



# Goods Vehicles (Licensing of Operators) Act 1995

## 1995 CHAPTER 23

### *Functions of traffic commissioners*

#### **1 Functions of traffic commissioners**

- (1) The traffic commissioner for any traffic area constituted for the purposes of the Public Passenger Vehicles Act 1981 shall exercise the functions conferred on him by this Act.
- (2) In the exercise of his functions under this Act a traffic commissioner shall act under the general directions of the Secretary of State.

### *Operators' licences*

#### **2 Obligation to hold operator's licence**

- (1) Subject to subsection (2) and section 4, no person shall use a goods vehicle on a road for the carriage of goods—
  - (a) for hire or reward, or
  - (b) for or in connection with any trade or business carried on by him,except under a licence issued under this Act; and in this Act such a licence is referred to as an “operator's licence”.
- (2) Subsection (1) does not apply to—
  - (a) the use of a small goods vehicle within the meaning given in Schedule 1;
  - (b) the use of a goods vehicle for international carriage by a haulier established in a member State other than the United Kingdom and not established in the United Kingdom;
  - (c) the use of a goods vehicle for international carriage by a haulier established in Northern Ireland and not established in Great Britain; or
  - (d) the use of a vehicle of any class specified in regulations.

- (3) In subsection (2)(b) and (c) “established”, “haulier” and “international carriage” have the same meaning as in Community Council Regulation (EEC) No.881/92 dated 26 March 1992 concerning access to the market in the carriage of goods by road within the Community to or from the territory of a member State or passing across the territory of one or more member States.
- (4) It is hereby declared that, for the purposes of this Act, the performance by a local or public authority of their functions constitutes the carrying on of a business.
- (5) A person who uses a vehicle in contravention of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **3 “Standard” and “restricted” licences**

- (1) An operator’s licence may be either a standard licence or a restricted licence.
- (2) A standard licence is an operator’s licence under which a goods vehicle may be used on a road for the carriage of goods—
  - (a) for hire or reward, or
  - (b) for or in connection with any trade or business carried on by the holder of the licence.
- (3) A restricted licence is an operator’s licence under which a goods vehicle may be used on a road for the carriage of goods for or in connection with any trade or business carried on by the holder of the licence, other than that of carrying goods for hire or reward.
- (4) Notwithstanding subsections (2) and (3), a company may use a goods vehicle on a road for the carriage of goods for hire or reward under a restricted licence instead of a standard licence if (but only if) the goods concerned are the property of a company which is—
  - (a) a subsidiary of the first company,
  - (b) a holding company for the first company, or
  - (c) a subsidiary of a company which is a holding company both for that subsidiary and for the first company.
- (5) A standard licence may authorise a goods vehicle to be used for the carriage of goods—
  - (a) on both national and international transport operations; or
  - (b) on national transport operations only.
- (6) Except as provided in subsection (4) and subject to section 4, a person who uses a goods vehicle under a restricted licence for carrying goods for hire or reward is guilty of an offence and liable on summary conviction to a fine not exceeding £500.
- (7) A person who uses a goods vehicle for carrying goods for hire or reward on international transport operations under a standard licence which covers the carriage of goods on national transport operations only is guilty of an offence and liable on summary conviction to a fine not exceeding £500.

### **4 Temporary exemptions**

- (1) A traffic commissioner may, for the purpose of—
  - (a) enabling an emergency to be dealt with, or

- (b) enabling some other special need to be met,  
by notice in writing grant to any person falling within subsection (2) a temporary exemption from any requirement to hold a standard licence which would otherwise be imposed on him by sections 2 and 3 in respect of any vehicle specified in the notice or any vehicle of a class so specified.
- (2) A person falls within this subsection if he is engaged exclusively in national transport operations which have only a minor impact on the transport market because of the nature of the goods carried or the short distances over which goods are carried.
- (3) A temporary exemption granted under subsection (1) permits the person to whom it is granted to use the specified vehicle or (as the case may be) any vehicle of the specified class for the carriage of goods for hire or reward for the purposes of transport operations of his such as are referred to in subsection (2) (and, accordingly, sections 2(1) and 3(6) shall not to that extent apply to that person's use of goods vehicles).
- (4) A temporary exemption has effect until consultations with the European Commission for the purposes of Article 2(2) of the 1974 Council Directive are completed.

*Vehicles authorised to be used under a licence*

**5 Vehicles authorised to be used under operator's licence**

- (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 (whether that motor vehicle is specified in the licence or not); and
- (b) any trailer in the lawful possession of the licence-holder.
- (2) An operator's licence may provide—
- (a) that no motor vehicle, or no trailer, whose relevant weight exceeds a weight specified in the licence is authorised to be used under it;
- (b) that no trailers are authorised to be used under the licence; or
- (c) that no motor vehicle that is not specified in the licence is authorised to be used under it.
- (3) In subsection (2) "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.
- (4) An operator's licence shall not authorise the use of any vehicle unless the place which is for the time being its operating centre—
- (a) is in the area of the traffic commissioner by whom the licence was issued; or
- (b) is outside that area but has not been the operating centre of that vehicle for a period of more than three months.
- (5) For the purposes of subsection (4)(b), two or more successive periods which are not separated from each other by an interval of at least three months shall be treated as a single period having a duration equal to the total duration of those periods.
- (6) A motor vehicle which is not specified in an operator's licence is not authorised to be used under that licence by virtue of subsection (1) after the period of one month beginning with—

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- (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 traffic commissioner by whom the licence was issued a notice in such form and containing such information about the vehicle as the commissioner may require, and has paid to him a prescribed fee.
- (7) Where notice of a vehicle has been duly given and the prescribed fee has been duly paid under subsection (6), the traffic commissioner shall vary the licence by directing that the vehicle be specified in it.
  - (8) A motor vehicle specified in an operator's licence shall not, while it remains so specified, be capable of being effectively specified in any other operator's licence.
  - (9) Where it comes to the knowledge of the traffic commissioner by whom an operator's licence ("the first licence") was issued that a vehicle specified in that licence—
    - (a) has ceased to be used under the licence (otherwise than because of a fluctuation in business or because it is undergoing repair or maintenance), or
    - (b) is specified in another operator's licence,he may vary the first licence by directing that the vehicle be removed from it.

## **6 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 whose relevant weight exceeds a weight specified in the licence.
- (2) An operator's licence that does not contain a provision such as is mentioned in section 5(2)(b)—
  - (a) shall specify a maximum number for trailers, and
  - (b) may specify a maximum number for trailers whose relevant weight exceeds a weight specified in the licence.
- (3) The number of motor vehicles which at any one time are being used under an operator's licence while not specified in that licence may not exceed the maximum number specified in the licence under subsection (1)(a) less however many motor vehicles are specified in the licence.
- (4) Where, under subsection (1)(b), an operator's licence specifies a maximum number for motor vehicles whose relevant weight exceeds a specified weight—
  - (a) the number of such motor vehicles which at any one time are being used under the licence while not specified in it may not exceed that maximum number less however many motor vehicles whose relevant weight exceeds the specified weight are specified in the licence, and
  - (b) the number of such motor vehicles that are specified in the licence and are 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).

- (6) Where, under subsection (2)(b), an operator's licence specifies a maximum number for trailers whose relevant weight 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 5(3) applies for the purposes of this section as it applies for the purposes of section 5(2).
- (8) If subsection (3), (4)(a) or (b), (5) or (6) is contravened, the licence-holder is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### *Operating centres*

## **7 Operating centres to be specified in operators' licences**

- (1) A person may not use a place in the area of any traffic commissioner as an operating centre for vehicles authorised to be used under any operator's licence issued to him by that commissioner unless that place is specified as an operating centre of his in that licence.
- (2) Any person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (3) In this Act "operating centre", in relation to any vehicle, means the base or centre at which the vehicle is normally kept, and references to an operating centre of the holder of an operator's licence are references to any place which is an operating centre for vehicles used under that licence.

### *Applications for licences*

## **8 Applications for operators' licences**

- (1) An application for an operator's licence shall be made to the traffic commissioner for each area in which, if the licence is issued, the applicant will have an operating centre or operating centres.
- (2) Accordingly, a person may hold separate operators' licences in respect of different areas; but he shall not at any time hold more than one such licence in respect of the same area.
- (3) A person applying for an operator's licence shall give to the traffic commissioner a statement—
  - (a) containing such particulars as the commissioner may require of the motor vehicles proposed to be used under the licence and stating the number and type of any trailers proposed to be used under the licence; and
  - (b) containing such particulars as the commissioner may require of each place in the area of the commissioner which will be an operating centre of the applicant if the licence is issued.
- (4) A person applying for an operator's licence shall also give to the traffic commissioner any further information which the commissioner may reasonably require for the discharge of his duties in relation to the application, and in particular shall, if required

by the commissioner to do so, give to him any of the information specified in paragraph 1 of Schedule 2.

- (5) Without prejudice to subsection (4), a person applying for an operator's licence shall also, if required by the traffic commissioner to do so, give to him such particulars as he may require with respect to the use which the applicant proposes to make, for vehicles used under the licence, of any place referred to in the statement under subsection (3) (b).
- (6) Any statement, information or particulars to be given to a traffic commissioner under this section shall be given in such form as the commissioner may require.

## **9 Convictions etc. subsequent to the making of an application**

- (1) A person who has made an application for an operator's licence shall forthwith notify the traffic commissioner to whom it was made if, in the interval between the making of the application and the date on which it is disposed of, there occurs a notifiable conviction within the meaning given in paragraph 4 of Schedule 2.
- (2) A person who—
  - (a) has made an application for a standard licence, and
  - (b) has included in that application particulars of a transport manager,shall forthwith notify the traffic commissioner to whom the application was made if, in the interval between the making of the application and the date on which it is disposed of, there occurs any event affecting any information about the transport manager given to the commissioner under section 8.
- (3) A person is guilty of an offence if he—
  - (a) knowingly fails to comply with subsection (1), or
  - (b) knowingly fails to comply with subsection (2) in a case where the event which occurs as mentioned in that subsection is the conviction of the transport manager of an offence such as is mentioned in paragraph 5 of Schedule 2;and a person who is guilty of an offence under paragraph (a) or (b) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) For the purposes of this section an application shall be taken to be disposed of—
  - (a) in a case where the traffic commissioner is required, by virtue of regulations under section 57(2)(a), to cause a statement containing his decision on the application to be issued, on the date on which that statement is issued, and
  - (b) in any other case, on the date on which the applicant receives notice from the traffic commissioner of his decision on the application.

## **10 Publication by traffic commissioner of notice of application for licence**

- (1) A traffic commissioner shall publish in the prescribed manner notice of any application for an operator's licence made to him.
- (2) The notice shall state—
  - (a) the time within which, and
  - (b) the manner in which,

any objection to, or representations against, the grant of the application is or are to be made under section 12 (that is to say, the time and manner prescribed under subsection (6) or, as the case may be, (7) of that section).

## **11 Publication in locality affected of notice of application for licence**

- (1) Subject to subsection (3), the traffic commissioner to whom an application for an operator's licence is made shall refuse the application without considering the merits unless he is satisfied that subsection (2) has been complied with in respect of each locality affected by the application.
- (2) This subsection has been complied with in respect of a locality affected by an application if, within the period beginning 21 days before the date on which the application is made and ending 21 days after that date, 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.
- (3) The traffic commissioner is not required by this section to refuse an application if—
  - (a) he is satisfied as mentioned in subsection (1), 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.
- (4) For the purposes of this section a locality is affected by an application for an operator's licence if it contains any place in the area of the traffic commissioner that will be an operating centre of the licence-holder if the application is granted.

## **12 Objections to, and representations against, issue of operators' licences**

- (1) Any of the persons mentioned in subsection (2) may make an objection to the grant of an application for an operator's licence on the ground—
  - (a) that any of the requirements of section 13 are not satisfied in the case of the application; or
  - (b) that any place in the traffic commissioner's area which, if the licence is issued, will be an operating centre of the holder of the licence will be unsuitable on environmental grounds for use as such.
- (2) The persons who may make such an objection are—
  - (a) a prescribed trade union or association;
  - (b) a chief officer of police;
  - (c) a local authority; and
  - (d) a planning authority.
- (3) The trade unions and associations which may be prescribed for the purposes of subsection (2)(a) are trade unions or associations whose membership consists of or includes—
  - (a) persons holding operators' licences, or
  - (b) employees of any such persons.
- (4) Where an application for an operator's licence is made, any person who is the owner or occupier of land in the vicinity of any place in the traffic commissioner's area which, if the licence is issued, will be an operating centre of the holder of the licence may

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make representations against the grant of the application on the ground that that place will be unsuitable on environmental grounds for use as such.

- (5) A person may not make representations under subsection (4) unless any adverse effects on environmental conditions arising from the use of the place in question as an operating centre of the holder of the licence would be capable of prejudicially affecting the use or enjoyment of the land mentioned in that subsection.
- (6) Any objection under subsection (1)(a) shall be made—
  - (a) within the prescribed time; and
  - (b) in the prescribed manner.
- (7) Any objection under subsection (1)(b) or representations under subsection (4) shall be made—
  - (a) within the prescribed time after the making of the application to which they relate; and
  - (b) in the prescribed manner.
- (8) Where the traffic commissioner considers there to be exceptional circumstances that justify his doing so, he may direct that an objection or representations be treated for the purposes of this Act as duly made under this section, notwithstanding that the objection was not, or the representations were not, made within the prescribed time or in the prescribed manner.
- (9) Any objection under subsection (1) shall contain—
  - (a) in the case of an objection under paragraph (a), particulars of the ground on which it is made, and
  - (b) in the case of an objection under paragraph (b), particulars of any matters alleged by the person making the objection to be relevant to the issue to which it relates.
- (10) Any representations under subsection (4) shall contain particulars of any matters alleged by the person making the representations to be relevant to the issue to which they relate.
- (11) In subsection (1) the reference to “the requirements of section 13” is a reference—
  - (a) in the case of an application for a standard licence, to the requirements of subsections (3), (5) and (6) of that section; and
  - (b) in the case of an application for a restricted licence, to the requirements of subsections (4), (5) and (6) of that section.
- (12) In this section—

“local authority” means—

  - (a) as respects England, the council of a county, district or London borough and the Common Council of the City of London;
  - (b) as respects Wales, the council of a county or county borough; and
  - (c) as respects Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“planning authority” means any body other than a local authority which by virtue of any statutory provision for the time being in force is—

  - (a) in England and Wales, the local planning authority for any area for the purpose of determining applications for planning permission under



Part III of the Town and Country Planning Act 1990 (general planning control); and

- (b) in Scotland, the planning authority for any area for the purpose of determining applications for planning permission under Part III of the Town and Country Planning (Scotland) Act 1972 (general planning control); and

“trade union” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992;

and, in relation to any application for an operator’s licence, references to the traffic commissioner are references to the traffic commissioner to whom the application has been made.

### *Determination of applications*

## **13 Determination of applications for operators' licences**

- (1) Subject to sections 11 and 45(2), on an application for a standard licence a traffic commissioner shall consider—
  - (a) whether the requirements of subsections (3) and (5) are satisfied, and
  - (b) if he thinks fit, whether the requirements of subsection (6) are satisfied.
- (2) Subject to sections 11 and 45(2), on an application for a restricted licence a traffic commissioner shall consider—
  - (a) whether the requirements of subsections (4) and (5) are satisfied, and
  - (b) if he thinks fit, whether the requirements of subsection (6) are satisfied.
- (3) For the requirements of this subsection to be satisfied the traffic commissioner must be satisfied that the applicant fulfils the following requirements, namely—
  - (a) that he is of good repute,
  - (b) that he is of the appropriate financial standing, and
  - (c) that he is professionally competent;and the traffic commissioner shall determine whether or not that is the case in accordance with Schedule 3.
- (4) For the requirements of this subsection to be satisfied the applicant must not be unfit to hold an operator’s licence by reason of—
  - (a) any activities or convictions of which particulars may be required to be given under section 8(4) by virtue of paragraph 1(e) or (f) of Schedule 2, or
  - (b) any conviction required to be notified in accordance with section 9(1).
- (5) For the requirements of this subsection to be satisfied it must be possible (taking into account the traffic commissioner’s powers under section 15(3) to issue a licence in terms that differ from those applied for) to issue a licence on the application in relation to which paragraphs (a) to (e) will apply—
  - (a) there are satisfactory arrangements for securing that—
    - (i) Part VI of the Transport Act 1968 (drivers' hours), and
    - (ii) the applicable Community rules, within the meaning of that Part, are complied with in the case of the vehicles used under the licence;
  - (b) there are satisfactory arrangements for securing that the vehicles used under the licence are not overloaded;

- (c) there are satisfactory facilities and arrangements for maintaining the vehicles used under the licence in a fit and serviceable condition;
  - (d) at least one place in the traffic commissioner'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);
  - (e) 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.
- (6) For the requirements of this subsection to be satisfied the provision of such facilities and arrangements as are mentioned in subsection (5)(c) must not be prejudiced by reason of the applicant's having insufficient financial resources for that purpose.
- (7) In considering whether any of the requirements of subsections (3) to (6) are satisfied, the traffic commissioner shall have regard to any objection duly made under section 12(1)(a) in respect of the application.
- (8) In considering whether the requirements of subsection (5) 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.
- (9) In considering whether subsection (5)(d) will apply in relation to a licence, the traffic commissioner may take into account any conditions that could be attached to the licence under section 21, and may assume that any conditions so attached will not be contravened.
- (10) In considering whether subsection (5)(d) or (e) will apply in relation to a licence, the traffic commissioner may take into account (if that is 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.
- (11) If the traffic commissioner determines that any of the requirements that he has taken into consideration in accordance with subsection (1) or (2) are not satisfied he shall refuse the application, but in any other case he shall, subject to sections 14 and 45(2), grant the application.

#### **14 Determinations where objections etc are made on environmental grounds**

- (1) This section applies to any application for an operator's licence in respect of which—
- (a) any objection is duly made under section 12(1)(b), or
  - (b) any representations are duly made under section 12(4).
- (2) A traffic commissioner may refuse an application to which this section applies on the ground that, as respects any place in his area which, if the licence were issued, would be an operating centre of the holder of the licence—
- (a) the parking of vehicles used under the licence at or in the vicinity of the place in question would cause adverse effects on environmental conditions in the vicinity of that place; or

- (b) the place in question would be unsuitable for use as an operating centre of the holder of the licence on other environmental grounds.
- (3) The traffic commissioner may not refuse an application for an operator's licence on the ground that any place would be unsuitable as mentioned in subsection (2)(b) if—
  - (a) on the date the application was made, that place was already specified in an operator's licence issued by the commissioner as an operating centre of the holder of that licence, or
  - (b) the applicant has produced to the commissioner a certificate in force in respect of that place under—
    - (i) section 191 or 192 of the Town and Country Planning Act 1990, or
    - (ii) section 90 or 90A of 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.
- (4) Subsection (3) does not apply in relation to any place that, at the time the application is determined by the traffic commissioner, is specified in an operator's licence as an operating centre of the holder of that licence.
- (5) A place is not to be regarded for the purposes of paragraph (a) of subsection (3) as being specified in an operator's licence by reason only that it forms part of a place so specified; and a place that was, on the date mentioned in that paragraph, a place specified in an operator's licence as mentioned in that paragraph shall be disregarded for the purposes of that paragraph if, on that date—
  - (a) the operator's licence in which that place was specified was an interim licence issued under section 24; or
  - (b) that place was so specified by virtue of an interim direction such as is mentioned in section 25; or
  - (c) such conditions relating to—
    - (i) the exercise of the right of any person to appeal against a place being specified in an operator's licence, or
    - (ii) the review under section 36 of any decision so to specify a place, as may be prescribed were not satisfied in relation to that place.
- (6) Where in the case of any application for an operator's licence—
  - (a) the traffic commissioner has power to refuse the application under subsection (2), and
  - (b) any place other than a place that will be unsuitable for use as an operating centre is mentioned in the statement given by the applicant under section 8(3) as a proposed operating centre of his,the commissioner may, instead of refusing the application, issue the licence but specify in it only such place or such places mentioned in that statement as will not be unsuitable for use as an operating centre.
- (7) For the purposes of subsection (6), a place will be unsuitable for use as an operating centre if the traffic commissioner has power to refuse the application under subsection (2) in consequence of the proposed use of that place as an operating centre.

## **15 Issue of operators' licences**

- (1) Subject to subsection (2) and to sections 14(6), 21, 22, 23 and 45(2), on granting an application for an operator's licence a traffic commissioner shall issue that licence in the terms applied for.
- (2) If a traffic commissioner has determined that any of the requirements of subsection (5) or (6) of section 13 that he has taken into consideration in accordance with subsection (1) or (as the case may be) (2) of that section would not be satisfied unless he were to exercise any of his powers under subsection (3) below, he shall exercise those powers accordingly.
- (3) A traffic commissioner 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 5(2);
  - (d) it includes a provision such as is mentioned in section 6(1)(b) or (2)(b);
  - (e) higher or lower maximum numbers are specified in it under section 6;
  - (f) fewer places are specified in it as operating centres of the licence-holder.
- (4) Any undertakings taken into account by the traffic commissioner under section 13(8) that he considers to be material to the granting of the application shall be recorded in the licence issued.
- (5) A statement shall appear on the face of every operator's licence indicating whether it is a standard licence or a restricted licence.
- (6) A statement shall appear on the face of every standard licence indicating whether it covers both national and international transport operations or national transport operations only.

## **16 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 any other statutory provision, an operator's licence (other than an interim licence issued under section 24) shall continue in force indefinitely.
- (3) If the holder of an operator's licence requests the traffic commissioner by whom it was issued to terminate it at any time, the commissioner shall, subject to subsection (4), comply with the request.
- (4) The traffic commissioner may refuse to comply with the request if he is considering giving a direction in respect of the licence under section 26 or 27.
- (5) An operator's licence held by an individual terminates if he dies, if he becomes a patient within the meaning of Part VII of the Mental Health Act 1983, or if (in Scotland) a curator bonis is appointed in respect of him on the ground that he is incapable, by reason of mental disorder, of adequately managing and administering his property and affairs.

### *Variation of licences*

#### **17 Variation of operators' licences**

- (1) Subject to section 18, on the application of the holder of an operator's licence, the traffic commissioner by whom the licence was issued 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 6 be increased;
  - (b) that any vehicle cease to be specified in the licence or that any maximum number specified in it under section 6 be reduced;
  - (c) that any provision in the licence such as is mentioned in section 5(2) cease to have effect;
  - (d) that a provision such as is mentioned in section 5(2) be included in the licence;
  - (e) that any provision in the licence such as is mentioned in section 6(1)(b) or (2)(b) cease to have effect;
  - (f) that a provision such as is mentioned in section 6(1)(b) or (2)(b) be included in the licence;
  - (g) that a new place in the traffic commissioner'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) A person applying for the variation of an operator's licence under this section shall give to the traffic commissioner, in such form as he may require, such information as he may reasonably require for disposing of the application.
- (3) Except in the cases mentioned in subsection (4), the traffic commissioner shall publish notice of any application for the variation under this section of an operator's licence, and shall do so in the manner prescribed for the publication of notices under section 10(1).
- (4) The excepted cases are—
  - (a) where the application is for a direction under subsection (1)(a) that additional motor vehicles be specified in the licence;
  - (b) where the application is for a direction under subsection (1)(b), (d) or (f);
  - (c) where the application is for a direction under subsection (1)(g) 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) that a standard licence be converted into a restricted licence;
  - (e) where the application is for a direction under subsection (1)(k) that a licence cover national transport operations only, instead of both national and international transport operations;

- (f) where the traffic commissioner 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.
- (5) Where notice of an application is published under subsection (3), the following provisions, namely—
- (a) section 10(2),
  - (b) section 12(1)(a), (6), (8) and (9)(a),
  - (c) section 13, and
  - (d) section 15,
- shall, with any necessary modifications and subject to section 19, 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 10(1).

## **18 Publication of notice of applications for variation in any locality affected**

- (1) Subject to subsection (4), the traffic commissioner to whom an application for any of the directions mentioned in subsection (2) is made shall refuse the application without considering the merits unless he is satisfied that subsection (3) has been complied with in respect of each locality affected by the application.
- (2) The directions referred to in subsection (1) are—
- (a) any direction under section 17(1)(a) that a maximum number specified in a licence under section 6 be increased;
  - (b) any direction under section 17(1)(c) or (e);
  - (c) any direction under section 17(1)(g) that a new place be specified in a licence as an operating centre of the licence-holder; and
  - (d) any direction under section 17(1)(h) or (i) which might result in a material change in the use of any operating centre of the licence-holder in the traffic commissioner's area.
- (3) This subsection has been complied with in respect of a locality affected by an application if, within the period beginning 21 days before the date on which the application is made and ending 21 days after that date, 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 traffic commissioner is not required by this section to refuse an application if—
- (a) he is satisfied as mentioned in subsection (1), 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 the variation of an operator's licence if—
- (a) it contains any place in the area of the traffic commissioner that will be an operating centre of the licence-holder if the application is granted; or
  - (b) it contains an existing operating centre of the licence-holder in the area of the commissioner 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.

## **19 Objection to, and refusal of, applications to vary 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 17(3).
- (2) Where the application relates to an existing operating centre of the licence-holder in the traffic commissioner's area—
  - (a) any of the persons mentioned in section 12(2) 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), any person who is the owner or occupier of any land in the vicinity of that operating centre may make representations against the grant of the application on the ground mentioned in paragraph (a); and
  - (c) whether or not anyone objects or makes representations under paragraph (a) or (b), the commissioner may refuse the application on the ground mentioned in paragraph (a).
- (3) For the purposes of subsection (2), 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 traffic commissioner's area to be specified in the licence as an operating centre of the licence-holder—
  - (a) any of the persons mentioned in section 12(2) 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), 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) 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) against an application for a place in the traffic commissioner's area to be specified in the licence as an operating centre of the licence-holder, the commissioner may refuse the application—

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- (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; or
  - (b) subject to subsection (7), on the ground that that place would be unsuitable on environmental grounds other than the ground mentioned in paragraph (a) above for use as an operating centre of the licence-holder.
- (7) The traffic commissioner may not refuse the application on the ground mentioned in subsection (6)(b) if—
  - (a) on the date the application was made, the place in question was already specified in an operator's licence issued by the commissioner as an operating centre of the holder of that licence, or
  - (b) the applicant has produced to the commissioner a certificate in force in respect of that place under—
    - (i) section 191 or 192 of the Town and Country Planning Act 1990, or
    - (ii) section 90 or 90A of 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.
- (8) Subsection (7) does not apply in relation to any place that, at the time the application is determined by the traffic commissioner, is specified in an operator's licence as an operating centre of the holder of that licence.
- (9) A place is not to be regarded for the purposes of paragraph (a) of subsection (7) as being specified in an operator's licence by reason only that it forms part of a place so specified; and a place that was, on the date mentioned in that paragraph, a place specified in an operator's licence as mentioned in that paragraph shall be disregarded for the purposes of that paragraph if, on that date—
  - (a) the operator's licence in which that place was specified was an interim licence issued under section 24; or
  - (b) that place was so specified by virtue of an interim direction such as is mentioned in section 25; or
  - (c) such conditions relating to—
    - (i) the exercise of the right of any person to appeal against a place being specified in an operator's licence, or
    - (ii) the review under section 36 of any decision so to specify a place, as may be prescribed were not satisfied in relation to that place.
- (10) Any objection or representations under this section—
  - (a) shall contain particulars of any matters alleged by the person making the objection or representations to be relevant to the issue to which the objection relates or the representations relate; and
  - (b) shall be made in the prescribed manner and within the prescribed time after the making of the application to which the objection relates or the representations relate.
- (11) Where the traffic commissioner considers there to be exceptional circumstances that justify his doing so, he may direct that an objection or representations be treated for the purposes of this Act as duly made under this section, notwithstanding that the objection was not, or the representations were not, made within the prescribed time or in the prescribed manner.



## **20 Variation of licences: further provisions**

- (1) Where the holder of a restricted licence makes an application under section 17 to the traffic commissioner by whom the licence was issued to vary it by directing that it be converted into a standard licence—
  - (a) section 9(2) and (3)(b) and (without prejudice to the generality of section 17(5)) section 13(1) shall apply in relation to that application as they apply in relation to an application for a standard licence; and
  - (b) if the application is granted, section 22(2) shall apply to the giving of the direction to vary the restricted licence as it applies to the issuing of a standard licence.
- (2) Where the holder of a standard licence which covers only national transport operations makes an application under section 17 to the traffic commissioner by whom the licence was issued for a direction that the licence be varied to cover both national and international transport operations—
  - (a) the applicant shall include in his application particulars about the professional competence on which he intends to rely; and
  - (b) the traffic commissioner shall refuse to direct the variation applied for unless he is satisfied that the professional competence on which the applicant proposes to rely is sufficient for the purposes of international transport operations.

### *Conditions attached to licences*

## **21 Conditions for securing road safety**

- (1) On issuing an operator's licence, or on varying such a licence under section 17, a traffic commissioner may attach to the licence such conditions as he thinks fit for preventing vehicles that are authorised to be used under it 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 17 a traffic commissioner may vary or remove any condition attached to the licence under this section.
- (3) The traffic commissioner 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 to make representations to the commissioner with respect to the effect on his business of the proposed condition or variation.
- (4) The traffic commissioner shall give special consideration to any representations made under subsection (3) in determining whether to attach the proposed condition or make the proposed variation.
- (5) In this section "public road"—

- (a) in relation to England and Wales, means a highway maintainable at the public expense for the purposes of the Highways Act 1980; and
  - (b) in relation to Scotland, has the same meaning as in the Roads (Scotland) Act 1984.
- (6) Any person who contravenes any condition attached under this section to a licence of which he is the holder is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **22 Conditions as to matters required to be notified to traffic commissioner**

- (1) On issuing an operator's licence, a traffic commissioner may attach to the licence such conditions as he thinks fit for requiring the holder to inform him—
- (a) of any change of a kind specified in the conditions in the organisation, management or ownership of the trade or business in the course of which vehicles are used under the licence or, if the licence is at any time suspended under section 26 or 28, were used under the licence immediately before its suspension;
  - (b) where the licence-holder is a company, of any change, or of any change of a kind specified in the conditions, in the persons holding shares in the company; or
  - (c) of any other event of a kind specified in the conditions which affects the licence-holder and which is relevant to the exercise of any powers of the traffic commissioner in relation to the licence.
- (2) On issuing a standard licence, a traffic commissioner shall attach to it the following conditions, namely—
- (a) a condition requiring the licence-holder to inform the commissioner of any event which could affect the fulfilment by the licence-holder of any of the requirements of section 13(3), and to do so within 28 days of the event; and
  - (b) a condition requiring the licence-holder to inform the commissioner of any event which could affect the fulfilment by a relevant transport manager of the requirements mentioned in section 13(3)(a) or (c), and to do so within 28 days of the event coming to the licence-holder's knowledge.
- (3) In subsection (2)(b) the reference to a "relevant transport manager" is a reference to any transport manager employed by the licence-holder who is relied on by the licence-holder to fulfil the requirements of section 13(3)(c).
- (4) In a case where the licence-holder is a company, no condition attached under subsection (2) shall be taken to require the company to inform the traffic commissioner of any change in the identity of the persons holding shares in the company unless the change is such as to cause a change in the control of the company.
- (5) For the purposes of subsection (4), a change in the control of a company occurs when the beneficial ownership of more than half its equity share capital (as defined in section 744 of the Companies Act 1985) passes from one person to another person or from one group of persons to a wholly or substantially different group of persons.
- (6) Any person who contravenes any condition attached under this section to a licence of which he is the holder is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **23 Conditions as to use of operating centres**

- (1) On issuing an operator's licence, or on varying such a licence on an application of which notice has been published under section 17(3), a traffic commissioner may attach to the licence such conditions as he thinks fit for preventing or minimising any adverse effects on environmental conditions arising from the use of a place in his area as an operating centre of the licence-holder.
- (2) The conditions which may be attached to a licence under this section shall be of such description as may be prescribed; and, without prejudice to the generality of the preceding provision, the descriptions which may be prescribed include conditions regulating—
  - (a) the number, type and size of motor vehicles or trailers which may at any one time be at any operating centre of the licence-holder in the area of the traffic commissioner for any prescribed purpose;
  - (b) the parking arrangements to be provided at or in the vicinity of any such centre; and
  - (c) the hours at which operations of any prescribed description may be carried on at any such centre.
- (3) On varying an operator's licence on an application of which notice has been published under section 17(3), a traffic commissioner may vary or remove any condition attached to the licence under this section.
- (4) The traffic commissioner shall not—
  - (a) attach any condition such as is mentioned in this section to an operator's licence, 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 to make representations to the commissioner with respect to the effect on his business of the proposed condition or variation.
- (5) The traffic commissioner shall give special consideration to any representations made under subsection (4) in determining whether to attach the proposed condition or make the proposed variation.
- (6) Any person who contravenes any condition attached under this section to a licence of which he is the holder is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### *Interim licences and interim variations*

## **24 Interim operators' licences**

- (1) On an application for an operator's licence (a "full" licence), a traffic commissioner may, if the applicant so requests, issue 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 any other statutory provision) will continue in force until it terminates under subsection (4), (5) or (6).

- (3) The traffic commissioner 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 15(3).
- (4) If the traffic commissioner grants the application and issues to the applicant a full licence that—
- (a) is in the terms applied for, or
  - (b) is in those terms subject only to the attachment under section 21, 22 or 23 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.
- (5) If, on an appeal under section 37 arising out of the application, the Transport Tribunal orders the traffic commissioner 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 by virtue of section 45(3).
- (6) If neither subsection (4) nor subsection (5) 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 traffic commissioner.
- (7) Where, in a case within subsection (6), the application is granted, the full licence issued to the applicant shall be of no effect before the interim licence terminates (notwithstanding any statement in it to the contrary).
- (8) A request for the issuing of an interim licence—
- (a) shall not be treated as an application for an operator's licence for the purposes of section 10, 11, 12, 13, 14, 15(1) to (4), 36 or 37 or Schedule 4, but
  - (b) shall be treated as such an application for the purposes of any other provision of this Act.
- (9) In this section and section 25 references to the date on which an application is finally disposed of are references—
- (a) subject to paragraph (b), to the earliest date by which the application and any appeal to the Transport Tribunal arising out of the application have been determined and any time for bringing such an appeal has expired, or
  - (b) if the application is withdrawn or any such appeal is abandoned, to the date of the withdrawal or abandonment.

## **25 Interim variations**

- (1) On an application for the variation under section 17 of an operator's licence, if the applicant so requests the traffic commissioner 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 17(1) that is expressed to continue in force until it ceases to have effect under subsection (3) or (4) below.
- (3) If on determining the application the traffic commissioner varies the licence by giving a direction in the terms applied for and does not also under section 21(1) or (2) or

- 23(1) or (3) 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) 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 traffic commissioner.
- (5) Where, in a case within subsection (4), on determining the application the traffic commissioner 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—
- (a) shall not be treated as an application for the variation of an operator's licence for the purposes of section 17(3) or 37 or Schedule 4, but
  - (b) shall be treated as such an application for the purposes of any other provision of this Act.
- (7) The reference in subsection (4) to the date on which an application is finally disposed of is to be construed in accordance with section 24(9).

*Revocation etc. of operators' licences*

**26 Revocation, suspension and curtailment of operators' licences**

- (1) Subject to the following provisions of this section and the provisions of section 29, the traffic commissioner by whom an operator's licence was issued may direct that it be revoked, suspended or curtailed (within the meaning given in subsection (11)) on any of the following grounds—
- (a) that a place in the commissioner'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—
    - (i) a conviction of the licence-holder of an offence such as is mentioned in any of sub-paragraphs (a) to (i) of paragraph 5 of Schedule 2;
    - (ii) a conviction of a servant or agent of the licence-holder of any such offence, other than an offence such as is mentioned in sub-paragraph (c), (e) or (h) of that paragraph; or
    - (iii) a prohibition under section 69 or 70 of the Road Traffic Act 1988 (power to prohibit driving of unfit or overloaded vehicles) of the driving of a vehicle of which the licence-holder was the owner when the prohibition was imposed;
  - (d) that during those five years, on occasions appearing to the commissioner to be sufficiently numerous to justify the giving of a direction under this subsection, there has been a conviction of the licence-holder or a servant or agent of his of an offence such as is mentioned in paragraph 5(j) of Schedule 2;
  - (e) that the licence-holder made, or procured to be made, for the purposes of—
    - (i) his application for the licence,
    - (ii) an application for the variation of the licence, or
    - (iii) a request for a direction under paragraph 1 or 3 of Schedule 4,

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- 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 issued or varied there has been a material change in any of the circumstances of the licence-holder that were relevant to the issue or variation of the licence;
  - (i) that the licence is liable to revocation, suspension or curtailment by virtue of a direction under section 28(4).
- (2) Where the traffic commissioner has power to give a direction in respect of a licence under subsection (1), the commissioner also has power to direct that a condition, or additional condition, such as is mentioned in section 22(1) be attached to the licence.
- (3) In this Act any reference, in relation to an operator's licence, to a condition attached to the licence under section 22(1) includes any condition attached to the licence under subsection (2) above.
- (4) Where the existence of any of the grounds mentioned in subsection (1) is brought to the notice of the traffic commissioner in the case of the holder of any licence issued by him, the commissioner shall consider whether or not to give a direction under this section in respect of that licence.
- (5) Where, in a case falling within subsection (1)(c)(i)—
- (a) the conviction in question is a conviction of the licence-holder of an offence under section 3(6) or of the corresponding offence under regulation 33(2) of the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984, and
  - (b) there has been, within the 5 years preceding that conviction, a previous conviction of the licence-holder of an offence under either of those provisions,
- the traffic commissioner shall give a direction under subsection (1) to revoke the licence.
- (6) Where the traffic commissioner directs that an operator's licence be suspended or curtailed, the commissioner may order—
- (a) in the case of a suspension, that any motor vehicle specified in the licence may not be used under any other operator's licence (notwithstanding anything in section 5(1)(a)), or
  - (b) in the case of a curtailment having the effect of removing any motor vehicle from the licence, that the motor vehicle may not be used as mentioned in paragraph (a) and shall not be capable of being effectively specified in any other operator's licence.
- (7) An order made under subsection (6) shall cease to have effect—
- (a) on such date, not being more than 6 months after the order is made, as may be specified in the order, or
  - (b) if, before that date, the licence which is directed to be suspended or curtailed ceases to be in force, on the date on which it ceases to be in force.
- (8) The traffic commissioner by whom any direction suspending or curtailing a licence under subsection (1) was given may at any time—

- (a) cancel the direction together with any order under subsection (6) 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).
- (9) Where an operator's licence is suspended under this section, the licence remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.
- (10) In subsection (1)(g) the reference to an individual having been adjudged bankrupt shall, as respects Scotland, be construed as a reference to an award of sequestration having been made of his estate.
- (11) In this Act references to directing that an operator's licence be curtailed are references to directing (with effect for the remainder of the duration of the licence or for any shorter period) all or any of the following, that is to say—
- (a) that one or more of the vehicles specified in the licence be removed from it;
  - (b) that a provision such as is mentioned in section 5(2) or 6(1)(b) or (2)(b) be included in the licence;
  - (c) that any maximum number specified in the licence under section 6 be reduced;
  - (d) that any one or more of the places specified in the licence as operating centres be removed from it.

## **27 Revocation of standard licences**

- (1) The traffic commissioner by whom a standard licence was issued shall direct that it be revoked if at any time it appears to him that the licence-holder is no longer—
- (a) of good repute,
  - (b) of the appropriate financial standing, or
  - (c) professionally competent;
- and the traffic commissioner shall determine whether or not that is the case in accordance with Schedule 3.
- (2) Before giving a direction under subsection (1) in respect of a licence, the traffic commissioner shall give to its holder notice in writing that he is considering giving such a direction.
- (3) A notice under subsection (2) shall state the grounds on which the traffic commissioner is considering giving a direction under subsection (1) and shall also state—
- (a) that written representations with respect to those grounds may be made to the commissioner by the licence-holder, and
  - (b) that any such representations must be received by the commissioner within 21 days of the date of the notice;
- and the traffic commissioner shall consider any representations duly made under this subsection.
- (4) This section has effect subject to section 29 (and, in particular, nothing in subsection (3) above shall be taken to affect a person's right under section 29(1) to require the holding of an inquiry).

**28 Disqualification**

- (1) Where, under section 26(1) or 27(1), a traffic commissioner directs that an operator's licence be revoked, the commissioner may order the person who was the holder of the licence to be disqualified (either indefinitely or for such period as the commissioner 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 13 or 24, no operator's licence may be issued to him.
- (2) If a person applies for or obtains an operator's licence while he is disqualified under subsection (1)—
- (a) he is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale, and
  - (b) any operator's licence issued to him on the application, or (as the case may be) the operator's licence obtained by him, shall be void.
- (3) An order under subsection (1) may be limited so as to apply only to the holding or obtaining of an operator's licence in respect of one or more specified traffic areas and, if the order is so limited—
- (a) paragraphs (a) and (b) of that subsection and subsection (2) shall apply only to any operator's licence to which the order applies, but
  - (b) notwithstanding section 5(4)(b), 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 a traffic area in respect of which he is disqualified by virtue of the order.
- (4) Where the traffic commissioner makes an order under subsection (1) in respect of any person, the commissioner may direct that if that person, at any time or during such period as the commissioner 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 in question applies, or
    - (ii) a company of which such a company is a subsidiary, or
  - (b) operates any goods vehicles in partnership with a person who holds such a licence,
- that licence of that company or, as the case may be, of that person, shall be liable to revocation, suspension or curtailment under section 26.
- (5) The powers conferred by subsections (1) and (4) 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 director of that company, and
  - (b) where that person operated vehicles under the licence in partnership with other persons, in relation to any of those other persons;
- and any reference in this section or in section 26 or 29 to subsection (1) or (4) above includes a reference to that subsection as it applies by virtue of this subsection.
- (6) The traffic commissioner by whom any order disqualifying a person was made under subsection (1) may at any time—



- (a) cancel that order together with any direction that was given under subsection (4) 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).
- (7) Where an operator's licence is suspended under this section, the licence remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.
- (8) 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 (as defined in section 744 of the Companies Act 1985).

## **29 Revocation and disqualification etc: supplementary provisions**

- (1) A traffic commissioner shall not—
- (a) give a direction under section 26(1) or (2) or 27(1) in respect of any licence,
  - (b) make an order under section 26(6) in respect of any vehicle, or
  - (c) make an order or give a direction under section 28(1) or (4) in respect of any person,
- without first holding an inquiry if the holder of the licence or (as the case may be) the person concerned requests him to do so.
- (2) The traffic commissioner may direct that any direction or order given or made by him under—
- (a) section 26(1), (2) or (6),
  - (b) section 27(1), or
  - (c) section 28(1) or (4),
- shall not take effect until the expiry of the time within which an appeal may be made to the Transport Tribunal against the direction or order and, if such an appeal is made, until the appeal has been disposed of.
- (3) If the traffic commissioner refuses to give a direction under subsection (2) the holder of the licence or, as the case may be, the person in respect of whom the direction or order was given or made may apply to the Tribunal for such a direction.
- (4) The Tribunal shall give its decision on any application under subsection (3) within 14 days.

### *Review of operating centres*

## **30 Periods of review for operating centres**

- (1) Within such time after any period of review as may be prescribed, the traffic commissioner by whom an operator's licence was issued may serve a notice on the licence-holder stating that the commissioner is considering whether to exercise any of his powers under sections 31 and 32 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—

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

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- (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) by substituting a higher or lower number (but not a number lower than five) for the number of years for the time being specified 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 in which, and the time at which, any such notice is to be treated as having been duly served (whether or not it has in fact been served).

### **31 Power to remove operating centres on review**

- (1) If, having served notice under section 30 in respect of a place specified in an operator's licence, the traffic commissioner determines that the place is unsuitable—
- (a) on grounds other than environmental grounds, or
  - (b) on the ground mentioned in subsection (2),
- for use as an operating centre of the licence-holder, he may (subject to subsection (3)) direct that it cease to be specified in the licence.
- (2) The ground referred to in subsection (1)(b) 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) is the ground mentioned in subsection (2), the traffic commissioner may not give such a direction unless during the period of review in question representations were made to him—
- (a) by such a person as is mentioned in section 12(2), 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 unsuitability of the place 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 paragraph (b) of subsection (3) 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 that paragraph.
- (5) Any representations under this section—
- (a) shall be made in the prescribed manner; and
  - (b) shall contain particulars of any matters alleged by the person making the representations to be relevant to the issue to which they relate;
- but where the traffic commissioner considers there to be exceptional circumstances that justify his doing so, he may direct that representations be treated for the purposes of this Act as duly made under this section notwithstanding that they were not made in the prescribed manner or within the period of review in question.

### **32 Power to attach conditions on review**

- (1) If, having served notice under section 30 in respect of a place specified in an operator's licence, the traffic commissioner does not give a direction in respect of the place under section 31, he may direct—
  - (a) that conditions (or additional conditions) such as are mentioned in section 21, 22(1)(c) or 23 be attached to the licence;
  - (b) that any conditions already attached to the licence under section 21, 22(1)(c) or 23 be varied.
- (2) Any conditions attached to the licence under subsection (1)(a) shall relate or, in the case of conditions such as are mentioned in section 22(1)(c), shall only require the traffic commissioner to be informed of events that relate—
  - (a) only to the place referred to in subsection (1), or
  - (b) only to that place and any other places in respect of which the commissioner has power to attach conditions under that subsection.
- (3) Any variation under subsection (1)(b) shall be such as imposes new or further restrictions or requirements—
  - (a) only in relation to the place referred to in subsection (1), or
  - (b) only in relation to that place and any other places in respect of which the commissioner has power to attach conditions under that subsection.
- (4) Where the traffic commissioner gives a direction in respect of an operator's licence under section 31 or subsection (1)(a) above, 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 6 be reduced;
  - (c) that a provision such as is mentioned in section 5(2) be included in the licence;
  - (d) that a provision such as is mentioned in section 6(1)(b) or (2)(b) be included in the licence.
- (5) In this Act any reference, in relation to an operator's licence, to a condition attached to the licence under section 21, 22 or 23 includes a reference to any condition such as is mentioned in section 21, 22 or (as the case may be) 23 attached to the licence under subsection (1)(a) above.

#### *Transfer of operating centres*

### **33 Transfer of operating centres**

Schedule 4 (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.

*Environmental matters***34 Determinations as to environmental matters**

- (1) In making any determination of a description mentioned in subsection (2), a traffic commissioner shall have regard to such considerations as may be prescribed as relevant to determinations of that description.
- (2) The determinations referred to are—
  - (a) any determination with respect to the suitability of any place on environmental grounds for use as an operating centre of the holder of an operator's licence;
  - (b) any determination with respect to attaching to an operator's licence any condition such as is mentioned in section 23 or varying or removing any such condition attached to an operator's licence; and
  - (c) any determination with respect to the effect on environmental conditions in any locality of the use in any particular manner of any operating centre of the holder of an operator's licence.
- (3) In making any such determination for the purposes of exercising—
  - (a) any of his functions in relation to an application for, or for the variation of, an operator's licence, or
  - (b) any of his functions under sections 30 to 32,a traffic commissioner may take into account any undertakings given by the applicant or licence-holder (or procured by him to be given) for the purposes of the application or the review under sections 30 to 32, and may assume that those undertakings will be fulfilled.
- (4) In making for those purposes a determination of a description mentioned in subsection (2)(a) or (c), a traffic commissioner may take into account any conditions such as are mentioned in section 23 that could be attached to the licence in question, and may assume that any conditions so attached will not be contravened.
- (5) Where a traffic commissioner—
  - (a) grants an application for, or for the variation of, an operator's licence, or
  - (b) having served notice under section 30 in respect of any place specified in such a licence, exercises or determines not to exercise any of his powers under sections 31 and 32 in relation to that place,any undertakings taken into account by the commissioner under subsection (3) that he considers to be material to the application or (as the case may be) to his decision under sections 31 and 32 shall be recorded in the licence in question.

*Inquiries***35 Power of traffic commissioners to hold inquiries**

- (1) A traffic commissioner may hold such inquiries as he thinks necessary for the proper exercise of his functions under this Act.
- (2) Where, as respects the proposed exercise on any occasion of any of his powers under section 26, 27 or 28, a traffic commissioner receives a request for an inquiry (made pursuant to section 29(1)) from two or more persons, he may hold a single inquiry in response to both or all of those requests.

- (3) Subject to any provision made by regulations, any inquiry held by a traffic commissioner for the purposes of this Act shall be held in public.
- (4) Information with respect to any particular trade or business which is given at any such inquiry while admission to the inquiry is restricted in accordance with regulations shall not, so long as that trade or business continues to be carried on, be disclosed except—
  - (a) with the consent of the person for the time being carrying on that trade or business;
  - (b) for the purpose of the discharge by any person of his functions under this Act; or
  - (c) with a view to the institution of, or otherwise for the purposes of, any legal proceedings pursuant to or arising out of this Act, including proceedings before the Transport Tribunal.
- (5) Any person who discloses any information in contravention of subsection (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### *Review of decisions and appeals*

### **36 Review of decisions**

- (1) Subject to subsection (2), a traffic commissioner 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 17(3) 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 traffic commissioner may under subsection (1) review a decision only—
  - (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) 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) are to be or may be served, including provision as to the circumstances in which, and the 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 under this section of any decision shall not make unlawful anything done in reliance on the decision before the variation or revocation takes effect.

**37 Rights of appeal in connection with operators' licences**

- (1) An applicant for, or for the variation of, an operator's licence may appeal to the Transport Tribunal against the refusal of the application or (as the case may be) against the terms of the licence or of the variation.
- (2) The holder of an operator's licence may appeal to the Tribunal against any direction given under section 5(9), 26(1) or (2), 27(1), 31 or 32 in respect of the licence.
- (3) The holder of an operator's licence may appeal to the Tribunal against any order made under section 26(6) on the suspension or curtailment of the licence.
- (4) A person in respect of whom an order has been made under section 28(1) (including section 28(1) as it applies by virtue of section 28(5)) may appeal to the Tribunal against that order and against any direction given under section 28(4) (including section 28(4) as it so applies) when the order was made.
- (5) A person who has duly made an objection to an application for, or for a variation of, an operator's licence may appeal to the Tribunal against the grant of the application.
- (6) A person who—
  - (a) within the prescribed period has made an application for a review under section 36, 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 Tribunal against the refusal of the application.
- (7) In subsections (1) and (2) "operator's licence" does not include an interim licence issued under section 24.

*Forgery, false statements, etc.*

**38 Forgery of documents, etc**

- (1) A person is guilty of an offence if, with intent to deceive, he—
  - (a) forges, alters or uses a document or other thing to which this section applies;
  - (b) lends to, or allows to be used by, any other person a document or other thing to which this section applies; or
  - (c) makes or has in his possession any document or other thing so closely resembling a document or other thing to which this section applies as to be calculated to deceive.
- (2) This section applies to the following documents and other things, namely—
  - (a) any operator's licence;
  - (b) any document, plate, mark or other thing by which, in pursuance of regulations, a vehicle is to be identified as being authorised to be used, or as being used, under an operator's licence;
  - (c) any document evidencing the authorisation of any person for the purposes of sections 40 and 41;
  - (d) any certificate of qualification under section 49; and
  - (e) any certificate or diploma such as is mentioned in paragraph 13(1) of Schedule 3.

- (3) A person guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (4) In the application of subsection (1) to England and Wales, “forges” means makes a false document or other thing in order that it may be used as genuine.

### **39 False statements**

- (1) A person is guilty of an offence if he knowingly makes a false statement for the purpose of—
  - (a) obtaining the issue to himself or any other person of an operator’s licence;
  - (b) obtaining the variation of any such licence;
  - (c) preventing the issue or variation of any such licence;
  - (d) procuring the imposition of a condition or limitation in relation to any such licence; or
  - (e) obtaining the issue to himself or any other person of a certificate of qualification under section 49 or a certificate or diploma such as is mentioned in paragraph 13(1) of Schedule 3.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

*Enforcement etc.*

### **40 Inspection of maintenance facilities**

- (1) An officer may, at any time which is reasonable having regard to the circumstances of the case, enter any premises of an applicant for an operator’s licence or of the holder of such a licence and inspect any facilities on those premises for maintaining the vehicles used under the licence in a fit and serviceable condition.
- (2) Any person who obstructs an officer in the exercise of his powers under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **41 Power to seize documents etc**

- (1) If an officer has reason to believe that—
  - (a) a document or article carried on or by the driver of a vehicle, or
  - (b) a document produced to him in pursuance of this Act,is a document or article in relation to which an offence has been committed under section 38 or 39, he may seize that document or article.
- (2) Where—
  - (a) a document or article is seized under subsection (1),
  - (b) no person has, within six months of the date on which the document or article was seized, been charged since that date with an offence in relation to it under section 38 or 39, and

- (c) the document or article is still detained,  
then any of the persons mentioned in subsection (3) may make an application to a magistrates' court or (in the case of an application made in Scotland) the sheriff.
- (3) The persons who may make an application under subsection (2) are—
- (a) an officer;
  - (b) the driver or owner of the vehicle;
  - (c) the person from whom the document was seized.
- (4) On an application under subsection (2), the magistrates' court or the sheriff shall—
- (a) make such order respecting the disposal of the document or article, and
  - (b) award such costs or (in Scotland) expenses,
- as the justice of the case may require.
- (5) Any application made under subsection (2) to the sheriff shall be made by way of summary application.

#### **42 Meaning of “officer” and powers of police constables**

- (1) In sections 40 and 41 “officer” means—
- (a) an examiner appointed under section 66A of the Road Traffic Act 1988, or
  - (b) any person authorised for the purposes of sections 40 and 41 by the traffic commissioner for any area.
- (2) The powers conferred by sections 40 and 41 on an officer shall be exercisable also by a police constable.

#### **43 Evidence by certificate**

- (1) In any proceedings for an offence under this Act a certificate such as is mentioned in subsection (2) shall be evidence, and in Scotland sufficient evidence, of the facts stated in it.
- (2) The certificate referred to in subsection (1) is a certificate signed by or on behalf of a traffic commissioner which states—
- (a) that, on any date, a person was or was not the holder of an operator's licence issued by the commissioner;
  - (b) that, by virtue of a direction given by the commissioner under regulations made under section 48(2)(b) or (3), a person is to be treated as having been the holder of an operator's licence on any date;
  - (c) the date of the coming into force of any operator's licence issued by the commissioner;
  - (d) the date on which any operator's licence issued by the commissioner ceased to be in force;
  - (e) the terms and conditions of any operator's licence issued by the commissioner;
  - (f) that a person is by virtue of an order of the commissioner disqualified from holding or obtaining an operator's licence, either indefinitely or for a specified period;
  - (g) that a direction, having effect indefinitely or for a specified period, has been given by the commissioner under section 28(4) in relation to any person;



- (h) that an operator's licence was on any date or during any specified period suspended by virtue of a direction given by the commissioner under section 26(1); or
  - (i) that, by virtue of a direction given by the commissioner under regulations made under section 48(2)(a), an operator's licence is to be treated as having been suspended on any date or during any specified period.
- (3) Any such certificate which purports to be signed by or on behalf of a traffic commissioner shall be taken to be so signed unless the contrary is proved.

### *Miscellaneous*

#### **44 Assessors**

- (1) In considering any financial question which appears to him to arise in relation to the exercise of his functions under this Act, the traffic commissioner may be assisted by an assessor drawn from a panel of persons appointed for the 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.

#### **45 Fees**

- (1) Such fees, payable at such times, and whether in one sum or by instalments, as may be prescribed shall be charged by a traffic commissioner 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) A traffic commissioner 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—
  - (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 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 traffic commissioner may, if he considers there to be exceptional circumstances that justify his doing so in any case where subsection (3) or (4) 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) is to be disregarded in any case, any termination—
- (a) of an interim licence under section 24(5)(b) or (6), or
  - (b) of an interim direction under section 25(4),
- 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 22 shall be treated as having been of no effect during the period beginning with the time when the licence terminated by virtue of subsection (3) or (4) above and ending with the time when the direction comes into force, and
  - (b) subject to paragraph (a), the traffic commissioner 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 Act, other than those payable under section 49, shall be paid into the Consolidated Fund in such manner as the Treasury may direct.

#### **46 Holding companies and subsidiaries**

- (1) The Secretary of State may by regulations make provision for the purpose of enabling any company or other body corporate which has one or more subsidiaries to hold an operator's licence under which the vehicles authorised to be used consist of or include vehicles belonging to or in the possession of any of its subsidiaries.
- (2) Regulations under this section may—
- (a) modify or supplement any of the provisions of this Act, other than the excepted provisions, so far as appears to the Secretary of State to be necessary or expedient for or in connection with the purpose mentioned in subsection (1), and
  - (b) may contain such other supplementary and incidental provisions as appear to the Secretary of State to be requisite.
- (3) In this Act "the excepted provisions" means the following provisions (which are provisions that reproduce the effect of provisions of the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984), namely—
- (a) sections 3, 4, 9(2) and (3)(b), 13(3), 15(5) and (6), 20, 22(2) to (5), 27 and 49;
  - (b) in section 58, in subsection (1), the definitions of "international transport operations", "national transport operations", "road transport undertaking" and "transport manager", and subsection (4); and
  - (c) Schedule 3.

#### **47 Partnerships**

Regulations may provide for this Act to apply in relation to partnerships with such modifications as may be specified in the regulations; but nothing in any such

regulations may make modifications in any of the excepted provisions (within the meaning given in section 46(3)).

#### **48 Operators' licences not to be transferable etc**

- (1) Subject to any regulations under section 46, an operator's licence is neither transferable nor assignable.
- (2) Regulations may make provision enabling a traffic commissioner, where the holder of an operator's licence issued by him has died or become a patient within the meaning of Part VII of the Mental Health Act 1983, to direct that the licence be treated—
  - (a) as not having terminated at the time when the licence-holder died or became a patient but as having been suspended (that is, as having remained in force but subject to the limitation that no vehicles were authorised to be used under it) from that time until the time when the direction comes into force; and
  - (b) as having effect from the time when 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 issued 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 a traffic commissioner in prescribed circumstances to direct that any operator's licence issued by him is to 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 issued 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 a traffic commissioner to direct, for the purpose of giving effect to or supplementing a direction given by him by virtue of subsection (2) or (3), that this Act is to 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; but nothing in any such regulations shall permit the commissioner to modify the operation of any of the excepted provisions (within the meaning given in section 46(3)).
- (5) In subsection (2) references to a person becoming a patient within the meaning of Part VII of the Mental Health Act 1983 include references to a curator bonis being appointed in respect of him in Scotland on the ground that he is incapable, by reason of mental disorder, of adequately managing and administering his property and affairs.
- (6) 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.

#### **49 Certificates of qualification**

- (1) On an application made to him by a person wishing to engage in a road transport undertaking in a member State other than the United Kingdom, the appropriate person shall issue to the applicant a certificate (a "certificate of qualification") as to such matters relating to—
  - (a) the applicant's repute,
  - (b) his professional competence, or
  - (c) (where relevant) his financial standing,

as the appropriate person is satisfied he may properly certify and as appear to him to be of assistance to the applicant in satisfying any requirements imposed by the law of the other member State as regards the repute, professional competence and financial standing of persons engaged in road transport undertakings in that member State.

- (2) A certificate of qualification shall—
- (a) be in such form as the Secretary of State for Transport may specify; and
  - (b) have effect for the purposes of Article 3, 4 or (as the case may be) 5 of the 1977 Council Directive.
- (3) No certificate of qualification shall be issued before a fee of £20 has been paid.
- (4) The applicant shall give to the appropriate person such information as that person may reasonably require for the discharge of his duties in relation to the application.
- (5) In this section “the appropriate person”—
- (a) in relation to an applicant who holds only one operator’s licence, means the traffic commissioner who issued that licence;
  - (b) in relation to an applicant who holds more than one such licence, means the traffic commissioner who issued any one of those licences; and
  - (c) in relation to an applicant who holds no such licence, means the Secretary of State;
- and in subsection (1) references to repute, professional competence or financial standing are to be construed in accordance with the 1974 Council Directive.
- (6) All fees payable under this section shall be paid into the Consolidated Fund.

#### *Large goods vehicles*

### **50 Large goods vehicles**

- (1) Schedule 5 (which requires certain documents to be carried by the drivers of large goods vehicles and makes other provision in connection with such vehicles) shall have effect.
- (2) This section and Schedule 5 shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes and different provisions.

#### *General provisions*

### **51 Time for bringing proceedings**

Section 6 of the Road Traffic Offenders Act 1988 (time for bringing summary proceedings for certain offences) shall apply to an offence under section 9(3)(a) or (b), 38 or 39.

### **52 Destination of fines: Scotland**

There shall be paid into the Consolidated Fund all fines imposed in respect of offences committed in Scotland under the provisions of this Act or regulations made under it.

### **53 Method of calculating weight of motor vehicles**

For the purposes of this Act the weight unladen of a vehicle shall be taken to be the weight of the vehicle inclusive of the body and all parts (the heavier being taken where alternative bodies or parts are used) which are necessary to or ordinarily used with the vehicle when working on a road, but exclusive of the weight of water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, and of loose tools and loose equipment.

### **54 Saving for law of nuisance**

Nothing in this Act shall authorise a person to use on a road a vehicle so constructed or used as to cause a public or private nuisance, or in Scotland a nuisance, or affect the liability, whether under statute or common law, of the driver or owner so using such a vehicle.

### **55 Protection of public interests**

It is hereby declared that nothing in this Act is to be treated as conferring on the holder of an operator's licence any right to the continuance of any benefits arising from this Act or from any such licence or from any conditions attached to any such licence.

### **56 Secretary of State's power to hold inquiries**

In sections 248 and 249 of the Road Traffic Act 1960 (which give the Secretary of State power to hold inquiries for the purposes of that Act, and make general provision as to such inquiries) any reference to that Act shall be taken to include a reference to this Act, except that such a reference shall not be taken to include a reference to any of the excepted provisions (within the meaning given in section 46(3) above).

### *Regulations and orders*

### **57 Regulations and orders**

- (1) The Secretary of State may make regulations for any purpose for which regulations may be made under this Act, and for prescribing anything which may be prescribed under this Act, and generally for carrying this Act into effect.
- (2) In particular, but without prejudice to the generality of subsection (1), the Secretary of State may make regulations with respect to the following matters—
  - (a) the procedure on applications for, and the determination of questions in connection with, the issuing and variation of operators' licences and the procedure under, and the determination of questions for the purposes of, sections 26 to 32 and 36;
  - (b) the issue of operators' licences and the issue on payment of the prescribed fee of copies of such licences in the case of licences lost or defaced;
  - (c) the forms which operators' licences are to take in order to show a distinction—
    - (i) between a standard licence and a restricted licence; and
    - (ii) between a licence covering both international and national transport operations and a licence covering national transport operations only;

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

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- (d) the means by which vehicles may be identified, whether by plates, marks or otherwise, as being used or authorised to be used under an operator's licence;
  - (e) the custody, production, return and cancellation of operators' licences and of documents, plates and any other means of identification prescribed under paragraph (d);
  - (f) the payment of a prescribed fee in respect of any document, plate or other means of identification so prescribed that has been lost, defaced or broken;
  - (g) the notification to a traffic commissioner of vehicles which have ceased to be used under an operator's licence;
  - (h) the repayment (or partial repayment) in the prescribed circumstances of fees paid under this Act;
  - (i) the circumstances in which goods are to be treated for the purposes of this Act as carried for hire or reward and the circumstances in which goods are to be treated for those purposes as carried by any person for or in connection with a trade or business carried on by him.
- (3) The power under subsection (2)(a) shall include power to require a person applying for an operator's licence to state in his application—
- (a) whether his application is for a standard licence or a restricted licence, and
  - (b) (if his application is for a standard licence) whether his application is for a licence to cover both international and national transport operations or for one to cover national transport operations only.
- (4) The power under subsection (2)(d) shall include power to require that any means of identification prescribed for a vehicle shall be carried notwithstanding that for the time being the vehicle is not being used for a purpose for which an operator's licence is required.
- (5) The power under subsection (2)(d) shall also include power to make provision with respect to the means by which—
- (a) any vehicle may be identified as being used under a standard licence or, as the case may be, a restricted licence; and
  - (b) any vehicle which is being used under a standard licence may be identified as being used under a licence that permits it to be used—
    - (i) for both international and national transport operations, or
    - (ii) for national transport operations only.
- (6) The Secretary of State may make regulations for providing that any provision of this Act shall, in relation to vehicles brought temporarily into Great Britain, have effect subject to such modifications as may be prescribed.
- (7) Any regulations under this Act may make—
- (a) different provision for different cases or classes of case and different circumstances, and
  - (b) transitional provision,
- and regulations made by virtue of subsection (2)(d) may make different provision for different traffic areas.
- (8) A definition or description of a class of vehicles for the purposes of any regulation under this Act may be framed by reference to any characteristic of the vehicles or to any other circumstances whatever.

- (9) Any person who contravenes a provision of regulations under this section, a contravention of which is declared by the regulations to be an offence, is guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (10) No regulations shall be made under section 30(3) unless a draft of them has been laid before, and approved by a resolution of, each House of Parliament.
- (11) Any regulations made by the Secretary of State under this Act, other than regulations under section 30(3), shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) Before making any regulations under this Act the Secretary of State shall consult with such representative organisations as he thinks fit.
- (13) Any power to make orders or regulations conferred on the Secretary of State by any provision of this Act shall be exercisable by statutory instrument.

### *Interpretation*

## **58 General interpretation**

- (1) In this Act, unless the context otherwise requires—
  - “area”, in relation to a traffic commissioner, means the traffic area for which he is the traffic commissioner;
  - “articulated combination” means a combination made up of—
    - (a) a motor vehicle which is so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle, and
    - (b) a trailer attached to it as described in paragraph (a);
  - “carriage of goods” includes haulage of goods;
  - “contravention”, in relation to any condition or provision, includes a failure to comply with the condition or provision, and “contravenes” shall be construed accordingly;
  - “the 1974 Council Directive” means Community Council Directive No. [74/561/EEC](#) dated 12 November 1974 on admission to the occupation of road haulage operator in national and international transport operations, as amended by Community Council Directive No. [89/438/EEC](#) dated 21 June 1989;
  - “the 1977 Council Directive” means Community Council Directive No. [77/796/EEC](#) dated 12 December 1977 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications for goods haulage operators and road passenger transport operators, including measures to encourage such operators effectively to exercise their right of freedom of establishment, as amended by Community Council Directive No. [89/438/EEC](#) dated 21 June 1989;
  - “driver”—
    - (a) where a separate person acts as steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle; and

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

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- (b) in relation to a trailer, means the driver of the vehicle by which the trailer is drawn;
- and “drive” shall be construed accordingly;
- “functions” includes powers, duties and obligations;
- “goods” includes goods or burden of any description;
- “goods vehicle” means a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted, but does not include a tramcar or trolley vehicle within the meaning of the Road Traffic Act 1988;
- “holding company” and “subsidiary” have the meaning given by section 736 of the Companies Act 1985;
- “international transport operations” and “national transport operations” have the same meaning as in the 1974 Council Directive;
- “modification” includes addition, omission and alteration, and related expressions shall be construed accordingly;
- “motor vehicle” and “trailer” have the same meaning as in section 253 of the Road Traffic Act 1960;
- “operating centre” has the meaning given in section 7(3);
- “operator’s licence” has the meaning given in section 2(1);
- “owner”, in relation to any land in England and Wales, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let;
- “plated weight”, in relation to a vehicle, means a weight required to be marked on it by means of a plate in pursuance of regulations made by virtue of section 41 of the Road Traffic Act 1988 or required to be so marked by section 57 or 58 of that Act;
- “prescribed” means prescribed by regulations;
- “regulations” means regulations made by the Secretary of State under this Act;
- “restricted licence” has the meaning given in section 3(3);
- “road”—
- (a) in relation to England and Wales, means any highway and any other road to which the public has access, and includes bridges over which a road passes; and
- (b) in relation to Scotland, has the same meaning as in the Roads (Scotland) Act 1984;
- “road transport undertaking” means an undertaking which involves the use of goods vehicles—
- (a) under an operator’s licence, or
- (b) in accordance with the law of Northern Ireland or the law of any member State other than the United Kingdom;
- “standard licence” has the meaning given in section 3(2);
- “statutory provision” means a provision contained in an Act or in subordinate legislation within the meaning of the Interpretation Act 1978;
- “traffic area” means a traffic area constituted for the purposes of the Public Passenger Vehicles Act 1981;



“transport manager”, in relation to a business, means an individual who is in, or who is engaged to enter into, the employment of the holder of a standard licence and who, either alone or jointly with one or more other persons, has continuous and effective responsibility for the management of the transport operations of the business in so far as they relate to the carriage of goods;

“vehicle combination” means a combination of goods vehicles made up of one or more motor vehicles and one or more trailers all of which are linked together when travelling.

- (2) For the purposes of this Act, the driver of a vehicle, if it belongs to him or is in his possession under an agreement for hire, hire-purchase or loan, and in any other case the person whose servant or agent the driver is, shall be deemed to be the person using the vehicle; and references to using a vehicle shall be construed accordingly.
- (3) In this Act references to vehicles being authorised to be used under an operator’s licence are to be read in accordance with section 5.
- (4) For the purposes of this Act, a person who is an applicant for, or a holder of, a standard licence, or who is a transport manager, shall be regarded as being engaged in a road transport undertaking if—
  - (a) in a case where that person is an individual, he is either—
    - (i) the holder, or one of the joint holders, of an operator’s licence, or
    - (ii) in the employment of a person who carries on a road transport undertaking and that undertaking gives him responsibility for the operation of goods vehicles used under an operator’s licence; or
  - (b) in a case where that person is a company, either—
    - (i) the company is the holder of an operator’s licence, or
    - (ii) the company is a subsidiary of the holder of an operator’s licence and goods vehicles used under that licence belong to the company or are in its possession.
- (5) Anything required or authorised by this Act to be done by or to a traffic commissioner by whom a licence was issued may be done by or to any person for the time being acting as traffic commissioner for the area for which the first-mentioned commissioner was acting at the time of the issuing of the licence.

#### *Supplementary provisions*

### **59 Transitional provision etc**

- (1) The transitional provisions and transitory modifications of this Act contained in Schedule 6 shall have effect.
- (2) Without prejudice to the generality of paragraphs 2 to 4 of that Schedule, an existing licence shall continue in force as if it had been issued under this Act, and in this Act or any other enactment, instrument or document, any reference to, or including a reference to, an operator’s licence issued under this Act shall, so far as the nature of the reference permits, be construed as including a reference to an existing licence.
- (3) In subsection (2) “existing licence” means any operator’s licence within the meaning of Part V of the Transport Act 1968 which was in force immediately before the commencement of this Act.

**60 Consequential amendments and repeals**

- (1) The enactments mentioned in Schedule 7 shall have effect subject to the amendments there specified (being amendments consequential upon the provisions of this Act).
- (2) The enactments and instruments specified in Schedule 8 are repealed or revoked to the extent specified in the third column of that Schedule.

**61 Commencement**

- (1) Subject to section 50(2) (which makes provision in relation to the commencement of section 50 and Schedule 5) this Act shall come into force on such day as the Secretary of State may by order appoint.
- (2) An order under subsection (1) may contain such transitional provisions and savings as appear to the Secretary of State to be necessary or expedient in connection with the coming into force of any provision of this Act which reproduces the effect of any provision of the Deregulation and Contracting Out Act 1994 which was not brought into force before the appointed day.
- (3) Where any provision of the Deregulation and Contracting Out Act 1994 was brought into force before the appointed day by an order containing transitional provisions or savings in connection with the coming into force of that provision, an order under subsection (1) may contain corresponding transitional provisions or savings in connection with the coming into force of any provision of this Act which reproduces the effect of that provision of that Act.
- (4) In subsections (2) and (3) “the appointed day” means the day appointed under subsection (1).

**62 Short title and extent**

- (1) This Act may be cited as the Goods Vehicles (Licensing of Operators) Act 1995.
- (2) The amendments specified in Schedule 7 and the repeals and revocations specified in Schedule 8 have the same extent as the enactments and instruments to which they relate.
- (3) Subject to subsection (2), this Act does not extend to Northern Ireland.