction of that person of a serious offence within the meaning given in regulation 7; and
- (c) any conviction of that person of a road transport offence within the meaning given in regulation 8.

<p>F2 Words in reg. 5 heading substituted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), 113(1)</p>

F3 Words in reg. 5(1) inserted (17.3.2022) by *The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293)*, regs. 2(1), **113(2)**

F4 Words in reg. 5(2) inserted (17.3.2022) by *The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293)*, regs. 2(1), **113(3)**

Modifications etc. (not altering text)

C1 Reg. 5 applied (1.7.2012) by *The Goods Vehicles (Licensing of Operators) Regulations (Northern Ireland) 2012 (S.R. 2012/261)*, regs. 1, **27(12)(a)**

Determination that an individual is not of good repute

6. Without prejudice to the generality of the Department's power under regulation 5 to determine that a person is not of good repute, the Department shall determine that an individual is not of good repute if that individual has—

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

Serious Offences

7.—(1) A person has a conviction of 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 paragraph (2).

(2) The punishments are—

- (a) a sentence of imprisonment for a term exceeding three 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 sub-paragraphs (a) to (c).

(3) In paragraph (2) —

- (a) the reference to a sentence of imprisonment includes a reference to any form of custodial sentence or order, other than one imposed under the enactments relating to mental health;
- (b) “community service order” means an order under Article 13 of the Criminal Justice (Northern Ireland) Order 1996 ^{M1}; and
- (c) “community payback order” means an order under section 227A of the Criminal Procedure (Scotland) Act 1995 ^{M2}.

Marginal Citations

M1 *S.I. 1996/3160 (N.I. 24)*

M2 *1995 c. 46*

Road Transport offences

8. “Road transport offence” means—

- (a) an offence under the law of any part of the United Kingdom relating to road transport including, in particular—
 - (i) an offence relating to drivers' hours of work or rest periods, the weights or dimensions of commercial vehicles, road or vehicle safety or the protection of the environment; and
 - (ii) any other offence concerning professional liability;
- (b) any corresponding offence under the law of a country or territory outside the United Kingdom.

Further provisions for the purposes of regulations 5 to 8

9.—^[F5](1) For the purposes of regulations 5 to 8—

- (a) convictions which are spent for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978 ^{M3} shall be disregarded; and

^[F6](b) the Department may also disregard an offence—

- (i) if such time as the Department thinks appropriate has elapsed since the date of the conviction; or
- (ii) if the Department, having considered the number of offences committed by a person, determines that due to specific circumstances a negative determination of good repute for the person would constitute a disproportionate response.]

^[F7](2) In determining the good repute of a transport manager under regulation 13A(1)(b) regulations 5 to 9 shall apply as they apply to an individual with the omission of the words “or any other relevant person”.]

F5 Reg. 9 renumbered as reg. 9(1)(17.3.2022) by *The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293)*, regs. 2(1), **114(1)**

F6 Reg. 9(1)(b) substituted (17.3.2022) by *The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293)*, regs. 2(1), **114(2)**

F7 Reg. 9(2) inserted (17.3.2022) by *The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293)*, regs. 2(1), **114(3)**

Marginal Citations

M3 S.I. 1978/1908 (N.I. 27)

^[F8] *Appropriate financial standing*

F8 Reg. 9A and cross-headings inserted (17.3.2022) by *The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293)*, regs. 2(1), **115**

Determination of appropriate financial standing

9A.—(1) An operator has appropriate financial standing under section 12A(2)(c) of the 2010 Act if the operator is able to demonstrate that it has at its disposal at all times capital and reserves—

- (a) for goods vehicles authorised to be used under a heavy goods vehicle licence, of—

- (i) £8,000 for the first heavy goods vehicle;
- (ii) £4,500 for each additional heavy goods vehicle; and
- (iii) £800 for each light goods vehicle (if any); or
- (b) for goods vehicles authorised to be used under a light goods vehicle licence, of—
 - (i) £1,600 for the first light goods vehicle; and
 - (ii) £800 for each additional light goods vehicle.
- (2) The operator must demonstrate appropriate financial standing—
 - (a) on the basis of the operator’s annual accounts if certified by a qualified auditor; or
 - (b) by producing other evidence to the satisfaction of the Department that the operator has, in the name of the operator, the necessary capital and reserves, such as—
 - (i) a bank guarantee;
 - (ii) a document issued by a financial institution establishing access to credit; or
 - (iii) any other binding document.
- (3) In this regulation—
 - “operator” means an applicant for, or a holder of, an operator’s licence in relation to which appropriate financial standing is required under section 12A(2)(c) of the 2010 Act;
 - “qualified auditor” means a person who is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006.

Professional competence]

Professional Competence

^{F9}10.

F9 Reg. 10 omitted (17.3.2022) by virtue of [The Goods Vehicles \(Licensing of Operators\) \(Amendment\) Regulations 2022 \(S.I. 2022/293\)](#), regs. 2(1), **116**

[^{F10}Determination of professional competence]

F10 Reg. 11 cross-heading inserted (17.3.2022) by [The Goods Vehicles \(Licensing of Operators\) \(Amendment\) Regulations 2022 \(S.I. 2022/293\)](#), regs. 2(1), **117(1)**

- 11.**—(1) An individual shall be regarded as professionally competent [^{F11}under section 12A(3)(a)(i) of the 2010 Act or regulation 13A(1)(c)] if, and only if—
- (a) that person has demonstrated that they possess the requisite skills by passing a written examination organised by an approved body and is the holder of a certificate to that effect issued by that body; or
 - (b) that person is the holder of any other certificate of competence, diploma or other qualification recognised for the purposes of this paragraph by the Department.
- (2) The approved body may exempt an individual from certain parts of the examination mentioned in paragraph (3)(a) if the individual is the holder of a certificate of competence, diploma or other

qualification which covers those parts and which is recognised for the purposes of this paragraph by the Department.

(3) The written examination mentioned in paragraph (3)(a) may be supplemented by an oral examination organised by the approved body in the form set out in Annex I to Regulation 1071/2009.

(4) In this regulation—

“approved body” mentioned in paragraph (4) means—

- (a) a body approved by the Secretary of State for the purposes of paragraph 13(3) of Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995 ^{M4}; or
- (b) [^{F12}a body approved by the Department for Infrastructure for the purposes of [^{F13}this regulation] ; and]

“the requisite skills” means knowledge corresponding to the level of training, for either national or international transport operations as the case may be, provided for in Annex I to Regulation 1071/2009 in the subjects there listed.

F11 Words in reg. 11(1) inserted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), **117(2)**

F12 Words in reg. 11(4) substituted (31.1.2020) by The Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/708), regs. 1(1), **7(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F13 Words in reg. 11(4)(b) substituted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), **117(3)**

Marginal Citations

M4 1995 c. 23

^{F14}**12.**

F14 Reg. 12 omitted (17.3.2022) by virtue of The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), **118**

^{F15}**13.**

F15 Reg. 13 omitted (17.3.2022) by virtue of The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), **118**

^{F16}*Transport manager*

F16 Reg. 13A and cross-heading inserted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), **119**

Requirements for transport manager

13A.—(1) A transport manager must be—

- (a) a resident of the United Kingdom;

- (b) of good repute (as determined in accordance with regulations 5 to 9);
 - (c) professionally competent (as determined in accordance with regulation 11); and
 - (d) able to manage effectively and continuously the operator’s transport service.
- (2) An individual designated under section 12A(3)(a)(ii) of the 2010 Act, in addition to meeting the requirements set out in paragraph (1), must be—
- (a) the operator;
 - (b) an employee, director, owner, or shareholder of the operator; or
 - (c) any other individual the Department is satisfied has a genuine link to the operator.
- (3) An individual designated under section 12A(3)(b) of the 2010 Act, in addition to meeting the requirements set out in paragraph (1), must—
- (a) be a party to a transport management contract linking the individual to the operator;
 - (b) be able to—
 - (i) exercise the individual’s responsibilities as a transport manager independently of the operator; and
 - (ii) perform the tasks set out in the transport management contract solely in the interests of the operator; and
 - (c) not be, subject to paragraph (4), at the same time designated under—
 - (i) section 12A(3)(a)(ii) or (b) of the 2010 Act in relation to any other operator’s licence; or
 - (ii) any corresponding law of England and Wales or Scotland in relation to a Great Britain-issued licence.
- (4) If the Department considers it appropriate, the Department may allow an individual to be designated in relation to an operator’s licence despite paragraph (3)(c) provided the individual is designated in relation to no more than four operators’ licences or Great Britain-issued licences authorising the use of a combined total fleet of no more than 50 motor vehicles or vehicle combinations.
- (5) In this regulation—
- “Great Britain-issued licence” means a licence issued under the law of England and Wales or Scotland that is equivalent to an operator’s licence;
- “the operator” means the person who designated the individual under section 12A(3)(a)(ii) or (b);
- “transport management contract” means a contract that—
- (a) indicates the individual’s responsibilities as a transport manager; and
 - (b) specifies the tasks the individual is to perform as a transport manager for the operator, including those relating to—
 - (i) vehicle maintenance;
 - (ii) vehicle management;
 - (iii) verification of contracts and documents relating to the transport service;
 - (iv) basic accounting;
 - (v) the assignment to drivers and vehicles of transport services; and
 - (vi) the verification of safety procedures.]

Issue of notice to transport manager

14.—(1) The Department shall not make a finding that a transport manager is not of good repute unless the Department is satisfied that the transport manager has been served with a notice—

- (a) stating that the question whether the transport manager is of good repute is an issue;
- (b) setting out the nature of the allegations against the transport manager;
- (c) stating that the transport manager is entitled to make representations under this paragraph within 28 days beginning with the date on which the notice is served on them; and
- (d) stating that the transport manager is entitled to request an inquiry as provided in section 32 of the 2010 Act.

(2) Where a transport manager makes representations under this paragraph, the Department shall consider the representations—

- (a) in considering whether or not to hold an inquiry as provided in section 32 of the 2010 Act; and
- (b) in determining whether the transport manager is of good repute.

(3) The Department must hold an inquiry as provided in section 32 of the 2010 Act if the transport manager requests one under paragraph (1)(d).

Determinations in respect of transport managers

15.—(1) In determining whether a person who is a transport manager is of good repute, the Department must consider whether a finding that the person was no longer of good repute would constitute a disproportionate response.

(2) If the Department determines that the person is no longer of good repute, the Department must order the person to be disqualified (either indefinitely or for such period as the Department thinks fit) from acting as a transport manager.

(3) While a disqualification under paragraph (2) is in force—

- (a) the person may not act as transport manager [^{F17}in relation to any operator’s licence] ;
- ^{F18}(b)

(4) A person in respect of whom an order has been made under paragraph (2) may appeal to the Upper Tribunal against the order.

(5) The Department may direct that an order under paragraph (2) is not to take effect until the expiry of the time within which an appeal may be made to the Upper Tribunal against the order and, if such an appeal is made, until the appeal has been disposed of.

(6) If the Department refuses to give a direction under paragraph (5), the person in respect of whom the order has been made may apply to the Upper Tribunal for such a direction.

[^{F19}(7) Regulation 9 applies for the purposes of this regulation as it applies for the purposes of regulations 5 to 8.]

<p>F17 Words in reg. 15(3)(a) substituted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), 120(1)</p> <p>F18 Reg. 15(3)(b) omitted (17.3.2022) by virtue of The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), 120(2)</p> <p>F19 Reg. 15(7) inserted (17.3.2022) by The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 (S.I. 2022/293), regs. 2(1), 120(3)</p>

Transport managers: cancellation or variation of disqualification order

16.—(1) Where a disqualification order is made under regulation 15(2) the Department may, subject to ^{F20}paragraphs (1A) and] (2), at any time cancel the order or, with the consent of the disqualified person, vary the order.

^{F21}(1A) If the disqualification order was made because the Department determined that the disqualified person ceased to be of good repute, the order may be cancelled—

- (a) not before the end of the period of one year beginning with the day on which the order was made; and
- (b) only if the disqualified person has, after the order was made—
 - (i) passed the written examination referred to in regulation 11(1)(a); or
 - (ii) for no less than three months undertaken training the Department considers appropriate.]

(2) When a disqualification order is made under regulation 15(2) the Department may specify measures with which the disqualified person must comply before the order can be cancelled or varied.

(3) Measures specified under paragraph (2) may be varied—

- (a) on the application of the disqualified person; or
- (b) by the Department.

(4) Before making a variation under paragraph (3)(b), the Department must serve a notice on the disqualified person—

- (a) stating the Department's intention to vary the measures specified under paragraph (2);
- (b) stating that the person is entitled to make representations under paragraph (5) within 28 days beginning with the date on which the notice is served on the person; and
- (c) stating that the person is entitled to request an inquiry as provided in section 32 of the 2010 Act.

(5) Where a person makes representations under this regulation, the Department must consider the representations in deciding whether to vary the measures specified under paragraph (2).

(6) The Department must hold an inquiry as provided in section 32 of the 2010 Act if the disqualified person requests one under paragraph (4)(c).

F20 Words in reg. 16(1) substituted (17.3.2022) by [The Goods Vehicles \(Licensing of Operators\) \(Amendment\) Regulations 2022 \(S.I. 2022/293\)](#), regs. 2(1), **121(1)**

F21 Reg. 16(1A) inserted (17.3.2022) by [The Goods Vehicles \(Licensing of Operators\) \(Amendment\) Regulations 2022 \(S.I. 2022/293\)](#), regs. 2(1), **121(2)**

Changes to legislation:

There are currently no known outstanding effects for the The Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012, PART2.