



2010 CHAPTER 2

Variation of licences

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) 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.