

2009 No. 1964

PUBLIC PASSENGER TRANSPORT

**The Public Service Vehicles (Enforcement Powers) Regulations
2009**

<i>Made</i> - - - -	<i>16th July 2009</i>
<i>Laid before Parliament</i>	<i>22nd July 2009</i>
<i>Coming into force</i> - -	<i>1st October 2009</i>

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The Secretary of State makes the following Regulations in exercise of the powers conferred by Schedule 2A to the Public Passenger Vehicles Act 1981(a).

The Secretary of State has consulted representative organisations in accordance with section 61(2) of the Public Passenger Vehicles Act 1981, and the Administrative Justice and Tribunals Council in accordance with paragraph 24(1) of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(b).

Citation and commencement

1. These Regulations may be cited as the Public Service Vehicles (Enforcement Powers) Regulations 2009 and come into force on 1st October 2009.

Interpretation

2.—(1) In these Regulations(c)—

“the Act” means the Public Passenger Vehicles Act 1981;

“hiring agreement” and “vehicle-hire firm” have the same meaning as in section 66 of the Road Traffic Offenders Act 1988(d);

“licence” means a PSV operator’s licence(e);

“owner”, as regards a vehicle which has been detained by virtue of regulation 3, means—

(a) in the case of a vehicle which, at the time of its detention, was hired from a vehicle-hire firm under a hiring agreement, the vehicle-hire firm; or

(b) in the case of a vehicle to which paragraph (a) does not apply, the person who can show to the satisfaction of the authorised person that, at the time the vehicle was detained, the person lawfully owned the vehicle (whether or not that person was the person in whose name the vehicle was registered under the Vehicle Excise and Registration Act 1994(f)); and

“vehicle” means a public service vehicle(g) adapted to carry more than 8 passengers.

(2) In these Regulations, any reference to a person being entitled to the return of contents or personal effects is a reference to a person who satisfies the requirements prescribed in regulation 7(2).

Detention of vehicles and contents

3.—(1) Where an authorised person has reason to believe that a vehicle is being, or has been, used on a road in contravention of section 12(1) of the Act, that person may detain the vehicle and its contents.

(2) Paragraph (1) does not authorise a person other than a constable in uniform to stop a vehicle on any road.

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- (a) 1981 c. 14. Schedule 2A was inserted by section 47 of and Schedule 3 to the Local Transport Act 2008 (c. 26). Paragraph 12 is amended by the Transfer of Functions (Transport Tribunal and Appeal Panel) Order 2009 (S.I. 2009/1885) article 4(1) and Schedule 1, paragraphs 1 and 4.
- (b) 2007 c. 15. The effect of paragraph 24(1) of Schedule 7 to this Act is that the power of the Secretary of State to make procedural rules for any listed tribunal can be exercised only after consultation with the Administrative Justice and Tribunals Council. The traffic commissioners for England and Wales are a listed tribunal for the purposes of paragraph 24(1) by virtue of the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007 (S.I. 2007/2951).
- (c) See also the definitions contained in paragraph 1(1) of Schedule 2A to the Public Passenger Vehicles Act 1981 which apply to these Regulations.
- (d) 1988 c. 53. Section 66(8) was amended by the Road Safety Act 2006 (c. 49), section 59 and Schedule 7. There are other amendments to section 66 but none is relevant.
- (e) The term “PSV operator’s licence” is defined in section 82(1) of the Public Passenger Vehicles Act 1981.
- (f) 1994 c. 22.
- (g) The term “public service vehicle” is defined in section 1 of the Public Passenger Vehicles Act 1981.

Passengers

4.—(1) This regulation applies where a vehicle is detained by virtue of regulation 3 and, at the time of its detention, passengers are travelling on the vehicle.

(2) Where this regulation applies the authorised person must make provision for the passengers, with their personal effects, to be transported in safety—

- (a) to their destination; or
- (b) to a suitable place from which to continue their journey.

(3) In making provision under paragraph (2), the authorised person must have particular regard to the needs of passengers who appear to the authorised person to be—

- (a) under the age of 18 years; or
- (b) elderly or disabled persons.

Immobilisation of vehicle

5.—(1) Where a vehicle has been detained by virtue of regulation 3 the authorised person may—

- (a) fix an immobilisation device to the vehicle in the place where the vehicle has been detained; or
- (b) move the vehicle, or require it to be moved, to a more convenient place and fix an immobilisation device to the vehicle in that other place.

(2) A vehicle to which an immobilisation device has been fixed in accordance with paragraph (1) may be released from the device only by or on the direction of an authorised person.

(3) Where an immobilisation device has been fixed to a vehicle in accordance with this regulation, the authorised person fixing the device must also fix to the vehicle an immobilisation notice—

- (a) indicating that an immobilisation device has been fixed to the vehicle;
- (b) indicating that the vehicle may be released from the device only by or under the direction of an authorised person;
- (c) providing details as to where the authorised person may be contacted, and information about the procedure under which an application may be made for the release of the vehicle from the device;
- (d) warning that the notice must not be removed or interfered with except by or on the authority of an authorised person; and
- (e) warning that no attempt must be made to drive the vehicle or otherwise put it in motion.

(4) An immobilisation notice fixed to a vehicle in accordance with paragraph (3) must not be removed or interfered with except by or on the authority of an authorised person.

Offences relating to immobilisation

6.—(1) A person who removes or attempts to remove, otherwise than in accordance with regulation 5(2), an immobilisation device fixed to a vehicle in accordance with regulation 5(1) is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person who removes or interferes with, otherwise than in accordance with regulation 5(4), an immobilisation notice fixed to a vehicle in accordance with regulation 5(3) is guilty of an offence.

(4) A person guilty of an offence under paragraph (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Contents and personal effects

7.—(1) Where a vehicle is detained by virtue of regulation 3, the authorised person must take such steps as are reasonably practicable to return the contents and any personal effects remaining on the vehicle to the person who is entitled to their return.

(2) For the purposes of these Regulations a person is entitled to the return of contents or personal effects if—

- (a) the person has provided satisfactory evidence of entitlement to the authorised person; or
- (b) the person has, where the person seeks to recover contents or personal effects as the agent of another person, provided satisfactory evidence to the authorised person of the person's status as agent and of the principal's entitlement to the contents or personal effects.

(3) Where, by virtue of these Regulations, more than one person seeks to provide evidence of entitlement to any contents or personal effects, the authorised person must determine which of those persons is entitled to the contents or personal effects on the basis of the evidence provided by them.

Removal and delivery of property into custody of nominated custodian

8.—(1) An authorised person may direct that—

- (a) a vehicle detained by virtue of regulation 3, or
- (b) any contents so detained, or any personal effects remaining on a vehicle so detained, which it has not been possible to return to the person entitled to their return,

be removed and delivered into the custody of a person specified in the direction (“the nominated custodian”)(a).

(2) A direction under paragraph (1) must be given in writing.

(3) An authorised person may, in giving a direction under paragraph (1) in relation to a vehicle—

- (a) allow the vehicle to be driven, towed or removed by such means as the authorised person considers reasonable in the circumstances; and
- (b) provide for any other necessary steps to be taken in relation to the vehicle in order to facilitate its removal.

(4) An authorised person may, in giving a direction under paragraph (1), provide for any contents or personal effects to be removed separately from the vehicle if the authorised person considers that—

- (a) it is reasonable to do so to facilitate removal of the vehicle;
- (b) there is good reason for storing the contents or personal effects at a different place from the vehicle; or
- (c) the condition of the contents or personal effects requires them to be disposed of without delay.

(5) The authorised person may also, in giving a direction under paragraph (1), allow the driver of the vehicle to—

- (a) transport any passengers travelling on the vehicle at the time that it was detained,
- (b) deliver any contents of the vehicle, or
- (c) deliver any personal effects remaining on the vehicle,

to their destination, or to some other suitable place, before delivering the vehicle into the custody of the nominated custodian, provided the authorised person is satisfied that the passengers, contents or personal effects can be transported on the vehicle in safety.

(a) The term “nominated custodian” is defined in paragraphs 1(1) and 6(1) of Schedule 2A to the Public Passenger Vehicles Act 1981.

(6) The nominated custodian must be a person who has agreed with the Secretary of State to accept delivery of any vehicle, contents and personal effects.

(7) The agreement made under paragraph (6) may include provision for the payment of a sum of money to the nominated custodian by the authorised person.

Informing persons that their property has been detained etc

9.—(1) Subject to regulation 18(1), this regulation applies in relation to—

- (a) a vehicle detained by virtue of regulation 3; or
- (b) any contents so detained, or any personal effects remaining on a vehicle so detained, which it has not been possible to return to the person entitled to their return.

(2) Where this regulation applies an authorised person must—

- (a) publish a notice in at least one newspaper circulating in such areas as the authorised person considers appropriate in the circumstances of the case, and
- (b) publish a notice—
 - (i) if the property was detained, or remained on a vehicle that was detained, in England or Wales, in the London Gazette, or
 - (ii) if the property was detained, or remained on a vehicle that was detained, in Scotland, in the Edinburgh Gazette,

containing the information described in paragraph (4).

(3) A copy of the notice published in accordance with paragraph (2) must be served by the authorised person on—

- (a) the owner of the vehicle;
- (b) the traffic commissioner for the traffic area in which the vehicle was detained;
- (c) the chief officer or, in Scotland, chief constable of the police force in whose area the vehicle was detained;
- (d) the Association of British Insurers; and
- (e) the British Vehicle Rental and Leasing Association, where the vehicle was hired from a vehicle-hire firm under a hiring agreement.

(4) The information is—

- (a) a brief description of the vehicle and contents detained, or personal effects remaining on a vehicle so detained, including the registration mark (if any) of any vehicle;
- (b) the time and place at which, and the powers under which, the vehicle was detained;
- (c) the procedure under which, and the date by which—
 - (i) an application may be made to the traffic commissioner for the area in which the vehicle was detained for the return of any vehicle so detained; or
 - (ii) a person may claim any contents or personal effects which have not been disposed of in accordance with regulation 18(1);
- (d) a statement that if, by the date specified by virtue of sub-paragraph (c), no person has made an application to the traffic commissioner in accordance with regulation 11, the authorised person intends to allow the vehicle to be disposed of in accordance with regulation 16; and
- (e) a statement that if, by the date specified by virtue of sub-paragraph (c), no person has sought to establish that they are entitled to the return of contents or personal effects, the authorised person intends to allow the contents or personal effects to be disposed of in accordance with regulation 18(2).

(5) The date specified by virtue of paragraph (4)(c) must be no less than 21 days after the date by which all the obligations prescribed in paragraph (2) have been fulfilled.

Return of vehicle

10.—(1) In the circumstances described in paragraph (2), a vehicle detained by virtue of regulation 3 must be returned to the owner, without the need for an application under regulation 11.

(2) The circumstances are that the authorised person is satisfied that one or more of the grounds specified in paragraph (3) is or are made out.

(3) The grounds are—

- (a) that, at the time the vehicle was detained, the person using the vehicle held a valid licence (whether or not authorising the use of the vehicle);
- (b) that, at the time the vehicle was detained, the vehicle was not being, and had not been, used in contravention of section 12(1) of the Act;
- (c) that, although at the time the vehicle was detained it was being, or had been, used in contravention of section 12(1) of the Act, the owner did not know that it was being, or had been, so used;
- (d) that, although knowing at the time the vehicle was detained that it was being, or had been, used in contravention of section 12(1) of the Act, the owner—
 - (i) had taken steps with a view to preventing that use; and
 - (ii) has taken steps with a view to preventing any further such use.

Application to traffic commissioner for return of vehicle

11.—(1) The owner of a vehicle detained in accordance with regulation 3 may, no later than the date specified by virtue of regulation 9(4)(c), apply to the traffic commissioner for the area in which the vehicle was detained for the return of the vehicle.

(2) An application under paragraph (1) must—

- (a) be made on one or more of the grounds specified in regulation 10(3);
- (b) specify on which of those grounds the application is made;
- (c) be made in writing; and
- (d) include a statement of evidence to support the application.

(3) Where the applicant wishes the traffic commissioner to hold a hearing, the application under paragraph (1) must include a written statement to that effect.

(4) The period referred to in paragraph (1) is subject to regulation 25.

Hearings by traffic commissioner

12.—(1) If—

- (a) an application under regulation 11(1) includes a written statement stating that the applicant wishes the traffic commissioner to hold a hearing, or
- (b) having received an application under regulation 11(1) the traffic commissioner decides that it would be appropriate to hold a hearing before making a determination on the application,

the traffic commissioner must hold a hearing within 28 days of receipt of the application (subject to the power of the traffic commissioner to extend the period in accordance with regulation 25).

(2) Information about the time and place at which the traffic commissioner proposes to hold a hearing by virtue of paragraph (1) must be published in the Notices and Proceedings issued in accordance with regulation 3 of the Public Service Vehicles (Traffic Commissioners: Publication and Inquiries) Regulations 1986(a).

(a) S.I. 1986/1629. There are amendments to regulation 3 but none is relevant.

(3) At any hearing held by virtue of this regulation the parties are entitled to—

- (a) give evidence;
- (b) call witnesses;
- (c) cross examine witnesses; and
- (d) address the traffic commissioner—
 - (i) on the evidence; and
 - (ii) generally on the subject matter of the hearing.

(4) Subject to paragraph (5), a hearing held by virtue of this regulation must be held in public.

(5) Notwithstanding paragraph (4), the traffic commissioner may direct that the whole or any part of a hearing under this regulation is to be held in private if the traffic commissioner is satisfied that it is just and reasonable to do so by reason of—

- (a) the likelihood of disclosure of information about personal or financial circumstances;
- (b) the likelihood of disclosure of commercially sensitive information or information obtained in confidence; or
- (c) exceptional circumstances not falling within sub-paragraph (a) or (b).

(6) Where a hearing is held in private, the traffic commissioner may admit such persons as the traffic commissioner considers appropriate.

Notification of determinations

13.—(1) The traffic commissioner must notify the applicant in writing of the traffic commissioner's determination of an application made under regulation 11 as soon as reasonably practicable and, subject to regulation 25, within the period specified in paragraph (2).

(2) The period is—

- (a) where no hearing is held, within 21 days of receipt of the application; or
- (b) where a hearing is held, within 14 days of the conclusion of the hearing.

Consequences of the traffic commissioner's determination

14. If—

- (a) an application is made to the traffic commissioner under regulation 11, and
- (b) the traffic commissioner determines that one or more of the grounds specified in regulation 10(3) is or are made out,

the traffic commissioner must order the nominated custodian to return the vehicle to the owner.

Appeal to Upper Tribunal from traffic commissioner

15. A person who made an application under regulation 11(1) may appeal to the Upper Tribunal(a) against a determination of the traffic commissioner.

Sale or destruction of vehicle

16.—(1) Subject to paragraphs (2) and (3), and provided a notice containing the information described in regulation 9(4) has been published and served in accordance with regulation 9(2) and (3), if—

- (a) no application is made to the traffic commissioner under regulation 11 for the return of the vehicle, or

(a) The Upper Tribunal was established under section 3(2) of the Tribunals, Courts and Enforcement Act 2007.

- (b) such an application is made but the traffic commissioner, or the Upper Tribunal where there is an appeal under regulation 15, determines that none of the grounds specified in regulation 10(3) is made out,

the vehicle may be sold or destroyed by the nominated custodian.

(2) The nominated custodian must not sell or destroy the vehicle without the permission of the authorised person.

(3) The nominated custodian must not sell or destroy the vehicle—

- (a) until any period specified in the Tribunal Procedure (Upper Tribunal) Rules 2008(a) for a notice of appeal to be provided to the Upper Tribunal has expired with no such notice of appeal having been provided; or
- (b) until, where a notice of appeal has been provided to the Upper Tribunal, the appeal has been finally disposed of.

(4) After the sale or destruction of a vehicle by virtue of paragraph (1) the nominated custodian must serve notice of the disposal on—

- (a) the owner of the vehicle;
- (b) the traffic commissioner for the traffic area in which the vehicle was detained;
- (c) the chief officer or, in Scotland, chief constable of the police force in whose area the vehicle was detained;
- (d) the Driver and Vehicle Licensing Agency;
- (e) the Association of British Insurers; and
- (f) the British Vehicle Rental and Leasing Association, where the vehicle was hired from a vehicle-hire firm under a hiring agreement.

(5) For the purposes of paragraph (3)(b), an appeal is “finally disposed of” on the latest of the following dates—

- (a) the date on which the appeal is finally determined,
- (b) the date on which the time for any further appeal expires without any such appeal having been made, or
- (c) the date on which the appeal is abandoned or withdrawn,

and in this paragraph “appeal” includes a reference to any further appeal or appeals.

Return or disposal of contents and personal effects

17.—(1) The nominated custodian must retain custody of any contents or personal effects delivered into the custody of the nominated custodian by virtue of regulation 8 until—

- (a) the contents or personal effects are returned, in accordance with this regulation, to the person who is entitled to their return; or
- (b) the contents or personal effects are sold or destroyed by the nominated custodian in accordance with regulation 18.

(2) A person seeking the return of any contents or personal effects described in paragraph (1) must give written notice to the nominated custodian no later than the date specified by virtue of regulation 9(4)(c).

(3) Except where the contents or personal effects have been disposed of in accordance with regulation 18(1), the nominated custodian must return any contents or personal effects to a person who has, by virtue of the notice given in accordance with paragraph (2), established that the person is entitled to the return of the contents or personal effects.

(a) S.I. 2008/2698. These Rules are amended by rules 3 to 23 of the Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274).

Disposal of contents and personal effects

18.—(1) Where the authorised person is of the opinion that the condition of contents detained by virtue of regulation 3, or personal effects that remained on a vehicle so detained, (and which it has not been possible to return to the person entitled to their return), is such that they must be disposed of without delay, those contents or personal effects may be disposed of by the authorised person or the nominated custodian without the authorised person first complying with the requirements prescribed in regulation 9.

(2) Subject to paragraph (3), where such contents or personal effects are not disposed of in accordance with paragraph (1) and—

- (a) one or more persons has given written notice in accordance with regulation 17(2), but no person has established that they are entitled to the return of the property, or
- (b) no written notice has been given in accordance with regulation 17(2),

the nominated custodian may sell or destroy the contents or personal effects.

(3) The nominated custodian may not sell or destroy contents or personal effects in accordance with paragraph (2) unless—

- (a) the nominated custodian has the permission of the authorised person;
- (b) the authorised person has complied with the requirements prescribed in regulation 9; and
- (c) the date specified by virtue of regulation 9(4)(c) has passed.

Custody of property

19.—(1) Subject to paragraph (2), it is the duty of the nominated custodian, at any time while property consisting of—

- (a) vehicles or contents detained by virtue of regulation 3, or
- (b) personal effects remaining on a vehicle so detained,

is in the custody of the nominated custodian, to take such steps as are necessary for the safe custody of the property.

(2) Paragraph (1) is subject to the powers of the nominated custodian to dispose of property by virtue of these Regulations.

Proceeds of sale

20.—(1) Subject to paragraph (2), the proceeds of sale of any property sold under regulation 16 or 18 must—

- (a) be applied towards meeting expenses incurred by any authorised person exercising functions by virtue of these Regulations in relation to the property in question; and
- (b) in so far as they are not so applied, be applied in meeting any claim to the proceeds of sale which is made and established in accordance with paragraph (3).

(2) Where the proceeds of sale of any property sold under regulation 16 or 18 exceed the expenses referred to in paragraph (1)(a) and—

- (a) no person has established entitlement to the proceeds of sale of the property, or
- (b) a person has established entitlement to the proceeds of sale of the property, but excess proceeds remain once the claim has been satisfied,

the excess proceeds may be applied towards meeting expenses incurred by any authorised person exercising functions in relation to any other property detained by virtue of regulation 3, or any personal effects remaining on a vehicle so detained.

(3) For the purposes of paragraph (1), a claim to the proceeds of sale of any property is established if—

- (a) the claim is made not later than one year after the date on which the property was sold; and
- (b) the authorised person is satisfied that—
 - (i) if the property consists of a vehicle, the person making the claim was the owner of the vehicle immediately before it was sold by virtue of regulation 16; or
 - (ii) if the property consists of contents or personal effects, the person making the claim would, had the person made an appropriate application at the prescribed time, have been entitled to the return of the property by virtue of regulation 17.

(4) Where the conditions specified in paragraph (3) are satisfied, the authorised person must pay the person a sum calculated in accordance with paragraph (5).

(5) Any sum payable under paragraph (4) is to be calculated by deducting from the proceeds of sale the expenses incurred by the authorised person in exercising functions under these Regulations in relation to the property, including for the detention, removal, storage and sale of the property.

Disputes

21.—(1) This regulation applies to any dispute which arises in relation to—

- (a) the return or disposal of—
 - (i) any contents of a vehicle detained by virtue of regulation 3; or
 - (ii) any personal effects that remained on a vehicle detained by virtue of regulation 3; or
- (b) the application of the proceeds of sale of—
 - (i) any vehicle detained by virtue of regulation 3;
 - (ii) any contents detained by virtue of regulation 3; or
 - (iii) any personal effects remaining on a vehicle detained by virtue of regulation 3.

(2) Where this regulation applies, the claimant may apply to the Secretary of State on the grounds that the authorised person or, as the case may be, the nominated custodian, did not comply with any or all of the requirements specified in regulation 9 or regulations 16 to 20.

(3) An application under this regulation must be made not later than one year after—

- (a) the date on which the action complained of was completed; or
- (b) the date by which, by virtue of these Regulations, action should have been taken but, in the opinion of the complainant, has not been taken.

(4) The Secretary of State must—

- (a) consider an application made under paragraph (2), together with any evidence submitted in support of such an application; and
- (b) make a determination as to whether or not the grounds of the application have been established.

(5) The Secretary of State must notify the claimant in writing of the determination made under paragraph (4)(b).

(6) If the determination of the Secretary of State is that the grounds of the application have been established, the authorised person must pay to the claimant such sum of money as the Secretary of State may specify.

(7) If the determination of the Secretary of State is that the grounds of the application have not been established, the notification given under paragraph (5) must inform the claimant of the right of appeal under paragraph (8).

(8) An appeal may be made against the determination of the Secretary of State to the appropriate court by a claimant where—

- (a) the determination of the Secretary of State in response to an application under paragraph (2) is that the grounds of the application have not been established; or

- (b) the Secretary of State has not notified the claimant of the outcome of the application in accordance with paragraph (5), and 56 days have elapsed since the date on which the application was made.
- (9) An appeal under paragraph (8) must be made not later than 21 days after—
- (a) the date of the notification given under paragraph (5); or
 - (b) where such notification has not been given, the end of the 56 day period after the date on which the application was made.
- (10) If the appropriate court finds that the grounds of appeal have been established, the Secretary of State must pay the claimant such sum of money as the court may specify.
- (11) For the purposes of this regulation, “appropriate court” means—
- (a) in England and Wales, a magistrates’ court; and
 - (b) in Scotland, the sheriff court in the sheriffdom—
 - (i) in which the claimant resides (where the claimant is an individual);
 - (ii) where the principal or last known place of business of the claimant is situated (where the claimant is a partnership); or
 - (iii) where the registered or principal office of the claimant is situated (where the claimant is an incorporated or unincorporated body).

Obstruction of an authorised person

22.—(1) A person who intentionally obstructs an authorised person in the exercise of the powers arising by virtue of these Regulations is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offences as to securing possession of property

23.—(1) Where a person makes a declaration with a view to securing the return of a vehicle under regulation 14 and the declaration—

- (a) is that the vehicle was not being, or had not been, used in contravention of section 12(1) of the Act, and
- (b) is to the person’s knowledge either false or in any material respect misleading,

that person is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Service of notice or application

24.—(1) Any notice or application given or made under these Regulations is to be regarded as having been served on a party if it is—

- (a) delivered by hand to the party;
- (b) left at the proper address of the party;
- (c) sent by post to the proper address of the party; or
- (d) transmitted to the party in electronic format in accordance with paragraph (2).

(2) A document may be transmitted in electronic format where the receiving party—

- (a) has indicated in writing to the sending party, and has not withdrawn or varied that indication, that service in electronic format will be accepted; and

(b) has provided the sending party with the fax number, e-mail address or other electronic address to which such documents should be sent.

(3) Where the proper address includes a box number at a document exchange, delivery of a document may be effected by leaving the document addressed to that numbered box at the document exchange, or at a document exchange which transmits documents on every business day to that exchange.

(4) Any document which is left at a document exchange in accordance with paragraph (3) is, unless the contrary is proved, to be deemed to have been delivered on the second business day after the day on which it is left.

(5) If no address for service has been specified, the proper address for the purposes of these Regulations and of section 7 of the Interpretation Act 1978(a) is to be taken to be—

- (a) in the case of an individual, the person's usual or last known address;
- (b) in the case of a partnership, the principal or last known place of business of the partnership within the United Kingdom; or
- (c) in the case of an incorporated or unincorporated body, the registered or principal office of the body.

(6) A person may at any time by notice to another person change the proper address of service of the first person for the purposes of these Regulations.

Extension of time

25.—(1) Where a traffic commissioner considers it to be necessary in order for a particular case to be dealt with fairly and justly, the traffic commissioner may extend any of the periods described in paragraph (3).

(2) A period described in paragraph (3) may only be extended for such period as the traffic commissioner considers appropriate in the circumstances of the case.

(3) The periods are those referred to in—

- (a) regulation 11(1);
- (b) regulation 12(1); and
- (c) regulation 13(2).

Signed by authority of the Secretary of State for Transport

16th July 2009

Paul Clark
Parliamentary Under Secretary of State
Department for Transport

(a) 1978 c. 30.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations introduce a statutory regime whereby a vehicle adapted to carry more than eight passengers which is being, or has been, used on a road in contravention of the public service vehicle operator licensing requirements in section 12 of the Public Passenger Vehicles Act 1981 can be detained by an authorised person (defined as an examiner appointed by the Secretary of State under section 66A of the Road Traffic Act 1988 or a person acting under the direction of such an examiner). The regime prescribed is similar to that already in place in respect of goods vehicles operated in contravention of the relevant licensing requirements, as set out in the Goods Vehicles (Enforcement Powers) Regulations 2001 (S.I. 2001/3981), made under the Goods Vehicles (Licensing of Operators) Act 1995.

Regulation 3 empowers an authorised person to detain a vehicle and its contents where that person has reason to believe that the vehicle has been, or is being, used in breach of the licensing requirements. Where, at the time of the detention, passengers are travelling on the vehicle, *regulation 4* requires the authorised person to provide for them to be transported in safety either to their destination, or to a suitable place from which that destination can be reached.

Regulation 5 empowers an authorised person to fix an immobilisation device to a detained vehicle and, where such a device has been fixed, requires the attachment of an immobilisation notice. *Regulation 6* prescribes that it is a criminal offence for an unauthorised person to remove, or attempt to remove, an immobilisation device from a vehicle, or to remove or interfere with an immobilisation notice.

Regulation 7 requires the authorised person to take such steps as are reasonably practicable to return contents or personal effects to the person entitled to their return. *Regulation 8* provides for detained property to be placed into the custody of a nominated custodian. *Regulation 9* requires certain steps to be taken to inform a person that their property has been detained.

Regulation 10 provides that, where the authorised person is satisfied that certain grounds are made out, the vehicle must be returned to the owner without the need for an application to be made to the traffic commissioner. *Regulations 11 to 15* prescribe the procedure under which the owner of a detained vehicle may apply to the traffic commissioner for its return, and provide a right of appeal to the Upper Tribunal against the determination of the traffic commissioner.

Regulations 16 to 18 prescribe the procedures for the sale or destruction of vehicles and the return or disposal of contents or personal effects. *Regulation 19* places the nominated custodian under a duty to take such steps as are necessary to ensure the safe custody of such property.

Regulation 20 provides for proceeds from the sale of property to be applied to meeting expenses incurred by the authorised person in exercising functions in relation to that property under these Regulations, with any surplus payable to any person who can prove entitlement to the relevant property. Where no such person comes forward, proceeds may be applied towards meeting expenses incurred in exercising functions under these Regulations in relation to other property. *Regulation 21* prescribes a mechanism for dealing with disputes.

Regulations 22 and 23 provide that it is a criminal offence to intentionally obstruct an authorised person, or to make a false or misleading statement. *Regulation 24* prescribes various requirements for the giving of notices under these Regulations.

Regulation 25 empowers traffic commissioners to extend specified periods where considered necessary to enable a case to be dealt with fairly and justly.

An impact assessment has been prepared and copies can be obtained from the Traffic Enforcement Policy Team, VOSA, Croydon Street, Bristol, BS5 0DA. The assessment is annexed to the Explanatory Memorandum which can be found alongside the instrument on the Office of Public Sector Information website (www.opsi.gov.uk).

STATUTORY INSTRUMENTS

2009 No. 1964

PUBLIC PASSENGER TRANSPORT

The Public Service Vehicles (Enforcement Powers) Regulations
2009

£5.50