



## 2011 CHAPTER 11

### PART 1

#### PUBLIC PASSENGER TRANSPORT SERVICES

VALID FROM 23/06/2015

#### *Service permits*

VALID FROM 05/10/2015

#### **Interpretation**

**3** In sections 4 to 17 “permit” means a service permit.

#### **Applications**

**4.—**(1) An application for a permit shall be made to the Department.

(2) The application for a permit must be made in such form, and include such declarations and information, as may be prescribed.

(3) Without prejudice to subsection (2), regulations under that subsection shall require the applicant to provide prescribed particulars as to—

- (a) the services to be provided under the permit; and
- (b) the vehicles to be used on those services.

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(4) The Department may require an applicant to provide, in such form as the Department may require, such further information as the Department may consider necessary for dealing with the application.

(5) If a person fails, without reasonable excuse, to provide information when required to do so under subsection (4), the Department may decline to proceed further with the application and refuse to issue the permit.

#### **Notification of subsequent events**

**5.—**(1) A person who has made an application for a permit shall notify the Department if, in the interval between the making of the application and the date on which it is disposed of, there occurs any prescribed event affecting any information given to the Department under section 4.

(2) A person who knowingly fails to comply with subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) For the purposes of this section an application shall be taken to be disposed of—

- (a) in a case where the Department is required by virtue of regulations under section 45(2)(a) to cause a statement containing its decision on the application to be issued, on the date on which that statement is issued, and
- (b) in any other case, on the date on which the applicant receives notice from the Department of its decision on the application.

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#### **Matters to which Department must have regard**

**6.—**(1) In deciding whether to issue or refuse a permit or to attach conditions to a permit, the Department shall in particular have regard (where appropriate) to the following matters—

- (a) the suitability of the routes on which the service may be provided under the permit;
- (b) any applications for permits which the Department considers relevant;
- (c) the extent, if any, to which the needs of persons likely to use the service to be provided are already adequately and economically served;
- (d) the general effect which the grant of the permit would be expected to have on—

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- (i) other holders of permits;
- (ii) persons with whom the Department has a service agreement;
- (e) the need for ensuring fair competition among persons providing public passenger transport services;
- (f) such other matters as may be prescribed.
- (2) The Department shall also take into account—
  - (a) any recommendations made by the Consumer Council;
  - (b) any representations by—
    - (i) persons already providing services on any road along or near the routes which are the subject of the application;
    - (ii) the Chief Constable;
    - (iii) a district council;
    - (iv) a Northern Ireland department; or
    - (v) the Northern Ireland Tourist Board.
- (3) In subsection (2)(b)(i) “services” means—
  - (a) public passenger transport services; or
  - (b) any other services to which section 33(1)(a) applies.

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### **Duration**

7.—(1) A permit shall, unless previously revoked, continue in force for a period of three years from the date on which it is expressed to take effect or such other period as may be specified in the permit.

(2) Nothing in this section shall prevent the attachment to a permit of a condition that the service shall be limited to one or more than one particular period or occasion.

(3) If the holder of a permit requests the Department to terminate it at any time, the Department shall comply with the request unless it is considering giving a direction in respect of the permit under section 10.

(4) If on the date of the expiration of a permit an application is before the Department for the grant of a new permit in substitution for an existing permit held by the applicant, the existing permit shall continue in force until the application is disposed of.

(5) If on the date of the expiration of a permit the permit is, by virtue of regulations under section 14(2), held by a person other than the person to whom the permit was issued, the permit shall continue in force until the

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application by that other person is disposed of in accordance with those regulations.

- (6) A permit 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).

### **Variation**

**8.—**(1) On the application of the holder of a permit or otherwise, the Department may vary the permit.

(2) An application for the variation of a permit under this section must be made in such form and include such declarations and information as may be prescribed.

(3) The Department may require an applicant to furnish such other information as it considers necessary for dealing with the application.

(4) Section 5 shall apply for the purposes of this section as it applies for the purposes of section 4.

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### **Conditions**

**9.—**(1) On issuing a permit or on varying a permit under section 8, the Department may attach to the permit such conditions as it thinks fit.

(2) On varying a permit under section 8, the Department may vary or remove any condition attached to the permit under this section.

(3) Any person who contravenes any condition attached under this section to a permit of which that person is the holder shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) If any person acting with the knowledge or consent of the holder of a permit contravenes any condition attached to it under this section, the holder of the permit shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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### **Revocation, suspension and curtailment of permits**

**10.—(1)** Subject to the following provisions of this section and the provisions of section 12, the Department may direct that a permit be revoked, suspended or curtailed (within the meaning given in subsection (6)) for any reasonable cause including any of the following—

- (a) that the permit-holder has contravened any condition attached to the permit;
- (b) that during the 3 years ending with the date on which the direction is given there has occurred a prescribed event affecting information required to be given to the Department under section 4 or 5;
- (c) that the permit-holder made, or procured to be made, for the purposes of the permit-holder's application for the permit, a statement of fact that, whether to the permit-holder's knowledge or not, was false, or a statement of expectation that has not been fulfilled;
- (d) that the permit-holder, being an individual, has been adjudged bankrupt [<sup>F1</sup>or is the subject of a bankruptcy restrictions order] or, being a company, has gone into liquidation, other than voluntary liquidation for the purposes of reconstruction;
- (e) that since the permit was issued there has been a material change in any of the circumstances of the permit-holder that were relevant to the issue or variation of the permit;
- (f) that the permit is liable to revocation, suspension or curtailment by virtue of a direction given under section 11(3);
- (g) that an operator's licence (within the meaning of section 1) held by the permit-holder has been revoked or suspended or has expired;
- (h) that the permit-holder has been convicted of an offence under the National Minimum Wage Act 1998 (c. 39);
- (i) that the Department considers that it is in the public interest for any service specified in the permit to be provided under a service agreement.

(2) Where the Department has power to give a direction in respect of a permit under subsection (1) the Department also has power to direct that a condition be attached to the permit.

(3) Where the existence of any of the grounds mentioned in subsection (1) (except paragraph (i)) is brought to the notice of the

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Department, the Department shall consider whether or not to give a direction under this section in respect of that permit.

(4) Where the Department has given a direction suspending or curtailing a permit under subsection (1) it may—

- (a) cancel the direction;
- (b) with the consent of the permit-holder, vary the direction.

(5) Where a permit is suspended under this section, the permit remains in force during the time of its suspension subject to the limitation that no services are authorised to be provided under it.

(6) In this Act references to directing that a permit be curtailed are references to directing (with effect for the remainder of the duration of the permit or for any shorter period) either or both of the following—

- (a) that one or more of the vehicles specified in the permit be removed from it; and
- (b) that one or more of the services specified in the permit be removed from it.

#### Textual Amendments

- F1** Words in s. 10(1)(d) inserted (21.4.2015) by [The Insolvency \(Northern Ireland\) Order 2005 \(Consequential Amendments\) Order \(Northern Ireland\) 2015 \(S.R. 2015/159\)](#), art. 1, [Sch. para. 19](#)

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#### Disqualification

**11.—**(1) Where, under section 10(1), the Department directs that a permit be revoked, the Department may order the person who was the holder of the permit to be disqualified (either indefinitely or for such period as the Department thinks fit) from holding or obtaining a permit; and so long as the disqualification is in force, notwithstanding anything in section 6, no permit may be issued to that person.

(2) If a person applies for or obtains a permit while disqualified under subsection (1)—

- (a) the person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale, and
- (b) any permit issued on the application, or (as the case may be) the permit obtained by that person, shall be void.

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(3) Where the Department makes an order under subsection (1) in respect of any person, the Department may direct that if that person, at any time or during such period as the Department may specify—

(a) is a director of, or holds a controlling interest in—

(i) a company which holds a permit of the kind to which the order in question applies, or

(ii) a company of which such a company is a subsidiary, or

(b) provides any service in partnership with a person who holds such a permit,

that permit of that company or, (as the case may be), of that person, shall be liable to revocation, suspension or curtailment under section 10.

(4) The powers conferred by subsections (1) and (3) in relation to the person who was the holder of a permit shall be exercisable also—

(a) where that person was a company, in relation to any director of that company, and

(b) where that person provided any service under the permit in partnership with other persons, in relation to any of those other persons;

and any reference in this section or in section 10 or 12 to subsection (1) or (3) includes a reference to that subsection as it applies by virtue of this subsection.

(5) Where the Department makes any order disqualifying a person under subsection (1), it may at any time—

(a) cancel that order together with any direction that was given under subsection (3) when the order was made;

(b) cancel any such direction; or

(c) with the consent of the person disqualified, vary the order or any such direction (or both the order and any such direction).

(6) Where a permit is suspended under this section, the permit remains in force during the time of its suspension subject to the limitation that no services are authorised to be provided under it.

(7) For the purposes of this section, a person holds a controlling interest in a company if the person is the beneficial owner of more than half its equity share capital (as defined in section 548 of the Companies Act 2006 (c. 46)).

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### **Revocation, disqualification, etc.: supplementary provisions**

**12.—**(1) This subsection applies where—

- (a) an application is made for a new permit in respect of a service for which there is an existing permit;
- (b) the applicant is the holder of the existing permit; and
- (c) the Department considers that it is in the public interest for that service to be provided under a service agreement.

(2) Where subsection (1) applies, the Department shall not refuse the application without first giving the applicant notice that it is considering refusing the application for the reason mentioned in paragraph (c) of that subsection and holding an inquiry if the applicant requests the Department to do so.

(3) The Department shall not—

- (a) give a direction under section 10(1) or (2) in respect of any permit, or
- (b) make an order or give a direction under section 11(1) or (3) in respect of any person,

without first giving the holder of the permit or (as the case may be) the person concerned notice that it is considering doing so and holding an inquiry if the holder of the permit or (as the case may be) the person concerned requests the Department to do so.

(4) The Department may direct that any direction or order given or made by it under—

- (a) section 10(1) or (2), or
- (b) section 11(1) or (3),

shall not take effect until the expiry of the time within which an appeal may be made to the Upper Tribunal against the direction or order and, if such an appeal is made, until the appeal has been disposed of.

(5) If the Department refuses to give a direction under subsection (4) the holder of the permit or (as the case may be) the person in respect of whom the direction or order was given or made may apply to the Upper Tribunal for such a direction.

(6) An order under section 11(1) is not a statutory rule for the purpose of the Statutory Rules (Northern Ireland) Order 1979 (NI 12).



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