



# 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.

*Miscellaneous and supplemental*

**16 Special provision with respect to periodical tests of certain public service vehicles**

In section 44 of the 1972 Act (obligatory test certificates for vehicles other than goods vehicles to which section 45 applies), after subsection (10) there shall be inserted the following subsection—

“(10A) The Secretary of State may by regulations make provision for the issue, in such circumstances as may be prescribed, of a certificate of temporary exemption in respect of a public service vehicle adapted to carry more than eight passengers, exempting that vehicle from the provisions of subsection (1) above for such period as may be specified in the certificate; and in relation to any public service vehicle so adapted—

- (a) subsections (9) and (10) above shall have effect with the substitution of the words " two months " for the words " one month " in each of those subsections ; and
- (b) subsection (10) above shall have effect with the substitution of the words " last two months " for the words " last month ".

In this subsection " public service vehicle " has the same meaning as in the Public Passenger Vehicles Act 1981.”.

**17 Determination of plated weights by prescribed testing authority for vehicles subject to type approval**

- (1) In section 47 of the 1972 Act (type approval)—
  - (a) in subsections (6), (7)(b) and (10)(a), after the words " the Secretary of State " there shall be inserted the words " or the prescribed testing authority "; and
  - (b) in subsection (6), for the word " he " there shall be substituted the words " the Secretary of State or that authority ".
- (2) The following section shall be substituted for section 49 of the 1972 Act (appeals)—

“**49 Appeals.**

- (1) A person aggrieved by a determination made on behalf of the Secretary of State with respect to a type approval certificate, a certificate of conformity or Minister's approval certificate under section 47 or 48 of this Act, including any

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determination with respect to design weights or plated weights, may appeal to the Secretary of State.

- (2) A person aggrieved by a determination made by the prescribed testing authority with respect to the plated weights for any goods vehicle may appeal to the Secretary of State.
- (3) Any appeal under this section must be made within the prescribed time and in the prescribed manner; and on any such appeal the Secretary of State shall have—
  - (a) in a case within subsection (1) above, the like powers and duties as he has on an original application for a type approval or Minister's approval certificate or in respect of the plated weights to be included in a certificate of conformity; and
  - (b) in a case within subsection (2) above, the like powers and duties as he would have had if the application in respect of the plated weights for the goods vehicle concerned had been made to him.
- (4) The Secretary of State may hold an inquiry in connection with any appeal under this section and may appoint an assessor for the purpose of assisting him with the appeal or any such inquiry.”.

- (3) In section 49A(2) of the 1972 Act (exclusion of application to vehicle parts of provisions relating solely to goods vehicles or design weights), the following shall be inserted after paragraph (b)—

“and

- (c) in section 49, subsection (2)”.

- (4) In section 50 of that Act (regulations for the purposes of sections 47 to 49A and supplementary provisions), the following subsection shall be inserted after subsection (D)—

“(1A) Without prejudice to the generality of subsection (1) above, regulations made under this section for the purposes of sections 47 to 49A of this Act may provide—

- (a) for the fees to be payable on any application for a determination by the prescribed testing authority of any plated weights for a goods vehicle; and
- (b) for the issue by the prescribed testing authority of plates for marking on goods vehicles any plated weights, whether determined by that authority or not (including in particular the issue of such plates on behalf of the Secretary of State for the purposes of section 47(8)) and for the fees to be payable to that authority for the issue of any such plates.”;

and in subsection (4)(a) of that section, for the words "subsection (1) above" there shall be substituted the words this section ”.

## **18 Alteration of plated weights for goods vehicles without examination**

The following section shall be inserted after section 51 of the 1972 Act—

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**“51A Alteration of plated weights for goods vehicles without examination.**

- (1) The Secretary of State may by regulations make provision—
  - (a) for the determination, in such circumstances as may be prescribed, of the plated weights (or any of the plated weights) for goods vehicles of any prescribed class otherwise than on an examination under regulations made under section 45 or 50 of this Act; and
  - (b) for the amendment of any approval certificate in force in respect of a vehicle of any such class so as to specify the weights determined for that vehicle under the regulations in place of any weights superseded by those weights or the cancellation of any such certificate and the issue in place of it of a different certificate specifying the weights so determined in place of any weights so superseded.
- (2) Any person aggrieved by a determination of plated weights for a goods vehicle under regulations made under this section may appeal to the Secretary of State and on the appeal the Secretary of State shall cause the vehicle to be examined by an officer of the Secretary of State appointed by him for the purpose and shall make such determination on the basis of the examination as he thinks fit.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section—
  - (a) may provide for the determination of any plated weights for a goods vehicle under the regulations to be made by the Secretary of State or by the prescribed testing authority;
  - (b) may contain the like provisions with respect to any appeal brought by virtue of subsection (2) above and any examination on any such appeal as may be contained in any regulations made by virtue of paragraphs (c), (g) and (h) of section 45(6) of this Act in relation to an appeal under subsection (3) of that section and any examination on any such appeal;
  - (c) may specify the manner in which, and the time before or within which, applications may be made for the determination of plated weights of vehicles under the regulations, and the information to be supplied and documents to be produced on any such application ;
  - (d) may make provision as to the fees to be paid on any such application ;
  - (e) may provide for the issue of replacements for any plates fixed to a vehicle specifying weights superseded by weights specified in an approval certificate amended under the regulations or in any certificate issued under the regulations in place of an approval certificate, and for the payment of a fee for their issue; and
  - (f) may make different provision for different cases.
- (4) In this section " approval certificate " means a plating certificate and any certificate of conformity or Minister's approval certificate specifying any plated weights.
- (5) Any certificate issued in respect of a goods vehicle under regulations made under this section in replacement of an approval certificate of any description mentioned in subsection (4) above—
  - (a) shall be in the form appropriate for an approval certificate of that description ;

- (b) shall be identical in content with the certificate it replaces, save for any alterations in the plated weights authorised by the regulations ; and
  - (c) shall be treated for the purposes of this Part of this Act (including this section) and any regulations made under any provision of this Part of this Act as if it were the same certificate as the certificate it replaces ;
- and any plate so issued in replacement of a plate fixed to the vehicle under section 47 of this Act shall, when fixed to the vehicle, be treated as so fixed under that section.”.

## **19 Prohibitions under section 57 of the 1972 Act**

- (1) In section 57(3) of the 1972 Act (immediate effect, in certain cases, of prohibition to drive unfit goods vehicle), for the words " will create an immediate risk to public safety " there shall be substituted the words " would involve danger to any person " .
- (2) A goods vehicle examiner (or an authorised inspector, if the terms of his authorisation so provide) shall have power to cancel a direction under section 57(4A) (direction making prohibition on driving a vehicle irremovable unless and until the vehicle has been inspected at an official testing station); and accordingly, at the end of subsection (6) of that section (variation of notice of prohibition) there shall be added the words " or cancel a direction under subsection (4A) above with which the prohibition was imposed " .
- (3) In section 57(9) the following paragraphs shall be substituted for paragraph (a) (offence to drive or cause or permit a goods vehicle to be driven in contravention of a prohibition)—
  - “(a) knowingly drives a goods vehicle on a road in contravention of a prohibition under this section ; or
  - (aa) subject to subsection (9A) below, causes or permits a goods vehicle to be driven on a road in contravention of such a prohibition ; or”;and the following subsection shall be inserted after that subsection—
  - “(9A) It shall be a defence for a person charged with an offence under subsection (9) (aa) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of any offence under that provision.”.

## **20 Substitution of new section for section 58 of the 1972 Act**

The following section shall be substituted for section 58 of the 1972 Act—

### **“58 Removal of prohibition of driving unfit goods vehicle.**

- (1) Subject to any subsisting direction under section 57(4A) of this Act, a prohibition under that section may be removed by any goods vehicle examiner or authorised inspector if he is satisfied that the vehicle is fit for service.
- (2) A person aggrieved by the refusal of a goods vehicle examiner or authorised inspector to remove a prohibition may, within the prescribed time, in the prescribed manner and on payment of the prescribed fee, appeal to the Secretary of State; and on any such appeal the Secretary of State shall cause an examination to be made by an officer of the Secretary of State appointed by

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him for the purpose and shall make such determination on the basis of the examination as he thinks fit.

- (3) Any determination made by the Secretary of State on an appeal under subsection (2) above shall be binding on the goods vehicle examiner or authorised inspector ; and if the Secretary of State allows the appeal he may repay the whole or part of the fee paid on the appeal.
- (4) Where a goods vehicle examiner or authorised inspector removes a prohibition, he shall forthwith give notice of the removal to the owner of the vehicle and, in the case of an authorised vehicle within the meaning of Part V of the Transport Act 1968, to the licensing authority by whom the operator's licence (within the meaning of Part V) was granted for the vehicle.
- (5) The Secretary of State may provide and maintain stations where inspections of goods vehicles for the purposes of this section may be carried out and may provide and maintain the apparatus for carrying out such examinations.
- (6) The Secretary of State may by regulations—
  - (a) prescribe anything which may be prescribed under subsection (2) above ;
  - (b) make provision for regulating the procedure on appeals to him under that subsection; and
  - (c) make provision as to the fees to be paid for inspection of vehicles brought to an official testing station for inspection with a view to removal of a prohibition.
- (7) Payment of a fee prescribed by regulations made by virtue of subsection (6)(c) above may be required (by the Secretary of State or other person to whom in accordance with the regulations it is payable) to be made in advance; and the Secretary of State shall ensure that the scales and rates of fees so prescribed are reasonably comparable with the fees charged under section 45(6) of this Act in respect of the periodic examination of goods vehicles.
- (8) Any removal of a prohibition shall be made by notice in writing.”.

## **21 Amendments with respect to appeals**

- (1) Any examination of a vehicle on an appeal to the Secretary of State under section 43(4) of the 1972 Act (appeal against refusal of test certificate) shall be carried out by an officer of the Secretary of State; and accordingly, in that subsection, after the word " made " there shall be inserted the words " by an officer of the Secretary of State appointed by him for the purpose ".
- (2) Any appeal from a determination made on an examination under regulations made under section 45 of the 1972 Act shall be made direct to the Secretary of State (instead of m the first place to an area mechanical engineer and from him to the Secretary of State); and accordingly—
  - (a) in subsection (3) of that section (appeal to area mechanical engineer), for the words following " may appeal there shall be substituted the words " to the Secretary of State and on the appeal the Secretary of State shall cause the vehicle to be re-examined by an officer of the Secretary of State appointed by him for the purpose and shall make such determination on the basis of the re-examination as he thinks fit " ; and

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- (b) subsection (4) of that section (further appeal to the Secretary of State) shall be omitted.
- (3) In section 9(8) of the 1981 Act (removal of prohibition on driving unfit public service vehicle and application for review by a certifying officer of a public service vehicle examiner's refusal to remove a prohibition) the words from " and a person aggrieved " to the end shall be omitted.
- (4) In section 50 of that Act (appeals to the Secretary of State)—
- (a) after subsection (5) there shall be inserted the following subsection—
- “(5A) A person aggrieved by the refusal of the prescribed testing authority to approve a vehicle as a type vehicle under section 10 of this Act or by the withdrawal by that authority under that section of such approval may appeal to the Secretary of State”;
- (b) after subsection (6) (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) there shall be inserted the following subsections—
- “(6A) A person aggrieved by the refusal of a certifying officer or public service vehicle examiner or by the refusal of an authorised inspector to remove a prohibition under section 9(1) of this Act may appeal to the Secretary of State.
- (6B) On any appeal under subsection (5A), (6) or (6A) above the Secretary of State shall cause an examination of the vehicle concerned to be made by an officer of the Secretary of State appointed by him for the purpose and shall make such determination on the basis of the examination as he thinks fit.”; and
- (c) in subsection (10) (directions of Secretary of State to give effect to his decision on an appeal), for the words from " traffic commissioners " to " certifying officer " (in both places) there shall be substituted the words " authority concerned " and, at the end of that subsection, there shall be inserted the words—
- “In this subsection, " authority concerned" means the traffic commissioners, prescribed testing authority, certifying officer, public service vehicle examiner or authorised inspector, as the case may be”.
- (5) In section 60 of the 1981 Act (general power to make regulations for the purposes of the Act), the following paragraph shall be substituted for paragraph (e) of subsection (1)—
- “(e) the fees to be payable under this Act, the persons liable to pay the same, and the repayment, in such circumstances as may be prescribed, of fees so payable on appeal to the Secretary of State ;”.

## **22 Fees on notification of alterations notifiable under section 45 or 48 of the 1972 Act**

- (1) The following paragraph shall be inserted after paragraph (a) of section 45(6) of the 1972 Act (specific matters with which regulations under that section may deal)—

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- “(aa) require the payment of a fee on any notification of any alteration to a vehicle or its equipment which is required by the regulations to be notified to the Secretary of State or the prescribed testing authority;”.
- (2) For paragraph (d) of section 50(1) of that Act (power to make provision in relation to examinations, etc., following the notification of alterations notifiable under section 48 of that Act corresponding to provision authorised under certain paragraphs of section 45(6)) there shall be substituted the following paragraph—
- “(d) may contain the like provisions with respect to any notification of any such alteration as is mentioned in paragraph (a) above, with respect to any examination of any vehicle in pursuance of regulations made by virtue of that paragraph and with respect to any appeal brought by virtue of paragraph (c) above as may be contained in regulations made by virtue of paragraphs (aa), (b), (c), (g) and (h) of section 45(6) of this Act in relation to the notifications, examinations and appeals there mentioned;”.

### **23 Forgery and misuse of documents etc.**

- (1) A person who, with intent to deceive—
- (a) uses or lends to, or allows to be used by, any other person, a document evidencing the authorisation of a person as an authorised inspector ; or
  - (b) makes or has in his possession any document so closely resembling a document evidencing such an authorisation as to be calculated to deceive ; or
  - (c) in Scotland, forges or alters a document evidencing such an authorisation;
- shall be liable—
- (i) on conviction on indictment, to imprisonment for a term not exceeding two years ;
  - (ii) on summary conviction, to a fine not exceeding the statutory maximum.
- (2) In subsection (1) above, " statutory maximum "—
- (a) as respects England and Wales, means the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (at the passing of this Act £1,000); and
  - (b) as respects Scotland, means the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (at the passing of this Act £1,000).
- (3) In section 169 of the 1972 Act (forgery of documents etc.), in subsection (2) the following paragraph shall be inserted after paragraph (c)—
- “(cc) any notice removing a prohibition under section 57 of this Act;”.
- (4) In section 65 of the 1981 Act (forgery of documents etc.), in subsection (1) the following paragraph shall be inserted after paragraph (b)—
- “(bb) a notice removing a prohibition under section 9 of this Act;”.

### **24 Falsification of documents**

- (1) The following section shall be substituted for section 171 of the 1972 Act (issue of false documents)—



**“171 Falsification of documents.**

- (1) A person shall be guilty of an offence who issues—
- (a) any such document as is referred to in paragraph (a) or (b) of section 170(6) of this Act;
  - (b) a test certificate, plating certificate, goods vehicle test certificate or certificate of conformity ;
  - (c) a certificate of temporary exemption under regulations made under section 44(10A) or 46(5)(b) of this Act; or
  - (d) a notice removing a prohibition under section 57 of this Act;
- if the document or certificate so issued is to his knowledge false in a material particular.
- (2) A person who amends a certificate of conformity shall be guilty of an offence if the certificate as amended is to his knowledge false in a material particular.
- (3) Expressions used in subsections (1)(b) and (2) above have the same meanings as they respectively have for the purposes of Part II of this Act.”.

- (2) In section 173(2) of that Act (seizure of documents etc. suspected of being false)—
- (a) for the words from " a certifying officer " to " this Act " there shall be substituted the words " a certifying officer or a public service vehicle examiner appointed under the Public Passenger Vehicles Act 1981, an examiner appointed under section 56 of this Act or an authorised inspector under section 8 of the Transport Act 1982 " .; and
  - (b) in paragraph (b), after the words " plating certificates " there shall be inserted the words " notices removing prohibitions under section 57 of this Act ".
- (3) In Part I of Schedule 4 to the 1972 Act (prosecution and punishment of offences)—
- (a) in column one of the entry relating to section 171, for " 171 " there shall be substituted " 171(1) "; and
  - (b) after that entry there shall be inserted the following entry—

“171(2)	Falsely amending certificate of conformity	Summarily	£500.	—	—	Section 180 applies.”.
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- (4) The following section shall be inserted after section 66 of the 1981 Act—

**“66A Issue of false documents.**

- (1) If a person issues—
- (a) a certificate of initial fitness under section 6 of this Act; or
  - (b) a notice removing a prohibition under section 9(1) of this Act;
- which he knows to be false in a material particular, he shall be liable on summary conviction to a fine not exceeding £500.
- (2) If a constable, a certifying officer, a public service vehicle examiner or an authorised inspector has reasonable cause to believe that a document produced

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to him or carried on a vehicle by its driver is a document in relation to which an offence has been committed under this section, he may seize the document.

(3) The power to seize a document under subsection (2) above includes power to detach a document carried on a vehicle from the vehicle.”.

## **25 Impersonation of authorised inspector**

A person who, with intent to deceive, falsely represents himself to be an authorised inspector shall be liable on summary conviction to a fine not exceeding £200.

## **26 Interpretation of Part II**

In this Part of this Act—

    " the 1981 Act" means the Public Passenger Vehicles Act 1981;

    " approved testing authority " and " authorised inspector " have the meanings respectively given by section 8(3) and (4) of this Act;

    " business " includes any activity carried on by a body of persons, whether corporate or unincorporate ;

    " goods vehicle " has the meaning given by section 196 of the 1972 Act;

    " goods vehicle examiner " has the meaning given by section 56(1) of the 1972 Act; and

    " vehicle testing business " has the meaning given by section 8(1) of this Act;

and references to the testing and surveillance functions are references to the functions specified in section 9 of this Act.