



## 2010 CHAPTER 2

### *Miscellaneous*

#### **Disclosure of information**

**46.—**(1) Any information which is obtained under this Act 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 this Act;
- (b) any legal proceedings arising out of this Act, or any criminal proceedings, whether so arising or not; or
- (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 level 4 on the standard scale, or to imprisonment for a term not exceeding 6 months, or to both.

#### **Fees**

**47.—**(1) Such fees, payable at such times, and whether in one sum or by instalments, as may be prescribed shall be charged by the Department in respect of—

- (a) applications for, or for the variation of, operators' licences;
  - (b) the issue or variation of operators' licences;
  - (c) the continuation in force of operators' licences.
- (2) The Department may decline to proceed with—
- (a) any application for, or for the variation of, an operator's licence, or
  - (b) the issue or variation of any operator's licence,

until any fee or instalment of a fee in respect of the application, issue or variation (as the case may be) is duly paid.

(3) If, in the case of any application for, or for the variation of, an operator's licence, any fee or instalment of a fee in respect of the application or the issue or variation of the licence is not duly paid by the prescribed time—

- (a) the application shall be treated as withdrawn at that time, and
- (b) any decision made or direction given on the application, and any licence issued or variation effected in pursuance of such a direction, ceases to have effect or terminates at that time.

(4) If any fee or instalment of a fee in respect of the continuation in force of an operator's licence is not duly paid by the prescribed time, the licence terminates at that time.

(5) The Department may, if it considers there to be exceptional circumstances that justify its doing so in any case where subsection (3) or (4) has applied, direct that as from the time mentioned in that subsection its effect in that case be disregarded.

(6) Where, by virtue of such a direction, the effect of subsection (3)(a) is to be disregarded in any case, any termination—

- (a) of an interim licence under section 21(5)(b) or (6), or
- (b) of an interim direction under section 22(4),

by virtue of the operation of subsection (3)(a) in that case before the direction was given shall be cancelled with effect from the same time.

(7) Where such a direction is given in respect of an operator's licence—

- (a) any condition attached to the licence under section 20(1)(b) shall be treated as having been of no effect during the period beginning with the time when the licence terminated by virtue of subsection (3) or (4) and ending with the time when the direction comes into force, and
- (b) subject to paragraph (a), the Department may vary any such condition as it applies in relation to events occurring before the direction comes into force.

(8) Regulations under this section may provide for fees to be remitted or refunded (in whole or part) in prescribed cases.

### **Operators' licences not to be transferable**

**48.—**(1) Subject to any regulations under section 52, an operator's licence is neither transferable nor assignable.

(2) Regulations may make provision enabling the Department, where the holder of an operator's licence has died or become a patient within the meaning

of Article 2(2) of the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#), to direct that the licence be treated—

- (a) as not having terminated at the time when the licence-holder died or became a patient but as having been suspended (that is, as having remained in force but subject to the limitation that no vehicles were authorised to be used under it) from that time until the time when the direction comes into force; and
- (b) as having effect from the time when the direction comes into force for a specified period and as being held during that period (for such purposes and to such extent as may be specified) not by the person to whom it was issued but by such other person carrying on that person's business, or part of that person's business, as may be specified.

(3) Regulations may make provision enabling the Department in prescribed circumstances to direct that any operator's licence is to be treated (for such purposes, for such period and to such extent as may be specified) as held not by the person to whom it was issued but by such other person carrying on that person's business, or part of that person's business, as may be specified.

(4) Regulations may make provision enabling the Department to direct, for the purpose of giving effect to or supplementing a direction given by it by virtue of subsection (2) or (3), that this Act is to apply with specified modifications in relation to the person who is to be treated under the direction as the holder of an operator's licence.

(5) In this section "specified", in relation to a direction, means specified—

- (a) in the regulations under which the direction was given; or
- (b) in the direction in accordance with those regulations.

### **Certificates of qualification**

**49.—**(1) On an application made to the Department by a person wishing to engage in a road transport undertaking in a member State other than the United Kingdom, the Department shall issue to the applicant a certificate (a "certificate of qualification") as to such matters relating to the applicant's—

- (a) repute,
- (b) professional competence, or
- (c) financial standing (where relevant),

as the Department is satisfied it may properly certify and as appear to the Department to be of assistance to the applicant in satisfying any requirements imposed by the law of the other member State as regards the repute, professional competence and financial standing of persons engaged in road transport undertakings in that member State.

(2) A certificate of qualification shall—

- (a) be in such form as the Department may prescribe;
  - (b) have effect for the purposes of Article 8, 9 or (as the case may be) 10 of the 1996 Council Directive.
- (3) No certificate of qualification shall be issued before a prescribed fee has been paid to the Department.
- (4) The applicant shall give to the Department such information as it may reasonably require for the discharge of its duties in relation to the application.
- (5) In subsection (1) references to repute, professional competence or financial standing are to be construed in accordance with the 1996 Council Directive.

#### **Method of calculating weight of vehicles**

**50.** For the purposes of this Act the weight unladen of a vehicle shall be taken to be the weight of the vehicle inclusive of the body and all parts (the heavier being taken where alternative bodies or parts are used) which are necessary to or ordinarily used with the vehicle when working on a road, but exclusive of the weight of water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, and of loose tools and loose equipment.

#### **Payment of grants**

**51.—(1)** The Department may, with the approval of the Department of Finance and Personnel, pay such grants to such persons or bodies as it considers appropriate in connection with any provision of, or the purposes of, this Act.

(2) Grants under this section shall be subject to such terms and conditions as the Department may, with the approval of the Department of Finance and Personnel, determine.