
STATUTORY INSTRUMENTS

2022 No. 293

The Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022

PART 12

Amendment of the Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012

Amendment of the Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012

107. The Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012(1) are amended in accordance with regulations 108 to 123.

Insertion of heading to Part 1

108. Before the heading to regulation 1 (citation, commencement and interpretation) insert—
“PART 1

Preliminary provisions”.

Amendment of regulation 1 (citation, commencement and interpretation)

109.—(1) In regulation 1(3), after the definition of “Regulation 1071/2009” insert—
““transport service” means the use of a goods vehicle for which an operator’s licence is required under section 1 of the 2010 Act (operators’ licences);”
(2) In regulation 1(4), for “Regulation 1071/2009” substitute “the 2010 Act”.

Insertion of regulation 1A (transitional provisions)

110. After regulation 1 (citation, commencement and interpretation) insert—

“Transitional provisions

1A. The Schedule (which contains transitional provisions) has effect.”.

Omission of regulations 2 to 4 (provisions relating to Regulation (EC) No 1071/2009)

111. Omit regulations 2 to 4.

Insertion of heading to Part 2 and regulation 4A (determination of effective and stable establishment in Northern Ireland)

112. Before regulation 5 (good repute) insert—

“PART 2

Provisions relating to the 2010 Act

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”

Amendment of regulation 5 (good repute)

- 113.**—(1) In the heading to regulation 5, for “Good” substitute “Determination of good”.
- (2) In regulation 5(1), after “good repute” insert “under section 12A(2)(b) of the 2010 Act or regulation 13A(1)(b)”.
- (3) In regulation 5(2), after “good repute” insert “under section 12A(2)(b) of the 2010 Act”.

Amendment of regulation 9 (further provisions for the purposes of regulations 5 to 8)

- 114.**—(1) The existing text of regulation 9 is renumbered as paragraph (1).
- (2) For regulation 9(1)(b) substitute—
- “(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.”.
- (3) After regulation 9(1) insert—
- “(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”.”.

Insertion of regulation 9A (determination of appropriate financial standing)

- 115.** After regulation 9 (further provisions for the purposes of regulations 5 to 8) insert—

“Appropriate financial standing

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”.

Omission of regulation 10 (professional competence)

116. Omit regulation 10.

Amendment of regulation 11

117.—(1) Before regulation 11 insert—

“Determination of professional competence”.

(2) In regulation 11(1), after “professionally competent” insert “under section 12A(3)(a)(i) of the 2010 Act or regulation 13A(1)(c)”.

(3) In regulation 11(4)(b), for “Article 8(3) of Regulation 1071/2009” substitute “this regulation”.

Omission of regulations 12 and 13 (redundant provisions)

118. Omit regulations 12 and 13.

Insertion of regulation 13A (requirements for transport manager)

119. Before the heading to regulation 14 (issue of notice to transport manager) insert—

“Transport manager

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.”.

Amendment of regulation 15 (determinations in respect of transport managers)

120.—(1) In regulation 15(3)(a), for “for any road transport undertaking” substitute “in relation to any operator’s licence”.

(2) Omit regulation 15(3)(b).

(3) After regulation 15(6) insert—

“(7) Regulation 9 applies for the purposes of this regulation as it applies for the purposes of regulations 5 to 8.”.

Amendment of regulation 16 (transport managers: cancellation or variation of disqualification order)

121.—(1) In regulation 16(1), for “paragraph” substitute “paragraphs (1A) and”.

(2) After regulation 16(1) insert—

“(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.”.

Insertion of heading to Part 3

122. Before the heading to regulation 17 (amendments to the 2010 Act) insert—
“PART 3

Amendments to the 2010 Act”.

Insertion of the Schedule (transitional provisions)

123. Before the Explanatory Note insert—

“SCHEDULE

Regulation 1A

Transitional provisions

Provisions relating to the Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022

Application of paragraphs 2 to 4

1. Paragraphs 2 to 4 apply for the purposes of applying for, or holding, a light goods vehicle licence.

Department may exempt individual from professional competence requirement

2. The Department may exempt an individual until the end of 20th May 2025 from the requirement under section 12A(3)(a)(i) of the 2010 Act or regulation 13A(1)(c) to be

professionally competent if the Department is satisfied that the individual had, for ten years or more ending with 20th August 2020, continuously managed national or international transport operations as, for or on behalf of an undertaking that used only light goods vehicles.

Applying for professional competence exemption

3.—(1) An individual, or a person acting on behalf of an individual, may, on or before 20th May 2024, apply to the Department for an exemption.

(2) An individual (or person) who applies for an exemption must provide the Department with the information necessary for the Department to verify the individual's management experience.

(3) The Department may, beginning with the day after the day on which the Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 were made, treat as an application any information submitted to the Department by an individual, or a person acting on behalf of an individual, before that day.

Duration of professional competence exemption

4. Despite regulation 11, the Department must regard as professionally competent until the end of 20th May 2025 an individual who is granted an exemption under paragraph 2.”.