



2010 CHAPTER 2

VALID FROM 01/07/2012

Revocation etc of operators' licences

Revocation, suspension and curtailment of operators' licences

23.—(1) Subject to the following provisions of this section and the provisions of section 26, the Department may direct that an operator's licence be revoked, suspended or curtailed (within the meaning given in subsection (9)) for any reasonable cause including any of the following—

- (a) that a place has, at a time when it was not specified in the licence as an operating centre of the licence-holder, been used as an operating centre for vehicles authorised to be used under the licence;
- (b) that the licence-holder has contravened any condition attached to the licence;
- (c) that during the 5 years ending with the date on which the direction is given there has occurred a prescribed event affecting information required to be given to the Department under section 7 or 8;
- (d) that the licence-holder made, or procured to be made, for the purposes of—
 - (i) the licence-holder's application for the licence,
 - (ii) an application for the variation of the licence, or
 - (iii) a request for a direction under paragraph 1 or 3 of Schedule 1,a statement of fact that, whether to the licence-holder's knowledge or not, was false, or a statement of expectation that has not been fulfilled;

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- (e) that any undertaking recorded in the licence has not been fulfilled;
 - (f) that the licence-holder, being an individual, has been adjudged bankrupt or, being a company, has gone into liquidation, other than voluntary liquidation for the purposes of reconstruction;
 - (g) that since the licence was issued or varied there has been a material change in any of the circumstances of the licence-holder that were relevant to the issue or variation or the licence;
 - (h) that the licence is liable to revocation, suspension or curtailment by virtue of a direction under section 25(3).
- (2) Where the Department has power to give a direction in respect of a licence under subsection (1) the Department also has power to direct that a condition or additional condition such as is mentioned in section 20(1)(b) be attached to the licence.
- (3) In this Act any reference, in relation to an operator's licence, to a condition attached to the licence under section 20(1)(b) includes any condition attached to the licence under subsection (2).
- (4) Where the existence of any of the grounds mentioned in subsection (1) is brought to the notice of the Department, the Department shall consider whether or not to give a direction under this section in respect of that licence.
- (5) Where the Department directs that an operator's licence be suspended or curtailed, the Department may order—
- (a) in the case of a suspension, that any motor vehicle specified in the licence may not be used under any other operator's licence (notwithstanding anything in section 4(1)(a)), or
 - (b) in the case of a curtailment having the effect of removing any motor vehicle from the licence, that the motor vehicle may not be used as mentioned in paragraph (a) and shall not be capable of being effectively specified in any other operator's licence.
- (6) An order made under subsection (5) shall cease to have effect—
- (a) on such date, not being more than 6 months after the order is made, as may be specified in the order, or
 - (b) if, before that date, the licence which is directed to be suspended or curtailed ceases to be in force, on the date on which it ceases to be in force.
- (7) Where the Department has given a direction suspending or curtailing a licence under subsection (1) it may—
- (a) cancel the direction together with any order under subsection (5) that was made when the direction was given;
 - (b) cancel any such order; or

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(c) with the consent of the licence-holder, vary the direction or any such order (or both the direction and any such order).

(8) Where an operator's licence is suspended under this section, the licence remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.

(9) In this Act references to directing that an operator's licence be curtailed are references to directing (with effect for the remainder of the duration of the licence or for any shorter period) all or any of the following—

- (a) that one or more of the vehicles specified in the licence be removed from it;
- (b) that a provision such as is mentioned in section 4(2) or 5(1)(b) or (2) be included in the licence;
- (c) that any maximum number specified in the licence under section 5 be reduced;
- (d) that any one or more of the places specified in the licence as operating centres be removed from it.

Revocation of standard licences

24.—(1) The Department shall direct that a standard licence be revoked if at any time it appears to the Department that the licence-holder is no longer—

- (a) of good repute,
- (b) of the appropriate financial standing, or
- (c) professionally competent;

and the Department shall determine whether or not that is the case in accordance with regulations.

(2) In subsection (1) “good repute”, “appropriate financial standing” and “professionally competent” have the same meaning as in regulations under section 12(3).

(3) A notice under section 26(1) shall state the grounds on which the Department is considering giving a direction under subsection (1) and shall also state—

- (a) that written representations with respect to those grounds may be made to the Department by the licence-holder, and
- (b) that any such representations must be received by the Department within 21 days of the date of the notice;

and the Department shall consider any representations duly made under this subsection.

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(4) This section has effect subject to section 26 (and, in particular, nothing in subsection (4) shall be taken to affect a person's right under section 26(1) to require the holding of an inquiry).

Disqualification

25.—(1) Where, under section 23(1) or 24(1), the Department directs that an operator's licence be revoked, the Department may order the person who was the holder of the licence to be disqualified (either indefinitely or for such period as the Department thinks fit) from holding or obtaining an operator's licence; and so long as the disqualification is in force, notwithstanding anything in section 12 or 21, no operator's licence may be issued to that person.

(2) If a person applies for or obtains an operator's licence while disqualified under subsection (1)—

- (a) the person is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale, and
- (b) any operator's licence issued on the application, or (as the case may be) the operator's licence obtained by that person, shall be void.

(3) Where the Department makes an order under subsection (1) in respect of any person, the Department may direct that if that person, at any time or during such period as the Department specify—

- (a) is a director of, or holds a controlling interest in—
 - (i) a company which holds a licence of the kind to which the order in question applies, or
 - (ii) a company of which such a company is a subsidiary, or
- (b) operates any goods vehicles in partnership with a person who holds such a licence,

that licence of that company or, as the case may be, of that person, shall be liable to revocation, suspension or curtailment under section 23.

(4) The powers conferred by subsections (1) and (3) in relation to the person who was the holder of a licence shall be exercisable also—

- (a) where that person was a company, in relation to any director of that company, and
- (b) where that person operated vehicles under the licence in partnership with other persons, in relation to any of those other persons;

and any reference in this section or in section 23 or 26 to subsection (1) or (3) includes a reference to that subsection as it applies by virtue of this subsection.

(5) Where the Department makes any order disqualifying a person under subsection (1), it may at any time—

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- (a) cancel that order together with any direction that was given under subsection (4) when the order was made;
- (b) cancel any such direction; or
- (c) with the consent of the person disqualified, vary the order or any such direction (or both the order and any such direction).

(6) Where an operator's licence is suspended under this section, the licence remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.

(7) For the purposes of this section a person holds a controlling interest in a company if the person is the beneficial owner of more than half its equity share capital (as defined in section 548 of the Companies Act 2006 (c. 46)).

Revocation, disqualification, etc: supplementary provisions

26.—(1) The Department shall not—

- (a) give a direction under section 23(1) or (2) or 24(1) in respect of any licence,
- (b) make an order under section 23(5) in respect of any vehicle, or
- (c) make an order or give a direction under section 25(1) or (3) in respect of any person,

without first giving the holder of the licence or (as the case may be) the person concerned notice that it is considering doing so and holding an inquiry if the holder of the licence or (as the case may be) the person concerned requests the Department to do so.

(2) The Department may direct that any direction or order given or made by it under—

- (a) section 23(1), (2) or (5),
- (b) section 24(1), or
- (c) section 25(1) or (3),

shall not take effect until the expiry of the time within which an appeal may be made to the Upper Tribunal against the direction or order and, if such an appeal is made, until the appeal has been disposed of.

(3) If the Department refuses to give a direction under subsection (2) the holder of the licence or, as the case may be, the person in respect of whom the direction or order was given or made may apply to the Upper Tribunal for such a direction.

(4) The Upper Tribunal shall give its decision on any application under subsection (3) within 14 days.

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(5) An order under section 23(5) or 25(1) is not a statutory rule for the purpose of the Statutory Rules (Northern Ireland) Order 1979 (NI 12).

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