



Transport Act 1968

1968 CHAPTER 73

PART V

REGULATION OF CARRIAGE OF GOODS BY ROAD

Supplementary

85 Holding companies and subsidiaries

- (1) The Minister may by regulations make provision for the purpose of enabling any company, or other body corporate, which has one or more subsidiaries to hold—
 - (a) an operator's licence under which the authorised vehicles consist of or include vehicles belonging to or in the possession of any of its subsidiaries ;
 - (b) a special authorisation under which the transport service to which it relates may be provided by any of its subsidiaries.
- (2) Regulations under this section may modify or supplement any of the provisions of this Part of this Act or Schedules 9 and 10 thereto so far as appears to the Minister to be necessary or expedient for the purpose mentioned in subsection (1) of this section or in connection therewith, and may contain such other supplementary and incidental provisions as appear to the Minister to be requisite.

86 Operators' licences and special authorisations not to be transferable

Subject to any provision made by regulations under section 85 of this Act, an operator's licence and a special authorisation shall not be capable of being transferred or assigned, but provision may be made by regulations for treating a person carrying on the trade or business of the holder of an operator's licence or special authorisation as if he were the holder thereof (for such purposes, for such period and to such extent as may be specified in the regulations), in the event of the death, incapacity, bankruptcy or liquidation of the holder, or of the appointment of a receiver or manager in relation to the trade or business.

87 Inquiries

- (1) A licensing authority may hold such inquiries as he thinks necessary for the proper exercise of his functions under this Part of this Act or Schedule 9 thereto.
- (2) Where an application by any person for an operator's licence and an application by him for a special authorisation are both pending before a licensing authority, the authority may hold a single inquiry for the purpose of both applications.
- (3) Where, as respects the proposed exercise of his powers on any occasion under section 69 or 79 of this Act, a licensing authority receives a request for an inquiry from two or more persons he may hold a single inquiry in response to both or all of those requests.
- (4) Subject to any provision made by regulations, any inquiry held by a licensing authority for the purposes of this Part of this Act or Schedule 9 thereto shall be held in public.
- (5) Information with respect to any particular trade or business which is given at any such inquiry while admission to the inquiry is restricted in accordance with regulations shall not, so long as that trade or business continues to be carried on, be disclosed except—
 - (a) with the consent of the person for the time being carrying on that trade or business; or
 - (b) for the purpose of the discharge by any person of his functions under this Part of this Act or Schedule 9 thereto; or
 - (c) with a view to the institution of, or otherwise for the purposes of, any legal proceedings pursuant to or arising out of this Part of this Act or Schedule 9 thereto (including proceedings before the Transport Tribunal);
 and any person who discloses any information in contravention of this subsection shall be liable on summary conviction to a fine not exceeding £200.

88 Provisions relating to Transport Tribunal

- (1) On an appeal to the Transport Tribunal under this Part of this Act or Schedule 9 thereto against the decision of any licensing authority, the tribunal shall have power to make such order as it thinks fit and any such order shall be binding on the licensing authority.
- (2) For the purpose of exercising the jurisdiction of the Transport Tribunal under this Part of this Act and Schedule 9 thereto—
 - (a) the Road Haulage Appeals Division of the tribunal shall consist of the president of the tribunal and two members of the tribunal of whom one shall be a person of experience in transport business or commercial affairs and the other a person of experience in financial matters or economics; and
 - (b) that Division or any person or persons appointed under section 57(5) of the Act of 1962 may be assisted by an assessor drawn from a panel of persons appointed by the Lord Chancellor for that purpose after consultation with the Minister and the Secretary of State;

and the provisions of paragraph 6(2) and (3) of Schedule 10 to the Act of 1962 shall apply to a member of that panel as they apply to a member of the special panel nominated by the Lord Chancellor, and paragraph 8(1) of that Schedule shall apply to a person giving such assistance as aforesaid as it applies to a person who is appointed from the special panel.

- (3) The Transport Tribunal may remit the whole or any part of any fee in respect of an appeal to the tribunal under this Part of this Act or Schedule 9 thereto if the applicant satisfies the tribunal that by reason of his poverty it is reasonable so to do.
- (4) An appeal to the Transport Tribunal from a decision of the licensing authority for an area in Scotland shall be heard in Scotland.

89 Fees

- (1) Such fees, payable at such times, and whether in one sum or by instalments, as may be prescribed shall be charged by the licensing authority in respect of the grant or variation of operators' licences and special authorisations and in respect of the grant of transport managers' licences.
- (2) All fees payable under this Part of this Act or Schedule 9 thereto shall be paid into the Consolidated Fund in such manner as the Treasury may direct.

90 Appointment and remuneration of officers and servants

- (1) Subject to the consent of the Treasury as to number, the Minister may appoint such officers and servants as he considers necessary for the operation of the provisions of this Part of this Act and Schedule 9 thereto.
- (2) There shall be paid to licensing authorities and persons acting as officers or servants of a licensing authority such remuneration or salaries and such allowances, if any, as the Minister may, with the consent of the Treasury, determine.
- (3) In every year there shall be paid out of moneys provided by Parliament such sums as the Minister may, with the consent of the Treasury, direct in respect of—
 - (a) remuneration, salaries and allowances under subsection (2) of this section; and
 - (b) the establishment charges and other expenses of licensing authorities (including any remuneration paid by them to any assessor) and of any officers or servants appointed by the Minister for the purposes of this Part of this Act and Schedule 9 thereto.

91 Regulations and orders for purposes of Part V

- (1) The Minister may make regulations for any purpose for which regulations may be made under this Part of this Act and for prescribing anything which may be prescribed under this Part of this Act and generally for the purpose of carrying this Part of this Act into effect and, in particular, but without prejudice to the generality of the foregoing provisions of this subsection, may make regulations with respect to the following matters—
 - (a) the procedure on applications for, and the determination of questions in connection with, the grant and variation of operators' licences and special authorisations, and the procedure under, and the determination of questions for the purposes of, sections 69 and 79 of this Act;
 - (b) the issue of operators' licences and special authorisations and the issue on payment of the prescribed fee of copies of such licences or authorisations in the case of licences or authorisations lost or defaced ;

Status: This is the original version (as it was originally enacted).

- (c) the means by which vehicles may be identified, whether by plates, marks or otherwise, as being authorised vehicles or as vehicles used under a special authorisation or under section 71(4) of this Act;
- (d) the custody of operators' licences and special authorisations, the production, return and cancellation of such licences or authorisations on expiration or on the giving of a direction under section 69 or 79 of this Act, and the custody, production and return of documents and plates;
- (e) the notification to the licensing authority of vehicles which have ceased to be used under an operator's licence or special authorisation ;
- (f) the repayment in the prescribed circumstances of fees paid under this Part of this Act;
- (g) the circumstances in which goods are to be treated for the purposes of this Part of this Act as carried for hire or reward and the circumstances in which goods are to be treated for those purposes as carried by any person for or in connection with a trade or business carried on by him;

and different regulations may be made as respects different classes of vehicles.

- (2) The power conferred by subsection (1) of this section to make regulations with respect to the means by which vehicles are to be identified as being authorised vehicles or as vehicles used under a special authorisation shall include power to require that any such means of identification prescribed for a vehicle shall be carried notwithstanding that for the time being the vehicle is not being used for a purpose for which an operator's licence or special authorisation is required.
- (3) The Minister may by regulations substitute for any weight, distance, volume or area specified by or under this Part of this Act a weight, distance, volume or area expressed in terms of the metric system, being a weight, distance, volume or area which is equivalent to that for which it is substituted or does not differ from it by more than five per cent. thereof.
- (4) The Minister may make regulations—
 - (a) for providing that any provision of this Part of this Act shall, in relation to vehicles brought temporarily into Great Britain, have effect subject to such modifications as may be prescribed ;
 - (b) for applying section 71 of this Act and the other provisions of this Part of this Act relating to special authorisations, subject to such modifications as may be prescribed, to the carriage of goods on journeys between places in Great Britain and places outside Great Britain;
 and different provision may be made by the regulations for different classes of case.
- (5) A definition or description of a class of vehicles for the purposes of any regulation under this Part of this Act may be framed by reference to any characteristic of the vehicles or to any other circumstances whatsoever.
- (6) Any person who contravenes a provision of regulations under this section, a contravention of which is declared by the regulations to be an offence, shall be liable on summary conviction to a fine not exceeding £20.
- (7) Any order or regulations made by the Minister under this Part of this Act or Schedule 9 thereto shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (8) Before making any regulations under this Part of this Act or the said Schedule 9, the Minister shall consult with such representative organisations as he thinks fit.

92 Interpretation of Part V

- (1) In this Part of this Act and Schedule 9 thereto, unless the context otherwise requires—

" articulated combination " means a combination made up of—

- (a) a motor vehicle which is so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle, and
- (b) a trailer attached to it as aforesaid;

" authorised vehicle " means, in relation to an operator's licence, a vehicle authorised to be used thereunder, whether or not it is for the time being in use for a purpose for which an operator's licence is required and whether it is specified therein as so authorised or, being of a type so authorised subject to a maximum number, belongs to the holder of the licence or is in his possession under an agreement for hire-purchase, hire or loan;

" carriage of goods " includes haulage of goods ;

" carrier's licence " means a licence granted under Part IV of the Act of 1960;

" contravention ", in relation to any condition or provision, includes a failure to comply with the condition or provision, and " contravenes " shall be construed accordingly;

" driver " means, in relation to a trailer, the driver of the vehicle by which the trailer is drawn and " drive " shall be construed accordingly;

" goods " includes goods or burden of any description;

" goods vehicle " means, subject to subsection (5) of this section, a motor vehicle constructed or adapted for use ' for the carriage of goods, or a trailer so constructed or adapted;

" large goods vehicle " shall be construed in accordance with section 71 of this Act ;

" operating centre " means, in relation to any vehicles, the base or centre from which the vehicles are, or are intended to be, normally used ;

" prescribed " means prescribed by regulations ;

" regulations " means regulations made by the Minister under this Part of this Act;

" subsidiary " means a subsidiary as defined by section 154 of the Companies Act 1948 ;

" vehicle combination " means a combination of goods vehicles made up of one or more motor vehicles and one or more trailers all of which are linked together when travelling;

and any expression not defined above which is also used in the Act of 1960 has the same meaning as in that Act.

- (2) For the purposes of this Part of this Act, the driver of a vehicle, if it belongs to him or is in his possession under an agreement for hire, hire-purchase or loan, and in any other case the person whose servant or agent the driver is, shall be deemed to be the person using the vehicle; and references to using a vehicle shall be construed accordingly.

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- (3) In this Part of this Act references to directing that an operator's licence be curtailed are references to directing (with effect for the remainder of the duration of the licence or for any shorter period) all or any of the following, that is to say—
- (a) that any one or more of the vehicles specified in the licence be removed therefrom ;
 - (b) that the maximum number of trailers or of motor vehicles specified in the licence in pursuance of section 61(1)(b) or (c) of this Act be reduced;
 - (c) that the addition of authorised vehicles under the said section 61(1)(c) be no longer permitted.
- (4) In this Part of this Act, references to the bankruptcy of a person shall, as respects Scotland, be construed as references to an award of sequestration having been made of his estate.
- (5) In this Part of this Act and Schedule 9 thereto, references to goods vehicles do not include references to tramcars or trolley vehicles operated under statutory powers within the meaning of section 259 of the Act of 1960.
- (6) Anything required or authorised by this Part of this Act to be done to or by a licensing authority by whom a licence or authorisation was granted may be done to or by any person for the time being acting as licensing authority for the area for which the first-mentioned authority was acting at the time of the granting of the licence or authorisation.