



## 2010 CHAPTER 2

### *Review of decisions and appeals*

#### **Review of decisions**

**34.—**(1) Subject to subsection (2), the Department may review and, if it thinks fit, vary or revoke any decision it makes to grant or refuse—

- (a) an application for an operator's licence, or
- (b) an application for the variation of such a licence in a case where section 16(4) required notice of the application to be published,

if the Department is satisfied that a procedural requirement imposed by or under any statutory provision has not been complied with in relation to the decision.

(2) The Department may under subsection (1) review a decision only—

- (a) if, within such period after taking the decision as may be prescribed, the Department has given notice to the applicant or (as the case may be) the licence-holder that it intends to review the decision;
- (b) if, within that period, a person who appears to the Department to have an interest in the decision has requested the Department to review the decision; or
- (c) (where neither paragraph (a) nor paragraph (b) applies), if the Department considers there to be exceptional circumstances that justify the review.

(3) The variation or revocation under this section of any decision shall not make unlawful anything done in reliance on the decision before the variation or revocation takes effect.

**Rights of appeal in connection with operators' licences**

**35.**—(1) An applicant for, or for the variation of, an operator's licence may appeal to the Upper Tribunal against the refusal of the application or (as the case may be) against the terms of the licence or of the variation.

(2) The holder of an operator's licence may appeal to the Upper Tribunal against any direction given under section 4(8), 23(1) or (2), 24(1), 28 or 29 in respect of the licence.

(3) The holder of an operator's licence may appeal to the Upper Tribunal against any order made under section 23(5) on the suspension or curtailment of the licence.

(4) A person in respect of whom an order has been made under section 25(1) (including section 25(1) as it applies by virtue of section 25(4)) may appeal to the Upper Tribunal against that order and against any direction given under section 25(3) (including section 25(3) as it so applies) when the order was made.

(5) A person who has duly made an objection to an application for, or for a variation of, an operator's licence may appeal to the Upper Tribunal against the grant of the application.

(6) A person who—

- (a) within the prescribed period has made an application for a review under section 34, and
- (b) has been certified by the Department as a person such as is mentioned in subsection (2)(b) of that section,

may appeal to the Upper Tribunal against the refusal of the application.

(7) Regulations may confer on prescribed persons a right of appeal to the Upper Tribunal in prescribed circumstances.

(8) In subsections (1) and (2) "operator's licence" does not include an interim licence issued under section 21.