

- (i) a reference to an application under subsection (1) includes an application for renewal, and
- (ii) such an application may be made at any time prior to the expiration of the pilotage exemption certificate.”.

Amendment of Sixth Schedule to Act of 1996 5

77. Part 2 of the Sixth Schedule to the Act of 1996 is amended by the insertion of the following paragraph after paragraph 76:

“76A. Requiring the holder of a pilotage exemption certificate which has effect for more than 1 year to undergo periodic reviews for compliance with section 72(1)(a).”.

10

PART 10

THIRD COUNTRY BUS SERVICES

Definition (Part 10)

78. In this Part “Act of 2009” means the Public Transport Regulation Act 2009.

Continuation of international carriage of passengers by road 15

79. The Road Transport Act 1978 is amended by the insertion of the following section after section 5:

- “5A. (1) Where the Minister is of the opinion that there is a real risk of disruption to the international carriage of passengers by road, and that it is necessary in order to ensure the continuation of existing services in this regard, the Minister may grant an exemption or make a declaration in accordance with subsection (2). 20
- (2) Subject to subsection (1), the Minister may, by order, do either or both of the following—
- (a) exempt any specified class of international carriage, or any specified class of vehicle engaging in international carriage, from a requirement to comply with any provision in an enactment providing for the licensing of road passenger transport operators or services, or 25
 - (b) declare that a licence (howsoever called), or class of licence, granted by a body in a third country charged by the laws of the country to grant a licence relating to the carriage for hire or reward of bus passengers by road shall, for the purposes of Part 2A of the Public Transport Regulation Act 2009, be deemed to be an international road passenger transport operator’s licence. 30
- (3) In this section— 35
- ‘enactment’ means—

- (a) an Act of the Oireachtas,
- (b) a statute that was in force in *Saorstát Éireann* immediately before the date of the coming into operation of the Constitution and which continued in force by virtue of Article 50 of the Constitution, or
- (c) an instrument made under an Act of the Oireachtas or a statute referred to in paragraph (b);

‘international carriage’ has the same meaning as it has in Part 2A of the Public Transport Regulation Act 2009;

‘international road passenger transport operator’s licence’ means an international road passenger transport operator’s licence granted under section 2 of the Road Traffic and Transport Act 2006;

‘third country’ has the same meaning as it has in Part 2A of the Public Transport Regulation Act 2009.”.

Amendment of Dublin Transport Authority Act 2008

80. The Dublin Transport Authority Act 2008 is amended— 15

- (a) in section 2, by the insertion of the following definition:

“ ‘third country bus service’ has the meaning assigned to it by section 28A of the Act of 2009;”,

and

- (b) in section 11(1), by the insertion of the following paragraph after paragraph (cb): 20

“(cc) regulate third country bus services,”.

Amendment of section 2 of Act of 2009

81. Section 2 of the Act of 2009 is amended in the definition of international service by the substitution of “Regulation (EC) No. 1073/2009⁹ of the European Parliament and of the Council of 21 October 2009” for “Council Regulation (EEC) No. 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus”. 25

Part 2A of Act of 2009

82. The Act of 2009 is amended by the insertion of the following Part after Part 2:

“PART 2A

THIRD COUNTRY BUS SERVICES

30

Definitions

28A. In this Part—

‘cabotage operation’ means a bus service, other than—

⁹ O.J. No. L 300, 14.11.2009, p. 88

- (a) a regular service which operates to meet the transport needs of an urban centre or conurbation or those needs between it and its surrounding areas, or
- (b) a closed-door tour,

where the carrier picks up passengers— 5

- (i) in the State where the journey commenced in a third country, or
- (ii) in a third country where the journey commenced in the State;

‘carrier’ means a carrier for hire or reward of passengers travelling by bus;

‘closed-door tour’ means a bus passenger service whereby one bus is used to carry the same group of passengers throughout a journey where the point of departure and the point of arrival are the same and situated in the State or third country, as the case may be, where the carrier is established; 10

‘international carriage’, in relation to a carrier, means any of the following: 15

- (a) a journey undertaken by a bus the point of departure and the point of arrival of which are in the State, while the picking up or setting down of passengers is in a third country;
- (b) a journey undertaken by a bus of which the point of departure and the point of arrival are in a third country, while the picking up or setting down of passengers is in the State; 20
- (c) a journey undertaken by a bus from the State to another country or vice versa;

‘international road passenger operator’s licence’ means—

- (a) an international road passenger transport operator’s licence granted under section 2 of the Road Traffic and Transport Act 2006, or 25
- (b) a licence deemed by the Minister under section 5A of the Road Transport Act 1978 for the purposes of this Part to be an international road passenger transport operator’s licence;

‘occasional service’ means a bus passenger service, other than a regular service or special regular service or closed-door tour, which provides for the carriage of groups of passengers constituted by either the carrier or a customer of the carrier and may include a cabotage operation; 30

‘prescribed’ means prescribed by the Minister by order under section 28M; 35

‘regular service’ means a regular bus passenger service which provides for the carriage of passengers at specified intervals where the passengers are picked up and set down at predetermined stopping points and may include a cabotage operation;

‘special regular service’ means a regular bus passenger service by 40

whomsoever organised which provides for the carriage of a specified class of passengers to the exclusion of other passengers, and may include a cabotage operation;

‘third country’ has the meaning assigned to it by section 28B;

‘third country authorisation’ means an authorisation granted by the Authority under this Part in respect of a closed-door tour, a regular service or a special regular service for which a contract has not been concluded between the carrier and organiser; 5

‘third country body’ means the body in a third country charged by the laws of the country to provide for a third country bus service in like manner to this Part, to grant an authorisation or journey form of like effect to a third country authorisation or third country journey form; 10

‘third country bus service’ has the meaning given to it by section 28B;

‘third country journey form’ means a form granted by the Authority under this Part in respect of an occasional service or a special regular service which includes a cabotage operation and for which a contract has been concluded between the carrier and organiser. 15

Application of Part

28B. This Part applies to a bus passenger service for hire or reward, including a regular service, special regular service, closed-door tour or occasional service which is— 20

(a) provided under a bilateral agreement between the State and another country, other than a Member State, (in this part referred to as a “third country”), concerning international carriage of passengers by bus in the State and the other country (in this Part referred to as a “third country bus service”), or 25

(b) provided under reciprocal or other arrangements, concerning third country bus services, between the State and a third country whose laws provide for a third country bus service in like manner to this Part and which arrangements were in operation between the State and the third country immediately before the date of the coming into operation of this section and are required to be continued on that date. 30

Requirement to comply with Part

28C. Subject to this Part, a third country bus service may only be provided in accordance with— 35

(a) a third country authorisation or a third country journey form granted under this Part or requirements under section 28G(6) for provision of third country bus services referred to in that subsection, 40

(b) an authorisation, journey form or contract for services received by the third country body referred to in section 28F, or

- (c) an authorisation, journey form, requirements or contract for services of like effect to those referred to in paragraph (a) or (b) granted by the Authority or third country body, as the case may be, under laws that provided for a third country bus service in like manner to this Part and which authorisation or journey form is still in force immediately before the coming into operation of this section. 5

Grant of third country authorisation or third country journey form

28D. (1) Subject to this Part, the Authority may grant a third country authorisation in respect of a third country bus service other than an occasional service or a special regular service for which a contract has been concluded between the carrier and organiser. 10

(2) Subject to this Part, the Authority may grant a third country journey form in respect of an occasional service or a special regular service which includes a cabotage operation and for which a contract has been concluded between the carrier and organiser. 15

(3) A third country authorisation or a third country journey form shall specify the conditions to which the third country authorisation or third country journey form is subject under section 13 applied in accordance with section 28K. 20

(4) Subject to section 28G(2), a third country authorisation or third country journey form granted under this Part or an authorisation or journey form referred to in section 28F(2) shall not be transferred by the carrier to whom it is granted and the Authority, on becoming aware of a transfer in contravention of this section shall, unless section 28G(9) applies, revoke the authorisation or journey form. 25

(5) A third country authorisation or third country journey form shall be valid for a period not exceeding 5 years or such lesser period as determined by the Authority.

Application to Authority and procedure 30

28E. (1) An application for a grant of a third country authorisation or for a grant of a third country journey form shall be made to the Authority in such form and manner and be accompanied by documents and other supporting information as may be prescribed under section 28M, together with the fee determined under section 12 applied in accordance with section 28K. 35

(2) An applicant under subsection (1) shall provide the following to the Authority:

- (a) a completed application form;
- (b) a copy of the applicant's international road passenger operator's licence; 40
- (c) any other information as may be requested by the Authority.

- (3) On receipt of an application for a third country authorisation or third country journey form the Authority shall forward it to the third country body and request its observations.
- (4) (a) If the third country body does not respond to the Authority's request within 2 months, subject to this Part, the Authority may proceed to grant the third country authorisation or third country journey form. 5
- (b) If the third country body objects or otherwise provides a reply to the Authority's request giving reasons the Authority shall consider those reasons in deciding whether to grant the third country authorisation or third country journey form. 10
- (5) The Authority shall grant the third country authorisation or third country journey form provided that:
- (a) the Authority is provided with a copy of the applicant's international road passenger operator's licence; 15
- (b) in the view of the Authority—
- (i) the applicant is able to provide the service which is the subject of the application with equipment directly available to the applicant, and
- (ii) the applicant complies with the provisions of the Road Traffic Acts 1961 to 2018, the National Transport Authority Acts 2008 to 2016, statutory instruments made under the foregoing Acts and any other applicable statute related to Road Traffic or Road Transport, including regulations made under the European Communities Act 1972; 20 25
- (c) in the view of the Authority the applicant complies with the requirements of the following:
- (i) the European Communities (Installation and Use of Speed Limitation Devices in Motor Vehicles) Regulations 2005 (S.I. No. 831 of 2005); 30
- (ii) the Road Traffic (Construction and Use of Vehicles) Regulations 2003 (S.I. No. 5 of 2003);
- (iii) the European Communities (Vehicle Drivers Certificate of Professional Competence) (No. 2) Regulations 2008 (S.I. No. 359 of 2008); 35
- (d) the Authority is not aware that the applicant has been convicted of an offence under the Road Traffic Acts 1961 to 2018, the National Transport Authority Acts 2008 to 2016, or statutory instruments made under the foregoing Acts relating to vehicles, or rest periods for drivers; 40
- (e) the Authority determines (on the basis of a detailed analysis having considered criteria established by the Authority for the purpose of

its making the determination) that the service concerned would not seriously affect the viability of a comparable service being provided pursuant to a public transport services contract, within the meaning of section 47 of the Act of 2008;

- (f) the Authority decides on the basis of a detailed analysis that the principal purpose of the service to which the application relates is to carry passengers between stops located in different countries. 5
- (6) (a) The Authority shall grant or refuse to grant an application and shall give notice to the applicant concerned of its decision, the reasons for it and that the applicant may appeal the decision under section 22 applied in accordance with section 28K. 10
- (b) The Authority shall give notice of its decision to the third country body and shall provide the body, if applicable, with a copy of the third country authorisation or third country journey form concerned. 15

Procedure where Authority receives notice from third country body

- 28F.** (1) The Authority shall, having regard to the applicable matters referred to in section 28E(5), provide observations to a third country body within 2 months of receipt of a notice from the third country body of an application to the body for an authorisation or journey form that is, under that law of that country, of like effect to a third country authorisation or third country journey form. 20
- (2) On and from the date of receipt by the Authority of a notice from the third country body of that body's decision concerning the application referred to in subsection (1) to grant that authorisation or journey form and a copy of the authorisation or journey form concerned, the carrier to whom the authorisation or journey form was granted by the third country body may provide third country bus services under and in accordance with this Part. 25
- (3) Where the third country body has provided notice to the Authority of an application from a carrier to provide services similar to those referred to in section 28G(6) under the law of that country, the carrier may provide such third country bus services under and in accordance with this Part on and from the date of receipt by the Authority of said notice. 30 35

Obligations of carriers

- 28G.** (1) A carrier to whom a third country authorisation or third country journey form is granted under this Part shall comply with the conditions to which the third country authorisation or third country journey form is subject under section 13 applied in accordance with section 28K. 40
- (2) Other than in circumstances beyond the control of the carrier, a carrier to whom a third country authorisation for a regular service has been granted shall take all measures to guarantee a service that fulfils the standards of continuity, regularity and capacity and complies with the 45

other conditions to which the third country authorisation is subject under section 13 applied in accordance with section 28K.

- (3) A carrier to whom a third country authorisation for a regular service has been granted shall—
- (a) display in the bus the pick-up and set-down points of the service, the timetable, the fares and the conditions of carriage in such a way as to ensure that such information is readily available to all passengers, 5
 - (b) carry in the bus the third country authorisation during the operation of said service, 10
 - (c) present for inspection to an authorised officer, at the request of the officer, a copy of the relevant third country authorisation, and
 - (d) carry in the bus a copy of the carrier's international road passenger operator's licence.
- (4) A carrier to whom a third country authorisation for a regular service has been granted shall only use vehicles additional to those to which the authorisation relates to deal with temporary or exceptional situations and shall carry the following documents on those vehicles: 15
- (a) a copy of the carrier's third country authorisation for the regular service; 20
 - (b) a copy of the contract between the carrier of the regular service and the person providing the additional vehicles or a similar document;
 - (c) a copy of the carrier's international road passenger operator's licence.
- (5) A carrier to whom a third country journey form for an occasional service has been granted shall— 25
- (a) hold the book of third country journey forms provided to the carrier by the Authority,
 - (b) fill out the third country journey form before each journey,
 - (c) carry the third country journey form during the operation of the occasional service, 30
 - (d) present for inspection to an authorised officer, at the request of the officer, a copy of the relevant third country journey form,
 - (e) return a third country journey form to the Authority in accordance with conditions to which the journey form is subject under section 13 applied in accordance with section 28K, and 35
 - (f) carry in the bus a copy of the carrier's international road passenger operator's licence.
- (6) A carrier operating a special regular service for which a contract has been concluded between the carrier and organiser shall— 40

- (a) prior to providing the service, furnish a copy of the contract for service to the Authority,
 - (b) carry a copy of the contract for service referred to in paragraph (a) in the bus in the course of operation of the special regular service,
 - (c) present for inspection by an authorised officer, at the request of the officer, a copy of that contract for service, and 5
 - (d) carry in the bus a copy of the carrier’s international road passenger operator’s licence.
- (7) A carrier operating a special regular service which includes a cabotage operation and for which a contract has been concluded between the carrier and organiser shall comply with paragraphs (a) to (d) of subsection (6) and shall provide a monthly statement to the Authority of completed third country journey forms filled out by the carrier. 10
- (8) A carrier operating a regular service other than a special regular service shall issue to a passenger as appropriate, individual or collective transport tickets indicating: 15
- (a) the points of departure and arrival and, as appropriate, the return journey;
 - (b) the period of validity of the ticket;
 - (c) the fare payable by the passenger. 20
- (9) (a) A carrier to whom a third country authorisation or third country journey form is granted may provide, with the written consent of the Authority and where the Authority is satisfied that a subcontractor shall satisfy the conditions to which the authorisation or journey form is subject, the third country bus service through a subcontractor. 25
- (b) Where paragraph (a) applies—
- (i) the name and role of the subcontractor shall be specified in the authorisation or journey form,
 - (ii) the subcontractor shall comply with the conditions to which the third country authorisation or third country journey form is subject under section 13 applied in accordance with section 28K, and 30
 - (iii) in the case of persons associated for the purpose of operating a regular service, the authorisation shall be issued in the names of all the operators, shall state their names and shall be given to the person who manages the provision of the regular service who shall give copies of the authorisation to the persons so associated. 35
- Obligation of person to whom a transport ticket issues** 40
- 28H.** (1) A person to whom a transport ticket is issued by a carrier shall at any time during the journey to which the ticket relates on a request in that

behalf by an authorised officer present the ticket to the authorised officer for inspection.

- (2) In subsection (1) ‘ticket’ means proof in any form of entitlement to travel.

Lapse of a third country authorisation 5

28I. (1) A third country authorisation shall lapse—

- (a) at the end of its period of validity, or
- (b) 3 months after the carrier to whom the authorisation is granted gives notice to the Authority of the carrier’s intention to withdraw the service. 10
- (2) A notice referred to in subsection (1)(b) shall contain a statement of reasons.
- (3) Where the demand for a third country bus service has ceased to exist, the period of notice provided for in subsection (1)(b) shall be one month. 15
- (4) The Authority shall give notice to the third country body that the third country authorisation has lapsed.
- (5) The holder of the third country authorisation to which subsection (1) (b) applies shall give one month’s prior notice to passengers of the service concerned of its intention to withdraw the service by means of appropriate publicity. 20

Offences and penalties

28J. (1) A person who provides a third country bus service in contravention of section 28C shall be guilty of an offence.

- (2) A person who transfers a third country authorisation or third country journey form in contravention of section 28D shall be guilty of an offence. 25
- (3) A person to whom a third country authorisation or third country journey form is granted and who fails to comply with a condition attached to the licence under section 13 applied in accordance with section 28K shall be guilty of an offence. 30
- (4) A person, who in an application for a grant of a third country authorisation or third country journey form under section 28E, or amendment or renewal of a third country authorisation or third country journey form under section 14 or section 16 applied in accordance with section 28K, provides information to the Authority knowing it to be false or misleading shall be guilty of an offence. 35
- (5) A person who contravenes subsection (1), (3), (4), (5), (6), (7), (8) or (9)(b)(ii) of section 28G shall be guilty of an offence.
- (6) A person who refuses to present a transport ticket to an authorised officer in contravention of section 28H shall be guilty of an offence. 40

- (7) A person guilty of an offence under subsection (1) or (2) shall be liable—
- (a) on summary conviction to a class A fine, or
 - (b) on conviction on indictment to a fine not exceeding €200,000.
- (8) A person guilty of an offence under subsection (3) or (4) or subsection (5), insofar as it relates to subsection (7) of section 28G, shall be liable on summary conviction to a class A fine. 5
- (9) A person guilty of an offence under subsection (5), insofar as it relates to subsection (1), (3), (4), (5), (6), (8) or (9)(b)(ii) of section 28G shall be liable on summary conviction to a class B fine. 10
- (10) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a class D fine.

Application of sections for the purpose of this Part

- 28K.** (1) Section 12 shall apply to fees under this Part, section 13 shall apply to attachment of conditions to third country authorisations or third country journey forms under this Part, section 14 shall apply to the amendment of third country authorisations or third country journey forms under this Part, section 15 shall apply to the requirement to commence third country bus services under this Part, section 16 shall apply to the renewal of third country authorisations or third country journey forms under this Part, section 19 shall apply to revocation of third country authorisations or third country journey forms by the Authority under this Part, section 21 shall apply for the purpose of deciding officers under this Part, section 22 shall apply to appeals under this Part, section 23 applies to preparing and publishing guidelines under this Part, section 24(2) and (3) shall apply to offences under this Part and section 26 shall apply to notifications and notices under this Part as each section applies in Part 2 subject to the following and any other necessary modifications: 15 20 25
- (a) any reference in any of those sections to a licence shall be construed as a reference to a third country authorisation or a third country journey form; 30
 - (b) any reference in any of those sections to a public bus passenger service shall be construed as a reference to a third country bus service. 35
- (2) Without prejudice to the generality of subsection (1), for the purposes of this Part—
- (a) section 13 shall be construed as if—
 - (i) the reference in section 13(2)(a) to section 10(3) is a reference to section 23E(5), 40
 - (ii) section 13(2)(f) includes a reference to carriers as well as public transport service operators,

- (iii) section 13(2) has the following paragraphs after paragraph (i):
 - “(j) in relation to a third country authorisation, and the pick-up points and set-down points which constitute a cabotage operation if permitted under the authorisation,
 - (k) in relation to a third country journey form, the type of occasional service to which it relates and the pick-up points and set-down points which constitute a cabotage operation if permitted under the third country journey form,”,
- (b) section 14 shall be construed as if—
 - (i) the reference in section 14(3) to sections 10 to 13 is a reference to sections 12 and 13 applied in accordance with this section and section 28E(5), and
 - (ii) the reference in section 14(4)(b) to section 23 is a reference to section 23(5) applied in accordance with this section,
- (c) section 16 shall be construed as if the reference in section 16(3)(b) to sections 10 to 13 is a reference to sections 12 and 13 applied in accordance with this section and section 28E(5),
- (d) section 19 shall be construed as if—
 - (i) the reference in section 19(1)(c) to sections 15(4) and 18(4)(b) is a reference to section 15 applied in accordance with this section and section 28D(3), and
 - (ii) section 19 has the following subsection after subsection (1):
 - “(1A) The Authority shall immediately inform the third country body as soon as it revokes a third country authorisation or third country journey form under this section.”,
- (e) section 21 shall be construed as if the reference in the section to a transfer is a reference to provision of third country bus services by a subcontractor, and
- (f) section 23 shall be construed as if—
 - (i) a reference in section 23(1) to the licensing of public bus passenger services is a reference to the granting of a third country authorisation or a third country journey form for a third country bus service,
 - (ii) the reference in section 23(2)(a) to section 10 is a reference to section 28E,
 - (iii) the reference in section 23(2)(b) to section 14 is a reference to section 14 applied in accordance with this section, and
 - (iv) the reference in section 23(2)(c) to a transfer is a reference to provision of third country bus services by a subcontractor.

Authorised officers

- 28L.** (1) The Authority may appoint such and so many persons as it sees fit to be authorised officers for the purpose of obtaining such information or of carrying out such inspections or any other functions as the Authority may deem necessary for the performance by the Authority of its functions under this Part. 5
- (2) For the purpose of subsection (1), subsections (2) to (5) of section 78 and section 79 of the Act of 2008 shall apply to an authorised officer appointed under section 78 subject to the modification that a reference to a public transport authority or public transport operator shall be read as a reference to a carrier who provides a third country bus service and any other necessary modifications. 10

Minister to make order

- 28M.** The Minister may, for the purposes of a bilateral agreement or other arrangement between the State and another country, by order— 15
- (a) prescribe a third country body or third country bodies,
- (b) prescribe the form, manner, documents and other supporting information to be provided in an application to the Authority for a third country authorisation or a third country journey form or in furnishing a contract for service to the Authority under section 28G(6), and 20
- (c) prescribe the form of a third country authorisation or third country journey form.

Further provisions concerning operation of this Part

- 28N.** (1) (a) No provision of this Part shall apply to a class of third country bus service to which the Interbus Agreement applies where the Interbus Agreement comes into force in a third country referred to in section 28B. 25
- (b) Notwithstanding paragraph (a), a third country bus service provided under section 28C may continue to be so provided for 2 weeks after the date that the Interbus Agreement concerned comes into force. 30
- (2) Where a third country in section 28B(b) is the United Kingdom, sections 28B(b) and 28C(c) shall cease to have effect 12 weeks after the withdrawal of the United Kingdom from membership of the European Union. 35
- (3) In subsection (1) ‘Interbus Agreement’ means the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement).”.