

SCHEDULE 9

Article 12(3)

Provisions relating to licences

Specific and general licences

1.—(1) A licence may be—

- (a) a specific licence, that is, a licence issued by the Department to a person named in the licence on an application made by him, which covers such activities as are described in the licence; or
- (b) a general licence, that is, a licence issued by the Department which does not name individual persons and which covers such persons resident in Northern Ireland (or, in the case of a body corporate, incorporated in Northern Ireland) and such activities as are described in the licence.

(2) After 1st December 1997 a person shall not transport cattle, sheep, pigs, goats and horses unless a specific licence has been issued to him, except where—

- (a) the journey time is less than 8 hours and involves only transport by vehicle (or transport by vessel where the animals remain within the vehicle during the voyage);
- (b) all the animals transported are registered equidae within the meaning of Council Directive 90/426;
- (c) the number of animals transported is not more than either—
 - (i) in the case of horses other than registered equidae within the meaning of Council Directive 90/426, 5 individual animals; or
 - (ii) in the case of cattle, 5 individual animals; or
 - (iii) in the case of sheep and goats, 10 individual animals; or
 - (iv) in the case of pigs, 10 individual animals,

provided that the transporter is involved in no more than 5 consignments of animals in accordance with paragraph (2)(c) during any calendar year and that the vehicle used to transport the animals complies with the requirements of Schedule 1 and Schedule 2 and has been inspected by an authorised officer of the Department not more than 6 months before its being used for any such journey.

(3) A specific licence may be amended or revoked by the Department by notice in writing served on the transporter to whom the licence was granted.

(4) A general licence may be amended or revoked by publication in such manner as the Department shall see fit.

(5) In the case of a general licence, the Department may, by notice in writing served on the transporter, either exclude that transporter from the operation of a general licence, or impose additional conditions on that transporter which differ from the conditions in the general licence.

(6) A specific licence shall not be issued to more than one person.

(7) The fact that a person is covered by a general licence in respect of certain activities shall not prevent a specific licence being issued to him in respect of those activities.

(8) If a person has been issued with a specific licence, then he ceases to be covered by any aspect of the general licence in relation to the animals covered by the specific licence, and he shall not be permitted to carry out any transport of those animals except under the authority of a specific licence; and if a specific licence is revoked, or limited in any way, then the person who held the licence shall not be entitled to transport the animals covered by that specific licence under the authority of the general licence.

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(9) Notice shall be given of the issue of any general licence in such form as the Department shall see fit.

Licence holder to be a fit person

2.—(1) A specific licence shall be granted on the application of any person if he satisfies the Department that he is a fit person to transport animals.

(2) In determining whether a transporter applying for a specific licence is a fit person to transport animals, the Department shall have regard to any circumstances appearing to it to be relevant, and in particular any evidence tending to show that the applicant, or any of the applicant's employees, agents or associates (whether past or present) or, where the applicant is a body corporate, any person appearing to the Department to be a controller of the body corporate or an associate of any such person, has—

- (a) committed any offence involving animal welfare; or
- (b) contravened any provision of this Order or any other Order made under Article 21, 23 or 23A of the 1981 Order; or
- (c) previously been responsible for anything which would cause the Department to revoke or suspend a licence under the provisions of paragraph 3.

(3) In sub-paragraph (2), “associate”, in addition to the person specified in paragraph 7, includes a business associate.

(4) A person operating under a licence, whether specific or general, shall give to an officer of the Department such information as the Department may reasonably require concerning the transport under the licence.

(5) A specific licensee transporting vertebrate animals under a trading name different from that specified in the licence shall notify the Department of the trading name before he transports any animals under that name.

Suspension and revocation

3.—(1) The Department may revoke or suspend a specific licence, or exclude a transporter from the operation of a general licence, either temporarily or permanently, in the event of any of the following situations, involving either the transporter or, if it appears to the Department to be relevant, any associate, employee or agent of the transporter—

- (a) repeated infringements in Northern Ireland of this Order or of any other Order implementing Council Directive 91/628/EEC or a single such infringement which involves serious suffering to animals, in either case whether or not the infringement leads to a conviction;
- (b) in the case of a journey taking place partly in Northern Ireland and partly outside Northern Ireland—
 - (i) any breach of the rules relating to route plans; or
 - (ii) repeated infringements of the legislation of any member State implementing Council Directive 91/628/EEC, or a single such infringement involving serious suffering to animals,

in either case whether or not the infringement leads to a conviction.

(2) The Department shall by notice, inform the transporter that it is minded to revoke the licence, or suspend it until a specified date or indefinitely.

Written representations to the Department

4.—(1) If, within 28 days of the issue of a specific licence, the person to whom it is issued requests the Department to give him notice of the reasons for the inclusion of any provision in it, the Department shall comply with his request within 28 days of receiving it.

(2) On issuing a specific licence to a person the Department shall notify him of the effect of sub-paragraph (1).

(3) If the Department refuses an application for a specific licence, it shall give the applicant notice in writing of the reasons for the refusal.

(4) If the Department, by notice in writing served on a transporter, amends, suspends or revokes a specific licence, the notice shall give the transporter reasons for the amendment, suspension or revocation.

(5) If the Department, by notice in writing served on a transporter, either excludes that transporter from the operation of a general licence or imposes additional conditions on that transporter, the notice shall give the transporter reasons for the exclusion or the imposition of additional conditions.

(6) If, within 28 days of receipt of a notice under this paragraph giving the Department's reasons, the transporter makes written representations to the Department concerning the matter to which the notice is related, the Department shall refer the transporter's representations to an appointed person.

(7) A notice under this paragraph giving the Department's reasons shall notify the transporter of the effect of sub-paragraph (6).

Appointed persons

5.—(1) The Department shall nominate an appointed person who in the opinion of the Department is specially qualified to consider representations under this Schedule.

(2) The appointed person shall serve on the person who made representations a notice requiring him to state within 14 days of receipt of the notice whether he wishes to make written or oral representations to the appointed person at a meeting.

(3) The notice shall specify the place, date and time of the meeting and the date of the meeting shall not be earlier than 14 days from the date of the notice, unless the person who makes the representations has agreed to an earlier meeting.

(4) The appointed person shall permit the Department or the transporter to make written or oral representations at the hearing either in person or through a representative.

(5) The appointed person may permit any other person to make a written or oral representation to him at the hearing.

(6) The appointed person shall consider—

- (a) the reasons given by the Department in accordance with this Schedule; and
- (b) any representations made in accordance with this Schedule

and shall make a report to the Department after the close of his consideration, giving his findings of fact and his recommendations, and the Department shall reconsider its decision in the light of the report.

(7) The Department shall notify the transporter of the result of its reconsideration and the reasons for it and shall send him a copy of the appointed person's report.

Duty to notify changes

6.—(1) Within 21 working days after—

- (a) any change takes place in the officers of—

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- (i) a body corporate which is the holder of a specific licence; or
- (ii) a body corporate which is a controller of a body corporate which holds such a licence;
or
- (b) a body corporate which holds such a licence becomes aware that a person has become or ceased to be a controller of the body corporate,

the holder of the licence shall give the Department notice of that fact.

(2) Where the Department is given notice under sub-paragraph (1) of any change the Department may by notice require the holder of the licence to furnish such information, verified in such manner, as the Department may stipulate.

(3) The holder of a specific licence shall notify the Department within 21 days of any change of address of the transporter.

Interpretation

7. In this Schedule—

“agent” means an individual who acts on behalf of another person;

“associate” shall have the same meaning as in section 184 of the Consumer Credit Act 1974⁽¹⁾ but in addition to the persons specified in that Act shall include a business associate; and

“employee” shall have the same meaning as in Article 3(1) of the Employment Rights (Northern Ireland) Order 1996⁽²⁾.

(1) 1974 c. 39

(2) S.I. 1996 No. 1919 (N.I. 16)