

1980 No. 1787

ROAD TRAFFIC

**The Goods Vehicle Operators (Qualifications)
(Amendment) Regulations 1980***Made* - - - - 24th November 1980*Laid before Parliament* 1st December 1980*Coming into Operation* 21st December 1980

The Minister of 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 Vehicle Operators (Qualifications) (Amendment) Regulations 1980 and shall come into operation on 21st December 1980.

2. The Goods Vehicle Operators (Qualifications) Regulations 1977(c) shall be amended in accordance with the following provisions of these Regulations.

3.—(1) In Regulation 2 (Interpretation)—

(a) in paragraph (1)—

(i) the definition of “international transport operations” shall be deleted;

(ii) the definition of “relevant conviction” shall be deleted and after the definition of “road transport undertaking” there shall be inserted the following definition—

“specified convictions” in relation to the applicant for, or the holder of, a standard operator’s licence or to a transport manager, means—

(i) any convictions mentioned in section 69(4) of the Act of 1968; or

(ii) any convictions of contravening any provision of the law of Northern Ireland or of a country or territory outside the United Kingdom corresponding to any of the aforementioned convictions,

(a) S.I. 1975/1707 and 1979/571.
(c) S.I. 1977/1462.

(b) 1972 c. 68.

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

- (iii) in the definition of “responsible road transport employment” after the words “used under an operator’s licence” there shall be inserted the words “or in accordance with the law of Northern Ireland or of any member State other than the United Kingdom”;
 - (iv) in the definition of “road transport undertaking” after the words “under an operator’s licence” there shall be inserted the words “or in accordance with the law of Northern Ireland or of any member State other than the United Kingdom”;
 - (v) after the words “Part V of the Act of 1968 has the same meaning as in that part of that Act” there shall be added the following words:—
 - “and subject thereto any expression not defined above which is also used in the Community instrument shall have the same meaning as in that instrument”; and
- (b) for paragraph (2) there shall be substituted the following paragraph:—
- “(2) For the purposes of these Regulations a person who is an applicant for, or the holder of, a standard operator’s licence, or who is a transport manager, shall be regarded as being engaged in road transport operations at any time, if, and only if, the person in question was at that time
- (a) the holder or, if an individual, one of the joint holders, of an operator’s licence, or
 - (b) the subsidiary of the holder of an operator’s licence, being a subsidiary to which goods vehicles used under the licence belong or in whose possession they are, or
 - (c) authorised, under the law of Northern Ireland or of any member State other than the United Kingdom to engage in the occupation of road haulage operator, or
 - (d) if an individual, in responsible road transport employment.”

(2) In Regulation 4 (Applications for standard operators’ licences)—

- (a) in paragraph (2) for the words “relevant convictions” there shall be substituted the words “specified convictions”, and
- (b) in paragraph (3) for the words “relevant conviction” there shall be substituted the words “specified conviction”.

(3) In Regulation 5 (Decisions on application for standard operators’ licences), at the beginning of paragraph (1) there shall be inserted the words “Subject to Regulation 8A,”.

(4) In Regulation 8 (Revocation of standard operators’ licences)—

- (a) in paragraph (1) for the words “Subject to paragraphs (4) and (5) below” there shall be substituted the words “Subject to Regulation 8A”; and
- (b) paragraphs (4), (5) and (6) shall be deleted.

(5) After Regulation 8 there shall be inserted the following Regulation:—
“8A *Deferment of refusal or revocation of standard operators’ licences.*

(1) In the event of the death, or physical or legal incapacity, of the holder of a standard operator’s licence (being an individual), of a transport manager required by the licence or, in the case of a partnership, of the partner who is professionally competent, the licensing authority shall not be required by Regulation 8 to revoke the licence or, as the case may be, by Regulation 5, to refuse an application for a further such licence, during such period, not exceeding 1 year from the occurrence of the event in question, as the licensing authority may determine or during such further period, not exceeding 6 months from the end of the first mentioned period as the licensing authority may determine.

(2) In the event of the death, or physical or legal incapacity of the holder of a standard operator’s licence (being an individual) the licensing authority by whom the licence was granted may allow the vehicles authorised to be used under the licence to be used in carrying on the transport undertaking of the licence holder during the period or further period mentioned in paragraph (1) above, by some other person subject to such conditions as the licensing authority may specify, and for the purposes of section 60 of the Act of 1968 that other person shall be regarded during that period as the holder of the licence.

(3) The licensing authority may, where he decides to revoke a standard operator’s licence under Regulation 8 or to refuse an application for a further such licence under Regulation 5, direct that the revocation, or as the case may be the refusal, shall not take effect for such period as appears to the authority to be reasonably required to enable a transport manager or new partner to be appointed, or to enable the transport undertaking carried on under the licence to be transferred to another person licensed to carry it on.

(4) For the purposes of paragraphs (1) and (2) above, “legal incapacity” means—

- (a) in relation to the holder of a standard operator’s licence, that he is incapable of carrying on his road transport undertaking;
- (b) in relation to a transport manager, that he is incapable of performing the duties of a transport manager; and
- (c) in relation to a partner, that he is incapable of performing his duties in the road transport undertaking carried on by the partnership,

by reason of mental disorder within the meaning of the Mental Health Act 1959(a), or, in Scotland, because he is incapable of managing his own affairs.”.

(6) In Regulation 9 (Determination of reputation, financial standing and professional competence)—

(a) for paragraph (2) there shall be substituted the following paragraph:—

“(2) For the purpose of determining whether or not a person is of good repute regard shall be had to any matter, including a conviction of an offence, appearing to relate to fitness to hold a standard operator’s licence or, as the case may be, to be a transport manager, and in particular to the existence and number of any specified convictions relating to the person, or any partner, employee or agent of the

person or in the case of a company, any officer of the company, during the period of 5 years ending with the date on which the matter falls to be determined”;

(b) in paragraph (7) for sub-paragraph (b) there shall be substituted the following sub-paragraph:—

“(b) if he is the holder of a certificate issued—

(i) by a body approved for the purposes of this Regulation by the Minister of Transport, or for the purposes of section 46A(6)(c) of the Transport Act (Northern Ireland) 1967(a) by the Department of the Environment for Northern Ireland, or

(ii) by a body or authority designated by any member State other than the United Kingdom in pursuance of Article 3(4) of the Community instrument,

to the effect that he possesses skills in the subjects listed in Part A of the Annex to the Community instrument, and in a case where his qualification is relevant for the purpose of a standard operator’s licence which covers international transport operations, also to the effect that he possesses skills in the subjects listed in Part B of the Annex to that instrument (the subjects all being subjects which are recognised by that body or authority as required by the said Article 3(4)); or”;

(c) for paragraph (8) there shall be substituted the following paragraph:—

“(8) An individual shall not be regarded as professionally competent by virtue of paragraph (7)(a) above unless—

(a) he is the holder of a certificate which has been issued by a licensing authority before 31st December 1979, or

(b) he is the holder of a certificate issued by the Department of the Environment for Northern Ireland or the competent authority of any member State other than the United Kingdom,

to the effect that he was engaged in road transport operations as mentioned in paragraph (7)(a) above.”.

(7) In Regulation 10 (Holding companies and subsidiaries) for the words “relevant convictions” there shall be substituted the words “specified convictions”.

24th November 1980.

Norman Fowler.
Minister of Transport

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Goods Vehicle Operators (Qualifications) Regulations 1977. They are primarily concerned, together with the Goods Haulage Operators' (Certificates of Qualification) Regulations 1980 (S.I. 1980/1788), with implementing for Great Britain and in relation only to the occupation of goods haulage operator or transport manager of a goods haulage undertaking, the obligations of the United Kingdom under Council Directive (EEC) 77/796 of 12th December 1977 aiming at the mutual recognition of diplomas, certificates and other evidence of formal qualifications for goods haulage operators and road passenger transport operators, including measures intended to encourage those operators effectively to exercise their right to freedom of establishment (O.J. No. L.334, 24.12.77, p. 37).

The Goods Vehicle Operators (Qualifications) Regulations 1977 which prescribe the requirements for admission to the occupation of road haulage operator (in pursuance of Council Directive (EEC) 74/561 of 12th November 1974 on the admission to the occupation of road haulage operator in national and international transport operations (O.J.No. L.308, 19.11.74, p. 18), are amended to enable the licensing authorities under Part V of the Transport Act 1968 to deal on the same terms with applications from persons with qualifications acquired in other Member States of the European Economic Communities or in Northern Ireland (Regulation 3).

In particular the amendments made by Regulation 3 require the licensing authorities to take into account—

- (a) convictions under the law in force in Northern Ireland or in a country or territory outside the United Kingdom corresponding to the convictions mentioned in those Regulations (Regulation 3(1)(iii));
- (b) a certificate of professional competence issued by a body approved by the Department of the Environment for Northern Ireland or a body or authority designated for the purpose by any other Member State (Regulation 3(6)(b)); and
- (c) as an alternative to such certificates, certificates of relevant experience in the road haulage industry issued in Northern Ireland or in other Member States (Regulation 3(6)(c)).

The definitions of "responsible road transport employment" and "road transport undertaking" are extended to include a reference to the corresponding activities in other Member States or in Northern Ireland (Regulation 3(1)). A new Regulation 8A is inserted in the 1977 Regulations by Regulation 3(5) in place of Regulation 8(4) to (6) of the 1977 Regulations which will enable the licensing authority to defer the revocation or, in certain cases, refusal, of a standard operator's licence in the event of the death or incapacity of the holder of the licence, a transport manager, or a partner whose professional competence is relied upon. In the event of the death or incapacity of the licence holder the authority is empowered to authorise another person to carry on the undertaking during that period as if he were the licence holder.

The licensing authority, where he would otherwise revoke or, in certain cases, refuse the licence, may allow time for the transport undertaking to be transferred to another person licensed to carry it on, or for a transport manager or new partner to be appointed.

The definition of "good repute" in Regulation 9(2) of the 1977 Regulations is re-formulated to make it clear that the licensing authority may take account of other matters which appear to relate to fitness to hold a standard operator's licence (including convictions of offences other than those mentioned in the definition of "specified convictions" (Regulation 3(1)(iii) and (6)(a)).

SI 1980/1787
ISBN 0-11-007787-3



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