



# Goods Vehicles (Licensing of Operators) Act 1995

## 1995 CHAPTER 23

*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—

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- (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 <sup>M1</sup>Road Traffic Act 1988, or
  - (b) any person authorised for the purposes of sections 40 and 41 by [<sup>F1</sup>a traffic commissioner] .
- (2) The powers conferred by sections 40 and 41 on an officer shall be exercisable also by a police constable.

##### Textual Amendments

**F1** Words in s. 42(1)(b) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), [Sch. 1](#) (with arts. 1(3), 2, 7)

##### Marginal Citations

**M1** 1988 c. 52.

#### 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 [<sup>F2</sup>a traffic commissioner] ;
  - (b) that, by virtue of a direction given by [<sup>F2</sup>a traffic 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 [<sup>F2</sup>a traffic commissioner] ;
  - (d) the date on which any operator's licence issued by [<sup>F2</sup>a traffic commissioner] ceased to be in force;
  - (e) the terms and conditions of any operator's licence issued by [<sup>F2</sup>a traffic commissioner] ;

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- (f) that a person is by virtue of an order of [<sup>F2</sup>a traffic 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 [<sup>F2</sup>a traffic 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 [<sup>F2</sup>a traffic commissioner] under section 26(1); or
  - [<sup>F3</sup>(ha) that a person is by virtue of an order of [<sup>F2</sup>a traffic commissioner] disqualified from acting as a transport manager, either indefinitely or for a specified period (see paragraph 16 of Schedule 3);]
  - (i) that, by virtue of a direction given by [<sup>F2</sup>a traffic 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.

#### Textual Amendments

- F2** Words in s. 43(2) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F3** S. 43(2)(ha) inserted (4.12.2011) by [The Road Transport Operator Regulations 2011 \(S.I. 2011/2632\)](#), reg. 1(1), **Sch. 2 para. 14** (with Sch. 3 Pt. 2)

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**Changes to legislation:**

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