

1981 No. 256 (C. 5)
TRANSPORT
The Transport Act 1980 (Commencement No. 4) Order 1981

Made - - - - - 23rd February 1981

The Minister of Transport, (hereinafter referred to as “the Minister”) in exercise of the powers conferred by section 70(5) and (6) of the Transport Act 1980(a) (hereinafter referred to as “the 1980 Act”) and of all other enabling powers, hereby makes the following Order:—

1. This Order may be cited as the Transport Act 1980 (Commencement No. 4) Order 1981.

2.—(1) In this Order, unless the context otherwise requires—

(a) a reference to a section followed by a number is a reference to the section bearing that number in the 1980 Act, and

(b) a reference to an Article followed by a number is a reference to the Article bearing that number in this Order.

(2) In this Order, and in any of the provisions of the 1980 Act which are mentioned in this Order, a reference to “the 1960 Act” shall be construed in accordance with section 44(1) of the 1980 Act.

(3) In this Order—

(a) “the 1952 Regulations” means the Public Service Vehicles (Licences and Certificates) Regulations 1952(b);

“the 1977 Regulations” means the Public Service Vehicle Operators (Qualifications) Regulations 1977 (c);

“the Commencement No. 1 Order” means the Transport Act 1980 (Commencement No. 1) Order 1980(d);

“the Commencement No. 2 Order” means the Transport Act 1980 (Commencement No. 2) Order 1980(e); and

(b) expressions used in this Order and in either the 1952 Regulations or in the 1977 Regulations have the same meaning in this Order as they have in those Regulations.

3. As from 1st April 1981—

(a) the sections of the 1980 Act specified in column (1) of Part I of the Schedule to this Order (which relate to the subject matter specified in column (2) of that Schedule in respect of those sections),

(a) 1980 c. 34.

(b) S.I. 1952/900: as amended by S.I. 1957/123 and 1118, 1960/1504, 1962/921 and 1058 and 1980/635 and as modified by Regulation 9 of the 1977 Regulations.

(c) S.I. 1977/1461.

(d) S.I. 1980/913 (C. 36).

(e) S.I. 1980/1353 (C. 54).

- (b) the paragraphs of Part I of Schedule 5 to the 1980 Act specified in column (1) of Part II of the Schedule to this Order (which relate to the sections of the 1960 Act specified in column (2) of that Schedule in respect of those paragraphs),
- (c) the provisions contained in Part II of Schedule 5 to the 1980 Act for the amendment of Acts (other than the 1960 Act) mentioned in Part III of the Schedule to this Order, and
- (d) the repeals specified in Part I of Schedule 9 to the 1980 Act relating to provisions of the enactments specified in Part IV of the Schedule to this Order

shall have effect.

4. In a case where on 1st April 1981 proceedings have been started, but not finished, in respect of the offence specified in section 127(5) of the 1960 Act, the repeal of that subsection and the commencement of sections 17(3) and 19(5) are for the purposes of those proceedings deemed not to have occurred.

5. In a case where on 1st April 1981 a certifying officer or public service vehicle examiner has started, but not finished, any action under the powers conferred by section 128(3) of the 1960 Act, the repeal of that subsection and the commencement of section 16(1) are, for the purposes of that action, deemed not to have occurred, and in a case where on that date proceedings have been started, but not finished, in respect of the offence specified in the said section 128(3), the substitution specified in paragraph 1(4) of Part I of Schedule 5 to the 1980 Act is deemed not to have occurred.

6. In a case where on 1st April 1981 the Minister has started, but not finished, the process of revoking a certificate of fitness by virtue of section 129(5) of the 1960 Act, the commencement of that process shall not be deemed to prevent the certificate in question from having effect as if it were a certificate of initial fitness issued in respect of the vehicle on that date in accordance with section 17(2), and the said process shall accordingly be at an end.

7.—(1) In a case where on 1st April 1981 an application for a certificate of fitness has, pursuant to section 129 of the 1960 Act, been made but no certificate has been issued, then—

- (a) if the vehicle is one in respect of which a certificate of fitness has previously been issued, the application shall be dealt with as if the repeal of section 129 of the 1960 Act had not occurred, and if a certificate of fitness is issued pursuant to the application the provisions of section 17(2) shall apply to it, and as regards such application the provisions of Parts II and IV of the 1952 Regulations shall apply notwithstanding any revocation thereof, and
- (b) if the vehicle is not one in respect of which a certificate of fitness has previously been issued, the application shall be dealt with as if it were an application for a certificate of initial fitness.

(2) If an application for a certificate of fitness is dealt with in accordance with paragraph (1)(a) and the applicant is aggrieved by the refusal of a certifying officer to issue such a certificate, the revocation of section 143 of the 1960 Act specified in paragraph 1 of Part IV of the Schedule to this Order, the repeal of provisions in section 13 of, and Schedule 1 to, the Tribunals and Inquiries Act 1971(a) specified in paragraph 2 of the said Part IV, and the coming into force of sections 28 and 29 shall be deemed not to have occurred.

8. In a case where on 1st April 1981 the Minister has by virtue of section 131(1) of the 1960 Act made an Order as respects a vehicle for the purposes of section 129 of the 1960 Act dispensing with any of the prescribed conditions as to fitness specified in the Order, such Order has effect as if it had been made under section 131(1) of the 1960 Act as substituted by virtue of section 43 of, and paragraph 3 in Part I of Schedule 5 to, the 1980 Act; and in a case where on 1st April 1981 an application has been made for an order under section 131(1) of the 1960 Act but the application has not been determined, it is deemed to have been made for an order under section 131(1) of the 1960 Act as so substituted.

9. In a case where on 1st April 1981 a duty under section 132(1) or (2) of the 1960 Act has arisen but is not discharged, the duty obtains as if the repeal of the said section 132(1) or, as the case may be, the said section 132(2) had not occurred, and in either case as if the repeal of section 132(3) of the 1960 Act had not occurred.

10.—(1) In a case where on 1st April 1981 a public service vehicle examiner or a certifying officer has started, but not finished, the process of suspending a public service vehicle licence by virtue of section 133(1) of the 1960 Act, that process shall be at an end.

(2) In a case where immediately before 1st April 1981 a public service vehicle licence is suspended by virtue of section 133(1) of the 1960 Act that suspension shall be at an end but in its place there is hereby imposed as regards the vehicle to which the licence relates a prohibition under section 18(1)(b) by virtue of which the said vehicle is prohibited from being driven on a road for the purpose of being used as a stage, express or contract carriage.

(3) A prohibition imposed under paragraph (2) above shall come into force on 1st April 1981, except that in a case where the operation of the suspension which the prohibition replaces was, by virtue of section 133(1) of the 1960 Act, postponed until after 31st March 1981 the prohibition—

- (a) shall not come into operation until the time when the suspension would have come into operation; and
- (b) shall not operate after that time if, before that time, the operator of the vehicle to which the prohibition relates furnishes evidence to the satisfaction of the certifying officer or public service vehicle examiner who imposed the suspension that the defects have been, or are in the course of being, remedied.

(4) As regards a prohibition imposed under paragraph (2) above—

- (a) the provisions of section 18(3) to (7) shall not apply; and
- (b) section 18(8) shall apply as if the words “Subject to any subsisting direction under subsection (2)” were omitted.

11.—(1) In a case where immediately before 1st April 1981 a person is the holder of a public service vehicle licence he may use, or cause or permit to be used, on a road as a stage, express or contract carriage the vehicle in respect of which the licence was issued, subject to any prohibition which is imposed in relation to the vehicle, until the earliest of the following dates, namely—

- (a) the date on which the licence expires,
- (b) the date on which the said person is granted a PSV operator's licence by virtue of which the vehicle may be used as a stage, express or contract carriage in accordance with the provisions of Part I of the 1980 Act.

(2) If, on or after 1st April 1981, a public service vehicle licence mentioned in paragraph (1) is due to expire or does expire the person who is or who was immediately before such expiry, as the case may be, the holder of the licence may, until 1st October 1982, apply for another public service vehicle licence for the vehicle to which the expired licence relates or related.

(3) If, on or after 1st April 1981, a person who is the holder of a public service vehicle licence desires to use, or cause or permit to be used, on a road as a stage, express or contract carriage, a vehicle in respect of which he does not hold a public service vehicle licence and which he cannot operate by virtue of a PSV operator's licence, he may, until 1st October 1982, apply for a public service vehicle licence for the vehicle.

(4) An application made by virtue of paragraph (2) or (3) shall be made to the authority mentioned in section 127(6) of the 1960 Act, and the authority to whom the application is made may grant or refuse the licence applied for, and as regards any licence which they may grant, and any other public service vehicle licence to which this Article relates, the provisions of sections 127 and 132 of the 1960 Act shall apply to the licence or the holder of it save that section 127(9) of that Act shall apply so that the licence shall, unless previously revoked, continue in force only from the date on which it is granted until either 1st October 1982 or the date mentioned in paragraph (1)(b), whichever is the earlier.

(5) The provisions of Part II (except Regulation 14) and Part III of the 1952 Regulations and the provisions of the 1977 Regulations shall apply, notwithstanding any revocation thereof, as regards a public service vehicle licence to which this Article relates being either a standard or a restricted licence and to an application therefor.

(6) As regards any appeal arising from an application made on or after 1st April 1981 for a public service vehicle licence, the coming into force of sections 28 and 29, the repeal of section 143 of the 1960 Act specified in paragraph 1 of Part IV of the Schedule to this Order, and the repeal of provisions in section 13 of, and Schedule 1 to, the Tribunals and Inquiries Act 1971 specified in paragraph 2 of the said Part IV shall be deemed not to have occurred.

(7) The fee for a public service vehicle licence granted in accordance with the foregoing provisions of this Article shall be £3.50 for each month, or part of a month, during which the licence is expressed to have effect, and such fee shall be paid before the licence is granted.

12. In a case where on or after 1st April 1981 there is being operated a vehicle in respect of which a public service vehicle licence is in force the following amendments shall be deemed not to have occurred, namely—

- (a) the amendments to section 152 and 158 of the 1960 Act specified respectively in paragraphs 8 and 10 of Part I of Schedule 5 to the 1980 Act, and
- (b) the amendments to Schedule 5 to the Road Traffic Regulation Act 1967(a) specified in paragraph 4(2)(b) and (c) and (3) in relation to that Act in Part II of Schedule 5 to the 1980 Act.

13. The traffic commissioners by whom a person is granted a PSV operator's licence may, subject to the conditions specified in Article 14, permit that person to use, as if it were an operator's disc to which section 24 applies, a

public service vehicle licence which was held by that person immediately before the date on which he was granted the PSV operator's licence during the period from that date to the date on which the public service vehicle licence would have expired.

14. The conditions mentioned in Article 13 are as follows:—

- (a) the said licence may only be used in lieu of an operator's disc on the vehicle in respect of which it was issued; and
- (b) any regulations for the time being in force relating to operators' discs shall apply to the said licence save as regards its form and any particulars to be shown on it.

15.—(1) In a case where the holder of a public service vehicle licence, whether on being granted a PSV operator's licence or otherwise, surrenders a public service vehicle licence there shall be refunded to him such a sum as represents the proportion of the fee attributable to the number of complete months to which that licence relates and which at the date of the surrender have not expired, and in a case where the said holder is granted a PSV operator's licence the traffic commissioners may make the said refund by off-setting the amount thereof against the fee due in respect of the PSV operator's licence.

(2) No refund of any part of a fee paid for a public service vehicle licence shall be due in respect of any period during which the licence is, by virtue of Article 13, used as an operator's disc.

16. Article 3 of the Commencement No. 1 Order is hereby revoked with effect from 1st April 1981. During the period from 1st April 1981 to 1st October 1982 the reference in section 27(1) to a standard licence shall, in relation to a public service vehicle licence by virtue of which a vehicle is being used, be construed as a reference to a standard licence as defined in Regulation 2(1) of the 1977 Regulations.

17. Article 7 of the Commencement No. 1 Order is hereby revoked with effect from 1st April 1981. During the period from 1st April 1981 to 1st October 1982 the reference in paragraph 6(2) of Part I of Schedule 5 to the 1980 Act to the holder of a PSV operator's licence under which the vehicle is being used shall, in a case where by virtue of Article 11 the vehicle is being used under a public service vehicle licence, be construed as a reference to the holder of the public service vehicle licence relating to the vehicle in relation to which the Inspector is exercising his authority.

18. Article 6 of the Commencement No. 2 Order is hereby revoked with effect from 1st April 1981. During the period from 1st April 1981 to 1st October 1982 the references in section 4(4), 9(2) and 37(2) to a person holding a PSV operator's licence granted by the traffic commissioners not being a licence which is of no effect by reason of its suspension, and the reference in paragraph 5(a) of Part III of Schedule 1 to the 1980 Act to the holder of the operator's licence under which the vehicle is to be used shall, in a case where by virtue of Article 11 a person holds a public service vehicle licence, be construed as a reference to the holder of that public service vehicle licence.

19. Articles 21, 22 and 25 of the Commencement No. 2 Order are hereby revoked with effect from 1st April 1981.

20. Article 26 of the Commencement No. 2 Order is hereby revoked with effect from 1st April 1983.

21. The Commencement No. 2 Order is hereby amended so that in Part IV of the Schedule, in paragraph 1, the words "section 154(2)" are omitted.

23rd February 1981.

Norman Fowler,
Minister of Transport.

SCHEDULE

PROVISIONS OF 1980 ACT COMING INTO OPERATION ON 1ST APRIL 1981

PART I

(1) Sections of the 1980 Act	(2) Subject matter of sections
Section 1(3) and (4) so far as it relates to the other sections specified in this Part of this Schedule	Provision that Part I of the 1980 Act shall be construed and have effect as if it were (except so far as it textually amends any enactment) contained in Part III of the 1960 Act and that any reference to the said Part III in any statutory provision not contained in either the said Part I or the said Part III shall, unless the context otherwise requires, be construed as including a reference to the said Part I.
Section 16	Powers of, and facilities for, the inspection of public service vehicles.
Section 17	Certificates of initial fitness (or equivalent) required for use of public service vehicles.
Section 18	Power to prohibit the driving of unfit public service vehicles.
Section 19	PSV operators' licences.
Section 20	Classification of PSV operators' licences.
Section 21	Grant and duration of PSV operators' licences.
Section 22	Conditions attached to PSV operators' licences.

(1) Sections of the 1980 Act	(2) Subject matter of sections
Section 23	Revocation and suspension of PSV operators' licences.
Schedule 3	Supplementary provisions as to qualifications for a PSV operator's licence.
Section 24	Duty to exhibit operator's disc.
Section 25	Duty to inform traffic commissioners of relevant convictions etc.
Section 26	Duty of holder of PSV operator's licence to give traffic commissioners information about vehicles.
Section 28(1), (2), (3), (4), (5), (9) and (10) in so far as it relates to PSV operators' licences	Appeals to the Minister as regards licences.
Section 28(6)	Appeals to the Minister as regards certificates of initial fitness and certificates under section 130 of the 1960 Act (type approval).
Section 29 in so far as it relates to PSV operators' licences and otherwise in so far as it has not previously been brought into operation	Further appeals on points of law.
Section 30(1)	Provision by regulations for modifying statutory provisions relating to public service vehicles in their application to the operation of vehicles and the provision of services by persons in partnership.
Section 30(2)	Permitting by regulations of a road service licence or PSV operator's licence being granted to an unincorporated body.
Section 31	Death, bankruptcy etc of holder of road service licence or PSV operator's licence.
Section 34	Amendment of section 44 of the Road Traffic Act 1972(a) (obligatory test certificates) so as to extend its application.
Section 38 in so far as it has not previously been brought into operation	Fees for the grant of licences etc.
Section 41 in so far as it has not previously been brought into operation	Offences by bodies corporate.
Section 42 in so far as it has not previously been brought into operation	Defences available to persons charged with certain offences.

(a) 1972 c. 20.

(1) Sections of the 1980 Act	(2) Subject matter of sections
Section 43 in so far as it has not previously been brought into operation	Amendment of other Acts.
Section 44 in so far as it has not previously been brought into operation	Interpretation.
Section 63	Substitution of section 191 of the Road Traffic Act 1972 (articulated vehicles).
Section 69 in so far as it has not previously been brought into operation	Repeals.

PART II

(SECTIONS OF THE 1960 ACT FOR THE AMENDMENT OF WHICH SECTION 43 OF, AND PART I OF SCHEDULE 5 TO, THE 1980 ACT PROVIDE)

(1) Paragraphs of Part I of Schedule 5 to the 1980 Act	(2) Sections of the 1960 Act to which paragraphs specified in column (1) relate
Paragraph 1	Section 128 (certifying officers and public service vehicle examiners).
Paragraph 2	Section 130 (approval of type vehicles).
Paragraph 3	Section 131 (modifications in relation to experimental vehicles).
Paragraph 4 in so far as it relates to or consists of sub-paragraph (b)	Section 144 (driver licences).
Paragraph 8	Section 152 (wages and conditions of employment of persons employed in connection with public service vehicles).
Paragraph 10	Section 158 (power to regulate procedure on applications for licences etc.).
Paragraph 11 in so far as it relates to or consists of sub-paragraph (a)	Section 160 (regulations for the purposes of Part III).
Paragraph 12 in so far as it relates to or consists of sub-paragraphs (a) or (b)	Section 233 (forgery and misuse of documents etc.).

PART III

(ACTS (OTHER THAN THE 1960 ACT) FOR THE AMENDMENT OF WHICH SECTION 43 OF, AND PART II OF SCHEDULE 5 TO, THE 1980 ACT PROVIDE)

(1) Title of Act	(2) Provisions in Part II of Schedule 5 to the 1980 Act commenced by this Order
Road Traffic Regulation Act 1967	The provision of paragraph 4 in so far as it has not previously been brought into operation.
Road Traffic (Foreign Vehicles) Act 1972(a)	The provision of paragraph 1 in so far as it has not previously been brought into operation, and the provision of paragraph 3.
Road Traffic Act 1974(b)	The whole provision.
Local Government (Miscellaneous Provisions) Act 1976(c)	Paragraph 1.
Energy Act 1976(d)	The whole provision in so far as it has not previously been brought into operation.

(a) 1972 c. 27.

(b) 1974 c. 50.

(c) 1976 c. 57.

(d) 1976 c. 76.

PART IV

Repeals specified in Part I of Schedule 9 to the 1980 Act relating to provisions of:—

1. The 1960 Act, namely—

Section 127

Section 129

In section 130, in subsection (2), the words from “and such” onwards.

Sections 132, 133 and 133A.

Section 143 in so far as its repeal has not previously been effected.

Section 153(2)

In section 257(1), the definition of “owner”.

2. Acts other than the 1960 Act, namely—

Short Title	Extent of repeal
Transport Act 1968(a)	Section 35(1), (2) and (3)(a).
Tribunals and Inquiries Act 1971	Section 13(5) in section 13(6)(a) the words from “or to a decision” to “traffic commissioners”, in Schedule 1, in paragraph 30(a), the words from “and” onwards, in so far as these repeals have not previously been effected.
Road Traffic Act 1972	In section 44(4)— (a) the words from “to public service vehicles” to “passengers or”; (b) the words from “but shall apply” to “1978”; (c) the words from “if no” to the end.
Road Traffic Act 1974	In Schedule 2, paragraphs 1 and 3 to 5. In Schedule 5, the entries in Part I relating to section 127, 128(3), and 132(2) of the 1960 Act.
Transport Act 1978(b)	Section 5(10).

(a) 1968 c. 73.

(b) 1978 c. 55.

EXPLANATORY NOTE

(This Note is not part of the Order.)

1. This Order brings into operation on 1st April 1981 the provisions of the Transport Act 1980 which are specified in Parts I, II, III and IV of the Schedule to this Order. Those provisions are the last remaining provisions of that Act to be brought into force. They relate to—

- (a) powers of, and facilities for, the inspection of public service vehicles;
- (b) certificates of initial fitness (or equivalent) required for the use of public service vehicles;
- (c) power to prohibit the driving of unfit public service vehicles;
- (d) PSV operators' licences, including—
 - (i) their classification,
 - (ii) their grant and duration,
 - (iii) conditions attached to them, and
 - (iv) their revocation and suspension;
- (e) the qualifications required of a holder of a PSV operator's licence;
- (f) operators' discs to be exhibited on public service vehicles;
- (g) relevant convictions to be notified to traffic commissioners;
- (h) information to be given to traffic commissioners about vehicles;
- (i) appeals to the Minister as regards—
 - (i) PSV operators' licences,
 - (ii) certificates of initial fitness, and
 - (iii) certificates under section 130 of the 1960 Act (type approval);
- (j) further appeals on points of law;
- (k) the provision by regulations for modifying statutory provisions relating to public service vehicles in their application to the operation of vehicles and the provision of services by persons in partnership;
- (l) the permitting by regulations the granting of a road service licence or a PSV operator's licence to an unincorporated body;
- (m) provisions as to the death, bankruptcy etc of the holder of a road service licence or PSV operator's licence;
- (n) obligatory test certificates for vehicles of such classes as may be prescribed;
- (o) fees for the grant of certain licences;
- (p) offences by bodies corporate in certain matters;
- (q) defences available to persons charged with certain offences;
- (r) amendments to certain other Acts;
- (s) interpretation;
- (t) the substitution of a new section 191 of the Road Traffic Act 1972 (articulated vehicles); and
- (u) various repeals.

2. The transitional provisions contained in Articles 4 to 10 make provisions as to the following circumstances:—

- (a) where proceedings have been started, but not finished, for an offence under section 127(5) of the 1960 Act (causing or permitting a vehicle to

- be used in contravention of requirement for a public service vehicle licence);
- (b) where action has been started, but not finished, under section 128(3) of the 1960 Act (powers to inspect public service vehicles and to enter premises) and where proceedings have been started, but not finished, for an offence under that subsection;
 - (c) where the process of revoking a certificate of fitness by virtue of section 129(5) of the 1960 Act (compliance with prescribed conditions of fitness) has been started but not finished;
 - (d) where an application for a certificate of fitness has, pursuant to section 129 of the 1960 Act, been made but no certificate has been issued;
 - (e) where an order or an application for an order, under section 131(1) of the 1960 Act (dispensation with prescribed conditions of fitness) has been made;
 - (f) where a duty under section 132(1) or (2) of the 1960 Act (duty to give notice of the happening to a vehicle of a failure or damage of a certain nature, and of certain alterations, to the traffic commissioners) has arisen but is not discharged; and
 - (g) where the process of suspending a public service vehicle licence under section 133(1) of the 1960 Act has started but not been finished and where such a suspension under that section has not been removed.

3. The transitional provisions contained in Articles 11 to 14 cater for the use of a vehicle on a road as a stage, express or contract carriage by virtue of a public service vehicle licence during the period commencing on 1st April 1981 and ending on 1st October 1982. In a case where immediately before 1st April 1981 a person is the holder of a public service vehicle licence he may use or cause or permit the vehicle to be used, as a stage, express or contract carriage the vehicle in respect of which the licence was issued until the licence expires, or until that person is granted a PSV operator's licence by virtue of which the vehicle may be so used or caused or permitted to be used, or until 1st October 1982 whichever is the earlier (Article 11(1)). Provisions are made for new public service vehicle licences to be granted to a person during the said period in a case where an existing licence expires, or a new licence is wanted, before that person is granted a PSV operator's licence by virtue of which he can use, or cause or permit to be used, the vehicle as a stage, express or contract carriage (Article 11(2) to (7)). Article 12 postpones, as regards a vehicle in respect of which a public service vehicle licence is in force during the said period, the effect of amendments to certain provisions in the 1960 Act and in Schedule 5 to the Road Traffic Regulation Act 1967 (which relates to speed limits). Article 13 provides for the holder of a PSV operator's licence to use, subject to conditions specified in Article 14, a public service vehicle licence of which he was the holder instead of an operator's disc. Article 15 provides for refunds of proportions of fees paid for public service vehicle licences on their surrender (whether as a result of the grant of a PSV operator's licence or otherwise).

4. Articles 16 to 19 revoke transitional provisions in the Commencement No. 1 Order and the Commencement No. 2 Order which will cease to be required on 1st April 1981, although the revocations made by Articles 16, 17 and 18 are adapted to cover the case of a vehicle being used as a stage, express or contract carriage by virtue of a public service vehicle licence during the period from 1st April 1981 to 1st October 1982. Article 20 revokes Article 26 of the Commencement No. 2 Order with effect from 1st April 1983 so that on

and after that date section 88(3) of the Road Traffic Act 1972 (which relates to the grant of driving licences) shall apply so as to take account of the coming into operation on 6th October 1980 of section 37 of the 1980 Act. Article 21 corrects a minor printing error in the Commencement No. 2 Order.

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