



Brussels, 11 December 2017

## NOTICE TO OPERATORS SUBJECT TO UNION LEGISLATION IN THE FIELD OF ROAD TRANSPORT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement<sup>1</sup> establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.<sup>2</sup>

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, road transport operators within the meaning of Article 2 of Regulation (EC) No 1071/2009<sup>3</sup> are reminded of certain legal repercussions stemming from currently applicable rules of Union law when the United Kingdom becomes a third country, which need to be considered and anticipated:

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of road transport no longer apply to the United Kingdom. This has in particular the following consequences:

### 1. CERTIFICATES, LICENCES AND ATTESTATIONS

- Certificate of professional competence for road transport operators/transport managers: According to Articles 3(1)(d), 4(1) and 8 of Regulation (EC) No 1071/2009, natural persons engaged in the occupation of **road transport operator** in the EU and **transport managers** employed by an undertaking engaged in the occupation of road transport operator have to hold a **certificate of professional competence** issued by authorities of a EU Member State or by bodies duly authorised by a EU Member State for that purpose. As of the withdrawal date, certificates of professional competence issued by an authority of the United Kingdom or a body authorised by the United Kingdom will no longer be valid in the EU-27.

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<sup>1</sup> Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

<sup>2</sup> A third country is a country not member of the EU.

<sup>3</sup> Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC, OJ L 300, 14.11.2009, p.51.

- Driver attestation for third-country drivers: According to Article 3 of Regulation (EC) No 1072/2009,<sup>4</sup> international carriage shall be subject to a Community licence<sup>5</sup> and, when the driver is a national of a third country, in conjunction with a **driver attestation**.

Thus, as of the withdrawal date, drivers who are United Kingdom nationals and do not constitute long-term residents in the Union, within the meaning of Council Directive 2003/109/EC, and who work for a Union haulier holding a Community licence require a driver attestation. In accordance with Article 5(2) of Regulation (EC) No 1072/2009<sup>6</sup>, this **driver attestation** shall be issued by the competent authorities of the Member State of establishment of the haulier holding a Community licence for each driver who is neither a national nor a long-term resident within the meaning of Council Directive 2003/109/EC<sup>7</sup> whom that haulier lawfully employs or who is put at his disposal.

- Certificate of professional competence for drivers: In accordance with Directive 2003/59/EC<sup>8</sup>, **drivers** in the Union of a vehicle intended for the carriage of goods or for the carriage of passengers need to hold a **certificate of professional competence** certifying the initial qualification or periodic training and issued by competent authorities of an EU Member State or by an approved training centre in an EU Member State. Drivers who are nationals of an EU Member State obtain their initial qualification in the EU Member State of their normal residence while drivers who are nationals of third countries do this in the EU Member State which issued a work permit to them. As of the withdrawal date, certificates of professional competence issued by the United Kingdom or by an approved training centre in the United Kingdom will no longer be valid in the EU27.

As of the withdrawal date, drivers who are nationals of the United Kingdom but employed by an undertaking established in the Union or Union nationals resident in the United Kingdom but employed by an undertaking established in the Union will have to follow the professional drivers training in the EU Member State where the undertaking employing them is established.

- Driving licence: According to Article 2 of Directive 2006/126/EC<sup>9</sup> driving licences issued by Member States of the Union are mutually recognised. As of the withdrawal date, a driving licence issued by the United Kingdom is no longer recognised by the Member States on the basis of this legislation.

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<sup>4</sup> Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market, OJ L 300, 14.11.2009, p.72.

<sup>5</sup> Regarding the Community licence, see below, point 2.

<sup>6</sup> Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market, OJ L 300, 14.11.2009, p.72.

<sup>7</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 016, 23.1.2004, p.44.

<sup>8</sup> Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC, OJ L 226 10.9.2003, p. 4.

<sup>9</sup> Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (Recast), OJ L 403, 30.12.2006, p. 18.

The recognition of driving licences issued by third countries is not addressed in Union law but regulated at Member States level. In Member States which are Contracting Parties to the 1949 Geneva Convention on Road Traffic, this Convention applies.<sup>10</sup>

## 2. ACCESS TO THE PROFESSION / TO THE MARKET

- According to Article 3(1)(a) of Regulation (EC) No 1071/2009, **undertakings engaged in the occupation of road transport operator** in the Union must have an effective and stable establishment in an EU Member State. Undertakings that have their establishment in the United Kingdom will no longer fulfil this requirement.
- According to Article 4 of Regulation (EC) No 1071/2009, an undertaking which engages in the occupation of road transport operator shall designate a **transport manager**. In accordance with Article 4(1)(c) of that Regulation, this transport manager has to be resident in the Union. As of the withdrawal date, transport managers resident in the United Kingdom working for a Union road transport operator will no longer fulfil this requirement. Undertakings established in the Union that only have a transport manager resident in the United Kingdom can no longer engage in the occupation of road transport operator within the EU27.
- The **international carriage of goods** in the Union is subject to possession of a **Community licence**, in accordance with Regulation (EC) No 1072/2009. These Community licences can only be issued by the competent authorities of the EU Member State in which the haulier is established and where such haulier is entitled to carry out the international carriage of goods by road. As of the withdrawal date, a Community licence issued by the competent authorities of the United Kingdom will no longer be valid in the EU-27. Hauliers established in the United Kingdom will no longer have access to the internal road haulage market in the Union.

However, the multilateral quota system managed by the European Conference of Ministers of Transport (now International Transport Forum) would apply at that point. Hence, cross-trade operations (i.e. the carriage of goods from country A to country B by a haulier established in country C) by United Kingdom hauliers in the Union and by Union hauliers from or to the United Kingdom could be carried out under that system and within the limits thereof. That system does not permit cabotage operations, i.e. operations by foreign carriers within a single State. This means in particular that United Kingdom hauliers will no longer be able to perform cabotage operations within any of the remaining Member States.

- In accordance with Regulation (EC) No 1073/2009<sup>11</sup>, the **international carriage of passengers by coach and bus** is subject to the possession of a Community licence issued by the competent authorities of the Member State of establishment.

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<sup>10</sup> For further information the responsible authority of the respective Member State should be consulted.

<sup>11</sup> Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006, OJ L 300 14.11.2009, p. 88.

As of the withdrawal date, **Community licences** issued by the United Kingdom will no longer be valid in the EU-27.

- **Regular international services** between Member States are subject to an authorisation in accordance with Chapter III of Regulation (EC) No 1073/2009. As of the withdrawal date, authorisations involving the United Kingdom (for pick up or set down of passengers) are no longer valid in the EU-27.

### 3. INTERNATIONAL ASPECTS

- As of the withdrawal date, the United Kingdom is no longer within the scope of the **Interbus Agreement**<sup>12</sup> on the **international occasional carriage** of passengers by coach and bus, the very similar ASOR Agreement of 1982,<sup>13</sup> as well as the Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road.<sup>14</sup>

Preparing for the withdrawal is not just a matter for Union and national authorities, but also for private parties.

The website of the Commission on road transport ([https://ec.europa.eu/transport/modes/road\\_en](https://ec.europa.eu/transport/modes/road_en)) provide for general information concerning the rules for road transport in the Union. These pages will be updated with further information, where necessary.

European Commission  
Directorate-General for Mobility and Transport

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<sup>12</sup> Agreement on the international occasional carriage of passengers by coach and bus (INTERBUS) of 30 June 2001, OJ L 321, 26.11.2002, p. 13.

<sup>13</sup> Agreement on the International Carriage of Passengers by Road by means of Occasional Coach and Bus Services (ASOR) of 26 May 1982, OJ L 230, 5.8.1982, p. 39.

<sup>14</sup> OJ L 114, 30.04.2002, p. 91.