

SCHEDULE 2

Amendments to the Goods Vehicles (Licensing of Operators) Act 1995

- 20.**—(1) Schedule 3 (qualifications for standard licence) is amended as follows.
- (2) Omit paragraph 6.
- (3) Omit paragraphs 10 and 11.
- (4) In paragraph 12, for “paragraphs 8 to 11” substitute “paragraphs 8 and 9”.
- (5) In paragraph 13 (requirements for professional competence)—
- (a) after sub-paragraph (1) insert—
- “(1A) The approved body may exempt an individual from certain parts of the examination mentioned in sub-paragraph (1)(a) if the individual is the holder of a certificate of competence, diploma or other qualification which covers those parts and which is recognised for the purposes of this sub-paragraph by the Secretary of State.”
- (b) in sub-paragraph (2), for “Council Directive No 96/26/EC” substitute “the 2009 Regulation”;
- (c) in sub-paragraph (2A), for the words from “Annex Ia to that Directive” substitute “Annex 3 to that Regulation and must have security features in compliance with Annex 2 to that Regulation”;
- (d) in sub-paragraph (3)—
- (i) in the definition of “approved body”, in paragraph (c), for “Article 3.4 of Council Directive No 96/26/EC” substitute “Article 8.3 of the 2009 Regulation”;
- (ii) in the definition of “the requisite skills” for “that Directive” substitute “that Regulation”.
- (6) In paragraph 15 (transport manager to be notified of proceedings)—
- (a) in sub-paragraph (1)—
- (i) in the opening words, after “Act” insert “or under the 2009 Regulation”;
- (ii) omit “and” at the end of paragraph (b);
- (iii) after paragraph (c) insert—
- “and
- (d) stating that he is entitled to request an inquiry as provided in section 35”.
- (b) after sub-paragraph (2) insert—
- “(2A) The traffic commissioner must hold an inquiry as provided in section 35 if the transport manager requests one under sub-paragraph (1)(d)”.
- (7) After paragraph 15 (transport manager to be notified of proceedings) insert—

“Determinations in respect of transport managers

16.—(1) In proceedings under this Act or the 2009 Regulation for determining whether a person who is a transport manager is of good repute or professionally competent, a traffic commissioner must consider whether a finding that the person was no longer of good repute or (as the case may be) professionally competent would constitute a disproportionate response.

(2) If the commissioner determines that the person is no longer of good repute or (as the case may be) professionally competent, the commissioner must order the person to be disqualified

(either indefinitely or for such period as the commissioner thinks fit) from acting as a transport manager.

(3) While a disqualification under sub-paragraph (2) is in force—

- (a) the person may not act as transport manager for any road transport undertaking;
- (b) a certificate issued to the person under Article 8.8 of the 2009 Regulation (certificate of professional competence) is not valid.

(4) A person in respect of whom an order has been made under sub-paragraph (2) may appeal to the Upper Tribunal against the order.

(5) The traffic commissioner may direct that an order under sub-paragraph (2) is not to take effect until the expiry of the time within which an appeal may be made to the Upper Tribunal against the order and, if such an appeal is made, until the appeal has been disposed of.

(6) If the traffic commissioner refuses to give a direction under sub-paragraph (5), the person in respect of whom the order has been made may apply to the Upper Tribunal for such a direction.

Transport managers: cancellation or variation of disqualification order

17.—(1) The traffic commissioner by whom a disqualification order is made under paragraph 16(2) may, subject to sub-paragraph (2), at any time cancel the order or, with the consent of the disqualified person, vary the order.

(2) The traffic commissioner by whom a disqualification order is made under paragraph 16(2) may specify measures with which the disqualified person must comply before the order can be cancelled or varied.

(3) Measures specified under sub-paragraph (2) may be varied by the traffic commissioner—

- (a) on the application of the disqualified person, or
- (b) by the traffic commissioner.

(4) Before making a variation under sub-paragraph (3)(b), the traffic commissioner must serve a notice on the disqualified person—

- (a) stating the traffic commissioner’s intention to vary the measures specified under sub-paragraph (2);
- (b) stating that the person is entitled to make representations under sub-paragraph (5) within 28 days beginning with the date on which the notice is served on the person, and
- (c) stating that the person is entitled to request an inquiry as provided in section 35.

(5) Where a person makes representations under this sub-paragraph, the traffic commissioner must consider the representations in deciding whether to vary the measures specified under sub-paragraph (2).

(6) The traffic commissioner must hold an inquiry as provided in section 35 if the disqualified person requests one under sub-paragraph (4)(c).

(7) A notice shall be deemed for the purposes of sub-paragraph (4) to have been served on a person on the date on which it would have been delivered in the ordinary course of post if it was sent by post addressed to the person at the person’s last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by the person.”.

(8) In the heading, in the shoulder reference, for “13” substitute “13A”.

Changes to legislation: There are currently no known outstanding effects for the The Road Transport Operator Regulations 2011, Paragraph 20. (See end of Document for details)

Commencement Information

II [Sch. 2 para. 20](#) in force at 4.12.2011, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Road Transport Operator Regulations 2011, Paragraph 20.