



## 2010 CHAPTER 2

### *Variation of licences*

#### **Variation of operators' licences**

**16.—(1)** Subject to section 17, on the application of the holder of an operator's licence, the Department may vary the licence by directing—

- (a) that additional motor vehicles be specified in the licence or that any maximum number specified in it under section 5 be increased;
- (b) that any vehicle cease to be specified in the licence or that any maximum number specified in it under section 5 be reduced;
- (c) that any provision in the licence such as is mentioned in section 4(2) cease to have effect;
- (d) that a provision such as is mentioned in section 4(2) be included in the licence;
- (e) that any provision in the licence such as is mentioned in section 5(1)(b) or (2)(b) cease to have effect;
- (f) that a provision such as is mentioned in section 5(1)(b) or (2)(b) be included in the licence;
- (g) that a new place be specified in the licence as an operating centre of the licence-holder, or that any place cease to be so specified;
- (h) that any undertaking recorded in the licence be varied or removed;
- (i) that any condition attached to the licence be varied or removed;
- (j) in the case of a restricted licence, that it be converted into a standard licence or, in the case of a standard licence, that it be converted into a restricted licence;

(k) in the case of a standard licence, that it cover both international and national transport operations instead of national transport operations only, or vice versa.

(2) An application for the variation of a licence under this section shall be made in such form and include such declarations and information as may be prescribed.

(3) The Department may require an applicant to furnish such other information as it considers necessary for dealing with the application.

(4) Except in the cases mentioned in subsection (5), the Department shall publish notice of any application for the variation of an operator's licence under this section, and shall do so in the manner prescribed for the publication of notices under section 9(1).

(5) The excepted cases are—

- (a) where the application is for a direction under subsection (1)(a) that additional motor vehicles be specified in the licence;
- (b) where the application is for a direction under subsection (1)(b), (d) or (f);
- (c) where the application is for a direction under subsection (1)(g) that a place cease to be specified in a licence as an operating centre of the licence-holder;
- (d) where the application is for a direction under subsection (1)(j) that a standard licence be converted into a restricted licence;
- (e) where the application is for a direction under subsection (1)(k) that a licence cover national transport operations only, instead of both national and international transport operations;
- (f) where the Department is satisfied that the application is of so trivial a nature that it is not necessary that an opportunity should be given for objecting to it or making representations against it.

(6) Where notice of an application is published under subsection (4), the following provisions, namely—

- (a) section 9(2),
- (b) section 11(1)(a), (6), (8) and (9)(a),
- (c) section 12, and
- (d) section 14,

shall, with any necessary modifications and subject to section 18, apply in relation to that application as they apply in relation to an application for an operator's licence of which notice is published under section 9(1).

**Publication of notice of applications for variation in any locality affected**

17.—(1) Subject to subsection (4), the Department shall refuse an application for any of the directions mentioned in subsection (2) without considering the merits unless it is satisfied that subsection (3) has been complied with in respect of each locality affected by the application.

(2) The directions referred to in subsection (1) are—

- (a) any direction under section 16(1)(a) that a maximum number specified in a licence under section 5 be increased;
- (b) any direction under section 16(1)(c) or (e);
- (c) any direction under section 16(1)(g) that a new place be specified in a licence as an operating centre of the licence-holder; and
- (d) any direction under section 16(1)(h) or (i) which might result in a material change in the use of any operating centre of the licence-holder.

(3) This subsection has been complied with in respect of a locality affected by an application if, within the period beginning 21 days before the date on which the application is made and ending 21 days after that date, notice of the application in such form and containing such information as may be prescribed has been published in one or more local newspapers circulating in the locality.

(4) The Department is not required by this section to refuse an application if—

- (a) it is satisfied as mentioned in subsection (1), except that the form or contents of the notice of application as published in any newspaper did not comply with the prescribed requirements; and
- (b) it is satisfied that no person's interests are likely to have been prejudiced by the failure to comply with those requirements.

(5) For the purposes of this section a locality is affected by an application for the variation of an operator's licence if—

- (a) it contains any place that will be an operating centre of the licence-holder if the application is granted; or
- (b) it contains an existing operating centre of the licence-holder and—
  - (i) the granting of the application would or could result in an increase in the number of vehicles, or the number of vehicles above a certain weight, that have that centre as their operating centre; or
  - (ii) any undertaking recorded in, or condition attached to, the licence that the application seeks to have varied or removed relates to that centre.

**Objection to, and refusal of, applications to vary operators' licences on environmental grounds**

18.—(1) This section applies where notice of an application for the variation of an operator's licence has been published under section 16(4).

- (2) Where the application relates to an existing operating centre of the licence-holder—
- (a) any of the persons mentioned in section 11(2) may object to the grant of the application on the ground that the use of that operating centre in any manner which would be permitted if the application were granted would cause adverse effects on environmental conditions in the vicinity of that centre;
  - (b) subject to subsection (5), any person who is the owner or occupier of any land in the vicinity of that operating centre may make representations against the grant of the application on the ground mentioned in paragraph (a); and
  - (c) whether or not anyone objects or makes representations under paragraph (a) or (b), the Department may refuse the application on the ground mentioned in paragraph (a).
- (3) For the purposes of subsection (2), an application shall be taken to relate to an operating centre if—
- (a) granting it would or could result in an increase in the number of vehicles, or the number of vehicles above a certain weight, that have that centre as their operating centre; or
  - (b) any undertaking recorded in, or condition attached to, the licence that the application seeks to have varied or removed relates to that centre.
- (4) Where the application is for a place to be specified in the licence as an operating centre of the licence-holder—
- (a) any of the persons mentioned in section 11(2) may object to the grant of the application on the ground that that place will be unsuitable on environmental grounds for use as an operating centre of the licence-holder; and
  - (b) subject to subsection (5), any person who is the owner or occupier of any land in the vicinity of that place may make representations against the grant of the application on that ground.
- (5) A person may not make representations under subsection (2)(b) or (4)(b) unless any adverse effects on environmental conditions arising from the use of the operating centre or place in question would be capable of prejudicially affecting the use or enjoyment of the land there mentioned.
- (6) If any person duly objects or makes representations under subsection (4) against an application for a place to be specified in the licence as an operating centre of the licence-holder, the Department may refuse the application—
- (a) on the ground that the parking of vehicles used under the licence at or in the vicinity of that place would cause adverse effects on environmental conditions in the vicinity of that place; or

- (b) subject to subsection (7), on the ground that that place would be unsuitable on environmental grounds other than the ground mentioned in paragraph (a) for use as an operating centre of the licence-holder.

(7) The Department may not refuse the application on the ground mentioned in subsection (6)(b) if—

- (a) on the date the application was made, the place in question was already specified in an operator's licence as an operating centre of the holder of that licence, or
- (b) the applicant has produced to the Department a certificate in force in respect of that place under Article 83A or 83B of the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#) stating that its use as an operating centre for vehicles used under any operator's licence is or would be lawful.

(8) Subsection (7) does not apply in relation to any place that, at the time the application is determined by the Department, is specified in an operator's licence as an operating centre of the holder of that licence.

(9) A place is not to be regarded for the purposes of paragraph (a) of subsection (7) as being specified in an operator's licence by reason only that it forms part of a place so specified; and a place that was, on the date mentioned in that paragraph, a place specified in an operator's licence as mentioned in that paragraph shall be disregarded for the purposes of that paragraph if, on that date—

- (a) the operator's licence in which that place was specified was an interim licence issued under section 21; or
- (b) that place was so specified by virtue of an interim direction such as is mentioned in section 22; or
- (c) such conditions relating to—
  - (i) the exercise of the right of any person to appeal against a place being specified in an operator's licence, or
  - (ii) the review under section 34 of any decision so to specify a place, as may be prescribed were not satisfied in relation to that place.

(10) Any objection or representations under this section—

- (a) shall contain particulars of any matters alleged by the person making the objection or representations to be relevant to the issue to which the objection relates or the representations relate; and
- (b) shall be made in the prescribed manner and within the prescribed time after the making of the application to which the objection relates or the representations relate.

(11) Where the Department considers there to be exceptional circumstances that justify its doing so, it may direct that an objection or representations be treated for the purposes of this Act as duly made under this section,

notwithstanding that the objection was not, or the representations were not, made within the prescribed time or in the prescribed manner.

**Variation of licences: further provisions**

**19.** Regulations may make provision (including provision modifying any provision of this Act) for cases—

- (a) where the holder of a restricted licence makes an application under section 16(1)(j) to the Department to vary the licence by directing that it be converted into a standard licence; and
- (b) where the holder of a standard licence which covers only national transport operations makes an application under section 16(1)(k) to the Department for a direction that the licence be varied to cover both national and international transport operations.