
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 257

The Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012

Amendments to the 2010 Act

- 17.—(1) The 2010 Act is amended in accordance with paragraphs (2) to (17).
- (2) In section 1 (operators' licences) for subsection (4) substitute—
- “(4) In subsection (2)(b) and (c), “established”, “haulier” and “international carriage” have the same meaning as in Regulation (EC) No 1072/2009 on common rules for access to the international road haulage market.”.
- (3) In section 3 (temporary exemptions), omit subsection (4).
- (4) In section 11 (objections to, and representations against, issue of operators' licences)—
- (a) in subsection (1)(a), for “section 12” substitute “sections 12A to 12E”;
- (b) in subsection (11)—
- (i) for “section 12” substitute “sections 12A to 12E”;
- (ii) in paragraph (a) for “subsections (3), (5) and (6) of that section” substitute “sections 12A, 12C and 12D”; and
- (iii) in paragraph (b), for “subsections (4), (5) and (6) of that section” substitute “sections 12B, 12C and 12D”.
- (5) For section 12 substitute—

“Determination of applications for operators' licences

- 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).

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.

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).

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.

(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.

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.

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".

(6) In section 14 (issue of operators' licences)—

(a) in subsection (2)—

- (i) for "subsection (5) or (6) of section 12" substitute "section 12C or 12D";
- (ii) for "that section" substitute "section 12";

(b) in subsection (4), for "section 12(8)" substitute "section 12C(7)".

(7) In section 16 (variation of operators licences), in subsection (6)(c), for "section 12" substitute "sections 12 to 12E".

(8) In section 21 (interim operators' licences)—

- (a) after subsection (7) insert—
- “(7A) A request for the issuing of an interim standard licence—
- (a) shall not be treated as an application for an operator’s licence for the purposes of section 9,10,11,13,14(1) to (4), 34 or 35 or Schedule 1, but
- (b) shall be treated as such an application for the purposes of any other provision of this Act.”;
- (b) in subsection (8), after “interim” insert “restricted”.
- (9) In section 24 (revocation of standard licences)—
- (a) in subsection (1), for the words from “the licence-holder” to the end, substitute—
- “—
- (a) the licence-holder no longer satisfies the requirements of section 12A(2), or
- (b) the transport manager designated in accordance with Article 4 of the 2009 Regulation no longer satisfies the requirements of section 12A(3).”;
- (b) omit subsection (2);
- (c) after subsection (3), insert—
- “(3A) A notice under section 26(1) which relates to a direction under subsection (1) may set a time limit, in accordance with Article 13.1 of the 2009 Regulation, for the licence-holder to rectify the situation.
- (3B) If the licence-holder rectifies the situation within the time limit set under subsection (3A), the Department must not make the direction under subsection (1).”;
- (d) in subsection (4), for “subsection (4)” substitute “subsections (3) to (3B)”.
- (10) In section 25 (disqualification) in subsection (1), for “section 12” substitute “sections 12 to 12E”.
- (11) In section 32 (power of Department to hold inquiries)—
- (a) in subsection (1), at the end insert “or the 2009 Regulation”;
- (b) in subsection (2) for “section 23, 24 or 25” substitute “this Act or the 2009 Regulation”;
- (c) in subsection (3), after “this Act” insert “or the 2009 Regulation”;
- (d) in subsection (4)—
- (i) in paragraph (b), after “this Act” insert “or the 2009 Regulation”;
- (ii) in paragraph (c), after “this Act” insert “or the 2009 Regulation”.
- (12) In section 33 (power of Department to appoint assessors), in subsection (1), after “this Act” insert “or the 2009 Regulation”.
- (13) In section 43 (evidence by certificate), in subsection (2), after paragraph (h) insert—
- “(ha) that a person is by virtue of an order of the Department disqualified from acting as a transport manager, either indefinitely or for a specified period;”.
- (14) In section 49 (certificates of qualification)—
- (a) in subsection (2)(b), for the words from “Article 8” to the end substitute “Article 19, 20 or (as the case may be) 21 of the 2009 Regulation.”;
- (b) in subsection (5), for “the 1996 Council Directive” substitute “the 2009 Regulation”.
- (15) In section 57 (Regulations) , in subsection (9) for “12(12)” substitute “12E”.
- (16) In section 58(1) (general interpretation)—
- (a) for the definition of “the 1996 Council Directive” substitute—

“the 2009 Regulation” means Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC;”;

(b) in the definition of “international transport operations” and “national transport operations” for “the 1996 Council Directive” substitute “the 2009 Regulation”;

(c) after the definition of “statutory provision” insert—

““transport manager” has the same meaning as in the 2009 Regulation;”.

(17) In Schedule 1 (transfer of operating centres) in paragraph 2—

(a) in sub-paragraph (3)(c) for “section 12(5)(d)” substitute “section 12C(5)”;

(b) in sub-paragraph (4) for “section 12(11)” substitute “section 12(6)”.