



STATUTORY INSTRUMENTS

S.I. No. 359 of 2008

EUROPEAN COMMUNITIES (VEHICLE DRIVERS CERTIFICATE OF
PROFESSIONAL COMPETENCE) (No. 2) REGULATIONS 2008

(Prn. A8/1414)

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EUROPEAN COMMUNITIES (VEHICLE DRIVERS CERTIFICATE OF PROFESSIONAL COMPETENCE) (No. 2) REGULATIONS 2008

I, NOEL DEMPSEY, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003¹, hereby make the following regulations:

PART 1

PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the European Communities (Vehicle Drivers Certificate of Professional Competence) (No. 2) Regulations 2008.

Interpretation

2. (1) In these Regulations—

“Act of 1961” means Road Traffic Act 1961 (No. 24 of 1961);

“approved centre” means a centre approved by the Road Safety Authority under Regulation 12;

“Authority” means Road Safety Authority;

“category C” means a vehicle (other than a work vehicle or land tractor) having a design gross vehicle weight exceeding 3,500 kilograms and having passenger accommodation for not more than 8 persons and where the design gross vehicle weight of the trailer does not exceed 750 kilograms;

“category C1” means a vehicle in category C having a design gross vehicle weight not exceeding 7,500 kilograms, and where the design gross vehicle weight of the trailer does not exceed 750 kilograms;

“category C+E” means a combination of a vehicle and a trailer with the drawing vehicle in category C and where the design gross vehicle weight of the trailer exceeds 750 kilograms;

“category C1+E” means a combination of a vehicle and a trailer having a combined design gross vehicle weight not exceeding 12,000 kilograms with the drawing vehicle in category C1 and where the design gross vehicle weight of the trailer exceeds 750 kilograms;

¹OJ L226, 10.9.2003, p.4

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 12th September, 2008.

“category D” means a vehicle having passenger accommodation for more than 8 persons and where the design gross vehicle weight of the trailer does not exceed 750 kilograms;

“category D1” means a vehicle in category D having passenger accommodation for more than 16 persons;

“category D+E” means a combination of a vehicle and a trailer with the drawing vehicle in category D and where the design gross vehicle weight of the trailer exceeds 750 kilograms:

“category D1 + E” means a combination of a vehicle and a trailer having a combined design gross vehicle weight not exceeding 12,000 kilograms with the drawing vehicle in category D1 and where the design gross vehicle weight of the trailer exceeds 750 kilograms;

“certificate of competency” means the certificate referred to in section 33(4) of the Act of 1961;

“Civil Defence” has the meaning assigned to it in the Civil Defence Act 2002 (No. 16 of 2002);

“community code” has the meaning as in Article 10(2) of the Directive;

“compulsory periodic retraining course” means a course of compulsory periodic retraining under Regulation 10 for the purposes of Article 3(1)(b) of the Directive;

“CPC” means a certificate of professional competence certifying a driver’s—

(a) initial qualification under Regulation 7, or

(b) periodic retraining under Regulation 12 (5);

“Defence Forces” has the meaning as in the Defence Act 1954 (No. 18 of 1954);

“Directive” means Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003²;

“driver CPC” means a document referred to in Regulation 17(2);

“driver qualification card” has the meaning as in Article 10 (1) of the Directive;

“driver tester” means a driver tester in accordance with Regulation 3 of the Regulations of 2006;

“driving licence” means a licence to drive a vehicle (not being a licence or permit issued to a person to enable that person to learn to drive) issued by a licensing authority within the meaning of section 21 of the Act of 1961;

²OJ L226, 10.9.2003, p.4

“driving test” means the delivery of a driving test and the issuing of a certificate of competency (within the meaning of section 33 of the Act of 1961);

“fire brigade” has the meaning assigned to it in the Fire Services Act 1981 (No. 30 of 1981);

“initial CPC” means a CPC certifying a drivers initial qualification;

“initial CPC test” means the tests for initial qualification for the purposes of Article 3(1)(a)(ii) of the Directive;

“licensing authority” means a county council or a city council within the meaning of section 2 of the Local Government Act 2001 (No. 37 of 2001);

“normal residence” has the meaning assigned to it in Regulation 3 of the Regulations of 2006;

“periodic CPC” means a CPC certifying a driver’s periodic retraining;

“public place” has the meaning assigned to it in section 3 of the Act of 1961;

“question bank” means the data bank of questions prepared, maintained and kept in electronic format by the Authority or such other person as it may designate to prepare, maintain and keep such questions in electronic format for use at a theoretical test in assessing an applicant knowledge relating to the category of vehicle concerned for which the application relates;

“recognised driving licence” has the meaning assigned to it in Regulation 3 of the Regulations of 2006;

“Regulations of 2006” means Road Traffic (Licensing of Drivers) Regulations 2006 (S.I. No. 537 of 2006);

“relevant vehicle” means a vehicle of category C, C1, C+E, C1+E, D, D1, D+E or D1+E;

“Rules of the Road” mean the rules referred to in section 3(4) of the Act of 1961;

“trailer” means a vehicle attached to a mechanically propelled vehicle for the purpose of being drawn by the mechanically propelled vehicle;

“transport officer” means a person appointed under section 15 of the Road Transport Act 1986 (No. 16 of 1986);

“vehicle”, except in relation to a trailer, means a mechanically propelled vehicle.

(2) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Competent Authority

3. (1) For the purposes of these Regulations and the Directive, the Authority is the competent authority for the State.

(2) The Authority is responsible for—

- (a) organising initial CPC tests,
- (b) appointing and approving centres to carry out compulsory periodic retraining courses,
- (c) drawing-up the syllabi for compulsory periodic retraining courses, and
- (d) issuing driver qualification cards

Forms

4. (1) The Authority shall direct the forms, declarations and other document to be used for the purposes of these Regulations.

(2) The Authority may cause to be printed and provided the forms of the CPC and of applications for CPC and of declarations, records, returns, books of account and other documents required under these Regulations or being reasonably necessary for the purpose of these Regulations.

Disposition of fees

5. Fees received by the Authority under these Regulations may be retained by it as income of the Authority.

PART 2

APPLICATION OF REGULATIONS

Persons to whom Regulations apply

6. (1) These Regulations apply to a person driving a relevant vehicle (other than a vehicle referred to in paragraph (2)) in a public place who is—

- (a) a citizen of Ireland
- (b) a national of another Member State, or
- (c) a national of a third country who is employed or used by an undertaking established in a Member State.

(2) These Regulations do not apply to the driving of a vehicle which—

- (a) has a maximum authorised speed not exceeding 45 kilometres per hour,
- (b) is used by, or under the control of—
 - (i) the Garda Síochána,

- (ii) the Defence Forces
- (iii) a fire brigade, or
- (iv) the Civil Defence,
- (c) is undergoing road tests for technical development, repair or maintenance purposes,
- (d) is new or rebuilt and has not yet been put into service,
- (e) is used in a state of emergency or in rescue missions,
- (f) is used by a person in the course of a driving lesson or a driving test for the purposes of obtaining a driving licence or a CPC,
- (g) is used for the carriage of passengers or goods for personal use and not for commercial purposes, or
- (h) is carrying material or equipment for use by the driver in the course of his or her work, provided that the driving of the vehicle is not the driver's principal activity or occupation.

PART 3

INITIAL QUALIFICATION

Initial CPC test

7. (1) An initial CPC test shall be organised by the Authority.
- (2) An applicant for an initial CPC test is not required to hold a driving licence in respect of the category of vehicle being driven in the course of the test.
- (3) The age set out in column (2) of the Table below, opposite the mention of a category in column (1) of the Table, is the age below which a person is prohibited from making application for an initial CPC test in respect of the vehicle of that category.

TABLE

Column (1)	Column (2)
Category	Age in Years
D1, D1 +E	21
D or D+E	23

- (4) An initial CPC test shall consist of the theoretical and practical tests referred to in section 2 (2.2) of Annex I to the Directive.
- (5) Where a person successfully completes the tests referred to in paragraph (4), the Authority shall issue him or her with an initial CPC.

(6) A driver holding a CPC for a relevant vehicle in a particular category who wishes to obtain a CPC in another category is not required to undertake the elements of the tests that are common to every category, but is only required to undertake those elements of the tests that are specific to the category of vehicle for which he or she is seeking qualification.

(7) Subject to Regulation 11, a person to whom these Regulations apply shall not drive a relevant vehicle in a public place after the date specified in paragraph (8) unless he or she has an initial CPC.

(8) The specified date for the purposes of paragraph (7) is-

(a) 10 September 2008, for a vehicle of category D1, D1+E, D and D+E, and

(b) 10 September 2009, for a vehicle of category C1, C1+E, C and C+E.

(9) A person who contravenes paragraph (7) commits an offence and is liable on summary conviction to a fine not exceeding €2,000.

(10) Notwithstanding the fee which is payable under Regulation 25 of the Regulations of 2006, an applicant for the initial CPC test shall pay to the Authority in the case of the—

(a) multiple choice part of theoretical test, a fee of €70,

(b) case study part of the theoretical test, a fee of €70, and

(c) in the case of the practical test, a fee of €32.

Theoretical tests

8. (1) There shall be a service, to be known as the Driver Theory Testing Service, to carry out theoretical tests to be conducted by a person designated by the Authority with whom the Authority has entered into a contract for that purpose.

(2) The Authority may revoke a designation under paragraph (1) where it considers the person designated is not conducting tests in accordance with Annex I to the Directive or is not complying with the contract entered into between the person and the Authority in respect of conducting theoretical tests.

(3) The theoretical test shall consist of two parts—

(a) a test comprised of multiple choice questions chosen by the Driver Theory Testing Service from the question bank and

(b) a test based on case studies prepared by the Driver Theory Testing Service derived from material in the question bank.

(4) The Driver Theory Testing Service shall publish the questions in the question bank.

(5) There shall be separate theoretical tests in relation to applicants for vehicles of categories C and D.

(6) The tests in relation to—

(a) vehicles of categories C shall commence with effect from 10 September 2009,

(b) vehicles of categories D shall commence with effect from 10 September 2008.

Practical tests

9. (1) A practical test shall—

(a) be conducted by a driver tester,

(b) consist of a practical test in driving in a vehicle, driven by the applicant, of the category in respect of which the application made for a certificate of competency relates,

(c) be of such a nature as to enable the driver tester to satisfy himself or herself whether the applicant—

(i) has a satisfactory knowledge of the Rules of the Road,

(ii) can carry out satisfactorily on a road all or any of the operations specified in Schedule 4 to the Regulations of 2006, as appropriate,

(iii) complies satisfactorily with the Rules of the Road while driving, and

(iv) is competent to drive vehicles of the category in respect of which the application is duly made.

(2) Every vehicle to be provided by an applicant for the purpose of a practical test shall—

(a) have a seat for at least one person in addition to the driver,

(b) be in a roadworthy condition,

(c) be of a type sufficiently representative of its category,

(d) comply with the minimum vehicle requirements specified in Schedule 5 to the Regulations of 2006, and

(e) if it is the drawing component of an articulated vehicle it shall have attached to it the drawn component of such vehicle.

(3) An applicant shall be accompanied by a driver tester during a practical test.

(4) A practical test shall be held at such place and at such time as may be determined by the Authority, or by a person designated by the Authority to conduct such tests.

Appeal

10. A person who does not pass an initial CPC test may appeal to a judge of the District Court having jurisdiction in the place in which the initial CPC test concerned was conducted, and the judge may—

- (a) refuse the appeal, or
- (b) direct that—
 - (i) the person be given a further test without payment of an additional fee or
 - (ii) an initial CPC should be granted in respect of the vehicle category concerned to the person by the Authority.

Acquired CPC Rights

11. A person is not required to obtain an initial CPC if he or she holds either a driving licence or a recognised driving licence to drive a vehicle of—

- (a) category D1, D1+E, D or D+E where the licence was issued prior to 10 September 2008, and
- (b) category C1, C1+E, C or C+E where the licence was issued prior to 10 September 2009.

PART 4

COMPULSORY PERIODIC RETRAINING

Compulsory periodic retraining courses

12. (1) Subject to paragraph (6), a person referred to in Regulation 6 (1) who—

- (a) is the holder of an initial CPC, or
- (b) was not required by virtue of Regulation 11 to obtain an initial CPC must attend a compulsory periodic retraining course at an approved centre.

(2) A compulsory periodic retraining course shall be conducted in accordance with the syllabus as may be determined by the Authority for the relevant vehicle category concerned.

(3) A compulsory periodic retraining course must be of a duration of at least 35 hours every 5 years and be taken in 7 hour tranches per year for each of the 5 year period.

(4) A driver who no longer pursues his or her occupation and does not hold a CPC is required to complete 35 hours of retraining before he or she may be issued with a CPC.

(5) (a) An approved centre shall inform the Authority by means of an electronic notification of any person who has completed a compulsory periodic retraining course in accordance with this Regulation.

(b) On foot of the receipt of a notification referred to in subparagraph (a), the Authority shall issue to the person concerned a periodic CPC.

(6) A person referred to in Regulation 6(1)(b) or (c) who holds a CPC shall attend a compulsory periodic retraining course either the Member State in which he or she—

(a) has his or her normal residence, or

(b) undertakes his or her work.

(7) A person to whom Regulation 11 applies may use his or her driving licence for 5 years after the date mentioned in Regulation 7(8) (a) or (b), as the case may be, until he or she has completed 35 hours compulsory periodic retraining within 5 years of the relevant date mentioned in Regulation 7 (8).

CPC periodic retraining and time limits to obtain periodic CPC

13. A person who has completed a course of compulsory periodic retraining shall, during the next 5 years following the date of the completion of that course of retraining, undertake a further course of compulsory retraining of a duration of 35 hours which must be undertaken in 7 hour tranches per year for each year of the 5 year period.

Approved centres for compulsory periodic retraining courses

14. (1) A compulsory periodic retraining course shall take place at a centre approved (an approved centre) by the Authority.

(2) The Authority may specify—

(a) standards for premises to be used as approved centres

(b) qualifications for persons providing compulsory periodic retraining courses, and

(c) matters relating to the conduct and participation in compulsory periodic retraining courses including the minimum and maximum number of participants on such courses.

(3) An application seeking approval as an approved centre must be made in writing to the Authority.

(4) An application for approval as a centre must be accompanied by documentary evidence in relation to the—

- (a) suitability of the premises for conducting compulsory periodic retraining courses,
- (b) qualifications of the persons it proposes would conduct compulsory periodic retraining courses, and
- (c) a fee of €500.

(5) The Authority may approve an application to be an approved centre where it is satisfied that the applicant fulfils the requirements in relation to premises, qualified and trained persons, course contents, teaching materials and methods, resources for practical work.

(6) An approval under paragraph (5) is valid for 5 years.

(7) Where the Authority approves a centre under paragraph (5), it shall notify the applicant concerned of the approval of their centre and in the notification shall specify the terms and conditions of the approval.

(8) The Authority is authorised to monitor the conduct of compulsory periodic retraining courses by approved centres.

(9) The Authority may revoke or suspend an approval granted under paragraph (5) where the centre is deemed by the Authority not to be fulfilling the terms and conditions of the approval as specified in the notification referred to in paragraph (7).

PART 5

DRIVER QUALIFICATION CARD

Driver qualification card

15. (1) The Authority shall, where it is satisfied that a person has complied with this Regulation, issue a driver qualification card.

(2) A person who has an initial CPC or a periodic CPC may apply to the Authority for a driver qualification card by making a declaration (“driver CPC declaration”) and submitting it to the Authority accompanied by—

- (a) two recently taken passport-sized photographs, and
- (b) a copy of his or her driver licence.

(3) An application for a driver qualification card under paragraph (2) may only be made by a person—

- (a) whose normal residence is in the State, or
- (b) who undertakes his or her work in the State,

(4) An application for a renewal of a driver qualification card may be made not earlier than 6 months prior to the expiration of the current driver qualification card held by the applicant.

(5) The maximum period of validity of a driver qualification card is 5 years.

Duplicate driver qualification card

16. (1) Where a driver qualification card becomes damaged, lost or stolen, the person named on the card may apply to the Authority for a replacement card on the form directed by the Authority for that purpose.

(2) An application for a duplicate driver qualification card shall be accompanied by—

(a) a fee of €50,

(b) two recently taken passport-sized photographs, and

(c) where the card is damaged, the damaged card.

(3) Where the Authority is satisfied that the driver qualification card in respect of an application under paragraph (1) has been damaged, lost or stolen, as the case may be, and the items referred to in paragraph (2) have been received, it shall issue a duplicate card.

Requirement to carry and produce evidence of driver CPC

17. (1) A driver of a vehicle to whom these Regulations apply shall at all times carry with him or her a driver CPC for proof of his or her compliance with these Regulations.

(2) A driver CPC for the purposes of paragraph (1) shall be—

(a) the driver qualification card as outlined in Annex II to the Directive, marked with the relevant community code, or

(b) a driving licence or a recognised driving licence for 5 years after the relevant date set out in Regulation 7(8).

(3) A driver who drives without carrying with him or her a driver CPC in accordance with paragraph (1) commits an offence.

(4) A member of the Garda Síochána or a transport officer may at any time request a driver for his or her driver CPC.

(5) A driver who fails to produce his or her driver CPC in accordance with paragraph (4) commits an offence

(6) A person guilty of an offence under this Regulation is liable to a fine not exceeding €1,000.

PART 6

IDENTIFICATION

Photographs

18. Each of the photographs to accompany an application for a driver qualification card under Regulation 15 or an application for a duplicate driver qualification card under Regulation 16 shall be—

- (a) signed on the back by the applicant.
- (b) similar in appearance to the other photograph and provide an adequate facial likeness of the applicant for identification purposes, and
- (c) 3.5 centimetres wide by 4.5 centimetres long, approximately, on a white or other plain light background,

Evidence of identity

19. An applicant for a driver qualification card or a duplicate driver qualification card shall, if requested by the Authority, include details with the application or produce for examination by the Authority a driving licence or a recognised driving licence issued by another Member State.

PART 7

RECORDS

Keeping of records

20. (1) The Authority shall keep records in relation to—

- (a) initial CPCs issued by it under Part 3,
- (b) periodic retraining by approved centres under Part 4, and
- (c) driver qualification cards issued by it under Part 5.

(2) All records and documentation kept by an approved centre in connection with the carrying out of compulsory periodic retraining under these Regulations are the property of the Authority which has the power to inspect and recover from the approved centre any such records or documentation as it considers appropriate.

Information and inspection of records

21. (1) The Authority shall, on request and free of charge, supply to a—

- (a) a licensing authority,
- (b) a member of the Garda Síochána, or
- (c) an individual (seeking information in relation to his or her records)

such information as is requested in relation to a driver qualification card granted by the Authority or periodic training completed.

(2) The Authority shall, on request, admit a member of the Garda Síochána to the offices of the Authority while such offices are open for business and shall permit the member to inspect the records and other documents which the Authority are required to keep in accordance with these Regulations and to make copies of them.

PART 8

OTHER OFFENCES AND FINES

Falsification of documentation

22. (1) A person who knowingly gives false information to the Authority in relation to an application for a CPC commits an offence.

(2) A person who forges a document purporting to be a CPC or to use knowingly have in one's possession such a document commits an offence.

(3) A person who alters or uses a CPC, or uses an altered CPC, with intent to deceive, commits an offence.

(4) A person guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding €5,000.

Driving without valid driver CPC

23. (1) (a) A person shall not drive a relevant vehicle unless he or she holds a valid driver CPC in respect of the vehicle.

(b) A person who fails to comply with subparagraph (a) commits an offence and is liable on summary conviction to a fine not exceeding €2,000.

(2) A person who causes or permits another who does not hold a valid driver CPC in relation to a relevant vehicle to drive a relevant vehicle commits an offence.

(3) A person who contravenes paragraph (2) is liable on summary conviction to a fine not exceeding €5,000.

Revocation

24. The European Communities (Vehicle Drivers Certificate of Professional Competence) Regulations 2008 (S.I. No. 91 of 2008) are revoked.



GIVEN under my Official Seal,
9 September 2008

NOEL DEMPSEY
Minister for Transport

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations implement Directive 2003/59/EC relating to the qualification and training requirements for professional drivers of buses, coaches and goods vehicles. They also revoke the European Communities (Vehicle Drivers Certificate of Professional Competence) Regulations 2008 (S.I. No. 91 of 2008), which previously was the basis for implementing the Directive.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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