

2012 No. 261

ROAD TRAFFIC AND VEHICLES

**The Goods Vehicles (Licensing of Operators) Regulations
(Northern Ireland) 2012**

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The Department of the Environment makes the following Regulations, in exercise of the powers conferred by sections 4(3), 7(3) and (4), 8(1), 9(1), 10(2), 11(3), (6) and (7), 13(5)(c), 16(2), 17(3), 18(9)(c) and (10), 20(1)(d), 27(1), 28(5)(a), 31(1), 32(3), 34(2)(a), 48(2), (3) and (4), 52, 53, 57 and paragraphs 1(7)(b) and 3(7)(b) of Schedule 1 to the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010(a).

In accordance with section 57(11) of that Act the Department has consulted with such representative organisations as it sees fit.

(a) 2010 c.2 (N.I.)

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Goods Vehicles (Licensing of Operators) Regulations (Northern Ireland) 2012 and shall come into operation on 1st July 2012.

Interpretation

2.—(1) In these Regulations—

“the 2010 Act” means the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010;

“application for a licence” means an application for an operator’s licence for which publication is required by section 9(1);

“application for the variation of a licence” means an application for the variation of an operator’s licence for which publication is required by section 16(4) and, “application” when used otherwise than as part of those expressions means—

- (a) an application for a licence; or
- (b) an application for the variation of a licence;

“Applications and Decisions” means a statement published by the Department under regulation 19;

“company” shall be construed as provided in section 1 of the Companies Act 2006(a);

“disc” means a disc issued in accordance with regulation 21(1) and (2) or 25(2);

“firm” has the same meaning as in section 4 of the Partnership Act 1890(b);

“keeper”, in relation to a goods vehicle, is the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994(c);

“interim licence” means a licence issued under section 21(3);

“interim direction” means a direction given by the Department pursuant to section 22;

“licence” means an operator’s licence as defined in section 1(1) and, where the context so requires, includes the documentation which evidences the grant of an application;

“licence-holder”, and “holder” in relation to a licence, means the person to whom the licence was issued;

“maintenance” in relation to a goods vehicle includes inspection, repair and fuelling;

“the Qualification of Operators Regulations” means the Goods Vehicles (Qualification of Operators) Regulations (Northern Ireland) 2012(d).

(2) In these Regulations unless the context otherwise requires, any reference to a numbered section is a reference to the section of the 2010 Act bearing that number.

(a) 2006 c.46
(b) 1890 c.39
(c) 1994 c.22
(d) S.R. 2012 No. 257

PART 2

APPLICATIONS FOR OPERATORS' LICENCES

Manner of making applications

- 3.—(1) Every application shall—
- (a) be made on a form supplied by the Department and contain the information required by that form;
 - (b) be signed—
 - (i) if made by an individual, by that person;
 - (ii) if made by a firm, by all of the partners of that firm or by one of them with the authority of the others; and
 - (iii) if made by any other body or group of persons, by one or more individual persons authorised for that purpose by the body or group;
 - (c) if made for the issue of a licence, state whether it relates to a standard licence or to a restricted licence and, if it relates to a standard licence, state whether the licence is to cover—
 - (i) both national and international transport operations; or
 - (ii) national transport operations only.
- (2) A person applying for an operator's licence shall give to the Department a statement—
- (a) containing details of the motor vehicles required to be used under the licence and stating the number, type and registration mark of any vehicles and trailers proposed to be used under the licence; and
 - (b) containing the name and address of the operating centre of the applicant if the licence is issued.
- (3) A person applying for an operator's licence shall, if required by the Department to do so, give any of the information specified in paragraph 1 of Schedule 1.
- (4) For the purposes of section 8(1) a prescribed event required to be notified to the Department is the occurrence and particulars of a notifiable conviction within the meaning given in paragraph 4 of Schedule 1.
- (5) Without prejudice to paragraph (3), a person applying for an operator's licence shall also, if required by the Department to do so, give such particulars as may be required with respect to the use which the applicant proposes to make, for vehicles used under the licence, of any referred to in the statement under paragraph (2)(a).

Time of applications

4. Every application shall be sent to the Department so as to reach it not less than 9 weeks before the time at which the applicant desires the licence or variation applied for to take effect.

Dispensations as to applications

5. The Department may consider an application notwithstanding that the requirement specified in regulation 4 has not been complied with.

Notice of applications

6.—(1) The manner in which a notice of any application for a licence as mentioned in section 9 or for a variation as mentioned in section 16 is published by the Department is that a summary of the application which adequately specifies the subject matter of the application shall be published in Applications and Decisions as mentioned in regulation 19.

(2) The notice of an application to be published in accordance with section 10 or 17 shall give the information specified in Schedule 2.

Restrictions on applications

7.—(1) The Department may decline to proceed with an application for a licence if it appears to it that the grant of that application would lead to a contravention of section 7(2).

(2) The Department may decline to proceed with an application if and so long as it appears to it that the application relates to any motor vehicle which is specified in an existing licence, and the grant of that application would lead to a contravention of section 4(7).

Inspection of applications

8.—(1) The Department shall, until an application has been determined, make available for inspection—

- (a) to any person authorised to make the inspection by a District Council, a Northern Ireland Department, the Chief Constable or a trade union or association specified in regulation 9, such part of the application (or the whole of it) as any such person in writing requests to see; and
- (b) to any person who is, by virtue of section 11(4) or 18(2)(b) entitled to make representations in respect of the application, or a person authorised by such a person to make the inspection on their behalf, such part of the application as is, in the opinion of the Department, relevant to the representation.

(2) The Department shall, during the currency of a licence, make a copy of it available for inspection by any person who appears to the Department to have reasonable grounds for making such an inspection.

(3) The Department shall satisfy its obligation under paragraph (1)—

- (a) by making the application or, as the case may be, part of it, available for inspection at an office specified by the Department; or
- (b) on prior receipt of its expenses in that behalf, by posting a copy of the application or, as the case may be, part of it, to the address given for that purpose by the person wanting to make the inspection.

(4) The Department shall satisfy its obligation under paragraph (2)—

- (a) by making a copy of the licence or, as the case may require, part of it, available for inspection at an office specified by the Department; or
- (b) on prior receipt of its expenses in that behalf, by posting a copy of the licence or, as the case may require, part of it, to the address given for that purpose by the person requesting to make the inspection.

PART 3

OBJECTIONS AND REPRESENTATIONS

Prescribed trade unions and associations

9.—(1) The trade unions and associations specified in paragraph (2), being trade unions or associations whose members consist of or include persons holding licences or employees of any such persons, are prescribed as persons who may object as provided in section 11(2)(a), either as applied by section 18(2) or not.

(2) The trade unions and associations are—

- (a) The British Association of Removers;
- (b) The Freight Transport Association;

- (c) The General and Municipal Workers' Union;
- (d) The National Union of Rail, Maritime and Transport Workers;
- (e) The Road Haulage Association;
- (f) The Transport and General Workers' Union;
- (g) The Union of Shop, Distributive and Allied Workers; and
- (h) The United Road Transport Union.

Manner of making objections and representations

10.—(1) For the purposes of sections 11(6)(b) and (7)(b) and 18(10), the manner of making an objection to, or representation against, an application is by delivering a document to the Department—

- (a) setting out the objection or representation as the case may be; and
- (b) signed—
 - (i) if made by an individual, by that person;
 - (ii) if made by a firm, by all the partners of that firm or by one of them with the authority of the others; or
 - (iii) if made by any other body or group of persons, by one or more individual persons authorised for that purpose by the body or group, or, in any of the above cases, by a solicitor acting on behalf of (as the case may be) the person, firm, body or group.

(2) A copy of the document delivered under paragraph (1) shall be sent by the objector, or the person making the representation, to the applicant on the same day as, or the next working day after, the delivery to the Department.

Time of making objections and representations

11.—(1) The time within which an objection under section 11(1)(a) or (b) to an application for a licence must be made is the period commencing immediately after notice of the application is published under section 10(2) and ending 21 days after the date on which notice of the application is published in Applications and Decisions.

(2) The time within which a representation under section 11(4) in respect of an application for a licence must be made is the period of 21 days beginning with and including the date on which notice of the application is published under section 10(2).

(3) The time within which an objection under section 11(1)(a) as applied by section 16(6) or section 18(2) to or in respect of an application for a variation of a licence must be made is the period commencing immediately after notice of the application is published under section 17(3) (or, if none, the making of the application to which the objection relates) and ending 21 days after the date on which the notice of the application is published in Applications and Decisions.

(4) The time within which a representation under section 18(2) in respect of an application for a variation of a licence must be made is the period of 21 days beginning with and including the date on which the notice of the application is published under section 17(3).

Consideration of objections and representations

12. The Department shall consider every objection and representation duly made in considering whether or not to hold an inquiry as provided in section 32.

PART 4

OPERATING CENTRES

Conditions which may be attached to a licence

13. The conditions which may be attached under section 20 to a licence are conditions regulating—

- (a) the number, type and size of authorised motor vehicles or trailers which may at any one time be at any operating centre of the licence-holder for the purposes of maintenance and parking;
- (b) the parking arrangements to be provided for authorised motor vehicles or trailers at or in the vicinity of every such operating centre;
- (c) the times between which there may be carried out at every such operating centre any maintenance or movement of any authorised motor vehicle or trailer and the times at which any equipment may be used for any such maintenance or movement; and
- (d) the means of ingress to and egress from every such operating centre for any authorised motor vehicle or trailer.

Considerations relevant to determinations

14.—(1) The considerations prescribed as relevant to any determination of a kind specified in section 31(2) are—

- (a) the nature and the use of any other land in the vicinity of the land used or proposed to be used as an operating centre, and any effect which the use of the land as an operating centre has, or would be likely to have, on the environment of that vicinity;
- (b) in a case where the land proposed to be used as an operating centre is, or has previously been used as an operating centre, the extent to which the grant of the application would result in any material change as regards that operating centre, or its use, which would adversely affect the environment of the vicinity of that land;
- (c) in the case of an application which, if granted, would result in land which has not previously been used as an operating centre being used as one, any information known to the Department about any planning permission or application for planning permission relating to the land or any other land in the vicinity of that land;
- (d) the number, type and size of motor vehicles or trailers;
- (e) the arrangements for the parking of motor vehicles or trailers or the proposed or likely arrangements for such parking;
- (f) the nature and the times of the use of the land for the purpose of an operating centre or the proposed nature and times of the use of the land proposed to be used for that purpose;
- (g) the nature and the times of the use of any equipment installed on the land used as an operating centre for the purpose of the use of that land as an operating centre or of any equipment proposed or likely to be installed on the land proposed to be used as an operating centre for that purpose; and
- (h) the means and frequency of vehicular ingress to, and egress from, the land used as an operating centre or the proposed means and frequency of such ingress to, and egress from, the land proposed to be used as an operating centre.

(2) In this regulation—

“operating centre” includes part of an operating centre and the place which would be the operating centre if the application were granted and has the same meaning as in section 6(3); and

“planning permission” has the same meaning as in Part IV of the Planning (Northern Ireland) Order 1991(a).

Conditions to be satisfied in relation to specified operating centres

15. The conditions under sections 13(5)(c), 18(9)(c) and paragraphs 1(7)(b) and 3(7)(b) of Schedule 1 to the 2010 Act are that either—

- (a) proceedings on any appeal (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired; or
- (b) any review under section 34 has been determined or the time for giving notice of intention to review under section 34(2) has expired and no such notice of review has been served,

and if any appeal or notice of intention is withdrawn or abandoned the date of such withdrawal or abandonment shall be taken to be the time of expiry.

Period for service of notice on review of an operating centre

16. The period prescribed for the purpose of section 27(1) is 2 months.

Manner of making representations in relation to a review

17. Without prejudice to section 28(5), the manner of making representations in relation to a review is by delivering a document to an office specified by the Department—

- (a) setting out the representations;
- (b) clearly identifying—
 - (i) the person making the representations;
 - (ii) the place specified in the operator’s licence to which the representations relate; and
 - (iii) the land or property in the vicinity which is owned or occupied by the person making the representations; and
- (c) signed—
 - (i) if made by an individual, by that person;
 - (ii) if made by a firm, by all the partners of that firm or by one of them with the authority of the others;
 - (iii) if made by any other body or group of persons, by one or more individual persons authorised for that purpose by the body or group; or

in any of the above cases, by a solicitor acting on behalf of (as the case may be) the person, firm, body or group.

PART 5 INQUIRIES

Provisions about inquiries

18. Schedule 3 shall have effect in relation to any inquiry held by the Department.

(a) S.I. 1991 No.1220 (N.I. 11)

PART 6

APPLICATIONS AND DECISIONS

Statement to be issued by the Department

19.—(1) The Department shall as occasion may require a statement known as “Applications and Decisions” which shall contain (unless previously notified)—

- (a) as regards the applications—
 - (i) notices of the applications;
 - (ii) the dates on which and the places at which it proposes to hold inquiries and the applications which it proposes to consider at those inquiries; and
 - (iii) the Department’s decisions on applications, other than its decisions to issue an interim licence under section 21, or to make an interim direction under section 22;
- (b) any direction to revoke, suspend or curtail a licence given under section 23 or 24;
- (c) the dates on which and the places at which it proposes to hold any inquiries other than those mentioned in sub-paragraph (a)(ii); and
- (d) any decision following a review under section 27.

(2) The publication of the date of any inquiry in Applications and Decisions shall not prevent the Department from adjourning, cancelling or postponing the consideration of any application and in particular any inquiry held or proposed to be held in connection with the application.

(3) Copies of Applications and Decisions may be inspected at an office specified by the Department and copies of the whole or the relevant parts thereof shall be supplied to any person requiring them on payment of such sum as the Department may require to cover the cost of supplying the copy.

Notification of decisions

20.—(1) Subject to paragraph (2), where the Department grants or refuses an application, it shall send a written statement of its reason to —

- (a) the applicant;
- (b) every objector; and
- (c) every person who has made representation in accordance with section 11(4) or 18(2) or (4) and asked the Department for such a statement.

(2) Paragraph (1) does not apply where—

- (a) the Department grants an application in the terms applied for; and
- (b) no objection or representation has been made in accordance with section 11(1) or (4) or 18(2) or (4).

(3) Where the Department makes a direction under section 28 or 29, it shall send a written statement of its reasons to the licence-holder.

PART 7

OTHER MATTERS

Identification of motor vehicles

21.—(1) The Department shall, when any motor vehicle to be used under a licence is specified in the licence, issue to the licence-holder a disc in respect of the vehicle.

(2) The disc shall clearly indicate (by colour or other means)—

- (a) whether a vehicle is being used under a standard licence or under a restricted licence;
- (b) in the case of a vehicle being used under a standard licence, whether the vehicle covers both international and national transport operations or national transport operations only;
- (c) where applicable, that the vehicle is being used under an interim licence, or pursuant to an interim direction, and in such a case, the date the interim licence was issued or the interim direction was given; and
- (d) subject to paragraph (6), the date on which the disc expires under paragraph (5).

(3) The licence-holder shall, during such time as any motor vehicle is specified in the licence and whether or not for the time being the vehicle is being used for the purpose for which a licence is required, cause a disc appropriate to the vehicle to be fixed to, and exhibited in a legible condition on, that vehicle in a waterproof container—

- (a) in the case of a vehicle fitted with a front windscreen, on the near side and near the lower edge of the windscreen with the obverse side facing forwards; or
- (b) in the case of a vehicle not fitted with a front windscreen, in a conspicuous position on the front or near side of the vehicle.

(4) At no time shall any person except the Department, or a person authorised to do so on its behalf, write on or make any other alteration to a disc.

(5) Subject to paragraph (6) and without prejudice to regulation 26, a disc shall expire at the end of the last day of the month in which the continuation fee for a licence falls due.

(6) Neither paragraph (5) nor paragraph (2)(d) apply where a disc is issued under an interim licence or pursuant to an interim direction.

(7) For the purposes of paragraph (5)—

- (a) “continuation fee” means the fee numbered 3 as specified in the Table in regulation 2 of Goods Vehicles (Licensing of Operators) (Fees) Regulations (Northern Ireland)(a); and
- (b) the time within which such a fee falls due is determined in accordance with regulation 4 of those Regulations.

Temporary addition of a motor vehicle

22. Where—

- (a) a motor vehicle specified in an operator’s licence (“the specified vehicle”) has been rendered unfit for service, or withdrawn from service for overhaul or repair, and the licence-holder informs the Department of their desire to have a variation of the licence specifying another motor vehicle in its place (“the additional vehicle”); or
- (b) the specified vehicle has been rendered fit for service again, and the licence-holder informs the Department of their desire to have a variation of the licence whereby the additional vehicle will cease to be specified on the licence,

the provisions of regulations 3 and 4 shall not apply.

Notification of change of address

23. If during the currency of a licence the address for correspondence as notified in the licence-holder’s application or as subsequently notified under this regulation ceases to be an effective address for correspondence, the licence-holder shall within 28 days from and including the date of such event notify the Department of an effective address for correspondence.

(a) S.R. 2012 No. 260

Production of licence for examination

24.—(1) The licence-holder shall produce the licence for inspection by an officer or a police constable on being required by such a person to do so, and the licence-holder may do so at any operating centre covered by the licence or, if the requirement is made by a police constable, at a police station chosen by the licence-holder.

(2) The licence-holder shall comply with any requirements mentioned in paragraph (1) within 14 days of the day on which the requirement is made.

Issue of copies of licences and discs

25.—(1) If a licence or disc has been lost, destroyed or defaced, the person to whom it was issued shall forthwith notify the Department in writing.

(2) If—

- (a) the Department is satisfied that a licence or disc has been lost, destroyed or defaced; and
- (b) in the case of a licence or disc which has been defaced, it is surrendered to the Department,

the Department shall issue a copy (so marked) which shall have effect as the original licence or disc.

(3) Where a licence or disc has been lost and after a copy has been issued the lost licence or disc is found by or comes into the possession of the licence-holder the original licence or disc shall be returned to the Department.

Return of licences and discs

26.—(1) If the licence-holder ceases to use under the licence any motor vehicle specified in the licence the licence-holder shall within 21 days beginning with the date of ceasing to use the vehicle or vehicles notify the Department, and return to the Department the licence for variation and the disc relating to the vehicle.

(2) If a licence is varied under section 16, 28, 29 or 34 the licence-holder shall, when required by the Department, return to the Department—

- (a) the licence; and
- (b) if the number of motor vehicles specified in the licence has been reduced, the disc relating to any vehicle no longer specified in the licence.

(3) If a licence is revoked, surrendered, suspended, curtailed or terminated for any other reason, or if the Department has given direction in respect of a licence under section 23(2), the licence-holder shall on or before the date specified in a notice to that effect, send or deliver to the Department—

- (a) the licence; and
- (b) the disc relating to any motor vehicle which the Department may specify,

for cancellation, retention during the time of suspension, or alteration as the case may be.

(4) The notice referred to in paragraph (3) shall be delivered personally to the licence-holder or sent to that person by recorded delivery service at the address shown in that person's application or last notified in accordance with regulation 23.

Partnerships

27.—(1) The provision in section 7(2) that a person shall not at the same time hold more than one operator's licence, shall apply so that a firm shall be treated as a person separate from any partner of that firm or an individual in any other partnership.

(2) For the purposes of authorising goods vehicles to be used under section 4(1) when the licence-holder is a firm, any vehicle in the lawful possession of any partner of a firm shall be regarded as in the lawful possession of the firm.

(3) The provisions of section 12A shall apply in any case where an applicant for a standard licence is a firm so that the Department is required to be satisfied that—

- (a) every one of the partners of that firm is of good repute;
- (b) the firm satisfies the requirement of appropriate financial standing; and
- (c) either—
 - (i) if one of the firm's partners manage the road transport business carried on by the firm, that person, or if more than one each of them, is professionally competent; or
 - (ii) the firm employs a transport manager or transport managers who, or if more than one each of whom, is of good repute and professionally competent.

(4) The provisions of section 12B(a) or (b) shall apply in any case where an applicant for a restricted licence is a firm so that the Department is required to be satisfied that every one of the partners of that firm is not unfit to hold an operator's licence by reason of any matters or events covered by section 12B(a) and (b).

(5) The provisions of section 12D shall apply in any case where an applicant is a firm and in such case the financial resources referred to in that section shall be those of the firm.

(6) The provisions of section 23 shall apply in any case where the licence-holder is a firm and in such a case a partner of that firm shall be treated in all respects as the firm.

(7) The provisions of section 24(1) shall apply in any case where the licence-holder is a firm if—

- (a) any one or more of the partners of that firm cease to satisfy the requirement to be of good repute;
- (b) the firm ceases to satisfy the requirement to be of appropriate financial standing; or
- (c) when the requirement as to professional competence is satisfied by one or more of the firm's partners who manage the road transport business carried on by the firm, that person, or if more than one each of them, ceases to do so, or when the firm employs a transport manager or transport managers such manager, or if more than one any of them, ceases to be of good repute, or when the firm relies upon the employment of a single transport manager to satisfy the requirement as to professional competence, that transport manager ceases to be employed by the firm.

(8) The provisions of section 25 shall apply to the revocation of an operator's licence held by a firm and in such a case the powers conferred by subsections (1) and (3) of that section shall be exercisable in respect of each and every partner of that firm.

(9) Except in a case falling within paragraph (10) any requirement, obligation or prohibition (however expressed) placed on a person making an application or on a licence-holder by, or in pursuance of, a provision in the 2010 Act or these Regulations, shall apply where the applicant or licence-holder is a firm and the duty to meet the requirement or obligation or to comply with the prohibition, shall apply to the partners of that firm severally as well as jointly.

(10) Where a person making an application or the licence-holder is a firm any requirement or obligation, placed on the applicant or licence-holder by virtue of section 7(5), 8(1) or 16(2) to inform the Department of any change to the information given to it under regulation 3(3) by virtue of paragraph 1(e) or (f) of Schedule 1, shall apply in relation to any change to the information given by each partner of that firm, and the duty to meet the requirement shall apply to the person who has incurred a notifiable conviction or penalty within the meaning of paragraph 4 of Schedule 1.

(11) The provisions in section 15(5) as to the events on which an operator's licence held by an individual terminates apply in a case where such a licence is held by a firm, if—

- (a) the partnership is dissolved; or

- (b) one or more of the persons dies or becomes a patient (within the meaning of Article 2(2) of the Mental Health (Northern Ireland) Order 1986(a)) to carry on the activities covered by the licence with the result that only one other of such persons who is not such a patient or so incapable remains in the partnership.

(12) In the Qualification of Operators Regulations—

- (a) the provisions in regulation 5 of those Regulations as regards determining whether an individual is of good repute apply, in a case of a firm in respect of each of the partners of that firm as they apply to an individual; and
- (b) the provision in regulation 10(3) of those Regulations that a company satisfies the requirement as to professional competence if, and so long as, it has a transport manager or transport managers of its road transport business, who, if more than one of whom, is of good repute and professionally competent shall apply in the case of a firm so that the firm satisfies the said requirement if, and so long as, each of its partners is of good repute and either—
 - (i) if one or more of the firm's partners manage the road transport business carried on by the firm, the partner, or if more than one each of them, is professionally competent; or
 - (ii) the firm employs a transport manager or transport managers of its road transport business who, or if more than one each of whom, is of good repute and professionally competent.

Holding companies and subsidiaries

28.—(1) A holding company may apply to the Department for the issue of a licence or if it already holds a licence, for a variation of its licence by a direction under section 16(1)(a).

(2) An application by a holding company under paragraph (1) shall, unless—

- (a) the subsidiary is not the licence-holder; or
- (b) the licence or variation applied for by the holding company will not take effect until any licence held by the subsidiary has been surrendered or has otherwise terminated,

be accompanied by an application by the subsidiary for the variation of the licence held by the subsidiary by a direction under section 16(1)(b) for the removal therefrom of all or some of the goods vehicles authorised to be used thereunder, being the vehicles to which the application of the holding company relates.

(3) Where a holding company, on an application under paragraph (1) signifies to the Department its desire that the provisions of this regulation should have effect as respects a subsidiary of that company, then, in relation to the application and to any licence granted to the holding company, or held by the holding company and varied, on that application, and to the use of any goods vehicles authorised to be used under any such licence, the 2010 Act and these Regulations shall have effect subject to the modifications specified in Schedule 4.

(4) The provisions of this regulation shall cease to have effect as respects a holding company and its subsidiary—

- (a) if the holding company gives notice to the Department that it desires that this regulation should, as from any date, cease to apply to the holding company and that subsidiary, as from that date; or
- (b) as from the date on which that subsidiary ceases to be a subsidiary of that holding company.

(5) Where by virtue of the provisions of paragraphs (1) to (3) a holding company holds a licence which includes goods vehicles in the lawful possession of a subsidiary of that company, and the holding company gives notice under paragraph (4)(a), then, in relation to any application by the

(a) S.I. 1986/595 (N.I. 4)

subsidiary for the issue of a licence in respect of all or any of those vehicles, section 9 shall have effect as if for subsection (1) there were substituted—

“(1) The Department may publish in the prescribed manner notice of any application for an operator’s licence made by a company or other body corporate in pursuance of regulations made under section 52.”.

(6) Where the provisions of this regulation cease to have effect as respects a holding company and its subsidiary by virtue of paragraph (4)(b) the company which was the holding company shall within 21 days of the event which caused the subsidiary to cease to be a subsidiary of that company—

- (a) notify the Department;
- (b) supply all material details of the event; and
- (c) return to the Department the licence and the discs relating to the motor vehicles authorised to be used thereunder, and in so far as the holding company fails to satisfy those requirements the company which was the subsidiary company shall, on being so directed by the Department, within 7 days of that direction supply the details, or return the licence and the discs, as the case may require.

(7) In a case where the applicant for, or the holder of, a standard licence is a holding company and the goods vehicles used, or to be used, under the licence belong to, or are in the possession of, a subsidiary of that holding company, the provisions of these Regulations apply as if—

- (a) the road transport undertaking and any operating centre of the subsidiary were the road transport undertaking and an operating centre of the holding company;
- (b) for the purposes of, or relating to, the reputation and financial standing of the holding company, the activities, any relevant conviction and the financial resources of the subsidiary were activities, a relevant conviction and the financial resources of the holding company; and
- (c) in relation to a transport manager, that person’s employment by the subsidiary were employment by the holding company.

(8) In this regulation “relevant conviction” means a notifiable conviction within the meaning given in paragraph 4 of Schedule 1.

Continuance of licence on death, bankruptcy etc

29.—(1) In this regulation, “actual holder” in relation to a licence means the person to whom the licence was issued.

(2) This regulation applies in the event—

- (a) of the death of the actual holder of a licence;
- (b) of the actual holder of a licence becoming a patient (within the meaning of Article 2(2) of the Mental Health (Northern Ireland) Order 1986) to carry on the activities covered by the licence on the ground that the holder is incapable, by reason of mental disorder, of adequately managing his property and affairs;
- (c) of the bankruptcy of the actual holder of a licence;
- (d) in the case of a company, of the actual holder of a licence going into liquidation or entering administration; or
- (e) of the appointment of a receiver or manager of the trade or business of the actual holder of a licence.

(3) After the happening of either of the events mentioned in paragraph (2)(a) or (b) the Department may direct that the licence shall not be treated as terminated when the actual holder died or became a patient (within the meaning of Article 2(2) of the Mental Health (Northern Ireland) Order 1986), but suspended until the date when a direction under paragraph (4) comes into force.

(4) After the happening of any of the events mentioned in paragraph (2) the Department may direct that a person carrying on the trade or business of the actual holder of the licence is to be treated for the purpose of the 2010 Act as if that person were the holder thereof for such purpose and to such extent as is specified in the direction for a period not exceeding—

- (a) if it appears to the Department that there are special circumstances, 18 months;
- (b) in any other case, 12 months,

from the date of the coming into force of that direction.

(5) The powers under paragraph (4) shall be exercisable in relation to a standard licence whether or not the person carrying on the trade or business of the actual holder of the licence satisfies the requirements of professional competence.

(6) Where a person is treated as if that person were the licence-holder by virtue of a direction under this regulation—

- (a) any goods vehicle which has been in the lawful possession of the actual holder of the licence shall for the purposes of the 2010 Act be treated as if it was in the lawful possession of that person; and
- (b) if the licence is a standard licence, nothing in section 24 shall oblige the Department to revoke the licence by reason only of that person not satisfying the requirement of professional competence.

Offences

30. Any contravention of, or failure to comply with, a provision in regulations 21(3) and (4), 23, 24, 25(1) and (3), 26(1), (2) and (3) or 28(6) is an offence for the purposes of section 57(8).

Period for service of notice of review on ground of procedural irregularity

31. The period prescribed for the purposes of section 34(2)(a) is 2 months.

Meaning of relevant weight

32.—(1) A motor vehicle or trailer of any prescribed class referred to in section 4(3) means any vehicle described in section 1(1) as needing an operator's licence, and the relevant weight of such a vehicle is its revenue weight.

(2) For the purposes of this regulation "revenue weight" shall have the meaning given in section 60A of the Vehicle Excise and Registration Act 1994(a).

(3) In its application to this regulation, section 60A of that Act shall have effect as if—

- (a) subsection (6) of that section were omitted; and
- (b) no provision had been made under section 61A(2) of that Act.

Sealed with the Official Seal of the Department of the Environment on 28th June 2012



Iain Greenway
A senior officer of the
Department of the Environment

(a) 1994 c.22; section 60A was inserted by paragraph 26 of Schedule 4 to the Finance Act 1995 (c.4) and section 61A was inserted by paragraph 28 of Schedule 4 to the Finance Act 1995 (c.4)

**INFORMATION ABOUT, AND CONVICTIONS OF, APPLICANTS
FOR AND HOLDERS OF OPERATORS' LICENCES**

Information to be given under regulation 3

1. The information referred to in regulation 3(3) is—
 - (a) particulars with respect to the purpose for which the vehicles referred to in the statement under regulation 3(2) are proposed to be used;
 - (b) particulars of the arrangements for securing that —
 - (i) the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland)(a); and
 - (ii) the applicable Community rules, within the meaning of those Regulations, will be complied with in the case of those vehicles;
 - (c) particulars of the arrangements for securing that those vehicles will not be overloaded;
 - (d) particulars of the facilities and arrangements for securing that those vehicles will be maintained in a fit and serviceable condition;
 - (e) particulars of any relevant activities carried on, at any time before the making of the application, by any relevant person;
 - (f) particulars of any notifiable conviction incurred during the 5 years preceding the making of the application;
 - (g) particulars of the financial resources which are or are likely to be available to the applicant;
 - (h) where the applicant is a company, the names of the directors and officers of—
 - (i) the company; and
 - (ii) any company of which that company is a subsidiary; and
 - (i) where the vehicles referred to in the statement under regulation 3(2) are proposed to be operated by the applicant in partnership with other persons, the names of those other persons.

Relevant person

2. In this Schedule “relevant person” means any of the following persons—
 - (a) the applicant;
 - (b) any company of which the applicant is or has been a director;
 - (c) where the applicant is a company, any person who is a director of the company;
 - (d) where the applicant proposes to operate the vehicles referred to in the statement under regulation 3(2) in partnership with other persons, any of those other persons;
 - (e) any company of which any such person as is mentioned in sub-paragraph (c) or (d) is or has been a director; or
 - (f) where the applicant is a company, any company of which the applicant is a subsidiary.

Relevant activities

3. In paragraph 1(e) “relevant activities” means any of the following—

(a) S.R. 1996 No. 145

- (a) activities in carrying on any trade or business in the course of which vehicles of any description are operated;
- (b) activities as a person employed for the purposes of any such trade or business; or
- (c) activities as a director of a company carrying on any such trade or business.

Notifiable conviction

4.—(1) For the purposes of regulation 3(4) and paragraph 1(f) a “notifiable conviction” means any conviction or penalty incurred by a relevant person pursuant to an offence committed under the law of any part of the United Kingdom or any corresponding offence under the law of any country or territory outside the United Kingdom;

(2) For the purposes of sub-paragraph (1)—

- (a) any conviction or penalty incurred by a relevant person includes any conviction or penalty incurred by a partner, transport manager, employee or agent of that person; and
- (b) any conviction which is spent for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978(a) shall be disregarded.

SCHEDULE 2

Regulation 6(2)

NOTICE OF APPLICATION FOR A LICENCE OR A VARIATION OF A LICENCE

1. The information to be given in the notice of application is—

- (a) name of applicant;
- (b) trading name, if any;
- (c) address for receipt of correspondence;
- (d) whether the application is in respect of a new licence, or the variation of a licence;
- (e) the place or places proposed to be used as an operating centre or centres (including, if available, the postal address or addresses);
- (f) the number of motor vehicles and trailers proposed to be kept at each operating centre or centres;
- (g) the number of motor vehicles and trailers now kept, if different; and
- (h) in respect of an existing licence, details of any proposed changes to or removal of existing conditions or undertakings affecting an operating centre.

2. Every notice shall contain the following wording—

“Owners or occupiers of land (including buildings) near the operating centre(s) who believe that their use or enjoyment of that land would be affected, should make written representations to the Department stating their reasons, within 21 days of this notice. Representors must at the same time send a copy of their representations to the applicant at the address given at the top of this notice. A Guide to making representations is available from the Department”.

(a) S.I. 1978/1908 (N.I. 27)

SCHEDULE 3

INQUIRIES

Regulation 18

Notification of an inquiry

1.—(1) The Department shall send to every person entitled to appear in accordance with paragraph 3 at an inquiry written notice of the date, time and place fixed for the holding of the inquiry. Such notice shall be sent at least 21 days before the date so fixed.

(2) The Department may vary the date, time or place for the holding of the inquiry; and when it varies the date it shall send to every person so entitled to appear at the inquiry, written notice of the date, time and place of the holding of the inquiry as varied. Such notice shall be sent at least 21 days before the date as varied.

(3) The period of 21 days referred to in sub-paragraph (1) and (2) may be abridged with the consent of every person so entitled to appear at the inquiry.

(4) Where the Department varies the time or place for the holding of an inquiry without varying the date, it shall give such notice of the variation as appears to be reasonable.

(5) Nothing in this paragraph shall authorise the Department to hold an inquiry before the date published in Applications and Decisions pursuant to regulation 19.

(6) The foregoing provisions of this paragraph shall apply to an adjourned inquiry save that —

- (a) if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice of that date, time and place shall be required; and
- (b) sub-paragraphs (1) and (2) shall have effect in relation to an adjourned inquiry as if for “21 days” there were substituted “7 days”.

Admission to an inquiry

2.—(1) Subject to sub-paragraphs (2) to (4), an inquiry shall be held in public.

(2) The Department may direct that the whole or any part of an inquiry be held in private if it is satisfied that by reason of—

- (a) the likelihood of disclosure of intimate personal or financial circumstances;
- (b) the likelihood of disclosure of commercially sensitive information or information obtained in confidence; or
- (c) exceptional circumstances not falling within head (a) or (b),

that it is just and reasonable for to do.

(3) Where the hearing is in private the Department may admit such persons as it considers appropriate.

(4) Without prejudice to sub-paragraph (2), where any question relating to the appropriate financial resources of any person is to be or is being considered during an inquiry, the Department may exclude such persons as it thinks fit from the part of the inquiry during which that question is considered.

Appearances at an inquiry

3.—(1) The following persons shall be entitled to appear at an inquiry relating to an application namely—

- (a) the applicant;
- (b) a person who has duly made an objection to the application; and
- (c) a person who has duly made representations in respect of the application.

(2) Where the Department holds an inquiry with a view to exercising its powers under section 23 or 27, in respect of a licence, the licence-holder shall be entitled to appear at the inquiry.

(3) Without prejudice to sub-paragraph (2), where a person has requested an inquiry under section 26(1), that person shall be entitled to appear at any inquiry held at their request.

(4) If, in relation to any proceedings,

- (a) a transport manager has been given notice under regulation 13 of the Qualification of Operators Regulations that an issue in the proceedings is whether that person is of good repute or professionally competent;
- (b) the transport manager has duly made a representation under that regulation; and
- (c) the issue is to be considered at an inquiry,

the transport manager shall be entitled to appear at the inquiry.

(5) Any person may appear at an inquiry at the discretion of the Department.

(6) Any person entitled or permitted to appear at an inquiry may do so on his own behalf or be represented by counsel, solicitor or, at the discretion of the Department, by any other person.

Procedure at inquiry

4.—(1) Except as otherwise provided in this Schedule, the Department shall determine the procedure at an inquiry.

(2) Subject to sub-paragraph (5), a person entitled to appear at an inquiry in accordance with paragraph 3 shall be entitled to give evidence, call witnesses, to cross examine witnesses and to address the Department both on the evidence and generally on the subject matter of the proceedings.

(3) The giving of evidence, the calling of witnesses, the cross examination of witnesses and the making of such addresses by other persons appearing at an inquiry shall be at the Department's discretion.

(4) Subject to sub-paragraph (5), any person present at an inquiry may submit any written evidence or other matter in writing before the close of the inquiry.

(5) Without prejudice to sub-paragraph (3), the Department may refuse to permit—

- (a) the giving or calling of evidence;
- (b) cross examination of persons giving evidence; or
- (c) the presentation of any other matter,

which it considers to be irrelevant, repetitious, frivolous or vexatious.

(6) The Department may require any person appearing or present at an inquiry who, in its opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return.

(7) The Department may proceed with an inquiry in the absence of any person entitled to appear, but if it was required to give such a person notice of the inquiry under paragraph 1 it shall not so proceed in the person's absence unless—

- (a) it is satisfied that such notice had been duly given; or
- (b) it decides to proceed with the inquiry under paragraph 6 on the basis that no injustice would be caused to the person as a result of such notice not having been duly given.

(8) The Department shall not take into account any written evidence or other matter in writing received from any person before an inquiry opens or during any inquiry unless it discloses it at the inquiry.

(9) The Department may from time to time adjourn an inquiry.

Giving of notice

5.—(1) A notice required or authorised to be sent to a person under this Schedule may be effected by—

- (a) delivering it to the person at an address which is their proper address;

- (b) sending it to the person by post to an address which is their proper address; or
- (c) transmitting to the person a facsimile copy of it by means of electronic signals.

(2) Any such document may—

- (a) in the case of a body corporate, be sent to the secretary or clerk of that body;
- (b) in the case of a partnership, be sent to any partner; or
- (c) in the case of an unincorporated association other than a partnership, be sent to any member of the governing body of the association.

(3) For the purposes of this paragraph and section 24 of the Interpretation Act (Northern Ireland) 1954^(a) the proper address of any person is their last known address (whether the person's residence or a place where that person carries on business or is employed) and also any address applicable to that person under the following provisions—

- (a) in the case of a body corporate, its secretary or its clerk, the address of its registered or principal office in the United Kingdom;
- (b) in the case of an unincorporated association (other than a partnership) or member of its governing body, its principal office in the United Kingdom.

(4) Where a person has in the licence-holder's application notified the Department of an address, or, subsequently notified a new address under regulation 23, at which documents may be given for the purposes of correspondence that address shall also be the person's proper address for service for the purposes mentioned in sub-paragraph (3) or, as the case may be, the person's proper address for those purposes in substitution for that previously notified.

Irregularities in the giving of notices

6. Where a notice of the date, time and place for the holding of an inquiry is not given in accordance with this Schedule, the Department may nevertheless proceed with the inquiry as if notice had been duly given provided it is satisfied that no injustice or in convenience would be caused.

Interpretation

7. In this Schedule "inquiry" means an inquiry held for the purposes of the 2010 Act.

SCHEDULE 4

Regulation 28(3)

MODIFICATIONS IN RELATION TO HOLDING COMPANIES AND SUBSIDIARIES

1. The 2010 Act and these Regulations have effect as if any reference (except in this Schedule) to a provision which is modified by this Schedule were a reference to that provision as so modified.

2. The 2010 Act has effect as if—

- (a) goods vehicles in the lawful possession of the subsidiary were in the lawful possession of the holding company;
- (b) where a goods vehicle is used in circumstances in which, but for the provisions of regulation 28 the subsidiary would be deemed to be the user, the holding company were the user;
- (c) a trade or business carried on by the subsidiary were carried on by the holding company;
- (d) the subsidiary were an applicant for the grant or variation of the licence;

(a) 1954 c.33 (N.I.)

- (e) any operating centre of the subsidiary were an operating centre of the holding company;
- (f) any person who is a director of the subsidiary were a director of the holding company;
- (g) any person who is an employee of the subsidiary were an employee of the holding company;
- (h) in section 7(4)(c) the reference to an operating centre of the applicant included a reference to an operating centre of the subsidiary;
- (i) for section 9(1) there were substituted—
 - “(1) The Department may publish in the prescribed manner notice of any application for an operator’s licence made by a company or other body corporate in pursuance of regulations made under section 52”;
- (j) in section 16(4) for the words “Except in the cases mentioned in subsection (5), the Department shall publish” there were substituted “In the case of an application for a direction under subsection (1)(a) made by a company or other body corporate in pursuance of regulations made under section 52, the Department may publish”;
- (k) in section 23(1) the references in paragraphs (a), (b), (d), (f) and (g) to the licence-holder included references to the subsidiary;
- (l) in section 25—
 - (i) in subsection (1) the reference to the holder of the licence included a reference to the subsidiary;
 - (ii) in subsection (3)(a) after sub-paragraph (ii) there were inserted—
 - “(iii) a company which is a subsidiary of such a company; or”;
 - (iii) in subsection (4) for paragraph (a) there were substituted—
 - “(a) where that person is a company or other body corporate which is the licence-holder in respect of a subsidiary of that company or other body corporate in pursuance of regulations made under section 52, in relation to any director of that company or other body corporate or of that subsidiary.”.

3. These Regulations shall have effect as if in regulation 24 the reference to the licence-holder included a reference to the subsidiary.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the powers conferred by the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010.

The Regulations set out the process for obtaining a Goods Vehicle Operator's Licence.

Part 1 (regulations 1 and 2) contains general commencement and interpretation provisions.

Part 2 (regulations 3 to 8 and Schedules 1 and 2) prescribes matters relating to applications for Operator Licences and in particular, the manner, and time, in which applications are to be made.

Part 3 (regulations 9 to 12) prescribes various matters relating to objections and representations. In particular, they specify which trade union and associations may make objection and the manner and time within which objections or representations shall be made.

Part 4 (regulations 13 to 17) contains provisions about operating centres and the conditions as to use of the operating centre which may be attached to a licence (including number, type and size of goods vehicles, parking and access arrangements and times of operation).

Part 5 (regulation 18 and Schedule 3) prescribes various matters relating to inquiries held by the Department of the Environment (the Department).

Part 6 (regulation 19 and 20) prescribe matters relating to the content, publication and availability of statements (known as "Applications and Decisions") by the Department, and relating to the provision of reasons for its decisions.

Part 7 (regulations 21 to 32 and Schedule 4) prescribe other matters relating to Operator Licences and, in particular, regulation 30 creates an offence for contravening or failing to comply with specified obligations contained in these Regulations.

A Regulatory Impact Assessment has been prepared and copies are available from Transport Regulation Unit, Department of the Environment, Bedford House, 16 – 22 Bedford Street, Town Parks, Belfast BT2 7FD or viewed online at <http://www.legislation.gov.uk/nisr>

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