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## SCHEDULES

### SCHEDULE 3

Section [F1]14ZA,14ZB] and 17(6).

#### SUPPLEMENTARY PROVISION AS TO QUALIFICATIONS FOR PSV OPERATOR'S LICENCE

##### Textual Amendments

- F1** Words in Sch. 3 shoulder reference substituted (4.12.2011) by [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), reg. 1(1), **Sch. 1 para. 11(8)** (with Sch. 3 Pt. 1)

##### *Good repute*

- 1 (1) In determining whether an individual is of good repute, [F2]a traffic commissioner] shall have regard to all the relevant evidence and in particular to—
- (a) relevant convictions of his and of his employees and agents;
  - [F3(aa) relevant fixed penalty notices issued to him and to his employees and agents;] and
  - (b) such other information as the [F4]commissioner] may have as to his previous conduct, in whatever capacity, in relation to the operation of vehicles of any description in the course of a business.
- (2) In determining whether a company is of good repute, [F2]a traffic commissioner] shall have regard to all the relevant evidence and in particular to—
- (a) relevant convictions of the company and its officers, employees and agents;
  - [F5(aa) relevant fixed penalty notices issued to the company's officers, employees and agents;] and
  - (b) such other information as the [F4]commissioner] may have as to previous conduct of—
    - (i) the company's officers, employees and agents in relation to the operation of vehicles of any description in the course of any business carried on by the company; and
    - (ii) each of the company's directors, in whatever capacity, in relation to the operation of vehicles of any description in the course of any other business.
- [F6(2A) In sub-paragraphs (1)(aa) and (2)(aa) above “relevant fixed penalty notice” means a fixed penalty notice or conditional offer issued under Part 3 of the Road Traffic Offenders Act 1988 in respect of an offence prescribed for the purposes of this Act.]
- [F7(3) A traffic commissioner shall determine that an individual is not of good repute if he has—
- (a) more than one conviction of a serious offence; or
  - (b) been convicted of road transport offences.]

[F8(4) For the purposes of sub-paragraph (3)(a) above a serious offence is—

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- (a) an offence under the law in force in any part of the United Kingdom for which a sentence of imprisonment for a term exceeding three months, a fine exceeding level 4 on the standard [F9]scale, a[F10]community order requiring the offender to perform unpaid work for more than sixty hours[F11]or a community payback order requiring the offender to undertake unpaid work, or unpaid work and other activity, for more than sixty hours] was imposed; and
- (b) any corresponding offence under the law of a country or territory outside the United Kingdom for which a corresponding punishment was imposed.

[ For the purposes of sub-paragraph (3)(b) above a road transport offence is—

- F12(5) (a) an offence under the law of any part of the United Kingdom relating to road transport including in particular—
  - (i) an offence relating to drivers’ hours of work or rest periods, the weights or dimensions of commercial vehicles, road or vehicle safety or the protection of the environment; and
  - (ii) any other offence concerning professional liability; or
- (b) any corresponding offence under the law of a country or territory outside the United Kingdom.]

(6) In sub-paragraph (4)(a) above “a sentence of imprisonment” includes any form of custodial sentence or order other than one under the enactments relating to mental [F13]health, “a community order”[F14]means an order under section 177 of the Criminal Justice Act 2003 [F15]or Chapter 2 of Part 9 of the Sentencing Code], a community punishment order made before the commencement of that section or a community service order under the Community Service by Offenders (Scotland) Act 1978[F16] or a service community order or overseas community order under the Armed Forces Act 2006[F17]and “a community payback order” means a community payback order under section 227A or 227M of the Criminal Procedure (Scotland) Act 1995 imposing an unpaid work or other activity requirement].

F8(7) In sub-paragraphs (4)(a) and (5)(a) above references to an offence under the law in force in any part of the United Kingdom include a reference to [F18]an offence under section 42 of the Armed Forces Act 2006.]

(8) For the purposes of sub-paragraph (3) above spent convictions shall be disregarded; and a traffic commissioner may also disregard an offence if such time as he considers appropriate has elapsed since the date of the conviction.

(9) Sub-paragraph (3) above is without prejudice to the power of a traffic commissioner to determine that an individual is not of good repute for reasons other than convictions of the kind there mentioned.

(10) In this paragraph references to an individual include references to a transport manager as well as to an individual who is an applicant for, or the holder, of, a PSV operator’s licence.]

#### Textual Amendments

- F2 Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 3(5), [Sch. 2 Pt. II para. 21\(a\)](#)
- F3 Sch. 3 para. 1(1)(aa) inserted (31.3.2009) by [Road Safety Act 2006 \(c. 49\)](#), [ss. 7\(3\)](#), [61\(1\)\(10\)](#) (with s. [61\(3\)](#)); [S.I. 2008/3164](#), art. 3(c)
- F4 Word substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 3(5), [Sch. 2 Pt. II para. 21\(a\)](#)

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- F5** Sch. 3 para. 1(2)(aa) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), **ss. 7(4)**, 61(1)(10) (with s. 61(3)); S.I. 2008/3164, art. 3(c)
- F6** Sch. 3 para. 1(2A) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), **ss. 7(5)**, 61(1)(10) (with s. 61(3)); S.I. 2008/3164, art. 3(c)
- F7** Sch. 3 para. 1(3) substituted (1.10.1999) by S.I. 1999/2431, **reg. 2(1)**
- F8** Sch. 3 para 1(3)–(10) inserted by S.I. 1990/1851, **reg. 2(1)(2)**, **Sch. para. 1**
- F9** Words in Sch. 3 para. 1(4)(a) substituted (16.9.2011) by The Criminal Justice and Licensing (Scotland) Act 2010 (Consequential Provisions and Modifications) Order 2011 (S.I. 2011/2298), art. 1, **Sch. para. 10(2)(a)** (with art. 4(4))
- F10** Words in Sch. 3 para. 1(4)(a) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 32(2)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(16) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F11** Words in Sch. 3 para. 1(4)(a) inserted (16.9.2011) by The Criminal Justice and Licensing (Scotland) Act 2010 (Consequential Provisions and Modifications) Order 2011 (S.I. 2011/2298), art. 1, **Sch. para. 10(2)(b)** (with art. 4(4))
- F12** Sch. 3 para. 1(5) substituted (1.10.1999) by S.I. 1999/2431, **reg. 2(2)**
- F13** Words in Sch. 3 para. 1(6) substituted (16.9.2011) by The Criminal Justice and Licensing (Scotland) Act 2010 (Consequential Provisions and Modifications) Order 2011 (S.I. 2011/2298), art. 1, **Sch. para. 10(3)(a)** (with art. 4(4))
- F14** Words in Sch. 3 para. 1(6) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 32(3)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(16) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F15** Words in Sch. 3 para. 1(6) inserted (1.12.2020) by Sentencing Act 2020 c. 17, s. 416(1), **Sch. 24 para. 63** (with Sch. 27); S.I. 2020/1236, **reg. 2**
- F16** Words in Sch. 3 para. 1(6) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 90(a)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F17** Words in Sch. 3 para. 1(6) inserted (16.9.2011) by The Criminal Justice and Licensing (Scotland) Act 2010 (Consequential Provisions and Modifications) Order 2011 (S.I. 2011/2298), art. 1, **Sch. para. 10(3)(b)** (with art. 4(4))
- F18** Words in Sch. 3 para. 1(7) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 90(b)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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

- C1** Sch. 3 para. 1 amended by S.I. 1986/1628, **reg. 5(1)**, **Sch.**
- C2** Sch. 3 para. 1(7) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 1(3), **Sch. 1 para. 19**

*Appropriate financial standing*

2 [F19(1)] Being of appropriate financial standing in relation to an application for, or holder of, [F20a restricted licence] consists in having available sufficient financial resources to ensure the establishment and proper administration of the business carried on, or proposed to be carried on, under the licence.

F21(2) . . . . .

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**Textual Amendments**

- F19** By S.I. 1990/1851, reg. 2, **Sch. para. 2** it is provided (subject to a saving in reg. 2(2) and with application as mentioned in reg. 2(3)) that the existing provisions of para. 2 shall become sub-para. (1) of that para. and that there shall be inserted para 2(2)
- F20** Words in Sch. 3 para. 2(1) substituted (4.12.2011) by [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), reg. 1(1), **Sch. 1 para. 11(2)(a)** (with Sch. 3 Pt. 1)
- F21** Sch. 3 para. 2(2) omitted (4.12.2011) by virtue of [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), reg. 1(1), **Sch. 1 para. 11(2)(b)** (with Sch. 3 Pt. 1)

*Professional competence*

3 References in Part II of this Act to professional competence are to the professional competence of an individual; and a company satisfies the requirement as to professional competence if, and so long as, [<sup>F22</sup>it has a transport manager or transport managers of its road transport business who, or each of whom, is of good repute and professionally competent].

**Textual Amendments**

- F22** Words substituted by S.I. 1990/1851, reg. 2(1)(2), **Sch. para. 3**

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

- C3** Sch. 3 para 3 amended by S.I. 1986/1628, reg. 5(1), **Sch.**

4 Where an individual is not himself professionally competent, the requirement as to professional competence shall be regarded as satisfied in relation to him if, and so long as, he has a transport manager of his road passenger transport business who is of good repute and professionally competent.

<sup>F23</sup>5 .....

**Textual Amendments**

- F23** Sch. 3 para. 5 omitted (4.12.2011) by virtue of [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), reg. 1(1), **Sch. 1 para. 11(3)** (with Sch. 3 Pt. 1)

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

- C4** Sch. 3 para. 5 modified by S.I. 1981/1628, Sch. 1 Pt. 1 (as amended (5.10.2017) by [The Operation of Public Service Vehicles \(Partnership\) \(Amendment\) Regulations 2017 \(S.I. 2017/873\)](#), regs. 1(1), **6(6)**)

6 [<sup>F24</sup>(1)] <sup>F25</sup>... an individual shall be regarded as professionally competent for the purposes of Part II of this Act if, and only if,—  

- [<sup>F26</sup>(a) he has demonstrated that he possesses the requisite skills by passing a written examination organised by an approved body and is the holder of a certificate to that effect issued by that body; or]
- (b) he is the holder of any other certificate of competence, diploma or other qualification recognised for the purposes of this paragraph by the Secretary of State.

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- [<sup>F27</sup>(1A) The approved body may exempt an individual from certain parts of the examination mentioned in sub-paragraph (1)(a) if the individual is the holder of a certificate of competence, diploma or other qualification which covers those parts and which is recognised for the purposes of this sub-paragraph by the Secretary of State.]
- [<sup>F28</sup>(2) The written examination mentioned in sub-paragraph (1)(a) may be supplemented by an oral examination organised by the approved body in the form set out in Annex I to [<sup>F29</sup>the 2009 Regulation].
- (3) The certificate mentioned in sub-paragraph (1)(a) must take the form of the certificate set out in [<sup>F30</sup>Annex III to that Regulation and must have security features in compliance with Annex II to that Regulation].]

#### Textual Amendments

- F24** Sch. 3 para. 6 renumbered as Sch. 3 para. 6(1) (1.10.1999) by S.I. 1999/2431, **reg. 4(2)** (with **reg. 6(3)**)
- F25** Words in Sch. 3 para. 6(1) omitted (4.12.2011) by virtue of [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), **reg. 1(1)**, **Sch. 1 para. 11(4)(a)** (with Sch. 3 Pt. 1)
- F26** Sch. 3 para. 6(1)(a) substituted (1.10.1999) by S.I. 1999/2431, **reg. 4(1)** (with **reg. 6(3)**)
- F27** Sch. 3 para. 6(1A) inserted (4.12.2011) by [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), **reg. 1(1)**, **Sch. 1 para. 11(4)(b)** (with Sch. 3 Pt. 1)
- F28** Sch. 3 para. 6(2)(3) inserted (1.10.1999) by S.I. 1999/2431, **reg. 4(2)** (with **reg. 6(3)**)
- F29** Words in Sch. 3 para. 6(2) substituted (4.12.2011) by [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), **reg. 1(1)**, **Sch. 1 para. 11(4)(c)** (with Sch. 3 Pt. 1)
- F30** Words in Sch. 3 para. 6(3) substituted (4.12.2011) by [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), **reg. 1(1)**, **Sch. 1 para. 11(4)(d)** (with Sch. 3 Pt. 1)

- [<sup>F317</sup> (1) In paragraph 6 above—
- (a) “approved body” means—
- (i) a body approved by the Secretary of State for the purposes of that paragraph; or
- (ii) a body approved by the Department of the Environment for Northern Ireland for the purposes of section 46D(1)(b) of the Transport Act (Northern Ireland) 1967; or
- (iii) a body or authority designated by a member State for the purposes of Article 8.3 of the 2009 Regulation (EU);
- (b) “the requisite skills” means knowledge corresponding to the level of training, for either national or international transport operations as the case may be, provided for in Annex I to the 2009 Regulation in the subjects there listed.
- (2) In the case of an examination organised or a certificate issued by an approved body specified in sub-paragraph (1)(a)(iii), references to the 2009 Regulation in sub-paragraph (1)(b) and paragraphs 6(2) and (3) are references to the 2009 Regulation (EU).]

#### Textual Amendments

- F31** Sch. 3 para. 7 substituted (31.12.2020) by [The Common Rules for Access to the International Market for Coach and Bus Services \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/741\)](#), **regs. 1(2)**, **2(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

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### *[<sup>F32</sup>Determinations in respect of transport managers*

#### **Textual Amendments**

**F32** Sch. 3 paras. 7A-7C and cross-heading inserted (4.12.2011) by [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), reg. 1(1), **Sch. 1 para. 11(6)** (with Sch. 3 Pt. 1)

- 7A. (1) A traffic commissioner must not in any proceedings under this Act or the 2009 Regulation make a finding that a transport manager is not of good repute or is not professionally competent unless the commissioner is satisfied that the transport manager has been served with a notice—
- (a) stating that the question whether the transport manager is of good repute or (as the case may be) professionally competent is an issue in the proceedings;
  - (b) setting out the nature of the allegations against the transport manager;
  - (c) stating that the transport manager is entitled to make representations under this paragraph within 28 days beginning with the date on which the notice is served on the transport manager; and
  - (d) stating that the transport manager is entitled to request an inquiry as provided in section 54.
- (2) Where a transport manager makes representations under this paragraph, the traffic commissioner must consider the representations—
- (a) in considering whether or not [<sup>F33</sup>an inquiry should be held] as provided in section 54; and
  - (b) in determining whether the transport manager is of good repute or (as the case may be) professionally competent.
- (3) The traffic commissioner must hold an inquiry as provided in section 54 if the transport manager requests one under sub-paragraph (1)(d).
- (4) A notice is deemed for the purposes of sub-paragraph (1) to have been served on a transport manager on the date on which it would have been delivered in the ordinary course of post if it was sent by post addressed to the transport manager at the transport manager's last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by the transport manager.

#### **Textual Amendments**

**F33** Words in Sch. 3 para. 7A(2)(a) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)

- 7B. (1) In proceedings under this Act or the 2009 Regulation for determining whether a person who is a transport manager is of good repute or professionally competent, a traffic commissioner must consider whether a finding that the person was no longer of good repute or (as the case may be) professionally competent would constitute a disproportionate response.
- (2) If the commissioner determines that the person is no longer of good repute or (as the case may be) professionally competent, the commissioner must order the person to be disqualified (either indefinitely or for such period as the commissioner thinks fit) from acting as a transport manager.

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- (3) While a disqualification under sub-paragraph (2) is in force—
  - (a) the person may not act as transport manager for any road transport undertaking;
  - (b) a certificate issued to the person under Article 8.8 of the 2009 Regulation<sup>[F34]</sup> or the 2009 Regulation (EU) (certificate of professional competence) is not valid.
- (4) A person in respect of whom an order has been made under sub-paragraph (2) may appeal to the Upper Tribunal against the order.
- (5) The traffic commissioner may direct that an order under sub-paragraph (2) is not to take effect until the expiry of the time within which an appeal may be made to the Upper Tribunal against the order and, if such an appeal is made, until the appeal has been disposed of.
- (6) If the traffic commissioner refuses to give a direction under sub-paragraph (5), the person in respect of whom the order has been made may apply to the Upper Tribunal for such a direction.

#### Textual Amendments

**F34** Words in Sch. 3 para. 7B(3)(b) inserted (31.12.2020) by [The Common Rules for Access to the International Market for Coach and Bus Services \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/741\)](#), regs. 1(2), **2(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

- 7C. (1) <sup>[F35]</sup>A traffic commissioner may, subject to sub-paragraph (2), at any time cancel a disqualification order made under paragraph 7B(2) or, with the consent of the disqualified person, vary the order.
- (2) The traffic commissioner by whom a disqualification order is made under paragraph 7B(2) may specify measures with which the disqualified person must comply before the order can be cancelled or varied.
- (3) Measures specified under sub-paragraph (2) may be varied by the traffic commissioner <sup>[F36]</sup>who made the order or another traffic commissioner] —
  - (a) on the application of the disqualified person, or
  - <sup>[F37]</sup>(b) at the instigation of the traffic commissioner.]
- (4) Before <sup>[F38]</sup>a variation is made under sub-paragraph (3)(b), a notice must be served] on the disqualified person—
  - (a) stating <sup>[F39]</sup>an intention] to vary the measures specified under sub-paragraph (2),
  - (b) stating that the person is entitled to make representations under sub-paragraph (5) within 28 days beginning with the date on which the notice is served on the person, and
  - (c) stating that the person is entitled to request an inquiry as provided in section 54.
- (5) Where a person makes representations under this sub-paragraph, the traffic commissioner <sup>[F40]</sup>dealing with the matter] must consider the representations in deciding whether to vary the measures specified under sub-paragraph (2).

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- (6) The traffic commissioner must hold an inquiry as provided in section 54 if the disqualified person requests one under sub-paragraph (4)(c).
- (7) A notice is deemed for the purposes of sub-paragraph (4) to have been served on a person on the date on which it would have been delivered in the ordinary course of post if it was sent by post addressed to the person at the person’s last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by the person.]

**Textual Amendments**

- F35** Words in Sch. 3 para. 7C(1) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F36** Words in Sch. 3 para. 7C(3) inserted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F37** Sch. 3 para. 7C(3)(b) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F38** Words in Sch. 3 para. 7C(4) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F39** Words in Sch. 3 para. 7C(4)(a) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F40** Words in Sch. 3 para. 7C(5) inserted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)

F41 .....

**Textual Amendments**

- F41** Sch. 3 paras. 8-10 and cross-heading omitted (4.12.2011) by virtue of [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), reg. 1(1), **Sch. 1 para. 11(7)** (with Sch. 3 Pt. 1)

F41g .....

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

- C5** Sch. 3 para. 8 amended by [S.I. 1986/1628](#), reg. 5(1), **Sch.**
- C6** Sch. 3 para. 8 modified by [S.I. 1981/1628](#), Sch. 1 Pt. 1 (as amended (5.10.2017) by [The Operation of Public Service Vehicles \(Partnership\) \(Amendment\) Regulations 2017 \(S.I. 2017/873\)](#), regs. 1(1), **6(6)**)

F41g .....

F4110 .....



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