

SCHEDULES

SCHEDULE 3

Sections 13 and 27.

QUALIFICATIONS FOR STANDARD LICENCE

Good repute

- 1 (1) In determining whether an individual is of good repute, a traffic commissioner may have regard to any matter but shall, in particular, have regard to—
- (a) any relevant convictions of the individual or of his servants or agents; and
 - (b) any other information in his possession which appears to him to relate to the individual's fitness to hold a licence.
- (2) In determining whether a company is of good repute, a traffic commissioner shall have regard to all the material evidence including, in particular—
- (a) any relevant convictions of the company or of any of its officers, servants or agents; and
 - (b) any other information in his possession as to the previous conduct of—
 - (i) any of the company's officers, servants or agents, or
 - (ii) any of its directors, in whatever capacity,if that conduct appears to him to relate to the company's fitness to hold a licence.
- (3) For the purposes of this paragraph, the relevant convictions of any person are—
- (a) any conviction of that person of an offence such as is mentioned in paragraph 5 of Schedule 2;
 - (b) any conviction of that person of an offence under the law of Northern Ireland or of the law of any country or territory outside the United Kingdom corresponding to an offence such as is mentioned in that paragraph;
 - (c) any conviction of that person of a serious offence within the meaning given in paragraph 3; and
 - (d) any conviction of that person of a road transport offence within the meaning given in paragraph 4.
- 2 Without prejudice to the generality of a traffic commissioner's power under paragraph 1 to determine that a person is not of good repute, a commissioner shall determine that an individual is not of good repute if that individual—
- (a) has more than one conviction of a serious offence; or
 - (b) has repeatedly been convicted of road transport offences.
- 3 (1) A person has a conviction of a "serious offence" if—
- (a) he has been convicted of any offence under the law of any part of the United Kingdom or under the law of a country or territory outside the United Kingdom, and
 - (b) on such conviction there was imposed on him for that offence a punishment falling within sub-paragraph (2).

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- (2) The punishments are—
- (a) a sentence of imprisonment for a term exceeding three months;
 - (b) a fine exceeding level 4 on the standard scale;
 - (c) a community service order requiring him to perform work for more than 60 hours; and
 - (d) in the case of an offence committed under the law of a country or territory outside the United Kingdom, any punishment corresponding to those mentioned in paragraphs (a) to (c).
- (3) In sub-paragraph (2)—
- (a) the reference to a sentence of imprisonment includes a reference to any form of custodial sentence or order, other than one imposed under the enactments relating to mental health; and
 - (b) “community service order” means an order under section 14 of the Powers of Criminal Courts Act 1973 or under the Community Service by Offenders (Scotland) Act 1978.
- 4 “Road transport offence” means—
- (a) an offence under the law of any part of the United Kingdom relating to road transport including, in particular, offences relating to—
 - (i) drivers' hours of work and rest periods;
 - (ii) the weights and dimensions of commercial vehicles; and
 - (iii) road and vehicle safety; or
 - (b) any corresponding offence under the law of a country or territory outside the United Kingdom.
- 5 (1) Any reference in paragraphs 1 to 4 to an offence under the law of any part of the United Kingdom includes a reference to a civil offence (wherever committed) within the meaning of the Army Act 1955, the Air Force Act 1955 or (as the case may be) the Naval Discipline Act 1957.
- (2) For the purposes of paragraphs 1 to 4—
- (a) convictions which are spent for the purposes of the Rehabilitation of Offenders Act 1974 shall be disregarded; and
 - (b) a traffic commissioner may also disregard an offence if such time as he thinks appropriate has elapsed since the date of the conviction.
- Appropriate financial standing*
- 6 (1) An applicant for, or the holder of, a standard licence is of the appropriate financial standing if he has available to him sufficient financial resources to ensure the establishment and proper administration of the road transport undertaking carried on, or proposed to be carried on, under the licence.
- (2) An applicant for, or the holder of, a standard licence authorising the use of vehicles for international transport operations shall not be considered to be of the appropriate financial standing unless he has available to him capital and reserves of an amount equal to or exceeding whichever of the following amounts is, in his case, the lesser—
- (a) 3000 European Currency Units multiplied by the number of vehicles which are, or are to be, used under the licence, or
 - (b) 150 European Currency Units multiplied by the number of tonnes of the aggregate of the relevant maximum weights of those vehicles.

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- (3) In sub-paragraph (2) “relevant maximum weight” has the meaning given in section 108(1) of the Road Traffic Act 1988.
- (4) Sub-paragraph (2) does not apply in relation to—
- (a) any licence issued before 11 October 1990, or
 - (b) any licence issued on or after that date to a person who has continuously held a licence since before that date and up to the time when the new licence is issued.

Professional competence

- 7 In this Schedule references to “the requirement of professional competence” are references to any requirement imposed by a provision of this Act that a person be (or continue to be) professionally competent.
- 8 (1) The requirement of professional competence falls to be satisfied by an individual.
- (2) Accordingly, where a company is required to satisfy that requirement, it does so if and so long as—
- (a) it has in respect of its road transport undertaking a transport manager or managers, and such number of them as the traffic commissioner concerned may require; and
 - (b) that transport manager, or (as the case may be) each such manager, is—
 - (i) of good repute, and
 - (ii) professionally competent.
- 9 Where an individual is not himself professionally competent, he shall be regarded as satisfying the requirement of professional competence if and so long as he has as the transport manager of the transport undertaking which he carries on an individual who is—
- (a) of good repute, and
 - (b) professionally competent.
- 10 Where the holder of a standard licence relies on a single transport manager to satisfy the requirement of professional competence and that manager—
- (a) dies,
 - (b) ceases, by reason of physical disability or mental disorder, to be capable of discharging his duties as transport manager,
 - (c) ceases to work for the business, or
 - (d) ceases to be of good repute,
- the holder of the licence shall not be treated as failing to satisfy the requirement of professional competence until the expiry of such period (not exceeding 18 months) as, in the opinion of the traffic commissioner by whom the licence was issued, is reasonably required for the appointment of a new transport manager.
- 11 Where—
- (a) the holder of a standard licence is a company which has two or more transport managers, and
 - (b) any of those managers ceases to be of good repute,
- the company shall not be treated as failing to satisfy the requirement of professional competence until the expiry of such period as, in the opinion of the traffic

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- commissioner by whom the licence was issued, is reasonably required for that manager's removal or the appointment of another transport manager in his place.
- 12 Paragraphs 1 to 5 shall have effect for the purposes of any provision of paragraphs 8 to 11 by virtue of which it falls to be determined whether or not a transport manager is of good repute as they have effect for the purpose of determining for the purposes of any other provision of this Act whether or not any other individual is of good repute, but disregarding the reference in paragraph 1(1)(a) to the servants or agents of an individual.
- 13 (1) An individual shall be regarded as professionally competent if, and only if—
- (a) he has demonstrated that he possesses the requisite skills by passing a written examination organised by an approved body and is the holder of a certificate to that effect issued by that body; or
 - (b) he is the holder of any other certificate of competence, diploma or other qualification recognised for the purposes of this sub-paragraph by the Secretary of State.
- (2) The written examination mentioned in sub-paragraph (1)(a) may take the form of a multiple-choice examination.
- (3) In sub-paragraph (1)—
- “approved body” means—
- (a) a body approved by the Secretary of State for the purposes of that sub-paragraph;
 - (b) a body approved by the Department of the Environment for Northern Ireland for the purposes of section 46A(5)(c) of the Transport Act (Northern Ireland) 1967; or
 - (c) a body or authority designated for the purposes of Article 3.4 of the 1974 Council Directive by a member State other than the United Kingdom; and
- “the requisite skills” means skills in the subjects listed in Part A and, in the case of a licence to cover international operations, Part B, of the Annex to the 1974 Council Directive.
- 14 In relation to a certificate of professional competence which was issued before 4 February 1991, or which was issued on or after that date to a person who before that date passed the whole or any part of the examination leading to the issue of that certificate, paragraph 13 has effect with the following modifications—
- (a) for sub-paragraph (1)(a) there shall be substituted—
 - “(a) he is the holder of a certificate issued by an approved body to the effect that he possesses the requisite skills; or”;
 - (b) sub-paragraph (2) shall be omitted; and
 - (c) references in sub-paragraph (3) to the 1974 Council Directive shall be construed as references to that Directive as it had effect immediately before it was amended by Community Council Directive No.89/438/EEC dated 21 June 1989.

Transport manager to be notified of proceedings

- 15 (1) A traffic commissioner shall not in any proceedings under this Act make a finding that a transport manager is not of good repute or is not professionally competent

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- unless the commissioner is satisfied that the transport manager has been served with a notice—
- (a) stating that the question whether he is of good repute or (as the case may be) professionally competent is an issue in the proceedings;
 - (b) setting out the nature of the allegations against him; and
 - (c) stating that he is entitled to make representations under this paragraph within 28 days beginning with the date on which the notice is served on him.
- (2) Where a transport manager makes representations under this paragraph, the traffic commissioner shall consider the representations—
- (a) in considering whether or not to hold an inquiry as provided in section 35; and
 - (b) in determining whether the transport manager is of good repute or (as the case may be) professionally competent.
- (3) A notice shall be deemed for the purposes of sub-paragraph (1) to have been served on a transport manager on the date on which it would have been delivered in the ordinary course of post if it was sent by post addressed to him at his last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by him.