



# Transport Act (Northern Ireland) 1967 <sup>F1</sup>

## 1967 CHAPTER 37

An Act to make further provision for the re-organisation of public transport and otherwise to amend the law relating to transport; and for purposes connected therewith. [14th December 1967]

**F1** Certain functions transf. by SR 1999/481

*Part I (Ss. 1#3) rep. by 1984 NI 12*

### PART II

#### CARRIAGE OF PASSENGERS BY ROAD

**Modifications etc. (not altering text)**

**C1** Pt. 2 (ss. 4-13) excluded (prosp.) by [Taxis Act \(Northern Ireland\) 2008 \(c. 4\)](#), **ss. 54(2)**, 59 (with s. 54(3))

#### ROAD SERVICE LICENCES

#### **4 <sup>F2</sup> Grant of road service licences.**

<sup>F3</sup>(1) The Ministry may, subject to and in accordance with the provisions of this Part and Part IV, grant to any person applying therefor a licence (in this Act referred to as a “road service licence”) to provide such a service as may be specified therein for the carriage of passengers and their luggage by road.

(2) Subject to <sup>F4</sup>. . . regulations made under section 45, no person shall use a motor vehicle, or cause or permit such a motor vehicle to be used, on a road to carry passengers and their luggage for reward except under a licence granted under subsection (1).

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- (3) For the purposes of this section a motor vehicle used to carry passengers and their luggage for reward shall not be deemed to be used under a road service licence unless it is used by or on behalf of the holder of the licence and in accordance with the conditions applicable to the licence.
- (4) Any person who acts in contravention of subsection (2) [<sup>F5</sup> or who contravenes a requirement of any such directly applicable Community provision as is referred to in section 45(j) as to the keeping or production of any document] shall be guilty of an offence and be liable on summary conviction to a fine not exceeding [<sup>F6</sup> level 5 on the standard scale].

**F2** mod. by SR 1981/199; 1987/187,383

**F3** mod. by SR 2005/212

**F4** [1990 NI 7](#)

**F5** SRO (NI) 1972/359

**F6** [1984 NI 3](#)

## 5 <sup>F7</sup> **Particulars to be provided by applicants for road service licences.**

[<sup>F8</sup>

- (1) A person applying to the Ministry for a road service licence shall give such information as may reasonably be required to enable the Ministry to exercise the functions conferred on it by section 6, and in particular shall give (where appropriate) information as to—
- (a) the type or types of motor vehicles to be used;
  - (b) the services which it is proposed to provide under the licence;
  - (c) the frequency of the services, the times to be taken on the journeys included in those services and the number of vehicles to be used on those services;
  - (d) any previous experience of the applicant as a person providing any facilities wheresoever for the carriage of passengers for reward;
  - (e) any agreement or arrangement affecting in any material respect the provision of passenger transport facilities entered into by the applicant with any other person by whom such facilities are provided;
  - (f) any financial interest (whether past, subsisting or proposed, and whether as a partner or shareholder or as a result of a loan, guarantee or other financial transaction) of the applicant in the provision of any facilities wheresoever for the carriage of passengers for reward, or of any such interest of any other person in any business carried on by the applicant in providing such facilities.
- <sup>F9</sup>(2) A person applying for a road service licence to which this subsection applies shall in addition to the information referred to in subsection (1) give the Department such information as may reasonably be required to enable the Department to exercise the functions conferred on it by section 6A, and in particular shall give—
- (a) particulars of any convictions during the five years preceding the making of the application, and at any time thereafter until the disposal of the application, of the applicant and of any person specified in the application in pursuance of section 6A(2) or (3);
  - (b) particulars of the financial resources which are, or are likely to be, available to the applicant;

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- (c) particulars of the professional competence qualifications of the applicant and of any person specified in the application in pursuance of section 6A(2) or (3);
  - (d) a statement indicating whether or not the applicant intends to use vehicles operated under the licence to provide a service for the carriage of passengers by road elsewhere than in the United Kingdom.
- (3) Subsection (2) applies to a road service licence covering motor vehicles so constructed and equipped as to be suitable for carrying more than nine persons including the driver and intended for that purpose, other than—
- (a) motor vehicles constructed or adapted for the carriage of not more than 17 persons including the driver and used, or intended to be used, in the course of a business whose main object is other than that of carrying passengers; and
  - (b) motor vehicles used by an Education and Library Board in the carrying out of the functions of that Board under the Education and Libraries (Northern Ireland) Order 1972 .
- (4) Subsection (2)(a) and (b) shall not apply in relation to an application for a road service licence by a person who satisfies the Department that he is an exempt person.]

|           |                                   |
|-----------|-----------------------------------|
| <b>F7</b> | mod. by SR 1981/199; 1987/187,383 |
| <b>F8</b> | SR 1977/327                       |
| <b>F9</b> | SR 1977/327                       |

## 6<sup>F10</sup> Functions as to grant of road service licences.

- (1) The Ministry shall, in deciding whether to grant or refuse to grant a road service licence or to attach conditions to any such licence, have regard to the interests of persons likely to use the service to be provided under the licence and those of persons holding other road service licences, and in particular shall have regard (where appropriate) to the following matters:—
- (a) the suitability of the routes on which the service may be provided under the licence;
  - (b) the extent, if any, to which the needs of persons likely to use the service to be provided are already adequately and economically served;
  - (c) any previous conduct of the applicant as a person providing facilities for the carriage of passengers for reward;
  - (d) the revocation or suspension of any road service licence held at any time by the applicant or where the applicant has or had a controlling interest in a body corporate to any refusal to grant a road service licence to, or revocation or suspension of a road service licence held by, that body corporate;
  - (e) where the applicant is an agent or nominee of any other person, any previous conduct of that person as a person providing facilities for the carriage of passengers for reward;
  - (f) where the applicant is an agent or nominee of any other person, the revocation or suspension of any road service licence held at any time by that other person;
  - (g) where the applicant is a body corporate, the refusal to grant a road service licence to, or the revocation or suspension of any road service licence held at any time by—
    - (i) any other body corporate having at the time of the application any controlling interest in the body corporate applying for the licence or in

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- which the body corporate applying for the licence has any controlling interest;
- (ii) any director of, or any shareholder having a controlling interest in, the body corporate which is applying for the licence or in such other body corporate as is mentioned in sub-paragraph (i);
  - (h) the general effect which the grant of the licence would be expected to have on the holders of other road service licences and on the facilities being provided under such licences for the carriage of passengers by road;
  - (i) the need for ensuring fair competition among persons providing facilities in Northern Ireland for the carriage for reward of passengers by road.
- (2) In addition to the matters specified in subsection (1) the Ministry shall take into consideration any recommendations made by<sup>F11</sup> the Council], any representations which may be made by persons who are already providing facilities for the carriage of passengers for reward on any road along or near the routes the subject of the application or any part of those routes and any representations made by a local authority or the Northern Ireland Tourist Board.
- (3) Where the Ministry is not satisfied that an application for a road service licence should be granted the Ministry shall refer the matter to<sup>F11</sup> the Council] and shall, before deciding whether or not to grant the application, take into account any recommendation made by<sup>F11</sup> the Council] with respect to the application, and in making any such recommendation<sup>F11</sup> the Council] shall have regard to the matters specified in subsections (1) and (2).

**F10** mod. by SR 1981/199; 1987/187,383

**F11** 1984 NI 12

<sup>F12</sup>**6A Refusal of road service licence in certain cases.**  
<sup>F13</sup>

- (1) Subject to the following provisions of this section, the Department shall refuse to grant to an applicant a road service licence to which section 5(2) applies, unless having regard, in addition to the matters specified in section 6, to the information given to it in pursuance of section 5(2), it is satisfied that the applicant is—
- (a) of good repute,
  - (b) of appropriate financial standing, and
  - (c) professionally competent.
- (2) In the case of an applicant being a body corporate the requirements of subsection (1) ( a ) and ( c ) shall be satisfied by one of the persons in the<sup>F14</sup> . . . employment of the applicant who is to be [<sup>F15</sup> continuously and effectively responsible] for the operation of the motor vehicles to be used under the licence and who is specified in the application.
- (3) In the case of an applicant not being a body corporate, the requirements of subsection (1)( c ) may also be regarded as satisfied where there is specified in the application a person in the<sup>F14</sup> . . . employment of the applicant who is to be [<sup>F15</sup> continuously and effectively responsible] for the operation of the motor vehicles to be used under the licence and who, the Department is satisfied, is of good repute and professionally competent.

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- (4) The Department shall not be required by subsection (1) to refuse to grant a road service licence on a ground mentioned in subsection (1)( a) or ( b) if the applicant satisfies the Department that he is an exempt person.
- (5) There shall be specified in a licence granted by the Department in pursuance of an application to which either subsection (2) or (3) applies, the person who is to be <sup>F15</sup> continuously and effectively responsible] for the operation of the motor vehicles to be used under the licence and who is specified in the application.]

**F12** SR 1977/327  
**F13** mod. by SR 1981/199; 1987/187,383  
**F14** SR 2003/217  
**F15** SR 1981/2

## 7 <sup>F16</sup> **Conditions of road service licences.**

- (1) The Ministry may, when granting any road service licence, attach conditions to that licence, including conditions for securing the safety and convenience of the public.

<sup>F17</sup>(1A) Without prejudice to the generality of subsection (1), the Department, when granting a road service licence to which section 5(2) applies—

- (a) may attach to the licence a condition prohibiting the holder from using vehicles operated under the licence for providing a service for the carriage of passengers by road elsewhere than in the United Kingdom; and
- (b) shall attach to the licence conditions for requiring the holder of the licence to inform the Department, in writing within 28 days, if during the currency of the licence—
  - (i) the holder of the licence or the person, if any, specified in the licence in pursuance of section 6A(5) is convicted of any offence;
  - (ii) the holder of the licence becomes bankrupt or goes into liquidation<sup>F18</sup> or enters administration] or an order of seizure is made against his property or a receiver or manager is appointed in relation to his trade or business; or
  - (iii) the person, if any, specified in the licence in pursuance of section 6A(5) ceases for whatever reason to be <sup>F19</sup> continuously and effectively responsible] for the operation of the motor vehicles used under the licence.

(1B) Where a road service licence to which section 5(2) applies is granted by the Department to a person who satisfies the Department that he is an exempt person, paragraph ( b) of subsection (1A) shall not require the Department to attach to the licence the conditions specified in sub-paragraphs (i) and (ii) of that paragraph.]

- (2) On the application or with the consent of the holder of a road service licence, the Ministry may at any time while the licence is in force amend (whether by addition, omission or variation) the conditions attached to the licence <sup>F17</sup> (other than a condition attached under subsection (1A)( b)], and upon such amendment the licence shall have effect subject to the conditions as so amended.

<sup>F17</sup>(2A) Where the holder of a road service licence to which is attached the condition referred to in subsection (1A)( a) applies for the omission of that condition, he shall include in his application such particulars as to his professional competence or that of the person,

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if any, specified in the licence in pursuance of section 6A(5), as the Department may require.]

- (3) Where the holder of a road service licence, or any person acting with his knowledge or consent, fails to comply with a condition of that licence, the holder of the licence shall be guilty of an offence and be liable on summary conviction to a fine not exceeding<sup>[F20]</sup> level 3 on the standard scale].

**F16** mod. by SR 1981/199; 1987/187,383

**F17** SR 1977/327

**F18** Words in s. 7(1A)(b)(ii) inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), Sch. 2 para. 7; S.R. 2006/21, **art. 2** (subject to transitional provisions and savings in S.R. 2006/22, arts. 2 - 7)

**F19** SR 1981/2

**F20** 1984 NI 3

#### **[F21]7A Conditions as to matters required to be notified**

- (1) On granting a road service licence, the Department shall attach to it the following conditions, namely#
- (a) a condition requiring the holder of the licence to inform the Department of any event which could affect the fulfilment by the holder of the licence of any of the requirements of section 6A, and to do so within 28 days of the event; and
  - (b) a condition requiring the holder of the licence to inform the Department of any event which could affect the fulfilment by a relevant transport manager of the requirements mentioned in section 6A(1)(a) or (c), and to do so within 28 days of the event coming to the knowledge of the holder of the licence.
- (2) In subsection (1)(b) the reference to a “relevant transport manager” is a reference to the person employed by the holder of the licence who is relied on by the holder of the licence to fulfil the requirements of section 6A(1)(c).
- (3) Any person who contravenes any conditions attached under this section to a licence of which he is the holder is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

**F21** SR 2003/217

#### **8<sup>F22</sup> Duration of road service licences.**

- (1) A road service licence 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<sup>[F23]</sup> other period as may be specified therein].
- (2) If on the date of the expiration of a road service licence an application is before the Ministry for the grant of a new road service licence in substitution for an existing road service licence held by the applicant, the existing road service licence shall continue in force until the application is disposed of.

<sup>F24</sup>(2A) If on the date of the expiration of a road service licence the licence is, by virtue of regulations made under section 33, held by a person other than the person to whom the licence was granted, the licence shall continue in force until the application by that

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other person for a new road service licence is disposed of in accordance with those regulations.]

- (3) Nothing in this section shall prevent the attachment to a road service licence of a condition that the service shall be limited to one or more than one particular period or occasion.
- (4) The holder of a road service licence may, subject to any conditions attached to the licence, at any time surrender the licence to the Ministry.

**F22** mod. by SR 1981/199; 1987/187,383

**F23** SR 1977/327

**F24** SR 1981/2

## **9<sup>F25</sup> Fees for road service licences.**

- (1) There shall be paid to the Ministry<sup>F26</sup> in respect of—
  - (a) the grant of road service licences;
  - (b) applications for documents required in relation to public service vehicles—
    - (i) registered in Northern Ireland while making journeys to or from places outside Northern Ireland, or
    - (ii) registered outside Northern Ireland; and
  - (c) the issuing by the Department of the documents referred to in subparagraph (b),]

such fees as may be prescribed, with the approval of the Ministry of Finance, by regulations made by the Ministry subject to affirmative resolution.

- (2) Regulations under subsection (1) may provide that on the surrender, revocation or suspension of a road service licence the holder shall be entitled to be repaid by the Ministry by way of rebate such proportion of the fee paid on the grant of the licence as may be specified in the regulations.

**F25** mod. by SR 1981/199; 1987/187,383

**F26** 1984 NI 15

## **10<sup>F27</sup> Revocation and suspension of road service licences.**

- (1) Subject to subsection (2), a road service licence may be revoked or suspended by the Ministry on the ground that any condition subject to which the licence was granted has not been complied with.
- (2) [<sup>F28</sup> Where the condition broken is a condition attached to the road service licence otherwise than under section 7(1A) the Department shall not revoke or suspend the licence under subsection (1)] unless, owing to the frequency of the breach of conditions on the part of the holder of the licence, or to the breach having been committed wilfully, or to the danger to the public involved in the breach, the Ministry is satisfied that the licence should be revoked or suspended.
- (3) Where a person to whom the grant of a road service licence has been refused or whose road service licence has at any time been revoked or suspended becomes a director of

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a body corporate or acquires a controlling interest in that body corporate, the Ministry may revoke or suspend any road service licence held by that body corporate.

<sup>F29</sup>(3A) Subject to subsections (3B) to (3E) where at any time during the currency of a road service licence to which section 5(2) applies, it appears to the Department that the holder of the licence is not—

- (a) of good repute,
- (b) of appropriate financial standing,
- (c) professionally competent,

the Department shall revoke the licence [<sup>F30</sup> as from such time as the Department may determine].

(3B) In the case of the holder of a licence being a body corporate, subsection (3A) shall apply as if in relation to paragraphs (a) and (c), it referred to the person who is [<sup>F31</sup> continuously and effectively responsible] for the operation of the motor vehicles used under the licence and who is specified in the licence in pursuance of section 6A(5).

(3C) In the case of the holder of a licence not being a body corporate, where there is specified in the licence in pursuance of section 6A(5) a person who is [<sup>F31</sup> continuously and effectively responsible] for the operation of the motor vehicles used under the licence, subsection (3A) shall apply as if in relation to paragraph (a) it referred to that person as well as the holder of the licence and as if in relation to paragraph (c) it referred to that person.

(3D) In the event of the death or physical or mental incapacity of the holder of a licence or of a person specified in the licence in pursuance of section 6A(5) or in the event of the person so specified ceasing for some other reason to be employed by the holder of the licence, subsection (3A) shall not require the Department to revoke the licence during such period, not exceeding one year from the occurrence of the event in question, as the Department may determine, or during such further period not exceeding 6 months, as the Department may, in exceptional circumstances, determine.

(3E) The Department shall not be required by subsection (3A) to revoke a licence on a ground mentioned in paragraph (a) or (b) of that subsection if the holder of the licence satisfies the Department that he is an exempt person.]

(4) Where the Ministry decides to revoke or suspend a road service licence under this section, the Ministry shall serve a notice to that effect on the holder of the licence stating the reasons for the decision, and the revocation or suspension shall not take effect—

- (a) until the expiration of the period of twenty-eight days from the service of the notice; or
- (b) where the holder of the licence appeals to the county court under subsection (5), until the appeal is finally determined or abandoned.

(5) The holder of a road service licence who is aggrieved by the decision to revoke or suspend the licence under this section may, within twenty-eight days from the service of the notice under subsection (4), appeal to the county court, giving notice of the appeal to the Ministry.

(6) On an appeal under subsection (5) the county court, if it is satisfied that the Ministry was not justified in deciding to revoke or suspend the licence under this section, shall declare that the revocation or suspension shall be of no effect, stating the reasons for its decision, and that decision shall be final.



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**F27** mod. by SR 1981/199; 1987/187,383  
**F28** SR 1977/327  
**F29** SR 1977/327  
**F30** SR 1981/2  
**F31** SR 1981/2

**[<sup>F32</sup>10A Exemption from licensing requirements of certain motor vehicles used under permits.**

[ Section 4(2) (requirement of road service licence) and<sup>F34</sup> Articles 59 and 60] of the <sup>F33</sup>(1) Road Traffic (Northern Ireland) Order 1981 (licensing of public service vehicles and drivers, etc. thereof) shall not apply<sup>F34</sup> . . . to the use of any motor vehicle under a permit granted under section 10B, if and so long as the requirements under subsection (2) of that section are met.

[ Where a holder of a licence under Part II of the Road Traffic (Northern Ireland) Order <sup>F33</sup>(2) 1981 was first granted a licence under that Part before 1st January 1997, he may drive any small bus at a time when it is being used as mentioned in subsection (1), notwithstanding that his licence under that Part does not authorise him to drive a small bus when it is being so used.

(3) Where—

- (a) a holder of a licence under Part II of the Road Traffic (Northern Ireland) Order 1981 was first granted a licence under that Part on or after 1st January 1997, or
- (b) a Community Licence holder is authorised by virtue of Article 15A(1) of that Order to drive in Northern Ireland a motor vehicle of any class,

he may drive any small bus to which subsection (4) applies at a time when it is being used as mentioned in subsection (1), notwithstanding that he is not authorised by his licence under that Part or by virtue of that Article (as the case may be) to drive such a bus.

(4) This subsection applies to any small bus which, when laden with the heaviest load which it is constructed to carry, weighs—

- (a) not more than 3.5 tonnes, excluding any part of that weight which is attributable to specialised equipment intended for the carriage of disabled passengers, and
- (b) not more than 4.25 tonnes otherwise.

(5) In this section—

“Community licence” has the same meaning as in Part II of the Road Traffic (Northern Ireland) Order 1981, and

“small bus” has the same meaning as in sections 10B to 10D.]

**F32** [1990 NI 7](#)  
**F33** SR 1996/426  
**F34** [1991 NI 3](#)

**10B Permits in relation to buses used by educational and other bodies.**

(1) In this section and sections 10C and 10D—

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“bus” means a motor vehicle which is adapted to carry more than eight passengers;

“large bus” means a motor vehicle which is adapted to carry more than sixteen passengers;

“small bus” means a motor vehicle which is adapted to carry more than eight but not more than sixteen passengers; and

“permit” means a permit granted under this section in relation to the use of a bus for carrying passengers for hire or reward.

- (2) The requirements that must be met in relation to the use of a bus under a permit for the exemption under section 10A(a) to apply are that the bus—
- (a) is being used by a body to whom a permit has been granted under this section;
  - (b) is not being used for the carriage of members of the general public nor with a view to profit nor incidentally to an activity which is itself carried on with a view to profit;
  - (c) is being used in every respect in accordance with any conditions attached to the permit; and
  - (d) is not being used in contravention of any provision of regulations made under section 10D.
- (3) A permit in relation to the use of a small bus may be granted by a body designated by an order under subsection (6) either to itself or to any other body to whom, in accordance with the order, it is entitled to grant a permit.
- (4) A permit in relation to the use of a large bus may be granted by the Department to any body which assists or co#ordinates the activities of bodies which appear to the Department to be concerned with—
- (a) education;
  - (b) religion;
  - (c) social welfare; or
  - (d) other activities of benefit to the community.
- (5) The Department shall not grant a permit in relation to the use of a large bus unless satisfied that there will be adequate facilities or arrangements for maintaining any bus used under the permit in a fit and serviceable condition.
- (6) The Department may by order, made subject to negative resolution, designate for the purposes of this section bodies appearing to it to be eligible in accordance with subsection (7), and with respect to any body designated by it, any such order—
- (a) shall specify the classes of body to whom the designated body may grant permits;
  - (b) may impose restrictions with respect to the grant of permits by the designated body and, in particular, may provide that no permit may be granted, either generally or in such cases as may be specified in the order, unless there are attached to the permit such conditions as may be so specified; and
  - (c) may require the body to make returns with regard to the permits granted by it.
- (7) A body is eligible under this subsection if it is concerned with—
- (a) education;
  - (b) religion;
  - (c) social welfare;
  - (d) recreation; or

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- (e) other activities of benefit to the community.
- (8) A body may hold more than one permit but may not use more than one bus at any one time under the same permit.

F32 1990 NI 7

#### **10C Further provision with respect to permits under section 10B.**

- (1) Subject to subsection (2), a permit shall specify the body to whom it is granted.
- (2) A permit may be granted to a named individual on behalf of a body if, having regard to the nature of that body, it appears to the Department or the body granting the permit appropriate to do so.
- (3) Where a permit is granted to a named individual on behalf of a body, it shall be treated for the purposes of this section and section 10B as granted to that body.
- (4) In addition to any conditions attached to such a permit by virtue of section 10B(6)( b ), the Department or the body granting such a permit may attach to it such conditions as it considers appropriate, including, in particular, conditions—
  - (a) limiting the passengers who may be carried in any bus used under the permit to persons falling within such classes as may be specified in the permit; and
  - (b) with respect to such other matters as may be prescribed.
- (5) Subject to subsection (6), a permit may be varied or revoked—
  - (a) by the Department or other body who granted it; and
  - (b) in the case of a permit granted by a body designated under section 10B(6), after consultation with that body, by the Department.
- (6) A permit may not be varied so as to substitute another body for the body to whom it was granted.
- (7) A permit shall remain in force until—
  - (a) it is revoked under subsection (5); or
  - (b) in the case of a permit granted by a body designated under section 10B(6), that body ceases to be so designated.

F32 1990 NI 7

#### **10D Permits under section 10B: regulations.**

The Department may prescribe—

- (a) the conditions to be fulfilled by any person driving a bus while it is being used under a permit;
- (b) the form of permits; and
- (c) the documents, plates and marks to be carried by any bus while it is being used under a permit and the manner and position in which they are to be carried.]

F32 1990 NI 7

*Status: Point in time view as at 27/03/2006.*

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## 11 <sup>F35</sup> Powers to make grants to operators of road passenger transport services.

<sup>F36</sup>(1) For the purpose of securing the provision in any area of a service for the carriage for reward of passengers by road, the Ministry with the approval of the Ministry of Finance may, subject to subsection (2), make grants, out of moneys provided by Parliament, to any person providing, or proposing to provide, such a service in that area, where the Ministry is satisfied—

- (a) that the service is necessary to meet the reasonable needs of persons in that area;
- (b) that the service being provided or proposed to be provided will be carried on efficiently and economically; and
- (c) that the person providing or proposing to provide the service will, if grants are not made under this section, be unable or unwilling to carry on, or provide, the service in an efficient and economic manner.

(2) A grant shall not be made under this section to any person unless he is the holder of a road service licence issued under this Part.

**F35** mod. by SR 1981/199; 1987/187,383

**F36** functions transf. by SR 2001/229

*S. 12 rep. by 1984 NI 15*

*S.13 rep. by 1977 NI 10*

## PART III <sup>F37</sup>

### CARRIAGE OF GOODS BY ROAD

**F37** 1975 c.46

#### ROAD FREIGHT OPERATORS' LICENCES

## 14 Grant of operators' licences.

The Ministry may subject to and in accordance with the provisions of this Part and Part IV grant road freight operators' licences (in this Act referred to as “operators' licences”) to persons carrying or proposing to carry goods by road for reward ... <sup>F38</sup> (in this Act referred to as “road freight operators”).

**F38** SR 1977/327

## 15 Applications for operators' licences.

[<sup>F39</sup>

(1)] A person applying to the Ministry for an operator's licence shall give such information as may reasonably be required to enable the Ministry to exercise the

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

functions conferred on it by [<sup>F40</sup> sections 28 and 28A], and in particular shall give information as to—

- (a) the principal place of business, or proposed principal place of business, of the applicant, and the place or places from which he proposes to act as a road freight operator;
- (b) the district within which, or the places between which, the applicant proposes to act, as a road freight operator;
- (c) the goods which the applicant will normally carry for reward while he is acting as a road freight operator;
- (d) any previous experience of the applicant as a person providing any facilities wheresoever for the carriage of goods for reward;
- (e) any financial interest (whether past, subsisting or proposed, and whether as a partner or shareholder or as a result of a loan, guarantee or other financial transaction) of the applicant in the provision of any facilities wheresoever for the carriage of goods for reward, or any such interest of any other person in any business carried on by the applicant in providing such facilities;
- <sup>F41</sup>(f) particulars of any convictions during the five years preceding the making of the application, and at any time thereafter until the disposal of the application, of the applicant and of any person specified in the application in pursuance of section 28A(2) or (3);
- (g) particulars of the financial resources which are, or are likely to be, available to the applicant;
- (h) particulars of the professional competence qualifications of the applicant and of any person specified in the application in pursuance of section 28A(2) or (3);
- (i) a statement indicating whether or not the applicant intends to use goods vehicles operated under the licence to carry goods by road for reward elsewhere than in the United Kingdom.]

<sup>F41</sup>(2) Subsection (1)(f) and (g) shall not apply in relation to an application for an operator's licence by a person who satisfies the Department that he is an exempt person.]

**F39** SR 1977/327

**F40** SR 1977/327

**F41** SR 1977/327

### <sup>F42</sup>15A Conditions of operators' licences.

(1) The Department when granting an operator's licence—

- (a) [<sup>F43</sup>may attach conditions to the licence and in particular] a condition prohibiting the holder from using goods vehicles operated under the licence for carrying goods by road for reward elsewhere than in the United Kingdom; and
- (b) shall attach to the licence conditions for requiring the holder of the licence to inform the Department, in writing within 28 days, if during the currency of the licence—
  - (i) the holder of the licence or the person, if any, specified in the licence in pursuance of section 28A(5) is convicted of any offence;
  - (ii) the holder of the licence becomes bankrupt or goes into liquidation [<sup>F44</sup>or enters administration] or an order of seizure is made against his

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- property or a receiver or manager is appointed in relation to his trade or business; or
- (iii) the person, if any, specified in the licence in pursuance of section 28A(5) ceases for whatever reason to be [<sup>F45</sup> continuously and effectively responsible] for the operation of the goods vehicles used under the licence.
- (2) Where an operator's licence is granted by the Department to a person who satisfies the Department that he is an exempt person, paragraph ( b) of subsection (1) shall not require the Department to attach to the licence the conditions specified in subparagraphs (i) and (ii) of that paragraph.
- (3) On the application of the holder of an operator's licence to which is attached the condition referred to in subsection (1)( a) and on his production of such particulars as to his professional competence or that of the person, if any, specified in the licence in pursuance of section 28A(5) as the Department may require, the Department may remove that condition from the licence.
- (4) Where the holder of an operator's licence, or any person acting with his knowledge or consent, fails to comply with a condition of that licence, the holder of the licence shall be guilty of an offence and be liable on summary conviction to a fine not exceeding [<sup>F46</sup> level 3 on the standard scale].]

**F42** SR 1977/327

**F43** SR 1991/257

**F44** Words in s. 15A(1)(b)(ii) inserted (27.3.2006) by *Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10))*, arts. 1(3), 3(3), Sch. 2 para. 8; S.R. 2006/21, art. 2 (subject to transitional provisions and savings in S.R. 2006/22, arts. 2 - 7)

**F45** SR 1981/2

**F46** 1984 NI 3

## 16 Duration of, and fees for, operators' licences.

- (1) Subject to section 29, an operator's licence shall remain in force for three years or such [<sup>F47</sup> other period as may be specified therein].
- <sup>F48</sup>(1A) If on the date of the expiration of an operator's licence an application is before the Department for the grant of a new operator's licence in substitution for an existing operator's licence held by the applicant, the existing operator's licence shall continue in force until the application is disposed of.
- (1B) If on the date of the expiration of an operator's licence the licence is, by virtue of regulations made under section 33, held by a person other than the person to whom the licence was granted, the licence shall continue in force until the application by that other person for a new operator's licence is disposed of in accordance with those regulations.]
- (2) There shall be paid to the Ministry in respect of the grant of an operator's licence, for each complete year during which the licence is to remain in force, a fee of [<sup>F49</sup> £3] or such amount as may be prescribed with the approval of the Ministry of Finance by regulations made by the Ministry subject to affirmative resolution.

**F47** SR 1977/327

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

**F48** SR 1981/2  
**F49** SR 1985/33

## ROAD FREIGHT VEHICLE LICENCES

### 17 Grant of vehicle licences.

- (1) The Ministry may, subject to and in accordance with the provisions of this Part and Part IV, grant road freight vehicle licences (in this Act referred to as “vehicle licences”) for the use of motor vehicles to carry goods by road for reward to—
  - (a) persons who hold operator licences, in respect of motor vehicles to be used while they are acting as road freight operators;
  - (b) farmers within the meaning of section 25(1), in respect of motor vehicles kept by them primarily for the purpose of the agricultural operations in which they are engaged and to be used to carry goods for reward only in the manner referred to in section 25(2); or
  - (c) milk hauliers within the meaning of section 25(1), in respect of motor vehicles to be used only while they are acting as milk hauliers.
- (2) Subject to regulations made under section 45, no person shall use a motor vehicle on a road to carry goods for reward except under and in accordance with the terms of a licence granted under subsection (1) in respect of that vehicle and in force at the time of carrying such goods.
- (3) Any person who acts in contravention of subsection (2) shall be guilty of an offence and be liable on summary conviction to a fine not exceeding<sup>F50</sup> level 5 on the standard scale].

**F50** 1984 NI 3

### 18 Disqualifications for offences under s.17.

- (1) Without prejudice to any other penalty, any court before which a person is convicted of contravening the provisions of section 17 may order him to be disqualified for holding a goods vehicle certificate under [<sup>F51</sup> Article 54 of the Road Traffic (Northern Ireland) Order 1981 ] in respect of the vehicle used in the commission of the offence, for a period not exceeding—
  - (a) one month, where the conviction is for a first offence;
  - (b) two months, where the conviction is for a second offence;
  - (c) six months, where the conviction is for a third or subsequent offence;and where the court makes such an order the person disqualified shall forthwith, or within such period as the court may fix, deliver the goods vehicle certificate, if any, held by him to the clerk of the court and, subject to subsection (2) the clerk shall forward that certificate to the Ministry of Home Affairs<sup>F52</sup>, to be kept by that Ministry until that order ceases to be in force.
- (2) Where a person who is disqualified for holding a goods vehicle certificate by virtue of an order made under subsection (1) appeals against the order or the conviction in

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*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- relation to which the order was made, the operation of the disqualification shall be suspended pending the appeal and—
- (a) if the certificate has been delivered to the clerk of the court, the clerk shall return the certificate to the person disqualified; or
  - (b) the person disqualified shall not be required by the preceding subsection to deliver the certificate to the clerk of the court.
- (3) Where, as a result of an appeal of the kind referred to in subsection (2), the operation of an order for disqualification made under subsection (1) ceases to be suspended, the person disqualified shall forthwith, or within such period as the court which heard the appeal may fix, deliver the goods vehicle certificate granted to him to the proper officer of that court, and that officer shall forward the certificate to the Ministry of Home Affairs<sup>F52</sup>, to be kept by that Ministry until the order ceases to be in force.
  - (4) When an order made under subsection (1) ceases to be in force, the Ministry of Home Affairs<sup>F52</sup> shall return the relevant goods vehicle certificate to the person to whom it was granted.
  - (5) A person who fails to deliver a goods vehicle certificate to the clerk or proper officer of a court as required by this section shall be guilty of an offence and shall be liable on summary conviction to a fine of<sup>F53</sup> level 1 on the standard scale] for every day during the period commencing on the day on which the certificate should have been so delivered and ending on the day on which it is so delivered.
  - (6) While an order made under subsection (1) is in force the person disqualified for holding the relevant goods vehicle certificate shall also be disqualified for—
    - (a) obtaining another goods vehicle certificate in respect of the vehicle used in the commission of the offence;
    - (b) holding or obtaining any more goods vehicle certificates than one less than the number of such certificates held by him immediately before the commission of the offence of which he was convicted and in relation to which the order was made (excluding from that number any goods vehicle certificate in respect of which any other order for disqualification made under subsection (1) is in force at the time of the making of the first-mentioned order).
  - (7) The power of the Ministry of Home Affairs<sup>F52</sup> to make regulations under [<sup>F51</sup> Article 218 of the Road Traffic (Northern Ireland) Order 1981 ] shall include power to make provision for—
    - (a) the notification to that Ministry of the making of an order under subsection (1) of this section, of any appeal against such an order, and the result of any such appeal;
    - (b) the forwarding by the clerk or proper officer of a court, to that Ministry of a goods vehicle certificate which has been delivered to that clerk or officer pursuant to this section;
    - (c) suspending the holding, or restricting the obtaining, of goods vehicle certificates pursuant to the last preceding subsection.

**F51** 1981 NI 1

**F52** Now D/Env., SRO (NI) 1973/504

**F53** 1984 NI 3



*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

## 19 Applications for vehicle licences.

- (1) A person of the kind referred to in section 17(1) may apply to the Ministry, for a vehicle licence, giving such information as may reasonably be required to enable the Ministry to discharge its functions in relation to the application, including particulars of the vehicle proposed to be used under the licence which—
  - (a) belongs to the applicant; or
  - (b) is in his possession under an agreement for hire, hire-purchase, credit-sale or loan; or
  - (c) he intends to acquire, or to obtain possession of under an agreement of the kind referred to in paragraph ( b).
- (2) An applicant for a vehicle licence shall not be required to distinguish, for the purposes of his application, between vehicles belonging to him and vehicles subject to an agreement of the kind referred to in subsection (1)( b).

## 20 Conditions of vehicle licences.

- (1) The Ministry may, when granting any vehicle licence in respect of a vehicle, attach conditions to that licence, including in particular conditions relating to—
  - (a) the classes or descriptions of goods which may or may not be carried in that vehicle;
  - (b) the districts within which, or the places between which, that vehicle may be used to carry goods for reward;
  - (c) the persons or classes of persons for whom that vehicle may be used to carry goods for reward.
  - [<sup>F54</sup>(d) the parking of vehicles]
- (2) On the application of the holder of a vehicle licence, the Ministry may at any time while the licence is in force amend (whether by addition, omission or variation) the conditions attached to the licence, and upon such amendment the licence shall have effect subject to the conditions as so amended.
- (3) The conditions of a vehicle licence[<sup>F54</sup> other than conditions attached by virtue of subsection (1)(d),] shall not apply in relation to the use of the motor vehicle in respect of which the licence is granted for any purpose for which it might lawfully be used without the authority of the licence.
- (4) Subject to subsection (3), where the holder of a vehicle licence, or any person acting with his consent, fails to comply with a condition of that licence, the holder of the licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding[<sup>F55</sup> level 3 on the standard scale].

**F54** 1984 NI 15

**F55** 1984 NI 3

## 21 Effect of vehicle licences.

A vehicle licence shall not entitle the holder of the licence to use to carry goods for reward any vehicle other than the vehicle in respect of which the licence is granted.

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

## 22 Duration of vehicle licences.

- (1) Subject to the provisions of this section and of section 29, a vehicle licence shall remain in force for a period of twelve months<sup>F56</sup> or such other period as may be specified].

*Subs. (2) rep. by 1984 NI 15*

- (3) Subject to section 33, a vehicle licence shall be revoked when the motor vehicle in respect of which the licence was granted ceases—
- (a) to belong to the holder of the licence, or
  - (b) to be in the possession of the holder of the licence under an agreement for hire, hire-purchase, credit-sale or loan.

**F56** 1984 NI 15

## 23 Fees for vehicle licences.

- (1) Subject to the provisions of subsection (2) and of sections ...<sup>F57</sup> 25, there shall be paid to the Ministry in respect of the grant of a vehicle licence<sup>F58</sup> a fee of<sup>F59</sup> £2.50] for each month or part of a month during the currency of the licence].

*Paras. (a),(b) rep. by 1984 NI 15*

- (2) The amount of the fees payable under subsection (1) may be altered by regulations made by the Ministry with the approval of the Ministry of Finance.
- (3) Regulations made under subsection (2) shall be subject to affirmative resolution.

**F57** SLR 1976  
**F58** 1984 NI 15  
**F59** SR 1985/33

*S.24 rep. by SLR 1976*

## 25 Special provisions as to farmers and milk hauliers.

- (1) In this section—
- “farmer” means a person engaged to a substantial extent in carrying on or directing agricultural operations on any land;
- “milk haulier” means a person who uses a motor vehicle solely for the collection or delivery of liquid milk (including whole milk, cream, skim milk or buttermilk) not contained in sealed airtight containers.
- (2) Where a motor vehicle kept by a farmer primarily for the purpose of the agricultural operations in which he is engaged is used by that farmer to carry goods for reward only—
- (a) for other farmers who reside within three miles of the residence of the farmer who keeps that vehicle; and
  - (b) for the purposes of the business of agriculture in which those other farmers are engaged;

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the fee payable in respect of the grant of a vehicle licence for that vehicle shall be<sup>F60</sup> £2.50] or such amount as may be prescribed with the approval of the Ministry of Finance by regulations made by the Ministry subject to affirmative resolution.

*Subs. (3) rep. by 1990 NI 7*

- (4) Where a motor vehicle is used by a milk haulier only while he is acting as a milk haulier, the fee payable in respect of the grant of a vehicle licence for that vehicle shall be<sup>F60</sup> £2.50] or such amount as may be prescribed with the approval of the Ministry of Finance by regulations made by the Ministry subject to affirmative resolution.

F60 SR 1985/33

## 26 Licence, notice or mark to be affixed to and exhibited on certain vehicles.

- (1) A vehicle licence or such other notice or distinguishing mark as may be prescribed shall, in the prescribed manner, be affixed to and exhibited on the motor vehicle in respect of which the vehicle licence is in force.
- (2) If a motor vehicle in respect of which a vehicle licence is in force is used in contravention of subsection (1), the holder of the licence and the driver of the vehicle shall each be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding<sup>F61</sup> level 1 on the standard scale].

F61 1984 NI 3

## 27 Surrender of vehicle licences.

- (1) The holder of a vehicle licence may at any time surrender the licence to the Ministry.
- (2) Where a licence is—
- (a) surrendered to the Ministry under subsection (1); or
  - (b) revoked or suspended pursuant to section 29;
- the holder thereof shall be entitled to be repaid by the Ministry by way of rebate of the fee paid in respect of the grant of the licence—
- (i) for each complete month of the period of the currency of the licence which is unexpired at the time of surrender or revocation; or
  - (ii) for each complete month of the period during which the licence is suspended;
- an amount equal to one-twelfth of the fee payable when such a licence is granted for a year.

### GENERAL PROVISIONS RELATING TO OPERATORS' OR VEHICLE LICENCES

## 28 Functions as to grant of operators' or vehicle licences.

The Ministry shall, in deciding whether to grant or refuse to grant an operator's licence or a vehicle licence, have regard to the interests of persons requiring facilities for the carriage of goods and those of persons providing such facilities, and in particular shall have regard to the following matters:—

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- (a) any previous conduct of the applicant as a person providing facilities for the carriage of goods for reward;
- (b) the suspension or revocation of any operator's licence or vehicle licence held at any time by the applicant or where the applicant has or had a controlling interest in a body corporate to any refusal to grant a licence to, or revocation or suspension of a licence held by, that body corporate;
- (c) where the applicant is an agent or nominee of any other person, any previous conduct of that person as a person providing facilities for the carriage of goods for reward;
- (d) where the applicant is an agent or nominee of any other person, the suspension or revocation of any operator's licence or vehicle licence held at any time by that other person;
- (e) where the applicant is a body corporate, the refusal to grant an operator's licence or a vehicle licence to, or the revocation or suspension of any such licence held at any time by—
  - (i) any other body corporate having at the time of the application any controlling interest in the body corporate applying for the licence or in which the body corporate applying for the licence has any controlling interest;
  - (ii) any director of, or any shareholder having a controlling interest in, the body corporate which is applying for the licence or in such other body corporate as is mentioned in sub-paragraph (i);
- (f) the general effect which the grant of a licence would be expected to have on the holders of other operators' licences and on the facilities being provided in Northern Ireland for the carriage of goods by road for reward;
- (g) the need for ensuring fair competition among persons providing facilities in Northern Ireland for the carriage of goods by road for reward.

### **[<sup>F62</sup>28A Refusal of operators' licences in certain cases.**

- (1) Subject to the following provisions of this section, the Department shall refuse to grant to an applicant an operator's licence unless, having regard, in addition to the matters specified in section 28, to the information given to it in pursuance of section 15(1)(f) to (h), it is satisfied that the applicant is—
  - (a) of good repute,
  - (b) of appropriate financial standing, and
  - (c) professionally competent.
- (2) In the case of an applicant being a body corporate the requirements of subsection (1) (a) and (c) shall be satisfied by one of the persons in the<sup>F63</sup> . . . employment of the applicant who is to be [<sup>F64</sup> continuously and effectively responsible] for the operation of the goods vehicles to be used under the licence and who is specified in the application.
- (3) In the case of an applicant not being a body corporate, the requirements of subsection (1)(c) may also be regarded as satisfied where there is specified in the application a person in the<sup>F63</sup> . . . employment of the applicant who is to be [<sup>F64</sup> continuously and effectively responsible] for the operation of the goods vehicles to be used under the licence and who, the Department is satisfied, is of good repute and professionally competent.

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (4) The Department shall not be required by subsection (1) to refuse to grant an operator's licence on a ground mentioned in subsection (1)( a) or ( b) if the applicant satisfies the Department that he is an exempt person.
- (5) There shall be specified in a licence granted by the Department in pursuance of an application to which either subsection (2) or (3) applies, the person who is to be [<sup>F64</sup> continuously and effectively responsible] for the operation of the goods vehicles to be used under the licence and who is specified in the application.]

**F62** SR 1977/327

**F63** SR 2003/217

**F64** SR 1981/2

## **29 Suspension and revocation of operators' or vehicle licences.**

- (1) The Ministry may revoke or suspend a vehicle licence on any of the following grounds—
    - (a) that the Ministry of Home Affairs<sup>F65</sup> has revoked or suspended the goods vehicle certificate granted under [<sup>F66</sup> Article 54 of the Road Traffic (Northern Ireland) Order 1981 ] in respect of the vehicle to which the licence relates;
    - (b) that the holder of the licence has been convicted of contravening or failing to comply with section 17(2);
    - (c) that the holder of the licence has been convicted of an offence under section 20;
    - (d) that the holder of the licence, or any servant or agent of his, has been convicted of an offence under section 34, 35 or 40;
    - <sup>F67</sup>(dd) that the holder of the licence, or any servant or agent of his, has been convicted of an offence under section 2 of the International Road Haulage Permits Act 1975 ;]
    - (e) that the holder of the licence, or any servant or agent of his, has, in relation to the vehicle in respect of which the licence is granted, been convicted of contravening any statutory provision relating to—
      - (i) the maintenance of vehicles in a fit and serviceable condition;
      - (ii) the regulation, taxation or certification of vehicles;
      - (iii) limits of speed and weight, laden and unladen, and the loading of vehicles;
      - (iv) the time for which drivers of goods vehicles may remain continuously on duty and the hours which they are to have for rest;
      - (v) the keeping of records as to hours of work;
- Para. (f) rep. by 1990 NI 7*
- (g) where the licence is held by a body corporate, that a person to whom the grant of an operator's licence or vehicle licence has been refused or whose operator's licence or vehicle licence has at any time been revoked or suspended has become a director of that body corporate or has acquired a controlling interest in that body corporate.
- (2) Where within any period of thirty-six consecutive months the Ministry has revoked or suspended, on any of the grounds referred to in subsection (1)( b) to ( g), any vehicle

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licences held by a road freight operator, the total number of such revocations and suspensions being—

- (a) not less than three; and
- (b) not less than one-tenth (calculated to the nearest whole number) of the greatest number of vehicle licences held by that operator during the said period;

and the Ministry is satisfied that, having regard to the conduct of the operator, the operator's licence held by the operator should be revoked or suspended, the Ministry may revoke or suspend the operator's licence held by that operator, and may also revoke or suspend all the vehicle licences held by that operator.

<sup>F68</sup>(2A) An operator's licence may be revoked or suspended by the Department on the ground that any condition subject to which the licence was granted has not been complied with.

- (2B) Subject to subsections (2C) to (2F), where at any time during the currency of an operator's licence it appears to the Department that the holder of the licence is not—
- (a) of good repute,
  - (b) of appropriate financial standing, or
  - (c) professionally competent,

the Department shall revoke the licence [<sup>F69</sup> as from such time as the Department may determine].

- (2C) In the case of the holder of a licence being a body corporate, subsection (2B) shall apply as if in relation to paragraphs (a) and (c), it referred to the person who is [<sup>F70</sup> continuously and effectively responsible] for the operation of the goods vehicles used under the licence and who is specified in the licence in pursuance of section 28A(5).

- (2D) In the case of the holder of a licence not being a body corporate where there is specified in the licence in pursuance of section 28A(5) a person who is [<sup>F70</sup> continuously and effectively responsible] for the operation of the goods vehicles used under the licence subsection (2B) shall apply as if in relation to paragraph (a) it referred to that person as well as the holder of the licence and as if in relation to paragraph (c) it referred to that person.

- (2E) In the event of the death or physical or mental incapacity of the holder of a licence or of a person specified in the licence in pursuance of section 28A(5) or in the event of the person so specified ceasing for some other reason to be [<sup>F71</sup> in the full-time employment of] the holder of the licence, subsection (2B) shall not require the Department to revoke the licence during such period, not exceeding one year from the occurrence of the event in question, as the Department may determine, or during such further period, not exceeding 6 months, as the Department may, in exceptional circumstances, determine.

- (2F) The Department shall not be required by subsection (2B) to revoke a licence on a ground mentioned in paragraph (a) or (b) of that subsection if the holder of the licence satisfies the Department that he is an exempt person.

- (2G) Where the Department revokes or suspends an operator's licence under subsection (2A) or (2B), it may also revoke or suspend all the vehicle licences held by that operator.]

- (3) Where the Ministry decides to revoke or suspend an operator's licence under [<sup>F72</sup> this section], the Ministry shall serve a notice to that effect on that road freight operator, stating the reasons for the decision, and the revocation or suspension shall not take effect—

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*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (a) until the expiration of the period of twenty-eight days from the service of the notice; or
  - (b) where the road freight operator appeals to the county court under subsection (4), until the appeal is finally determined or abandoned.
- (4) A road freight operator aggrieved by the decision to revoke or suspend his road freight operator's licence under [<sup>F72</sup> this section] may, within twenty-eight days from the service of the notice under subsection (3), appeal to the county court, giving notice of the appeal to the Ministry.
- (5) On an appeal under subsection (4) the county court, if it is satisfied that the Ministry was not justified in deciding to revoke or suspend the licence under [<sup>F72</sup> this section], shall declare that the revocation or suspension shall be of no effect, stating the reasons for its decision, and that decision shall be final.

**F65** Now D/Env., SRO (NI) 1973/504

**F66** 1981 NI 1

**F67** 1975 c.46

**F68** SR 1977/327

**F69** SR 1981/2

**F70** SR 1981/2

**F71** 1990 NI 7

**F72** SR 1977/327

*S.30 rep. by SLR 1976*

## PART IV

### GENERAL PROVISIONS RELATING TO LICENCES UNDER PARTS II AND III

#### **31** <sup>F73</sup> **Records of licences.**

- (1) The Ministry shall keep a record of all road service licences and operators' licences granted by it under Parts II and III.
- (2) Any person appearing to the Ministry to have reasonable grounds for claiming so to do shall be entitled at any reasonable time to inspect the record kept under this section.
- (3) The Ministry shall provide a copy of or extract from the record or any part thereof to any person reasonably requiring such copy or extract.

**F73** mod. by SR 1987/187, 383

#### **32** <sup>F74</sup> **Copies of licences.**

Where the Ministry is satisfied that a licence granted under Part II or Part III has been lost, destroyed or so defaced by accident as to be incapable of use, the Ministry may, on payment of a fee of [<sup>F75</sup> 25p] issue a copy thereof to the person to whom the licence was granted or, as the case may be, to the person to whom the licence was transferred by virtue of regulations made under section 33(2).

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

**F74** mod. by SR 1987/187, 383  
**F75** 1969 c.19

### 33<sup>F76</sup> Transfer of licences.

- (1) Subject to subsection (2), a licence granted under Part II or Part III shall not be transferable by the holder of the licence or by operation of law to any other person.
- (2) The Ministry may by regulations provide for the holding of a licence granted under Part II or Part III by a person other than the person to whom the licence was granted where—
  - (a) the person to whom the licence was granted dies or becomes incapacitated, or is<sup>F77</sup> adjudged bankrupt or makes a voluntary arrangement proposed for the purposes of, and approved under, Part VIII of the Insolvency (Northern Ireland) Order 1989];
  - (b) an order has been made by a court, or a resolution has been passed for the winding up of the undertaking of the person to whom the licence was granted, except for the purpose of reconstruction;
  - (c) a receiver or liquidator of the undertaking of the person to whom the licence was granted has been appointed<sup>F78</sup> or the undertaking enters administration]; or
  - (d) the person to whom the licence was granted is a government department (including a department of the Government of the United Kingdom) or a body established by or under any statutory provision and the functions of that department or body are transferred by or under a statutory provision to any other person; <sup>F79</sup> or
  - (e) in the case of a road service licence or operator's licence, the licence has been revoked under section 10(3A) or 29(2B), as the case may be, as from some future date.]

**F76** mod. by SR 1987/187, 383  
**F77** 1989 NI 19  
**F78** Words in s. 33(2)(c) inserted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), Sch. 2 para. 9; S.R. 2006/21, [art. 2](#) (subject to transitional provisions and savings in S.R. 2006/22, arts. 2 - 7)  
**F79** SR 1981/2

### 34<sup>F80</sup> Forgery of licences.

- <sup>F81</sup> If, with intent to deceive, any person—
- (a) <sup>F82</sup> . . . alters or uses or lends to, or allows to be used by, any other person, a licence granted under Part II or Part III, or any notice or distinguishing mark prescribed under section 26 <sup>F83</sup> or any certificate or diploma referred to in<sup>F84</sup> section 46D(1) or 46E(1)] <sup>F85</sup> or any international road haulage permit]<sup>F86</sup> or a control document issued under Article 6 of Council Regulation (EC) No. 12/98 of 11th December 1997];
  - (b) makes or has in his possession any document or mark so closely resembling any such licence <sup>F83</sup>, certificate, diploma] <sup>F87</sup> mark or permit] as to be calculated to deceive;



*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

he shall be guilty of an offence and shall be liable —

- (i) on summary conviction, to a fine not exceeding<sup>[F88]</sup> level 3 on the standard scale] or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment;
- (ii) on conviction on indictment, to imprisonment for a term not exceeding two years, with or without a fine.

**F80** mod. by SR 1987/187, 383

**F81** SR 1981/2

**F82** 1981 c. 45

**F83** SR 1977/327

**F84** SR 2003/217

**F85** 1975 c.46

**F86** SR 2005/212

**F87** 1975 c.46

**F88** 1984 NI 3

### 35<sup>F89</sup> **False statements.**

<sup>F90</sup> A person who for the purpose of—

- (a) obtaining the grant of a licence under Part II or Part III to himself or any other person;
- (b) preventing the grant of any such licence; or
- (c) procuring the attachment of conditions to, or the amendment of conditions attached to, any such licence; <sup>[F91]</sup> or
- (d) obtaining the grant of an international road haulage permit to himself or any other person];<sup>F92</sup> . . .
- <sup>[F93]</sup>(e) obtaining from the Department any certificate of professional competence recognised for the purposes of section 46A(5) or(6).<sup>[F92]</sup> or]]
- <sup>[F92]</sup>(f) obtaining the issue of a control document under Article 6 of Council Regulation (EC) No. 12/98 of 11th December 1997;]

knowingly makes a statement which is false in a material particular shall (without prejudice to <sup>[F94]</sup> Article 10 of the Perjury (Northern Ireland) Order 1979 ) be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F95]</sup> level 3 on the standard scale] or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

**F89** mod. by SR 1987/187, 383

**F90** SR 1981/2

**F91** 1975 c.46

**F92** SR 2005/212

**F93** 1984 NI 15

**F94** 1979 NI 19

**F95** 1984 NI 3

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

### 36<sup>F96</sup> Disclosure of information.

- (1) Any information which is obtained under Part II, Part III or this Part shall not, without the previous consent in writing of the person from whom the information was obtained, be disclosed except for the purposes of—
  - (a) the execution of those Parts, and of general statistics and returns;
  - (b) any legal proceedings arising out of those Parts, or any criminal proceedings, whether so arising or not;
  - (c) any reports of any proceedings of the kind referred to in paragraph ( b).
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction, to a fine not exceeding<sup>F97</sup> level 3 on the standard scale], or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

**F96** mod. by SR 1987/187, 383

**F97** 1984 NI 3

### 37<sup>F98</sup> Inspectors and powers of entry.

*Subs. (1) rep. by 1995 NI 18*

- (2) An inspector appointed under this Part shall, for the purposes of the enforcement of Parts II and III and this Part, have power to—
  - (a) enter and inspect any motor vehicle used for the carriage of passengers or goods by road for reward, and for that purpose may stop and detain the vehicle during such time as is required for the inspection;
  - (b) enter, at any time which is reasonable having regard to the circumstances, any premises in or on which he has reason to believe that a motor vehicle used for the carriage of passengers or goods by road for reward is kept;
  - (c) enter, at any time which is reasonable having regard to the circumstances, any premises which he has reason to believe are used in connection with the carriage of passengers or goods by road for reward.
- (3) If a justice of the peace, on sworn information in writing, is satisfied—
  - (a) that an inspector appointed under this section has been refused admission to any premises which he has a right to enter under subsection (2), or that such a refusal is apprehended, and that notice of the intention to apply for the warrant has been given to the occupier; or
  - (b) that an application for admission to the premises, or the giving of such a notice, would defeat the object of the entry, or that the premises are unoccupied or that the owner is temporarily absent;

the justice may by warrant under his hand, which shall continue in force for a period of one month, give authority to an inspector to enter the premises, if need be by force.
- (4) An inspector entering any premises under this section may take with him such other persons as appear to him to be necessary.
- (5) On leaving any premises which he has entered under this section, being premises which are unoccupied or the occupier of which is temporarily absent, an inspector shall leave them as effectively secured against unauthorised entry as he found them.

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (6) If any inspector or other person who enters any work-place under this section discloses to any person any information obtained by him in the work-place with regard to any manufacturing process or trade secret he shall, unless the disclosure was made in the course of his duty, be guilty of an offence and shall be liable—
- (a) on summary conviction, to a fine not exceeding<sup>F98</sup> level 3 on the standard scale] or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, with or without a fine.

**F98** mod. by SR 1987/187, 383

**F99** 1984 NI 3

### **38<sup>F100</sup> Obtaining of information etc. by inspectors.**

- (1) Where an inspector appointed under this Part has reasonable cause to believe that a motor vehicle is used for the carriage of passengers or goods for reward—
- (a) the owner or driver of the vehicle;
  - (b) any person who has made, is making or intends to make, use of that vehicle for the carriage of passengers or goods for reward;
  - (c) any servant or agent of any person of the kind referred to in paragraphs ( a ) and ( b );
- shall furnish to that inspector all such information, and produce for his inspection all such documents, as the inspector may reasonably require from that person for the purposes of obtaining the name and address of the owner of the vehicle or of the person whose servant or agent the driver is, and of ascertaining, in relation to any passengers or goods which have been, or are being, or are to be, carried on the vehicle for reward, particulars of—
- (i) the number of passengers or the description of the goods and the name and address of the owner of the goods;
  - (ii) the places from which and to which the passengers or goods have been, are being, or are to be, carried;
  - (iii) the reward for the carriage of the passengers or goods.
- (2) The owner or occupier of any premises entered by an inspector under section 37, or any servant or agent of any such person, or any person found on any such premises, shall give to the inspector such information as it is in his power to give as to—
- (a) the name and address of the owner of any motor vehicle used for the carriage of passengers or goods for reward which is kept in or on those premises, or of the person whose servant or agent the driver of any such vehicle is;
  - (b) the matters referred to in subsection (1)(i), (ii) and (iii), in relation to any passengers or goods which have been, are being, or are to be, carried on any such vehicle kept in or on those premises;
  - (c) any use of those premises in connection with carriage of passengers or goods by road for reward.
- (3) An inspector may take copies of any documents—
- (a) produced to him under this section; or

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*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (b) relating to the carriage of passengers or goods by road, being documents which are found by him on any vehicle or premises entered under section 37, and for that purpose the inspector may detain any document or motor vehicle for such time as is required for such copying.

**F100** mod. by SR 1987/187, 383

### **39<sup>F101</sup> Power to seize certain articles.**

- (1) If an inspector appointed under this Part has reasonable cause to believe that a document produced to him in pursuance of this Part is a document in relation to which an offence has been committed under section 34 or 35, he may seize the document.
- (2) Where a document is seized under subsection (1), the person from whom it was seized shall, unless the document has been previously returned to him or he has been previously charged with an offence in relation thereto under either of the sections referred to in subsection (1), be summoned before a court of summary jurisdiction to account for his possession of the document and the court shall make such order respecting the disposal of the said document and award such costs as the justice of the case may require.
- (3) If an inspector appointed under this Part has reasonable cause to believe that a document or mark carried on a motor vehicle, or by the driver thereof, is a document or mark in respect of which an offence has been committed under—
  - (a) section 34, in relation to any notice or distinguishing mark prescribed under section 26; or
  - (b) section 34 or 35, in relation to a vehicle licence;
 he may seize the document or mark, and for the purposes of this subsection the power to seize shall include the power to detach from a vehicle.
- (4) Where a document or mark is seized under subsection (3), either the owner or driver of the vehicle shall, if the document or mark is still detained and neither of them has been charged with an offence in relation thereto under either of the sections referred to in subsection (3), be summoned before a court of summary jurisdiction to account for his possession of, or the presence on the vehicle of, the said document or mark, and the court shall make such order respecting the disposal of the said document or mark and award such costs as the justice of the case may require.

**F101** mod. by SR 1987/187, 383

### **40<sup>F102</sup> Obstruction of inspectors.**

Any person who—

- (a) wilfully obstructs an inspector acting in the exercise of his functions under this Part; or
- (b) without reasonable cause fails to give an inspector acting as aforesaid any information, or to produce to any such inspector any documents, or to allow that inspector to copy any documents, being information or documents which that inspector may reasonably require of him for the purpose of the exercise of those functions; or

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*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (c) prevents, or attempts to prevent, any other person from giving any such information to any inspector acting as aforesaid; or
- (d) in giving any such information to any inspector acting as aforesaid makes any statement which he knows to be false in a material particular;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F103</sup> level 3 on the standard scale] or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

**F102** mod. by SR 1987/187, 383

**F103** 1984 NI 3

#### **41**<sup>F104</sup> **Authorisation of inspectors.**

An inspector appointed under this Part shall, when exercising his functions under this Part produce, if so required a duly authenticated document showing his authority to act as such inspector.

**F104** mod. by SR 1987/187, 383

#### **42**<sup>F105</sup> **Functions of police.**

A member of the Royal Ulster Constabulary may exercise the functions of an inspector appointed under this Part, but it shall not be necessary for any such member wearing uniform to produce any authority pursuant to section 41.

**F105** mod. by SR 1987/187, 383

#### **43**<sup>F106</sup> **Prosecutions.**

- (1) Proceedings for an offence under any of the provisions of Parts II and III and this Part shall not be instituted except by the Ministry or by a member of the Royal Ulster Constabulary.
- (2) Summary proceedings for an offence under Part II, Part III or this Part may be commenced at any time within the period of two years from the date of the commission of the offence, or within the period of six months from the date on which evidence sufficient to justify a prosecution for the offence came to the knowledge of the Ministry, whichever period first expires.
- (3) For the purpose of subsection (2) a certificate, purporting to be issued by the Minister or a secretary or assistant secretary of the Ministry, as to the date on which such evidence as aforesaid came to the knowledge of the Ministry, shall be prima facie evidence thereof.

**F106** mod. by SR 1987/187, 383

*S. 44 rep. by 1990 NI 7*

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

**45<sup>F107</sup> Regulations for purposes of Parts II, III and IV.**

The Ministry may make regulations for prescribing anything which may be prescribed under Part II, Part III or this Part and generally for the purpose of carrying those Parts into effect, and, without prejudice to the generality of the foregoing, may make regulations with respect to any of the following matters:—

- (a) applications for and the issue of licences under those Parts;
- (b) the form of, and the particulars to be included in, those licences;
- (c) the procedure on applications for those licences and for the amendments of conditions attached to those licences;
- (d) the procedure for the determination by the Ministry of questions in connection with the grant, refusal, suspension and revocation of those licences and the attachment of conditions to those licences;
- (e) the reviewing by the Ministry of the determination of questions of the kind referred to in paragraph ( d );
- (f) the documents, plates and marks to be carried in or by vehicles used under and in accordance with a road service licence and the manner in which they are to be carried;
- (g) the custody of licences granted under Parts II and III, the production, return or cancellation of those licences on their expiration, suspension or revocation and the custody, production and return of any documents, plates or marks prescribed under paragraph ( f ) or of any notice or distinguishing mark prescribed under section 26;
- (h) the notification to the Ministry of vehicles which have ceased to be used under vehicle licences;
- (i) the exemption from any of the provisions of Parts II and III and this Part of persons operating or proposing to operate such transport services as may be specified in the regulations or of vehicles of such classes or descriptions as may be so specified or vehicles used for such purposes or in such circumstances as may be so specified;
- [<sup>F108</sup>(j) the application, with such additions, omissions, alterations or other modifications (whether conditional or not) as may be prescribed, of any of the provisions of Part II or of this Part, in relation to—
  - (i) public service vehicles registered in Northern Ireland while making journeys to or from places outside Northern Ireland, and
  - (ii) public service vehicles registered outside Northern Ireland;
 and in this paragraph “public service vehicle” has the same meaning as in Article 2(2) of the Road Traffic (Northern Ireland) Order 1981;]

**F107** mod. by SR 1987/187, 383

**F108** 1984 NI 15

**46<sup>F109</sup> Interpretation of “carriage for reward” for purposes of Parts II and III and this Part.**

For the purpose of Parts II and III and this Part—

- (a) the expression “reward” shall include consideration of any kind whether monetary or not<sup>F110</sup>, but shall not include any payment in respect of a journey in a motor vehicle in circumstances where the conditions set out in Article 66A(2) of the Road Traffic (Northern Ireland) Order 1981 (car-sharing

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arrangements) are satisfied]<sup>F111</sup> or any payment in respect of a journey in a motor vehicle exempted from licensing requirements by virtue of section 10A]

- (b) where a motor vehicle is being used on a road to carry for reward any passengers or any goods the driver of the vehicle, if it belongs to him or is in his possession under an agreement for hire, hire-purchase, credit-sale or loan, and, in any other case, the person whose agent or servant the driver is, shall be deemed to be the person by whom the vehicle is being so used (in this section referred to as “the carrier”):

Provided that where an agreement for the hire of a motor vehicle which is used to carry passengers or goods on a road is accompanied by a transfer to the person hiring the vehicle of the services of a driver thereof, the person by whom the vehicle has been let on hire shall be deemed to carry such passengers or goods for reward]<sup>F112</sup> unless the person to whom the vehicle has been let on hire uses the vehicle to carry such passengers or goods for reward in the course of a business of carrying passengers or goods for reward];

- (c) goods carried in a motor vehicle on any road pursuant to any contract or arrangement—
- (i) under which the carrier, otherwise than in the ordinary course of his trade or business, agrees or arranges with any other person to purchase or obtain any goods in one place and to sell or deliver such goods subsequently to that person or as directed by him at another place for a price which exceeds the price paid or payable by the carrier for the goods by an amount wholly or partly determined by or based upon or capable of being attributed to the cost of carrying the goods;
  - (ii) under which the carrier, otherwise than in the ordinary course of his trade or business, purchases or agrees to purchase from any other person any goods which are or are to be carried to some place for the purpose of being sold there and the price paid or to be paid by the carrier to the vendor for the goods is less than the price received or to be received by the carrier on such sale by an amount wholly or partly determined by or based upon or capable of being attributed to the cost of carrying the goods; or
  - (iii) providing that any motor vehicle belonging to two or more persons as co-owners or as partners may be used by any one of them for the purpose of carrying his goods in return for a contribution made or to be made by him towards the expenses of operating the vehicle or to the partners or co-owners in return for his use of such vehicle;

shall be deemed to be carried for reward;

- (d) goods not the property of the carrier shall until the contrary is proved be deemed to be carried for reward and where the carrier is a partnership firm or other association of persons goods owned otherwise than in the like shares in which the vehicle carrying it is owned shall be deemed not to be the property of the carrier;
- <sup>F113</sup>(e) “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.]

**F109** mod. by SR 1987/187, 383

**F110** 1981 NI 24

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

**F111** 1990 NI 7  
**F112** 1984 NI 15  
**F113** 1975 c.46

**[<sup>F115</sup>46A [<sup>F114</sup> Interpretation of certain expressions in Parts II and III.]**

- (1) The following provisions of this section and sections 46B to 46F shall have effect for the interpretation of certain expressions used in sections 5, 6A, 7, 10, 15, 15A, 28A and 29.
- (2) (a) “conviction” means—
  - (i) any conviction mentioned in section 29(1) or any conviction of contravening any provision of the law of Great Britain or of a country or territory outside the United Kingdom corresponding to any such conviction, or
  - (ii) any other conviction of an offence which is a serious offence as defined in section 46B(3) or a road transport offence as defined in section 46B(4),  
 not being in either case a spent conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978; and a reference to a person being convicted of an offence shall be construed accordingly;
- (b) “a sentence of imprisonment” includes any form of custodial sentence or order other than one under the enactments relating to mental health and “a community service order” means an order under Article 7 of the Treatment of Offenders (Northern Ireland) Order 1976; and
- (c) references to an offence under the law in force in any part of the United Kingdom include a reference to a civil offence within the meaning of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.]

**F114** SR 1977/327  
**F115** SR 2003/217

**46B Good repute of road freight and road passenger transport operators**

- (1) For the purpose of determining whether a person is or is not of good repute regard shall be had in particular to the existence and number of any convictions (within the meaning of section 46A(2)) relating to the person or any partner, employee or agent of the person or, in the case of a company, any officer of the company during the period of 5 years ending with the date on which the matter falls to be determined.
- (2) The Department shall determine that a person, or any partner, employee or agent of the person, or, in the case of a company, any officer of the company, is not of good repute if he has—
  - (a) more than one conviction of a serious offence; or
  - (b) been convicted of road transport offences.
- (3) For the purposes of subsection (2)(a) a serious offence is—
  - (a) an offence under the law in force in any part of the United Kingdom for which a sentence of imprisonment for a term exceeding 3 months, a fine exceeding level 4 on the standard scale or a community service order for more than 60 hours was imposed; and



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*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

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- (b) any corresponding offence under the law of a country or territory outside the United Kingdom for which a corresponding punishment was imposed.
- (4) For the purposes of subsection (2)(b) a road transport offence is—
  - (a) an offence under the law of any part of the United Kingdom relating to road transport including in particular—
    - (i) an offence relating to drivers' hours of work or rest periods, the weights, dimensions and taxation of commercial vehicles, road or vehicle safety or the protection of the environment, and
    - (ii) any other offence concerning professional liability; or
  - (b) any corresponding offence under the law of a country or territory outside the United Kingdom.
- (5) For the purposes of subsection (2) spent convictions shall be disregarded.
- (6) Subsection (2) is without prejudice to the power of the Department to determine that a person is not of good repute for reasons other than convictions of the kind there mentioned.

#### **46C Financial standing of road freight and road passenger transport operators**

- (1) A person applying for or holding a road service licence or an operator's licence shall be regarded as having appropriate financial standing if he has available, or will have available, to him sufficient financial resources to ensure the launching and proper administration of the service or undertaking operated or to be operated by him under that licence.
- (2) An applicant for, or the holder of, a road service licence or an operator's licence authorising the use of vehicles for international operations shall not be considered to be of the appropriate financial standing unless he has available to him capital and reserves of at least—
  - (a) 9,000 Euro for the first or only vehicle which is to be or is authorised under the licence; and
  - (b) 5,000 Euro for each additional vehicle which is to be or is so authorised.

#### **46D Professional competence of road passenger transport operators**

- (1) In relation to an applicant for, or a holder of, a road service licence “exempt person” means a person who held, or was one of the holders of, a relevant licence before 1st January 1978 and, subject to subsection (2), for the purposes of a road service licence a person shall be regarded as professionally competent if—
  - (a) he held, or was one of the holders of, a relevant licence before 1st January 1975; or
  - (b) he has demonstrated that he possesses the requisite skills by passing a written examination organised by an approved body and is the holder of a certificate to that effect issued by that body; or
  - (c) he is the holder of any other certificate of competence, diploma or other qualification recognised for the purposes of this section by the Department; or
  - (d) before 1st January 1980 he has held a relevant licence for not less than 3 years continuously.

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (2) A person shall not be regarded, for the purposes of subsection (1)(a), as the holder, or one of the holders of, a relevant licence, other than a road service licence, at any time unless he is the holder of a certificate issued by the Department for Transport or the competent authority of any Member State other than the United Kingdom to the effect that he held such a licence.
- (3) In subsections (1) and (2), “relevant licence” means—
- (a) a road service licence; or
  - (b) a licence or other authorisation granted in a Member State which authorises the holder to provide a service for the carriage of passengers by road for reward.
- (4)
- (a) The written examination mentioned in subsection (1)(b) may be supplemented by an oral examination organised by the approved body in the form set out in Annex I to Council Directive No. [96/26/EC](#);
  - (b) the certificate mentioned in subsection (1)(b) must take the form of the certificate set out in Annex Ia to that Directive;
  - (c) in subsection (1)(b), “approved body” means—
    - (i) a body approved by the Department for the purposes of that subsection, or
    - (ii) a body approved by the Secretary of State for the purposes of paragraph 6 of Schedule 3 to the Public Passenger Vehicles Act 1981, or
    - (iii) a body or authority designated by another Member State for the purposes of Article 3(4) of Council Directive No. [96/26/EC](#); and
  - (d) in subsection (1)(b), “the requisite skills” means knowledge corresponding to the level of training, for either national or international transport operations as the case may be, provided for in Annex I to that Directive in the subjects there listed.
- (5) Where two or more individuals trading in partnership apply for, or are the holders of, a road service licence, the applicant for, or as the case may be, the holder of, the licence shall be regarded as professionally competent if one of those individuals who is continuously and effectively responsible for the operation of the vehicles used under the licence is professionally competent.

#### **46E Professional competence of road freight operators**

- (1) In relation to an applicant for, or a holder of, an operator's licence “exempt person” means a person who held, or was one of the holders of, a relevant licence before 1st January 1978 and, subject to subsection (2), for the purposes of an operator's licence a person shall be regarded as professionally competent if—
- (a) he held, or was one of the holders of, a relevant licence before 1st January 1975; or
  - (b) he has demonstrated that he possesses the requisite skills by passing a written examination organised by an approved body and is the holder of a certificate to that effect issued by that body; or
  - (c) he is the holder of any other certificate of competence, diploma or other qualification recognised for the purposes of this section by the Department; or
  - (d) before 1st January 1980 he has held a relevant licence for not less than 3 years continuously.

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*Status: Point in time view as at 27/03/2006.*

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- (2) A person shall not be regarded, for the purposes of subsection (1)(a), as the holder, or one of the holders of, a relevant licence, other than an operator's licence, at any time unless he is the holder of a certificate issued by the Department for Transport or the competent authority of any Member State other than the United Kingdom to the effect that he held such a licence.
- (3) In subsections (1) and (2), “relevant licence” means—
- (a) an operator's licence; or
  - (b) a licence or other authorisation granted in a Member State which authorises the holder to carry goods by road for reward.
- (4) (a) The written examination mentioned in subsection (1)(b) may be supplemented by an oral examination organised by the approved body in the form set out in Annex I to Council Directive No. [96/26/EC](#);
- (b) the certificate mentioned in subsection (1)(b) must take the form of the certificate set in Annex Ia to that Directive;
- (c) in subsection (1)(b), “approved body” means—
- (i) a body approved by the Department for the purposes of that subsection, or
  - (ii) a body approved by the Secretary of State for the purposes of paragraph 13 of Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995, or
  - (iii) a body or authority designated by another Member State for the purposes of Article 3(4) of Council Directive No. [96/26/EC](#); and
- (d) in subsection (1)(b), “the requisite skills” means knowledge corresponding to the level of training, for either national or international transport operations as the case may be, provided for in Annex I to that Directive in the subjects there listed.
- (5) Where two or more individuals trading in partnership apply for, or are the holders of, an operator's licence, the applicant for, or as the case may be, the holder of, the licence shall be regarded as professionally competent if one of those individuals who is continuously and effectively responsible for the operation of the vehicles used under the licence is professionally competent.

#### **46F Savings**

The provisions of section 46A(5) and (6) that were in force prior to 21st May 2003 in relation to certificates of professional competence shall continue to apply in relation to a certificate of professional competence—

- (a) which was issued before 21st May 2003; or
- (b) which was issued on or after that date to a person who before that date passed the whole or any part of the examination leading to the issue of that certificate.

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

## PART V

### THE NORTHERN IRELAND TRANSPORT HOLDING COMPANY

#### 47 Establishment of the Northern Ireland Transport Holding Company.

- (1) For the purposes of this Act there shall be a body corporate with perpetual succession to be known as the Northern Ireland Transport Holding Company (in this Act referred to as “the Holding Company”).
- (2) The Holding Company shall consist of a chairman and not more than eight other directors all of whom shall be members thereof and shall be appointed by the Minister.
- (3) The chairman and other directors of the Holding Company shall be appointed from among persons who appear to the Minister to have had wide experience of, and to have shown capacity in, transport, industrial, commercial or financial matters or to have other adequate or suitable experience, and the Minister in appointing them shall have regard to the desirability of including among them persons who are directors of, or concerned in the management of, the subsidiaries of the Holding Company.
- (4) Schedule 1 shall have effect as regards the directors of the Holding Company and its proceedings.

#### 48 General functions of the Holding Company.

- <sup>F116</sup>(1) The objects of the Holding Company shall be—
- (a) subject to the provisions of sections 69 and 70, to hold and manage the properties vested in it by virtue of section 68 and any other properties acquired by it; and
  - (b) to exercise the rights attached to such properties;
- as if the Holding Company were a company engaged in a commercial enterprise, and the Holding Company shall have power for those objects—
- (i) to form, promote and assist companies (including subsidiary companies) and, without prejudice to the foregoing, to lend money to any of its subsidiary companies;
  - (ii) to subscribe for, take, acquire and hold, exchange and sell securities of companies;
  - (iii) to acquire and, subject to subsection (2), dispose of any property;
- and generally to carry on any business usually carried on by a holding company and to do all such other things as are incidental or conducive to the attainment of those objects.
- (2) The Holding Company shall not, without the consent of the Ministry which may be given for any case or description of cases specified in the consent or may be general and may be given subject to conditions, exercise its powers under subsection (1) to dispose of any property held by it.
  - (3) The Minister may by order extend or vary the objects, duties and powers of the Holding Company under this section but he shall not make such an order unless a draft of the order has been laid before Parliament and approved by resolution of each House.

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*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

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**49 Power to Minister to give directions as to policy and control by the Holding Company of its subsidiaries.**

- (1) The Minister may from time to time give directions to the Holding Company as to the policy to be followed by it (including its policy towards its subsidiary companies) and may vary, suspend or revoke any directions so given and the Holding Company shall comply with any such directions.
- (2) It shall be the duty of the Holding Company to exercise its powers in relation to its subsidiary companies so as to ensure that a subsidiary company—
  - (a) does not do anything which the Minister has directed the Holding Company not to do;
  - (b) does not, except with the consent of the Ministry, borrow money; and
  - (c) does not, except with the consent of the Ministry, raise money by the issue of shares or stock.
- (3) The appointment or re-appointment by the Holding Company of any person to be a director of any of its subsidiary companies shall be subject to the approval of the Minister.

**50 Surplus Funds of the Holding Company.**

The Ministry, with the approval of the Ministry of Finance, may require the Holding Company to pay to the Ministry out of any moneys which appear to the Ministry to be surplus to the requirements of the Company such sums as the Ministry may determine.

**51 Borrowing powers of the Holding Company.**

- (1) The Holding Company shall not borrow money except in accordance with the provisions of this section.
- (2) Subject to subsection (3) the Holding Company with the approval of the Ministry may, for the purpose of discharging its functions, making loans to a subsidiary company or meeting its obligations, borrow money from time to time in any of the following ways—
  - (a) by way of overdraft or other arrangement with bankers or otherwise;
  - (b) from a subsidiary of the Company;
  - (c) by means of<sup>[F117]</sup> government loans under Part III of the Financial Provisions (Northern Ireland) Order 1983].
- (3) The aggregate of the amounts of principal outstanding in respect of moneys borrowed after the coming into operation of this section by the Holding Company under paragraphs (a) and (b) of subsection (2) shall not at any time exceed [<sup>F118</sup> ten million pounds].
- (4) The Ministry of Finance may guarantee in such manner and subject to such conditions as it thinks fit the payment of the interest and principal of any loan raised by the Holding Company under subsection (2)(a).
- (5) Such sums as may from time to time be required by the Ministry of Finance for fulfilling any guarantees given by it under subsection (4) or given by it in respect of any loans raised by the Ulster Transport Authority shall be charged on and issued out of the Consolidated Fund and for the purpose of providing for such issues the Ministry of Finance may borrow money.

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

F117 1983 NI 1

F118 1977 NI 10

## 52 Accounts, audit and returns.

- (1) The accounts of the undertaking providing or operating railway services shall be kept in accordance with such directions as may from time to time be given by the Ministry,<sup>F119</sup> . . . .
- (2) The Holding Company shall furnish to the Ministry at such times as the Ministry may determine—
  - (a) a copy of audited accounts of the Company and its subsidiaries and a copy of any reports thereon made by the auditor;
  - (b) such returns, accounts and other information with respect to its property, activities, policy and programme and the property, activities, policy and programme of any company which is its subsidiary or in which it owns a substantial proportion of the issued capital as the Ministry may require.
- (3) The Ministry shall, as soon as practicable after the receipt by it of the accounts and reports referred to in subsection (2)(a) lay copies thereof before Parliament.

F119 1984 NI 15

## 53 Supplemental provisions as to the Holding Company and its subsidiaries.

- (1) It is hereby declared that the Holding Company and its subsidiaries are not to be regarded as servants or agents of the Crown, or as enjoying any status, immunity or privilege of the Crown, or as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local, and that their property is not to be regarded as property of, or property held on behalf of the Crown.
- (2) Subject to section 52(1), for the purpose of any provision of [<sup>F120</sup>*the*]<sup>F121</sup> Companies (Northern Ireland) Order 1986] relating to the keeping and audit of accounts, the making of returns and the publication of statements of accounts or other information the Holding Company and its subsidiaries shall be deemed to be companies with limited liability.
- (3) It is hereby declared that the provisions of this Part concerning the powers of the Holding Company and its subsidiaries relate only to their capacity as statutory corporations and do not authorise those companies to infringe the right of any other person.
- (4) Nothing in this Part shall be construed as imposing, either directly or indirectly, upon the Holding Company or any of its subsidiaries any form of duty or liability enforceable by proceedings before any court to which the Holding Company or its subsidiary would not otherwise be subject.
- (5) It shall be the duty of a chairman or director of the Holding Company or, as the case may be, of any company which is a subsidiary of the Holding Company, who is in any way, either directly or indirectly, interested in any contract made or proposed to be made by the company of which he is a chairman or director to disclose at the first opportunity the nature of his interest at a meeting of that company and the disclosure

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*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

shall forthwith be recorded in the minutes of that company and the person who is so interested shall not take any part in any deliberation or decision of that company with respect to that contract.

*Subs.(6) rep. by 1975 c.25*

**F120** Words in italics subst. by 1978 NI 12

**F121** 1986 NI 9

#### **54 Pension schemes.**

The Holding Company may, but only with the written consent of the Ministry, provide by means of pension schemes for the payment of pensions and other superannuation benefits to or in respect of persons who are or have been in the employment of the Holding Company.

#### **55 Provision of railway services.**

- (1) Subject to the provisions of this Act it shall be the duty of the subsidiary of the Holding Company incorporated under the name of the Northern Ireland Railways Company Limited (being an authorised railway undertaking and in this Act referred to as the “railway undertaking” ) to provide, or secure the provision of, railway services in Northern Ireland with due regard to efficiency, economy and safety of operation.
- (2) References in this Act to “railway services” shall be construed as including services provided for the carriage of passengers and goods by rail and such other services and facilities as appear to the railway undertaking requisite or expedient to provide in connection therewith.

#### **56 Powers of the railway undertaking.**

Without prejudice to any other powers of the railway undertaking, it shall have power to carry on any business usually carried on by a railway company and to do all such other things as are incidental thereto and, without prejudice to the generality of the foregoing, shall have power—

- (a) to enter into and carry out agreements with any person for the performance by that person, whether as agent for the undertaking or otherwise, of any functions conferred on the undertaking by this Act;
- (b) to consign goods on behalf of itself or other persons from any places in Northern Ireland to any other place whether in Northern Ireland or elsewhere;
- (c) to store within Northern Ireland goods which have been or are to be carried by the undertaking;
- (d) to enter into and carry out agreements with any other person engaged in the carriage of passengers and goods for the through carriage of passengers and goods under one contract or at a through charge or in the same vehicles or containers.

#### **57 Power of railway undertaking to made byelaws.**

- (1) The railway undertaking may make byelaws regulating the use and working of, and travel on, railways, the maintenance of order on railways and railway premises,

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including stations and the approaches to stations, and the conduct of all persons, including officers and servants of the railway undertaking, while on those premises, and in particular byelaws—

- (a) with respect to tickets issued for entry on railway premises or travel on railways and evasion of payment of fares and other charges;
- (b) with respect to interference with or obstruction of the working of the railways;
- (c) with respect to the smoking of tobacco in railway carriages and elsewhere and the prevention of nuisances;
- (d) with respect to the receipt and delivery of goods;
- (e) for regulating the passage of bicycles and other vehicles on footways and other premises controlled by the railway undertaking and intended for the use of those on foot; and
- (f) for regulating the parking of vehicles on railway premises.

[<sup>F122</sup>(2) A person who contravenes a byelaw made under this section shall be guilty of an offence and, subject to subsection (2A), shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and, in the case of a continuing offence, a further fine not exceeding £10 for each day on which the offence continues after conviction.

- (2A) Byelaws made under this section may, for offences under subsection (2) in relation to the byelaws, fix lower maximum fines than the sums mentioned in that subsection.]
- (3) Byelaws made under this section shall not have any force or effect unless and until they have been confirmed by the Ministry and such byelaws shall be published in such manner as the Ministry may direct.
- (4) Byelaws made under this section shall not prejudice or affect the operation of any byelaw made under or in pursuance of any statutory provision by any port, harbour or sanitary authority.
- (5) The production of a written or printed copy of any byelaws made under this section, sealed with the common seal of the railway undertaking, shall be sufficient evidence of such byelaws in any prosecution instituted thereunder.

**F122** 1990 NI 7

*S. 58 rep. by 1984 NI 15*

## **59 Complaints as to inadequacy of railway services.**

- (1) Where on a reference made to [<sup>F123</sup> the Council] by any body or person or group of persons representing or appearing to represent a substantial number of users of any railway service provided by the railway undertaking, [<sup>F123</sup> the Council] consider that that service is inadequate to meet the needs of persons who might be expected to use it, the railway undertaking shall consider any recommendation made by [<sup>F123</sup> the Council] in connection with the reference and shall take such steps, if any, consistent with its duty under this Part as appear to the railway undertaking to be necessary or expedient to render the service adequate to meet the needs of persons expected to use it.
- (2) If, in the opinion of [<sup>F123</sup> the Council], the railway undertaking has unreasonably failed to comply with any requirement under subsection (1) to render a service adequate to



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meet the needs of persons expected to use it,<sup>[F123</sup> the Council] may refer the matter to the Minister.

- (3) On a reference to him under subsection (2) the Minister, after making such investigations as he may think fit, may give such direction as he thinks fit to the railway undertaking and the railway undertaking shall comply with that direction.

F123 1984 NI 12

## 60 Discontinuance of railway services.

- (1) Notwithstanding any provision in this or any other enactment, or any contractual or other obligation to the contrary, the railway undertaking may, subject to the provisions of this section, terminate wholly a transport service provided on any railway line or section of a railway line owned or operated by the railway undertaking and shall not terminate wholly such a transport service except in accordance with the provisions of this section.
- (2) Where the railway undertaking proposes to terminate wholly any transport service as aforesaid (in this Part referred to as a closure), it shall, not less than six weeks before carrying the proposal into effect, publish in two successive weeks in the Belfast Gazette and in two newspapers circulating in the area affected, and in such manner as appears to it to be appropriate, a notice—
  - (a) giving the date and particulars of the proposed closure, and particulars of any alternative services which it appears to the railway undertaking will be available and of any proposals for providing or augmenting such services; and
  - (b) stating that objections on the grounds of hardship to the proposed closure may be lodged in accordance with this section within six weeks of a date specified in the notice (not being earlier than the date on which the notice is last published as required by this section);and copies of the notice shall be sent to<sup>[F124</sup> the Council].
- (3) Where a notice has been published under subsection (2) any user of any service affected and any body representing such users may within the period specified in the notice lodge with the railway undertaking an objection in writing; and where such an objection is lodged the railway undertaking shall forthwith inform the Minister, and the closure shall not be proceeded with until the Minister has given his consent.
- (4) Subject to subsection (5), the Minister may give his consent to a closure subject to such conditions as he thinks fit and may from time to time vary those conditions; and the Minister may from time to time give such directions as he thinks fit to the railway undertaking in connection with the closure.
- (5) The Minister shall not consent to a closure by the railway undertaking under this section unless the proposals for the closure have been laid before Parliament and approved by resolution of each House.
- (6) The railway undertaking may terminate wholly a service on a railway line or section thereof—
  - (a) if within the time stated in the notice referred to in subsection (2), no such objection as aforesaid is received by the railway undertaking; or
  - (b) if all such objections received by the railway undertaking within that time are at any subsequent time withdrawn; or

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (c) if the Minister has given his consent to the closure.
- (7) If the railway undertaking becomes, by virtue of subsection (6), entitled to terminate wholly the service provided on any railway line or section thereof, then—
- (a) the termination shall not affect in any way any liability of the railway undertaking to maintain bridges, level crossings, fences, drains and other works constructed and maintained for the use, accommodation or protection of the public generally or of any members of the public or of the owners or occupiers of particular lands;
  - (b) so much of section 47 of the Railway Clauses Consolidation Act 1845, as makes it obligatory on a railway company to employ proper persons to open and shut gates at a level crossing, shall not apply to any level crossing on such railway line if and so long as the gates of such level crossing are kept and secured in such position as to permit the free passage of road traffic across such line at such crossing.

F124 1984 NI 12

## 61 Abandonment of railway lines.

- (1) Where—
- (a) a service provided on any railway line or section thereof by a railway undertaking was wholly terminated before the coming into operation of this section and no such service has since been provided thereon;
  - (b) the railway undertaking becomes entitled by virtue of section 60(6) to terminate wholly the service provided on any railway line or section thereof;
- the railway undertaking may—
- (i) in a case to which paragraph (a) applies, at any time; or
  - (ii) in a case to which paragraph (b) applies, not earlier than six months after the date on which the period for objections to the termination of the service ended or the date on which the consent of the Minister was obtained;
- apply to the Ministry for an order (hereafter in this Part referred to as “an order for abandonment”) authorising the railway undertaking to abandon the said railway line or section thereof and the Ministry shall have power to make such an order.
- (2) Where an order for abandonment has been made by the Ministry the following provisions shall have effect—
- Paras.(a)(b) rep. by 1980 NI 11*
- (c) where the railway line has been carried over any public road by means of a bridge or viaduct which the railway undertaking was immediately before the making of the order for abandonment, liable to maintain, the railway undertaking shall if so directed by the Ministry remove the superstructure of the bridge or viaduct and render that part of the public road over which the railway line was carried fit and safe for use by the public to the satisfaction of the road authority and thereupon—
    - (i) the road authority shall be liable to maintain so much of the bridge or viaduct as remains after the removal of the superstructure; and
    - (ii) the railway undertaking shall cease to be liable to maintain the bridge;
  - (d) where any road authority becomes liable for the maintenance of any bridge or viaduct in accordance with paragraph (c), the railway undertaking shall

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pay to the road authority such sum as represents the expenses which the road authority may incur by reason of the liability imposed on them by that paragraph (including any expenses incurred by reason of the failure of the undertaking to remove the superstructure of such bridge or viaduct);

- (e) where the railway line crosses any public road at a level crossing the railway undertaking shall, within six months of the making of an order for abandonment or such further period as the Ministry may allow, remove the rails and do all such other things as may be necessary to render that part of the public road which the railway line crosses fit and safe for use by the public to the satisfaction of the road authority, and thereupon the railway undertaking shall cease to be liable to maintain that part in repair;
- (f) where any bridge (being a bridge which the railway undertaking was, immediately before the making of the order for abandonment, liable to maintain) was, in pursuance of section 68 of the Railway Clauses Consolidation Act 1845, made over or under the railway line for the accommodation of owners and occupiers of land adjoining the railway line, the railway undertaking shall, not later than twelve months after the making of the order for abandonment or such further period as the Ministry may allow, replace the bridge by a level crossing over the site of the abandoned railway and render the said crossing fit and safe for use, and thereupon—
  - (i) the railway undertaking shall cease to be liable to maintain the said crossing in repair; and
  - (ii) any right of way exercisable over the bridge before the making of the order for abandonment shall be exercisable in like manner over the said crossing, and any person for the time being entitled thereto shall do all such things as are reasonably necessary for keeping the said crossing fit and safe for use;
- (g) the railway undertaking shall cease to be liable—
  - (i) if the railway undertaking has failed to replace any bridge in accordance with paragraph (f), at the end of the period allowed for replacement; or
  - (ii) if the railway undertaking is liable to maintain any work (other than bridges over or under railway lines) of the kind mentioned in section 68 of the Railway Clauses Consolidation Act 1845, on the making of the order for abandonment;

and the railway undertaking shall pay to any owner or occupier of land adjoining the railway line for whose accommodation any bridge or works were made and which the railway undertaking was liable to maintain, compensation for all such injury or damage as he may sustain by reason of the railway undertaking ceasing to be liable to maintain such bridge or works.

- (3) Where any dispute as to property or liabilities transferred or obligations imposed or compensation or expenses payable under this section arises between the railway undertaking and any Government department, local or public authority or other person it shall in default of agreement be referred to and determined by the Lands Tribunal.

*Para. (4) rep. by 1984 NI 15*

## **62 Powers of acquisition where railway diverted for road purposes.**

*Subs. (1) rep. by 1993 NI 15*

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (2) Where<sup>F125</sup> under Article 111 of the Roads (Northern Ireland) Order 1993] land is acquired for the purpose of providing substituted sites or facilities for the railway undertaking, the undertaking may, notwithstanding anything in any other enactment, provide those substituted sites or facilities.

F125 1993 NI 15

**63 Exchequer grants to meet capital expenditure of the railway undertaking.**

The Ministry with the approval of the Ministry of Finance may, out of moneys provided by Parliament, make payments to the railway undertaking towards any capital expenditure which has been or may be incurred by that undertaking with the consent of the Ministry.

**64 Financial assistance by Holding Company to the railway undertaking.**

Notwithstanding anything in section 48, the Holding Company may, and if so required by the Ministry shall, make payments by way of grants, loans or otherwise to the railway undertaking to meet—

- (a) any deficit in the revenue account of the undertaking;
- (b) any capital expenditure incurred or to be incurred by the undertaking.

**65 Trespass on premises of the railway undertaking.**

- (1) Any person who trespasses upon any land in the possession or under the control of the railway undertaking shall, subject to the provisions of subsection (2), be guilty of an offence and be liable on summary conviction<sup>F126</sup> to a fine not exceeding level 3 on the standard scale].
- (2) A person shall not be convicted of an offence under subsection (1) if he proves to the satisfaction of the court that adequate notices warning against trespass were not displayed at the station, depot, office or level crossing nearest to the place where the trespass is alleged to have been committed.
- (3) Nothing in this section shall prejudice or affect any civil proceedings with respect to the ownership or possession of any property.
- (4) The provisions of this section shall be in addition to and not in derogation of the provisions of any enactment imposing a penalty for trespass on any railway or other property.

F126 1990 NI 7

**<sup>F127</sup>66 Safety arrangements at level crossings.**

- (1) The Department may, on an application by the railway undertaking made pursuant to this section, by order provide that, while the order remains in force, any statutory provision—
  - (a) applying to a level crossing specified in the order, and
  - (b) imposing requirements as to—

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- (i) barriers or other protective equipment at or near the level crossing;
  - (ii) the supervision of the level crossing (including the provision of buildings for the purposes of supervision); or
  - (iii) the operation of the railway at or near the level crossing;shall not apply in relation to the level crossing.
- (2) An order under this section, may require the railway undertaking—
  - (a) to provide, at or near any level crossing specified in the order, and maintain and operate, such barriers, lights and automatic and other devices as may be specified in the order;
  - (b) to secure the provision, at or near any level crossing specified in the order, and the maintenance and operation of such traffic signs as may be approved by the Department;
  - (c) to comply with such other conditions and requirements as are necessary or desirable for the convenience of the public and are specified in the order.
- (3) Where—
  - (a) an order under this section requires the railway undertaking to secure the provision, maintenance and operation of any traffic sign, and
  - (b) the road crossed by the railway is a public road within the meaning of Article 2 (2) of the Roads (Northern Ireland) Order<sup>[F128]</sup> 1993;then—
  - (i) the Department shall carry out any works necessary for the purposes mentioned in paragraph (a);
  - (ii) the railway undertaking shall pay to the Department amounts equal to the costs of those works; and
  - (iii) the sign shall be deemed to be provided under<sup>[F129]</sup> Article 58 of the Road Traffic Regulation (Northern Ireland) Order 1997].
- (4) An application by the railway undertaking to the Department under this section shall be accompanied by a draft, in such form as the Department may direct, of the proposed order.
- (5) Before making an application to the Department under this section the railway undertaking shall give written notice of its intention to do so to the council in whose district the level crossing is situated.
- (6) The notice under subsection (5)—
  - (a) shall be accompanied by a copy of the draft order which the railway undertaking intends to submit to the Department; and
  - (b) shall specify the period (not being less than 2 months) within which the council may make representations to the Department in respect of the application.
- (7) The Department shall consider any representations in respect of the application made by such a council within the period specified in accordance with subsection (6)(b) and may then, if it decides to do so, make the order in accordance with the draft submitted by the railway undertaking or with such modifications as the Department thinks fit.
- (8) Notwithstanding anything in any other enactment (including a local or private Act) the Department may construct or reconstruct a road crossing the railway on the level.

[ An order under this section shall be made subject to negative resolution.]

*Status: Point in time view as at 27/03/2006.*

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F130(8A)

(9) In this section—

“barrier” includes gate;

“council” and “district” have the meaning given in section 1(3) of the Local Government Act (Northern Ireland) 1972;

“protective equipment” includes lights, traffic signs and telephone and television equipment; and

“traffic sign” has the meaning given in Article 2(2) of the<sup>F129</sup> Road Traffic Regulation (Northern Ireland) Order 1997[.]

F127 1984 NI 15

F128 1993 NI 15

F129 1997 NI 2

F130 1990 NI 7

## 67 Supplemental provisions as to the railway undertaking.

(1) The railway undertaking shall not be subject to the provisions of section 76 of the Railways Clauses Consolidation Act 1845<sup>M1</sup> or of section 7 of the Railway and Canal Traffic Act 1854<sup>M2</sup> (which—

- (a) impose a duty to afford facilities for the connection of private sidings; and
- (b) regulate liability for negligence in the carriage of goods).

(2) The railway undertaking shall not be regarded as a common carrier.

### Marginal Citations

M1 1845 c. 20

M2 1854 c. 31

## [<sup>F131</sup>PART VA

### CONSTRUCTION OF RAILWAYS

F131 1984 NI 15

## 67A Construction of railways.

(1) The railway undertaking may—

(a) construct a new railway;

(b) carry out any work for the improvement of an existing railway,

where it appears to the railway undertaking expedient to do so for the purpose of providing railway services.

(2) The Department may, on application to it by the railway undertaking, make an order authorising the railway undertaking to construct, as part of a new railway or as part of an existing railway—

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*Status: Point in time view as at 27/03/2006.*

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- (a) a bridge over any navigable waters specified in the order (whether sea, river or other navigable waters); or
  - (b) a tunnel under any such waters.
- (3) An order under subsection (2)—
- (a) shall include such information as may be necessary to indicate the position and minimum dimensions of the bridge or tunnel, (including, for a bridge, its minimum spans, headways and waterways and, for a tunnel, its minimum depth below the bed of the navigable waters); and
  - (b) shall, if it relates to the construction of a swing bridge, contain such provisions as the Department considers expedient for regulating the operation of the bridge.
- (4) Before making an order under subsection (2) the Department shall take into consideration the reasonable requirements of navigation over the waters affected by the order.
- (5) In this section —
- “improvement” includes (without prejudice to the generality of that expression) the widening, realigning and reshaping of a railway;
  - “navigable waters” means waters over which a public right of navigation exists;
  - “swing bridge” includes a bridge which opens by any mechanical means.

## **67B Acquisition of land by Holding Company.**

- (1) The Holding Company may acquire land, by agreement or compulsorily, to facilitate the construction of railways and the provision of railway services by the railway undertaking.
- (2) Where the Holding Company, in exercise of the powers conferred by subsection (1), wishes to acquire land otherwise than by agreement, the Holding Company may apply to the Department for an order (in this section referred to as a “vesting order”) vesting the land in the Holding Company, and the Department may make a vesting order.
- (3) Section 97 of, and Schedule 6 to, the Local Government Act (Northern Ireland) 1972 shall apply for the purposes of the acquisition of land by means of a vesting order made under this section in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act subject to the following modifications—
- (a) for section 97(1) and (2) of that Act there shall be substituted the following subsection—
    - “(1) A vesting order shall vest land to which it relates in the Holding Company in accordance with, and subject to, Schedule 6.”; and
  - (b) in Schedule 6 to that Act—
    - (i) any reference to a council or the council shall be construed as a reference to the Holding Company and any reference to the clerk of the council shall be construed as a reference to the secretary of the Holding Company;
    - (ii) any reference to that Act shall be construed as a reference to this Act;
    - (iii) any reference to the Department shall be construed as a reference to the Department within the meaning of this Act;

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*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

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- (iv) any reference to the Compensation Fund shall be construed as a reference to the revenues of the Holding Company;
- (v) paragraph 20(2) shall be omitted.

#### **67C Information as to ownership of premises.**

- (1) The Holding Company may, in connection with the exercise of its functions under this Part, by notice in writing require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.
- (2) Any person required to give information in pursuance of this section who without reasonable excuse fails to give, or knowingly mis-states, that information shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **67D Power to enter land.**

- (1) Subject to section 67E, a person authorised in writing by the Holding Company may, on production if required of his credentials, at any reasonable time enter any land to ascertain whether the Holding Company ought to acquire that land for the purposes of this Part.
- (2) A person who enters land under subsection (1) may survey, value or examine it.
- (3) The power conferred by subsection (2) to survey land shall be construed as including power to ascertain or fix boundaries, or to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil, and to take and carry away, for the purpose of examination, specimens of subsoil.
- (4) Nothing in this section shall authorise entry into a building.

#### **67E Supplementary provisions relating to section 67D.**

- (1) Subject to paragraphs (2) to (9), no person shall be entitled to exercise the power of entry conferred by section 67D(1) unless—
  - (a) the requisite notice of the intended entry has been served by the Holding Company; and
  - (b) the occupier, and where notice has been served on the owner, the owner, has given his consent to the proposed entry.
- (2) In subsection (1) “the requisite notice” means—
  - (a) where entry is required solely for the purpose of examination, at least 24 hours' notice served on the occupier of the land; or
  - (b) where entry is sought for any other purpose, at least 6 days' notice served on the occupier and on the owner if the owner is known.
- (3) If, upon complaint to a court of summary jurisdiction under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981, it is shown—



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*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

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- (a) that there are reasonable grounds for the person on whose behalf the application is made to enter the land in question for the purpose for which entry is permitted under section 67D; and
- (b) that—
  - (i) the requisite notice has been served and admission to the land has been refused to that person or he has reasonable grounds to believe that it will be refused, or
  - (ii) the land is unoccupied or the occupier is temporarily absent, the court may make an order authorising that person to enter the land.
- (4) Where the court is satisfied that it may be necessary to use force to enter land under section 67D, the court may authorise the use of such force as is reasonable in the circumstances.
- (5) Any person entering any land by virtue of the power of entry conferred by section 67D or by virtue of an order made by a court of summary jurisdiction under subsection (3)—
  - (a) may take with him such other persons and such equipment as may be necessary; and
  - (b) on leaving any unoccupied land which he has entered by virtue of such a power of entry or such an order shall leave it as effectually secured against trespassers as he found it.
- (6) A person who intentionally obstructs any person who enters, or is attempting to enter, land by virtue of an order made by a court of summary jurisdiction under subsection (3), shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Where work has been carried out on land in pursuance of section 67D, the Holding Company shall reinstate the land as soon as possible.
- (8) Where—
  - (a) in the exercise of the power conferred by section 67D or in carrying out the order of a court of summary jurisdiction under subsection (3), any damage is caused to land or chattels, any person interested in the land or chattels may recover compensation in respect of that damage from the Holding Company,
  - (b) in consequence of the exercise of any such power or the carrying out of any such order, any person is disturbed in his enjoyment of land or chattels, he may recover compensation in respect of that disturbance from the Holding Company.
- (9) Any question of disputed compensation under subsection (8) shall be referred to and determined by the Lands Tribunal.

## **67F Extinguishment of public rights of way.**

- (1) Subject to this section, the Holding Company may, with the approval of the Department, make an order extinguishing any public right of way over land acquired by the Holding Company for the purposes of this Part.
- (2) Before making an order under subsection (1), the Holding Company shall publish in one or more than one newspaper circulating in the area a notice, in such form as the Department may specify, stating that—

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (a) it proposes to make an order under subsection (1), and
  - (b) objections to the making of the order may be made to the Department before the expiration of 6 weeks from the publication of the notice.
- (3) The Department may at any time after the expiration of the said period of six weeks—
- (a) approve the order with or without modification, or
  - (b) refuse to approve the order;
- but shall not, until a local inquiry is held into the matter, approve an order to which any objection is made in accordance with subsection (2)(b) and is not withdrawn.
- (4) An order under this section shall take effect on the date on which the land is acquired or on such later date as the Department in approving the order may direct.
- (5) An order made under this section may contain any such provision as, by virtue of<sup>F132</sup> Article 68(5) of the Roads (Northern Ireland) Order 1993] (retention or removal of cables, etc.), may be contained in an order made under that Article on the stopping-up or abandonment of a road; and<sup>F132</sup> paragraphs 1 to 3 of Schedule 9 to that Order (savings for telecommunications apparatus) shall apply to an order made under this section as they apply to an order made under Article 68 of that Order.]
- (6) Where, by virtue of subsection (5), by an order made under this section—
- (a) any person is required to carry out any works; or
  - (b) any right such as is described in<sup>F132</sup> Article 68(5) of the Roads (Northern Ireland) Order 1993] is extinguished or modified,
- the Holding Company shall pay compensation to that person or, as the case may be, in respect of the extinction or modification of that right; and if any question of disputed compensation arises that question shall be referred to and determined by the Lands Tribunal.
- (7) If any person who is required by an order made under this section to carry out any works refuses or, within any reasonable period of time specified in a notice served upon him by the Holding Company for the purposes of this subsection, fails to do so, the Holding Company may carry out those works and the expenses incurred in so doing shall, without prejudice to any other remedy but subject always to subsection (6), be recoverable by it from that person summarily as a debt.
- (8) The powers conferred by this section shall be in addition to and not in derogation of any powers for the stopping-up or abandonment of roads under<sup>F132</sup> Article 68 of the Roads (Northern Ireland) Order 1993].
- (9) For the purposes of this section the expression “public right of way” shall be deemed to include a customary right of way, but does not include a public right of navigation.

**F132** 1993 NI 15

## **67G Diversion of navigable watercourses.**

- (1) The Department may, on application to it by the railway undertaking, make an order authorising the railway undertaking to divert such part of a navigable watercourse as is specified in the order if the Department considers the diversion necessary or desirable in connection with—
- (a) the construction or improvement of a railway; or

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*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

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- (b) the construction, as part of a railway, of a bridge over or tunnel under navigable waters.
- (2) Where a navigable watercourse is to be diverted in pursuance of an order made under subsection (1), any new length of watercourse provided in pursuance of that order shall be such as will or, but for any bridge or tunnel constructed over or under it in pursuance of section 67A(2), would be navigable in a reasonably convenient manner by vessels of a kind which immediately before the commencement of the order were accustomed to use that part of the watercourse which is to be replaced by the new length.
- (3) Where by virtue of an order made under subsection (1) the railway undertaking is authorised to divert any part of a navigable watercourse it may also divert any towing path or way adjacent to that part.
- (4) Subsection (5) shall have effect where—
- (a) works for the diversion of a navigable watercourse have been carried out by the railway undertaking in accordance with an order made under subsection (1); and
  - (b) any person has suffered damage in consequence of the works mentioned in paragraph (a)—
    - (i) by the depreciation of any estate in any land to which he is entitled, or
    - (ii) by reason of the fact that his right of access to a navigable watercourse has been interfered with or extinguished.
- (5) A person shall be entitled to receive compensation from the Holding Company under this subsection in respect of the damage where works of the type mentioned in subsection (4) are carried out unless the works were carried out on land, or in exercise of rights, vested in the Holding Company under section 67B, or otherwise in the Department or any of its predecessors in title under section 34 of the Roads Act (Northern Ireland) 1948 or any statutory provision repealed by that Act.
- (6) Any question of disputed compensation arising under subsection (5) shall be referred to and determined by the Lands Tribunal.
- (7) In this section “navigable watercourse” means a watercourse over which a public right of navigation exists.

#### **67H Extinction of certain public rights over navigable waters and foreshore.**

- (1) If the Department considers it necessary or desirable to do so in connection with any matter mentioned in subsection (1)(a) or (b) of section 67G, the Department may, on application to it by the railway undertaking, make an order extinguishing—
- (a) any public rights over or in relation to such part of the foreshore as is specified in the order;
  - (b) any public rights of navigation over such part of any navigable waters (whether the sea, a river or other navigable waters) as is specified in the order.
- (2) In this section “navigable waters” has the meaning given in section 67A(5).

#### **67I Orders under sections 67A(2), 67G(1) and 67H.**

[<sup>F133</sup>Article 133(2) and (4) of, and Schedule 8 to, the Roads (Northern Ireland) Order 1993] shall, subject to the modifications thereof specified in Schedule 1A, apply in relation to the making of orders under section 67A(2), 67G(1) or 67H in like manner

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

as they apply in relation to the making of orders under any of the Articles mentioned in<sup>F133</sup> Article 133(1) of that Order].

**F133** 1993 NI 15

**67J Incorporation of Railways Clauses Consolidation Act, 1845 and Railways Clauses Act, 1863.**

The following provisions of the Railways Clauses Consolidation Act, 1845 and the Railways Clauses Act, 1863, so far as they are applicable for the purposes of and are not inconsistent with this Part, are incorporated with and form part of this Part, and this Part shall be deemed to be the special Act for the purposes of those Acts—

- (a) the Railways Clause Consolidation Act, 1845, except sections 7 to 15, 46 to 62, 65, 66, 112, 113, 162 and 163;
- (b) sections 1 to 3, 13, 15, 16, 18 and 19 of the Railways Clauses Act, 1863.]

**[<sup>F134</sup>PART VB**

**PENALTY FARES ON BUSES AND TRAINS**

**F134** 1990 NI 7

**67K Operation of Schedule 1B.**

- (1) Schedule 1B shall apply in relation to—
  - (a) travel on a bus service, as defined in section 14(7) of the Finance Act (Northern Ireland) 1966; and
  - (b) travel on a train service, that is to say a service for the carriage of passengers provided by the railway undertaking;
 if an order under subsection (2) is for the time being in force with respect to the service in question.
- (2) The Department may by order (referred to in subsections (3) and (4) as an “activating order”) provide that Schedule 1B shall have effect as from such day as may be specified in the order, with respect to any bus service or train service mentioned in subsection (1).
- (3) The revocation by the Department of an activating order shall be without prejudice to the power of the Department to make further activating orders under this section.
- (4) No activating order may be made except at the request of the operator of the service in question.
- (5) In subsection (4) “operator”
  - (a) in relation to a bus service, has the meaning given by section 14(7) of the Finance Act (Northern Ireland) 1966, and
  - (b) in relation to a train service, means the railway undertaking.]

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

## PART VI

### DISTRIBUTION OF THE UNDERTAKING OF THE AUTHORITY

#### 68 Vesting of the Authority's undertaking in the Holding Company

- (1) On the appointed day the undertaking of the Ulster Transport Authority (in this Act referred to as “the Authority”) shall by virtue of this Act be transferred to and vest in the Holding Company.
- (2) Subject to the following provisions of this section, all property which immediately before the appointed day was the property of the Authority shall vest in the Holding Company and, as from the appointed day, the Holding Company shall, to the exclusion of the Authority, have all rights and be subject to all liabilities which the Authority had or to which the Authority were subject immediately before the appointed day (not being rights or liabilities arising under any enactment repealed by this Act).
- (3) Subject to the provisions of this section, every agreement to which the Authority were a party, whether in writing or not and whether or not of such nature that rights and liabilities thereunder could be assigned by the Authority, shall, unless its terms or subject-matter make it impossible that it should have effect as modified in the manner provided by this subsection have effect as from the appointed day as if—
  - (a) the Holding Company had been a party to the agreement; and
  - (b) for any reference (however worded and whether express or implied) to the Authority there were substituted, as respects anything falling to be done on or after the appointed day, a reference to the Holding Company; and
  - (c) any reference (however worded and whether express or implied) to any officer or any servant of the Authority were, as respects anything falling to be done on or after the appointed day, a reference to such person as the Holding Company may appoint, or, in default of appointment, to the officer or servant of the Holding Company who corresponds as nearly as may be to the first mentioned officer or servant; and
  - (d) in the case of an agreement for the rendering of personal services to the Authority, the services to which the agreement relates were, on and after the appointed day, any reasonably comparable services under the Holding Company, to be selected, by the Company; and
  - (e) save as provided by paragraphs (c) and (d), any reference (however worded and whether express or implied) to the undertaking of the Authority were as respects the period beginning with the appointed day a reference to so much of the undertaking of the Holding Company as corresponds to the undertaking of the Authority.
- (4) The provisions of subsection (3) (except paragraphs (a) and (d) thereof) shall apply in relation to any statutory provision, any provision of any agreement to which the Authority were not a party, and any provision of any other document not being an agreement, as they apply in relation to an agreement to which the Authority were a party.

The statutory or other provisions to which this subsection applies include statutory or other provisions passed or made after the passing of this Act but before the appointed day.

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

- (5) Without prejudice to the generality of the preceding provisions of this section, where, by the operation of any of the said provisions, any right or liability becomes a right or liability of the Holding Company, the Company and all other persons shall, as from the appointed day, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right or liability as they would have had if it had at all times been a right or liability of the Company, and any legal proceedings or applications to any authority pending on the appointed day by or against the Authority, in so far as they relate to any property, right or liability transferred to the Company under this section, or to any agreement, statutory provision or document which has effect in accordance with subsection (3) or subsection (4) of this section, shall be continued by or against the Company to the exclusion of the Authority.

**69 Transfer or letting of property of the Holding Company to the railway undertaking.**

- (1) The Holding Company may, and if so required by the Minister shall,—
- (a) transfer to the railway undertaking without requiring any payment therefor any vehicles, rolling stock, plant, machinery, fixtures, fittings or other equipment vested in the Holding Company by virtue of section 68 which the railway undertaking may reasonably require to operate the railway system as it exists at the date of the transfer of the equipment;
  - (b) let to the railway undertaking, at such rent and on such terms and conditions as the Holding Company and the railway undertaking may agree, any immovable property vested in the Holding Company by virtue of <sup>F135</sup> section 67B or] section 68 which the railway undertaking may reasonably require to operate the railway system as it exists at the date of the letting.
- (2) In determining the amount of any rent to be paid in respect of the letting under subsection (1)( b) of any property which comprises or includes railway track or associated signalling and communication equipment, that track and equipment shall be deemed not to have any letting value.
- (3) Any dispute arising between the Holding Company and the railway undertaking as to the property to be transferred or let under subsection (1) or as to the rent, terms or conditions at or upon which any property is to be let under subsection (1)( b), shall be referred to and determined by the Minister or, if he so directs, by the Lands Tribunal.

**F135** 1984 NI 15

**70 Supplementary provisions as to the letting of property by the Holding Company to the railway undertaking.**

- (1) Where in the opinion of the railway undertaking any property let to it under section 69, or re-let to it under subsection (2), is no longer required in connection with the provision of railway services, the railway undertaking may, notwithstanding any term or condition contained in the letting agreement, terminate the letting of that property.
- (2) Where the railway undertaking at any time before the termination of the letting of any property to it under section 69 or this subsection notifies the Holding Company in writing that the property will, on the termination of the letting, continue to be required

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

in connection with the provision of railway services, the Holding Company shall, subject to subsection (3), re-let that property to the railway undertaking at such rent and on such terms and conditions as may be agreed or, in default of agreement, as may be determined by the Minister or, if he so directs, by the Lands Tribunal.

- (3) Subsection (2) shall not apply where, at or before the termination of a letting of property to the railway undertaking, the Holding Company—
- (a) provides or undertakes to provide adequate alternative accommodation; or
  - (b) pays or undertakes to pay such compensation to the railway undertaking as may be agreed or, in default of agreement, as may be determined by the Lands Tribunal.

*Part VII—Ss. 71, 72 rep. by SLR 1976*

*Ss. 73, 74 rep. by 1984 NI 15*

## PART VIII

### MISCELLANEOUS AND GENERAL

#### **75 Termination of Transport Tribunal.**

- (1) As from the appointed day the Transport Tribunal for Northern Ireland shall cease to exist.
- (2) The functions which immediately before the day appointed for the purposes of subsection (1) were exercisable by the said Tribunal by virtue of section 48(1)(e) of the Transport Act (Northern Ireland) 1948 (which transferred to that Tribunal functions which were exercisable before the passing of the Road and Railway Transport Act (Northern Ireland) 1935 by the Railway and Canal Commission as respects matters within the powers of the Parliament of Northern Ireland and the functions exercisable by the tribunal established by section 7 of the Motor Vehicles and Road Traffic Act (Northern Ireland) 1929 shall as from that day be transferred to and exercisable by the Ministry.

*Subs.(3)(4) rep. by SLR 1976*

#### **[<sup>F136</sup>75A Grants for transport facilities and services.**

The Department may make, in such cases and subject to such terms and conditions as it thinks fit, grants to any person towards expenditure incurred or to be incurred by that person in providing, maintaining or improving—

- (a) any motor vehicle, equipment or other facilities and services provided wholly or mainly for the purpose of facilitating travel by members of the public who are disabled; or
- (b) any equipment or facilities specially designed or adapted for that purpose which are incorporated in any motor vehicle, equipment or other facilities not provided wholly or mainly for that purpose.]

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

*S. 76 rep. by 1984 NI 15*

*S.77 rep. by SLR 1976*

## 78 Regulations.

Save as may otherwise be specifically provided, regulations made under this Act shall be subject to negative resolution.

*S.79(1) amends s.2 of 1930 c.24 (NI); subs.(2) rep. by 1984 NI 15; subs.(3) rep. by 1981 NI 1*

## 80 Saving for powers of Minister of Transport, etc.

- (1) Nothing in this Act shall be construed as affecting any powers of the Minister of Transport or of the Crown Estate Commissioners, or as authorising any matter or thing to be done without the consent of the Minister of Transport or of the Crown Estate Commissioners in any case where that consent is required to be obtained by virtue of section 9 of the Northern Ireland (Miscellaneous Provisions) Act 1932 .

[<sup>F137</sup>(1A) Nothing in Part VA—

- (a) affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown; or
- (b) authorises the taking, using or entering of, or interference with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners.]

- (2) Save as aforesaid, this Act shall bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

F137 1984 NI 15

## 81 Interpretation.

[<sup>F138</sup>(1)] In this Act—

“appointed day” means, in relation to any provision of this Act, such day as may be appointed under section 83(2) for the coming into operation of that provision;  
 “the Authority” has the meaning assigned to it by section 68(1);

*Definition rep. by 1984 NI 15*

[<sup>F139</sup>“the Council” means the General Consumer Council for Northern Ireland]

“goods” means tangible, moveable objects including livestock, animals and burden of every kind other than human beings;

“the Holding Company” has the meaning assigned to it by section 47(1);

“the Lands Tribunal” means the Lands Tribunal for Northern Ireland;

*Definition rep. by 1984 NI 15*

“the Minister” has the meaning assigned to it by section 1(2);

“the Ministry” has the meaning assigned to it by section 1(4);



*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

“motor vehicle” means a road vehicle moved, propelled or drawn by mechanical or electrical power;

“operators' licences” and “road freight operators” have the meanings assigned to them by section 14;

“prescribed” means prescribed by regulations made under this Act;

“railway services” and “railway undertaking” have the meanings assigned to them by section 55;

“road”, ...<sup>F140</sup>, has the same meaning as in the Road Traffic [<sup>F141</sup> (Northern Ireland) Order 1981 ];

“road authority”<sup>F142</sup> has the meaning assigned to it by section 42 of the Roads Act (Northern Ireland) 1948 ;

“road service licence” has the meaning assigned to it by section 4(1);

“stage services” means bus services within the meaning of section 14(7) of the Finance Act (Northern Ireland) 1966 ;

“statutory provision” has the meaning assigned to it by section 1( f) of the Interpretation Act (Northern Ireland) 1954 ;

“subsidiary”, in relation to the Holding Company, has<sup>F143</sup> the meaning given by Article 4 of the Companies (Northern Ireland) Order 1986];

“vehicle licences” has the meaning assigned to it by section 17(1).

[<sup>F138</sup>(2) Any reference in this act to an inspector appointed under Part IV shall be construed in accordance with paragraph (4) of Article 74 of the Road Traffic (Northern Ireland) Order 1995 (appointment of vehicle examiners).]

**F138** 1995 NI 18

**F139** 1984 NI 12

**F140** 1981 NI 1

**F141** 1981 NI 1

**F142** SRO (NI) 1973/278, 504

**F143** 1990 NI 10

*S. 82 rep. by 1984 NI 15*

### **83 Short title and commencement.**

(1) This Act may be cited as the Transport Act (Northern Ireland) 1967.

(2) *Commencement*

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 47(4).

#### THE NORTHERN IRELAND TRANSPORT HOLDING COMPANY

- 1 (1) A director of the Holding Company shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to be a director, be eligible for re-appointment.
- (2) A director of the Holding Company may at any time by notice in writing to the Minister resign his office.
- 2 The Holding Company shall pay to the directors thereof such salaries or fees, and such allowances, as the Ministry may, with the approval of the Ministry of Finance<sup>F144</sup>, determine.

**F144** Now D/CS, SR 1976/281

- 3 (1) The Holding Company may act notwithstanding a vacancy among the directors.
- (2) The procedure of the Holding Company shall be such as the Company may determine.
- (3) The Holding Company shall have a common seal, and the application of that seal shall be authenticated by the signatures of the chairman or some other director of the Company authorised by the Company to authenticate the application thereof, and of the secretary of the Company or some person authorised by the Company to act in his stead in that behalf.

The Holding Company may authorise a person to act instead of the secretary under this paragraph whether or not the secretary is absent or incapable of acting and such authorisation shall be recorded in the minutes of the meeting at which such authorisation was made.

- (4) Every document purporting to be an instrument issued by the Holding Company and to be sealed as aforesaid, or to be signed on behalf of the Company, shall be received in evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

### [<sup>F145</sup>SCHEDULE 1A

Section 67I.

#### MODIFICATIONS OF [<sup>F146</sup>ARTICLE 133(2) AND (4) OF, AND SCHEDULE 8 TO, THE ROADS (NORTHERN IRELAND) ORDER 1993] FOR THE PURPOSES OF SECTIONS 67A, 67G AND 67H

**F145** 1984 NI 15

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

**F146** 1993 NI 15

- 1 References to the said<sup>F147</sup> Schedule 8] shall be construed as references to that Schedule as modified by this Schedule.

**F147** 1993 NI 15

- 2 In<sup>F148</sup> Article 133]
- (a) in paragraph (1) for sub-paragraphs (a) to (g) substitute—
- “(a) section 67A(2) (construction of bridges and tunnels in relation to navigable waters);
  - (b) section 67G(1) (diversion of navigable watercourses);
  - (c) section 67H (extinguishment of certain public rights over navigable waters and foreshore);” ;
- (b) in paragraph (2)—
- (i) for the words “<sup>F148</sup> Article 113 and Schedule 7]” substitute the words “ section 67B ”, and
  - (ii) <sup>F148</sup>omit sub-paragraph (a)].

**F148** 1993 NI 15

- 3 In<sup>F149</sup> Schedule 8]
- Para. (a) rep. by 1993 NI 15*
- (b) in paragraph 2—
- Head (i) rep. by 1993 NI 15*
- (ii) in sub-paragraph (1)(b) for the words “Article 6” substitute the words “ section 67H ”,
  - (iii) in sub-paragraph (1)(c) for the words “Article 4(1), 5(1) or 6” substitute the words “ section 67A, 67G or 67H ”;
  - (iv) in sub-paragraph (3) omit the words from the beginning of head (a) to “or 6”, and head (b);
- (c) omit paragraph 3;
- Para. (d) rep. by 1993 NI 15]*

**F149** 1993 NI 15

<sup>F150</sup>SCHEDULE 1B

Section 67K.

PROVISION FOR PENALTY FARES ON BUSES AND TRAINS

**F150** 1990 NI 7

*Status: Point in time view as at 27/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Transport Act (Northern Ireland) 1967. (See end of Document for details)*

### *Liability to pay a penalty fare*

- 1
  - (1) If a person travelling on a ticket bus service who has had a reasonable opportunity to obtain a fare ticket for a journey on that service fails to produce a fare ticket or an authority to travel on being required to do so by an authorised person, he shall be liable to pay a penalty fare if required to do so by an authorised person.
  - (2) If a person travels on a non#ticket bus service without paying the fare properly payable for a journey on that service and, while so travelling, fails to produce an authority to travel on being required to do so by an authorised person, he shall be liable to pay a penalty fare if required to do so by an authorised person.
  - (3) In this paragraph a “ticket bus service” means a bus service on which fare tickets are issued in return for fares paid by persons travelling on that service, and a “non#ticket bus service” means a bus service on which fare tickets are not so issued.
- 2
  - (1) Subject to sub#paragraphs (2) and (3) and paragraph 3, if a person travelling on a train service fails to produce a fare ticket or an authority to travel on being required to do so by an authorised person, he shall be liable to pay a penalty fare if required to do so by an authorised person.
  - (2) A person shall not be liable to pay a penalty fare under this paragraph if at the time when and the station where he started to travel on the train service there were no facilities available for the sale of the necessary fare ticket for his journey.
  - (3) Without prejudice to sub#paragraph (2), a person shall not be liable to pay a penalty fare under this paragraph if at the time when and the station where his journey began—
    - (a) there was displayed a notice (however expressed) indicating that it was permissible for passengers beginning a journey at that station at that time to do so without having a fare ticket or an authority to travel; or
    - (b) a person in the uniform of the railway undertaking gave permission to the same effect.
  - (4) In any case where the defendant has provided the plaintiff with a relevant statement in due time it shall be for the plaintiff to show that the facts of the case do not fall within sub#paragraph (2) or (3); and in any other case it shall be for the defendant to show that the facts of the case fall within either of those sub#paragraphs.
  - (5) For the purposes of sub#paragraph (4)—
    - (a) a relevant statement is a statement giving an explanation of the defendant's failure to produce a fare ticket or authority to travel, together with any information as to his journey relevant to that explanation (including, in every case, an indication of the time when and the station where he started to travel on the train service); and
    - (b) a statement is provided in due time if it is provided when the defendant is required to produce a fare ticket or authority to travel, or at any later time before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed.
- 3
  - (1) Paragraph 2 shall not apply to a person travelling on a conductor train service whose journey begins at a non#ticket station; but where such a person has had an opportunity while so travelling to obtain a fare ticket he shall, if he fails to produce a fare ticket or authority to travel on being required to do so by an authorised person, be liable to pay a penalty fare if required to do so by an authorised person.

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- (2) In sub#paragraph (1)—
- “conductor train service” means a train service on which fare tickets are issued in return for fares paid by persons travelling on that service; and
- “non#ticket station” means a station on a conductor train service at which there is no provision at any time for the sale of fare tickets.

*Amount of penalty fare, etc.*

- 4 (1) Subject to sub#paragraph (2), a penalty fare—
- (a) shall be an amount equal to the full single fare for the journey the person has made plus<sup>F151</sup> £10]; and
- (b) shall be payable to the person providing the service on which the requirement to pay the penalty fare is made before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed.
- (2) The Department may by order, made subject to negative resolution, alter the amount of the penalty fare specified in sub#paragraph (1)( a).
- (3) An authorised person who requires a person (referred to below as “the passenger”) to pay a penalty fare shall give him either a receipt for the payment of the amount of the penalty (where the passenger makes that payment to the authorised person) or a notice stating that the requirement has been made.
- (4) A receipt or notice given under sub#paragraph (3) shall specify the passenger's destination on the bus or train service on which he is travelling when required to pay the penalty fare, and shall operate as an authority to him to complete his journey to or at that destination.
- (5) For the purposes of sub#paragraph (4), the passenger's destination shall (unless he is at that destination or only one destination is possible in the circumstances) be taken to be the destination stated by the passenger or, in default of any statement by him for that purpose, such destination as may be specified by the authorised person.

**F151** SR 1991/297

*Supplementary provisions*

- 5 (1) A person who is required to pay a penalty fare shall, unless he pays, immediately and in cash, the amount of the penalty fare to an authorised person requiring such payment, give to that authorised person, if that person requires him to do so, his name and address; and any person failing to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) It shall be the duty of the operator to secure that the requirements of sub#paragraph (3) or, as the case may be, (4) with respect to warning notices are met in the case of a bus or train service in relation to travel on which the penalty fare provisions have effect.
- (3) In the case of a bus service, a warning notice meeting the requirements of sub#paragraphs (5) and (6) shall be posted in every vehicle used in providing that service or, where any such vehicle has more than one deck, on each deck of that vehicle, in such a position as to be readily visible to persons travelling on the vehicle.

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- (4) In the case of a train service, a warning notice meeting the requirements of sub# paragraphs (5) and (6) shall be posted—
- (a) at every station at which persons may start to travel on that service, in such a position as to be readily visible to prospective passengers; and
  - (b) in every carriage of every train used in providing that service in such a position as to be readily visible to passengers travelling in the carriage.
- (5) A warning notice posted pursuant to sub#paragraph (3) or (4) shall (however expressed) indicate the circumstances (as provided in paragraph 1(1) or (2) or, as the case may be, paragraph 2(1)) in which persons travelling on the service in question may be liable to pay a penalty fare.
- (6) Every warning notice posted in pursuance of this paragraph shall state the amount of the penalty fare relevant to the bus or train service on which, or in relation to which, it is posted.
- (7) Where an authorised person requires any person to do anything pursuant to any provision of this Schedule he shall, if so requested by the person concerned, produce to that person a duly authenticated document showing his authority; and a requirement by an authorised person shall be of no effect if, as respects that requirement, he fails to comply with this sub#paragraph.
- 6 (1) Where a person has become liable under paragraph 1 or 2 to pay a penalty fare in respect of any bus or train journey (in this paragraph referred to as “the relevant journey”), no proceedings shall be brought against him for any of the offences specified in sub#paragraph (2) before the end of the period mentioned in paragraph 4(1); and no such proceedings shall be brought after the end of that period if either—
- (a) he has paid the penalty fare to the person providing the service on which the requirement to pay that fare was made, before the end of that period; or
  - (b) an action has been brought against him for the recovery of that fare.
- (2) The offences mentioned in sub#paragraph (1) are—
- (a) any offence under section 5(3)( a ) or ( b ) of the Regulation of Railways Act 1889 (travelling without paying the correct fare with intent to avoid payment) arising from the relevant journey;
  - (b) any offence under byelaws made under section 57 (byelaws for railways, etc.) involving a failure to obtain or produce a fare ticket or authority to travel for the relevant journey; and
  - (c) any offence under the Road Traffic (Northern Ireland) Order 1981 in respect of a contravention of regulations made under Article 66 of that Order by failing to pay the fare properly payable for the relevant journey or any part of it.
- (3) If proceedings are brought against any such person for any such offence he shall cease to be liable to pay the penalty fare and, if he has paid it, the person to whom it was paid shall be liable to repay to him an amount equal to the amount of that fare.
- 7 (1) In this Schedule—
- “authorised person” means a person authorised by the operator providing the service in question;
- “authority to travel” means any ticket (other than a fare ticket), permit, voucher or other document authorising the person to whom it is issued to travel on any

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bus or train service to which section 67K applies, whether or not subject to any terms, limitations or conditions as to its use;

“bus journey” means a journey on a bus service to which section 67K applies;

“bus service” has the meaning given by section 67K(1)( a);

“fare ticket” means a ticket showing payment of a fare for travelling on a bus or train journey and authorising the person to whom it is issued to travel on any such journey for the distance covered by that fare, whether or not subject to any terms, limitations or conditions as to its use;

“operator” has the meaning given by section 67K(5);

“penalty fare” means a penalty fare payable pursuant to paragraph 1 or 2;

“train journey” means a journey on a train service to which section 67K applies; and,

“train service” has the meaning given by section 67K(1)( b).

(2) References in this Schedule to any necessary fare ticket for a person's journey on any such bus or train service are references to a fare ticket required for his journey on the occasion in question which—

- (a) applies to his journey on that occasion; and
- (b) shows payment of the fare properly payable for that journey.]

*Schedule 2 rep. by 1984 NI 15*

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