

Summary: Intervention & Options

Department /Agency: Department for Transport	Title: Impact Assessment of The Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009	
Stage: Implementation	Version: Final	Date: 6 April 2009
Related Publications: Local Transport Act 2008		

Available to view or download at:

<http://www.opsi.gov.uk> (with the Explanatory Memorandum accompanying the Regulations)

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What is the problem under consideration? Why is government intervention necessary?

The Government has identified a need to take action to empower local authorities to secure improvements in the quality of local bus services, to deliver benefits to passengers and provide more people with a realistic alternative to the private car. The Local Transport Act 2008 contains various measures designed to achieve this end. Sections 13 to 18 and 48 amend existing legislation about quality partnership schemes ("QPSs"), with a view to increasing the benefits that can be achieved through such schemes. These provisions need to be supplemented by secondary legislation.

What are the policy objectives and the intended effects?

Provisions in the Act allow a QPS to include "registration restrictions" (RRs), with a view to reducing the risk of a QPS being undermined by disruptive competition from bus operators who choose not to participate in the scheme. In some areas, passengers have complained of excessively frequent and poorly-advertised changes to timetables, and RRs could also be used to help reduce such instability of service provision.

Without the ability to include RRs, the sustainability of QPSs could in some circumstances be put in jeopardy.

What policy options have been considered? Please justify any preferred option.

The Act contains the main provisions about RRs, but Regulations are also needed to give full effect to those provisions. Accordingly, the Government does not consider there to be a viable "do nothing" or "non-regulatory" option. The key options, then, are around the detailed procedures and timings that are set out in the draft Regulations. The approach taken in the Regulations, and described in the Evidence Base, is judged to provide for a workable process, while avoiding unnecessary administrative cost.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? As part of wider post-legislative scrutiny of the Local Transport Act 2008, in accordance with "Post-Legislative Scrutiny - The Government's Approach" (March 2008, Cm 7320).

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option:	Description: Make regulations to give full effect to relevant provisions in the Local Transport Act 2008
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' Although this assessment does not monetise the costs and benefits arising specifically from the Regulations, the impact assessment published alongside the Local Transport Bill included estimates of costs and benefits that might arise from the implementation of a typical quality partnership scheme.			
	One-off (Transition) Yrs		£ none monetised		
	Average Annual Cost (excluding one-off)		£ none monetised		
			Total Cost (PV)	£ none monetised	
Other key non-monetised costs by 'main affected groups' Costs to operators include reduced commercial flexibility where registration restrictions are in place. Costs to operators and local authorities include the cost of making relevant representations. Costs to the traffic commissioners include costs of determining whether a particular application would be detrimental to the					

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' See under 'costs' above. The impact assessment mentioned above suggested that an illustrative scheme might deliver present value benefits of £86 million, against present value costs of £30 million.			
	One-off Yrs		£ none monetised		
	Average Annual Benefit (excluding one-off)		£ none monetised		
			Total Benefit (PV)	£ none monetised	
Other key non-monetised benefits by 'main affected groups' RRs are intended to reduce the risk that operators investing in higher standards as part of a QPS do not find their position undermined by predatory competition. Reducing that risk increases the likelihood that operators will be willing partners in a QPS - and hence that the QPS can yield benefits for passengers.					

Key Assumptions/Sensitivities/Risks The extent of any costs will depend on the number of authorities choosing to make QPSs that include RRs, and on the nature of any such restrictions.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ n/a	NET BENEFIT (NPV Best estimate) £ n/a
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What is the geographic coverage of the policy/option?	England and Wales				
On what date will the policy be implemented?	6 th April 2009				
Which organisation(s) will enforce the policy?	Traffic commissioners				
What is the total annual cost of enforcement for these organisations?	£ negligible				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	N/A				
What is the value of the proposed offsetting measure per year?	£ n/a				
What is the value of changes in greenhouse gas emissions?	£ n/a				
Will the proposal have a significant impact on competition?	Yes				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border: none;"> <tr> <td style="width: 25%; text-align: center;">Micro n/a</td> <td style="width: 25%; text-align: center;">Small n/a</td> <td style="width: 25%; text-align: center;">Medium n/a</td> <td style="width: 25%; text-align: center;">Large n/a</td> </tr> </table>	Micro n/a	Small n/a	Medium n/a	Large n/a
Micro n/a	Small n/a	Medium n/a	Large n/a		
Are any of these organisations exempt?	<table style="width: 100%; border: none;"> <tr> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	No	No	N/A	N/A
No	No	N/A	N/A		

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of	£ n/a	Net Impact £ n/a
Decrease of	£ n/a	

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background and prior consultation

1. The Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009 (“the Regulations”) are necessary to support the implementation of provisions about quality partnership schemes (QPSs) in the Local Transport Act 2008 (“the 2008 Act”). A QPS is a scheme whereby the local transport authority undertakes to provide certain facilities (e.g. bus lanes, improvements to bus stations and bus shelters), and bus operators wishing to use those facilities must undertake to provide services to the standard specified in the scheme (which might include requirements about the quality or features of vehicles to be used). Among other things, provisions in the 2008 Act will enable QPSs to include “registration restrictions” (RRs), and accompanying “registration criteria” (RCs). These may be important to provide the necessary reassurance for local authorities to commit to major investment in bus priority measures or other new bus facilities, and for operators investing in new vehicles or other service enhancements. It would be for the local authority, having consulted with operators and other interested parties, to consider whether it might be appropriate to include RRs and RCs in a particular scheme.
2. The intention of these RRs and RCs is to provide a mechanism for local authorities to reduce the risk of a QPS being undermined by disruptive, inefficient or predatory competition, while not preventing healthy competition or the entry of new operators where this would not be detrimental to the working of the scheme. The threat of this kind of disruptive competition was identified in consultations prior to the introduction of the Local Transport Bill to Parliament as a significant barrier to QPSs going ahead. This is because an operator is much less likely to be a willing participant, and hence to invest in improving the standard of their services, if there is a serious risk of their market share being eroded by predatory competition or disruptive cherry-picking of services. Bus operators had raised concerns that RRs could be used to prevent operators reducing or withdrawing services for legitimate commercial reasons, and these will be addressed in statutory guidance which makes clear the manner in which RRs are expected to be used.
3. Where an operator applies to register a new bus service, or to vary or cancel an existing service registration, and there is a relevant RR in place, then the traffic commissioner has to consider whether accepting the application would be detrimental to the provision of services under the QPS. Relevant operators and relevant authorities would have the opportunity to make “relevant representations” if they considered that accepting such an application would be detrimental to the provision of services under the QPS. The application would be accepted if, and only if, the traffic commissioner decides that it would not be detrimental.
4. Although much of the necessary provision is included in section 6A of the Transport Act 1985, as inserted by section 48 of the 2008 Act, detailed procedural matters were left to secondary legislation. In December 2007, the Government published draft guidance, setting out an initial statement of its intentions as to how the proposals for RRs and RCs might work. A revised version of the draft guidance was published in April 2008 to inform Parliamentary debate on the Bill. Comments were received from local authorities and bus operators, and their views have been taken into account in the preparation of draft Regulations and accompanying guidance which was the subject of a public consultation between July and October 2008.

5. The Regulations will apply in England and Wales, but are of no practical effect in London (where bus services are operated under contract to Transport for London). This is consistent with the devolution arrangements in Wales, because functions relating to the registration of local bus services have not been transferred from the Secretary of State to the Welsh Ministers. The provisions in the 2008 Act about QPSs do not extend to Scotland or Northern Ireland.

Options considered

6. The provisions about QPSs in the 2008 Act cannot meaningfully be brought into force without Regulations setting out the procedures to be followed where an RR is in place and a relevant application is made to the traffic commissioner. Accordingly, the Government does not consider that there is a viable “do nothing” or “non-regulatory” option: without Regulations, it would not be possible to give full effect to the QPS provisions in the 2008 Act and hence to achieve any of the intended benefits of those provisions.
7. In preparing these Regulations, the focus has therefore been on how to minimise the regulatory costs associated with the “registration restriction” process, while also ensuring that the process is fair and transparent.
8. The Regulations set out:
 - the procedure to be followed by the traffic commissioner when giving notice to relevant authorities and relevant operators that a relevant application has been made;
 - the procedure to be followed by relevant authorities and relevant operators when making relevant representations to the traffic commissioner;
 - the procedure to be followed by the traffic commissioner in determining the application and giving notice of the decision; and
 - some constraints on when the registration (or variation or cancellation) may come into effect once the traffic commissioner has decided to accept it.
9. The main alternative options would be to specify different procedural requirements, and/or different timings for each stage of the process. The provisions set out in the Regulations are intended to give all parties an adequate opportunity to make representations, and to ensure the process is open and transparent, while keeping costs and timescales to a minimum. The Regulations were amended in the light of the consultation in response to points raised about some of the timescales originally proposed: certain time limits are increased by one week, and provision is made for extension of some time limits by the traffic commissioner if (s)he thinks it necessary in order for the case to be dealt with justly and fairly.

Benefits and costs

10. Benefits and costs would arise from these Regulations only where a local transport authority had made a QPS that included registration restrictions.
11. The principal benefit of the provisions in these Regulations is that they enable the provisions in the Act about “registration restrictions” to be brought into force. Where restrictions are in place, operators participating in the QPS should benefit from greater certainty of the future financial returns that will arise from their investment in higher standards of service. This greater certainty should help to support the development of more QPSs, which in turn will deliver benefits to bus passengers and provide a more attractive public transport alternative to the private car. RRs would also result in benefits to passengers where they lead to greater stability of service provision.
12. Costs resulting specifically from the procedural requirements set out in these Regulations are likely to be small relative to the overall costs and benefits of successful QPSs, but include:

- costs to the traffic commissioner of preparing and giving the notice in the form set out in regulation 3;
 - costs to those making “relevant representations”, including the cost of copying those representations to other interested parties;
 - costs to the traffic commissioner of reaching a decision and informing interested parties of that decision; and
 - costs involved in the holding of an inquiry (if the traffic commissioner determines that one is necessary).
13. In each case, the Regulations have been drafted with a view to minimising the administrative costs involved, while also ensuring that the process is open and transparent. Timescales are set out for each stage of the process, with a view to minimising the scope for an unnecessarily protracted (and hence costly) process. Efforts have also been made to build in a degree of flexibility, for example to allow the traffic commissioner to take late representations into account where this will not delay the overall process.
 14. Regulation 6 also provides flexibility for the traffic commissioner to determine a suitable date for any registration (or variation or cancellation) to come into force once a decision has been made. Certain minimum requirements are laid down to help ensure that any start date is “reasonable” from the operator’s perspective.
 15. There are other costs that may result from RRs, though these stem from the primary legislation rather than these Regulations. Those costs include reduced flexibility for incumbent bus operators where restrictions are in force. Depending on the nature of the restrictions, they could reduce the freedom of operators to vary or cancel existing service registrations (e.g. by increasing the period of advance notice that is to be given). Similarly, RRs may reduce the flexibility for new entry into the market in the area to which the restrictions relate. However, where they are included in a scheme, these restrictions are likely to be important in ensuring the stability of the QPS and providing reassurance to local authorities who are investing in bus priority measures and other new bus facilities, and to operators who are investing in new vehicles and other improvements. Moreover, any scheme will have to satisfy the competition test mentioned below, under which any adverse impact on competition must be proportionate to the benefits – providing an important safeguard.

Competition assessment

16. RRs could have a specific effect on competition as they could in effect prevent the registration of new services in certain circumstances, and/or constrain the flexibility of operators participating in the scheme to vary or cancel existing registrations.
17. Statutory guidance to local authorities will take this into account, emphasising that RRs are intended to be used specifically as a mechanism to restrict detrimental competition – while avoiding constraints on competition where that would be in the interests of passengers. The design of any restrictions, and accompanying criteria, will clearly be important in this respect, as will the traffic commissioner’s role in deciding whether a particular application would be detrimental.
18. In designing any restrictions and criteria, local authorities will need to be satisfied that any adverse effect on competition resulting from the making of a QPS is, or is likely to be, proportionate to the achievement of the intended benefits of the scheme. The impact of any RRs and RCs will need to be taken into account by the local authority in satisfying itself that this condition is met. The arrangements for allowing entry by new bus operators into a QPS will be important.

19. The Government considers that this competition test, which is contained in Part 1 of Schedule 10 to the Transport Act 2000, provides an adequate safeguard to ensure that any adverse impact on competition is justified. The Office of Fair Trading has powers to investigate and take action where it considers that the making of a quality partnership scheme is not consistent with the competition test.

Impact on small firms

20. The opportunity to register services in areas where RRs and RCs are in force, and the associated procedures, would apply equally to all bus operators in the area, regardless of size or other characteristics. On the assumption that smaller operators have fewer registered services, the expectation is that smaller operators will incur any such costs less frequently than their larger counterparts. Accordingly, the provisions in these Regulations are not expected to have a disproportionate impact on small operators compared to larger ones. In view of the need for fairness, openness and transparency, it would not be appropriate to apply different requirements for smaller operators.

Other impacts

21. Successful QPSs could have significant beneficial impacts other than those discussed in this impact assessment. By delivering better bus services and providing a more realistic alternative to the private car, they could deliver significant environmental benefits. They could also support government objectives for race, disability and gender equality, by promoting better access to essential goods and services, education and employment for disadvantaged social groups. Ethnic minority groups, disabled people, women and low-income households tend, on average, to have lower rates of car ownership and to use public transport more than other social groups. Improvements to local bus services are therefore likely to be of particular benefit to those groups.
22. However, these benefits arise from the provisions in the Act generally, and not specifically from the content of these Regulations. The impact assessment accompanying that legislation contains further analysis of the various impacts that are likely to arise from measures to improve local bus services. That analysis is not repeated here.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No