



Transport Act 1982

1982 CHAPTER 49

PART II

TESTING, MARKING AND APPROVAL OF VEHICLES

Provision for private-sector plating and testing

8 Private-sector vehicle testing

- (1) Subject to the following provisions of this section, the Secretary of State may authorise any person to conduct a business (referred to below in this Part of this Act as a vehicle testing business) which consists of or includes the exercise by any person in the course of that business of any of the functions specified in section 9 of this Act (which are concerned with the testing of goods vehicles and other vehicles and related matters, and are accordingly referred to below in this Part of this Act as the testing and surveillance functions).
- (2) The Secretary of State may not under subsection (1) above authorise any person who is for the time being either—
 - (a) the holder of a goods vehicle operator's licence granted under Part V of the Transport Act 1968 ; or
 - (b) the holder of a PSV operator's licence granted under Part II of the 1981 Act;to carry on a vehicle testing business; and any authorisation granted to any person under that subsection shall cease if that person subsequently becomes the holder of any such licence.
- (3) Any person authorised under subsection (1) above is referred to below in this Part of this Act as an approved testing authority.
- (4) The Secretary of State may authorise any individual to exercise all or any of the testing and surveillance functions in the course of a vehicle testing business; and any individual so authorised is referred to below in this Part of this Act as an authorised inspector.

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- (5) The Secretary of State may authorise any individual to act under the direction of an authorised inspector for the purposes of or in connection with the exercise by that inspector in the course of a vehicle testing business of any of the testing and surveillance functions ; and any individual so authorised is referred to below in this section as an approved assistant.
- (6) Any authorisation granted under this section shall be subject to such conditions or limitations in any individual case as the Secretary of State may notify in writing to the person authorised on granting the authorisation or from time to time afterwards.
- (7) Without prejudice to subsection (6) above—
- (a) the Secretary of State may by regulations impose conditions to be complied with by approved testing authorities and approved assistants ; and
 - (b) regulations made under any enactment relating to any - of the testing and surveillance functions may impose conditions to be complied with by authorised inspectors in exercising any of those functions under the regulations.
- (8) The Secretary of State may not without the consent of the person authorised withdraw any authorisation granted under this section except—
- (a) for breach of any condition attached to the authorisation (whether under subsection (6) above or by regulations made under or by virtue of subsection (7) above); or
 - (b) in the case of an authorised inspector or approved assistant, for misconduct or incompetence or other reasonable cause.
- (9) The Secretary of State may not—
- (a) authorise any person under subsection (1) above to carry on a vehicle testing business ; or
 - (b) give to an approved testing authority any notification under subsection (6) above which has the effect of extending the testing and surveillance functions which may be exercised in the course of the business carried on by that authority ;
- unless a document giving the required notice of his proposal to do so has been laid before and approved by a resolution of each House of Parliament.
- (10) The notice required by subsection (9) above is—
- (a) in a case within paragraph (a) of that subsection, a notice indicating that the Secretary of State proposes to authorise the person in question to carry on a vehicle testing business and specifying the testing and surveillance functions within the proposed terms of the authorisation;
 - (b) in a case within paragraph (b) of that subsection, a notice indicating that the Secretary of State proposes to extend the testing and surveillance functions which may be exercised in the course of the business carried on by the approved testing authority in question, and specifying the additional functions.
- (11) The addition of any new functions to the testing and surveillance functions which may be exercised in the course of a vehicle testing business carried on by an approved testing authority is an extension of those functions for the purposes of this section (notwithstanding that other functions may be excluded from exercise in the course of that business at the same time as the new ones are added).

9 The testing and surveillance functions

The functions referred to in section 8(1) of this Act are set out below in this section under the heading of the Act under which they arise (taking references to sections, unless otherwise indicated, as references to sections of that Act).

Functions under the 1972 Act

Any determination under regulations made under section 40 (construction and use regulations) of the suitability for operation in any particular manner (in terms of construction or design) of any public service vehicle (as defined by section 1 of the 1981 Act).

The carrying out or supervision of examinations and the issue or refusal of test certificates under regulations made under section 43 (periodical tests of vehicles not subject to goods vehicle tests).

The issue of certificates of temporary exemption under regulations made under section 44(10A) (exemption of certain public service vehicles from requirement of test certificate).

The carrying out or supervision of examinations and the issue or refusal of certificates under regulations made under section 45 (examinations for plating and periodical tests of satisfactory condition of certain goods vehicles).

The issue of certificates of temporary exemption under regulations made under section 46(5)(b) (exemption from requirements with respect to plating certificates and goods vehicle test certificates).

The carrying out or supervision of, or the making of any requirement with respect to, the examination of a vehicle under regulations made under section 50 (regulations for the purposes of type approval requirements).

The cancellation, suspension or amendment, on any examination of a vehicle carried out under regulations made under section 50, of any certificate of conformity or Minister's approval certificate for the vehicle.

The power of entry, inspection and detention of goods vehicles under section 56(2)(a) (spot checks to secure proper maintenance), but only in relation to vehicles brought to the place of inspection in pursuance of a direction given by a goods vehicle examiner or a constable under subsection (4) of that section.

The functions under sections 57 and 58 (imposition and removal of prohibitions on the driving of goods vehicles), with the exception of imposing and removing prohibitions under section 57(7) (vehicles exceeding weight limits).

Functions under the 1981 Act

The carrying out or supervision of examinations and the issue or refusal of certificates for the purposes of section 6(1)(a) (certificates of initial fitness for public service vehicles) under regulations made under subsection (1A) of that section.

Any functions under section 9 (imposition and removal of prohibitions on the driving of unfit public service vehicles).

The carrying out or supervision of examinations and the issue or refusal of certificates under section 10 (certificates of conformity to type for public service vehicles).

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The carrying out or supervision of examinations under regulations made under section 20(2A) (examination of public service vehicles in certain circumstances in the event of failure, damage or alteration).

The determination under regulations made under section 26 (control of number of passengers) of the number of seated passengers and standing passengers respectively—

- (a) that a vehicle is constructed or adapted or fit to carry; or
- (b) that may be carried in a vehicle.

Functions under the Road Traffic (Foreign Vehicles) Act 1972

Any functions under sections 1 and 2 (imposition and removal of prohibitions on driving of foreign vehicles), so far as exercisable in, or on the removal or remedying of, any of the circumstances mentioned in paragraph (a) or (in relation to a contravention of any provision of, or of regulations under, the 1972 Act) paragraph (b) of section 1(2).

10 Provisions supplementary to section 8

- (1) To the extent that the terms of his authorisation so provide an authorised inspector shall have the duty to refuse any certificate or impose or remove any prohibition which he has power to refuse or (as the case may be) to impose or remove.
- (2) In section 43 of the 1972 Act (tests of satisfactory condition of vehicles other than goods vehicles to which section 45 applies)—
 - (a) in subsection (3) (persons who may carry out examinations under that section), after the words "' authorised examiners')" there shall be inserted the words " by any authorised inspector ";
 - (b) in subsection (6)(g) (keeping of registers of test certificates), after the words " authorised examiners " there shall be inserted the words " and, in the case of examinations carried out by authorised inspectors, by approved testing authorities "; and
 - (c) in subsection (6)(h) (keeping of records), for the words " and authorised examiners " there shall be substituted the words " authorised examiners and approved testing authorities ".
- (3) The words " or an authorised inspector" shall be inserted in each of the enactments mentioned below in this subsection, at the place indicated in relation to that enactment, that is to say—
 - (a) in section 45(6)(b) of the 1972 Act, after the words "a goods vehicle examiner " ;
 - (b) in section 50(1)(a) of that Act, after the words " a goods vehicle examiner or a public service vehicle examiner" ;
 - (c) in section 57 of that Act, after the words " a goods vehicle examiner " wherever occurring, except in subsections (7) and (7A);
 - (d) in section 6(1)(a) of the 1981 Act, after the words " a certifying officer ";
 - (e) in section 9 of that Act, after the words " public service vehicle examiner " where they occur in subsections (1), (7) and (8);
 - (f) in section 10(2) of that Act, after the words " the certifying officer " ; and
 - (g) in section 20(6) of that Act, after the words " public service vehicle examiner " ;

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and the words " or authorised inspector " shall be inserted after the word " examiner " wherever occurring (otherwise than in the expression " goods vehicle examiner " or " public service vehicle examiner ") in section 57 of the 1972 Act and in section 9 of the 1981 Act.

- (4) In sections 1 and 2 of the Road Traffic (Foreign Vehicles) Act 1972—
- (a) the words " or an authorised inspector " shall be inserted after the words " an examiner " (in each place where they appear); and
 - (b) the words " or authorised inspector " shall be inserted after the words " the examiner " or " any examiner " (in each place where they appear).
- (5) In section 50(6) of the 1981 Act (which provides for an appeal to the Secretary of State against the refusal of a certifying officer to issue a certificate of initial fitness or a certificate of conformity to type), after the words " a certifying officer " there shall be inserted the words " or an authorised inspector ".
- (6) In section 56(2) of the 1972 Act (powers of entry and inspection), the following words shall be inserted at the end—
- “and an authorised inspector may exercise the powers given by paragraph (a) above in relation to any vehicle brought to the place of inspection in pursuance of a direction under subsection (4) below”.
- (7) The words " or the prescribed testing authority " shall be inserted after the words " the Secretary of State " —
- (a) in section 45(6)(a)(ii) and (d) of the 1972 Act (requirements with respect to the notification of alterations of goods vehicles to the Secretary of State and the specification of alterations required to be so notified in plating certificates);
 - (b) in section 46(3) of that Act (offence to use vehicle where alteration not notified as required by regulations under section 45); and
 - (c) in section 51(3) of that Act (offence to use vehicle where alteration not notified as required by regulations or directions under section 48);
- and after those words (in the second place where they occur) in each of subsections (2), (3) and (4) of section 48 of that Act (requirements and directions with respect to the notification of alterations relevant to type approval or plated weights).
- (8) In section 6 of the 1981 Act (certificates of initial fitness required for use as public service vehicles), the following subsection shall be inserted after subsection (1)—
- “(1A) Without prejudice to the powers of the Secretary of State under section 7 of this Act in relation to the exercise by certifying officers of their functions, regulations may make provision with respect to the examination of vehicles for the purposes of subsection (1)(d) above by or under the direction of authorised inspectors and the issue or refusal of certificates of initial fitness by such inspectors on any such examinations.”.
- (9) In section 20 of that Act (duty of PSV operator to give information about his public service vehicles to traffic commissioners who granted his licence)—
- (a) for the words " to the traffic commissioners who granted the licence " in both subsections (1) and (2) (which relate respectively to failure or damage affecting safety and to structural alterations of vehicles) there shall be substituted the words " in accordance with regulations made by virtue of subsection (2A) below "; and
 - (b) the following subsection shall be inserted after subsection (2)—

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“(2A) Regulations may make provision—

- (a) for any report or notice required under subsection (1) or (2) above to be made or given to the Secretary of State or to the prescribed testing authority;
- (b) for requiring a public service vehicle to be submitted for examination in the event of any such failure or damage as is mentioned in subsection (1) above or any such alteration as is mentioned in subsection (2) above; and
- (c) for the examinations to be carried out under the regulations and, in particular, for authorising any such examination to be carried out by or under the direction of a public service vehicle examiner or an authorised inspector.”.

(10) References in any regulations made under any enactment relating to any of the testing and surveillance functions before this section comes into operation to a certifying officer or a public service vehicle examiner (within the meaning of the 1981 Act) or to a goods vehicle examiner shall be read as including an authorised inspector authorised to exercise the function in question.

(11) Subject to the qualification mentioned below, regulations made under—

- (a) section 43, section 45 or section 50 of the 1972 Act; or
- (b) section 6(1A), 10(4) or 20(2A) of the 1981 Act;

may include provision for the purpose of securing that private-sector examinations are properly carried out in accordance with the regulations, including (but without prejudice to the generality of the preceding provision) provision for the supervision or review of private-sector examinations by persons authorised for the purpose by or under the regulations.

No person other than an officer of the Secretary of State may be authorised by or under regulations so made to supervise or review an examination carried out in the course of a vehicle testing business carried on by a person other than his own employer.

In this subsection "private-sector examination" means, in relation to an examination under regulations so made, an examination carried out by or under the direction of an authorised inspector.

(12) Without prejudice to any existing power of the Secretary of State to determine the premises at which examinations under section 43 or 45 of the 1972 Act may be carried out—

- (a) the Secretary of State may designate premises as stations where examinations of vehicles of any description subject to examination under either of those sections may be carried out; and
- (b) regulations under either of those sections may require or authorise examinations of vehicles of any description specified in the regulations to be carried out at premises for the time being designated under this section as premises at which examinations of vehicles of that description may be carried out.

11 Approval of public service vehicles as type vehicles by prescribed testing authority

- (1) In section 10 of the 1981 Act (approval of public service vehicle as a type vehicle and issue of certificates of conformity to type)—
 - (a) in subsections (1) and (2), after the words " the Secretary of State " there shall be inserted the words " or the prescribed testing authority ";
 - (b) in subsection (1), for the word "he" there shall be substituted the words " the Secretary of State or that authority ";
 - (c) in subsection (3), for the words from the beginning to " approval of a type vehicle " there shall be substituted the words " Approval of a type vehicle (whether given by the Secretary of State or the prescribed testing authority) may at any time be withdrawn by either of them ".
- (2) At the end of that section there shall be inserted the following subsection—
 - (4) Regulations may make provision with respect to—
 - (a) the examination of vehicles for the purposes of this section by or under the direction of authorised inspectors;
 - (b) the approval of vehicles as type vehicles by the prescribed testing authority on such examinations, or the withdrawal of such approval by that authority on such examinations ;
 - (c) the issue or refusal of certificates under subsection(2) above by authorised inspectors ; and
 - (d) the authorisation by the prescribed testing authority of persons to make declarations under subsection (2) above.”.

12 Inspections by authorised inspectors in connection with international conventions

- (1) The Secretary of State may by regulations make provision for the exercise by authorised inspectors, subject to the terms of their authorisations, of such functions in connection with the inspection and certification of vehicles under the TIR Convention and the ADR Convention as may be specified in the regulations.
- (2) The Secretary of State may designate premises as stations where inspections under the TIR Convention and the ADR Convention may be carried out.
- (3) Regulations under this section may provide for fees to be charged in connection with the inspection and certification by authorised inspectors of vehicles under the TIR Convention and the ADR Convention.
- (4) In this section—
 - "the TIR Convention" means the Customs Convention on the International Transport of Goods Under Cover of TIR Garnets (Geneva, 14th November 1975); and
 - " the ADR Convention " means the European Agreement Concerning the International Carriage of Dangerous Goods by Road (Geneva, 30th September 1957).

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13 Investment by the Secretary of State in Government controlled company interested in former Government testing stations

- (1) Subject to subsection (2) below, the Secretary of State may at any time, with the consent of the Treasury, incur expenditure for or in connection with—
 - (a) making loans to any company with a present or prospective interest in Government testing station assets on such terms and conditions as he may with the consent of the Treasury determine ; or
 - (b) acquiring shares in or other securities of any such company.
- (2) The company must be a company formed and registered under the Companies Act 1948 in which the Secretary of State holds a controlling interest.
- (3) The Secretary of State may not dispose of any shares or other securities acquired by virtue of this section without the consent of the Treasury.
- (4) The Secretary of State may, with the consent of the Treasury, remit in whole or in part the liability of any company in respect of loans made to the company by virtue of this section.
- (5) So long as the Secretary of State holds a controlling interest in any such company as is mentioned in subsection (1)(a) above—
 - (a) he shall, as soon as practicable after any annual accounts of that company are laid before the company in general meeting, lay copies of those accounts and of any documents annexed or attached to those accounts before each House of Parliament; and
 - (b) he shall secure that the Comptroller and Auditor General is accorded any facilities he may from time to time require for inspecting any accounts or accounting records of that company.
- (6) Any expenses incurred by the Secretary of State in consequence of the provisions of this section shall be paid out of money provided by Parliament.
- (7) Any sums received by the Secretary of State as interest on or in repayment of loans made to any company by virtue of this section or in right of, or on the disposal of, any shares or other securities acquired by virtue of this section shall be paid into the Consolidated Fund.
- (8) In this section " annual accounts " means, in relation to any company, accounts prepared in respect of any accounting reference period of the company under section 1 of the Companies Act 1976; and for the purposes of this section a company—
 - (a) shall be taken to have a present or prospective interest in Government testing station assets if it holds any estate or interest in or right over former testing station land or owns any former testing station property, or if the Secretary of State proposes to transfer or grant to the company any estate or interest in or right over testing station land or (as the case may be) to transfer to the company any testing station property ; and
 - (b) is one in which the Secretary of State holds a controlling interest if more than one-half of its voting shares are owned by the Secretary of State or by nominees on his behalf.
- (9) In subsection (8) above—
 - (a) in paragraph (a) " testing station land" means land held by the Secretary of State as or as part of a goods vehicle testing station provided by the Secretary of State under section 45(9) of the 1972 Act, and " testing station property "

means property owned by the Secretary of State for use at any such station ;
and

- (b) in paragraph (b) " voting shares " means shares in the company of a class carrying rights to vote in all circumstances at general meetings of the company.

14 Exclusion of security of tenure in case of premises used for vehicle testing business

- (1) Part II of the Landlord and Tenant Act 1954 (which gives security of tenure to business tenants) shall not apply to a tenancy granted by the Secretary of State in any case where the property comprised in the tenancy is or includes premises which, in accordance with any agreement relating to the tenancy (whether contained in the instrument creating the tenancy or not) are to be occupied for the purposes of a vehicle testing business.
- (2) No enactment or rule providing for relief against forfeiture in case of non-payment of rent or breach of any other covenant or condition shall apply to any such tenancy.
- (3) In this section " tenancy " has the same meaning as in the Landlord and Tenant Act 1954, and the reference in subsection (1) above to a tenancy granted by the Secretary of State shall be construed accordingly.

15 Consultation with representative bodies

- (1) Before taking any decision affecting any of the matters mentioned in subsection (2) below the Secretary of State shall consult with such organisations appearing to him to be representative of persons engaged in the road transport industry as he thinks fit.
- (2) The matters in question are—
- (a) the person or persons to whom it is appropriate for the Secretary of State or any company in which he holds a controlling interest (within the meaning of section 13 of this Act) to transfer or grant any estate or interest in or right over any testing station land or former testing station land, or to transfer any testing station property or former testing station property ;
 - (b) the terms on which any such transfer or grant is to be made;
 - (c) the conditions to be complied with by approved testing authorities (generally or in any particular case) and the variation or cancellation of any such conditions ;
 - (d) the arrangements to be made by the Secretary of State for ensuring the maintenance of proper standards with respect to any examinations carried out in the exercise in the course of an approved testing authority's business of any of the testing and surveillance functions ;
 - (e) the withdrawal of, or the imposition of any limitation on, the authorisation of an approved testing authority ;
 - (f) the designation of premises as testing stations and the withdrawal of any such designation ; and
 - (g) the fees to be charged in respect of examinations carried out in the exercise in the course of an approved testing authority's business of any of the testing and surveillance functions.

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- (3) In subsection (2) (a) above " testing station land " and " testing station property " have the meanings given by section 13(9)(a) of this Act.
- (4) Without prejudice to the generality of subsection (2)(c) above, the following in particular are subject to the consultation requirement under subsection (1) above, that is to say, any decisions with respect to the conditions of authorisation of any approved testing authority which relate to the number or situation of any designated testing stations the authority is to be required for the time being to operate.
- (5) The reference in subsection (2)(f) above to the designation of premises as testing stations is a reference to the designation of premises under section 10(12) or 12(2) of this Act.