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REGULATION (EEC) No 358/69 OF THE COMMISSION

of 26 February 1969

laying down detailed rules for the publication of transport rates and conditions which depart from published tariffs, in implementation of Article 9 of Council Regulation (EEC) No 1174/68 of 30 July 1968 on the introduction of a system of bracket tariffs for the carriage of goods by road between Member States

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 1174/68[1] of 30 July 1968 on the introduction of a system of bracket tariffs for the carriage of goods by road between Member States, and in particular Article 9 thereof;

Having regard to the opinion expressed at its meeting of 12 February 1969 by the Committee of Experts set up in accordance with Article 11 of Regulation (EEC) No 1174/68;

Whereas Regulation (EEC) No 1174/68 makes transport rates and conditions which depart from published bracket tariffs subject to a system of publication; whereas that Regulation sets out the general principles of the system, the Commission being instructed to adopt the relevant detailed implementing rules;

Whereas the said Regulation provides that publication shall be the responsibility of bodies specially designated or set up for the purpose by each Member State; whereas it provides for two stages of publication: immediate publication in the Member State of dispatch and monthly publication both in the Member State of dispatch and in the Member State of destination;

Whereas, in order that publication may be carried out uniformly, the main aim of the provisions to be adopted by the Commission must be to lay down procedures for the communication as between the various parties concerned of the particulars for publication and to specify the form which the two stages of publication should take;

Whereas, although Regulation (EEC) No 1174/68 lays down no criteria for the designation by Member States of the bodies responsible for publication in their territories, it is nonetheless essential, if effective publication is to be ensured, that the number and location of those bodies, and the territorial areas for which they are to be responsible, should be appropriate to the respective forms of publication at each of the two stages provided for;

Whereas, in view of the experimental nature of the tariff system introduced by Regulation (EEC) No 1174/68, it appears sufficient that only one of the two forms of publication should be the subject of wide distribution; whereas since monthly publication applies to carriage both from and to a Member State, it seems appropriate that such publication should have the wider scope; whereas therefore publication at the first stage may be effected by means of public notices; whereas in these circumstances monthly publication will need to be relatively comprehensive;

HAS ADOPTED THIS REGULATION:

Article 1

The body or bodies responsible, pursuant to Article 8 (1) of Council Regulation (EEC) No 1174/68 of 30 July 1968, for publishing transport rates and conditions which depart from the published bracket tariffs shall be designated or set up by each Member State having regard to its geographic and economic structure and to the forms laid down by this Regulation for the two types of publication provided for in the first and second subparagraphs respectively of Article 8 (2) of Regulation (EEC) No 1174/68.

Member States shall at the same time define the territorial area for which each such body is to be responsible.

[1] OJ No L 194, 6.8.1968, p. 1.

Article 2

1. Communication of the rates and conditions of transport referred to in Article 7 of Regulation (EEC) No 1174/68 shall be effected in accordance with the provisions of paragraphs 2 and 3 of this Article.

2. The competent authorities shall communicate the information required for publication as laid down in the first subparagraph of Article 8 (2) of Regulation (EEC) No 1174/68 as soon as possible after being sent the terms of the special contract by the carrier in accordance with Article 5 (2) of that Regulation. Such communication shall be effected in accordance with the following provisions:

(a) where the carrier has submitted the special contract to the competent authorities of the State on whose territory the goods are to be loaded, the latter shall communicate the particulars for publication to the body responsible for publication in the area where the loading point is situated;

(b) where the carrier has submitted the special contract to the competent authorities of the State on whose territory the goods are to be unloaded, the latter shall communicate the particulars for publication to the competent authorities of the State on whose territory the goods are to be loaded, either by sending copies of the relevant documents as provided for in Article 5 (3) of Regulation (EEC) No 1174/68, or by sending an abstract of the contract containing the relevant information; the last-mentioned competent authorities shall forthwith communicate the particulars for publication to the body responsible for publication in the area where the loading point is situated.

By way of derogation from the provisions of the preceding subparagraph, where any special contract is subject to prior authorization as provided for in Article 5 (5) and (6) of Regulation (EEC) No 1174/68, the relevant particulars shall be communicated to the appropriate body in accordance with (a) of the preceding subparagraph at the same time as the carrier is notified of the authorisation by the competent authorities of the State on whose territory the goods are to be loaded.

3. At the end of each month the competent authorities of each State on whose territory goods are loaded shall send to the competent authorities of the States on whose territories the goods are to be unloaded the information required for drawing up, in respect of the special contracts details of which were published in its territory pursuant to Article 3 in the course of that month, the monthly returns referred to in Article 4.

The competent authorities of Member States in which goods are loaded or unloaded shall, in good time to allow publication within the time limits fixed in Article 4 (1) of this Regulation, send all the relevant particulars to the body or bodies referred to in Article 1 responsible in their respective territories for the publication of monthly returns.

Article 3

1. The bodies referred to in Article 1 shall effect the immediate publication required under the first subparagraph of Article 8 (2) of Regulation (EEC) No 1174/68 in respect of special contracts relating to consignments whose point of loading is situated within their respective areas by displaying, in a place appointed for that purpose freely accessible to the public, notices showing the eight particulars listed in the said Article 8 (2), and so drawn that the information contained therein is readily available to all.

To this end, the particulars relating to each special contract shall be listed by country of destination and, for each country, by class of goods within the meaning of Article 4 (4) of this Regulation, and in chronological order.

2. The eight particulars to be published in respect of each special contract shall be as follows:

(a) name and address of carrier;

(b) the route or routes concerned, by reference to the loading and unloading points;

(c) type of goods, according to their tariff classification;

(d) tonnage;

(e) rates agreed;

(f) date on which the contract was made;

(g) duration of contract, specifying the dates between which carriage must take place;

(h) principal special conditions, and in particular those bearing on the level of rates agreed.

3. Particulars published in accordance with the provisions of paragraphs 1 and 2 shall remain on display until the end of the second month following that of publication.

Article 4

1. The monthly returns of special contracts provided for in the second subparagraph of Article 8 (2) of Regulation (EEC) No 1174/68 shall be

published not later than the last day of each month in an official publication designated for that purpose by each Member State.

2. Each monthly return shall give particulars, listing separately consignments dispatched from national territory and those dispatched to national territory, of all special contracts details of which were published pursuant to Article 3 in the course of the preceding calendar month by the relevant domestic or foreign bodies within whose areas the loading points were situated.

3. Monthly returns shall give in respect of each special contract the particulars referred to in Article 3 (2), with the exception of the name and address of the carrier and the date on which the contract was made.

4. In each monthly return special contracts shall be classified, according to areas, by reference to the bodies in the State of loading and in the State of unloading responsible for publication pursuant to Article 3. Within that classification contracts shall be grouped by route.

For each route special contracts shall be grouped by class of goods in accordance with the following classification:

0 - Agricultural and forestry products, live animals;

1 - Other foodstuffs, whether for human or animal consumption;

2 - Solid mineral fuels;

3 - Petroleum and petroleum products;

4 - Metalliferous ores and metal scrap;

5 - Products of iron, steel and other metals;

6 - Non-metallic minerals, processed or unprocessed, and building materials;

7 - Fertilisers;

8 - Chemicals and chemical products;

9 - Machines, vehicles, manufactured articles, special items.

Article 5

Member States shall in good time, after consulting the Commission, adopt the necessary provisions for the implementation of this Regulation.

Article 6

The period of validity of this Regulation shall be the same as that of Regulation (EEC) No 1174/68.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 February 1969.

For the Commission

The President

Jean REY