



## 2010 CHAPTER 2

### *Determination of applications*

#### **Determination of applications for operators' licences**

**12.—**(1) Subject to sections 10 and 47(2), on an application for a standard licence the Department shall consider—

- (a) whether the requirements of subsections (3) and (5) are satisfied, and
- (b) if it thinks fit, whether the requirements of subsection (6) are satisfied.

(2) Subject to sections 10 and 47(2), on an application for a restricted licence the Department shall consider—

- (a) whether the requirements of subsections (4) and (5) are satisfied, and
- (b) if it thinks fit, whether the requirements of subsection (6) are satisfied.

(3) For the requirements of this subsection to be satisfied the Department must be satisfied that the applicant fulfils the following requirements (as defined in regulations), namely that the applicant is—

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

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

(4) For the requirements of this subsection to be satisfied the applicant must not be unfit to hold an operator's licence by reason of—

- (a) any matter of which particulars are required to be given under section 7, or
- (b) any event required to be notified in accordance with section 8(1).

(5) For the requirements of this subsection to be satisfied it must be possible (taking into account the Department's powers under section 14(3) to issue a licence in terms that differ from those applied for) to issue a licence on the application in relation to which paragraphs (a) to (e) will apply—

- (a) there are satisfactory arrangements for securing that—
  - (i) Article 56 of the [Road Traffic \(Northern Ireland\) Order 1981 \(NI 1\)](#) (drivers' hours), and
  - (ii) the applicable Community rules, within the meaning of Part 6 of that Order,are complied with in the case of the vehicles used under the licence;
- (b) there are satisfactory arrangements for securing that the vehicles used under the licence are not overloaded;
- (c) there are satisfactory facilities and arrangements for maintaining the vehicles used under the licence in a fit and serviceable condition;
- (d) at least one place is specified in the licence as an operating centre of the licence-holder, and each place so specified is available and suitable for use as such an operating centre (disregarding any respect in which it may be unsuitable on environmental grounds);
- (e) the capacity of the place so specified (if there is only one) or of both or all the places so specified taken together (if there are more than one) is sufficient to provide an operating centre for all the vehicles used under the licence.

(6) For the requirements of this subsection to be satisfied the provision of such facilities and arrangements as are mentioned in subsection (5)(c) must not be prejudiced by reason of the applicant's having insufficient financial resources for that purpose.

(7) In considering whether any of the requirements of subsections (3) to (6) are satisfied, the Department shall have regard to any objection duly made under section 11(1)(a) in respect of the application.

(8) In considering whether the requirements of subsection (5) are satisfied, the Department may take into account any undertakings given by the applicant (or procured by the applicant to be given) for the purposes of the application, and may assume that those undertakings will be fulfilled.

(9) In considering whether subsection (5)(d) will apply in relation to a licence, the Department may take into account any conditions that could be attached to the licence under section 20(1)(a), and may assume that any conditions so attached will not be contravened.

(10) In considering whether subsection (5)(d) or (e) will apply in relation to a licence, the Department may take into account (if that is the case) that any proposed operating centre of the applicant would be used—

- (a) as an operating centre of the holders of other operators' licences as well as of the applicant; or
- (b) by the applicant or by other persons for purposes other than keeping vehicles used under the licence.

(11) If the Department determines that any of the requirements that it has taken into consideration in accordance with subsection (1) or (2) are not satisfied it shall refuse the application, but in any other case it shall, subject to sections 13 and 47(2), grant the application.

(12) As from such date as may be prescribed, subsection (4) shall have effect as if for the words “must not be unfit” there were substituted “must be professionally competent (within the meaning of regulations under subsection (3)) and not otherwise unfit”.