



# Deregulation and Contracting Out Act 1994

## 1994 CHAPTER 40

### PART I

#### DEREGULATION

### CHAPTER III

#### GOODS VEHICLE OPERATOR LICENSING

#### 41 The 1968 Act.

In this Chapter “the 1968 Act” means <sup>M1</sup> the Transport Act 1968.

#### Marginal Citations

M1 1968 c. 73.

#### 42 Use of vehicles under licences.

(1) In section 61 of the 1968 Act (authorised vehicles) for subsection (1) there shall be substituted—

“(1) Subject to the following provisions of this section, the vehicles authorised to be used under an operator’s licence are—

- (a) any motor vehicle in the lawful possession of the licence-holder that is specified in the licence;
- (b) any trailer in the lawful possession of the licence-holder; and
- (c) any motor vehicle in the lawful possession of the licence-holder that is not specified in the licence.

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*Status: Point in time view as at 03/01/1995.*

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- (1A) An operator’s licence may provide that—
- (a) no motor vehicle the relevant weight of which exceeds a weight specified in the licence is authorised to be used under it;
  - (b) no trailer the relevant weight of which exceeds a weight specified in the licence is authorised to be used under it;
  - (c) no trailers are authorised to be used under it;
  - (d) no vehicles are authorised to be used under it by virtue of subsection (1)(c) of this section.

(1B) In subsection (1A) of this section “relevant weight”, in relation to a motor vehicle or trailer of any prescribed class, means a weight of the description specified in relation to motor vehicles or trailers of that class by regulations.”

(2) For subsections (3) and (4) of that section there shall be substituted—

“(3) A vehicle is not authorised to be used under an operator’s licence by virtue of subsection (1)(c) of this section after the period of one month beginning with—

- (a) the day on which the vehicle was first in the lawful possession of the licence-holder; or
- (b) if later, the day on which the licence came into force,

unless during that period the licence-holder has given to the licensing authority by whom the licence was granted a notice, in such form and containing such information about the vehicle as the authority may require, and has paid a prescribed fee to the authority.

(4) Where notice of a vehicle has been duly given and the prescribed fee has been duly paid under subsection (3) of this section, the licensing authority shall vary the licence by directing that the vehicle be specified in it.”

(3) After that section there shall be inserted—

**“61A Maximum numbers of vehicles.**

- (1) An operator’s licence—
  - (a) shall specify a maximum number for motor vehicles; and
  - (b) may specify a maximum number for motor vehicles the relevant weight of which exceeds a weight specified in the licence.
- (2) An operator’s licence that does not contain a provision such as is mentioned in section 61(1A)(c) of this Act—
  - (a) shall specify a maximum number for trailers; and
  - (b) may specify a maximum number for trailers the relevant weight of which exceeds a weight specified in the licence.
- (3) The number of vehicles being used under an operator’s licence by virtue of section 61(1)(c) of this Act at any one time may not exceed the maximum number specified in the licence under subsection (1)(a) of this section, less however many motor vehicles are specified in the licence.
- (4) Where under subsection (1)(b) of this section an operator’s licence specifies a maximum number for motor vehicles the relevant weight of which exceeds a specified weight—

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- (a) the number of such vehicles being used under the licence by virtue of section 61(1)(c) of this Act at any one time may not exceed that maximum number, less however many motor vehicles the relevant weight of which exceeds the specified weight are specified in the licence; and
  - (b) the number of such vehicles that are specified in the licence and being used under it at any one time may not exceed that maximum number.
- (5) The number of trailers being used under an operator’s licence at any one time may not exceed the maximum number specified in the licence under subsection (2)(a) of this section.
- (6) Where under subsection (2)(b) of this section an operator’s licence specifies a maximum number for trailers the relevant weight of which exceeds a specified weight, the number of such trailers being used under the licence at any one time may not exceed that maximum number.
- (7) The definition of “relevant weight” in section 61(1B) of this Act applies for the purposes of this section as it applies for the purposes of section 61(1A).
- (8) If subsection (3), (4)(a) or (b), (5) or (6) of this section is contravened, the licence-holder shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

#### **43 Objections to grant or variation of licences.**

After section 63(4) of the 1968 Act (which requires objections to the grant or variation of operators’ licences to be made within the prescribed time and in the prescribed manner) there shall be inserted—

“(4A) Where the licensing authority considers there to be exceptional circumstances that justify his doing so, he may direct that an objection be treated for the purposes of this Part of this Act as duly made under this section, notwithstanding that it was not made within the prescribed time or in the prescribed manner.”

#### **44 Determination of applications for licences.**

(1) For section 64 of the 1968 Act there shall be substituted—

##### **“64 Determination of applications for operators’ licences.**

- (1) Subject to sections 69E and 89(2) of this Act, on an application for an operator’s licence the licensing authority shall consider—
- (a) whether the requirements of subsections (2) and (3) of this section are satisfied; and
  - (b) if he thinks fit, whether the requirements of subsection (4) of this section are satisfied.
- (2) The applicant must not by reason—
- (a) of any activities or convictions of which particulars may be required to be given under section 62(4)(d) or (e) of this Act; or

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- (b) of any conviction required to be notified in accordance with section 62(4A) of this Act,  
be unfit to hold an operator's licence.
- (3) It must be possible (taking into account the licensing authority's powers under section 64A(3) of this Act) to issue a licence on the application in relation to which paragraphs (a) to (d) of this subsection will apply—
- (a) there are satisfactory arrangements for securing that Part VI of this Act is complied with in the case of the vehicles used under the licence and for securing that those vehicles are not overloaded;
  - (b) there are satisfactory facilities and arrangements for maintaining the vehicles used under the licence in a fit and serviceable condition;
  - (c) at least one place in the licensing authority's area is specified in the licence as an operating centre of the licence-holder and each place so specified is available and suitable for use as such an operating centre (disregarding any respect in which it may be unsuitable on environmental grounds);
  - (d) the capacity of the place so specified (if there is only one) or of both or all the places so specified taken together (if there are more than one) is sufficient to provide an operating centre for all the vehicles used under the licence.
- (4) The provision of such facilities and arrangements as are mentioned in subsection (3)(b) of this section must not be prejudiced by reason of the applicant's having insufficient financial resources for that purpose.
- (5) In considering whether any of the requirements of subsections (2) to (4) of this section are satisfied, the licensing authority shall have regard to any objection duly made under section 63 of this Act in respect of the application.
- (6) In considering whether the requirements of subsection (3) of this section are satisfied, the licensing authority may take into account any undertakings given by the applicant (or procured by him to be given) for the purposes of the application, and may assume that those undertakings will be fulfilled.
- (7) In considering whether subsection (3)(c) of this section will apply in relation to a licence, the licensing authority may take into account any conditions that under section 64B of this Act could be attached to the licence, and may assume that any conditions so attached will not be contravened.
- (8) In considering whether subsection (3)(c) or (d) of this section will apply in relation to a licence, the licensing authority may take into account (if such be the case) that any proposed operating centre of the applicant would be used—
- (a) as an operating centre of the holders of other operators' licences as well as of the applicant; or
  - (b) by the applicant or by other persons for purposes other than keeping vehicles used under the licence.
- (9) If the licensing authority determines that any of the requirements that he has taken into consideration in accordance with subsection (1) of this section are not satisfied, he shall refuse the application, but in any other case he shall, subject to sections 69B and 89(2) of this Act, grant the application.

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#### **64A Issue of operators' licences.**

- (1) Subject to subsection (2) of this section and to sections 64B, 66, 69B, 69C and 89(2) of this Act, on granting an application for an operator's licence, the licensing authority shall issue that licence in the terms applied for.
- (2) If the authority has determined that any of the requirements of section 64(3) or (4) of this Act that he has taken into consideration in accordance with section 64(1) of this Act would not be satisfied unless he exercised any of his powers under subsection (3) of this section, he shall exercise those powers accordingly.
- (3) The authority may issue the licence in terms that differ from the terms applied for in any of the following respects—
  - (a) more or fewer motor vehicles are specified in the licence;
  - (b) different motor vehicles are specified in it;
  - (c) it includes a provision such as is mentioned in section 61(1A) of this Act;
  - (d) it includes a provision such as is mentioned in section 61A(1)(b) or (2)(b) of this Act;
  - (e) higher or lower maximum numbers are specified in it under section 61A of this Act;
  - (f) fewer places are specified in it as operating centres of the licence-holder.
- (4) Any undertakings taken into account by the authority under section 64(6) of this Act that he considers to be material to the granting of the application shall be recorded in the licence issued.”
- (2) In section 69B of the 1968 Act (objection to, and refusal or modification of, applications for operators' licences on environmental grounds) for subsection (5) there shall be substituted—
  - “(5) The licensing authority may not refuse an application for an operator's licence on the ground that any place would be unsuitable as mentioned in subsection (4) of this section if—
    - (a) on the date the application was made, that place was already specified in an operator's licence granted by the authority as an operating centre of the holder of that licence; or
    - (b) the applicant has produced to the authority a certificate in force in respect of that place under section 191 or 192 of the Town and Country Planning Act 1990 or section 90 or 90A of <sup>M2</sup> the Town and Country Planning (Scotland) Act 1972, stating that its use as an operating centre for vehicles used under any operator's licence is or would be lawful.
  - (5A) Subsection (5) of this section does not apply in relation to any place that, at the time the application is determined by the licensing authority, is specified in an operator's licence as an operating centre of the holder of that licence.
  - (5B) In paragraph (a) of subsection (5) of this section “operator's licence” does not include a licence granted under section 67A of this Act, and the reference

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in that paragraph to a place being specified in an operator’s licence does not include a place being so specified—

- (a) by virtue of an interim direction such as is mentioned in section 68A of this Act;
- (b) if such conditions as may be prescribed in relation to the exercise of the right of any person to appeal against that place being so specified are not satisfied;
- (c) if such conditions as may be prescribed in relation to the review under section 69J of this Act of the decision so to specify that place are not satisfied; or
- (d) by reason of being situated within a place that is so specified.”

#### Marginal Citations

**M2** 1990 c. 8.

**M3** 1972 c. 52.

#### 45 Conditions for securing road safety.

After section 64A of the 1968 Act (set out in section 44 above) there shall be inserted—

##### “64B Conditions for securing road safety.

- (1) A licensing authority, on granting an operator’s licence or on varying such a licence under section 68 of this Act, may attach to it such conditions as he thinks fit for preventing vehicles that are authorised to be used under the licence from causing danger to the public—
  - (a) at any point where vehicles first join a public road on their way from an operating centre of the licence-holder (or last leave a public road on their way to such an operating centre); and
  - (b) on any road (other than a public road) along which vehicles are driven between such a point and the operating centre.
- (2) On varying an operator’s licence under section 68 of this Act, the licensing authority may vary or remove any condition attached to the licence under this section.
- (3) The licensing authority shall not—
  - (a) attach to an operator’s licence any condition such as is mentioned in this section; or
  - (b) vary in such manner as imposes new or further restrictions or requirements any condition attached to an operator’s licence under this section,
 without first giving the applicant for the licence or (as the case may be) the licence-holder an opportunity of making representations to the authority with respect to the effect on his business of the proposed condition or variation.
- (4) The licensing authority shall give special consideration to any representations made under subsection (3) of this section in determining whether to attach the proposed condition or make the proposed variation.

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- (5) In this section as it applies in relation to England and Wales, “public road” means a highway maintainable at the public expense for the purposes of<sup>M4</sup> the Highways Act 1980.
- (6) Any person who contravenes any condition attached under this section to a licence of which he is the holder shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

#### Marginal Citations

M4 1980 c. 66.

## 46 Duration of licences and grant of interim licences.

For section 67 of the 1968 Act there shall be substituted—

### “67 Duration of operators’ licences.

- (1) The date on which an operator’s licence is to come into force shall be specified in the licence.
- (2) Subject to its revocation or other termination under any provision of this Act or another statutory provision, an operator’s licence (other than one granted under section 67A of this Act) shall continue in force indefinitely.
- (3) If the holder of an operator’s licence requests the licensing authority by whom it was granted to terminate it at any time, the authority shall, subject to subsection (4) of this section, comply with the request.
- (4) The licensing authority may refuse to comply with the request if he is considering giving a direction in respect of the licence under section 69(1) of this Act or revoking the licence under Regulation 9(1) of the<sup>M5</sup> Goods Vehicles (Operators’ Licences, Qualifications and Fees) Regulations 1984.
- (5) An operator’s licence held by an individual terminates if he dies or becomes a patient within the meaning of Part VII of the<sup>M6</sup> Mental Health Act 1983.

### 67A Interim licences.

- (1) Where on any application for an operator’s licence (a “full” licence) the applicant so requests, the licensing authority may grant to him an interim licence.
- (2) An interim licence is an operator’s licence that (subject to its revocation or other termination under any provision of this Act or another statutory provision) will continue in force until it terminates under subsection (3), (4) or (5) of this section.
- (3) If the licensing authority grants the application and issues to the applicant a full licence—
  - (a) that is in the terms applied for; or

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- (b) that is in those terms, subject only to the attachment under section 64B, 66 or 69C of this Act of any conditions that are also attached to the interim licence,  
the interim licence shall terminate on the date on which the full licence comes into force.
- (4) If, on an appeal arising out of the application, the Transport Tribunal orders the licensing authority to issue a full licence to the applicant, the interim licence shall terminate—
- (a) on the date on which the full licence issued in pursuance of the order comes into force; or
- (b) at the time at which the application is withdrawn or treated as withdrawn under section 89(3) of this Act.
- (5) If neither subsection (3) nor subsection (4) of this section applies, the interim licence shall terminate on the date on which the application is finally disposed of or such earlier date as the applicant may specify in a written request to the licensing authority.
- (6) In a case within subsection (5) of this section where the application is granted, the full licence issued to the applicant shall (notwithstanding any statement in it to the contrary) be of no effect before the interim licence terminates.
- (7) A request for the grant of an interim licence shall not for the purposes of section 63, 64, 64A, 69B, 69E, 69J or 70 of, or Schedule 8A to, this Act be treated as an application for an operator’s licence, but shall be treated as such an application for any other purposes of this Part of this Act.
- (8) The licensing authority may issue an interim licence in the same terms as those applied for in relation to the full licence or in terms that differ from those terms in any of the respects mentioned in section 64A(3) of this Act.”

#### Marginal Citations

**M5** S.I. 1984/176.

**M6** 1983 c. 20.

## 47 Variation of licences.

- (1) For section 68 of the 1968 Act there shall be substituted—

### “68 Variation of operators’ licences.

- (1) Subject to section 69E of this Act, on the application of the holder of an operator’s licence, the licensing authority by whom the licence was granted may vary the licence by directing—
- (a) that additional motor vehicles be specified in the licence or that any maximum number specified in it under section 61A of this Act be increased;
- (b) that any vehicle cease to be specified in the licence or that any maximum number specified in it under section 61A of this Act be reduced;



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- (c) that any provision in the licence such as is mentioned in section 61(1A) of this Act cease to have effect;
  - (d) that a provision such as is mentioned in section 61(1A) of this Act be included in the licence;
  - (e) that any provision in the licence such as is mentioned in section 61A(1)(b) or (2)(b) of this Act cease to have effect;
  - (f) that a provision such as is mentioned in section 61A(1)(b) or (2)(b) of this Act be included in the licence;
  - (g) that a new place in the licensing authority’s area be specified in the licence as an operating centre of the licence-holder, or that any place cease to be so specified;
  - (h) that any undertaking recorded in the licence be varied or removed;
  - (i) that any condition attached to the licence be varied or removed;
  - (j) in the case of a restricted licence, that it be converted into a standard licence or, in the case of a standard licence, that it be converted into a restricted licence;
  - (k) in the case of a standard licence, that it cover both international and national transport operations instead of national transport operations only, or vice versa.
- (2) In subsection (1) of this section “restricted licence” and “standard licence” mean the same as in the Goods <sup>M7</sup>Vehicles (Operators’ Licences, Qualifications and Fees) Regulations 1984.
- (3) A person applying for the variation of an operator’s licence under this section shall give to the licensing authority, in such form as he may require, such information as he may reasonably require for disposing of the application.
- (4) Except in the cases mentioned in subsection (5) of this section, the licensing authority shall publish notice of any application for the variation of an operator’s licence under this section in the manner prescribed for the publication of notices under section 63(1) of this Act.
- (5) The excepted cases are—
- (a) where the application is for a direction under subsection (1)(a) of this section that additional motor vehicles be specified in a licence;
  - (b) where the application is for a direction under subsection (1)(b), (d) or (f) of this section;
  - (c) where the application is for a direction under subsection (1)(g) of this section that a place cease to be specified in a licence as an operating centre of the licence-holder;
  - (d) where the application is for a direction under subsection (1)(j) of this section that a standard licence be converted into a restricted licence;
  - (e) where the application is for a direction under subsection (1)(k) of this section that a licence cover national transport operations only instead of both international and national transport operations;
  - (f) where the licensing authority is satisfied that the application is of so trivial a nature that it is not necessary that an opportunity should be given for objecting to it or making representations against it.
- (6) Where notice of an application is published under subsection (4) of this section, sections 63, 64 and 64A of this Act shall, with any necessary

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modifications and subject to section 69D of this Act, apply in relation to that application as they apply in relation to an application for an operator's licence of which notice is published under section 63(1) of this Act.

#### **68A Interim variations.**

- (1) Where an applicant for the variation of an operator's licence under section 68 of this Act so requests, the licensing authority may, before he has determined the application, vary the licence by giving an interim direction in respect of it.
  - (2) An interim direction is a direction under section 68(1) of this Act that is expressed to continue in force until it ceases to have effect under subsection (3) or (4) of this section.
  - (3) If on determining the application the licensing authority varies the licence by giving a direction in the terms applied for (and does not also under section 64B(1) or (2) or 69C(1) or (3) of this Act attach or vary any conditions), the interim direction shall cease to have effect on the date on which the direction given on the application comes into force.
  - (4) If subsection (3) of this section does not apply, the interim direction shall cease to have effect on the date on which the application is finally disposed of or such earlier date as the applicant may specify in a written request to the licensing authority.
  - (5) In a case within subsection (4) of this section where on determining the application the licensing authority gives a direction varying the licence, that direction shall be of no effect before the interim direction ceases to have effect.
  - (6) A request for an interim direction to be given shall not for the purposes of section 68(4) or 70 of, or Schedule 8A to, this Act be treated as an application for the variation of an operator's licence, but shall be treated as such an application for any other purposes of this Part of this Act.”
- (2) For section 69D of the 1968 Act there shall be substituted—

#### **“69D Objection to, and refusal of, applications for variation of operators' licences on environmental grounds.**

- (1) This section applies where notice of an application for the variation of an operator's licence has been published under section 68(4) of this Act.
- (2) Where the application relates to an existing operating centre of the licence-holder in the licensing authority's area—
  - (a) any of the persons mentioned in section 63(3) of this Act may object to the grant of the application on the ground that the use of that operating centre in any manner which would be permitted if the application were granted would cause adverse effects on environmental conditions in the vicinity of that centre;
  - (b) subject to subsection (5) of this section, any person who is the owner or occupier of any land in the vicinity of that operating centre may make representations on that ground against the grant of the application; and

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- (c) (whether or not anyone objects or makes representations under paragraph (a) or (b) of this subsection) the authority may refuse the application on that ground.
- (3) For the purposes of subsection (2) of this section, an application shall be taken to relate to an operating centre if—
  - (a) granting it would or could result in an increase in the number of vehicles, or the number of vehicles above a certain weight, that have that centre as their operating centre; or
  - (b) any undertaking recorded in or condition attached to the licence that the application seeks to have varied or removed relates to that centre.
- (4) Where the application is for a place in the licensing authority's area to be specified in the licence as an operating centre of the licence-holder—
  - (a) any of the persons mentioned in section 63(3) of this Act may object to the grant of the application on the ground that that place will be unsuitable on environmental grounds for use as an operating centre of the licence-holder; and
  - (b) subject to subsection (5) of this section, any person who is the owner or occupier of any land in the vicinity of that place may make representations against the grant of the application on that ground.
- (5) A person may not make representations under subsection (2)(b) or (4)(b) of this section unless any adverse effects on environmental conditions arising from the use of the operating centre or place in question would be capable of prejudicially affecting the use or enjoyment of the land there mentioned.
- (6) If any person duly objects or makes representations under subsection (4) of this section against an application for a place in the licensing authority's area to be specified in the licence as an operating centre of the licence-holder, the authority may refuse the application—
  - (a) on the ground that the parking of vehicles used under the licence at or in the vicinity of that place would cause adverse effects on environmental conditions in the vicinity of that place;
  - (b) subject to subsection (7) of this section, on the ground that that place would be unsuitable on environmental grounds other than the ground mentioned in paragraph (a) of this subsection for use as an operating centre of the licence-holder.
- (7) The authority may not refuse the application on the ground mentioned in subsection (6)(b) of this section if—
  - (a) on the date the application was made, the place in question was already specified in an operator's licence granted by the authority as an operating centre of the holder of that licence; or
  - (b) the applicant has produced to the authority a certificate in force in respect of that place under section 191 or 192 of <sup>M8</sup> the Town and Country Planning Act 1990 or section 90 or 90A of the Town and <sup>M9</sup>Country Planning (Scotland) Act 1972, stating that its use as an operating centre for vehicles used under any operator's licence is or would be lawful.

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- (8) Subsection (7) of this section does not apply in relation to any place that, at the time the application is determined by the licensing authority, is specified in an operator’s licence as an operating centre of the holder of that licence.
- (9) In paragraph (a) of subsection (7) of this section “operator’s licence” does not include a licence granted under section 67A of this Act, and the reference in that paragraph to a place being specified in an operator’s licence does not include a place being so specified—
- (a) by virtue of an interim direction such as is mentioned in section 68A of this Act;
  - (b) if such conditions as may be prescribed in relation to the exercise of the right of any person to appeal against that place being so specified are not satisfied;
  - (c) if such conditions as may be prescribed in relation to the review under section 69J of this Act of the decision so to specify that place are not satisfied; or
  - (d) by reason of being situated within a place that is so specified.”

#### Marginal Citations

**M7** S.I. 1984/176.

**M8** 1990 c. 8.

**M9** 1972 c. 52.

## 48 Revocation, suspension and curtailment of licences.

(1) Section 69 of the 1968 Act (revocation, suspension and curtailment of operators’ licences) shall be amended as follows.

(2) For subsections (1) and (2) there shall be substituted—

“(1) Subject to the following provisions of this section, the licensing authority by whom an operator’s licence was granted may direct that it be revoked, suspended or curtailed on any of the following grounds—

- (a) that a place in the authority’s area has, at a time when it was not specified in the licence as an operating centre of the licence-holder, been used as an operating centre for vehicles authorised to be used under the licence;
- (b) that the licence-holder has contravened any condition attached to the licence;
- (c) that during the five years ending with the date on which the direction is given there has been a conviction such as is mentioned in subsection (4)(a) to (fff) of this section or a prohibition such as is mentioned in subsection (4)(h) of this section;
- (d) that during those five years, on occasions appearing to the authority to be sufficiently numerous to justify the giving of a direction under this subsection, there has been a conviction such as is mentioned in subsection (4)(g) of this section;
- (e) that the licence-holder made or procured to be made for the purposes of his application for the licence, an application for the variation of the licence or a request for a direction under paragraph 1 or 3

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- of Schedule 8A to this Act a statement of fact that (whether to his knowledge or not) was false or a statement of expectation that has not been fulfilled;
- (f) that any undertaking recorded in the licence has not been fulfilled;
  - (g) that the licence-holder, being an individual, has been adjudged bankrupt, or, being a company, has gone into liquidation (other than voluntary liquidation for the purpose of reconstruction);
  - (h) that since the licence was granted or varied there has been a material change in any of the circumstances of the licence-holder that were relevant to the grant or variation of the licence;
  - (i) that the licence is liable to revocation, suspension or curtailment by virtue of a direction under subsection (6) of this section.
- (2) Where the licensing authority has power to give a direction in respect of a licence under subsection (1) of this section, the authority also has power to direct that a condition, or additional condition, such as is mentioned in section 66 of this Act be attached to the licence.
- (2A) In this Part of this Act any reference, in relation to an operator's licence, to a condition attached to the licence under section 66 of this Act includes any condition that was attached to the licence under subsection (2) of this section.”
- (3) For subsection (5) there shall be substituted—
- “(5) Where the licensing authority directs that an operator's licence be revoked, the authority may order the person who was the holder of the licence to be disqualified, indefinitely or for such period as the authority thinks fit, from holding or obtaining an operator's licence, and so long as the disqualification is in force—
- (a) any operator's licence held by him at the date of the making of the order (other than the licence revoked) shall be suspended; and
  - (b) notwithstanding anything in section 64 or 67A of this Act, no operator's licence may be granted to him.
- (5A) If a person applies for or obtains an operator's licence while he is disqualified under subsection (5) of this section—
- (a) he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale; and
  - (b) any operator's licence granted to him on the application or (as the case may be) the operator's licence obtained by him shall be void.
- (5B) An order under subsection (5) of this section may be limited so as to apply only to the holding or obtaining of an operator's licence in respect of the area of one or more specified licensing authorities and, if the order is so limited—
- (a) paragraphs (a) and (b) of that subsection and subsection (5A) of this section shall apply only to any operator's licence to which the order applies; but
  - (b) notwithstanding section 61(2)(b) of this Act, no other operator's licence held by the person in question shall authorise the use by him of any vehicle at a time when its operating centre is in an area in respect of which he is disqualified by virtue of the order.”

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- (4) At the end of subsection (7) there shall be added “ and any reference below in this section to subsection (5) or to subsection (6) includes that subsection as it applies by virtue of this subsection.. ”
- (5) For subsection (8) there shall be substituted—
- “(8) The licensing authority by whom any direction suspending or curtailing a licence under subsection (1) of this section was given may at any time—
- (a) cancel the direction together with any order under subsection (7A) of this section that was made when the direction was given;
  - (b) cancel any such order; or
  - (c) with the consent of the licence-holder, vary the direction or any such order (or both the direction and any such order).
- (8A) The licensing authority by whom any order disqualifying a person was made under subsection (5) of this section may at any time—
- (a) cancel that order together with any direction that was given under subsection (6) of this section when the order was made;
  - (b) cancel any such direction; or
  - (c) with the consent of the person disqualified, vary the order or any such direction (or both the order and any such direction).”

#### **49 Publication of applications.**

For section 69E of the 1968 Act there shall be substituted—

**“69E Publication of notice of application for licences and variations in localities affected.**

- (1) Subject to subsection (4) of this section, the licensing authority to whom—
- (a) any application for an operator’s licence; or
  - (b) any application for a direction such as is mentioned in subsection (2) of this section,
- is made shall refuse the application without considering its merits, unless he is satisfied that subsection (3) of this section has been complied with in respect of each locality affected by the application.
- (2) The directions referred to in subsection (1)(b) of this section are—
- (a) any direction under section 68(1)(a) of this Act that a maximum number specified in a licence under section 61A of this Act be increased;
  - (b) any direction under section 68(1)(c) or (e) of this Act;
  - (c) any direction under section 68(1)(g) of this Act that a new place be specified in a licence as an operating centre of the licence-holder; and
  - (d) any direction under section 68(1)(h) or (i) of this Act which might result in a material change in the use of any operating centre of the licence-holder in the licensing authority’s area.
- (3) This subsection has been complied with in respect of a locality affected by an application if, within the period beginning twenty-one days before the date on which the application is made and ending twenty-one days after that date,

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notice of the application in such form and containing such information as may be prescribed has been published in one or more local newspapers circulating in the locality.

- (4) The licensing authority is not required by this section to refuse an application if—
- (a) he is satisfied as mentioned in subsection (1) of this section, save only that the form or contents of the notice of application as published in any newspaper did not comply with the prescribed requirements; and
  - (b) he is satisfied that no person's interests are likely to have been prejudiced by the failure to comply with those requirements.
- (5) For the purposes of this section a locality is affected by an application for, or for the variation of, an operator's licence if—
- (a) it contains any place in the area of the licensing authority that will be an operating centre of the licence-holder if the application is granted; or
  - (b) (in the case of an application for variation) it contains an existing operating centre of the licence-holder in the area of the authority and—
    - (i) the granting of the application would or could result in an increase in the number of vehicles, or the number of vehicles above a certain weight, that have that centre as their operating centre; or
    - (ii) any undertaking recorded in or condition attached to the licence that the application seeks to have varied or removed relates to that centre.”

## **50 Review and transfer of operating centres.**

- (1) After section 69E of the 1968 Act there shall be inserted—

*“ Further provisions about operating centres*

### **69EA Periods of review for operating centres.**

- (1) Within such time after any period of review as may be prescribed, the licensing authority by whom an operator's licence was granted may serve a notice on the licence-holder stating that the authority is considering whether to exercise any of his powers under sections 69EB and 69EC of this Act in relation to a place specified in the licence as an operating centre of the licence-holder.
- (2) The periods of review in relation to an operator's licence are—
- (a) the period of five years beginning with the date specified in the licence as the date on which it came into force; and
  - (b) each consecutive period of five years.
- (3) Regulations may amend subsection (2) of this section by substituting a higher or lower number (but not a number lower than five) for the number of years currently mentioned in paragraphs (a) and (b).
- (4) Regulations may make provision as to the manner in which notices under this section are to be or may be served, including provision as to the circumstances

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in which and time at which any such notice is to be treated as having been duly served (whether or not it has in fact been served).

#### **69EB Power to remove operating centres on review.**

- (1) If, having served notice under section 69EA of this Act in respect of a place specified in an operator's licence, the licensing authority determines that the place is unsuitable—
  - (a) on grounds other than environmental grounds; or
  - (b) on the ground mentioned in subsection (2) of this section,
 for use as an operating centre of the licence-holder, he may (subject to subsection (3) of this section) direct that it cease to be specified in the licence.
- (2) The ground referred to in subsection (1)(b) of this section is that the parking of vehicles used under the licence at or in the vicinity of the place causes adverse effects on environmental conditions in that vicinity.
- (3) Where the only ground for giving a direction under subsection (1) of this section is the ground mentioned in subsection (2) of this section, the authority may not give such a direction unless during the period of review in question representations were made to him—
  - (a) by a person such as is mentioned in section 63(3) of this Act; or
  - (b) by a person who is the owner or occupier of any land in the vicinity of the place in question,
 as to the place's unsuitability on environmental grounds for continued use as an operating centre for vehicles used under any operator's licence.
- (4) Representations made by a person such as is mentioned in subsection (3)(b) of this section shall be disregarded for the purposes of this section if, when they were made, any adverse effects on environmental conditions arising from the continued use of the place in question would not have been capable of prejudicially affecting the use or enjoyment of the land mentioned in subsection (3)(b).

#### **69EC Powers to attach conditions etc. on review.**

- (1) If, having served notice under section 69EA of this Act in respect of a place specified in an operator's licence, the licensing authority does not give a direction in respect of the place under section 69EB of this Act, he may direct—
  - (a) that conditions (or additional conditions) such as are mentioned in section 64B, 66(1)(c) or 69C of this Act be attached to the licence;
  - (b) that any conditions already attached to the licence under section 64B, 66(1)(c) or 69C be varied.
- (2) Any conditions attached to the licence under subsection (1)(a) of this section shall relate (or in the case of conditions such as are mentioned in section 66(1)(c) of this Act, only require the authority to be informed of events that relate) only to the place referred to in subsection (1) of this section (or only to that place and any other places in respect of which the authority has power to attach conditions under that subsection).



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- (3) Any variation under subsection (1)(b) of this section shall be such as imposes new or further restrictions or requirements in relation to that place, and only that place (or only that place and any other such places).
- (4) Where the licensing authority gives a direction in respect of an operator's licence under section 69EB of this Act or subsection (1)(a) of this section, he may also vary the licence by directing—
  - (a) that any vehicle cease to be specified in the licence;
  - (b) that any maximum number specified in the licence under section 61A of this Act be reduced;
  - (c) that a provision such as is mentioned in section 61(1A) of this Act be included in the licence;
  - (d) that a provision such as is mentioned in section 61A(1)(b) or (2)(b) of this Act be included in the licence.
- (5) In this Part of this Act any reference, in relation to an operator's licence, to a condition attached to the licence under section 64B, 66, or 69C of this Act includes any condition such as is mentioned in section 64B, 66 or (as the case may be) 69C that was attached to the licence under subsection (1)(a) of this section.

#### **69ED Transfer of operating centres.**

Schedule 8A to this Act (which makes provision in relation to certain applications for, or for the variation of, operators' licences where the proposed operating centres of the applicant are already specified in an operator's licence) shall have effect.”

- (2) After Schedule 8 to the 1968 Act there shall be inserted the Schedule set out in Schedule 12 to this Act.

#### **51 Assessors.**

After section 69H of the 1968 Act (set out in Schedule 13 to this Act) there shall be inserted—

*“ Operators' licences: supplementary provisions*

#### **69I Assessors.**

- (1) In considering any financial question which appears to him to arise in relation to the exercise of his functions under this Part of this Act or <sup>M10</sup> the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984, the licensing authority may be assisted by an assessor drawn from a panel of persons appointed for that purpose by the Secretary of State.
- (2) The Secretary of State shall pay to any such assessor in respect of his services such remuneration as may be determined by the Secretary of State with the consent of the Treasury.”

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#### Marginal Citations

M10 S.I. 1984/176.

## 52 Review of decisions.

After section 69I of the 1968 Act (set out in section 51 above) there shall be inserted—

### “69J Review of decisions.

- (1) Subject to subsection (2) of this section, the licensing authority may review and, if he thinks fit, vary or revoke any decision of his to grant or refuse—
  - (a) an application for an operator’s licence; or
  - (b) an application for the variation of such a licence in a case where section 68(4) of this Act required notice of the application to be published,
 if he is satisfied that a procedural requirement imposed by or under any enactment has not been complied with in relation to the decision.
- (2) The licensing authority may only review a decision under subsection (1) of this section—
  - (a) if, within such period after taking the decision as may be prescribed, he has given notice to the applicant or (as the case may be) the licence-holder that he intends to review the decision;
  - (b) if, within that period, a person who appears to him to have an interest in the decision has requested him to review it; or
  - (c) where neither paragraph (a) nor paragraph (b) of this subsection applies, if he considers there to be exceptional circumstances that justify the review.
- (3) Regulations may make provision as to the manner in which notices under subsection (2)(a) of this section are to be or may be served, including provision as to the circumstances in which and time at which any such notice is to be treated as having been duly served (whether or not it has in fact been served).
- (4) The variation or revocation of a decision under this section shall not make unlawful anything done in reliance on the decision before the variation or revocation takes effect.”

## 53 Appeals.

For section 70 of the 1968 Act there shall be substituted—

### “70 Rights of appeal in connection with operators’ licences.

- (1) In the following provisions of this section “appeal” means appeal to the Transport Tribunal.
- (2) An applicant for, or for the variation of, an operator’s licence may appeal against the refusal of the application or (as the case may be) against the terms of the licence or of the variation.

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- (3) The holder of an operator’s licence may appeal against any direction given under section 61(6), 69(1) or (2), 69EB or 69EC of this Act in respect of the licence.
- (4) The holder of an operator’s licence may appeal against any order made under section 69(7A) of this Act on the suspension or curtailment of the licence.
- (5) A person in respect of whom an order has been made under section 69(5) of this Act (including section 69(5) as it applies by virtue of section 69(7) of this Act) may appeal against that order and against any direction given under section 69(6) of this Act (including section 69(6) as it so applies) when the order was made.
- (6) A person who has duly made an objection to an application for, or for the variation of, an operator’s licence may appeal against the grant of the application.
- (7) A person who—
  - (a) within the prescribed period has made an application for a review under section 69J of this Act; and
  - (b) has been certified by the licensing authority as a person such as is mentioned in subsection (2)(b) of that section,may appeal against the refusal of the application.
- (8) In subsections (2) and (3) of this section “operator’s licence” does not include a licence granted under section 67A of this Act.”

#### **54 Partnerships.**

After section 85 of the 1968 Act there shall be inserted—

##### **“85A Partnerships.**

Regulations may provide for this Part of this Act to apply in relation to partnerships with such modifications as may be specified in the regulations.”

#### **55 Operators’ licences not to be transferable etc.**

For section 86 of the 1968 Act there shall be substituted—

##### **“86 Operators’ licences not to be transferable etc.**

- (1) Subject to any regulations under section 85 of this Act, an operator’s licence is not transferable or assignable.
- (2) Regulations may make provision enabling the licensing authority, where the holder of an operator’s licence granted by him has died or become a patient within the meaning of Part VII of <sup>MHI</sup>the Mental Health Act 1983, to direct that the licence be treated—
  - (a) as not having terminated at the time the licence-holder died or became such a patient but as having been suspended (that is, as having remained in force subject to the limitation that no vehicles were authorised to be

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- used under it) from that time until the time the direction comes into force; and
- (b) as having effect from the time the direction comes into force for a specified period and as being held during that period (for such purposes and to such extent as may be specified) not by the person to whom it was granted but by such other person carrying on that person's business, or part of that person's business, as may be specified.
- (3) Regulations may make provision enabling the licensing authority in prescribed circumstances to direct that any operator's licence granted by him be treated (for such purposes, for such period and to such extent as may be specified) as held not by the person to whom it was granted but by such other person carrying on that person's business, or part of that person's business, as may be specified.
- (4) Regulations may make provision enabling the licensing authority to direct, for the purpose of giving effect to or supplementing a direction given by him by virtue of subsection (2) or (3) of this section, that this Part of this Act apply with specified modifications in relation to the person who is to be treated under the direction as the holder of an operator's licence.
- (5) In this section "specified", in relation to a direction, means specified—
- (a) in the regulations under which the direction was given; or
- (b) in the direction in accordance with those regulations."

#### Marginal Citations

M11 1983 c. 20.

## 56 Fees.

For section 89 of the 1968 Act there shall be substituted—

### “89 Fees.

- (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—
- (a) applications for or for the variation of operators' licences;
- (b) the issue or variation of operators' licences;
- (c) the continuation in force of operators' licences;
- (d) any arrangements made with the holder of an operator's licence to treat the licence for certain administrative purposes as if it were two or more licences.
- (2) The licensing authority may decline to proceed with—
- (a) any application for or for the variation of an operator's licence; or
- (b) the issue or variation of any operator's licence,
- until any fee or instalment of a fee in respect of the application, issue or variation (as the case may be) is duly paid.
- (3) If, in the case of any application for or for the variation of an operator's licence, any fee or instalment of a fee in respect of the application or the issue or variation of the licence is not duly paid by the prescribed time—

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- (a) the application shall be treated as withdrawn at that time; and
  - (b) any decision made or direction given on the application, and any licence issued or variation effected in pursuance of such a decision or direction, ceases to have effect or terminates at that time.
- (4) If any fee or instalment of a fee in respect of the continuation in force of an operator's licence is not duly paid by the prescribed time, the licence terminates at that time.
- (5) The licensing authority may, if he considers there to be exceptional circumstances that justify his doing so, in any case where subsection (3) or (4) of this section has applied, direct that as from the time mentioned in that subsection its effect in that case be disregarded.
- (6) Where, by virtue of such a direction, the effect of subsection (3)(a) of this section is to be disregarded in any case, any termination—
- (a) of a licence under section 67A(4)(b) or (5) of this Act; or
  - (b) of a direction under section 68A(4) of this Act,
- by virtue of the operation of subsection (3)(a) in that case before the direction was given shall be cancelled with effect from the same time.
- (7) Where such a direction is given in respect of an operator's licence—
- (a) any condition attached to the licence under section 66 of this Act shall be treated as having been of no effect during the period beginning with the time the licence terminated by virtue of subsection (3) or (4) of this section and ending with the time the direction comes into force; and
  - (b) subject to paragraph (a) of this subsection, the licensing authority may vary any such condition as it applies in relation to events occurring before the direction comes into force.
- (8) All fees payable under this Part of this Act shall be paid into the Consolidated Fund in such manner as the Treasury may direct.”

## 57 Chapter III: minor and consequential amendments.

- (1) The 1968 Act shall have effect with the further amendments set out in Part I of Schedule 13 to this Act.
- (2) The enactments mentioned in Part II of that Schedule shall have effect with the amendments set out in that Part.

### Commencement Information

**II** Section 57(1) partly in force for certain purposes at Royal Assent see s. 82.

**Status:**

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