



Transport Act 1985

1985 CHAPTER 67

PART I

GENERAL PROVISIONS RELATING TO ROAD PASSENGER TRANSPORT

Further amendments with respect to PSV operators' licences

24 Limit on number of vehicles to be used under a restricted licence

- (1) In section 16 of the 1981 Act (conditions attached to PSV operators' licences)—
- (a) the following subsection shall be inserted after subsection (1)—

“(1A) In the case of a restricted licence, the number specified as the maximum in any condition imposed under subsection (1) above shall not, except in any prescribed case or class of case, exceed two.”;
 - (b) in subsection (8) of that section (power of traffic commissioner to dispense temporarily with conditions attached under that subsection), after the words " under this section " there shall be inserted the words " (other than a condition so attached under subsection (1A) above) "; and
 - (c) in subsection (9) of that section (limited effect of conditions attached under subsection (1)), after the words " subsection (1) " there shall be inserted the words " or (1A) ".
- (2) In section 18(2) of that Act (traffic commissioner to supply to holder of PSV operator's licence operators' discs for the number of vehicles authorised to be used under the licence)—
- (a) after the words " section 16(1)" there shall be inserted the words " or (1A) ";
 - (b) after the words " and if" there shall be inserted the words " (in the case of any condition or conditions attached under section 16(1)) ".

25 **Objections to application for PSV operator's licence**

After section 14 of the 1981 Act (grant of licences) there shall be inserted the following section—

“14A Objections to application for PSV operator's licence.

- (1) Where an application is made for the grant of a PSV operator's licence under this Act, any chief officer of police or local authority may object to the grant of the licence on the ground that one or more of the requirements mentioned in section 14(1) and (3) of this Act are not satisfied in relation to the application.
- (2) An objection under this section shall be made within the prescribed time and in the prescribed manner and shall contain particulars of the ground on which it is made.
- (3) The onus of proof of the existence of the ground on which an objection is made shall lie on the objector.
- (4) In this section " local authority " means—
 - (a) in England and Wales, the council of a county, district or London borough or the Common Council of the City of London or a Passenger Transport Executive ; and
 - (b) in Scotland, a regional or islands council.
- (5) This section does not apply in relation to any application for a special licence (within the meaning of section 12 of the Transport Act 1985).”

26 **Conditions attached to PSV operator's licence**

- (1) Where it appears to a traffic commissioner, in relation to a person (" the operator ") to whom he has granted or is proposing to grant a PSV operator's licence, that—
 - (a) the operator has failed to operate a local service registered under section 6 of this Act; or
 - (b) the operator has operated a local service in contravention of that section ; or
 - (c) the arrangements for maintaining the vehicles used under the licence in a fit and serviceable condition are not adequate for the use of those vehicles in providing the local service or services in question ; or
 - (d) the operator, or any employee or agent of his, has—
 - (i) intentionally interfered with the operation of a local service provided by another operator;
 - (ii) operated a local service in a manner dangerous to the public ; or
 - (iii) been guilty of any other serious misconduct (whether or not constituting a criminal offence) in relation to the operation of a local service; or
 - (e) a condition attached under section 8 of this Act to the operator's licence has been contravened ;

he may (on granting the licence or at any later time) attach to it either a condition prohibiting the operator from using vehicles under the licence to provide any local service of a description specified in the condition or one prohibiting him from so using vehicles to provide local services of any description.

- (2) The commissioner may attach a condition to a PSV operator's licence under subsection (1) above, by reference to circumstances falling within paragraph (a) or (b) of that subsection if, but only if, it appears to him that the operator did not have a reasonable excuse for his conduct or that it is appropriate to attach the condition in view of—
 - (a) the danger to the public involved in the operator's conduct; or
 - (b) the frequency of conduct of the kind in question on the part of the operator.
- (3) Where the effect of a condition attached to a PSV operator's licence under subsection (1) above is that the operator of a local service registered under section 6 of this Act is prohibited from using vehicles under the licence to provide that service, the traffic commissioner attaching the condition may—
 - (a) cancel the registration ; or
 - (b) where the service is registered with another traffic commissioner, direct that it be cancelled.
- (4) Where a direction is given under subsection (3)(b) above, it shall be the duty of the traffic commissioner with whom the service is registered to cancel the registration.
- (5) Where it appears to the commissioner that—
 - (a) vehicles used under the licence (or under any PSV operator's licence previously held by the operator) have not been maintained in a fit and serviceable condition ; or
 - (b) the operator has been involved in arrangements with any other operator for the use of each other's vehicles with a view to hindering enforcement of any requirements of the law relating to the operation of those vehicles;he may (on granting the licence or at any later time) attach to the licence a condition restricting the vehicles which the operator may use under the licence to vehicles specified in the condition.
- (6) A condition attached to a licence under subsection (5) above shall—
 - (a) apply only to vehicles which have their operating centre in the traffic area for which the commissioner acts; and
 - (b) be in addition to (and not be taken as prejudicing in any way) any conditions attached to the licence under section 16 of the 1981 Act as to the maximum number of vehicles which the operator may at any one time use under the licence.

27 Supplementary provisions with respect to conditions attached to PSV operator's licence under section 26

- (1) Before attaching any condition to a PSV operator's licence under section 26 of this Act, a traffic commissioner shall hold an inquiry if he has, within the prescribed period, received a request for an inquiry from the holder of, or (as the case may be) applicant for, the licence.
- (2) Subsection (1) above shall not apply where the traffic commissioner is satisfied that the condition should be attached without delay.
- (3) Where, in reliance on subsection (2) above, a traffic commissioner attaches any such condition to a PSV operator's licence without first holding an inquiry, he shall hold

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one as soon as is reasonably practicable if the holder of the licence has, before the end of such period as may be prescribed, asked him to do so.

- (4) For the purposes of section 16(5) of the 1981 Act (traffic commissioner's power to vary or remove conditions attached under section 16(3) of that Act to a PSV operator's licence), a condition attached under section 26 of this Act shall be treated as attached under section 16(3) of that Act.
- (5) Nothing in section 26 shall be taken as prejudicing the generality of the power under that Act to prescribe descriptions of conditions for the purposes of section 16(3) of that Act.

28 Power to disqualify PSV operators

- (1) Where the traffic commissioner for any traffic area revokes a PSV operator's licence, he may order the former holder to be disqualified, indefinitely or for such period as he thinks fit, from holding or obtaining a PSV operator's licence.
- (2) So long as a disqualification imposed under subsection (1) above is in force with respect to any person, no PSV operator's licence shall be granted to him and any such licence obtained by him shall be of no effect.
- (3) An order under subsection (1) above may be limited so as to apply only to the holding or obtaining of a PSV operator's licence in respect of the area of one or more specified traffic commissioners and, if the order is so limited, subsection (2) above shall apply only to any PSV operator's licence to which the order applies.
- (4) Where a traffic commissioner makes an order under subsection (1) above with respect to any person, he may direct that if that person, at any time during such period as he may specify—
 - (a) is a director of, or holds a controlling interest in—
 - (i) a company which holds a licence of the kind to which the order applies; or
 - (ii) a company of which a company which holds such a licence is a subsidiary; or
 - (b) operates any public service vehicles in partnership with a person who holds such a licence ;

the powers under section 17(2) of the 1981 Act (revocation, suspension, etc., of PSV operators' licences) shall be exercisable in relation to that licence by the traffic commissioner by whom it was granted.
- (5) The powers conferred by this section in relation to the person who was the holder of a licence shall be exercisable also—
 - (a) where that person was a company, in relation to any officer of that company; and
 - (b) where that person operated the vehicles used under the licence in partnership with other persons, in relation to any of those other persons.
- (6) A traffic commissioner shall not make any such order or give any such direction without first holding an inquiry if any person affected by the proposed order or direction requests him to do so.
- (7) For the purposes of this section a person holds a controlling interest in a company if he is the beneficial owner of more than half its equity share capital.

29 Duty to give Secretary of State information about certain matters

In subsections (1) and (2) of section 20 of the 1981 Act (which require the holder of a PSV operator's licence to inform the traffic commissioners of certain kinds of failure of, or damage or alteration to, a public service vehicle owned by him), for the words " traffic commissioners who granted the licence " there shall be substituted the words " Secretary of State ".

30 Plying for hire by large public service vehicles

- (1) A public service vehicle which is adapted to carry more than eight passengers shall not be used on a road in plying for hire as a whole.
- (2) Subject to section 68(3) of the 1981 Act (as applied by section 127(4) of this Act), if a vehicle is used in contravention of subsection (1) above, the operator of the vehicle shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

31 Appeals under the 1981 Act

For sections 50 and 51 of the 1981 Act (appeals) there shall be substituted the following sections—

“50 Appeals to the Transport Tribunal.

- (1) An applicant for the grant of a PSV operator's licence under this Act may appeal to the Transport Tribunal against any decision of the traffic commissioner—
 - (a) to refuse to grant the licence in accordance with the application ; or
 - (b) to attach any condition to the licence otherwise than in accordance with the application.
- (2) Where a person who has applied for a new PSV operator's licence in substitution for a licence held by him and in force at the date of his application appeals to the Transport Tribunal under subsection (1) above, the existing licence shall continue in force until the appeal is disposed of, but without prejudice to the exercise in the meantime of the powers conferred by section 17 of this Act.
- (3) Where an application for a PSV operator's licence is granted under this Act and a person who duly made an objection to the grant under section 14A of this Act is aggrieved by the grant of the licence he may appeal to the Transport Tribunal.
- (4) The holder of a PSV operator's licence may appeal to the Transport Tribunal against any decision of the traffic commissioner—
 - (a) to refuse his application for the variation or removal of any condition attached to the licence;
 - (b) to vary any such condition, or to attach any new condition to the licence, otherwise than on his application; or
 - (c) to revoke or suspend the licence or to curtail its period of validity.
- (5) Where—
 - (a) the holder of a PSV operator's licence in respect of which an order or direction has been made or given under section 28 of the Transport Act 1985 (power to disqualify PSV operators); or

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- (b) any person in respect of whom any such order or direction has been made or given;
is aggrieved by the order or direction he may appeal to the Transport Tribunal.
- (6) The traffic commissioner—
 - (a) making any such decision with respect to a licence as is mentioned in subsection (4)(b) or (c) above;
 - (b) making any such order or giving any such direction as is mentioned in subsection (5) above;
 may, if the holder of the licence or any such person as is mentioned in subsection (5)(b) above so requests, direct that his decision shall not have effect until the expiration of the period within which an appeal against it may be made to the Transport Tribunal and, if an appeal is made, until it is disposed of.
- (7) Where a traffic commissioner has given a direction under subsection (6) above he may withdraw it at any time.
- (8) If the traffic commissioner refuses to give a direction under subsection (6) above or withdraws such a direction, the person requesting it may apply for such a direction to the Transport Tribunal and the Transport Tribunal shall give their decision on the application within fourteen days.
- (9) This section does not apply in relation to conditions attached to a PSV operator's licence under section 8 of the Transport Act 1985 (enforcement of traffic regulation conditions).

51 Appeals to the Secretary of State.

- (1) A person applying for—
 - (a) a certificate of initial fitness under section 6 of this Act; or
 - (b) a certificate under section 10 Of this Act that a vehicle conforms to a type vehicle ;
 may appeal to the Secretary of State against the refusal of a certifying officer to issue such a certificate.
- (2) Where the refusal by a certifying officer or public service vehicle examiner to remove a prohibition under subsection (1) of section 9 of this Act (including a prohibition under that subsection as it applies by virtue of section 9A of this Act) has been referred to a certifying officer (" the referee ") under subsection (8) of that section by a traffic commissioner, any person aggrieved by the refusal of the referee to remove the prohibition may appeal to the Secretary of State.
- (3) An appeal under this section must be made within the prescribed time and in the prescribed manner; and provision may be made by regulations as to the procedure to be followed in connection with such appeals.
- (4) On the determination of an appeal under this section, the Secretary of State may confirm, vary or reverse the decision appealed against, and may give such directions as he thinks fit to the certifying officer for giving effect to his decision; and it shall be the duty of the certifying officer to comply with any such directions."