



# Local Transport Act 2008

## 2008 CHAPTER 26

### PART 4

#### GENERAL PROVISIONS RELATING TO PASSENGER TRANSPORT

##### *Services not operated as registered etc*

#### **62 Attachment of conditions to related licences**

- (1) Section 26 of the TA 1985 (conditions attached to PSV operator's licence) is amended as follows.
- (2) In subsection (1) (which sets out the cases in which the power is exercisable and the power)—
  - (a) for “Where” substitute “ Subsection (1A) below applies in any case where ”;
  - (b) for the words from “he may” to the end of subsection (1) substitute the subsections set out in subsection (3).
- (3) The subsections are—
  - “(1A) The traffic commissioner may (on granting the licence or at any other time) attach, or direct a traffic commissioner for another traffic area to attach, a condition falling within subsection (1B) below to any one or more of the following PSV operator's licences (wherever granted)—
    - (a) the licence mentioned in subsection (1) above;
    - (b) any other licence held by the operator;
    - (c) where the operator is an undertaking, any licence held by a group undertaking in relation to that undertaking (see subsection (7) below).
  - (1B) The conditions are—
    - (a) a condition prohibiting the holder of the licence from using vehicles under the licence to provide any local service of a description specified in the condition;

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- (b) a condition prohibiting the holder of the licence from so using vehicles to provide local services of any description.
- (1C) A condition under subsection (1A) may be attached—
  - (a) indefinitely; or
  - (b) for a period of time specified by the traffic commissioner (which may commence immediately or on a date so specified).”.
- (4) In subsection (2)—
  - (a) after “attach” insert “ (or direct another commissioner to attach) ”;
  - (b) for “subsection (1)” substitute “ subsection (1A) ”;
  - (c) for “that subsection” substitute “ subsection (1) above ”.
- (5) After subsection (2) insert—
 

“(2A) Where a direction is given under subsection (1A) above to a traffic commissioner for another area, that traffic commissioner must either—

  - (a) attach the condition to the licence; or
  - (b) if he considers that there is a good reason not to attach the condition to the licence, inform the traffic commissioner who gave the direction of that fact and of the reason.”.
- (6) In subsection (3), for “subsection (1)” substitute “ subsection (1A) ”.
- (7) In subsection (5) (power to impose conditions in certain cases relating to the use of vehicles)—
  - (a) for “Where” substitute “ Subsection (5A) below applies in any case where ”;
  - (b) for the words from “he may” to the end of subsection (5) substitute the subsections set out in subsection (8).
- (8) The subsections are—
 

“(5A) The traffic commissioner may (on granting the licence or at any other time) attach, or direct a traffic commissioner for another traffic area to attach, to any one or more of the licences mentioned in subsection (5B) below a condition restricting the vehicles which the operator may use under the licence to vehicles specified in the condition.

(5B) The licences are the following PSV operator's licences (wherever granted)—

  - (a) the licence mentioned in subsection (5) above;
  - (b) any other licence held by the operator;
  - (c) where the operator is an undertaking, any licence held by a group undertaking in relation to that undertaking (see subsection (7) below).

(5C) Where a direction is given under subsection (5A) above to a traffic commissioner for another area, that traffic commissioner must either—

  - (a) attach the condition to the licence; or
  - (b) if he considers that there is a good reason not to attach the condition to the licence, inform the traffic commissioner who gave the direction of that fact and of the reason.”.
  - (9) In subsection (6)—
    - (a) for “subsection (5)” substitute “ subsection (5A) ”;

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(b) in paragraph (a) after “the commissioner” insert “ who attached that condition”.

(10) At the end of the section insert—

“(7) In this section “undertaking” and “group undertaking” have the same meaning as in the Companies Acts (see section 1161 of the Companies Act 2006).”.

#### Commencement Information

II S. 62 in force at 9.2.2009 by S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1 (with Sch. 1 para. 2(1))

### 63 Powers of traffic commissioners where services not operated as registered

(1) After section 27 of the TA 1985 (supplementary provisions with respect to conditions attached to a PSV operator's licence under section 26) insert—

#### “27A Additional powers where service not operated as registered

(1) This section applies in any case where it appears to a traffic commissioner that a person (“the operator”)—

- (a) has, or may have, failed to operate a local service registered under section 6 of this Act; or
- (b) has, or may have, failed to operate such a service in accordance with the particulars registered under that section.

(2) The traffic commissioner may direct a local traffic authority to provide him, within a specified period, with specified information connected with any aspect of the performance of their duties under section 16 or 17 of the Traffic Management Act 2004 (the network management duty, and arrangements for network management).

This subsection is supplemented by provisions in section 27B of this Act.

(3) If the traffic commissioner holds an inquiry in connection with deciding whether—

- (a) to attach a condition under section 26 of this Act, or
  - (b) to make an order under section 155 of the Transport Act 2000,
- subsections (2) and (3) of section 250 of the Local Government Act 1972 (attendance of witnesses etc) apply to the inquiry as they apply to an inquiry under that section.

(4) If the traffic commissioner identifies any remedial measures (see subsection (5)) which, in the traffic commissioner's opinion, could be taken—

- (a) by the operator, or
- (b) by a local traffic authority,

the traffic commissioner may prepare a report recommending the implementation of those measures.

(5) In this section “remedial measures” means measures which, in the opinion of the traffic commissioner, would enable or facilitate the operation of the service in accordance with the particulars registered under section 6 of this Act.

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- (6) A traffic commissioner who prepares a report under subsection (4) above—
  - (a) must send a copy of the report to the operator and, if any of the recommended remedial measures are for implementation by a local traffic authority, to that authority;
  - (b) must, if the implementation of any of the measures in the report would affect the operation of bus services in an integrated transport area, send a copy of the report to the Integrated Transport Authority for that area;
  - (c) may send a copy of the report to any one or more of the persons in subsection (7) below;
  - (d) may publish the report.
- (7) The persons are—
  - (a) the appropriate national authority,
  - (b) any local traffic authority or Integrated Transport Authority which the traffic commissioner considers appropriate,
 and any other persons whom the traffic commissioner considers appropriate.
- (8) See subsection (6) of section 27B of this Act for the meaning of some of the expressions used in this section.

### **27B Provisions supplementing section 27A**

- (1) This section supplements section 27A of this Act.
- (2) In this section “direction” means a direction under subsection (2) of that section.
- (3) The information that may be specified in a direction must be information which the local traffic authority have in their possession or can reasonably be expected to acquire.
- (4) The information that may be specified in a direction includes information relating to—
  - (a) the management of a local traffic authority's road network; or
  - (b) the use of their road network by different kinds of traffic or the effects of that use.
- (5) A direction may be given—
  - (a) to one or more local traffic authorities; or
  - (b) to local traffic authorities of a description specified in the direction.
- (6) In section 27A of this Act and in this section the following expressions have the same meaning as in Part 2 of the Traffic Management Act 2004 (network management by local traffic authorities)—
  - appropriate national authority,
  - local traffic authority,
  - road network,
  - traffic,

except that “local traffic authority” does not include Transport for London, a London borough council or the Common Council of the City of London.”

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(2) In section 155 of the TA 2000 (penalties) at the end insert—

“(8) Other provisions that may need to be considered include the following provisions of the Transport Act 1985—

- (a) sections 26 and 27 (attachment of conditions to PSV operator's licence),
- (b) sections 27A and 27B (additional powers of traffic commissioner where services are not operated as registered etc).”.

#### **Commencement Information**

**I2** S. 63 in force at 9.2.2009 by S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1 (with Sch. 1 para. 2(2))

## **64 Additional sanctions for failures by bus operators**

(1) Section 155 of the TA 2000 (penalties) is amended as follows.

(2) In subsection (1) (power to impose penalty for various failures) for “impose a penalty on the operator” substitute “ make one or more orders under subsection (1A) ”.

(3) After subsection (1) insert—

“(1A) The orders are—

- (a) an order that the operator pay a penalty of such amount as is determined in accordance with subsection (3);
- (b) an order that the operator expend such sum of money as is determined in accordance with subsection (3) in the manner mentioned in subsection (1B);
- (c) an order that the operator provide compensation (see subsection (1C)) to passengers of such description as is specified in the order;
- (d) an order of such other description as the Secretary of State (as respects England) or the Welsh Ministers (as respects Wales) may by order prescribe for the purposes of this paragraph.

(1B) An order under subsection (1A)(b) may require the operator to expend money on or towards—

- (a) the provision of specified local services or specified facilities to be used in connection with such services;
- (b) specified improvements in such services or facilities.

In this subsection “specified” means specified in the order.

(1C) Compensation under subsection (1A)(c)—

- (a) may take the form of payments of money, or
- (b) may take such other form (including the provision of free travel or travel at a reduced price) as is specified in the order;

and shall be of such amount, or equivalent in value to such amount, as is determined in accordance with subsection (3).”.

(4) Omit subsection (2).

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- (5) In subsection (3) for “That amount is” substitute “ The amount mentioned in subsections (1A)(a) and (b) and (1C) is such amount as the traffic commissioner thinks fit in all the circumstances of the case, but must not exceed ”.
- (6) Omit subsection (4).
- (7) In subsection (5) for “imposing the penalty” substitute “ making an order under subsection (1A) ”.
- (8) In subsection (6) for “the imposition of the penalty” substitute “ the making of the order ”.
- (9) After subsection (6) insert—
- “(6A) If the operator fails to comply with an order under subsection (1A)(b), (c) or (d), the traffic commissioner may order the operator to pay a penalty of such amount as is determined in accordance with subsection (6B).
- (6B) That amount is such amount as the traffic commissioner thinks fit in all the circumstances of the case, but must not exceed 110% of the maximum amount which may be ordered in accordance with subsection (3).”.
- (10) For subsection (7) substitute—
- “(7) An amount ordered to be paid under subsection (1A)(a) or (6A) is—
- (a) payable to the Secretary of State (as respects England) or the Welsh Ministers (as respects Wales), and
- (b) recoverable as a civil debt.”.
- (11) In consequence of the amendments made by this section, the heading to section 155 becomes “ Sanctions ”.
- (12) Section 160 of the TA 2000 (Part 2: regulations and orders) is amended as follows.
- (13) In subsection (2) before the words “shall be subject to annulment” insert “ , other than an order under section 155(1A)(d), ”.
- (14) After subsection (2) insert—
- “(3) A statutory instrument containing an order under section 155(1A)(d) shall not be made—
- (a) as respects England, unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament;
- (b) as respects Wales, unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”.

#### **Commencement Information**

- I3** S. 64 partly in force; s. 64(3) in force at Royal Assent for specified purposes, see s. 134(1)(c)
- I4** S. 64 in force at 9.2.2009 for E. in so far as not already in force by S.I. 2009/107, art. 2(2), Sch. 2 Pt. 1 (with Sch. 2 para. 4)
- I5** S. 64 in force at 1.4.2009 for W. in so far as not already in force by S.I. 2009/579, art. 2(e) (with Sch. para. 2)

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## 65 Operational data

- (1) In section 155(1) of the TA 2000 (penalties) after paragraph (a) insert—
  - “(aa) failed to comply with the requirements of regulations made under section 6(9)(i), (j) or (k) of that Act.”.
- (2) Section 6 of the TA 1985 (registration of local services) is amended as follows.
- (3) In subsection (9) (regulations) after paragraph (k) insert—
  - “(ka) for imposing restrictions on the use that may be made of records made available as mentioned in paragraph (j) above or information given as mentioned in paragraph (k) above;”.
- (4) After subsection (9) insert—
  - “(10) Regulations made by virtue of paragraph (ka) of subsection (9) above—
    - (a) may create one or more criminal offences relating to the use of records or information in breach of the restrictions imposed by those regulations, but
    - (b) may not provide, in respect of any such offence, for a penalty greater than a fine not exceeding level 4 on the standard scale.”.

### Commencement Information

- I6** S. 65(1) in force at 9.2.2009 for E. by S.I. 2009/107, art. 2(2), Sch. 2 Pt. 1
- I7** S. 65(1) in force at 1.4.2009 for W. by S.I. 2009/579, art. 2(f)
- I8** S. 65(2)-(4) in force at 9.2.2009 by S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

**Status:**

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**Changes to legislation:**

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