



Deregulation and Contracting Out Act 1994

1994 CHAPTER 40

PART I

DEREGULATION

CHAPTER IV

PUBLIC SERVICE VEHICLE OPERATOR LICENSING ETC.

58 The 1981 Act

In this Chapter “the 1981 Act” means the Public Passenger Vehicles Act 1981.

59 Undertakings given on applications

(1) The 1981 Act shall be amended as follows.

(2) After section 14(3) (which provides that an application for a PSV operator’s licence shall not be granted unless there will be adequate facilities or arrangements for maintaining the vehicles proposed to be used under the licence etc.) there shall be inserted—

“(3A) In considering on an application for a PSV operator’s licence whether the requirements mentioned in subsection (3) above are satisfied, the traffic commissioner 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.”

(3) After section 14(4) there shall be inserted—

“(5) In any case where the traffic commissioner grants an application for a PSV operator’s licence, any undertakings taken into account by him under

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subsection (3A) above that he considers to be material to the granting of the application shall be recorded in the licence issued to the applicant.”

- (4) In section 16(6) (which provides that, on the application of the holder of a PSV operator’s licence, a traffic commissioner may vary or remove conditions attached to the licence) after paragraph (b) there shall be inserted—

“() or

(c) vary or remove any undertaking recorded in the licence;”.

- (5) After section 16(6) there shall be inserted—

“(6A) In considering whether to grant an application under subsection (6) above, the traffic commissioner 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.

(6B) In any case where the traffic commissioner grants an application under subsection (6) above, any undertakings taken into account by him under subsection (6A) above that he considers to be material to the granting of the application shall be recorded in the licence as varied.”

- (6) In section 17(3) (which sets out the grounds on which a licence may be revoked, suspended or varied under section 17(2)) after paragraph (a) there shall be inserted—

“(aa) that any undertaking recorded in the licence has not been fulfilled;”.

60 Objections to applications for licences

After section 14A(2) of the 1981 Act (which requires objections to applications for PSV operators' licences to be made within the prescribed time and in the prescribed manner) there shall be inserted—

“(2A) Where the traffic commissioner 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.”

61 Duration of licences

In section 15 of the 1981 Act (duration of licences) for the words from “and the date on which it is to expire” to the end there shall be substituted—

“(2) Subject to its revocation or other termination under any provision of this Act or another statutory provision, a PSV operator’s licence shall continue in force indefinitely.

(3) If the holder of a PSV operator’s licence requests the traffic commissioner by whom it was granted to terminate it at any time, the commissioner shall, subject to subsection (4) below, comply with the request.

(4) The traffic commissioner may refuse to comply with the request if he is considering taking action in respect of the licence under section 17(1) or (2) of this Act.”

62 Suspension of licences

- (1) Section 17 of the 1981 Act (revocation, suspension etc. of licences) shall be amended as follows.
- (2) In subsection (2)(b) (traffic commissioner’s power to suspend a licence for such period as he directs) the words “(during which time it shall be of no effect)” shall be omitted.
- (3) After subsection (5) there shall be inserted—
 - “(5A) Where a licence is suspended under this section, it remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.
 - (5B) A traffic commissioner who has suspended a licence under this section may at any time—
 - (a) cancel the suspension; or
 - (b) with the consent of the holder of the licence, vary the period for which it is suspended.”

63 Operators' discs

- (1) Section 18 of the 1981 Act (duty to exhibit operator’s disc) shall be amended as follows.
- (2) For subsection (2) (which requires the holder of a PSV operator’s licence to be supplied with a number of operators' discs equal to the maximum number of vehicles that he may use under the licence) there shall be substituted—
 - “(2) A traffic commissioner on granting a PSV operator’s licence shall supply the person to whom the licence is granted—
 - (a) with a number of operators' discs equal to the maximum number of vehicles that he may use under the licence in accordance with the condition or conditions attached to the licence under section 16(1) of this Act; or
 - (b) with such lesser number of operators' discs as he may request.
 - (2A) Where, in the case of any PSV operator’s licence, the maximum number referred to in subsection (2)(a) above is increased on the variation of one or more of the conditions there referred to, the traffic commissioner on making the variation shall supply the holder of the licence—
 - (a) with such number of additional operators' discs as will bring the total number of operators' discs held by him in respect of the licence to that maximum number, or
 - (b) with such lesser number of additional operators' discs as he may request.
 - (2B) Where the number of operators' discs currently held in respect of a PSV operator’s licence is less than the maximum number referred to in subsection (2)(a) above, the traffic commissioner by whom the licence was granted shall on the application of the holder of the licence supply him with such number of additional operators' discs as is mentioned in subsection (2A) (a) or (b) above.

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(2C) Where, in accordance with regulations under subsection (3)(aa) below, all the operators' discs held in respect of a PSV operator's licence expire at the same time, the traffic commissioner by whom the licence was granted shall supply the holder of the licence with a number of new operators' discs equal to the number of discs that have expired."

- (3) In subsection (3) (provision that may be made by regulations)—
- (a) after paragraph (a) there shall be inserted—
 - “(aa) as to the expiry of operators' discs;”, and
 - (b) at the end there shall be added—
 - “(e) for the voluntary return of operators' discs by the holder of a PSV operator's licence.”

64 Repeal of section 27 of the 1981 Act

Section 27 of the 1981 Act (returns to be provided by persons operating public service vehicles) shall cease to have effect.

65 Review of decisions and correction of errors

- (1) After section 49 of the 1981 Act there shall be inserted—

“49A Review of decisions

- (1) Subject to subsection (2) below, a traffic commissioner may review and, if he thinks fit, vary or revoke any decision of his—
- (a) to grant or refuse an application for a PSV operator's licence; or
 - (b) to grant or refuse an application for the variation of a PSV operator's licence,
- if he is satisfied that a procedural requirement imposed by or under this Act has not been complied with in relation to the decision.
- (2) A traffic commissioner may only review a decision under subsection (1) above—
- (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) above 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) above 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.”

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- (2) In section 50 of the 1981 Act (appeals to the Transport Tribunal) after subsection (4) there shall be inserted—

“(4A) A person who—

- (a) within the prescribed period has made an application for a review under section 49A of this Act; and
- (b) has been certified by the traffic commissioner as a person such as is mentioned in subsection (2)(b) of that section,

may appeal to the Transport Tribunal against the refusal of the application.”

- (3) After section 56 of the 1981 Act there shall be inserted—

“56A Correction of errors

Where it appears to the traffic commissioner for a traffic area that a document purporting to record, or issued in consequence of, a decision taken in the exercise of his functions contains a clerical error, he may issue a corrected document or a notice in writing that the document is to have effect with such corrections as are stated in the notice.”

66 Fees

- (1) The 1981 Act shall be amended as follows.

- (2) In section 52(1)(a) (which sets out matters in respect of which the traffic commissioner for an area is to charge fees) after sub-paragraph (i) there shall be inserted—

“(ia) applications under section 16(6) of this Act and the grant of such applications;

(ib) the continuation in force of PSV operators' licences;”.

- (3) For section 52(2)(b) there shall be substituted—

“(b) the grant of any PSV operator's licence or of any application under section 16(6) of this Act;

(bb) the issue of any certificate, disc or other document referred to in subsection (1) above; or”.

- (4) After section 52(2) there shall be inserted—

“(2A) If, in the case of any application for a PSV operator's licence, any fee or instalment of a fee in respect of the application, the grant of the licence or the issue of operators' discs under section 18(2) of this Act is not duly paid by the prescribed time—

- (a) the application shall be treated as withdrawn at that time;
- (b) any decision made on the application ceases to have effect at that time; and
- (c) any licence granted in pursuance of such a decision terminates at that time.

(2B) If, in the case of any application under section 16(6) of this Act, any fee or instalment of a fee in respect of the application, the grant of the application or the issue of operators' discs under section 18(2A) of this Act is not duly paid by the prescribed time—

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- (a) the application shall be treated as withdrawn at that time;
 - (b) any decision made on the application, and any variation effected in pursuance of such a decision, ceases to have effect at that time.
- (2C) If, in the case of any PSV operator’s licence, any fee or instalment of a fee in respect of—
- (a) the continuation in force of the licence; or
 - (b) the issue of operators' discs under section 18(2C) of this Act,
- is not duly paid by the prescribed time, the licence terminates at that time.
- (2D) If any fee or instalment of a fee in respect of any operators' discs that have been issued under section 18 of this Act is not duly paid by the prescribed time, the discs cease to have effect at that time.
- (2E) The traffic commissioner by whom a PSV operator’s licence was granted may, if he considers there to be exceptional circumstances that justify his doing so in any case where subsection (2A), (2B), (2C) or (2D) above has applied, direct that as from the time mentioned in that subsection its effect in that case be disregarded.
- (2F) Where the traffic commissioner has given a direction under subsection (2E) above in respect of a PSV operator’s licence in a case where subsection (2A) or (2C) above has applied, it shall not for the purposes of section 20(1) or (2) of this Act be regarded as having been practicable for the licence-holder to—
- (a) report any matter to the Secretary of State; or
 - (b) give him notice of any alteration,
- during the period beginning with the time mentioned in subsection (2A) or (2C) and ending when the direction came into force.”
- (5) In section 60 (general power to make regulations for purposes of Act) for subsection (1)(e) there shall be substituted—
- “(e) the fees to be payable under this Act, the persons liable to pay them, and the repayment (or partial repayment), in prescribed circumstances, of fees paid under this Act;”.

67 Disqualification of PSV operators.

- (1) Section 28 of the Transport Act 1985 (power to disqualify PSV operators) shall be amended as follows.
- (2) In subsection (2) (so long as a person is disqualified, no licence shall be granted to him and any obtained by him shall be of no effect) for the words from “no PSV” to the end there shall be substituted—
- “(a) any PSV operator’s licence held by him at the date of the making of the order under subsection (1) above (other than the licence revoked) shall be suspended (that is, shall remain in force subject to the limitation that no vehicles are authorised to be used under it); and
 - (b) notwithstanding section 14(4) of the 1981 Act, no PSV operator’s licence may be granted to him.”
- (3) After subsection (2) there shall be inserted—

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“(2A) If a person obtains a PSV operator’s licence while he is disqualified under subsection (1) above, the licence shall be void.”

(4) At the end of subsection (5) (the traffic commissioner may exercise his powers under section 28 in relation to officers of corporate licence-holders and partners of licence-holders) there shall be added—

“() and any reference in subsection (6A) below to subsection (1) above or to subsection (4) above includes that subsection as it applies by virtue of this subsection.”

(5) After subsection (6) there shall be inserted—

“(6A) The traffic commissioner by whom any order disqualifying a person was made under subsection (1) above may at any time—

- (a) cancel that order together with any direction that was given under subsection (4) above 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).”

68 Chapter IV: minor and consequential amendments

The 1981 Act and the Transport Act 1985 shall have effect with the further amendments set out in Schedule 14 to this Act.