



# Road Traffic Act 1960

## 1960 CHAPTER 16

### PART IV

#### REGULATION OF CARRIAGE OF GOODS BY ROAD

##### *Carriers' Licences*

#### **164 Users of goods vehicles to hold carriers' licences**

- (1) Subject to the provisions of this Part of this Act, no person shall use a goods vehicle on a road for the carriage of goods—
- (a) for hire or reward; or
  - (b) for or in connection with any trade or business carried on by him,
- except under a licence granted under this Part of this Act (hereafter in this Part of this Act referred to as a "carrier's licence"):

Provided that this subsection shall not apply to the use of a vehicle in any case such as is mentioned in the Thirteenth Schedule to this Act.

- (2) A person who uses a vehicle in contravention of the foregoing subsection shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds.
- (3) For the purposes of this Part of this Act, the driver of a vehicle, if it belongs to him or is in his possession under an agreement for hire, hire-purchase or loan, and in any other case the person whose agent or servant the driver is, shall be deemed to be the person using the vehicle.
- (4) Where at any time goods are carried in a goods vehicle, being a vehicle which has been let on hire by the person who, at the time of the carriage of the goods, is within the meaning of this Part of this Act the user of the vehicle, the goods shall be deemed to be carried by that person for hire or reward.

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- (5) Where goods are carried in a vehicle, those goods shall not, for the purposes of this Part of this Act or the Thirteenth Schedule thereto, be deemed to be carried for hire or reward if—
- (a) they are goods sold, used or let on hire or hire-purchase in the course of a trade or business carried on by the person using the vehicle, and are being delivered or collected by him ; or
  - (b) they are goods which have been, or are to be, subjected to a process or treatment in the course of a trade or business carried on by the person using the vehicle, and are being delivered or collected by him; or
  - (c) they are carried, by a person engaged in agriculture in any locality, for or in connection with the business of agriculture carried on by another person in that locality, and the vehicle in which they are carried is one which the person carrying them is authorised by a carrier's licence to use for the carriage of goods for or in connection with his agricultural business; or
  - (d) they are carried in a vehicle which is being used under, and in accordance with the regulations applicable to, a licence taken out by a manufacturer or repairer of, or dealer in, mechanically propelled vehicles under section ten of the Vehicles (Excise) Act, 1949; or
  - (e) they are carried in a vehicle which is being used by a manufacturer, agent or dealer for demonstration purposes.
- (6) It is hereby declared that, for the purposes of this Part of this Act, the performance by a local or public authority of their functions shall be deemed to be the carrying on of a business.

### **165 The licensing authority**

- (1) In relation to each traffic area constituted for the purposes of Part III of this Act, the person who is the chairman of the traffic commissioners for the area (including any person for the time being appointed by the Minister to act as deputy to the chairman) shall be known as the licensing authority and shall exercise the functions relating to carriers' licences conferred on him by this Part of this Act.
- (2) In the exercise of his functions under this Part of this Act the licensing authority shall act under the general directions of the Minister.
- (3) Subsection (1) of this section shall have effect as respects the Metropolitan Traffic Area with the substitution of a reference to the traffic commissioner for the Metropolitan Traffic Area for the reference to the chairman of the traffic commissioners.

### **166 Classes of carriers' licences, and acts authorised thereby**

- (1) Carriers' licences shall be of the following classes, that is to say—
- (a) public carriers' licences (in this Part of this Act referred to as " A licences ");
  - (b) limited carriers' licences (in this Part of this Act referred to as " B licences "); and
  - (c) private carriers' licences (in this Part of this Act referred to as " C licences ").
- (2) Subject to the provisions of this Part of this Act, an A licence shall entitle the holder thereof to use the authorised vehicles for the carriage of goods for hire or reward, and shall also entitle him to use those vehicles for the carriage of goods for or in connection

with his business as a carrier of goods (whether that business is conducted by the use of road transport or any other kind of transport).

- (3) Subject to the provisions of this Part of this Act, a B licence shall entitle the holder thereof to use the authorised vehicles, as he thinks fit from time to time,—
- (a) for the carriage of goods for or in connection with a trade or business carried on by him, or
  - (b) subject to any conditions which the licensing authority, in the exercise of his discretion to attach conditions to a B licence, may attach to the licence, for the carriage of goods for hire or reward.
- (4) Subject to the provisions of this Part of this Act, a C licence shall entitle the holder thereof—
- (a) to use the authorised vehicles for the carriage of goods for or in connection with a trade or business carried on by him, or
  - (b) if specially authorised by the licensing authority in a case of emergency, to use an authorised vehicle for the carriage of goods, in accordance with any conditions imposed by the authority in giving the authorisation, for any person to whom he lets the vehicle.

The licensing authority shall not give an authorisation under paragraph (b) of this subsection unless he is satisfied that the needs of the person for whom the goods are to be carried cannot conveniently be met from other sources.

- (5) In relation to an A licence of which the holder is a person carrying on a canal, dock or harbour undertaking, subsection (2) of this section shall have effect as if the following words were inserted at the end of the subsection, that is to say—

“or for or in connection with the canal, dock or harbour undertaking carried on by him”.

## **167 Authorised vehicles**

- (1) The vehicles authorised to be used under a carrier's licence shall be—
- (a) such motor vehicles, being vehicles belonging to the holder of the licence or in his possession under a hire-purchase agreement, as are specified in the licence;
  - (b) motor vehicles from time to time in the possession of the holder of the licence under an agreement for hire or loan, not exceeding at any time such maximum number as is specified in the licence;
  - (c) trailers from time to time belonging to the holder of the licence or in his possession under an agreement for hire-purchase, hire or loan, not exceeding at any time such maximum number as is specified in the licence;
  - (d) in the case of a C licence, subject to the provisions of the next following subsection, any motor vehicle belonging to the holder of the licence or in his possession under a hire-purchase agreement, but acquired by him, or coming into his possession under such an agreement, only after the grant of the licence.

For the purposes of paragraph (b) or paragraph (c) of this subsection, different types of motor vehicles or different types of trailers, as the case may be, may be distinguished in a licence and a maximum number may be specified in the licence for vehicles or trailers of each type.

- (2) A motor vehicle which, after the grant of a C licence, is acquired by the holder of the licence, or comes into his possession under a hire-purchase agreement, shall cease

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to be an authorised vehicle on the expiration of one month from the date on which it was acquired by him or came into his possession unless before the expiration of that period he delivers to the licensing authority a notice in the prescribed form to the effect that the vehicle has been acquired by him, or has come into his possession, as the case may be.

- (3) A motor vehicle specified in a carrier's licence shall not, while it remains so specified, be capable of being effectively specified in any other carrier's licence.

## **168 Conditions of carriers' licences**

- (1) It shall be a condition of every A licence that no vehicle which is for the time being an authorised vehicle shall be used for the carriage of goods for or in connection with a trade or business carried on by the holder of the licence (other than a trade or business for or in connection with which the holder of the licence is, by virtue of subsection (2) of section one hundred and sixty-six of this Act, entitled to use that vehicle for the carriage of goods), except such storage or warehousing of goods as may be incidental to his business as a carrier.
- (2) The licensing authority may in his discretion attach to a B licence, as respects the use of the authorised vehicles, or any of them, for the carriage of goods for hire or reward, all or any of the following conditions, that is to say—
- (a) a condition that they shall be so used only in a specified district or between specified places ;
  - (b) a condition that certain classes or descriptions of goods only shall be so carried;
  - (c) a condition that goods shall be so carried only for specified persons;
  - (d) such other conditions (not being conditions with respect to the rates to be charged) as the licensing authority may think fit to impose in the public interest and with a view to preventing uneconomic competition.
- (3) It shall be a condition of every C licence that no vehicle which is for the time being an authorised vehicle shall be used for the carriage of goods for hire or reward except under an authorisation given under paragraph (b) of subsection (4) of section one hundred and sixty-six of this Act.
- (4) The conditions of a carrier's licence shall not apply in relation to the use of an authorised vehicle for a purpose for which it might lawfully be used without the authority of a carrier's licence.
- (5) Subject to the last foregoing subsection, a person who fails to comply with a condition of a carrier's licence of which he is the holder shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds.

## **169 Duration of carriers' licences**

- (1) There shall be specified in every carrier's licence the date on which the licence is to come into force (in this Part of this Act referred to as " the commencement date ").
- (2) Regulations may specify the dates in the year on which carriers' licences shall expire and, subject to the provisions of this section, a carrier's licence shall, unless previously revoked, continue in force up till and including that one of the specified dates which occurs next before the expiration of the period (in this Part of this Act referred to as

" the currency period") applicable to that licence in accordance with subsection (4) of this section, unless at the time of the granting of the licence the licensing authority for special reasons determines that it shall continue in force only up till and including an earlier date (being one of those specified), in which case it shall, unless previously revoked, continue in force only up till and including that date.

- (3) If at the date on which a carrier's licence is due to expire, proceedings are pending before the licensing authority on an application by the holder of that licence for the grant to him of a new licence in substitution therefor, the existing licence shall continue in force until the application is disposed of, without prejudice, however, to the exercise in the meantime of the powers of suspension, revocation and curtailment conferred by this Part of this Act.
- (4) The currency period shall be—
  - (a) in the case of an A licence, two years or such longer period as may be prescribed;
  - (b) in the case of a B licence, one year or such longer period as may be prescribed;
  - (c) in the case of a C licence, three years or such longer period as may be prescribed:

Provided that regulations may provide that, where the licensing authority is of opinion that such a course is desirable in order to arrange a suitable and convenient programme of work, he may in his discretion grant a licence for a currency period shortened to meet the requirements of that programme.

## **170 Short-term carriers' licences**

- (1) With a view to enabling goods vehicles to be used temporarily—
  - (a) for the purposes of a seasonal business,
  - (b) for the purposes of the execution of a particular piece of work, or
  - (c) for any other purpose of limited duration,a carrier's licence of any class may be granted for a period not exceeding three months.
- (2) Where an application has been made for a carrier's licence having a duration determined by the last foregoing section, the licensing authority, if for administrative reasons he deems it desirable so to do, may, pending the determination of the application, grant to the applicant a carrier's licence for a period not exceeding—
  - (a) in the case of a first application for an A licence, twelve months;
  - (b) in the case of a first application for a B licence, six months; and
  - (c) in any other case, three months.
- (3) If, in a case where an application has been made for a carrier's licence, the licensing authority has granted a licence under the last foregoing subsection, that licence shall cease to have effect on the commencement date of a licence granted on that application and having a duration determined by the last foregoing section.
- (4) A licence granted under this section is hereafter in this Part of this Act referred to as a " short-term licence ".
- (5) Subsections (2) to (4) of the last foregoing section shall not apply to short-term licences.

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*Procedure governing Grant of Carriers Licences*

**171 Applications for carriers' licences**

- (1) An application for an A licence or for a B licence shall be made to the licensing authority for the area in which the applicant's operating centre is situated.
- (2) Where the applicant for an A licence or for a B licence has more than one operating centre he shall make a separate application in respect of each centre, but where applications for licences of the same class are made by the same person in respect of two or more centres in the same area the licensing authority may, if he thinks fit, grant a single licence in respect of all or any of the applications.
- (3) An application for a C licence shall be made to the licensing authority either for the area in which the principal place of business of the applicant is situated or for the area in which his head office is situated.
- (4) In this section " operating centre " means the permanent base or centre from which it is intended that the authorised vehicles will normally be used for the carriage of goods for hire or reward.

**172 Applicant to furnish information**

- (1) A person applying for a carrier's licence shall give to the licensing authority a statement in the prescribed form giving such particulars as may be prescribed of the motor vehicles proposed to be used under the licence which—
  - (a) belong to the applicant, or
  - (b) are in his possession under a hire-purchase agreement, or
  - (c) he intends, if the application is granted, to acquire, or to obtain possession of under such an agreement,and also stating the number and type of any hired motor vehicles, and of any trailers, proposed to be so used; but an applicant shall not be required to distinguish in his statement between vehicles belonging to him and vehicles subject to hire-purchase agreements.
- (2) A person applying for an A licence or for a B licence shall also give to the licensing authority a statement in the prescribed form—
  - (a) specifying the facilities for the transport of goods intended to be provided by the applicant under the licence for other persons, and
  - (b) giving particulars of the district within which, or the places between which, it is intended that the authorised vehicles will normally be used for the carriage of goods for hire or reward.
- (3) A person applying for a carrier's licence shall give to the licensing authority any further information which he may reasonably require for the discharge of his duties in relation to the application, and in particular shall, if the application is for an A licence or for a B licence and he is required by the licensing authority so to do, give to him in the prescribed form—
  - (a) such particulars as he may require with respect to any business as a carrier carried on by the applicant at any time before the making of the application, and of the rates charged by the applicant;
  - (b) particulars of any agreement or arrangement entered into by the applicant with any other carrier (whether operating within the area of the licensing authority

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or outside that area) which affect in any material respect the provision within the area of the licensing authority of facilities for the transport of goods for hire or reward;

- (c) particulars of any financial interest which any other carrier, or a person controlling (either solely or in conjunction with any other person) the business of any other carrier, has in the business of the applicant;
- (d) where the applicant is a company, particulars of any right which any other carrier, or any person controlling (either solely or in conjunction with any other person) the business of any other carrier, has to nominate any director of the company.

In this subsection " carrier " means a person providing facilities for the transport of goods for hire or reward, and " financial interest " means financial interest as a partner or shareholder or as a result of a loan, guarantee or other financial transaction.

### **173 Objections to certain applications for A or B licences**

(1) This section applies to every application for the grant of an A licence or a B licence except—

- (a) an application which the licensing authority is bound to grant;
- (b) an application which, in the opinion of the licensing authority, is of so trivial a nature that it is not necessary that an opportunity should be given for objection;
- (c) an application for a licence to expire not later than an existing licence under which the vehicles to which the application relates are authorised to be used for the purposes of a business which the applicant has acquired or intends to acquire ;
- (d) an application for a short-term licence, where the licensing authority is of opinion that the application has been made with reasonable expedition and that the demand for the use of the vehicles to be authorised under the licence is so urgent as to render compliance with the requirements of this section impracticable.

(2) The licensing authority shall publish in the prescribed manner notice of an application to which this section applies specifying the time within which, and the manner in which, objections may be made to the grant of the application.

(3) It shall be the duty of the licensing authority, on an application to which this section applies, to take into consideration any relevant objection to the application which may be made by a person who is already providing facilities, whether by means of road transport or any other kind of transport, for the carriage of goods for hire or reward in the district, or between the places, which the applicant intends to serve:

Provided that on an application for an A licence, the licensing authority shall not be bound to take into consideration an objection made by a person who holds a B licence but does not also hold an A licence.

(4) In this section, " relevant objection " means an objection on any of the following grounds, that is to say,—

- (a) that suitable transport facilities in the district, or between the places, which the applicant intends to serve are or, if the application were granted, would be, either generally or in respect of any particular type of vehicles, in excess of requirements;

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- (b) that any of the conditions of a carrier's licence held by the applicant has not been complied with;
  - (c) that in relation to a carrier's licence held by the applicant, there has been any such conviction or prohibition as is mentioned in the Fourteenth Schedule to this Act.
- (5) The onus of proof of the existence of the grounds on which a relevant objection is made shall lie on the objector.
- (6) In considering, for the purposes of an objection on grounds such as are referred to in paragraph (a) of subsection (4) of this section, whether existing transport facilities are to be treated as suitable, the licensing authority shall have regard to the relative efficiency, reliability and adequacy of the existing facilities at the date of the application and the facilities which the applicant will provide if his application is granted, and to all other relevant considerations, including, to such extent as may in all the circumstances appear proper, the charges made and to be made in respect of those facilities respectively.

#### **174 Decision of licensing authority on application for carrier's licence**

- (1) Subject to the provisions of this Part of this Act, the licensing authority, on an application for an A licence or for a B licence, shall have full power in his discretion—
- (a) to grant the application, or
  - (b) to grant a licence in respect of motor vehicles other than those of which particulars were contained in the application, or in respect of motor vehicles or trailers less in number than, or differing in type from, those for the use of which authorisation was applied for, or
  - (c) to refuse the application.
- (2) If, on an application for an A licence, the applicant satisfies the licensing authority that any of the authorised vehicles will be used exclusively for the purposes of a contract entered into by the applicant with a person carrying on a trade or business (not being the business of carrying or arranging for the carrying of goods) for the carriage of goods for or in connection with that trade or business during any continuous period of not less than one year, the following provisions shall have effect:—
- (a) the licensing authority shall be obliged to grant the application so far as regards those vehicles (unless he is satisfied that, having regard to the previous conduct of the applicant in the capacity of a carrier of goods, he is not a fit person to receive a carrier's licence, in which case the licensing authority shall refuse the application); but
  - (b) if the application is granted, the licensing authority shall attach to the licence conditions for securing that those vehicles shall be used exclusively for the purposes of the contract and shall at the termination of the contract cease to be authorised vehicles unless the licensing authority, on an application made to him with respect thereto, otherwise directs.
- (3) The licensing authority shall be obliged to grant an application for a C licence unless—
- (a) the applicant is the holder of a carrier's licence which is suspended or has been curtailed, or
  - (b) a carrier's licence previously held by the applicant has been revoked or curtailed,



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in either of which cases the licensing authority shall have full power in his discretion either to grant or to refuse the application.

- (4) The licensing authority, in exercising his discretion under this section, shall have regard to the interests of the public generally, including primarily those of persons requiring facilities for transport, and secondarily those of persons providing facilities for transport, and, in particular, shall have regard in the case of an application for an A licence or for a B licence—
- (a) where the applicant is the holder of an existing licence of the same class, to the extent to which he is authorised to use goods vehicles thereunder for the carriage of goods for hire or reward;
  - (b) to the previous conduct of the applicant in the capacity of a carrier of goods;
  - (c) to the number and type of vehicles proposed to be used under the licence ;
  - (d) in determining the number of vehicles to be authorised, to the need for providing for occasions when vehicles are withdrawn from service for overhaul or repair;
  - (e) to the extent to which the vehicles to be authorised will be in substitution for horse-drawn vehicles previously used by the applicant for the purposes of his business as a carrier:
  - (f) to the extent to which the vehicles to be authorised will further the provision of services under which goods will be carried partly by road and partly by railway or inland waterway without the need for unloading and reloading,

and, in the case of an application for a B licence, also to the extent to which the applicant intends that the vehicles proposed to be used under the licence shall be used for the carriage of goods for hire or reward.

Where goods are contained in a receptacle which is an additional body for a goods vehicle and is constructed or adapted for the purpose of being taken on to or off the vehicle with goods contained therein, the transfer of the receptacle with goods contained therein on to or off a goods vehicle, railway wagon or vessel shall not be treated for the purposes of paragraph (f) of this subsection as an unloading or reloading of those goods.

- (5) For the avoidance of doubt it is hereby declared that the matters to which the licensing authority is to have regard in exercising his discretion under this section do not include the duty imposed upon the British Transport Commission by paragraph (c) of subsection (1) of section three of the Transport Act, 1947 (which requires the Commission to provide, in such places and to such extent as may appear to them to be expedient, certain transport services).
- (6) In a case in which the licensing authority refuses to grant a carrier's licence, or grants a carrier's licence which differs from the licence applied for, or imposes conditions to which the applicant does not agree, the licensing authority shall, if so requested by the applicant, state in writing the reasons for his decision.
- (7) Where, under paragraph (b) of subsection (1) of this section, the licensing authority proposes to grant an application for an A licence or for a B licence in respect of vehicles other than those of which particulars were contained in the application, then (unless the licensing authority is satisfied 'that the variation subject to which he proposes to grant the application will not materially increase the total carrying capacity of the authorised vehicles) he shall publish notice of his proposal as if it were an application to which the last foregoing section applies, and thereupon subsections (3) to (6) of that section shall apply accordingly.

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### **175 Right of applicant or objector to appeal to Transport Tribunal**

- (1) A person who, having applied for a carrier's licence, is aggrieved—
  - (a) by the decision of the licensing authority on the application, or
  - (b) in the case of an application for a B licence, by a condition attached to the licence by the licensing authority,may appeal to the Transport Tribunal.
- (2) A person who, having duly made an objection to an application for a carrier's licence, is aggrieved by the decision of the licensing authority thereon, may, if the objection was one which the licensing authority was bound to take into consideration, appeal to the Transport Tribunal.
- (3) The Transport Tribunal shall have power to make such order as it thinks fit on an appeal under this section, and the decision of the Tribunal on such an appeal shall be binding on the licensing authority.
- (4) Where a person who has applied for a new carrier's licence, in substitution for a licence, other than a short-term licence, held by him and in force at the date of his application, appeals to the Transport Tribunal, the existing licence shall, notwithstanding anything contained in section one hundred and sixty-nine of this Act, continue in force until the appeal has been disposed of, without prejudice, however, to the exercise in the meantime of the powers of suspension, revocation and curtailment conferred by this Part of this Act.

#### *Variation, Revocation, Suspension and Curtailment of Carriers' Licences*

### **176 Variation of carrier's licence at instance of holder**

- (1) On the application of the holder of a carrier's licence, the licensing authority by whom the licence was granted may at any time while it is in force vary the licence by directing—
  - (a) that additional vehicles be specified therein, or
  - (b) that vehicles specified therein be removed therefrom, or
  - (c) that the maximum number of motor vehicles or of trailers specified therein under paragraph (b) or paragraph (c) of subsection (1) of section one hundred and sixty-seven of this Act be increased or reduced, or
  - (d) in the case of an application by the holder of a B licence, that any condition attached to the licence under subsection (2) of section one hundred and sixty-eight of this Act be cancelled or varied.
- (2) The following provisions of this Act, namely, subsection (2) of section one hundred and sixty-eight, section one hundred and seventy-two and section one hundred and seventy-four shall, so far as applicable and with any necessary modifications, apply to an application under this section for the variation of a carrier's licence of any class as they apply to an application for the grant of a licence of that class, subject, however, in the case of the said section one hundred and seventy-four, to the restriction that the licensing authority shall be bound to grant an application for a variation consisting only of—
  - (a) the removal of a specified vehicle from the licence; or

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- (b) a reduction in the maximum number of motor vehicles or of trailers specified in the licence in pursuance of paragraphs (b) and (c) respectively of subsection (1) of section one hundred and sixty-seven of this Act; or
  - (c) the specification in the licence in substitution for a specified vehicle of a vehicle of the same or of a less weight unladen.
- (3) In the case of an application under this section for—
- (a) the variation of an A licence or a B licence by a direction—
    - (i) that additional vehicles shall be specified therein ; or
    - (ii) that the maximum number of motor vehicles or of trailers specified therein in pursuance of paragraphs (b) and (c) respectively of subsection (1) of section one hundred and sixty-seven of this Act shall be increased; or
  - (b) the variation of a B licence by a direction that the district specified in the licence within which, or the places so specified between which, the vehicles can be used for the carriage of goods for hire or reward shall be varied or extended;

the licensing authority (unless satisfied that the application is of so trivial a nature that it is not necessary that an opportunity should be given for objection to it) shall publish, in the manner prescribed for the publication of notices of applications to which section one hundred and seventy-three of this Act applies, notice of the application specifying the time within which, and the manner in which, objections may be made to the grant of the application, and where notice of the application is published in pursuance of this subsection, subsections (3) to (6) of that section shall apply to the application as they apply to an application under that section for the grant of a licence of the same class as that to which the application relates.

- (4) A person who—
- (a) being an applicant for the variation of a carrier's licence, is aggrieved by the decision of the licensing authority on the application or, in the case of a B licence, by a condition attached to the licence by the licensing authority, or
  - (b) having duly made an objection to an application for the variation of a carrier's licence, being an objection which the licensing authority is bound to take into consideration, is aggrieved by the decision of the licensing authority thereon,
- may appeal to the Transport Tribunal; and on an appeal under this subsection the Transport Tribunal shall have power to make such order as it thinks fit, and its decision shall be binding on the licensing authority.
- (5) Where a condition attached to a carrier's licence is varied under this section by a licensing authority, the variation shall not have effect until the expiration of the time within which an appeal may be made to the Transport Tribunal against the variation nor, if such an appeal is made, until the appeal has been disposed of.

## **177 Variation of carrier's licence in other cases**

- (1) Where it comes to the knowledge of the licensing authority by whom a carrier's licence was granted that a vehicle specified therein has ceased to be used under the licence for any reason other than a fluctuation in business, or is specified in another carrier's licence, he may vary the licence by directing that the vehicle be removed therefrom.
- (2) Where the licensing authority by whom a C licence was granted receives a notice under subsection (2) of section one hundred and sixty-seven of this Act to the effect

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that the holder of the licence has acquired, or come into possession of, a vehicle as mentioned in that subsection, he shall vary the licence by directing that the vehicle be specified therein.

### **178 Revocation, suspension and curtailment of carriers' licences**

- (1) Subject to the provisions of this section, the licensing authority by whom a carrier's licence was granted may direct that it be revoked, suspended or curtailed on any one or more of the following grounds, that is to say—
  - (a) that any of the conditions of the licence have not been complied with;
  - (b) that in relation to the licence there has been any such conviction or prohibition as is mentioned in the Fourteenth Schedule to this Act;
  - (c) that the holder of the licence has, since the licence was granted, been convicted of an offence under section seven of the Road Haulage Wages Act, 1938 (which makes failure to pay the statutory remuneration under that Act an offence);
  - (d) in the case of an A licence or a B licence, that the holder of the licence made or procured to be made for the purposes of his application for the licence, or for the purposes of an application for any such variation thereof as is mentioned in subsection (3) of section one hundred and seventy-six of this Act a statement of fact which (whether to his knowledge or not) was false, or a statement of intention or expectation which has not been fulfilled;
  - (e) in the case of an A licence or a B licence, that the holder of the licence has been persistently charging, for services which consist of or include the carriage of goods by road in any of the authorised vehicles, sums insufficient to meet the cost of rendering those services, and has thereby placed other holders of carriers' licences at an undue or unfair disadvantage in competing with him as respects the carriage of goods by road.
- (2) The licensing authority shall not give a direction under this section without first holding a public inquiry if the holder of the licence requests him to hold such an inquiry.
- (3) The licensing authority shall not give a direction under this section on a ground such as is referred to in paragraph (a) or paragraph (c) of subsection (1) thereof unless he is satisfied that owing to the frequency of the breach of conditions of the licence, or to the breach in question having been committed wilfully, or, as the case may be, that owing to the frequency with which the offence was committed or to the offence in question having been committed wilfully, such a direction should be given.
- (4) The licensing authority shall not give a direction under this section on a ground such as is referred to in paragraph (b) of subsection (1) thereof unless he is satisfied that owing to the frequency of such convictions or prohibitions as are referred to in that paragraph, or the wilfulness of the act or omission leading to the conviction or prohibition in question, or the danger to the public involved in that act or omission, such a direction should be given.
- (5) In a case in which the licensing authority gives a direction under this section with respect to a licence he shall, if so requested by the holder of the licence, state in writing the grounds on which the direction is given.
- (6) A person who, being the holder of a carrier's licence, is aggrieved by a direction given under this section in respect thereof, may appeal to the Transport Tribunal; and on an

appeal under this subsection the Transport Tribunal shall have power to make such order as it thinks fit, and its decision shall be binding on the licensing authority.

- (7) References in this Part of this Act to the curtailment of a licence are references—
- (a) to the removal from the licence of any one or more of the vehicles specified therein, or
  - (b) to the reduction of the maximum number of motor vehicles or of trailers specified therein in pursuance of paragraphs (b) and (c) respectively of subsection (1) of section one hundred and sixty-seven of this Act.

*Provisions supplementary to foregoing Provisions of Part IV*

**179 Supplemental provisions as to carriers' licences**

- (1) A person may be the holder of two or more carriers' licences whether of the same class or of different classes.
- (2) A carrier's licence shall not be capable of being transferred or assigned, but provision may be made by regulations for enabling a person carrying on the business of the holder of a carrier's licence to continue for the time being to use the authorised vehicles in the event of the death, incapacity, bankruptcy, or liquidation of the holder, or of the appointment of a receiver or manager in relation to the business.

**180 Holding and subsidiary companies**

- (1) Where a holding company, on an application for a carrier's licence, signifies to the licensing authority its desire that the provisions of this section should have effect as respects a subsidiary company specified in the application, then, in relation to the application and to any licence granted thereon to the holding company, and to the use of the authorised vehicles, this Part of this Act shall have effect—
  - (a) as if goods vehicles belonging to, or in the possession of, the subsidiary company belonged to, or were in the possession of, the holding company;
  - (b) as if, where a goods vehicle is used in circumstances in which, but for this provision, the subsidiary company would be deemed to be the user thereof, the holding company were the user thereof;
  - (c) as if a trade or business carried on by the subsidiary company were carried on by the holding company;
  - (d) as if a person employed by the subsidiary company as a driver or statutory attendant of an authorised vehicle were employed by the holding company;
  - (e) as if the subsidiary company were an applicant for the licence.
- (2) The provisions of this section shall cease to have effect as respects a subsidiary company—
  - (a) if the holding company gives notice to the licensing authority that it desires that this section should, as from any date, cease to apply to that company, as from that date; or
  - (b) as from the date on which that company ceases to be a subsidiary company of the holding company.
- (3) Where, by virtue of this section, this Part of this Act has effect as if a trade or business carried on by a subsidiary company were carried on by the holding company, then, for the purposes of paragraph (b) of subsection (1) of section one hundred and seventy-

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eight of this Act the reference in the Fourteenth Schedule thereto to the holder of the licence or any servant or agent of his shall include a reference to the subsidiary company or any servant or agent of its, and for the purposes of paragraph (e) of that subsection—

- (a) any charges for services made by the subsidiary company shall be deemed to be made by the holding company, and
  - (b) persons in competition with the subsidiary company shall be deemed to be in competition to the same extent with the holding company.
- (4) In this section "holding company" means a company which is the beneficial owner of not less than ninety per cent. of the issued share capital of another company, and "subsidiary company", in relation to a holding company, means a company not less than ninety per cent. of the issued share capital of which is in the beneficial ownership of the holding company.

Where a subsidiary company (as hereinbefore defined) is the beneficial owner of any shares of another company, those shares shall be treated for the purposes of the foregoing definitions as if they were in the beneficial ownership of the holding company.

#### **181 Supplemental provisions as to appeals to Transport Tribunal**

- (1) An appeal under this Part of this Act to the Transport Tribunal must be made within the prescribed time and in the prescribed manner.
- (2) The Transport Tribunal may by notice in writing require any person, subject to the payment or tender of the reasonable expenses of his attendance, to attend as a witness and give evidence at the hearing of an appeal under this Part of this Act, or to produce any documents in his possession or power which relate to any matter in question on such an appeal; and a person who fails without reasonable excuse to comply with any of the provisions of such a notice shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds.
- (3) The Transport Tribunal may remit the whole or part of any fee in respect of an appeal to the Tribunal under this Part of this Act if the applicant satisfies the Tribunal that by reason of his poverty it is proper so to do.
- (4) An appeal to the Transport Tribunal from a decision of the licensing authority for an area in Scotland shall be heard in Scotland.

#### **182 Fees for grant or variation of carriers' licences**

- (1) Such fees, payable at such times, and whether in one sum or by instalments, as may be prescribed shall be charged by the licensing authority in respect of the grant or variation of carriers' licences.
- (2) All fees payable under this Part of this Act shall be paid into the Exchequer in such manner as the Treasury may direct.

### *Maintenance of Goods Vehicles*

#### **183 Powers of inspection of goods vehicles for securing proper maintenance thereof**

- (1) For the purpose of securing that goods vehicles are maintained in a fit and serviceable condition and that, in relation to goods vehicles, the provisions of Part I of this Act and this Part thereof are observed, the Minister shall appoint such officers (in this Part of this Act referred to as " examiners") as he considers necessary.
- (2) An examiner, or a certifying officer appointed under Part III of this Act (in this Part of this Act referred to as a " certifying officer "),—
  - (a) may at any time, on production if so required of his authority, enter and inspect any goods vehicle, and for that purpose detain the vehicle during such time as is required for the inspection;
  - (b) may at any time which is reasonable having regard to the circumstances of the case enter any premises on which he has reason to believe that a goods vehicle is kept.
- (3) A person who obstructs an examiner or certifying officer in the performance of his duty under the last foregoing subsection shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds.

#### **184 Power to prohibit use of unfit goods vehicles**

- (1) If on the inspection of a goods vehicle it appears to an examiner or certifying officer that the vehicle, owing to any defects therein, is, or is likely to become, unfit for service until the defects have been remedied, he may prohibit the use of the vehicle on a road for the carriage of goods.
- (2) Where under this section an examiner or certifying officer prohibits the use of a vehicle, he shall forthwith give notice in the prescribed form of the prohibition—
  - (a) to the owner of the vehicle,
  - (b) to the person in charge of the vehicle at the time of the inspection, and
  - (c) in the case of an authorised vehicle, to the licensing authority by whom the carrier's licence was granted.
- (3) Where, in the opinion of the person imposing the prohibition, the defects can be remedied within a period not exceeding ten days and are not defects which involve immediate risk to public safety, a notice given under the last foregoing subsection shall specify the period within which the defects can, in that person's opinion, be remedied.
- (4) A prohibition under this section shall come into operation as soon as notice thereof has been given either to the owner, or to the person in charge, of the vehicle, and shall thereafter continue in force until it is removed in accordance with the next following section:

Provided that, in a case such as is mentioned in the last foregoing subsection, the prohibition shall not come into operation before the expiration of the period within which, in the opinion of the person imposing the prohibition, the defects can be remedied, and shall not come into operation upon the expiration of that period if an examiner or certifying officer, being satisfied that the defects have been or are in course of being remedied, withdraws the prohibition before the expiration of that period.

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*Status: This is the original version (as it was originally enacted).*

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- (5) A person who drives a goods vehicle carrying goods, or causes or permits a goods vehicle carrying goods to be driven, on a road, at a time whilst a prohibition under this section is in operation in relation to the vehicle shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

**185 Removal of prohibition of use of unfit goods vehicle**

- (1) A prohibition under the last foregoing section which has come into operation may be removed by any examiner or certifying officer if he is satisfied that the vehicle is fit for service.
- (2) A person aggrieved by the refusal of an examiner to remove a prohibition may make an application to any licensing authority to have the vehicle inspected by a certifying officer, and, where any such application is made, the certifying officer, on the matter being referred to him, shall, if he considers that the vehicle is fit for service, remove the prohibition.
- (3) A person aggrieved by the refusal of a certifying officer to remove a prohibition may, within the prescribed time and in the prescribed manner, appeal to the Minister, who shall have power to make such order on the appeal as he thinks fit; and any such order shall be binding on the certifying officer.
- (4) Where an examiner or certifying officer withdraws or removes a prohibition, he shall forthwith give notice of the withdrawal or removal to the owner of the vehicle and, in the case of an authorised vehicle, to the licensing authority by whom the carrier's licence was granted.

*Records of Hours of Work, &c*

**186 Duty of holder of carrier's licence to keep records as to hours of work, journeys, loads, and c**

- (1) Subject to any exemptions for which provision may be made by the regulations, the holder of a carrier's licence shall keep, or cause to be kept, in accordance with regulations made for the purposes of this section, current records showing—
- (a) the times at which every person employed by him as a driver or statutory attendant of an authorised vehicle started and finished work and the intervals of rest of every such person;
  - (b) particulars of every journey of a vehicle on which goods are carried under the licence, showing the greatest weight of goods carried by the vehicle at any one time during the period to which the record relates and giving the description and destination of the goods carried.
- (2) Where the holder of a carrier's licence himself acts as a driver or statutory attendant of an authorised vehicle, paragraph (a) of the foregoing subsection shall apply in relation to him as it applies in relation to persons employed by him:

Provided that regulations made for the purposes of this section may exempt the holder of the licence from recording information as respects himself when so acting in such circumstances as may be specified in the regulations.



- (3) Regulations made for the purposes of this section—
- (a) may require separate information to be recorded as to the time spent by a person in work in connection with the vehicle or its load, or such description of such work as may be specified in the regulations, and the time spent by him in other work;
  - (b) may contain exemptions, applying in such cases and subject to such limitations as may be specified in the regulations, for vehicles used in the business of agriculture or vehicles used in the business of a travelling showman;
  - (c) may make provision for requiring drivers of authorised vehicles to carry the prescribed documents and to make any prescribed entries therein.
- (4) Subject to the provisions of regulations made for the purposes of this section, a licensing authority may dispense with the observance, as respects the carriage of goods under a carrier's licence granted by him, of any requirement of those regulations, and may grant such a dispensation either generally, or as respects a particular vehicle, or as respects the use of vehicles for a particular purpose, but he shall not grant such a dispensation unless he is satisfied that it is not reasonably practicable, having regard to the nature of the business concerned, for the requirement dispensed with to be observed:

Provided that, in the case of vehicles used in the business of agriculture, or in the business of a travelling showman, he shall grant a dispensation except in so far as he is satisfied that for special reasons the observance of a requirement of the regulations is desirable as respects particular vehicles, or as respects vehicles used for a particular purpose.

- (5) The holder of a carrier's licence shall preserve every record kept under regulations made for the purposes of this section for a period of three months beginning on the date on which the record is made and for such further period, not exceeding six months, as may be required by the licensing authority or a chief officer of police; and during the period for which he is required by or under this subsection to preserve a record he shall, if required so to do at any time by an authorised person, produce the record for the inspection of that person.

In this subsection " authorised person " means the licensing authority, or a person authorised for the purposes of this subsection by the licensing authority or by a chief officer of police.

- (6) A person who fails to comply with the provisions of this section or of any regulations made for the purposes thereof shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds.

### *Supplementary*

#### **187 Power of licensing authority to hold inquiries**

A licensing authority may hold such inquiries as he thinks necessary for the proper exercise of his functions under this Part of this Act.

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*Status: This is the original version (as it was originally enacted).*

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### **188 Accounts and annual report of licensing authorities**

- (1) Each licensing authority shall cause proper accounts and other records in relation to his area to be kept, and shall prepare an annual statement of accounts in such form and containing such particulars as may be required by the Minister.
- (2) Each licensing authority shall make to the Minister an annual report on his proceedings, containing particulars with respect to such matters as the Minister may direct.

### **189 Appointment and remuneration of officers and servants**

- (1) Subject to the consent of the Treasury as to number, the Minister may appoint such officers and servants as he considers necessary for the operation of the provisions of this Part of this Act.
- (2) There shall be paid to licensing authorities and persons acting as officers or servants of a licensing authority, examiners, and any other officers or servants appointed for the purposes of this Part of this Act, such remuneration or salaries and such allowances, if any, as the Minister may, with the consent of the Treasury, determine.
- (3) In every year there shall be paid out of moneys provided by Parliament such sums as the Minister may, with the consent of the Treasury, direct in respect of—
  - (a) remuneration, salaries and allowances under the last foregoing subsection; and
  - (b) the establishment charges and other expenses of licensing authorities, examiners and any other officers or servants appointed by the Minister for the purposes of this Part of this Act.

### **190 Regulations for purposes of Part IV**

- (1) The Minister may make regulations for any purpose for which regulations may be made under this Part of this Act or the Thirteenth Schedule thereto and for prescribing anything which may be prescribed under this Part of this Act and generally for the purpose of carrying this Part of this Act into effect and, in particular, but without prejudice to the generality of the foregoing provisions of this subsection, may make regulations with respect to any of the following matters—
  - (a) the forms to be used, and the particulars to be furnished, for any of the purposes of this Part of this Act;
  - (b) the procedure on applications for, and the determination of questions in connection with, the grant, variation, suspension, revocation and curtailment of carriers' licences, and on appeals to the Minister under this Part of this Act;
  - (c) the issue of carriers' licences, and the issue of copies of such licences in the case of licences lost or destroyed;
  - (d) the means by which vehicles are to be identified, whether by plates, marks or otherwise, as being authorised vehicles;
  - (e) the custody of carriers' licences, the production, return and cancellation of such licences on expiration, suspension, revocation or curtailment, and the custody, production and return of documents and plates; and
  - (f) the notification to the licensing authority of vehicles which have ceased to be used under a carrier's licence,

and different regulations may be made as respects different classes or descriptions of vehicles or as respects the same class or description of vehicles in different circumstances.

- (2) The power conferred by the foregoing subsection to make regulations with respect to the means by which vehicles are to be identified as being authorised vehicles shall include power to require that any such means of identification prescribed for a vehicle shall be carried notwithstanding that for the time being the vehicle is not being used for a purpose for which a carrier's licence is required.

## **191 Interpretation of Part IV**

- (1) In this Part of this Act and the Thirteenth and Fourteenth Schedules thereto, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say,—

" authorised vehicle " means, in relation to a carrier's licence, a vehicle authorised to be used thereunder, whether or not it is for the time being in use for a purpose for which a carrier's licence is required and whether it is specified therein as so authorised or, being of a type so authorised subject to a maximum number, is in the possession of the holder of the licence under an agreement for hire or loan or, if a trailer, belongs to him or is in his possession under an agreement for hire-purchase, hire or loan;

" carriage of goods " includes the haulage of goods;

" driver " means, in relation to a trailer, the driver of the vehicle by which the trailer is drawn, and " drive " shall be construed accordingly;

" goods " includes goods or burden of any description;

" goods vehicle " means a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted ;

" prescribed " means prescribed by regulations;

" regulations " means regulations made under the last foregoing section;

" statutory attendant " means a person employed in pursuance of section seventy-two of this Act in attending a locomotive or attending to a trailer.

- (2) Anything required or authorised by this Part of this Act to be done to or by a licensing authority by whom a carrier's licence was granted may be done to or by any person for the time being acting as licensing authority for the area for which the first-mentioned authority was acting at the time of the granting of the licence.