

## **New Proposals for Road Freight Operator Licensing in Northern Ireland**

**The main purpose** of Goods Vehicle Operator Licensing is to ensure the safe and proper use of goods vehicles and to protect the environment around operating centres.

The Department of the Environment plans to make changes to the way road freight operators are licensed in Northern Ireland. The new arrangements will mean changes for all those who use goods vehicles over 3.5 tonnes in the course of their business. This will mean that both the hire and reward sector (who are currently licensed) and those who carry their own goods in the course of their business, will be licensed.

This paper seeks to answer many of the questions you may have about goods vehicle operator licensing. If you need more information, please contact:

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## Obtaining a Licence

### Who will need an operator's licence?

You will need an operator's licence to carry goods (or burden) connected with any trade or business if you "USE" a motor vehicle on a road with:

- A gross plated weight of more than 3.5 tonnes; or
- If it has no gross plated weight, an unladen weight of more than 1525kg.

### Who is the user of a vehicle?

You are the user of a vehicle if you are the driver and are the owner, or the vehicle is in your lawful possession under an agreement for hire, hire purchase, or loan. You also use a vehicle if the driver is your servant or agent. You will need an operator's licence even if you use a vehicle only for a short period, 2 or 3 weeks or even just one day.

### Will there be any general exceptions?

Yes. You will not need a licence to use certain types of vehicles or to carry out certain functions. The industry and public representatives will be consulted on drawing up the list of Northern Ireland exemptions.

### What kind of licence will I need?

The new arrangements will introduce three different licence types:

- Restricted
- Standard National
- Standard International

To carry your own goods in the course of your trade or business you will need a **restricted** licence. You will not be able to carry goods for other people for hire or reward if you have a restricted licence. *If you do, you could be fined and lose your operator licence.*

A **standard national** licence will allow you to carry your own goods within the United Kingdom (UK), **AND** to carry goods for other people for hire or reward within the UK. Even if you carry other people's goods only occasionally, you must have a standard national licence. You can be fined if you use your vehicles for international hire or reward work when your licence covers you for national operations only. However, a standard national licence will allow you to haul loaded trailers to or from ports within the UK as part of an international journey as long as your motor vehicles do not actually leave the UK.

A **standard international** licence will allow you to carry your own goods, and goods for other people for hire or reward, both in the UK and on international journeys.

### **Will I have to advertise my application?**

Under the Department's new arrangements for licensing, operators will be required to advertise their application in a local newspaper circulating in each place where they are applying to have their operating centres. This will give anyone owning or occupying buildings or land in the vicinity of the operating centre an opportunity to make a representation against an application on environmental grounds.

In addition to your advertisement, the Department will publish details of your application in a publication called "Applications and Decisions". This will be sent to various organisations such as Local Councils, Police and Trade Associations who will have a statutory right to object to the grant of your application.

### **How long will my licence last?**

The Department will be introducing a system of continuous licensing, which will mean that your licence, once issued, will be yours for life unless you operate outside the terms of your licence, surrender it, or fail to pay the required fees to keep the licence live.

Continuous licensing will mean that you will not have to apply for a new licence every 5 years. Instead the Department will contact you every 5 years with a summary of the information it holds on record. You will be asked to confirm that information is correct and to pay the required continuation fee by a specified date. This fee will keep your licence in force and pay for the discs you will need to display in your vehicles.

### **Will I need to re-advertise at any stage?**

Assuming your licence is not revoked for any reason you will only have to advertise again if you are applying to have your current licence varied in some way.

### **What will be the requirements for obtaining a licence?**

**For any type of licence**, you will have to satisfy the Department that:

- You and any of your partners or directors are fit to hold a licence,
- You have proper maintenance facilities of your own, or arrangements with a garage and enough money to keep your vehicles fit and serviceable,

- You have an operating centre suitable for keeping your vehicles, bearing in mind such things as its size, location, availability and means of access; and
- You have proper arrangements to ensure that the rules about drivers' hours are followed and that vehicles are not overloaded.

**For a Standard licence**, you will also have to satisfy the Department that:

- You have enough resources to set up and run properly your road haulage business,
- You are, or have in your employment one or more professionally competent transport managers who have continuous and effective responsibility for managing the transport operations of your business; and
- You, and all partners, directors and transport managers are of good repute.

### **How will fitness and good repute be decided?**

In deciding fitness (all applicants), the Department will take account of certain convictions. These will include convictions for vehicle overloading, defective vehicles, or unauthorised use; also convictions connected with vehicle plating and testing or drivers' hours. You will be required to give details of any such convictions on the application form.

In deciding good repute (standard licence applicants only), the Department will take account of any convictions covered above, and also any other relevant information. This will include any convictions that you or any partners, directors, transport managers or servants or agents have had in the UK or abroad.

Convictions after a licence application has been made and also after a licence has been issued **must** be reported to the Department.

### **What will the maintenance requirements be?**

You will have to satisfy the Department that you will keep your vehicles fit and serviceable at all times. The Department will want to see a copy of any maintenance contract or letter of agreement with a garage if you do not do this work yourself. Examples of the forms used for vehicle safety inspections will be required by the Department regardless of whether or not the work is carried out by a garage.

### **What will the financial requirements be?**

**For all types of licence**, the Department will have to be satisfied that you have adequate financial resources to keep your vehicles fit and serviceable. You will be asked to give details on the application form of any recent bankruptcy, insolvency, liquidation or disqualification in relation to a company. Applicants will

be asked for details of financial resources and to give supporting evidence (such as bank statements and statement of assets, or most recent accounts).

**For a standard licence**, the financial requirements go still further. You will also need to satisfy the Department that you have adequate financial resources to start up and run the road haulage business properly. As well as assets (such as your vehicles and premises) there must be enough working capital (such as cash, loan facilities, or other assets that can be turned quickly into cash) to cover all expenses that are likely to arise before any money is earned to meet them.

### **Will these rules have to be met at all times?**

The criteria of good repute, financial standing and professional competence which are incorporated in our domestic operator licensing system are set out in European legislation. There is a continuing requirement to meet these criteria. New rules on access to the profession came into effect in October 1999. These enable the Department to carry out interim checks at five yearly intervals to ensure that operator licence holders comply with these rules.

## **Operating centres**

### **What is meant by an “Operating Centre?”**

An operating centre is the place where your vehicles are normally kept when not in use. The operating centre should provide sufficient off street parking for all your vehicles and trailers.

### **What constraints will there be in accepting a place as an “Operating Centre?”**

When you apply for a licence, you will be asked to list your proposed operating centres, with information about the vehicles which are to be kept there. The Department will need to be satisfied that your operating centres are suitable - for example, that they will be big enough, with safe access, and in an environmentally acceptable location. If you do not own the operating centre you may be asked to provide evidence that you are entitled to use it.

You will need additionally and separately to ensure that your proposed operating centre use will meet the requirements of planning law.

## **Once established, will Operating Centres be protected in any way?**

Yes: there will be safeguards for established operating centres.

## **What is meant by a “review” of my operating centres?**

The review will be a check by the Department on the continued suitability of an operating centre. The Department will have the opportunity to review all the operating centres on your licence every 5 years. It will be entirely at the discretion of the Department whether or not to carry out a review.

## **Objection, representations, and complaints**

### **Who will be able to object to an application for a new licence or a major variation?**

A number of statutory consultees will have a right to object to the granting of an application for a licence or variation to a licence. These may include:

- Police
- Government departments
- Local councils
- Prescribed Trade Unions / Trade Associations

An objection must be in writing and must state the grounds on which it is made. These may relate to the qualities of the applicant and any operating centre he proposes to use. Objections to operating centres may be on environmental or non-environmental grounds, or both.

### **Who will be able to make a representation against an application for a new licence or variation?**

The owners or occupiers of land, or buildings, in the vicinity of an operating centre, who feel that the use of a site as an operating centre will prejudicially affect their use or enjoyment of their land, will have the right to make representations to the Department about an application for a new licence or a variation. Representations may be made only on environmental grounds and it will be up to the Department to decide, in the light of local circumstances, the geographical limit of “the vicinity” of an operating centre.

## **Will anyone be able to complain about my operating centre once my licence has been issued?**

Yes. Anyone will be able to complain at any time about the suitability of an operating centre after it has been specified on your licence. The Department will then have the opportunity to review those centres at five yearly intervals. If the Department does decide to review it may impose or change conditions on your licence for road safety or environmental reasons, or it may remove an operating centre altogether.

If you wish to make a major variation to the way in which you use an operating centre specified in your licence you will need to make an application for change in the usual way. In most cases such an application will need to be advertised in a local newspaper.

## **The issue of a licence**

### **How much will I pay for a new licence?**

There will be a non-refundable charge for making an application and this should be sent so as to be received with the application. If no fee is received your application will not be processed. If the application is granted you will be asked to pay a further fee. This fee will have two elements - an issue charge and a vehicle fee for each motor vehicle to be specified on the licence. As a result of the consultation on the new arrangements for goods vehicle operator licensing in Northern Ireland, it was agreed that the fees would initially be the same as those in GB. Based on the current GB fee structure:

An operator with one vehicle would pay £761 every 5 years

An operator with three vehicles would pay £1121 every 5 years

An operator with ten vehicles would pay £2381 every 5 years

### **If my application for a new licence is refused, or not granted as applied for, will I have the right to appeal?**

If your application is refused or granted in terms other than what you have applied for you will have a right to ask the Department to review the decision and if you are still not satisfied you will have the right of appeal to the Transport Tribunal. If any statutory objection has been made to your application, and your application is granted, then the objector(s) concerned will also have a right of appeal to the Transport Tribunal.

## **Changes to a licence**

### **What will I do if I need to use more vehicles?**

Your licence when first issued will authorise you to use up to a maximum number of motor vehicles and trailers. If the number of vehicles specified on your licence (ie recorded by registration mark on the vehicle list) is less than the number you are authorised to use, you will be able to take on extra vehicles at any time provided you do not exceed the maximum number authorised, and provided any conditions attached to your licence allow you to do so. The difference between the number of specified vehicles and the maximum number of vehicles authorised on your licence will be called 'the margin'.

Any vehicle which is being used on the margin will only be able to be so used for one month. The vehicle will cease to be authorised if you do not notify the Department about that vehicle within the month, and pay a prescribed fee. At that time you must also return your licence documents including the vehicle list, with a completed form listing registration marks.

### **What will I do if I want to use more vehicles that I am authorised to use?**

If the extra vehicles you want to use result in you exceeding the total number of vehicles authorised on the licence; and/or result in you keeping more vehicles at an operating centre than your licence allows this would be a major variation to your licence and you would be required to follow the procedures similar to those for a new licence application (including advertising).

### **How will I change or add an operating centre to my licence?**

If you want to use a new operating centre either instead of or in addition to, an operating centre already on your licence, this would be a major variation and you would be required to follow the procedures similar to those for a new licence application (including advertising).

### **How will I change the type of licence?**

To change the licence you hold from, for example, restricted to standard national, or from standard national to standard international, you will have to apply to the Department on the relevant form. Proof of professional competence, good repute and financial standing will have to be provided if you want to change to a standard national or standard international licence. The Department will be required to publish applications to upgrade licences e.g. those from restricted to standard national and your application will be open to objection by statutory objectors.

You will not have to advertise these applications, but they are major variations to your licence.

**Will there be a right of appeal if my application for variation is refused?**

If your application to vary your licence is refused, you will have a right to appeal.

## **Appeals to the Transport Tribunal**

**Will it be possible to appeal against the Department's decision on a licence application or variation?**

Yes. Whatever the decision of the Department, it will be possible for the applicant, or a statutory objector who objected to the licence application or variation to appeal.

**Can representors become parties to appeals?**

Yes. Although people who make representations will not have a right to initiate an appeal they may apply to the Transport Tribunal to become parties to an appeal if one is made by an objector or applicant.

**Will it be possible to appeal against a disciplinary decision of the Department?**

Yes. A licence holder can appeal against a disciplinary decision taken by the Department.

**Will it be possible to appeal against the Department's review of an operating centre?**

As regards the review of operating centres, there will be a right of appeal conferred only on the licence-holder and only where he is affected by added or varied conditions, or the removal of an operating centre. Statutory objectors and representors will not have any rights of appeal, either against the decision of a Department not to carry out a review, or against whatever decision the Department makes if it does carry out a review.

## **Disciplinary action**

### **Will a licence ever be withdrawn or suspended?**

Yes. The Department **must** revoke a Standard licence if the holder no longer fulfils the requirements of good repute, financial standing or professional competence.

It **may** revoke, suspend or limit any type of licence if:

- The licence holder has broken any conditions attached to the licence;
- There have been any prohibitions on the use of authorised vehicles because they are unroadworthy or overloaded;
- The licence holder is convicted of certain offences;
- Any of the statements made in the licence application prove to be false;
- the licence holder has not kept any undertaking which he gave when he applied for the licence, or which he gave some time later during the currency of the licence, and which appears on the licence documentation;
- The licence holder has been made bankrupt or (if the holder is a company) has gone into liquidation;
- Since the licence was issued or varied there has been a material change in any of the circumstances of the licence holder relevant to the issue or variation of the licence; or
- The licence holder has used a place not listed on the licence as a operating centre.

It will be possible to prohibit a vehicle on a licence which has been suspended or limited from being used by another operator for a period of up to 6 months. In serious cases, where the Department revokes an operator's licence for disciplinary reasons, it may disqualify a person, partner or director of a company from holding an operator's licence.

### **Will there be any right of appeal against the disciplinary decisions taken by the Department?**

Yes. The licence holder will have a right of appeal to the Transport Tribunal.