

## SCHEDULES

### SCHEDULE 4

Section 52.

#### AMENDMENTS OF TRANSPORT ACT 1968 RELATING TO OPERATORS' LICENCES

##### PART I

##### PROVISIONS INSERTED AFTER SECTION 69 OF TRANSPORT ACT 1968

##### *Control of operating centres for goods vehicles on environmental grounds*

##### **“69A Operating centres for authorised vehicles to be specified in operators' licences.**

- (1) A person may not use a place in the area of any licensing authority as an operating centre for authorised vehicles under any operator's licence granted to him by that authority unless it is specified in that licence.
- (2) A person applying for an operator's licence shall give to the licensing authority a statement giving such particulars as the authority may require of each place in the area of the authority which will be an operating centre of the applicant if the licence is granted.
- (3) Without prejudice to section 62(4) of this Act, a person applying for an operator's licence shall also, if he is required by the licensing authority so to do, give to him such particulars as he may require with respect to the use which the applicant proposes to make, for authorised vehicles under the licence, of any place referred to in the statement under subsection (2) of this section.
- (4) Any person who contravenes subsection (1) of this section shall be liable on summary conviction to a fine not exceeding £500.

##### **69B Objection to, and refusal or modification of, applications for operators' licences on environmental grounds.**

- (1) Any person entitled by virtue of section 63(3) of this Act to object to the grant of any application for an operator's licence on the ground there mentioned may also object to the grant of any such application on the ground that any place which, if the licence is granted, will be an operating centre of the holder of the licence is unsuitable on environmental grounds for use as such.
- (2) In the case of any such application, any person who is the owner or occupier of land in the vicinity of any place which, if the licence is granted, will be an operating centre of the holder of the licence may make representations against the grant of the application on the ground that that place is unsuitable on environmental grounds for use as such, provided that any adverse effects on environmental conditions arising from that use would be capable of prejudicially affecting the use or enjoyment of the land.

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- (3) Where any objection or representations are duly made under this section in respect of any application for an operator's licence, the licensing authority may in any case refuse the application on the ground that the parking of authorised vehicles under the licence at or in the vicinity of any place which, if the licence were granted, would be an operating centre of the holder of the licence would cause adverse effects on environmental conditions in the vicinity of that place.
- (4) Where any objection or representations are duly so made in respect of any such application, the licensing authority may refuse the application, subject to subsection (5) of this section, on the ground that any place which, if the licence were granted, would be an operating centre of the holder of the licence is unsuitable for use as such on environmental grounds other than the ground mentioned in subsection (3) of this section.
- (5) A licensing authority may not refuse an application for an operator's licence under subsection (4) of this section if the applicant satisfies the authority that the grant of the application will not result in any material change as regards—
- (a) the places in the area of the authority used or to be used as operating centres for authorised vehicles under any operator's licence previously granted by the authority or under the licence applied for; or
  - (b) the use of any such place already in use as an operating centre under an existing licence so granted.
- (6) Without prejudice to the power of a licensing authority to issue an operator's licence subject to either or both of the modifications or limitations mentioned in section 64(4) of this Act, in any case where—
- (a) the authority has power to refuse an application for any such licence under subsection (3) or (4) of this section; and
  - (b) any place other than a place unsuitable for use as an operating centre is referred to in the statement under section 69A(2) of this Act as a proposed operating centre of the applicant;
- the authority may, instead of refusing the application, issue the licence specifying in it only such place or places referred to in that statement as are not unsuitable for use as an operating centre.
- For the purposes of this subsection, a place referred to in any such statement given to a licensing authority by an applicant for an operator's licence is unsuitable for use as an operating centre if the licensing authority has power to refuse the application under subsection (3) or (4) of this section in consequence of the proposed use of that place as an operating centre.
- (7) A request for the grant of a licence under section 67(5) of this Act pending the determination of a current application shall not be treated as an application for an operator's licence for the purposes of this section, but in granting a licence under section 67(5) a licensing authority may specify in the licence such place or places referred to in the statement given to the authority by the applicant under section 69A(2) of this Act as the authority thinks fit.

### **69C Conditions as to the use of operating centres.**

- (1) Subject to the following provisions of this section, a licensing authority may attach such conditions to an operator's licence as appear to him to be appropriate for the purpose of preventing or minimising any adverse effects on environmental conditions arising from

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the use for authorised vehicles under the licence of any operating centre of the holder of the licence in the area of the authority.

- (2) The conditions which may be attached to a licence under this section shall be of such description as may be prescribed ; and, without prejudice to the generality of the preceding provision, the descriptions which may be prescribed include conditions regulating—
  - (a) the number, type and size of motor vehicles or trailers which may at any one time be at any operating centre of the holder of the licence in the area of the authority for any prescribed purpose ;
  - (b) the parking arrangements to be provided at or in the vicinity of any such centre ; and
  - (c) the hours at which operations of any prescribed description may be carried on at any such centre.
- (3) Subject to subsection (4) of this section, the licensing authority by whom an operator's licence was granted may at any time vary or remove any condition attached to the licence under this section.
- (4) The power to attach a condition to an operator's licence under this section shall be exercisable by a licensing authority on granting the licence; and that power, and the power to vary or remove any condition so attached, shall also be exercisable in accordance with section 69D of this Act on an application by the holder for variation of the licence.
- (5) Where a licensing authority is precluded by section 69B(5) of this Act from refusing an application for an operator's licence, the authority may not attach any condition to the licence under this section without first giving the applicant for the licence an opportunity to make representations to the authority with respect to the effect on his business of any condition the authority proposes to attach; and where the applicant makes any such representations the authority shall give special consideration to those representations in determining whether to attach the proposed condition on granting the licence.
- (6) Any person who contravenes any condition attached under this section to a licence of which he is the holder shall be liable on summary conviction to a fine not exceeding £500.

#### **69D Variation of operators' licences with respect to operating centres and conditions affecting their use, etc.**

- (1) Subject to section 69E of this Act, on the application of the holder of an operator's licence, the licensing authority by whom the licence was granted may at any time while it is in force vary the licence by directing—
  - (a) that a new place shall be specified in the licence as an operating centre of the holder of the licence, or that any place so specified shall cease to be so specified ; or
  - (b) that any condition attached to the licence under section 69C of this Act shall be varied or removed.
- (2) A person applying for the variation of an operator's licence under this section shall give to the licensing authority such information as he may reasonably require for the discharge of his duties in relation to the application.

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- (3) The licensing authority shall publish in the prescribed manner notice of any application for a variation under this section, unless the licensing authority is satisfied that the application is of so trivial a nature that it is not necessary that an opportunity should be given for objecting to it or making representations against it.
- (4) Any person entitled to object to the grant of any application for a variation of which notice has been published under section 68(4) of this Act may object to the grant of any application for a variation of which notice has been published under section 68(4) or under subsection (3) of this section on either of the following grounds, that is to say—
- (a) that any place which, if the application for variation is granted, will be an operating centre of the holder of the licence is unsuitable on environmental grounds for use as such ; or
  - (b) that the use in any manner which will be permitted if the application for variation is granted of any operating centre of the holder of the licence will have adverse effects on environmental conditions in the vicinity of that centre.
- (5) Subject to subsection (6) of this section, any person who is the owner or occupier of land in the vicinity of—
- (a) any place which, if the application for variation is granted, will be an operating centre of the holder of the licence ; or
  - (b) any existing operating centre of the holder of the licence to which the application relates ;
- may make representations against the grant of any application for a variation of which notice has been published under section 68(4) of this Act or under subsection (3) of this section on either of the grounds mentioned in subsection (4) of this section, but so far only as relates to that place or operating centre.
- (6) A person may not by virtue of subsection (5) of this section make representations against the grant of an application for variation of an operator's licence unless any adverse effects on environmental conditions arising from the use of the place or operating centre in question would be capable of prejudicially affecting the use or enjoyment of the land there mentioned.
- (7) Where any objection or representations are duly made under this section in respect of any application for a variation of an operator's licence, the licensing authority may refuse the application in any case where it appears to him that the application ought to be refused on either of the grounds mentioned in subsection (4) of this section.
- (8) In any case in which the licensing authority grants an application for a variation of an operator's licence of which notice has been published under section 68(4) of this Act or under subsection (3) of this section, the licensing authority may direct that any condition attached to the licence under section 69C of this Act shall be varied or removed or that a condition shall be attached to the licence under that section.
- (9) If an applicant under this section so requests, the licensing authority may, pending the determination of the application, give an interim direction under subsection (1) or (8) of this section, that is to say, a direction expressed to continue in force only until the application, and any appeal arising out of it, have been disposed of; and a request for such a direction shall not for the purposes of subsections (3) to (7) of this section be treated as an application for a variation under this section.

### **69E Publication of notice of applications for licences and variations in localities affected.**

- (1) The licensing authority for any area shall refuse—
  - (a) any application to the authority for an operator's licence ; and
  - (b) any application to the authority for the variation of an operator's licence of which notice has been published under section 68(4) or 69D(3) of this Act;  
without considering the merits of the application unless he is satisfied that notice of the application in such form and containing such information as may be prescribed has been published within the period mentioned in subsection (2) of this section in a local newspaper or newspapers circulating in each locality affected by the application.
- (2) The period referred to in subsection (1) of this section is the period beginning twenty-one days before the date on which the application is made and ending twenty-one days after that date.
- (3) For the purposes of this section a locality shall be taken to be affected by an application to a licensing authority for, or for the variation of, an operator's licence if it contains any place in the area of the authority which will be an operating centre of the holder of the licence if the application is granted, or (in the case of an application for variation) any existing operating centre of the holder of the licence to which the application relates.

### **69F Revocation, etc. of operators' licences for breach of provisions controlling use of operating centres.**

- (1) Subject to subsection (2) of this section, the licensing authority by whom an operator's licence was granted may direct that it be revoked, suspended, terminated on a date earlier than that on which it would otherwise expire under section 67 of this Act, or curtailed on the ground that the holder of the licence has contravened section 69A of this Act or any condition attached to his licence under section 69C of this Act; and during any time of suspension the licence shall be of no effect.
- (2) Section 69 of this Act shall apply as if the power to give a direction under subsection (1) of this section and the ground there mentioned were respectively conferred by and mentioned in subsection (1) of that section.

### **69G Provisions supplementary to sections 69A to 69F.**

- (1) Any objection or representations under section 69B or 69D of this Act shall contain particulars of any matters alleged by the person making the objection or representations to be relevant to the determination of the licensing authority to which the objections or representations relate ; and the onus of proof of any matters so alleged shall lie on the person making the objection or representations.
- (2) Any objection or representations under either of those sections with respect to any application for, or for the variation of, an operator's licence shall be made within the prescribed time and in the prescribed manner, which—
  - (a) may differ for representations from that prescribed for objections ; and
  - (b) shall in either case be stated in the notice of the application published under section 63(1) of this Act or (as the case may be) under section 68(4) or 69D(3) of this Act.
- (3) In making any of the following determinations, that is to say—

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- (a) any determination with respect to the suitability of any place on environmental grounds for use as an operating centre for authorised vehicles under an operator's licence ;
- (b) any determination with respect to attaching any condition under section 69C of this Act to an operator's licence or varying or removing any condition so attached ;
- (c) any determination with respect to the effect on environmental conditions in any locality of the use in any particular manner of any operating centre of the holder of an operator's licence;

the licensing authority shall have regard to such considerations as may be prescribed as relevant to determinations of that description.

- (4) In making any such determination for the purposes of exercising any of his powers under sections 69B to 69D of this Act in relation to an application for, or for the variation of, an operator's licence, the licensing authority shall also have regard to—
  - (a) any information supplied by the applicant in accordance with section 68, 69A or 69D of this Act; and
  - (b) any objections or representations duly made under section 69B or 69D.
- (5) Any statement or information to be given to a licensing authority under section 69A or 69D of this Act shall be given in such form as the authority may require.
- (6) For the purposes of sections 69D(5)(b) and 69E(3) of this Act an application for a variation of an operator's licence shall be taken to relate to an operating centre of the holder of the licence if any condition attached to the licence which the application seeks to have varied or removed relates to that centre.”

## PART II

### OTHER AMENDMENTS OF TRANSPORT ACT 1968

#### *Amendments consequential on Part I*

- 1 In section 63 of the Transport Act 1968 (objections to grant of operators' licences)—
  - (a) in subsection (1) the words " Subject to subsection (2) of this section " shall be omitted ;
  - (b) subsection (2) shall be omitted ; and
  - (c) in subsection (3), for the words from " of which " to " this section " there shall be substituted the words " for an operator's licence ".
- 2 In section 64 of that Act (grounds for objection to application for a licence under section 63 and decision of licensing authority on applications)—
  - (a) at the beginning of subsection (1) there shall be inserted the words " Subject to section 69E of this Act "; and
  - (b) in subsection (3), after the words " subsection (4) of this section " there shall be inserted the words " and section 69B of this Act ".
- 3 In section 68 of that Act (variation of operators' licences)—
  - (a) at the beginning of subsection (1) there shall be inserted the words " Subject to section 69E of this Act "; and

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- (b) in subsection (4), paragraph (a) shall be omitted, and for the words " the said section 63 " (where first occurring) there shall be substituted the words " section 63 of this Act " .
- 4 In section 70(1)(a) of that Act (right of appeal for persons aggrieved by certain directions or orders), after the words "69(1) to (7A) " there shall be inserted the words " or 69F(1) " .
- 5 In section 87(3) of that Act (inquiries by licensing authorities as to proposed exercise of powers under section 69), after " 69 " there shall be inserted the words " or 69F " .
- 6 In section 91 of that Act (regulations and orders for purposes of Part V)—
- (a) in paragraph (a), for the words "section 69" there shall be substituted the words " sections 69 and 69F " ; and
- (b) in paragraph (d), after "69" there shall be inserted the words " or 69F " .
- 7 In section 92 of that Act—
- (a) in subsection (1) (interpretation of particular expressions used in Part V), the following definition shall be inserted at the appropriate point in alphabetical order—
- “" owner ", in relation to any land in England and Wales, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let”; and
- (b) at the end of subsection (3) (construction of references to directing that an operator's licence be curtailed), there shall be added the following paragraph—
- “(d) that any one or more of the places specified in the licence as operating centres be removed therefrom”.

*Extension of right to object*

- 8 In section 63 of that Act (objections to grant of operators' licences)—
- (a) in subsection (3) (persons entitled to object) the following paragraph shall be inserted after paragraph (c)—
- “(d) a planning authority”; and
- (b) in subsection (6) the following definitions shall be inserted after the definition of " local authority " —
- “"planning authority" means any body other than a local authority which by virtue of any statutory provision for the time being in force is—
- (a) in England and Wales, the local planning authority for any area for the purpose of determining applications for planning permission under Part III of the Town and Country Planning Act 1971 (general planning control); and
- (b) in Scotland, the planning authority for any area for the purpose of determining applications for planning permission under Part III of the Town and Country Planning (Scotland) Act 1972 (general planning control);

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"statutory provision" means a provision contained in an Act or in subordinate legislation within the meaning of the Interpretation Act 1978 ; and”.