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*Number 31 of 2011*

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**ROAD TRANSPORT ACT 2011**

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*Number 31 of 2011*

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## **ROAD TRANSPORT ACT 2011**

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AN ACT TO MAKE PROVISIONS RELATING TO THE OCCUPATION OF ROAD HAULAGE OPERATOR AND THE OCCUPATION OF ROAD PASSENGER TRANSPORT OPERATOR, TO AMEND SECTION 1 OF THE ROAD TRANSPORT ACT 1999 AND SECTION 2 OF THE ROAD TRAFFIC AND TRANSPORT ACT 2006 AND TO PROVIDE FOR RELATED MATTERS.

[2nd December, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.**—In this Act—

Interpretation.

“certificate of professional competence” means a certificate issued as proof of professional competence in road haulage or passenger transport for the purposes of the EU Road Transport Operators Regulation;

“certified copy of a Community licence” means a copy of a Community licence duly certified by or on behalf of the issuing authority in the Member State concerned to be a true copy of the Community licence;

“Community licence” means a licence issued in accordance with the EU Haulage Regulation or the EU Coach and Bus Services Regulation;

“driver attestation” means an attestation issued in accordance with the EU Haulage Regulation;

“EU Coach and Bus Services Regulation” means Regulation (EC) No. 1073/2009 of the European Parliament and of the Council of 21 October 2009<sup>1</sup>;

“EU Haulage Regulation” means Regulation (EC) No. 1072/2009 of the European Parliament and of the Council of 21 October 2009<sup>2</sup>;

“EU Regulations” means the EU Coach and Bus Services Regulation, the EU Haulage Regulation and the EU Road Transport Operators Regulation;

<sup>1</sup>OJ No. L 300, 14.11.2009, p.88

<sup>2</sup>OJ No. L 300, 14.11.2009, p.72

“EU Road Transport Operators Regulation” means Regulation (EC) No. 1071/2009 of the European Parliament and of the Council of 21 October 2009<sup>3</sup>;

“goods” means any item, material or thing that can be transported by road, whether it has a commercial use or value or not, but does not include a passenger’s luggage or post;

“licensing document” means an operator’s licence, Community licence, certified copy of a Community licence, certificate of professional competence, driver attestation, transport disc or any other ancillary document issued with any of the foregoing;

“Minister” means Minister for Transport, Tourism and Sport;

“occupation of road haulage operator” has the meaning assigned to it by Article 2(1) of the EU Road Transport Operators Regulation, that is to say, the activity of any undertaking transporting goods for hire or reward by means either of motor vehicles or combinations of vehicles;

“occupation of road passenger transport operator” has the meaning assigned to it by Article 2(2) of the EU Road Transport Operators Regulation, that is to say, the activity of any undertaking operating, by means of motor vehicles so constructed and equipped as to be suitable for carrying more than 9 persons, including the driver, and intended for that purpose, passenger transport services for the public or for specific categories of users in return for payment by the person transported or by the transport organiser;

“occupation of road transport operator” has the meaning assigned to it by Article 2(3) of the EU Road Transport Operators Regulation, that is to say, the occupation of road passenger transport operator or the occupation of road haulage operator;

“operator” means, as the case may be, the holder of or applicant for an operator’s licence;

“operator’s licence” has the meaning assigned to it by section 2 of the Road Traffic and Transport Act 2006;

“requirement of good repute” means the requirement of good repute set out in section 2(2) of the Road Traffic and Transport Act 2006 and Article 6 of the EU Road Transport Operators Regulation;

“road passenger transport operator” means any undertaking engaging in the occupation of road passenger transport operator;

“road haulage operator” means any undertaking engaging in the occupation of road haulage operator;

“road transport business” means any business or activity relating to the provision of road haulage or road passenger transport;

“road transport operator” means any undertaking engaging in the occupation of road haulage operator or road passenger transport operator;

“shadow operator”, in relation to an operator’s licence, means a person who is not the operator but who—

- (a) by reason of any understanding, arrangement or direction in relation to any profit or gain from the operation of the

<sup>3</sup>OJ No. L 300, 14.11.2009, p.51

licence held or applied for enjoys or is entitled to any such profit or gain, or

- (b) controls or conducts the activities of such operator under any such licence held or applied for, either directly or indirectly;

“specified position” means, where the operator is—

- (a) an individual, his or her transport manager,
- (b) a company, a director of the company, its secretary or transport manager,
- (c) a partnership, a partner or the transport manager of the partnership, or
- (d) a cooperative, its secretary, transport manager or any member of its committee of management;

“transport manager” has the meaning assigned to it by Article 2(5) of the EU Road Transport Operators Regulation, that is to say, a natural person employed by an undertaking or, if that undertaking is a natural person, that person or, where provided for, another natural person designated by that undertaking by means of a contract, who effectively and continuously manages the transport activities of that undertaking;

“transport disc” means a transport disc issued under section 4 of the Road Transport Act 1999;

“transport officer” has the meaning assigned to it by *section 16*;

“undertaking” has the meaning assigned to it by Article 2(4) of the EU Road Transport Operators Regulation, that is to say, any natural person, any legal person, whether profit-making or not, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such personality, engaged in the transport of passengers or any natural or legal person engaged in the transport of freight with a commercial purpose;

“vehicle” means any passenger or goods vehicle, with or without a trailer;

“withdraw or suspend”, in relation to a licensing document, includes—

- (a) the withdrawal of the licensing document for the remainder of its duration,
- (b) the suspension of the licensing document, or
- (c) in the case of an operator’s licence, the suspension of the licence in relation to such vehicles specified on the operator’s licence as the Minister may decide—
  - (i) for such a period of time that he or she decides, or
  - (ii) until any conditions or requirements that he or she specifies are met to his or her satisfaction.

Obligation on operator to notify Minister of certain convictions.

2.—(1) Where an operator, a person who holds a specified position, a shadow operator, or, in the case of a road passenger transport operator, a driver with that operator, has been or is convicted of—

- (a) murder,
- (b) manslaughter,
- (c) a drug trafficking offence (within the meaning of section 3 of the Criminal Justice Act 1994),
- (d) an offence under the Non-Fatal Offences against the Person Act 1997,
- (e) an offence under section 2 of the Illegal Immigrants (Trafficking) Act 2000,
- (f) a sexual offence (within the meaning of section 3 of the Sex Offenders Act 2001),
- (g) an offence under the Criminal Justice (Theft and Fraud Offences) Act 2001,
- (h) an offence under the Criminal Law (Human Trafficking) Act 2008,
- (i) an offence relating to money laundering under Part 2 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010,
- (j) an offence under the Firearms Acts 1925 to 2009,
- (k) an offence consisting of attempting or conspiring to commit, or aiding, abetting, counselling, soliciting, procuring or inciting the commission of any offence mentioned in *paragraphs (a) to (j)*, or
- (l) an offence under the law of another jurisdiction which corresponds to an offence mentioned in *paragraphs (a) to (k)*, where the conduct constituting the offence under the law of that other jurisdiction would, if committed in the State, constitute an offence referred to in any of those paragraphs,

the operator shall notify the Minister in writing of the fact of the conviction—

- (i) where the operator is making an application for an operator's licence, at the time of making an application, or
  - (ii) where the operator is the holder of an operator's licence within 3 months of the passing of this Act, of the expiry of the time allowed for appealing such conviction or of the determination or withdrawal of the appeal of such conviction, whichever is the latest.
- (2) The notification under *subsection (1)* shall include details of—
- (a) the nature of the offence,
  - (b) whether the conviction is one of a number of convictions for the same or different offences,

- (c) any penalty or sentence suffered on foot of the conviction,
- (d) any disqualification or forfeiture imposed on foot of the conviction, and
- (e) whether or not the offence was committed in the course of, or connected with, a road transport business.

(3) Where an operator fails to notify the Minister in accordance with *subsection (1)* or notifies information to the Minister knowing it to be false or misleading, the Minister may determine that the requirement of good repute is no longer satisfied, and where the operator is—

- (a) an applicant for an operator's licence, refuse the application, or
- (b) the holder of an operator's licence, withdraw or suspend that licence.

(4) An operator who fails to notify the Minister in accordance with *subsection (1)* or who notifies information to the Minister knowing it to be false or misleading commits an offence and is liable—

- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months or to both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years or to both.

(5) It is a defence in a prosecution for an offence under *subsection (4)* for the defendant to show that he or she took all reasonable steps and exercised all due diligence to avoid committing the offence.

3.—(1) Where—

- (a) a person who holds a specified position,
- (b) a shadow operator, or
- (c) in the case of a road passenger transport operator, a driver with that operator,

Obligation to inform operator of certain convictions.

is or has been convicted of an offence specified in *section 2(1)* he or she shall inform the operator in writing of the fact of the conviction and of the details specified in *paragraphs (a) to (e)* of *section 2(2)*.

(2) A person who fails to comply with *subsection (1)* commits an offence and is liable—

- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months or to both, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years or to both.

4.—(1) In determining whether an operator has satisfied or continues to satisfy the requirement of good repute the Minister may consider whether or not—

Minister to consider certain convictions.

- (a) the operator,
- (b) a person who holds a specified position,
- (c) a shadow operator, or
- (d) in the case of a road passenger transport operator, a driver with that operator,

has been convicted of an offence specified in *section 2(1)*.

(2) Where a person to whom *subsection (1)* relates has been convicted of an offence referred to in that subsection the Minister shall consider—

- (a) the nature of the offence,
- (b) whether the conviction is one of a number of convictions for the same or different offences,
- (c) any penalty or sentence suffered on foot of the conviction,
- (d) any disqualification or forfeiture imposed on foot of the conviction, and
- (e) whether or not the offence was committed in the course of, or connected with, a road transport business,

and where the Minister determines that it would not be a disproportionate response, the Minister may determine that the requirement of good repute is no longer satisfied and may, where the operator is—

- (i) an applicant for an operator's licence, refuse the application, or
- (ii) the holder of an operator's licence, withdraw or suspend the operator's licence.

Appeal.

5.—(1) Whenever the Minister refuses to grant or proposes to withdraw or suspend a licensing document, he or she shall notify the applicant for, or holder of, the licensing document of his or her refusal or proposal, as the case may be, and of the reasons therefor and shall, if any representations are made in writing to the Minister by such applicant or such holder within 21 days of such notification, consider those representations.

(2) If the Minister after considering any representations made under *subsection (1)* maintains his or her decision to refuse such licensing document, or decides to withdraw or suspend a licensing document then the Minister shall notify in writing the applicant for, or the holder of, the licensing document of the refusal or decision and such applicant or such holder may within 21 days of such notification appeal to the District Court against such decision.

(3) A decision to suspend or withdraw a licensing document has effect pending an appeal under this section unless the judge of the District Court before whom the appeal is brought directs otherwise.

(4) On the hearing of an appeal under this section, in relation to a refusal to grant a licensing document or a decision of the Minister to withdraw or suspend a licensing document, the District Court may

either confirm the refusal or decision or may allow the appeal and, where an appeal is allowed, the Minister shall grant or reinstate the licensing document, as the case may be.

(5) A decision of the District Court on an appeal under this section shall be final save that, by leave of the Court, an appeal from the decision shall lie to the High Court on a specified question of law.

(6) Section 6 of the Road Transport Act 1986 is repealed.

6.—(1) In proceedings under this Act, where the Minister determines that a person has been convicted of an offence referred to in *section 2(1)*, the production to the court of a document that satisfies the condition referred to in *subsection (2)* and which purports to contain particulars of the conviction in a state, other than the State, of that person for an offence and of the act constituting the offence shall be evidence of the matters stated therein.

Evidence of foreign convictions.

(2) The condition mentioned in *subsection (1)* is that the document concerned purports to be signed or certified by a judge, magistrate or officer of the state referred to in that subsection and to be authenticated by the oath of some witness or by being sealed with the official seal of a minister of state of that state (judicial notice of which shall be taken by the court).

(3) The condition mentioned in *subsection (1)* shall be regarded as being satisfied without proof of the signature or certification, and the authentication of it, that appears in or on the document.

7.—(1) To enable the Minister to satisfy himself or herself that any requirement necessary in order to obtain an operator's licence is or continues to be satisfied by the applicant for, or holder of, an operator's licence, the Minister may at any time request in writing the operator to provide or cause to be provided, within a specified period, such information as the Minister thinks fit and may require such information to be given in such form as the Minister may direct.

Continued compliance — operator's licence.

(2) The Minister may refuse to grant or may withdraw or suspend an operator's licence where the operator to whom a request has been made under *subsection (1)* has failed within the period specified by the Minister to duly provide that information, or where the information supplied does not satisfy the Minister that the requirements necessary in order to obtain or hold an operator's licence are or continue to be satisfied.

(3) An operator's licence is the property of the Minister and where an operator's licence is withdrawn or suspended, the operator shall, on request in writing from the Minister, return to the Minister the licence together with such ancillary or other licensing documents issued with the licence that the Minister may specify, and the Minister may retain or amend the licence or other documents as appropriate.

(4) An operator who fails to comply with *subsection (3)* commits an offence and is liable on summary conviction to a class C fine.

8.—(1) Where there is any change in an operator's details or circumstances that have been provided to the Minister or that would cause the operator to no longer meet the requirements necessary in order to obtain or hold an operator's licence, the operator shall

Change of details — operator's licence or application.

notify the Minister in writing of that occurrence as soon as possible but in any event not later than one month from that occurrence.

(2) An operator who fails to comply with *subsection (1)* commits an offence and is liable on summary conviction to a class C fine.

Requirement to hold operator's licence.

9.—(1) Save as is provided for by this Act or otherwise by law a person shall not engage in the occupation of—

- (a) road haulage operator, without holding a road haulage operator's licence, or
- (b) road passenger transport operator, without holding a road passenger transport operator's licence.

(2) The holder of a relevant operator's licence shall not permit a vehicle to be used—

- (a) in relation to the occupation of road haulage operator, or
- (b) in relation to the occupation of road passenger transport operator,

save as is provided for by this Act or otherwise unless the vehicle is for the time being authorised on the operator's licence and there is in the vehicle or on display, as appropriate, a copy of the operator's licence showing the vehicle to be so authorised, a transport disc, and an appropriate certified copy of a Community licence.

(3) A certificate purporting to be signed by an officer of the Minister and to certify that on a specified day or days, or during the whole of a specified period, a specified person was or was not the holder of an operator's licence authorising him or her to carry on the occupation of road transport operator with such vehicles as may be specified on the certificate shall without proof of the signature of the person purporting to sign the certificate or that he or she was an officer of the Minister be evidence, until the contrary is shown, of the matters purporting to be certified in and by the certificate.

(4) Where a person is shown to have carried goods by way of road haulage or persons by way of road passenger transport, the person shall be deemed, until the contrary is shown, to have so carried the goods or persons in the course of the occupation of road haulage operator or road passenger transport operator, as the case may be, engaged in by that person.

(5) A person shall not engage the services of any person for the carriage by road of persons or goods for reward in a vehicle unless—

- (a) the person carrying out the service is the holder of an operator's licence in respect of that service, or
- (b) the carriage is exempted or one in respect of which an operator's licence is not required under *subsection (7)* or otherwise by law.

(6) A person who contravenes *subsection (1)*, *(2)* or *(5)* commits an offence and is liable—

- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months or to both, or

- (b) on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years or to both.

(7) The types of carriage set out in the Schedule are exempted from the requirement to hold an operator's licence in the State.

**10.—(1)** A person shall not describe himself or herself, or hold himself or herself out, as carrying on a road transport business unless that person holds the appropriate operator's licence or Community licence to enable that person to lawfully carry out that road transport business.

Prohibition on purporting to operate other than in accordance with operator's licence.

(2) The holder of an operator's licence or Community licence shall not describe himself or herself, or hold himself or herself out, as carrying on a road transport business other than that to which the operator's licence or Community licence held by him or her relates.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a class A fine.

**11.—(1)** Where a vehicle is about to be used for the purposes of the road transport business of an operator under an operator's licence or a Community licence, the operator shall give to the person who is to act as driver of the vehicle while it is being so used a true copy of the licence or a certified copy of a Community licence, as the case may be, showing the vehicle to be authorised, and where appropriate a driver attestation, and those documents shall be kept in the vehicle.

Obligation to carry copy of operator's licence etc. and display transport disc on vehicle.

(2) An operator who fails to comply with *subsection (1)* commits an offence and is liable on summary conviction to a class B fine.

(3) A member of the Garda Síochána or a transport officer may demand of any person driving a vehicle which the member or transport officer believes to be engaging in road transport operations the production for inspection of a copy of the operator's licence or a certified copy of a Community licence showing the vehicle to be authorised and, where appropriate, a driver attestation.

(4) A person who refuses or fails to produce a copy of the licence or other document referred to in *subsection (3)* there and then, or though producing a copy of the licence or other document, refuses or fails to permit such member or officer to read it, commits an offence and is liable on summary conviction to a class B fine.

(5) A transport disc shall be displayed on or affixed to the vehicle to which it relates in a visual manner so that it may be inspected by a transport officer or member of the Garda Síochána.

(6) Where a transport disc is not displayed on or affixed to the vehicle to which it relates in accordance with *subsection (5)*, the driver of the vehicle and the holder of the disc each commits an offence and is liable on summary conviction to a class B fine.

**12.—(1)** The Minister may establish and keep a register of—

Registers.

- (a) certificates of professional competence, and  
(b) operator's licences,

in such form, including electronic form, and containing such particulars, including vehicle registration numbers and other appropriate details regarding the operator and drivers of the vehicle, as the Minister shall, from time to time, direct.

(2) The register shall at all reasonable times be open to inspection by any person, and may be published by the Minister on the Internet free of charge.

(3) A person shall be entitled to obtain from the Minister a copy of any entry in the register on payment of such fee, if any, not exceeding the reasonable cost of producing the copy that the Minister may direct.

(4) Every document purporting to be a copy of an entry in the register and purporting to be certified by an officer of the Minister to be a true copy of such entry shall, without proof of the signature of the person purporting so to certify or that he or she was such officer, be received in evidence in any legal proceedings and shall, until the contrary is shown, be deemed to be a true copy of such entry and to be evidence of the terms of such entry.

(5) Section 10 of the Road Transport Act 1986 is repealed.

(6) In this section “register” means a register established under this section.

Fees.

**13.—**(1) The Minister may, by regulations, with the consent of the Minister for Public Expenditure and Reform, from time to time set and charge fees (if any) in respect of the application for, grant, amendment, duplication or replacement of a licensing document, and different fees may be charged for different documents, and fees may be graduated in accordance with the number of vehicles referred to in such documents, where appropriate.

(2) Where a person has been duly authorised to organise and certify examinations for professional competence in accordance with the EU Road Transport Operators Regulation, the Minister shall, in consultation (either before or after the appointment) with the Minister for Public Expenditure and Reform, fix the fees (if any) to be paid directly to that person or body in order to sit an examination, for the provision of training, for the approval of a trainer not directly engaged by that person, for the grant of a certificate of professional competence, or such other ancillary services as the Minister may agree.

(3) Any fee payable under this section, in respect of an application for, grant, amendment, duplication or replacement of any licensing document, or in respect of an examination for or the grant of a certificate of professional competence, shall not be refundable if the licence or document is not granted or issued or if the examination is not passed.

(4) Monies received by the Minister under this section shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Public Expenditure and Reform.

(5) Any consideration in respect of an application for, grant, amendment, duplication or replacement of any licensing document, or in respect of an examination for or the grant of a certificate of

professional competence, is contingent on the payment of the appropriate fee, if any.

(6) Regulations made under this section shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling the regulations is passed by either such House within the next 21 days on which that House has sat after the regulations are laid before it, the regulations shall be annulled accordingly, but without prejudice to the validity of anything previously done under those regulations.

**14.—(1)** Any person who—

False declarations.

- (a) for the purposes of obtaining a licensing document, or for the purpose of satisfying any requirement necessary in order to obtain a licensing document for himself, herself or another person, makes any declaration or statement or provides any information which he or she knows to be false in a material particular, or recklessly makes any declaration or statement or provides any information which is so false,
- (b) unless duly authorised, makes, alters or causes or permits the alteration of, a licensing document,
- (c) obtains, produces or displays a false licensing document, or
- (d) obtains a licensing document by unlawful or fraudulent means, or resulting from threat, intimidation or coercion,

commits an offence and is liable—

- (i) on summary conviction, to a class A fine, or
- (ii) on conviction on indictment, to a fine not exceeding €50,000.

(2) Where an operator is convicted of an offence under this section the Minister may determine that the requirement of good repute is no longer satisfied, and where the operator is—

- (a) an applicant for an operator's licence, refuse the application, or
- (b) the holder of an operator's licence, withdraw or suspend the operator's licence.

**15.—(1)** An offence under this Act that may be prosecuted summarily may be so prosecuted by the Minister or the Road Safety Authority.

Prosecutions and body corporate offence.

(2) Where an offence under this Act is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, is guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) Where the affairs of a body corporate are managed by its members, *subsection (2)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Transport officers.

**16.—(1)** The Road Safety Authority may appoint any of its officers, or such officers of the Minister seconded to service with that Authority, to be transport officers for the purposes of this section.

(2) Transport officers appointed under section 15 (inserted by section 117 of the Dublin Transport Authority Act 2008) of the Road Transport Act 1986 whether before or after the passing of this Act shall be deemed to be transport officers for the purposes of this section from the date of the passing of this Act or the date of appointment whichever last occurs.

(3) A transport officer shall for the purposes of this Act, the EU Regulations and any regulations made by the Minister under the European Communities Act 1972 relating to the occupation of road transport operator, have the power to do all or any of the following things:

- (a) subject to *subsection (6)*, at any time enter a premises or place if he or she has reasonable grounds for believing that it is used for a purpose connected with road transport, including the engagement or use by a person in the premises or place of the services of an undertaking for the carriage by road for reward of goods or persons in a vehicle (in this section referred to as “road transport operations”) or that a vehicle used for that purpose is at the premises or in the place and inspect the vehicle and any licensing document, records, books or recording equipment kept or used in that vehicle, premises or place, as the case may be, for the purposes of road transport operations or business;
- (b) at any time inspect a vehicle which is stationary and inspect any licensing document, records, books, goods or recording equipment being carried in or on the vehicle or by the driver of the vehicle or used for the purposes of road transport operations or business;
- (c) require any person at the premises or in the place or in the vehicle to produce to him or her any licensing document, book or record kept or used for the purposes of road transport operations or business which is in the power or control of that person;
- (d) inspect, examine and take copies of, or extracts from, or take away if necessary for the purposes of inspection or examination, any licensing document, book or record kept or used for the purposes of road transport operations or business and require the person by whom such document, book or record is kept or who produced the document, book or record to certify a copy of it as a true copy.

(4) For the purpose of exercising his or her powers under this section, a transport officer may stop and detain a vehicle during such time as is required for the exercise of those powers.

(5) A person who obstructs or interferes with a transport officer when he or she is exercising a power conferred on him or her by this section or who fails to comply with a request or requirement of a transport officer under this section commits an offence and is liable on summary conviction to a class A fine.

(6) A transport officer shall not, other than with the consent of the occupier, enter such part of a premises used as a private dwelling unless he or she has obtained a warrant from the District Court under *section 17* authorising such entry.

(7) Where a transport officer in exercise of his or her powers under this section is prevented from entering any premises or place an application may be made under *section 17* for a warrant authorising such entry.

**17.**—If a judge of the District Court is satisfied by information on oath of a transport officer that there are reasonable grounds for believing that— Search warrants.

- (a) a premises or place is used for a purpose connected with road transport, including the engagement or use by a person in the premises or place of the services of an undertaking for the carriage by road for hire or reward of goods or passengers in a vehicle,
- (b) a vehicle used for that purpose is at the premises or in the place,
- (c) there is information or material relating to road transport required by the transport officer for examination held in any premises or place or part of any premises or place, or
- (d) an offence in connection with road transport has been or is being committed in the premises or place,

the judge may issue a warrant authorising a transport officer, accompanied by other transport officers or members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production if so required of the warrant, to enter, if need be by reasonable force, the premises, place or vehicle and exercise all or any of the powers conferred on a transport officer under *section 16*.

**18.**—(1) A transport manager shall— Transport manager.

- (a) hold an appropriate certificate of professional competence,
- (b) be of good repute and have attained 18 years of age,
- (c) be designated by an operator as transport manager by notice in writing given to the Minister, and
- (d) be engaged to continuously and effectively manage the transport operations of the operator.

(2) Where the Minister considers that a transport manager is not complying with the requirements of *subsection (1)*, he or she may by notice direct the undertaking to rectify the situation or to appoint a new transport manager.

Amendment of  
section 2 of Road  
Traffic and  
Transport Act 2006.

**19.**—Section 2 of the Road Traffic and Transport Act 2006 is amended—

(a) in subsection (2), by substituting “is of good repute, is established in the State, has appropriate financial standing” for “is of good repute, appropriate financial standing”,

(b) after subsection (2), by inserting the following:

“(2A) If the Minister considers that a person who holds an operator’s licence no longer—

(a) satisfies the requirement that he or she is of good repute,

(b) is established in the State,

(c) has appropriate financial standing, or

(d) has professional competence as a road transport operator,

the Minister may withdraw or suspend the licence.

(2B) The Minister may attach terms or conditions to an operator’s licence to be complied with by the holder, which may include conditions relating to vehicle safety, maintenance and standards, duties and responsibilities of transport managers or other management or drivers, environmental standards, operational safety and standards, driving and working time, employment conditions and contracts, vehicle ownership (whether owned, hired or leased), vehicle registration, taxation, tachograph calibration or insurance, notification of changes to operator details, or compliance with any requirement under this Act, the *Road Transport Act 2011*, the Road Traffic Acts 1961 to 2011, or under an act of an institution of the European Union relating to road haulage or road passenger transport or legislation giving effect to such an act, including regulations made under the European Communities Act 1972.”

and

(c) by inserting after subsection (6) the following:

“(6A) An application for an operator’s licence shall be in such form as the Minister determines.

(6B) An application for an operator’s licence and a transport disc may be made in the same application.

(6C) The Minister may refuse to grant an operator’s licence until such time as an applicant has complied with any requirements of regulations regarding applications made under subsection (6).”

“Community  
licence”.

**20.**—Section 1(1) of the Road Transport Act 1999 is amended by substituting for the definition of “Community licence” the following:

“ ‘Community licence’ means a Community licence—

- (a) issued under Article 4 of Regulation (EC) No. 1072 of the European Parliament and of the Council of 21 October 2009<sup>4</sup> to a haulier carrying goods by road for hire or reward, or
- (b) issued under Article 4 of Regulation (EC) No. 1073 of the European Parliament and of the Council of 21 October 2009<sup>5</sup> to a carrier of passengers by coach and bus for hire or reward;”.

**21.**—(1) A notice or notification by the Minister under this Act or for the purposes of the EU Regulations shall be in writing and addressed to the person by name and shall be given to or served on the person in one of the following ways: Notices and notifications.

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or carries on business or, in a case in which an address for service has been given, at that address;
- (c) by sending it by post in a pre-paid registered letter addressed to the person at the address at which the person ordinarily resides or carries on business or, in a case in which an address for service has been given, to that address;
- (d) if an address for the service of a notice or notification has been furnished by the person, by leaving it at, or sending it by pre-paid registered post addressed to the person to, that address;
- (e) if the person concerned has agreed to service of notices by means of an electronic communication (within the meaning assigned to it by section 2 of the Electronic Commerce Act 2000) to the person (being an addressee within the meaning assigned by that section), service by such means, but only if it is also given in one of the other ways mentioned in any of the preceding paragraphs.

(2) For the purposes of *subsection (1)*, a company registered under the Companies Acts is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.

**22.**—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas. Expenses.

**23.**—(1) This Act may be cited as the Road Transport Act 2011. Short title and construction.

(2) The Road Transport Act 1933, section 2 of the Road Traffic and Transport Act 2006 and this Act shall be read together as one.

<sup>4</sup>OJ No. L 300, 14.11.2009, p.72

<sup>5</sup>OJ No. L 300, 14.11.2009, p.88

Section 9(7).

## SCHEDULE

### TYPES OF EXEMPTED CARRIAGE

Types of carriage exempted from the requirement to hold an operator's licence for national operations in the State.

1. Occasional carriage of goods being carried to or from airports in the event of air services being diverted.

2. Carriage of luggage—

(a) in trailers coupled to passenger-carrying vehicles, or

(b) to or from airports.

3. Carriage of mails.

4. Carriage of vehicles which have suffered damage or breakdown.

5. Carriage of refuse and sewage.

6. Carriage of animal carcasses for disposal.

7. Carriage of bees or fish fry.

8. Carriage of articles required for medical care in emergency relief and in particular for relief in natural disasters.

9. Carriage of goods which by reason of their value are carried in specially constructed vehicles which are accompanied by police or other security guards.

10. Funeral transport.

11. The carriage of goods in motor vehicles where the following conditions are fulfilled:

(a) the goods carried are the property of the undertaking or have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking;

(b) the purpose of the journey is to carry the goods to or from the undertaking or to move them either inside the undertaking or outside for its own requirements;

(c) motor vehicles used for such carriage are driven by employees of the undertaking;

(d) the vehicles carrying the goods are owned by the undertaking or have been bought by it on deferred terms (but this provision does not apply to the use of a replacement vehicle during a short breakdown of the vehicle normally used);

(e) carriage is only ancillary to the overall activities of the undertaking.

12. Carriage of spare parts for sea-going vessels and aircraft.

13. Transit, in an unladen state, of a vehicle used for goods transport and intended to replace a vehicle which has become unserviceable in a Member State other than that in which it is registered, and the continuation, by the breakdown vehicle, of the transport under cover of an authorisation issued for the vehicle which has become unserviceable.
14. Carriage of objects and works of art for exhibition or for commercial purposes.
15. Occasional carriage of objects and materials exclusively for publicity or information purposes.
16. Carriage of material, properties and animals to or from theatrical, musical or film performances or sporting events, circuses, exhibitions or fairs, or to or from the making of radio or television broadcasts or films.
17. Carriage of passengers to or from work in vehicles owned by their employers.
18. Carriage of persons to or from a school, or in the course of or in relation to school or ancillary activities, in vehicles owned by the school.
19. Carriage of passengers otherwise than for profit in vehicles owned by voluntary organisations.
20. Carriage of goods by undertakings engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles the permissible laden mass of which does not exceed 3.5 tonnes.
21. Carriage of passengers by undertakings engaged in road passenger transport services exclusively for non-commercial purposes.