STATUTORY INSTRUMENTS

2009 No. 443

PUBLIC PASSENGER TRANSPORT, ENGLAND AND WALES

The Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009

Made - - - -	*28th February 2009*
Laid before Parliament	*6th March 2009*
Coming into force - -	*6th April 2009*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 6(9)(b) and (c) and 6A(3)(b) and (11) of the Transport Act 1985(**1**) and section 5(1) of the Public Passenger Vehicles Act 1981(**2**).

Representative organisations have been consulted by the Secretary of State in accordance with section 61(2) of the Public Passenger Vehicles Act 1981(**3**).

The Secretary of State has consulted the Administrative Justice and Tribunals Council in accordance with paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(**4**).

Citation, commencement and extent

1.—(1) These Regulations may be cited as The Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009 and come into force on 6th April 2009.

(2) These Regulations extend to England and Wales(**5**).

(**1**) 1985 c. 67. Under section 137 of this Act, "regulations" means regulations made by the Secretary of State. Section 6(2A) was inserted by section 48(1) and (2) of the Local Transport Act 2008 (c. 26). There are other amendments to section 6 but none is relevant. Section 6A was inserted by section 48(1) and (3) of the Local Transport Act 2008.

(**2**) 1981 c. 14. Section 5(1) was substituted by the Transport Act 1985, section 3(2).

(**3**) Section 134 of the Transport Act 1985 provides that section 60 of the Public Passenger Vehicles Act 1981 (general power to make regulations for purposes of Act) has effect as if Parts 1 and 2 of the Transport Act 1985 were contained in the Public Passenger Vehicles Act 1981. The requirements in sections 60 and 61 of the Public Passenger Vehicles Act 1981 apply therefore to the making of these Regulations. Section 61 was amended by the Transport Act 1985, sections 135(1) and 139(3) and Schedule 8.

(**4**) 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 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).

(**5**) The power to make regulations under the powers in section 6 of the Transport Act 1985 has been devolved in relation to Scotland, under section 53 of the Scotland Act 1998. Section 6A of the Transport Act 1985 extends only to England and Wales.

[DfT 00188]

Interpretation

2.—(1) In these Regulations—

"the 1985 Act" means the Transport Act 1985;

"decision" means the decision of a traffic commissioner under subsection (5) of section 6A of the 1985 Act (applications for registration etc. where restrictions are in force);

"notice" means, except in regulation 6 and paragraph (1) of the Schedule, the notice given by the traffic commissioner to relevant authorities and relevant operators under subsection (2) of section 6A of the 1985 Act.

(2) Except in regulation 6, any period of days prescribed in these Regulations is to be calculated excluding any day which is Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(**6**).

Procedure for giving notice

3.—(1) Subject to paragraph (3), a notice must be given in writing as soon as reasonably practicable after the date of receipt of the relevant application(**7**), and in any event no more than 14 days after that date.

(2) For the purposes of section 6A(3)(b) of the 1985 Act(**8**), a notice must include all of the following—

(a) a copy of the relevant application to which the notice relates;

(b) information about the procedure prescribed in regulation 4 for relevant authorities and relevant operators to make relevant representations to the traffic commissioner;

(c) the address to which relevant representations should be sent;

(d) where the service of relevant representations in electronic format is accepted, the fax number, e-mail address or other electronic address to which relevant representations may be sent;

(e) the date by which relevant representations must be made, which must be not less than 21 days after the date of the notice; and

(f) a list of the relevant authorities and relevant operators to whom the notice has been sent.

(3) Paragraph (1) does not apply if a relevant application does not contain all of the particulars prescribed for the purposes of section 6(2)(a) of the 1985 Act(**9**) which are applicable to the application.

Procedure for making relevant representations

4.—(1) Relevant representations must—

(a) be made in writing;

(b) be served on the traffic commissioner who gave the notice no later than the date specified in accordance with regulation 3(2)(e); and

(**6**) 1971 c. 80.

(**7**) The terms "relevant application", "relevant authority", "relevant operator" and "relevant representations" are defined in section 6A(12) of the Transport Act 1985, as inserted by section 48(3) of the Local Transport Act 2008.

(**8**) For the purposes of section 6A of the 1985 Act, section 137 of that Act provides that "prescribed" means prescribed by regulations.

(**9**) The particulars are prescribed by regulation 4 of and the Schedule to the Public Service Vehicles (Registration of Local Services) Regulations 1986 (S.I. 1986/1671, amended by S.I. 2004/10, regulations 2 and 5). There are other amendments which are not relevant to these Regulations.

(c) state the reasons why the relevant authority or, as the case may be, the relevant operator believes that the effect of accepting the relevant application would be detrimental to the provision of local services under the quality partnership scheme.

(2) Relevant representations may, where the notice includes any of the information described in regulation 3(2)(d), be served by fax or electronic communication.

(3) The relevant authority or, as the case may be, the relevant operator must, at the same time as they submit relevant representations to the traffic commissioner, send a copy of those representations to—

(a) the person who made the relevant application; and

(b) the persons listed in the notice in accordance with regulation 3(2)(f).

(4) Where a relevant authority or, as the case may be, a relevant operator submits relevant representations after the date stipulated in the notice in accordance with regulation 3(2)(e), but before the traffic commissioner has made a decision in respect of the relevant application to which the relevant representations relate, the traffic commissioner may take those representations into account if satisfied that—

(a) there is an acceptable reason for the delay in submitting the representations; and

(b) taking the representations into account will not delay the making of the decision.

Procedure to be followed in determining the application

5.—(1) Where relevant representations are made to the traffic commissioner, the traffic commissioner must notify the parties described in paragraph (2) in writing, within the periods described in paragraph (3), of the decision as to whether the relevant application is to be accepted.

(2) The parties are—

(a) the person who made the relevant application;

(b) any relevant authority who made relevant representations against the application; and

(c) any relevant operator who made relevant representations against the application.

(3) The periods are—

(a) within 21 days beginning with the date stipulated in the notice in accordance with regulation 3(2)(e); or

(b) where the traffic commissioner holds an inquiry under section 54 of the Public Passenger Vehicles Act 1981(**10**) (inquiries held by traffic commissioners) in respect of a relevant application, within 14 days beginning with the date of the conclusion of the inquiry.

(4) Where the decision is to accept the relevant application, the notification referred to in paragraph (1) must specify the date, determined in accordance with regulation 6, on which the registration or, as the case may be, variation or cancellation of an existing registration, will take effect.

(5) Where the traffic commissioner considers it to be necessary in order for a particular case to be dealt with fairly and justly, the traffic commissioner may, in accordance with paragraph (6), extend either of the periods prescribed in paragraph (3).

(6) A period may be extended by virtue of paragraph (5) only for such period as the traffic commissioner considers appropriate in the circumstances of the case.

(**10**) Section 54 was substituted by the Transport Act 1985, section 4.

Period of notice for purposes of section 6 of the 1985 Act

6.—(1) Where a relevant application is accepted by the traffic commissioner, the period of notice referred to in section 6(2)(b) or, as the case may be, the date described in section 6(8)(a) of the 1985 Act is such period or date as the traffic commissioner may determine in accordance with this regulation.

(2) Unless the traffic commissioner decides that a shorter period should apply in accordance with paragraph (4), the date on which the period of notice expires must not be earlier than the later of the dates referred to in paragraph (3).

(3) The dates are—

(a) 28 days after the date on which the traffic commissioner notified the applicant of the decision in accordance with regulation 5(1); and

(b) the date cited in the relevant application as the date on which the applicant proposes to start to provide the new service or, as the case may be, to bring into effect the variation or cancellation of the registration of the service.

(4) The traffic commissioner may provide for the period of notice referred to in section 6(2)(b) or, as the case may be, section 6(8)(a) of the 1985 Act to be shorter than 28 days where the traffic commissioner considers that—

(a) due to exceptional circumstances, a shorter period would be appropriate; and

(b) it is reasonable to expect the operator to implement the new or, as the case may be, the revised particulars of the service within the shorter period.

(5) Where an application is made under section 6(7) of the 1985 Act to vary a registration to which registration restrictions imposed under section 114(3A) of the Transport Act 2000 have effect(**11**), and that application is made in either of the cases described in paragraph (6), section 6(8) of the 1985 Act is modified to exclude the requirement of the expiry of a period.

(6) The cases are—

(a) where the registration is varied only to enable the operator of the service to comply with a traffic regulation condition or any other provision made by or under an enactment prohibiting or restricting the use of any road by vehicular traffic; or

(b) where the registration is varied only in respect of a change in the operator's address.

Consequential amendments

7. The amendments in the Schedule have effect.

Signed by authority of the
Secretary of State

Paul Clark
Parliamentary Under Secretary of State
Department for Transport

28th February 2009

(**11**) 2000 c. 38. Section 114(3A) was inserted by section 13(4) of the Local Transport Act 2008.

SCHEDULE

Regulation 7

CONSEQUENTIAL AMENDMENTS

Amendments to the Public Service Vehicles (Traffic Commissioners: Publication and Inquiries) Regulations 1986

1.—(1) The Public Service Vehicles (Traffic Commissioners: Publication and Inquiries) Regulations 1986(**12**) are amended as follows.

(2) In regulation 3, after paragraph (1)(b) insert—

"(c) in respect of an application in England or Wales for registration of a local service under section 6 of the 1985 Act, or for variation or cancellation of such a registration, to which registration restrictions imposed under section 114(3A) of the Transport Act 2000(**13**) (quality partnership schemes) apply, a notice containing—

(i) an indication that the application is one to which registration restrictions apply; and

(ii) once decided, the outcome of the application;".

Amendments to the Public Service Vehicles (Registration of Local Services) Regulations 1986

2.—(1) The Public Service Vehicles (Registration of Local Services) Regulations 1986(**14**) are amended as follows.

(2) In regulation 5(1), after "Subject to regulations 7 and 8" insert "of these Regulations, and to regulation 6 of the Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009(**15**)".

(3) In regulation 5(2), after "Subject to regulations 7 and 8" insert "of these Regulations, and to regulation 6 of the Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the procedure to be followed where an application is received under section 6 of the Transport Act 1985 (registration of local services) in respect of local services in an area where a quality partnership scheme, containing registration restrictions, has been made.

A quality partnership scheme, made under section 114 of the Transport Act 2000, is a scheme whereby the local transport authority or authorities who make the scheme provide certain facilities,

(**12**) S.I. 1986/1629. These Regulations extend to Scotland, but the insertion made by this paragraph extends only to England and Wales because that is the extent of the application of section 114(3A) of the Transport Act 2000. There are amending instruments but none is relevant.

(**13**) 2000 c. 38.

(**14**) S.I. 1986/1671. These Regulations have been revoked in relation to Scotland by regulation 3 of and Schedule 2 to the Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001 (SSI 2001/219). Regulation 5 was amended by S.I. 2004/10, regulations 2 and 6. There are other amending instruments but none is relevant.

(**15**) S.I. 2009/443.

for example bus lanes, and operators of local services wishing to use those facilities must undertake to provide services to the particular standard specified in the scheme. Amendments to the Transport Act 2000 made by the Local Transport Act 2008 provide that such standards may include requirements as to frequencies, timings and maximum fares, as well as, for example, vehicle standards and standards of customer care.

Amendments made by the Local Transport Act 2008 also empower local transport authorities, as part of a quality partnership scheme, to impose restrictions on the registration of local services within the area of a scheme. The authority may impose such restrictions where thought necessary to prevent the registration of new services, or the variation or cancellation of existing ones, where such changes might be detrimental to services provided under the scheme.

The Local Transport Act 2008 inserted new provisions into the Transport Act 1985 to specify the process for dealing with applications for registration etc. where registration restrictions are in force. In those circumstances the traffic commissioner must, on receipt of a relevant application, consult relevant local authorities and operators. Where no representations are made against the application, it must be accepted. Where representations are received, the traffic commissioner must decide whether it would be detrimental to the provision of local services under the scheme to accept the application, taking into account those representations, the registration criteria (which must be specified in the scheme) and any other relevant applications. Where the traffic commissioner decides that the effect of the application would be detrimental, it must be refused.

These Regulations prescribe additional details of the procedure to be followed where applications are made to which registration restrictions apply.

Regulation 3 prescribes the procedure to be followed by the traffic commissioner on receipt of a relevant application.

Regulation 4 prescribes the procedure to be followed by any relevant authority or operator wishing to make relevant representations about the application.

Regulation 5 specifies the procedure to be followed by the traffic commissioner in making a decision, including the period within which the traffic commissioner must notify the parties of the decision.

Regulation 6 provides that, where the traffic commissioner decides to accept a relevant application, it is for the traffic commissioner to determine the period of notice between the acceptance of the application and the date from which either the service is to be provided, or the existing registration varied or cancelled. This applies instead of the periods prescribed for those purposes in the Public Service Vehicles (Registration of Local Services) Regulations 1986 (S.I. 1986/1671).

Regulation 7 introduces the Schedule, which makes consequential amendments to the Public Service Vehicles (Traffic Commissioners: Publication and Inquiries) Regulations 1986 (S.I. 1986/1629) and the Public Service Vehicles (Registration of Local Services) Regulations 1986 (S.I. 1986/1671).

An impact assessment has been prepared and copies can be obtained from the Department for Transport, Great Minster House, 76 Marsham Street, London, SW1P 4DR. 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).