

2010 No. 457

PUBLIC PASSENGER TRANSPORT

**The Public Service Vehicles (Operators' Licences) (Fees)
(Amendment) Regulations 2010**

<i>Made</i> - - - -	<i>23rd February 2010</i>
<i>Laid before Parliament</i>	<i>2nd March 2010</i>
<i>Coming into force</i> - -	<i>1st April 2010</i>

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by sections 52(1)(a) and 60(1)(e) and (1A) of the Public Passenger Vehicles Act 1981(a).

The Secretary of State has consulted with such representative organisations as were thought fit in accordance with section 61(2) of that Act (b).

The Administrative Justice and Tribunals Council has been consulted and that Council has consulted the Scottish and Welsh Committees, in accordance with section 44 of and paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(c).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Public Service Vehicles (Operators' Licences) (Fees) (Amendment) Regulations 2010 and come into force on 1st April 2010.

(2) In these Regulations, "the principal Regulations" means the Public Service Vehicles (Operators' Licences) (Fees) Regulations 1995(d).

Amendments to the Public Service Vehicles (Operators' Licences) (Fees) Regulations 1995

2.—(1) The principal Regulations are amended as follows.

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- (a) 1981 c.14 (in these footnotes called "the 1981 Act"). Relevant amendments to sections 52(1)(a) and 60(1) of the 1981 Act were made by the Transport Act 1985 (c.67) (in these footnotes called "the 1985 Act") and by the Deregulation and Contracting Out Act 1994 (c.40) (in these footnotes called "the 1994 Act"), as follows. Section 52(1)(a) of the 1981 Act was amended by paragraph 7 of Schedule 1; paragraphs 4(1) and 4(14) of Part II of Schedule 2 and by Schedule 8 to the 1985 Act and was further amended by section 66(2) to the 1994 Act. Section 60(1) of the 1981 Act was amended by sections 134(2)(a) of and by Schedule 8 to the 1985 Act and section 60(1)(e) of the 1981 Act was substituted by section 66(5) of the 1994 Act. Section 60(1A) of the 1981 Act was inserted by section 134(2)(b) of the 1985 Act. For the definition of "prescribed" and "regulations", see section 60(2) of the 1981 Act, as amended by the 1985 Act, section 134(2)(c).
- (b) Section 61(2) of the 1981 Act was amended by the 1985 Act, Schedule 8.
- (c) 2007 c.15. The Traffic Commissioners are a listed tribunal for the purposes of paragraph 24 of Schedule 7 by virtue of the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007 (S.I. 2007/2951) and the Administrative Justice and Tribunals Council (Listed Tribunals) (Scotland) Order 2007 (S.S.I. 2007/436). The "Scottish Committee", "Welsh Committee" and "procedural rules" are each defined in paragraph 28(1) of Schedule 7.
- (d) S.I. 1995/2909, amended by S.I. 2002/2535, S.I. 2007/689, S.I. 2008/1473 and S.I.2009/787.

(2) In regulation 2 the definitions of “the 1995 Regulations”, “five yearly anniversary”, “notice of election”, and “one yearly anniversary” are omitted.

(3) In regulation 3, paragraph (4) is omitted.

(4) Regulation 4 is omitted.

(5) In the Schedule, fee number (ix) is omitted.

Refunds

3.—(1) For the purposes of these Regulations—

- (a) a licence has “ceased to be in force” where it has been revoked under section 17(1) or (2) of the Public Passenger Vehicles Act 1981^(a), or has been surrendered or otherwise terminated under that Act or any other enactment;
- (b) “an earlier refund” is a refund payment made, before 1st April 2010, under regulation 4 of the principal Regulations as they had effect before the coming into force of these Regulations;
- (c) the “effective date” of an earlier refund is to be determined in accordance with section A of Part 3 of the Schedule.
- (d) subject to paragraph (4), “the monthly rate” is $F \div N$, where F is the relevant fee payment and N is the number of months in the relevant fee period;
- (e) a “relevant fee payment” is a payment made at the rate applicable before 20th April 2009 in respect of fee numbers (iii), (iv) or (vi) in the Schedule to the principal Regulations as they had effect before that date;
- (f) the “relevant fee period” in respect of a relevant fee payment is determined in accordance with paragraph (8);
- (g) “five yearly anniversary” and “one yearly anniversary” are to have the meaning given by paragraph (9).

(2) Subject to paragraphs (4), (5) and (6), a refund calculated in accordance with the formula set out in Part 1 of the Schedule, is to be paid in respect of that part of any relevant fee payment which relates to any part of a relevant fee period occurring after 31st March 2010.

(3) Subject to paragraphs (4), (5) and (7), a refund calculated in accordance with the formula set out in Part 2 of the Schedule, is to be paid in respect of that part of any relevant fee payment which relates to any part of a relevant fee period occurring after 31st March 2009 and before 1st April 2010.

(4) Where there has been an earlier refund, the monthly rate is to be adjusted, for the purpose of calculating the refund due under paragraph (2) or (3), as follows —

- (a) the monthly rate is to be applied in full only to that part of the relevant fee period occurring before the effective date of the first or only earlier refund; and
- (b) a deduction, or successive deductions, calculated in accordance with section B of Part 3 of the Schedule, is to be made to the monthly rate, for the period beginning on the effective date of each earlier refund and ending on the last day of the relevant fee period.

(5) Where there was an entitlement in respect of a relevant fee payment to a refund under regulation 4 of the principal Regulations, as they had effect before the coming into force of these Regulations, but none was made before 1st April 2010, any refund paid in respect of that relevant fee payment under paragraph (2) or (3) is to discharge an equivalent amount of that entitlement.

(6) Paragraph (2) does not apply where a licence has ceased to be in force before the coming into force of these Regulations.

^(a) Amendments were made to section 17(1) of the 1981 Act by paragraph (8)(a) of Part II of Schedule 2 and by paragraph 21(6) of Schedule 7 to the 1985 Act; and to section 17(2) of the 1981 Act by paragraph (8)(b) of Part II of Schedule 2 to the 1985 Act and by Schedule 17 to the 1994 Act.

(7) Where a licence has ceased to be in force before the coming into force of these Regulations payment of a refund under paragraph (3) is to be made only —

- (a) if an application in writing for that refund has been made to a traffic commissioner^(a) and
- (b) in respect of complete months in the period before the licence ceases to be in force or before the effective date of an earlier refund (if earlier).

(8) The “relevant fee period”—

- (a) for a relevant fee payment in respect of fee number (iii) is the period—
 - (i) beginning with the date the decision was made on the application for the grant of the licence in question; and
 - (ii) ending—
 - (aa) where the fee was payable in annual instalments, on the day immediately before the next one yearly anniversary falling on or after 20th April 2009; or
 - (bb) in every other case, on the day immediately before the next five yearly anniversary falling on or after 20th April 2009.
- (b) for a relevant fee payment in respect of fee number (iv)—
 - (i) where the fee was payable in annual instalments, is the period beginning on the last one yearly anniversary falling before 20th April 2009 and ending on the day immediately before the next one yearly anniversary falling on or after that date; and
 - (ii) in every other case, is the period beginning on the last five yearly anniversary falling before 20th April 2009 and ending on the day immediately before the next five yearly anniversary falling on or after that date;
- (c) for a relevant fee payment in respect of fee number (vi) is the period during which any disc in respect of which the payment was made was expressed to be in force.

(9) For the purposes of these Regulations—

- (a) “five yearly anniversary” has the meaning it had in the principal Regulations before the coming into force of these Regulations, but with the omission of the words “where no notice of election is in force”; and
- (b) “one yearly anniversary” has the meaning it had in those Regulations, but with the omission of the words “where a notice of election is in force”.

Signed by authority of the Secretary of State

23rd February 2010

Paul Clark
Parliamentary Under Secretary of State
Department for Transport

(a) Traffic commissioners are appointed under section 4 of the Public Passenger Vehicles Act 1981 (c.14) as substituted by section 3(2) of the Transport Act 1985(c.67); section 4 is amended by section 2 of the Local Transport Act 2008 (c.26) from a day to be appointed.

SCHEDULE

Regulation 3

Calculation of refunds

PART 1

Calculation of refund due in accordance with regulation 3(2)

The refund payable, in accordance with regulation 3(2), in respect of a relevant fee payment, is calculated using the formula—

$$R1 = M1 \times MR$$

where—

R1 is the refund due in accordance with regulation 3(2);

M1 is the number of complete months starting on 1st April 2010 and ending on the last day of the relevant fee period; and

MR is the monthly rate, as defined in regulation 3(1)(d).

PART 2

Calculation of refund due in accordance with regulation 3(3)

The refund payable, in accordance with regulation 3(3), in respect of a relevant fee payment, is calculated using the formula —

$$R2 = (M2 \times MR) \div 2$$

where—

R2 is the refund due in accordance with regulation 3(3);

M2 is the number of complete months falling within the period that began on 1st April 2009 and ended on either the last day of the relevant fee period, or 31st March 2010, whichever is the earlier; and

MR is the monthly rate, as defined in regulation 3(1)(d).

PART 3

Section A

Determining the effective date of an earlier refund, for the purposes of regulation 3(1)(c)

The “effective date” of an earlier refund is the first day of the earliest or only complete one month period in respect of which the earlier refund is payable, working continuously backwards from the last day of the relevant fee period.

Section B

Deduction to be applied to the monthly rate, in accordance with regulation 3(4)(b)

The deduction to be applied to the monthly rate (“MR”), in accordance with regulation 3(4)(b), is calculated using the formula—

$$D = (E \div M3) \times N$$

where—

D is the amount by which the MR is to be reduced for the remainder of the period, after the effective date of the earlier refund;

N has the same meaning as in regulation 3(1)(d);

E is the earlier refund;

M3 is the number of complete months which were taken into account, under regulation 4 of the principal Regulations (as they had effect before the coming into force of these Regulations) for the purposes of calculating E.

In the case of multiple earlier refunds, an additional deduction, calculated with the same formula, is to be made to MR, for each period beginning on the effective date of each earlier refund and ending on the last day of the relevant fee period.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Public Service Vehicles (Operators’ Licences) (Fees) Regulations 1995 (“the principal Regulations”) and make provision for refunds of certain fees previously charged under them. The principal Regulations prescribe fees, in relation to the licensing of operators of public service vehicles, under Part II of the Public Service Vehicles Act 1981 (the “1981 Act”).

The principal Regulations were last amended with effect from 20th April 2009, by the Public Service Vehicles (Operators’ Licences) (Fees) (Amendment) Regulations 2009 (S.I. 2009/787) (“the 2009 Amending Regulations”). The 2009 Amending Regulations abolished fees charged for the grant or continuation of operator licences and the issue of discs required to be exhibited in vehicles under the 1981 Act, from 1st April 2010 and reduced those charges for a transitional period up to and including 31st March 2010. The 2009 Amending Regulations also reduced the fee payable for the issue of a replacement disc and this latter fee is now also abolished altogether by *regulation 2(5)* of these Regulations.

These Regulations contain refund provisions relating to any “relevant fee payment” (defined in *regulation 3(1)(d)*) which was paid in advance, at rates applicable before the 2009 Amending Regulations came into force, to cover the period 1st April 2009 onwards. “Relevant fee payments”, as so defined, are payments at those earlier rates, in respect of the now abolished fees for the grant or continuation of operator licences under the 1981 Act or for the issue of vehicle discs under that Act. They do not include payments made in respect of replacement discs or payments made at the transitional rates set under the 2009 Amending Regulations.

Relevant fee payments made in respect of complete months beginning on or after the 1st April 2010 are refunded in full (*regulation 3(2) and Part 1 of the Schedule*). Payments which were made at these earlier rates in respect of complete months in the period beginning on 1st April 2009 and ending on either 31st March 2010, or an earlier date, are refunded at half the rate paid (*regulation 3(3) and Part 2 of the Schedule*).

Where an earlier refund has been made against part of the relevant fee payment, for all or part of the period that the relevant fee payment was intended to cover, the value of the monthly rate used to calculate the refund payable under regulation 3(2) or (3) is reduced (*regulation 3(4)*). Where a refund entitlement arose under regulation 4 of the principal Regulations, as they had effect before the coming into force of these Regulations, but has not yet been paid, any refund paid under these Regulations is to discharge the equivalent amount of such an entitlement (*regulation 3(5)*).

In addition, where a licence ceased to be in force before the date of coming into force of these Regulations, no refund is payable under *regulation 3(2)*, although a refund may be payable under *regulation 3(3)*, provided the operator makes an application in writing (*regulation 3(6) and (7)*).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the VOSA Corporate Office, Berkeley House, Croydon Street, Bristol BS5 0DA. The impact assessment is also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website at www.opsi.gov.uk.

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STATUTORY INSTRUMENTS

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£5.50