
STATUTORY INSTRUMENTS

1992 No. 2319

ROAD TRAFFIC

The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1992

Made - - - - 28th September 1992
Laid before Parliament 7th October 1992
Coming into force - - 1st November 1992

The Secretary of State for Transport, in exercise of the powers conferred by sections 87(4) and 91(1) of the Transport Act 1968(1), now vested in him(2), and of all other enabling powers and after consultation with representative organisations in accordance with section 91(8) of that Act and with the Council on Tribunals in accordance with the requirements of section 10 of the Tribunals and Inquiries Act 1971(3), hereby makes the following Regulations:—

1. These Regulations may be cited as the Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1992 and shall come into force on 1st November 1992.

2. The Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984(4) (“the principal Regulations”) shall be further amended in accordance with the following provisions of these Regulations.

Amendments

3. For Part VI, there shall be substituted the following—

“PART VI
INQUIRIES

Provisions about inquiries

23. Schedule 7 shall have effect in relation to any inquiry held by a licensing authority.”

(1) 1968 c. 73.
(2) S.I.1970/1681, 1979/571 and 1981/238.
(3) 1971 c. 62.
(4) S.I. 1984/176; relevant amending instrument is S.I. 1991/2239.

4. In regulation 23A, paragraph (3) shall be omitted.
5. After regulation 24 there shall be inserted the following—

“Notification of decisions

24A.—(1) Subject to paragraph (2), where a licensing authority grants or refuses an application for, or for the variation of, an operator’s licence, it shall be his duty to send a written statement of his reasons to—

- (a) the applicant;
 - (b) every objector; and
 - (c) every person who has made a representation in accordance with Regulations 18 and 19 and asked the licensing authority for such a statement.
- (2) Paragraph (1) does not apply where—
- (a) the licensing authority grants an application in the terms applied for; and
 - (b) no objection or representation has been made in accordance with Regulations 18 or 19.”

6. After Schedule 6, there shall be inserted the Schedule set out in the Schedule to these Regulations.

Transitional

7.—(1) Regulation 3 shall not apply to an inquiry held by a licensing authority for the purposes of Part V of the Transport Act 1968 which began before the coming into force of these Regulations.

(2) Where an inquiry began before these Regulations were made or begins before they come into force, regulation 3 shall not apply to any adjourned inquiry in the same proceedings.

(3) Any notice of an inquiry or adjourned inquiry given by a licensing authority before these Regulations come into force shall have effect for the purposes of Schedule 7 of the principal Regulations as if these Regulations had been in force at the time the notice was given.

Signed by authority of the Secretary of State for Transport

28th September 1992

Kenneth Carlisle
Parliamentary Under Secretary of State,
Department of Transport

SCHEDULE

Regulation 6

“SCHEDULE 7

Regulation 23

INQUIRIES

Notification of an Inquiry

1.—(1) The licensing authority shall send to every person entitled to appear in accordance with paragraph 3 of this Schedule at an inquiry written notice of the date, time and place fixed for the holding of the inquiry.

Such notice shall be sent at least 21 days before the date so fixed.

(2) The licensing authority may vary the date, time or place for the holding of the inquiry; and when he does so he shall (subject to sub-paragraph (4)), send to every person so entitled to appear at the inquiry, written notice of the date, time and place of the holding of the inquiry as varied.

Such notice shall be sent at least 21 days before the date as varied.

(3) The period referred to in sub-paragraph (1) and (2) may be abridged with the consent of every person so entitled to appear at the inquiry.

(4) Where the licensing authority varies the time or place for the holding of an inquiry without varying the date, he need not comply with sub-paragraph (2) provided that he gives such notice of the variation as appears to him to be reasonable.

(5) Nothing in this paragraph shall authorise the licensing authority to hold an inquiry before the date published in Applications and Decisions pursuant to Regulation 24.

(6) The foregoing provisions of this paragraph shall apply to an adjourned inquiry save that—

- (a) if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice of that date, time and place shall be required; and
- (b) sub-paragraphs (1) and (2) shall have effect in relation to an adjourned inquiry as if for “21 days” there were substituted “7 days”.

Admission to an Inquiry

2.—(1) Subject to the provisions of this paragraph, an inquiry shall be held in public.

(2) The licensing authority may direct that the whole or any part of an inquiry be held in private if he is satisfied that by reason of—

- (a) the likelihood of disclosure of intimate personal or financial circumstances;
- (b) the likelihood of disclosure of commercially sensitive information or information obtained in confidence; or
- (c) exceptional circumstances not falling within sub-paragraphs (a) or (b);

it is just and reasonable for him so to do.

(3) Where the hearing is in private the licensing authority may admit such persons as he considers appropriate.

(4) Without prejudice to sub-paragraph (2), where any question relating to the appropriate financial standing of any persons is to be or is being considered during a hearing, the licensing authority may exclude such persons as he thinks fit from the part of the hearing during which that question is considered.

(5) Notwithstanding the foregoing provisions of this paragraph, a member of the Council on Tribunals or the Scottish Committee of that Council may be present in his capacity as such

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notwithstanding that the hearing, or part of an inquiry is not in public and such a person shall not be excluded under sub-paragraph (4).

Appearances at an Inquiry

3.—(1) The following persons shall be entitled to appear at an inquiry relating to an application namely—

- (a) the applicant,
- (b) a person who has duly made an objection to the application, and
- (c) a person who has duly made representations in respect of the application.

(2) Where a licensing authority holds an inquiry with a view to exercising his powers under sections 69 or 69F, in respect of a licence, the holder of the licence shall be entitled to appear at the inquiry.

(3) Without prejudice to sub-paragraph (2), where a person has requested an inquiry under section 69(9), that person shall be entitled to appear at any inquiry held at his request.

(4) If, in relation to any proceedings,

- (a) a transport manager has been given notice under Regulation 23(A) that an issue in the proceedings is whether he is of good repute or professionally competent,
- (b) the transport manager has duly made a representation under that Regulation, and
- (c) the issue is to be considered at an inquiry,

the transport manager shall be entitled to appear at the inquiry.

(5) Any other person may appear at an inquiry at the discretion of the licensing authority.

(6) Any person entitled or permitted to appear at an inquiry may do so on his own behalf or be represented by counsel, solicitor or, at the discretion of the licensing authority, by any other person.

Inquiries relating to more than one application

4. Without prejudice to section 87(3), where a licensing authority decides that two or more applications should be the subject of an inquiry, he may hold a single inquiry in relation to those applications if it appears to him that it would be just and convenient so to do.

Procedure at Inquiry

5.—(1) Except as otherwise provided in this Schedule, the licensing authority shall determine the procedure at an inquiry.

(2) Subject to sub-paragraph (5), a person entitled to appear at an inquiry in accordance with paragraph 3 of this Schedule shall be entitled to give evidence, call witnesses, to cross examine witnesses and to address the licensing authority both on the evidence and generally on the subject matter of the proceedings.

(3) The giving of evidence, the calling of witnesses, the cross examination of witnesses and the making of such addresses by other persons appearing at an inquiry shall be at the licensing authority's discretion.

(4) Subject to sub-paragraph (5), any person present at an inquiry may submit any written evidence or other matter in writing before the close of the inquiry.

(5) Without prejudice to sub-paragraph (3), the licensing authority may refuse to permit—

- (a) the giving or calling of evidence,
- (b) cross examination of persons giving evidence, or

(c) the presentation of any other matter,
which he considers to be irrelevant, repetitious, frivolous or vexatious.

(6) The licensing authority may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return.

(7) The licensing authority may proceed with an inquiry in the absence of any person entitled to appear, but if he was required to give such a person notice of the inquiry under paragraph 1 of this Schedule he shall not so proceed in the person's absence unless—

- (a) he is satisfied that such notice had been duly given, or
- (b) he decides to proceed with the inquiry under paragraph 7 of this Schedule on the basis that no injustice would be caused to the person as a result of such notice not having been duly given to him.

(8) The licensing authority shall not take into account any written evidence or other matter in writing received by him from any person before an inquiry opens or during an inquiry unless he discloses it at the inquiry.

(9) The licensing authority may from time to time adjourn an inquiry.

Giving of Notices

6.—(1) A notice required or authorised to be sent to a person under this Schedule may be delivered to him or—

- (a) sent by post to him at an address which is his proper address,
- (b) left at an address which is his proper address.

(2) Any such document may—

- (a) in the case of a body corporate, be sent to the secretary or clerk of that body;
- (b) in the case of a partnership, be sent to any partner;
- (c) in the case of an unincorporated association other than a partnership, be sent to any member of the governing body of the association.

(3) For the purposes of this paragraph and section 7 of the Interpretation Act 1978⁽⁵⁾, the proper address of any person is his last known address (whether of his residence or a place where he carries on business or is employed) and also any address applicable in his case under the following provisions—

- (a) in the case of a body corporate, its secretary or its clerk, the address of its registered or principal office in the United Kingdom;
- (b) in the case of an unincorporated association (other than a partnership) or member of its governing body, its principal office in the United Kingdom.

(4) Where a person has notified the licensing authority of an address or a new address at which documents may be given to him under this Schedule that address shall also be his proper address for service for the purposes mentioned in sub-paragraph (3) or, as the case may be, his proper address for those purposes in substitution for that previously notified.

Irregularities in the giving of notices

7. Where a notice of the date, time and place fixed for the holding of an inquiry is not given in accordance with this Schedule, the licensing authority may nevertheless proceed with the inquiry as if notice had been duly given provided he is satisfied that no injustice or inconvenience would be caused.

(5) 1978 c. 30.

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Interpretation

8. In this Schedule—
- (a) a reference to appropriate financial standing, good repute or professional competence of a person shall be construed in accordance with Schedule 6, and
 - (b) “inquiry” means an inquiry held for the purposes of Part V.”
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EXPLANATORY NOTE

(This note does not form part of the Regulations)

1. These Regulations further amend the Goods Vehicle (Operators' Licences, Qualifications and Fees) Regulations 1984.
2. A new Schedule 7 is inserted which governs procedures relating to public inquiries.
3. Regulation 23 previously required a licensing authority to give oral or written reasons for his decisions to certain persons in certain circumstances. The Regulation has been substantially re-enacted in a new regulation 24A, save that where previously reasons had to be given orally or in writing they now have to be in writing.