

II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Directive amending Directive 96/26/EC on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations

(97/C 324/05)

(Text with EEA relevance)

COM(97) 501 final — 97/0029(SYN)

(Submitted by the Commission pursuant to Article 189a (2) of the EC Treaty on 6 October 1997)

The Commission proposal in document COM(97) 25 final — 97/0029(SYN) ⁽¹⁾ is amended as follows:

⁽¹⁾ OJ C 95, 24. 3. 1997, p. 66.

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Recital 3

Whereas with regard to the provisions of good repute, it is necessary to underline that this requirement is not satisfied if natural persons who are deemed to satisfy this condition have been convicted of one serious criminal offence or of certain repeated minor offences and to underline also the importance of the rules concerning the protection of the environment and professional liability;

Whereas with regard to the provisions of good repute, it is necessary to underline that this requirement is not satisfied if natural persons who are deemed to satisfy this condition have been convicted of one serious criminal offence or of certain repeated minor offences and to underline also the importance of the rules concerning the protection of the environment, combating fraud in the Community and common transit system and professional liability; whereas in assessing whether repeated minor offences have occurred, the number of journeys carried out by the undertaking concerned also needs to be taken into consideration;

Article 1

(amending Article 3 (2) (c) of Directive 96/26/EC)

Have been convicted of a serious offence, repeated minor offences against the rules in force concerning:

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- the pay and employment conditions in the profession, or
- road haulage or road passenger transport, as appropriate, in particular the rules relating to drivers' driving and rest periods, the weights and dimensions of commercial vehicles, road safety and vehicle safety, the protection of the environment and the rules concerning professional liability.

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- the pay and employment conditions in the profession, or
- road haulage or road passenger transport, as appropriate, in particular the rules relating to drivers' driving and rest periods, the weights and dimensions of commercial vehicles, road safety and vehicle safety, the protection of the environment, the Community and common transit system, and professional liability.

In assessing whether repeated minor offences have occurred, the ratio of journeys carried out by the undertaking concerned to the number of offences committed shall be taken into account.

Article 1

(amending Article 3 (3) (c) of Directive 96/26/EC)

- The undertaking must have available capital and reserves of at least:
ECU 9 000 when only one vehicle is used and ECU 5 000 for each additional vehicle with a permissible payload of more than 3,5 tonnes, or of a permissible total laden weight of more than 6 tonnes, or per vehicle so constructed and equipped as to be suitable for carrying more than 20 persons, including the driver,
 - undertakings engaged in the occupation of road haulage operator by means of vehicles the permissible payload of which does not exceed 3,5 tonnes, or the permissible total laden weight of which does not exceed 6 tonnes, must for these vehicles have an available capital and reserves of at least ECU 9 000 when only one vehicle is used and ECU 700 per 500 kg of the maximum authorized weight for each additional vehicle,
 - undertakings engaged in the occupation of road passenger transport operator by means of vehicles so constructed and equipped as to be suitable for carrying more than nine but not more than 20 persons, including the driver, must for these vehicles have an available capital and reserves of at least ECU 9 000 when only one vehicle is used and ECU 250 per seat for each additional vehicle.
- The undertaking must have available capital and reserves as defined in Directive 78/660/EEC of at least:
ECU 9 000 when only one vehicle is used and ECU 5 000 for each additional vehicle with a permissible payload of more than 3,5 tonnes, or of a permissible total laden weight of more than 6 tonnes, or per vehicle so constructed and equipped as to be suitable for carrying more than 20 persons, including the driver,
 - undertakings engaged in the occupation of road haulage operator by means of vehicles the permissible payload of which does not exceed 3,5 tonnes, or the permissible total laden weight of which does not exceed 6 tonnes, must for these vehicles have an available capital and reserves of at least ECU 9 000 when only one vehicle is used and ECU 700 per 500 kg of the maximum authorized weight for each additional vehicle,
 - undertakings engaged in the occupation of road passenger transport operator by means of vehicles so constructed and equipped as to be suitable for carrying more than nine but not more than 20 persons, including the driver, must for these vehicles have an available capital and reserves of at least ECU 9 000 when only one vehicle is used and ECU 250 per seat for each additional vehicle.

Article 1

(amending Article 6 (1) (3) of Directive 96/26/EC)

Member States shall ensure that the competent authorities assess between the second and third year during the period of five years whether or not the operator still fulfils the requirements of financial standing.

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Where this is not the case, the authorities may, where the undertaking's other economic circumstances give grounds for assuming that the requirements of financial standing will be fulfilled in the foreseeable future, delay the assessment for not more than one year.

Article 1

(amending Article 7 (1) of Directive 96/26/EC)

— in paragraph 1 the words 'serious offences' are replaced by 'a serious offence'.

— in paragraph 1 the words 'serious offences or minor repeated offences against the rules governing either road haulage or road passenger transport, as appropriate' are replaced by 'a serious offence or repeated minor offences against the rules governing road haulage and road passenger transport, as set out in Article 3 (2) (c)'.

Article 2

Annex I is replaced by the Annex to this Directive.

Annex I to Directive 96/26/EC is replaced by the Annex to this Directive.

Article 3

Member States shall lay down the system of penalties for breaching the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that those penalties are applied. The penalties thus provided for shall be effective, proportionate and dissuasive. Member States shall notify the relevant provisions to the Commission not later than 1 July 1998 and shall notify any subsequent changes as soon as possible.

The following new Article 13a is inserted:

Article 13a

Member States shall lay down the system of penalties for breaching the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that those penalties are applied. The penalties thus provided for shall be effective, proportionate and dissuasive. Member States shall notify the relevant provisions to the Commission not later than 1 July 1998 and shall notify any subsequent changes as soon as possible.

Article 5

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

The remainder of the text is unchanged.