

SCHEDULES

SCHEDULE 1

Section 30

TRANSFER OF OPERATING CENTRES

Transfers in connection with new licences

1.—(1) Where in the case of any application for an operator's licence—

- (a) the requirements of sub-paragraphs (2) to (5) are satisfied at the time when the application is made, and
- (b) the applicant so requests,

the Department may direct that paragraph 2 is to apply in relation to the application.

(2) Each place referred to in the application under section 7(4)(c) as a proposed operating centre of the applicant must already be specified in an operator's licence as an operating centre of its holder.

(3) That licence must be the same in the case of each such place, and no such place may be specified in more than the one operator's licence.

(4) Where any conditions under section 20(1)(a) or (c) relating to any such place are attached to that licence, the applicant must have consented to conditions in the same terms being attached to the licence the applicant is applying for.

(5) Where any undertakings relating to any such place are recorded in that licence, undertakings in the same terms must have been given by the applicant (or have been procured by the applicant to be given) for the purposes of the application.

(6) In determining whether to give a direction under this paragraph, the Department shall take account of whether any new adverse effects on environmental conditions are likely to arise from the use as an operating centre of the applicant of any such place, and may take account of any other matters it considers relevant.

(7) A place is not to be regarded for the purposes of sub-paragraph (2) as being specified in an operator's licence by reason only that it forms part of a place so specified; and a place that was, at the time mentioned in sub-paragraph (1)(a), a place specified in an operator's licence as mentioned in sub-paragraph (2) shall be disregarded for the purposes of sub-paragraph (2) if, at that time—

- (a) that place was so specified by virtue of an interim direction such as is mentioned in section 22; or
- (b) such conditions relating to—

(i) the exercise of the right of any person to appeal against a place being specified in an operator's licence, or

(ii) the review under section 34 of any decision so to specify a place, as may be prescribed were not satisfied in relation to that place.

(8) In this paragraph "operator's licence" does not include an interim licence issued under section 21

2.—(1) The provisions of this paragraph have effect in relation to any application for an operator's licence in respect of which a direction has been given under paragraph 1.

(2) The notice published under section 9(1) shall state that the direction has been given.

(3) The following provisions of this Act shall not apply—

(a) section 10;

(b) section 11(1)(b) and (4);

(c) section 12(5)(d) so far as relating to the suitability of any place specified in the licence for use as an operating centre of the licence-holder;

(d) section 13; and

(e) section 14(3)(f).

(4) Notwithstanding anything in section 12(11) the Department may refuse the application if—

(a) any statement of fact made by the applicant (or procured by the applicant to be made) for the purposes of the request for the direction under paragraph 1 was false, whether to the applicant's knowledge or not; or

(b) any undertaking given or statement of expectation made by the applicant (or procured by the applicant to be given or made) for those purposes has not been fulfilled.

(5) If the application is granted, the Department—

(a) shall attach to the licence issued to the applicant any conditions in respect of which the applicant has consented under paragraph 1(4); and

(b) shall not attach any other conditions to the licence under section 20(1)(a) or (c).

(6) If the application is granted, the Department shall record in the licence—

(a) any undertakings given or procured to be given under paragraph 1(5); and

(b) any other undertakings given by the applicant (or procured by the applicant to be given), whether for the purposes of the application or for the purposes of the request for the direction under paragraph 1, that the Department considers to be material to the Department's decision to give the direction

(and that would not otherwise be required by section 14(4) to be recorded in the licence).

Transfers in connection with the variation of licences

3.—(1) Where in the case of an application for the variation of an operator's licence under section 16—

- (a) the only direction applied for is one under subsection (1)(g) of that section that one or more new places be specified in the licence as an operating centre of the licence-holder,
- (b) the requirements of sub-paragraphs (2) to (5) are satisfied at the time when the application is made, and
- (c) the applicant so requests

the Department may direct that paragraph 4 is to apply in relation to the application.

(2) Each new place that is proposed to be specified in the licence must already be specified in another operator's licence as an operating centre of its holder.

(3) That other licence must be the same in the case of each such place, and no such place may be specified in more than the one other operator's licence.

(4) Where any conditions under section 20(1)(a) or (c) relating to any such place are attached to that other licence, the applicant must have consented to conditions in the same terms being attached to the licence the applicant is applying to have varied.

(5) Where any undertakings relating to any such place are recorded in that other licence, undertakings in the same terms must have been given by the applicant (or have been procured by the applicant to be given) for the purposes of the application.

(6) In determining whether to give a direction under this paragraph, the Department shall take account of whether any new adverse effects on environmental conditions are likely to arise from the use as an operating centre of the applicant of any such place, and may take account of any other matters the Department considers relevant.

(7) A place is not to be regarded for the purposes of sub-paragraph (2) as being specified in an operator's licence by reason only that it forms part of a place so specified; and a place that was, at the time mentioned in sub-paragraph (1)(b), a place specified in an operator's licence as mentioned in sub-paragraph (2) shall be disregarded for the purposes of sub-paragraph (2) if, at that time—

- (a) that place was so specified by virtue of an interim direction such as is mentioned in section 22; or
- (b) such conditions relating to—
 - (i) the exercise of the right of any person to appeal against a place being specified in an operator's licence, or
 - (ii) the review under section 34 of any decision so to specify a place,

as may be prescribed were not satisfied in relation to that place.

(8) In this paragraph “operator’s licence” does not include an interim licence issued under section 21.

4.—(1) The provisions of this paragraph have effect in relation to any application for the variation of an operator’s licence in respect of which a direction has been given under paragraph 3.

(2) Sections 16(4) and 17 shall not apply.

(3) If the application is granted, the Department—

(a) shall attach to the licence as varied any conditions in respect of which the applicant has consented under paragraph 3(4); and

(b) shall not attach any other conditions to the licence under section 20(1)(a) or (c).

(4) If the application is granted, the Department shall record in the licence as varied

(a) any undertakings given or procured to be given under paragraph 3(5); and

(b) any other undertakings given by the applicant (or procured by the applicant to be given), whether for the purposes of the application or for the purposes of the request for the direction under paragraph 3, that the Department considers to be material to its decision to give the direction.

SCHEDULE 2

Section 44

DETENTION OF VEHICLES USED WITHOUT OPERATOR'S LICENCE

Detention of property

1. Regulations may provide that where an authorised person has reason to believe that a goods vehicle is being, or has been, used on a road in contravention of section 1, the authorised person may detain the vehicle and its contents.

2. Regulations may make provision with respect to property detained by virtue of paragraph 1.

Immobilisation and removal

3.—(1) Regulations may provide that an authorised person may, before a goods vehicle is moved by virtue of paragraph 5—

(a) fix an immobilisation device to the vehicle in the place where the vehicle has been detained, or

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(b) move the vehicle, or require it to be moved, to a more convenient place and fix an immobilisation device to the vehicle in that other place.

(2) Regulations may provide that on any occasion when an immobilisation device is fixed to a goods vehicle in accordance with the regulations the person fixing the device must also fix to the vehicle a notice—

(a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device,

(b) specifying the steps to be taken to secure its release, and

(c) giving such other information as may be prescribed.

(3) Regulations may provide that—

(a) a goods vehicle to which an immobilisation device has been fixed in accordance with the regulations may only be released from the device by or under the direction of an authorised person;

(b) an immobilisation notice shall not be removed or interfered with except by or on the authority of an authorised person.

4.—(1) Regulations may provide that a person who, without being authorised to do so in accordance with paragraph 3(3)(a), removes or attempts to remove an immobilisation device fixed to a goods vehicle under regulations made by virtue of paragraph 3(1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Regulations may provide that a person who removes or interferes with an immobilisation notice in contravention of regulations made by virtue of paragraph 3(3)(b) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale

5.—(1) Regulations may make provision for an authorised person to direct that any property detained by virtue of paragraph 1 be removed and delivered into the custody of a person specified in the direction.

(2) Regulations may provide that a direction under sub-paragraph (1) may only specify a person—

(a) who is identified in accordance with prescribed rules, and

(b) who has made arrangements with the Department and has agreed to accept delivery of the property in accordance with those arrangements;

and the arrangements may include the payment of a sum to a person into whose custody any property is delivered.

(3) Regulations may also provide that, where an authorised person has given a direction by virtue of sub-paragraph (1) in respect of a goods vehicle, the authorised person may allow the driver of the vehicle to deliver its contents to their destination

or some other suitable place before delivering the vehicle into the custody of the person specified in the direction.

6.—(1) Regulations may make provision for informing persons who may be entitled to the property that it has been detained.

(2) Provision made by virtue of sub-paragraph (1) may, in particular, include provision requiring—

- (a) the publication by an authorised person of such notices as may be prescribed, and
- (b) the giving of notice by an authorised person to such persons as may be prescribed.

Return or disposal of vehicle

7. Regulations may make provision authorising a vehicle detained by virtue of paragraph 1 to be returned to the owner, in prescribed circumstances, without the need for any application under paragraph 8.

8.—(1) Regulations shall make provision enabling the owner of a goods vehicle detained by virtue of paragraph 1 to apply to the Department for the return of the vehicle.

(2) Regulations may, in particular—

- (a) require notice of an application to be given to the Department within such period as may be determined in accordance with the regulations, and
- (b) require notice of an application to be made in such form as may be prescribed.

(3) Regulations shall make provision as to the grounds upon which the owner may apply for the return of the vehicle.

(4) Those grounds may include the following grounds—

- (a) that at the time the vehicle was detained the person using the vehicle held an operator's licence (whether or not authorising the use of the vehicle)
- (b) that at the time the vehicle was detained the vehicle was not being, and had not been, used in contravention of section 1, or
- (c) that, although at the time the vehicle was detained it was being, or had been, used in contravention of section 1, the owner did not know that it was being, or had been, so used.

9.—(1) Regulations shall make provision—

- (a) enabling the Department to hold a hearing before determining an application by virtue of paragraph 8,

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- (b) requiring the Department to hold a hearing if requested by a person who claims to be the owner,
- (c) as to the time within which the hearing must be held, and
- (d) subject to such provision as may be made by the regulations, for the hearing to be held in public.

(2) Regulations shall also provide that, if no hearing is held, the Department must determine the application within a prescribed time after receiving notice of the application.

(3) Regulations shall provide that—

- (a) if the Department determines that one of the grounds prescribed by virtue of paragraph 8(3) is made out, it must order the person specified in a direction by virtue of paragraph 5(1) to return the goods vehicle to the owner;
- (b) if the Department determines that none of those grounds is made out, the vehicle may be sold or destroyed by the person specified, in such manner as may be prescribed.

10.—(1) Regulations shall provide for an appeal to the Upper Tribunal against the determination of the Department.

(2) Regulations—

- (a) may prescribe the period within which an appeal must be made, and
- (b) may make provision for notice of the appeal to be given to the Upper Tribunal, the Department and such other persons as may be prescribed.

11. Regulations may provide that, if no application is made to the Department in accordance with regulations made by virtue of paragraph 8, any goods vehicle detained by virtue of paragraph 1 may be sold or destroyed in such manner as may be prescribed.

Return or disposal of contents of vehicle

12.—(1) Regulations may provide that the person specified in a direction by virtue of paragraph 5(1) may retain custody of the contents of a goods vehicle until—

- (a) the contents are returned, in accordance with the regulations, to a person who establishes that that person is entitled to them, or
- (b) the contents are sold or destroyed by the person specified in such manner as may be prescribed

(2) Regulations may also make provision as to—

- (a) the period within which a person who claims to be entitled to the contents may make a claim for their return,

- (b) the requirements to be satisfied by a person who claims to be entitled to the contents (including requirements as to the person's entitlement), and
 - (c) the manner in which entitlement to such contents is to be determined where there is more than one claim to them.
- (3) The person specified in a direction by virtue of paragraph 5(1) may not sell or destroy the contents unless—
- (a) such steps as may be required by regulations made by virtue of paragraph 6(1) have been taken and no person has, before the expiry of the period referred to in sub-paragraph (2)(a), established an entitlement to the contents, or
 - (b) the condition of the contents requires them to be disposed of without delay.

Custody of property

13. Regulations shall provide that, subject to the powers of a person specified in a direction by virtue of paragraph 5(1) to sell or destroy any property by virtue of this Schedule, it shall be the duty of that person while any property is in that person's custody to take such steps as are necessary for the safe custody of that property.

Proceeds of sale

- 14.—**(1) Regulations shall provide for the proceeds of sale of any property sold under regulations made by virtue of paragraph 9(3)(b), 11 or 12(1)(b)—
- (a) to be applied towards meeting expenses incurred by any authorised person in exercising functions by virtue of this Schedule, and
 - (b) in so far as they are not so applied, to be applied in such other manner as may be prescribed.
- (2) Regulations may in particular provide for a sum determined in accordance with the regulations to be paid to a person if—
- (a) the person claims after the sale of property under regulations made by virtue of paragraph 9(3)(b), 11 or 12(1)(b) to be or to have been its owner,
 - (b) the claim is made within a prescribed time of the sale, and
 - (c) any other prescribed conditions are fulfilled.

Disputes

15.—(1) Regulations may make provision about the proceedings to be followed where a dispute occurs as a result of regulations made by virtue of paragraph 12 or 14.

- (2) Provision made by virtue of sub-paragraph (1) may in particular provide—

- (a) for an application to be made to a court of summary jurisdiction;
- (b) for a court to order a sum to be paid by the Department

Offences as to securing possession of property

16.—(1) Regulations may provide that where—

- (a) a person makes a declaration with a view to securing the return of a goods vehicle under regulations made by virtue of paragraph 9,
- (b) the declaration is that the vehicle was not being, or had not been, used in contravention of section 1, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

the person is guilty of an offence.

(2) Regulations may provide that a person guilty of such an offence is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum,
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or both.

Interpretation

17.—(1) In this Schedule—

“contents”, in relation to a goods vehicle, means any goods carried by that vehicle;

“immobilisation device” means any device or appliance which is an immobilisation device for the purposes of paragraph 11 of Schedule 1 to the [Road Traffic \(Northern Ireland\) Order 2007 \(NI 10\)](#).

(2) Regulations may, for the purposes of regulations made by virtue of this Schedule, make provision as to the meaning of “owner” as regards a goods vehicle.

(3) Regulations made by virtue of sub-paragraph (2) may, in particular, provide that the owner of a goods vehicle at a particular time shall be taken to be—

- (a) any person in whose name the goods vehicle is then registered by virtue of the Vehicle Excise and Registration Act [1994 \(c. 22\)](#), or
- (b) any person in whose operator's licence the goods vehicle is then specified.

SCHEDULE 3

Section 59

AMENDMENTS

The Transport Act (Northern Ireland) 1967 (c. 37)

1. In section 31(1) for “Parts II and III” substitute “Part 2”.
2. In section 34(b) for “mark or permit” substitute “or control document”.
3. In section 37(2) for “Parts II and III” substitute “Part 2”.
4. In section 43(1) for “Parts II and III” substitute “Part 2”.
5. In section 45(g) for “Parts II and III” substitute “Part 2”.
6. In section 45(i) for “Parts II and III” substitute “Part 2”.
7. In section 46 for “Parts II and III” substitute “Part 2”.
8. In section 46A(1) for “7, 10, 15, 15A, 28A and 29” substitute “7 and 10”.

The International Road Haulage Permits Act 1975 (c. 46)

9. In section 1(8) for “Part III of the Transport Act (Northern Ireland) 1967” substitute “the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010”.

The Road Traffic (Northern Ireland) Order 1981 (NI 1)

10. In Article 87(1) after “the Transport Act (Northern Ireland) Act 1967” insert “or section 57 of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010.”.

11. In Schedule 1 at the end insert—

“Sections 38, 39 and 40 of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010.	To enter and inspect goods vehicles, to inspect and copy documents required to be carried on such vehicles and to seize certain articles.”.
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The Road Traffic (Northern Ireland) Order 1995 (NI 18)

12. In Article 74(1) for “Parts II to IV” substitute “Parts 2 and 4”.
13. In Article 111(2)—
 - (a) for the words “Parts II and III” substitute “Part 2”;
 - (b) at the end add “or the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010”.

SCHEDULE 4

Section 59

REPEALS

Short Title	Extent of repeal
The Transport Act (Northern Ireland) 1967(c. 37).	<p>Part 3.</p> <p>In section 31(1) the words “and operators' licences”.</p> <p>In section 32 the words “or Part III”.</p> <p>In section 33—</p> <p>(a) in subsection (1) the words “or Part III”;</p> <p>(b) in subsection (2) the words “or Part III”;</p> <p>(c) in subsection (2)(e) the words from the beginning to “or operator’s licence” and “or 29(2B), as the case may be,”.</p> <p>In section 34</p> <p>(a) in paragraph (a) the words “or Part III, or any notice or distinguishing mark prescribed under section 26” and “or 46E(1) or any international road haulage permit”;</p> <p>(b) in paragraph (b) the words “or mark”.</p> <p>In section 35(a) the words “or Part III”.Section 35(d).</p> <p>In section 36(1) the words “Part III”.</p> <p>In section 37(2)(a), (b) and (c) the words “or goods” wherever they occur.</p> <p>In section 38(1)—</p> <p>(a) the words “or goods” wherever they occur;</p> <p>(b) in paragraph (i) the words “or the description of the goods and the name and address of the owner of the goods”.</p>

Short Title	Extent of repeal
	In section 38(2) the words “or goods” wherever they occur.
	In section 38(3)(b) the words “or goods”.
	In section 39(3)—
	(a) the words “or mark” wherever they occur;
	(b) paragraph (a).
	In section 39(4) the words “or mark” wherever they occur.
	In section 43(2) the words “Part III”.
	In section 45—
	(a) the words “Part III”;
	(b) in paragraph (g) the words “or of any notice or distinguishing mark prescribed under section 26”.
	In section 46(b)—
	(a) the words “or any goods”;
	(b) the words “or goods” wherever they occur.
	Section 46(c), (d) and (e).
	Section 46A(2)(a)(i).
	In section 46A(2)(a)(ii) the word “other”.
	In section 46C—
	(a) in subsection (1) the words “or an operator’s licence”;
	(b) in subsection (2) the words “or an operator’s licence”.
	Section 46E.
	In section 81(1) the definitions of “goods”, “operators’ licences”, “road freight operators” and “vehicle licences”.
The International Road Haulage Permits Act 1975 (c. 46).	Section 4.

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Short Title	Extent of repeal
The Road Traffic (Northern Ireland) Order 1981(NI 1).	<p>In Schedule 1, in the entry relating to sections 37, 38 and 39 of the Transport Act (Northern Ireland) 1967 in the second column the words “and goods vehicles”.</p> <p>In Schedule 2 the entry relating to section 17 of the Transport Act (Northern Ireland) 1967.</p> <p>In Schedule 7, paragraphs 6 and 7.</p>
The Road Traffic, Transport and Roads (Northern Ireland) Order 1984(NI 15).	Articles 11, 12 and 13.
The Insolvency (Northern Ireland) Order 2005(NI 10).	Paragraph 8 and 9 of Schedule 2.
The Road Traffic (Northern Ireland) Order 2007(NI 10).	Article 79(2)(b), (c), and (d).