



## 2010 CHAPTER 2

### *Supplementary*

#### **Supplementary provision**

**56.—**(1) The Department may by order make such incidental, supplementary, consequential, transitory, transitional or saving provisions as it considers necessary or expedient for the purposes of, in consequence of or for giving full effect to this Act or any provision of it, or in connection with the coming into operation of any provision of this Act.

(2) An order under this section may amend, repeal or modify any statutory provision (including this Act).

(3) The power conferred by this section is not restricted by any other provision of this Act.

(4) An order shall not be made under this section unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

#### **Regulations**

**57.—**(1) The Department may make regulations for any purpose for which regulations may be made under this Act, and for prescribing anything which may be prescribed under this Act, and generally for carrying this Act into effect.

(2) In particular, but without prejudice to the generality of subsection (1), the Department may make regulations with respect to the following matters—

- (a) the procedure on applications for, and the determination of questions in connection with, the issuing and variation of operators' licences and the procedure under, and the determination of questions for the purposes of, sections 23 to 29 and 34;

- (b) the issue of operators' licences and the issue on payment of the prescribed fee of copies of such licences in the case of licences lost or defaced;
  - (c) the forms which operators' licences are to take in order to show a distinction—
    - (i) between a standard licence and a restricted licence; and
    - (ii) between a licence covering both international and national transport operations and a licence covering national transport operations only;
  - (d) the means by which vehicles may be identified, whether by plates, marks or otherwise, as being used or authorised to be used under an operator's licence;
  - (e) the custody, production, return and cancellation of operators' licences and of documents, plates and any other means of identification prescribed under paragraph (d);
  - (f) the payment of a prescribed fee in respect of any document, plate or other means of identification so prescribed that has been lost, defaced or broken;
  - (g) the notification to the Department of vehicles which have ceased to be used under an operator's licence;
  - (h) the circumstances in which goods are to be treated for the purposes of this Act as carried for hire or reward and the circumstances in which goods are to be treated for those purposes as carried by any person for or in connection with a trade or business carried on by that person.
- (3) The power under subsection (2)(a) shall include power to require a person applying for an operator's licence to state in the application—
- (a) whether the application is for a standard licence or a restricted licence, and
  - (b) (if the application is for a standard licence) whether the application is for a licence to cover both international and national transport operations or for one to cover national transport operations only.
- (4) The power under subsection (2)(d) shall include power to require that any means of identification prescribed for a vehicle shall be carried notwithstanding that for the time being the vehicle is not being used for a purpose for which an operator's licence is required.
- (5) The power under subsection (2)(d) shall also include power to make provision with respect to the means by which—
- (a) any vehicle may be identified as being used under a standard licence or, as the case may be, a restricted licence; and
  - (b) any vehicle which is being used under a standard licence may be identified as being used under a licence that permits it to be used—
    - (i) for both international and national transport operations, or
    - (ii) for national transport operations only.

(6) The Department may make regulations for providing that any provision of this Act shall, in relation to vehicles brought temporarily into Northern Ireland, have effect subject to such modifications as may be prescribed.

(7) A definition or description of a class of vehicles for the purposes of any regulation under this Act may be framed by reference to any characteristic of the vehicles or to any other circumstances whatever.

(8) Any person who contravenes a provision of regulations under this section, a contravention of which is declared by the regulations to be an offence, is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) No regulations shall be made under section 1(2)(d), 12(12) or 27(3) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(10) Any other regulations under this Act shall be subject to negative resolution.

(11) Before making any regulations under this Act the Department shall consult with such representative organisations as the Department thinks fit.

(12) Regulations under this Act may contain such incidental, supplementary, consequential, transitory or saving provisions as the Department considers necessary or expedient.

### **General interpretation**

**58.**—(1) In this Act—

“the 1995 Order” means the [Road Traffic \(Northern Ireland\) Order 1995 \(NI 18\)](#);

“the 1996 Council Directive” means Community Council Directive No. [96/26/EC](#) dated 29 April 1996 on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations;

“articulated combination” means a combination made up of—

- (a) a motor vehicle which is so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle, and
- (b) a trailer attached to it as described in paragraph (a);

“authorised person” means—

- (a) an examiner appointed by the Department under Article 74 of the 1995 Order; or

(b) any person authorised in writing by the Department for the purposes of this Act;

“carriage of goods” includes haulage of goods;

“contravention”, in relation to any condition or provision, includes a failure to comply with the condition or provision;

“the Department” means the Department of the Environment;

“driver”—

(a) where a separate person acts as steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle; and

(b) in relation to a trailer, means the driver of the vehicle by which the trailer is drawn;

“goods” includes goods or burden of any description;

“goods vehicle” has the same meaning as in Article 2(2) of the 1995 Order;

“holding company” and “subsidiary” have the meaning given by section 1159 of the Companies Act 2006 (c. 46);

“international road haulage permit” means a licence, permit, authorisation or other document issued in pursuance of a Community instrument relating to the carriage of goods by road between member States or an international agreement to which the United Kingdom is a party and which relates to the international carriage of goods by road;

“international transport operations” and “national transport operations” have the same meaning as in the 1996 Council Directive;

“modification” includes addition, omission and alteration;

“motor vehicle” and “trailer” have the same meaning as in Article 3(1) of the 1995 Order;

“notice” means notice in writing;

“operating centre” has the meaning given in section 6(3);

“operator’s licence” has the meaning given in section 1(1);

“owner”, in relation to any land in Northern Ireland, means a person, other than a mortgagee not in possession, who, whether in that person’s own right or as trustee for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let;

“plated weight”, in relation to a vehicle, means a weight required to be marked on it by means of a plate in pursuance of regulations made by virtue of Article 55 of the 1995 Order;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Department;

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*Status: This is the original version (as it was originally enacted).*

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“restricted licence” has the meaning given in section 2(3);

“road” has the same meaning as in Article 2(2) of the 1995 Order;

“road transport undertaking” means an undertaking which involves the use of goods vehicles—

- (a) under an operator’s licence, or
- (b) in accordance with the law of Great Britain or the law of any member State other than the United Kingdom;

“standard licence” has the meaning given in section 2(2);

“statutory provision” has the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

“Upper Tribunal” means the Upper Tribunal constituted under section 3 of the Tribunals, Courts and Enforcement Act 2007 (c. 15);

“vehicle combination” means a combination of goods vehicles made up of one or more motor vehicles and one or more trailers all of which are linked together when travelling.

(2) For the purposes of this Act, the driver of a vehicle, if it belongs to the driver or is in the driver’s possession under an agreement for hire, hire-purchase or loan, and in any other case the person whose servant or agent the driver is, shall be deemed to be the person using the vehicle.

(3) In this Act references to vehicles being authorised to be used under an operator’s licence are to be read in accordance with section 4.

(4) In its application to this Act, the Interpretation Act (Northern Ireland) 1954 (c. 33) has effect as if—

- (a) in section 20 (offences by corporations), subsection (3) were omitted; and
- (b) in section 24(1) (notice by post) the word “registering” were omitted.

### **Amendments and repeals**

**59.**—(1) Schedule 3 (which contains amendments) shall have effect.

(2) The statutory provisions set out in the first column of Schedule 4 are repealed to the extent specified in the second column of that Schedule.

### **Commencement**

**60.**—(1) The following provisions of this Act come into operation on Royal Assent—

- (a) section 54;
- (b) section 57;
- (c) section 58;
- (d) this section; and

(e) section 61.

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

(3) An order under subsection (2) may contain—

(a) such transitional provisions and savings;

(b) such supplementary, incidental or consequential provisions (including any provision amending this Act),

as the Department considers necessary or expedient in connection with the coming into operation of any of the provisions of this Act.

#### **Short title**

**61.** This Act may be cited as the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010.