

SCHEDULES

SCHEDULE 1

Section 30

TRANSFER OF OPERATING CENTRES

Transfers in connection with new licences

1.—(1) Where in the case of any application for an operator's licence—

- (a) the requirements of sub-paragraphs (2) to (5) are satisfied at the time when the application is made, and
- (b) the applicant so requests,

the Department may direct that paragraph 2 is to apply in relation to the application.

(2) Each place referred to in the application under section 7(4)(c) as a proposed operating centre of the applicant must already be specified in an operator's licence as an operating centre of its holder.

(3) That licence must be the same in the case of each such place, and no such place may be specified in more than the one operator's licence.

(4) Where any conditions under section 20(1)(a) or (c) relating to any such place are attached to that licence, the applicant must have consented to conditions in the same terms being attached to the licence the applicant is applying for.

(5) Where any undertakings relating to any such place are recorded in that licence, undertakings in the same terms must have been given by the applicant (or have been procured by the applicant to be given) for the purposes of the application.

(6) In determining whether to give a direction under this paragraph, the Department shall take account of whether any new adverse effects on environmental conditions are likely to arise from the use as an operating centre of the applicant of any such place, and may take account of any other matters it considers relevant.

(7) A place is not to be regarded for the purposes of sub-paragraph (2) 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, at the time mentioned in sub-paragraph (1)(a), a place specified in an operator's licence as mentioned in sub-paragraph (2) shall be disregarded for the purposes of sub-paragraph (2) if, at that time—

- (a) that place was so specified by virtue of an interim direction such as is mentioned in section 22; or
- (b) 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.

(8) In this paragraph "operator's licence" does not include an interim licence issued under section 21

2.—(1) The provisions of this paragraph have effect in relation to any application for an operator's licence in respect of which a direction has been given under paragraph 1.

(2) The notice published under section 9(1) shall state that the direction has been given.

(3) The following provisions of this Act shall not apply—

(a) section 10;

(b) section 11(1)(b) and (4);

(c) section 12(5)(d) so far as relating to the suitability of any place specified in the licence for use as an operating centre of the licence-holder;

(d) section 13; and

(e) section 14(3)(f).

(4) Notwithstanding anything in section 12(11) the Department may refuse the application if—

(a) any statement of fact made by the applicant (or procured by the applicant to be made) for the purposes of the request for the direction under paragraph 1 was false, whether to the applicant's knowledge or not; or

(b) any undertaking given or statement of expectation made by the applicant (or procured by the applicant to be given or made) for those purposes has not been fulfilled.

(5) If the application is granted, the Department—

(a) shall attach to the licence issued to the applicant any conditions in respect of which the applicant has consented under paragraph 1(4); and

(b) shall not attach any other conditions to the licence under section 20(1)(a) or (c).

(6) If the application is granted, the Department shall record in the licence—

(a) any undertakings given or procured to be given under paragraph 1(5); and

(b) any other undertakings given by the applicant (or procured by the applicant to be given), whether for the purposes of the application or for the purposes of the request for the direction under paragraph 1, that the Department considers to be material to the Department's decision to give the direction

(and that would not otherwise be required by section 14(4) to be recorded in the licence).

Transfers in connection with the variation of licences

3.—(1) Where in the case of an application for the variation of an operator's licence under section 16—

- (a) the only direction applied for is one under subsection (1)(g) of that section that one or more new places be specified in the licence as an operating centre of the licence-holder,
- (b) the requirements of sub-paragraphs (2) to (5) are satisfied at the time when the application is made, and
- (c) the applicant so requests

the Department may direct that paragraph 4 is to apply in relation to the application.

(2) Each new place that is proposed to be specified in the licence must already be specified in another operator's licence as an operating centre of its holder.

(3) That other licence must be the same in the case of each such place, and no such place may be specified in more than the one other operator's licence.

(4) Where any conditions under section 20(1)(a) or (c) relating to any such place are attached to that other licence, the applicant must have consented to conditions in the same terms being attached to the licence the applicant is applying to have varied.

(5) Where any undertakings relating to any such place are recorded in that other licence, undertakings in the same terms must have been given by the applicant (or have been procured by the applicant to be given) for the purposes of the application.

(6) In determining whether to give a direction under this paragraph, the Department shall take account of whether any new adverse effects on environmental conditions are likely to arise from the use as an operating centre of the applicant of any such place, and may take account of any other matters the Department considers relevant.

(7) A place is not to be regarded for the purposes of sub-paragraph (2) 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, at the time mentioned in sub-paragraph (1)(b), a place specified in an operator's licence as mentioned in sub-paragraph (2) shall be disregarded for the purposes of sub-paragraph (2) if, at that time—

- (a) that place was so specified by virtue of an interim direction such as is mentioned in section 22; or
- (b) 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.

(8) In this paragraph “operator’s licence” does not include an interim licence issued under section 21.

4.—(1) The provisions of this paragraph have effect in relation to any application for the variation of an operator’s licence in respect of which a direction has been given under paragraph 3.

(2) Sections 16(4) and 17 shall not apply.

(3) If the application is granted, the Department—

(a) shall attach to the licence as varied any conditions in respect of which the applicant has consented under paragraph 3(4); and

(b) shall not attach any other conditions to the licence under section 20(1)(a) or (c).

(4) If the application is granted, the Department shall record in the licence as varied

(a) any undertakings given or procured to be given under paragraph 3(5); and

(b) any other undertakings given by the applicant (or procured by the applicant to be given), whether for the purposes of the application or for the purposes of the request for the direction under paragraph 3, that the Department considers to be material to its decision to give the direction.