



STATUTORY INSTRUMENTS.

S.I. No. 697 of 2011



EUROPEAN UNION (OCCUPATION OF ROAD TRANSPORT
OPERATOR) REGULATIONS 2011

(Prn. A11/2400)

EUROPEAN UNION (OCCUPATION OF ROAD TRANSPORT OPERATOR) REGULATIONS 2011

I, LEO VARADKAR, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purposes of giving full effect to Regulation (EC) No. 1071/2009 of the European Parliament and of the Council of 21 October 2009¹, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Occupation of Road Transport Operator) Regulations 2011.

2. (1) In these Regulations—

“EU Regulation” means Regulation (EC) No. 1071/2009 of the European Parliament and of the Council of 21 October 2009¹;

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

“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;

“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;

(2) A word or expression in which is used in these Regulations and is also used in the EU Regulation has, unless the contrary is intended, the same meaning in these Regulations as it has in the EU Regulation.

3. The Minister is the competent authority for the purposes of the EU Regulation.

¹OJ No. L 300, 14.11.2009, p.51

4. An operator's licence under the Road Traffic and Transport Act 2006 constitutes an authorisation for engaging in the occupation of road haulage operator or road passenger transport operator, as the case may be, for the purposes of the EU Regulation.

5. An operator and the holder of a specified position shall comply with the requirements of the EU Regulation.

6. In determining whether an operator has satisfied or continues to satisfy the requirement of good repute the Minister may consider whether or not the operator or a person who holds a specified position with the operator has, within, the previous 10 years, been convicted of an offence specified in the Schedule or been convicted of a serious criminal offence or incurred a penalty for a serious infringement of Community rules relating to the matters referred to in part (b) of the third subparagraph of Article 6(1) of the EU Regulation.

7. The operator concerned shall notify the Minister in writing of the fact of any conviction against any person referred to in Regulation 6—

(a) where the operator is making an application for an operator's licence, at the time of making an application, or

(b) where the operator is the holder of an operator's licence, within 3 months of the making of these Regulations, 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.

8. Where a person who holds a specified position with an operator is or has been convicted of an offence referred to in Regulation 6 he or she shall inform the operator in writing of the fact of the conviction.

9. (1) A person who contravenes or fails to comply with these Regulations commits an offence and is liable—

(a) on summary conviction, to a class A fine, or

(b) on conviction of indictment, to a fine not exceeding €250,000.

(2) Proceedings for an offence under this Regulation may be brought and prosecuted summarily by the Minister or the Road Safety Authority of Ireland.

10. A transport officer (within the meaning of section 15(1) (inserted by section 117 of the Dublin Transport Authority Act 2008 (No. 15 of 2008)) of the Road Transport Act 1986 (No. 16 of 1986)) may, for the purposes of the EU Regulation, exercise the powers of a transport officer under section 16 of that Act.

11. The following are revoked:

(a) the European Communities (Road Passenger Transport) Regulations 1991 (S.I. No. 59 of 1991),

- (b) the European Communities (Merchandise Road Transport) Regulations 1991 (S.I. No. 60 of 1991),
- (c) the European Communities (Road Passenger Transport) (Amendment) Regulations 1999 (S.I. No. 303 of 1999),
- (d) the European Communities (Merchandise Road Transport) (Amendment) Regulations 1999 (S.I. No. 304 of 1999),
- (e) the European Communities (Road Transport) (Amendment) Regulations 2006 (S.I. No. 561 of 2006),
- (f) the European Communities (Road Haulage and Road Passenger Transport Operator's Licences) Regulations 2009 (S.I. No. 318 of 2009), and
- (g) the European Communities (Road Transport) (Amendment) Regulations 2010 (S.I. No. 182 of 2010).

SCHEDULE

An offence under—

- (a) the Companies Acts relating to a company established for the purposes of the occupation of road haulage or passenger transport operator,
- (b) the Road Traffic Acts 1961 to 2011,
- (c) Part 2 of the Public Transport Regulation Act 2009 (No. 37 of 2009),
- (d) the Road Transport Act 1933 and any Act or section of any Act construed or read together with it,
- (e) the Dangerous Substances Acts 1972 and 1979,
- (f) the Carriage of Dangerous Goods by Road Act 1998 (No. 43 of 1998),
- (g) the Diseases of Animals Acts 1966 to 2001,
- (h) the Customs and Excise (Miscellaneous Provisions) Act 1988 (No. 10 of 1988),
- (i) section 3 of the Customs Act 1956 (No. 7 of 1956),
- (j) section 10 of the International Carriage of Perishable Foodstuffs Act 1987 (No. 20 of 1987),
- (k) the International Carriage of Goods by Road Act 1990 (No. 13 of 1990),
- (l) section 102 of the Finance Act 1999 (No. 2 of 1999),
- (m) the Agriculture Acts 1931 to 1980 relating to the carriage of animals, meat or agricultural produce,
- (n) the Agricultural Produce (Fresh Meat) Acts 1930 to 1988,
- (o) in so far as it relates to the occupation of road haulage or road passenger transport operator—
 - (i) the Minimum Notice and Terms of Employment Acts 1973 to 2005,
 - (ii) section 77 of the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005),
 - (iii) the Protection of Young Persons (Employment) Act 1996 (No. 16 of 1996),

- (iv) the Unfair Dismissals Acts 1977 to 2007,
- (v) the Organisation of Working Time Act 1997 (No. 20 of 1997),
- (vi) the Terms of Employment (Information) Act 1994 (No. 5 of 1994),
- (vii) the Employment Permits Acts 2003 to 2006,
- (viii) the Payment of Wages Act 1991 (No. 25 of 1991),
- (p) the Social Welfare Acts,
- (q) the Competition Acts 2002 to 2010,
- (r) the Bankruptcy Act 1988 (No. 27 of 1988),
- (s) Part 3 of the Consumer Protection Act 2007 (No. 19 of 2007),
- (t) the Sale of Goods and Supply of Services Act 1980 (No. 16 of 1980),
- (u) any regulation made under the European Communities Act 1972, relating to the carriage of goods or passengers by road,
- (v) a law in force in a Member State, other than the State, and which corresponds to any of the foregoing offences where the conduct constituting the offence under the law of that other Member State would, if committed in the State, constitute an offence.



GIVEN under my Official Seal,
4 December 2011.

LEO VARADKAR,
Minister for Transport Tourism and Sport.

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