

**2005 No. 212**

**EUROPEAN COMMUNITIES**

**ROAD TRAFFIC AND VEHICLES**

**Road Transport (Passenger Vehicles Cabotage) Regulations  
(Northern Ireland) 2005**

*Made* - - - - - *13th April 2005*

*Coming into operation* *26th May 2005*

The Department of the Environment, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) relating to the carriage of passengers by road, in exercise of the powers conferred by that section and by every other power enabling it in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Road Transport (Passenger Vehicles Cabotage) Regulations (Northern Ireland) 2005 and shall come into operation on 26th May 2005.

(2) In these Regulations –

“the 1967 Act” means the Transport Act (Northern Ireland) 1967(c);

“the 1981 Order” means the Road Traffic (Northern Ireland) Order 1981(d);

“Community licence” has the same meaning as in Article 19D of the 1981 Order(e);

“Community carrier” means a road passenger transport carrier established in a Member State of the European Community other than the United Kingdom;

“the Council Regulation” means Council Regulation (EC) No. 12/98 of 11th December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State(f);

“the Department” means the Department of the Environment;

“road” has the meaning given in Article 2(2) of the 1981 Order;

“UK cabotage operations” means cabotage transport operations in Northern Ireland or between Northern Ireland and Great Britain.

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(a) S.I. 1996/266

(b) 1972 c. 68

(c) 1967 c. 37 (N.I.); relevant amending instruments are 1975 c. 46, S.R. 1977 No. 327, S.I. 1979/1714 (N.I. 19), 1981 c. 45, S.I. 1984/1986 (N.I. 15), S.R. 1987 No. 383 and S.R. 2003 No. 217

(d) 1981/154 (N.I. 1); relevant amending instruments are S.R. 1987 No. 383, S.I. 1991/197 (N.I. 3), S.I. 1995/2994 (N.I. 18), S.R. 1996 No. 426, S.R. 2002 No. 116 and S.R. 2003 No. 515

(e) Article 19D was inserted by Schedule 1 to S.I. 1991/197 (N.I. 3) and amended by S.R. 1996 No. 426, Schedule 1, paragraph 12(2)(b)

(f) O.J. No. L4, 8.1.98, p. 10

(3) Any words and expressions used in these Regulations shall be construed in accordance with the meaning of those words or expressions in the Council Regulation.

(4) The Interpretation Act (Northern Ireland) 1954<sup>(a)</sup> shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

#### **Cabotage without a Community licence**

2.—(1) A person shall not use a vehicle on a road, or cause or permit a vehicle to be so used, for the purpose of UK cabotage operations which are carried out by a Community carrier without a valid Community licence.

(2) A person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **Use of a vehicle in Northern Ireland without a control document**

3.—(1) A person who uses, or causes or permits to be used, a vehicle on a road for the purposes of UK cabotage operations, which –

(a) take the form of occasional services in Northern Ireland or between Northern Ireland and Great Britain; and

(b) are carried out in contravention of Article 6(1) of the Council Regulation,

shall be guilty of an offence.

(2) A person who is guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **Competent authorities in Northern Ireland**

4.—(1) For the purposes of Articles 7, 9 and 11(2) and (3) of the Council Regulation the competent authority shall be the Department.

(2) For the purposes of Article 11(4) of the Council Regulation the competent authority of the Member State of establishment shall be the Department.

#### **Appeals**

5. A carrier who is aggrieved by an administrative penalty imposed on him by the Department under Article 11(2) or Article 11(4) of the Council Regulation may appeal to a county court giving notice of the appeal to the Department.

#### **Production of documents**

6.—(1) The driver of a vehicle which is required, under Article 5 of the Council Regulation, to have on board a Community licence shall be guilty of an offence if he fails, without reasonable cause, to produce the licence when requested to do so by an authorised inspecting officer.

(2) References in paragraph (1) to a Community licence include references to a certified true copy of a licence.

(3) The driver of a vehicle which is required, under Article 6(1) of the Council Regulation, to have on board a control document shall be guilty of an offence if he fails, without reasonable cause, to produce the control document when requested to do so by an authorised inspecting officer.

(4) A person who is guilty of an offence under paragraph (1) or (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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<sup>(a)</sup> 1954 c. 33 (N.I.)

## Authorised inspecting officers

7. Authorised inspecting officers for the purposes of the Council Regulation shall be constables in uniform, and examiners appointed under Article 74 of the Road Traffic (Northern Ireland) Order 1995(a).

## Bodies corporate

8.—(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) 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 a body corporate.

## Amendment of certain enactments

9.—(1) The 1981 Order shall be amended as follows –

(a) in Schedule 1 (statutory provisions conferring functions on authorised officers), at the end, there shall be added the following entry –

“Regulation 6 of the Road Transport (Passenger Vehicles Cabotage) Regulations (Northern Ireland) 2005.	To require the production of certain documents which are required to be kept on board certain passenger vehicles.”; and
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(b) in Schedule 2 (statutory provisions relating to vehicles and their drivers), at the end, there shall be added the following entry –

“Regulations 2, 3 and 6 of the Road Transport (Passenger Vehicles Cabotage) Regulations (Northern Ireland) 2005.	To impose penalties for contravention of certain requirements relating to national passenger services by a carrier registered in a foreign Member State.”.
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(2) The provisions of the 1967 Act shall have effect, in relation to a vehicle used to carry out cabotage transport operations, as if section 4 was omitted.

(3) In section 34 of the 1967 Act (forgery of licences), in paragraph (a), at the end, there shall be added –

“or a control document issued under Article 6 of Council Regulation (EC) No. 12/98 of 11th December 1997”.

(4) In section 35 of the 1967 Act (false statements), the word “or” at the end of paragraph (d) shall be omitted and after paragraph (e) there shall be inserted –

“or

(f) obtaining the issue of a control document under Article 6 of Council Regulation (EC) No. 12/98 of 11th December 1997;”.

(5) None of the provisions of the Public Service Vehicles Regulations (Northern Ireland) 1985(b) and the Public Service Vehicles (Conditions of Fitness, Equipment and Use) Regulations (Northern Ireland) 1995(c) shall have effect in relation to a vehicle which is carrying out a cabotage transport operation in Northern Ireland in accordance with the Council Regulation.

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(a) S.I. 1995/2994 (N.I. 18)

(b) S.R. 1985 No.123, as amended by S.R. 1986 No. 33, 1990 No. 201, 1991 No. 356, 1991 No. 445, 1992 No. 381, 1993 No. 86, 1993 No. 396, 1994 No. 225, 1995 No. 446, 1998 No. 76, 2000 Nos. 149 and 328, 2001 No. 366, 2003 Nos. 40, 99 and 449 and 2004 No. 413

(c) S.R. 1995 No. 447 as amended by S.R. 1997 No. 308, 2000 No. 136, 2002 No. 384, 2003 Nos. 38 and 434 and 2004 Nos. 414 and 446

Sealed with the Official Seal of the Department of the Environment on 13th April 2005.

(L.S.)

*Wesley Shannon*

A senior officer of the Department of the Environment

## EXPLANATORY NOTE

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

These Regulations implement in Northern Ireland Council Regulation (EC) No. 12/98 of 11th December 1997 (“the EC Regulation”) which lays down the conditions under which road passenger transport carriers may operate cabotage transport operations.

The EC Regulation permits the operation of transport services for hire or reward in another Member State (i.e. cabotage), without having a registered office or being established in that State by operators who hold a Community licence issued under Council Regulation (EEC) 684/92 of 16th March 1992 (Article 1). The EC Regulation requires that the Community licence, or a certified copy, shall be carried on board the vehicle and produced when requested by an authorised inspecting officer (Article 5). These Regulations implement those requirements by making it a criminal offence to –

- (a) carry out a cabotage transport operation without a Community licence (punishable with a maximum fine at level 4, currently £2,500) (regulation 2); and
- (b) fail without reasonable cause to produce the Community licence or a certified copy (punishable with a maximum fine at level 3, currently £1,000) (regulation 6).

The EC Regulation requires that cabotage transport operations which are “occasional services” as defined in Article 2 of the EC Regulation shall be carried out under the cover of a control document which must be kept on board the vehicle and produced when requested by an authorised inspecting officer (Article 6). These Regulations implement those requirements by making it a criminal offence to –

- (a) use the vehicle in contravention of the requirement (punishable with a maximum fine at level 4, currently £2,500) (regulation 3); and
- (b) fail without reasonable cause to produce the control document (punishable with a maximum fine at level 3, currently £1,000) (regulation 6).

These Regulations provide that –

- (a) the Department is the competent authority to communicate with the Commission in accordance with Articles 7 and 9 of the EC Regulation (regulation 4(1));
- (b) the Department shall be the competent authority to impose an administrative penalty (regulation 4(1) and (2)), with a right of appeal to a county court (regulation 5).

The Regulations additionally provide for –

- (a) police constables and examiners to be authorised inspecting officers (regulation 7);
- (b) criminal offences in certain circumstances to be committed by a director, manager, secretary or similar officer of a body corporate (regulation 8).

The Regulations make consequential amendments to various enactments including amending the Road Traffic (Northern Ireland) Order 1981 to provide power in certain cases for the driving of a foreign vehicle engaged in cabotage to be prohibited (regulation 9).

The Council Regulations referred to in these Regulations and in this Note may be obtained from The Stationery Office Bookshop, 16 Arthur Street, Belfast BT1 4GD.





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