



STATUTORY INSTRUMENTS.

S.I. No. 208 of 2023



EUROPEAN UNION (OCCUPATION OF ROAD TRANSPORT
OPERATOR) (AMENDMENT) REGULATIONS 2023

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I, EAMON RYAN, Minister for Transport, 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 effect to Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020¹, amending Regulations (EC) No 1071/2009, (EC) No 1072/2009, and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector, and giving full effect to Article 463(2) and Section 1 of Part A of Annex 31 of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, done at Brussels and London on 30 December 2020², hereby make the following regulations:

1. These Regulations may be cited as the European Union (Occupation of Road Transport Operator) (Amendment) Regulations 2023.

2. In these Regulations, “Principal Regulations” means the European Union (Occupation of Road Transport Operator) Regulations 2018 (S.I. No. 265 of 2018).

3. Regulation 2 of the Principal Regulations is amended –

(a) by the substitution of the following definition for the definition of “Commission Regulation”:

“‘Commission Regulation’ means Commission Regulation (EU) 2016/403 of 18 March 2016³, as amended by Commission Implementing Regulation (EU) 2022/694 of 2 May 2022⁴;”,

(b) by the substitution of the following definition for the definition of “EU Regulation”:

“‘EU Regulation’ means Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009⁵, as amended by Commission Regulation (EU) No 613/2012 of 9 July 2012⁶, Council Regulation

¹ OJ No. L 249, 31.7.2020, p. 17

² OJ No. L 444, 31.12.2020, p. 14

³ OJ No. L 74, 19.3.2016, p. 8

⁴ OJ No. L 129, 3.5. 2022, p. 22

⁵ OJ No. L 300, 14.11.2009, p. 51

⁶ OJ No. L 178, 10.7.2012, p. 6

(EU) No 517/2013 of 13 May 2013⁷ and Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020¹,”

(c) by the insertion of the following definitions:

“ ‘Annex’ means Annex 31 (Transport of Goods by Road) to the Trade and Cooperation Agreement;

‘international road haulage operator’s licence’ has the meaning it has in section 2(1)(a) of the Road Traffic and Transport Act 2006 (No. 28 of 2006);

‘Member State’ means a member state of the European Union;

‘requirement of good repute’ means the requirement under section 2(2) of the Road Traffic and Transport Act 2006;

‘Trade and Cooperation Agreement’ means the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, done at Brussels and London on 30 December 2020²;

‘United Kingdom’ means the United Kingdom of Great Britain and Northern Ireland;”, and

(d) by the insertion of the following paragraph after paragraph (2):

“(3) A word or expression which is used in these Regulations and is also used in the Trade and Cooperation Agreement and Section 1 of Part A of the Annex has, unless the contrary intention appears, the same meaning in these Regulations as it has in that Agreement and that part of the Annex.”.

4. The Principal Regulations are amended in Regulation 3 by inserting “and Section 1 of Part A of the Annex” after “EU Regulation”.

5. The Principal Regulations are amended in Regulation 4 by renumbering the existing Regulation as Regulation 4(1) and by the insertion of the following paragraph after paragraph (1):

“(2) An international road haulage operator’s licence constitutes an authorisation to pursue the occupation of road haulage operator within the meaning of Article 2 of Section 1 of Part A of the Annex.”.

6. The Principal Regulations are amended in Regulation 5 –

(a) by renumbering the existing Regulation as Regulation 5(1),

⁷ OJ No. L 158, 10.6.2013, p. 1

- (b) by the insertion of the following subparagraph after paragraph (1)(c):

“(ca) whether an operator who falls within paragraph (a) of section 2(1) of the Road Traffic and Transport Act 2006 or a relevant person has, within the previous five years, been convicted in the United Kingdom or a Member State of a serious offence or incurred a penalty for a serious infringement of the rules of Title I of Heading Three of Part Two of the Trade and Cooperation Agreement or of laws relating to the matters specified in paragraph (b) of Article 6(1) of Section 1 of Part A of the Annex;”,

- (c) in paragraph (1)(h)(ii), by the substitution of “operator;” for “operator.”,

- (d) in paragraph (1), by the insertion of the following subparagraph after subparagraph (h):

“(i) any information disclosed to him or her pursuant to a requirement under paragraph (2).”, and

- (e) by the insertion of the following paragraphs after paragraph (1):

“(2) The Minister shall require the Road Safety Authority and the Garda Síochána to disclose to him or her such information within its possession or power of procurement that relates to matters specified in paragraph (1) for the purpose of enabling the Minister to determine if an operator or a relevant person has satisfied or continues to satisfy the requirement of good repute.

(3) The Road Safety Authority and the Garda Síochána shall disclose information required under paragraph (2).”.

7. The Principal Regulations are amended in Regulation 6 by the insertion of “or in paragraph (b) of Article 6(1) of Part A Section 1 of the Annex” after “Commission Regulation”.

8. The Principal Regulations are amended by the substitution of the following Regulations for Regulation 12:

“12. Where a transport manager has been declared unfit under Article 14(1) of the EU Regulation or Article 11 of Section 1 of Part A of the Annex to manage the transport activities of an undertaking, the Minister shall not consider the transport manager to be fit until a period of at least one year has passed since the declaration, that during this period there are no compelling grounds for doubting the good repute of the transport manager and that he or she has followed appropriate training for a period of at least three months or passed an exam on the subjects listed in part 1 of Annex I to the EU Regulation.

12A. In considering an application for an operator's licence, where the applicant operates only motor vehicles or combinations of vehicles the permissible laden mass of which does not exceed 3,5 tonnes, an exemption from the examinations referred to in Article 8(1) of the EU Regulation shall apply where the operator can prove to the satisfaction of the Minister that he or she has continuously managed, for the period of 10 years before 20 August 2020, an undertaking of the same type.”.

9. The Principal Regulations are amended by the substitution of the following Regulations for Regulation 14:

“14. (1) An operator shall keep the following documents at its business address in the State:

- (a) originals of its core business documents as specified in Article 5(1)(a) of the EU Regulation;
- (b) the documents specified in Schedule 2.

(2) An operator who fails to comply with this Regulation commits an offence and is liable on summary conviction to a class A fine.

14A. The Minister may, in the case of an operator who is a sole trader and who is registered in that respect for tax purposes, share the operator's name and his or her personal public service number with the Revenue Commissioners and request that the Revenue Commissioners furnish to him or her, for the purposes of his or her functions under Article 16(2)(h) of the EU Regulation, information on the number of people employed by that operator.”.

10. The Principal Regulations are amended by the substitution of the following Regulation for Regulation 16:

“16. (1) A transport officer within the meaning of section 16 of the Act of 2011 may, for the purposes of the EU Regulation and Section 1 of Part A of the Annex, exercise the powers of a transport officer under section 16 of that Act and shall, if required to do so by the Minister, be responsible for conducting checks at the premises of an undertaking, for the purposes of –

- (a) the establishment requirements in Article 5 of the EU Regulation,
- (b) on-site inspections in accordance with Article 6(2) of the EU Regulation and Article 6(2) of Section 1 of Part A of the Annex, and
- (c) checks and on-site inspections in accordance with Article 12(1) and (3) of the EU Regulation and Article 12(3) of Section 1 of Part A of the Annex and checks, inspections and investigations in accordance with Article 18(4) of the

EU Regulation and checks in accordance with Article 14(3) of Section 1 of Part A of the Annex.

(2) A transport officer shall, having completed an action under subparagraph (a), (b) or (c) of paragraph (1), provide a report to the Minister.”.

11. Schedule 1 to the Principal Regulations is amended –

- (a) by the substitution of the following paragraph for paragraph (y):
 - “(y) a law in force in another Member State or the United Kingdom that corresponds to any of the foregoing offences, where the conduct constituting the offence under the law of that other Member State or the United Kingdom, as the case may be, would, if committed in the State, constitute an offence;” and
- (b) by the insertion after paragraph (y) of the following paragraph:
 - “(z) any act relating to income tax, corporation tax, capital gains tax or excise.”.

12. Schedule 2 to the Principal Regulations is amended –

- (a) in paragraph (f), by the substitution of “two years” for “12 months”,
- (b) by the substitution of the following paragraph for paragraph (j):
 - “(j) tachograph records for each vehicle operated and each driver employed, including agency drivers, in the previous 12 months (in chronological order for each driver),”,
- (c) in paragraph (l), by the insertion of “in the previous 2 years” after “sent”,

- (d) in paragraph (m), by the deletion of “and”,
- (e) in paragraph (n), by the substitution of “years, and” for “years.”, and
- (f) by the insertion of the following paragraph after paragraph (n):
 - “(o) list of registered employees of the undertaking in the previous 2 years”.”.



GIVEN under my Official Seal
27 April, 2023.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

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

These Regulations amend the European Union (Occupation of Road Transport Operator) Regulations 2018 (S.I. No. 265 of 2018). They give full effect to Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020 insofar as it amends Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator.

The Regulations also give full effect to Article 463(2) and Section 1 of Part A of Annex 31 to the EU-UK Trade and Cooperation Agreement, which deals with transport of goods by road between the European Union and the United Kingdom and the requirements governing the admission to, and the pursuit of, the occupation of road haulage operator.

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