



STATUTORY INSTRUMENTS.

S.I. No. 566 of 2023



EUROPEAN UNION (HIRED VEHICLES WITHOUT DRIVERS FOR THE
CARRIAGE OF GOODS BY ROAD) 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), and for the purposes of giving further effect to Directive 2006/1/EC of the European Parliament and of the Council of 18 January 2006¹, as amended by Directive (EU) 2022/738 of the European Parliament and of the Council of 6 April 2022², hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Hired Vehicles Without Drivers for the Carriage of Goods by Road) Regulations 2023.

Interpretation

2. (1) In these Regulations –

“certified copy of a Community licence” means a copy of a Community licence duly certified by or on behalf of the Minister to be a true copy of the Community licence;

“Community licence” means a licence issued by the Minister under Regulation (EC) No 1072/2009³;

“control officer” means –

- (a) a transport officer,
- (b) an officer of the Revenue Commissioners, or
- (c) a member of the Garda Síochána;

“Directive” means Directive 2006/1/EC of the European Parliament and of the Council of 18 January 2006¹, as amended by Directive (EU) 2022/738 of the European Parliament and of the Council of 6 April 2022²;

“foreign hired vehicle” means a hired vehicle that has been registered or put into circulation in compliance with the laws of another Member State and, if applicable, the vehicle is used in compliance with Regulation (EC) No 1071/2009⁴ and Regulation (EC) No 1072/2009³;

“hired vehicle” means any vehicle which, for remuneration and for a determined period, is put at the disposal of an undertaking which engages in the carriage of goods by road for hire or reward or for its own account on the basis of a contract with the undertaking which makes the vehicles available;

¹ OJ No. L33, 4. 2. 2006, p. 82

² OJ No. L137, 16. 5. 2022, p. 1

³ OJ No. L 300, 14. 11. 2009, p. 72

⁴ OJ No. L 300, 14. 11. 2009, p. 51

“licensing document” means a road haulage operator’s licence, copy of a road haulage operator’s licence, Community licence, certified copy of a Community licence, transport disc or any other ancillary document issued with any of the foregoing;

“Minister” means Minister for Transport;

“Regulation (EC) No 1071/2009” means Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009⁴, as amended by Commission Regulation (EU) No 613/2012 of 9 July 2012⁵, Council Regulation (EU) No 517/2013 of 13 May 2013⁶ and Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020⁷;

“Regulation (EC) No 1072/2009” means Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009³, as amended by Commission Regulation (EU) No 612/2012 of 9 July 2012⁸, Council Regulation (EU) No 517/2013 of 13 May 2013⁶ and Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020⁷;

“road haulage operator” means the holder of a road haulage operator’s licence;

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

“transport disc” means a transport disc issued under section 4 of the Road Transport Act 1999 (No. 15 of 1999);

“transport officer” means a person appointed under section 15 of the Road Transport Act 1986 (No. 16 of 1986) or section 16 of the Road Transport Act 2011 (No. 31 of 2011);

“vehicle registration tax” means the tax referred to in section 132 of the Finance Act 1992 (No. 9 of 1992).

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

Competent Authority and national contact point

3. (1) The Minister is the competent authority for the purposes of Article 3a of the Directive.

(2) The Minister is designated as the national contact point referred to in paragraph (2) of Article 3a of the Directive.

⁵ OJ No. L 178, 10. 7. 2012, p. 6

⁶ OJ No. L 158, 10. 6. 2013, p. 1

⁷ OJ No. L 249, 31. 7. 2020, p. 17

⁸ OJ No. L 178, 10.7.2012, p. 5

Use in State of vehicles hired by undertakings established in another Member State

4. (1) A transport undertaking established in another Member State may use a hired vehicle for the carriage of goods by road within the State provided that:

- (a) the vehicle is registered or put into circulation in compliance with the laws of any Member State and, if applicable, the vehicle is used in compliance with Regulation (EC) No 1071/2009⁴ and Regulation (EC) No 1072/2009³;
- (b) the contract relates solely to the hiring of a vehicle without a driver and is not accompanied by a service contract concluded with the same undertaking covering driving or accompanying personnel;
- (c) the hired vehicle is at the sole disposal of the undertaking using it during the period of the hire contract; and
- (d) the hired vehicle is driven by personnel of the undertaking using it.

(2) A transport undertaking established in another Member State who uses a vehicle in contravention of paragraph (1) commits an offence and is liable —

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €20,000.

(3) A transport undertaking established in another Member State shall ensure the following documents are carried, in paper or electronic format, on board a vehicle to which paragraph (1) applies:

- (a) the contract of hire, or a certified extract from that contract giving in particular the name of the lessor, the name of the lessee, the date and duration of the contract and the identification of the vehicle; and
- (b) where the driver is not the person hiring the vehicle, the driver's employment contract or a certified extract from that contract giving in particular the name of the employer, the name of the employee and the date and duration of the employment contract or a recent pay slip.

(4) The driver of a vehicle to which paragraph (1) applies shall, upon request, present the documents specified in paragraph (3) to a control officer.

(5) A transport undertaking who fails to comply with paragraph (3) or a driver of a vehicle who fails to comply with paragraph (4) commits an offence and is liable on summary conviction to a class A fine.

Vehicles hired without driver by undertakings established in the State

5. (1) Subject to Regulation 6, a transport undertaking established in the State may use a hired vehicle for the carriage of goods by road under the same

conditions as a vehicle owned by that undertaking provided that the requirements specified in Regulation 4(1) and (3) are complied with.

(2) A transport undertaking established in the State who uses a vehicle in contravention of paragraph (1) with regard to the requirements specified in —

- (a) Regulation 4(1) 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 €20,000, or
- (b) Regulation 4(3) commits an offence and is liable on summary conviction to a class A fine.

(3) The driver of a vehicle to which paragraph (1) applies shall, upon request, present the documents specified in Regulation 4(3) to a control officer.

(4) The driver of a vehicle to which paragraph (1) applies and who fails to comply with paragraph (3) commits an offence and is liable on summary conviction to a class A fine.

(5) Nothing in these Regulations exempts a road haulage operator from compliance with the licensing requirements under, as appropriate, the Road Traffic and Transport Act 2006 (No. 28 of 2006), the Road Transport Act 2011 (No. 31 of 2011), or under an act of an institution of the European Union relating to road haulage or legislation giving effect to such an act, including regulations made under the European Communities Act 1972.

Certain restrictions on use of foreign hired vehicles without driver by undertakings established in the State

6. (1) A road haulage operator shall not use a foreign hired vehicle for the carriage of goods by road for hire or reward for longer than 30 days from the date on which the vehicle enters the State. Where a road haulage operator seeks to use such a vehicle for a longer period, that operator shall register the vehicle with the Revenue Commissioners immediately after the end of the 30 day period and pay the appropriate vehicle registration tax in respect of that vehicle.

(2) The total number of foreign hired vehicles used by a road haulage operator may not account for more than 25 per cent of the total goods vehicle fleet which is at the disposal of the operator in accordance with point (g) of Article 5(1) of Regulation (EC) No 1071/2009 on the day when the operator begins to use the foreign hired vehicle; however, in the case of an operator which has an overall fleet of more than one and less than 4 vehicles, the operator shall be allowed to use a maximum of one such vehicle. The minimum number in accordance with this paragraph refers to the goods vehicle fleet at the disposal of the operator on the basis of the vehicles registered or put into circulation in conformity with the laws of the State.

(3) In accordance with Article 3(2)(d) of the Directive, a foreign hired vehicle shall not be used for the purpose of the carriage of goods by road for own-account operations by a transport undertaking established in the State.

(4) Where the Minister authorises a foreign hired vehicle on a road haulage operator's licence in accordance with section 9(2) of the Road Transport Act 2011, he or she shall issue to the operator concerned a copy of the appropriate licensing document. The copy of the licensing document shall indicate the registration number of the foreign hired vehicle so authorised by the Minister and be valid only for the duration of the contract for hire in respect of that vehicle or for 30 days, whichever is shorter in duration.

(5) A transport undertaking who contravenes paragraph (3) 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 €20,000.

Recording and provision of certain information in national electronic register

7. (1) The Minister shall enter the details of each hired vehicle used by a road haulage operator for the carriage of goods by road for hire or reward in the register referred to in Article 16 of Regulation (EC) No 1071/2009 and established under section 12 of the Road Transport Act 2011.

(2) The processing of the details referred to in paragraph (1) shall comply with the requirements of Article 3a(4) and (7) of the Directive.

(3) The Minister shall make the data referred to in paragraph (1) accessible to control officers during roadside checks.

Prosecution of offences

8. Proceedings for an offence under these Regulations may be brought and prosecuted summarily by the Road Safety Authority or the Garda Síochána.

Offences by bodies corporate

9. (1) Where an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any wilful neglect on the part of a person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and is liable to be proceeded against and punished as if he or she had committed the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) 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 a body corporate.



GIVEN under my Official Seal,
22 November, 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.)

This Statutory Instrument gives further effect to Directive 2006/1/EC, as amended by Directive (EU) 2022/738 of 6 April 2022 on the use of vehicles hired without drivers for the carriage of goods by road. It removes certain restrictions on using hired vehicles for both the hire or reward and own-account sectors and establishes a regulatory framework to give transport operators across the EU more equal access to the market for hired vehicles. In addition, road transport undertakings established in the State involved in the carriage of goods by road for hire or reward (i.e. licenced haulage operators) may, subject to certain requirements and restrictions, hire vehicles that are registered in another Member State for use in their operations.

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