



2010 CHAPTER 2

Determination of applications

Determination of applications for operators' licences

[^{F1}12.—(1) On an application for a standard licence the Department must consider—

- (a) whether the requirements of sections 12A and 12C are satisfied; and
- (b) if the Department thinks fit, whether the requirement of section 12D is satisfied.

(2) On an application for a restricted licence the Department must consider—

- (a) whether the requirements of sections 12B and 12C are satisfied; and
- (b) if the Department thinks fit, whether the requirement of section 12D is satisfied.

(3) Subsections (1) and (2) are subject to sections 10 (publication of application) and 47(2) (payment of application fee).

(4) In considering whether any of the requirements of sections 12A to 12D are satisfied, the Department must have regard to any objection duly made under section 11(1)(a) in respect of the application.

(5) 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 must refuse the application.

(6) In any other case the Department must grant the application, unless either of the following provisions applies—

- (a) section 13(2) (power to refuse application on environmental grounds);
- (b) section 47(2) (power to refuse to proceed until fee is paid).

Status: Point in time view as at 01/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, Cross Heading: Determination of applications. (See end of Document for details)

Textual Amendments

- F1** Ss. 12-12E substituted for s. 12 (1.7.2012) by [The Goods Vehicles \(Qualifications of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/257\)](#), regs. 1(1), **17(5)**

Commencement Information

- I1** S. 12 in operation at 22.6.2012 for specified purposes by [S.R. 2012/247](#), art. 2, **Sch.**
- I2** S. 12 in operation at 1.7.2012 in so far as not already in operation by [S.R. 2012/262](#), **art. 2** (with [arts. 4-6](#))

Requirements for standard licences

12A.—(1) The requirements of this section are set out in subsections (2) and (3).

(2) The first requirement is that the Department is satisfied that the applicant—

- (a) has an effective and stable establishment in Northern Ireland (as determined in accordance with Article 5 of the 2009 Regulation);
- (b) is of good repute (as determined in accordance with regulations and Article 6 of the 2009 Regulation);
- (c) has appropriate financial standing (as determined in accordance with regulations and Article 7 of the 2009 Regulation); and
- (d) is professionally competent (as determined in accordance with regulations and Article 8 of the 2009 Regulation).

(3) The second requirement is that the Department is satisfied that the applicant has designated a transport manager in accordance with Article 4 of the 2009 Regulation who—

- (a) is of good repute (as determined in accordance with regulations and Article 6 of the 2009 Regulation);
- (b) is professionally competent (as determined in accordance with regulations and Article 8 of the 2009 Regulation); and
- (c) in the case of a transport manager designated under Article 4.2 of the 2009 Regulation—
 - (i) is not prohibited from being so designated by the Department, and
 - (ii) is not designated to act as transport manager for a greater number of road transport undertakings or in respect of a greater number of vehicles than the Department considers appropriate, having regard to the upper limits in Article 4.2(c) of the 2009 Regulation, or such smaller number as the Department considers appropriate in accordance with Article 4.3 of the 2009 Regulation.

Status: Point in time view as at 01/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, Cross Heading: Determination of applications. (See end of Document for details)

Textual Amendments

- F1** Ss. 12-12E substituted for s. 12 (1.7.2012) by [The Goods Vehicles \(Qualifications of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/257\)](#), regs. 1(1), **17(5)**

Modifications etc. (not altering text)

- C1** [S. 12A](#) applied (1.7.2012) by [The Goods Vehicles \(Licensing of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/261\)](#), regs. 1, **27(3)**

Requirements for restricted licences

12B. The requirement of this section is that the applicant is not 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).

Textual Amendments

- F1** Ss. 12-12E substituted for s. 12 (1.7.2012) by [The Goods Vehicles \(Qualifications of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/257\)](#), regs. 1(1), **17(5)**

Modifications etc. (not altering text)

- C2** [S. 12B\(a\)\(b\)](#) applied (1.7.2012) by [The Goods Vehicles \(Licensing of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/261\)](#), regs. 1, **27(4)**

Requirements for standard and restricted licences

12C.—(1) The requirements of this section are that 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 in relation to which subsections (2) to (6) will apply.

(2) There must be satisfactory arrangements for securing that the following are complied with in the case of vehicles used under the licence—

- (a) Article 56 of the Road Traffic (Northern Ireland) Order 1981 (drivers' hours); and
- (b) the applicable Community rules, within the meaning of Article 2 of that Order.

(3) There must be satisfactory arrangements for securing that vehicles used under the licence are not overloaded.

(4) There must be satisfactory facilities and arrangements for maintaining the vehicles used under the licence in a fit and serviceable condition.

Status: Point in time view as at 01/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, Cross Heading: Determination of applications. (See end of Document for details)

(5) The licence must specify at least one place in Northern Ireland as an operating centre of the licence-holder, and each place so specified must be available and suitable for use as an operating centre of the licence-holder (disregarding any respect in which it may be unsuitable on environmental grounds).

(6) The capacity of the place specified as an operating centre (if there is only one) or both or all of the places so specified taken together (if there is more than one) must be sufficient to provide an operating centre for all the vehicles used under the licence.

(7) In considering whether the requirements of subsections (2) to (6) 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.

(8) In considering whether subsection (5) 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) (conditions of licences) and may assume that any conditions so attached will not be contravened.

(9) In considering whether subsection (5) or (6) will apply in relation to a licence, the Department may take into account whether 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 an operating centre of the applicant; or
- (b) by the applicant or by other persons for purposes other than keeping vehicles used under the licence.

Textual Amendments

- F1 Ss. 12-12E substituted for s. 12 (1.7.2012) by [The Goods Vehicles \(Qualifications of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/257\)](#), regs. 1(1), **17(5)**

Further requirement for standard and restricted licences

12D. The requirement of this section is that the provision of the facilities and arrangements for maintaining the vehicles in a fit and serviceable condition is not prejudiced by reason of the applicant's having insufficient financial resources for that purpose.

Textual Amendments

- F1 Ss. 12-12E substituted for s. 12 (1.7.2012) by [The Goods Vehicles \(Qualifications of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/257\)](#), regs. 1(1), **17(5)**

Status: Point in time view as at 01/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, Cross Heading: Determination of applications. (See end of Document for details)

Modifications etc. (not altering text)

- C3** S. 12D applied (1.7.2012) by [The Goods Vehicles \(Licensing of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/261\)](#), regs. 1, **27(5)**

Professional competence for restricted licence holders

12E. As from such date as may be prescribed, section 12B shall have effect as if for the words “is not unfit” there were substituted “is professionally competent as determined in accordance with section 12A(2)(d) and not otherwise unfit”.]

Textual Amendments

- F1** Ss. 12-12E substituted for s. 12 (1.7.2012) by [The Goods Vehicles \(Qualifications of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/257\)](#), regs. 1(1), **17(5)**

Determination where objections etc are made on environmental grounds

13.—(1) This section applies to any application for an operator's licence in respect of which—

- (a) any objection is duly made under section 11(1)(b), or
- (b) any representations are duly made under section 11(4).

(2) The Department may refuse an application to which this section applies on the ground that, as respects any place which, if the licence were issued, would be an operating centre of the holder of the licence—

- (a) the parking of vehicles used under the licence at or in the vicinity of the place in question would cause adverse effects on environmental conditions in the vicinity of that place; or
- (b) the place in question would be unsuitable for use as an operating centre of the holder of the licence on other environmental grounds.

(3) The Department may not refuse an application for an operator's licence on the ground that any place would be unsuitable as mentioned in subsection (2) (b) if—

- (a) on the date the application was made, that place 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.

(4) Subsection (3) 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.

Status: Point in time view as at 01/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, Cross Heading: Determination of applications. (See end of Document for details)

(5) A place is not to be regarded for the purposes of paragraph (a) of subsection (3) 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.

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

- (a) the Department has power to refuse the application under subsection (2), and
- (b) any place other than a place that will be unsuitable for use as an operating centre is mentioned in the particulars given by the applicant under section 7(4) as a proposed operating centre,

the Department may, instead of refusing the application, issue the licence but specify in it only such place or such places mentioned in those particulars as will not be unsuitable for use as an operating centre.

(7) For the purposes of subsection (6), a place will be unsuitable for use as an operating centre if the Department has power to refuse the application under subsection (2) in consequence of the proposed use of that place as an operating centre.

Commencement Information

- I3** S. 13 in operation at 22.6.2012 for specified purposes by [S.R. 2012/247](#), [art. 2](#), [Sch.](#)
- I4** S. 13 in operation at 1.7.2012 in so far as not already in operation by [S.R. 2012/262](#), [art. 2](#) (with [arts. 4-6](#))

Issue of operators' licences

14.—(1) Subject to subsection (2) and to sections 13(6), 20 and 47(2), on granting an application for an operator's licence the Department shall issue that licence in the terms applied for.

Status: Point in time view as at 01/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, Cross Heading: Determination of applications. (See end of Document for details)

(2) If the Department has determined that any of the requirements of [F²section 12C or 12D] that it has taken into consideration in accordance with subsection (1) or (as the case may be) (2) of [F³section 12] would not be satisfied unless it were to exercise any of its powers under subsection (3), it shall exercise those powers accordingly.

(3) The Department may issue the licence in terms that differ from the terms applied for in any of the following respects—

- (a) more or fewer motor vehicles are specified in the licence;
- (b) different motor vehicles are specified in it;
- (c) it includes a provision such as is mentioned in section 4(2);
- (d) it includes a provision such as is mentioned in section 5(1)(b) or (2)(b);
- (e) higher or lower maximum numbers are specified in it under section 5;
- (f) fewer places are specified in it as operating centres of the licence-holder.

(4) Any undertakings taken into account by the Department under [F⁴section 12C(7)] that it considers to be material to the granting of the application shall be recorded in the licence issued.

(5) A statement shall appear on the face of every operator's licence indicating whether it is a standard licence or a restricted licence.

(6) A statement shall appear on the face of every standard licence indicating whether it covers both national and international transport operations or national transport operations only.

Textual Amendments

- F2** Words in s. 14(2) substituted (1.7.2012) by [The Goods Vehicles \(Qualifications of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/257\)](#), regs. 1(1), **17(6)(a)(i)**
- F3** Words in s. 14(2) substituted (1.7.2012) by [The Goods Vehicles \(Qualifications of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/257\)](#), regs. 1(1), **17(6)(a)(ii)**
- F4** Words in s. 14(4) substituted (1.7.2012) by [The Goods Vehicles \(Qualifications of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/257\)](#), regs. 1(1), **17(6)(b)**

Commencement Information

- I5** S. 14 in operation at 1.7.2012 by [S.R. 2012/262](#), **art. 2** (with arts. 4-6)

Duration of operators' licences

15.—(1) The date on which an operator's licence is to come into force shall be specified in the licence.

(2) Subject to its revocation or other termination under any provision of this Act or any other statutory provision, an operator's licence (other than an interim licence issued under section 21) shall continue in force indefinitely.

Status: Point in time view as at 01/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, Cross Heading: Determination of applications. (See end of Document for details)

(3) If the holder of an operator's licence requests the Department to terminate it at any time, the Department shall, subject to subsection (4), comply with the request.

(4) The Department may refuse to comply with the request if it is considering giving a direction in respect of the licence under section 23 or 24.

(5) An operator's licence held by an individual terminates if—

- (a) the individual dies, or
- (b) the individual becomes a patient within the meaning of Article 2(2) of the Mental Health (Northern Ireland) Order 1986 (NI 4).

Modifications etc. (not altering text)

C4 S. 15(5) applied (1.7.2012) by [The Goods Vehicles \(Licensing of Operators\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/261\)](#), regs. 1, **27(11)**

Commencement Information

I6 S. 15 in operation at 1.7.2012 by [S.R. 2012/262](#), **art. 2** (with arts. 4-6)

Status:

Point in time view as at 01/07/2012.

Changes to legislation:

There are currently no known outstanding effects for the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, Cross Heading: Determination of applications.