

THE SCHEDULE

Article 3

TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

“the 1968 Act” means the Transport Act 1968(1);

“the 1995 Act” means the Goods Vehicles (Licensing of Operators) Act 1995;

“the appointed day” means 1st January 1996;

“existing licence” means an operator’s licence within the meaning of Part V of the 1968 Act which was in force immediately before the appointed day; and

“old-style licence” means an existing licence in respect of which no direction has been given under paragraph 10 below.

Licences with expiry dates before the appointed day

2.—(1) This paragraph applies to an existing licence if—

(a) on the date that the licence was due to expire proceedings were pending before the traffic commissioner on an application by the holder of the licence for the grant to him of a new licence in substitution therefor; and

(b) the licence was in force immediately before the appointed day by virtue of that application and section 67(4) of the 1968 Act.

(2) An existing licence to which this paragraph applies shall, unless previously revoked or otherwise terminated under any provision of the 1995 Act or any other statutory provision, terminate upon the requirements of sub-paragraph (3) below being met.

(3) The requirements of this sub-paragraph are that—

(a) the application, and

(b) any appeal under (or having effect as an appeal under) section 37 of the 1995 Act arising out of that application,

are disposed of.

(4) Section 16(2) of the 1995 Act shall have effect subject to this paragraph.

Prematurely terminated licences

3.—(1) This paragraph applies to an existing licence if—

(a) a traffic commissioner has, before the appointed day, given a direction under section 69 of the 1968 Act that an existing licence be terminated on a date earlier than that on which it would otherwise expire under section 67 of that Act; and

(b) the date specified in the direction as the date on which the licence is to terminate is on or after the appointed day.

(1) 1968 c. 73. Section 67 was amended by the Road Traffic Act 1974 (c. 50), Sch. 4, para. 3. Section 68 was amended by the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984 (S.I. 1984/176) reg. 36. Section 69 was amended by the Transport Act 1982 (c. 49) (“the 1982 Act”), Sch. 4, Part II, para. 7. Section 69A to 69G were inserted by the 1982 Act, Sch. 4, Part I. Part V is repealed by the Goods Vehicles (Licensing of Operators) Act 1995, Sch. 8. Other amendments have been made which are not relevant for the purposes of this instrument. Prospective amendments were made by the Deregulation and Contracting Out Act 1994 (c. 40) (see explanatory note).

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(2) Subject to sub-paragraph (3), an existing licence to which this paragraph applies shall, unless previously revoked or otherwise terminated under any provision of the 1995 Act or any other statutory provision, terminate on the date specified in the direction as the date on which the licence is to terminate.

(3) If, on the date on which an existing licence is due to expire by virtue of sub-paragraph (2) above, proceedings are pending before the traffic commissioner on an application by the holder of that licence for the grant to him of a new licence in substitution thereof, the existing licence shall, subject to its revocation or other termination under any provision of the 1995 Act or any other statutory provision, continue in force until—

(a) the application, and

(b) any appeal under section 37 of the 1995 Act arising out of the application, are disposed of.

(4) Section 16(2) of the 1995 Act shall have effect subject to this paragraph.

Statements of intent

4. Where—

(a) the holder of an old-style licence had made or procured to be made—

(i) for the purposes of his application for the licence, or

(ii) for the purposes of an application for the variation of the licence, a statement of intent in writing; and

(b) the application was determined before the appointed day,

the statement shall, for the purposes of the 1995 Act, have effect on and after the appointed day as if it were an undertaking recorded in the licence.

Authorised vehicles

5.—(1) Section 5 of the 1995 Act (which replaces section 61 of the 1968 Act) shall have effect in relation to an old style licence as if for subsection (1) there were substituted—

“(1) Subject to subsection (2) of this section, the vehicles authorised to be used under an operator’s licence shall be—

(a) such motor vehicles, being vehicles in the lawful possession of the holder of the licence as are specified in the licence;

(b) trailers from time to time in the lawful possession of the holder of the licence, not exceeding at any time such maximum number as is specified in the licence;

(c) unless the licence does not permit the addition of vehicles under this paragraph and subject to subsection (6) of this section, motor vehicles not exceeding such maximum number as is specified in the licence, being vehicles in the lawful possession of the holder of the licence.

For the purposes of paragraphs (b) and (c) of this subsection different types of trailers or different types of motor vehicles, as the case may be, may be distinguished in a licence and a maximum number may be specified in the licence for trailers or vehicles of each type.”

(2) Section 5(2) and (3) of the 1995 Act shall not have effect in relation to an old-style licence.

(3) Subject to sub-paragraph (4) below, section 5(6) of the 1995 Act shall have effect in relation to an old-style licence as if for the words “subsection (1)” there were substituted the words “subsection (1)(c)”.

(4) In section 5(6) of the 1995 Act, the words “and has paid him a prescribed fee” shall not have effect in relation to a notice given to the traffic commissioner under section 61(3) of the 1968 Act before the appointed day.

(5) In section 5(7) of the 1995 Act, the words “and the prescribed fee has been duly paid under subsection (6)” shall not have effect in relation to a notice to the traffic commissioner under section 61(3) of the 1968 Act before the appointed day.

(6) Section 6 of the 1995 Act shall not have effect in relation to an old-style licence.

Variation of old-style licences

6. Section 17 of the 1995 Act (which amongst other things replaces section 68 of the 1968 Act) shall have effect in relation to an old-style licence as if—

(a) for subsection (1)(a) to (f) there were substituted—

“(a) that additional vehicles be specified therein;

(aa) that the maximum number of trailers or of motor vehicles specified in the licence under (or having effect as specified in the licence under) paragraph (b) or (c) of section 5(1) of the 1995 Act (as substituted by paragraph 5 of the Schedule to the Goods Vehicles (Licensing of Operators) Act 1995 (Commencement and Transitional Provisions) Order 1995) be increased;

(ab) if the licence does not permit the addition of vehicles under paragraph (c) of the said section 5(1) (as so substituted), that it shall so permit and that a maximum be specified under that paragraph accordingly;

(b) that vehicles specified therein be removed therefrom or that any such maximum as is mentioned in paragraph (aa) of this subsection be reduced;”;

(b) for subsection (1)(h), there were substituted—

“(h) that—

(i) any statement of intent which, by virtue of paragraph 4 of the Schedule to the Goods Vehicles (Licensing of Operators) Act 1995 (Commencement and Transitional Provisions) Order 1995 has effect as if it were an undertaking recorded in the licence, cease to have such effect, or

(ii) any undertaking recorded in the licence be varied or removed;”;

(c) in subsection (4), paragraph (a) was omitted.

Publication of notices of applications for licences made before the appointed day

7. Section 11 of the 1995 Act (which replaces section 69E of the 1968 Act in part) shall have effect in relation to an application for a licence made before the appointed day as if subsection (3) were omitted.

Publication of notices of applications for the variation of licences made before the appointed day

8.—(1) Section 18 of the 1995 Act (which replaces section 69E of the 1968 Act in part) shall not have effect in relation to an application made before the appointed day for the variation of a licence unless notice of the application has been (or has the effect of having been) published under section 17(3) of the 1995 Act.

(2) Section 18 of the 1995 Act shall have effect in relation to an application made before the appointed day of which notice has been published as mentioned in sub-paragraph (1) above as if—

(a) for subsections (1) and (2) there were substituted the following subsection—

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“(1) The traffic commissioner to whom an application for the variation of an operator’s licence is made shall refuse the application without considering the merits unless he is satisfied that subsection (3) has been complied with in respect of each locality affected by the application.”; and

(b) subsection (4) were omitted.

Publication of notices of applications for the variation of old-style licences made on or after the appointed day

9.—(1) Section 18 of the 1995 Act (which replaces section 69E of the 1968 Act in part) shall not have effect in relation to an application made on or after the appointed day for the variation of an old-style licence unless notice of the application has been (or has the effect of having been) published under section 17(3) of the 1995 Act.

(2) Section 18 of the 1995 Act shall have effect in relation to an application for a variation of an old-style licence made on or after the appointed day of which notice has been published as mentioned in sub-paragraph (1) above as if for paragraphs (a) and (b) there were substituted—

- “(a) any direction under section 17(1)(a) (as substituted by paragraph 6 of the Goods Vehicles (Licensing of Operators) Act 1995 (Commencement and Transitional Provisions) Order 1995) that additional vehicles be specified in the licence;
- (aa) any direction under section 17(1)(aa) (as so substituted) that a maximum number specified in the licence be increased;
- (ab) any direction under section 17(1)(ab) (as so substituted);”.

Conversion of old-style licences

10.—(1) The traffic commissioner by whom an old-style licence was issued may at any time after the appointed day vary the licence by directing—

- (a) that any maximum number specified in the licence under (or having effect as specified in the licence under) section 5(1)(b) or (c) of the 1995 Act (as substituted by paragraph 5 above) shall cease to have effect;
- (b) that a provision such as is mentioned in section 5(2) of the 1995 Act be included in the licence;
- (c) that a maximum number of motor vehicles be specified in the licence in accordance with section 6(1)(a) of the 1995 Act;
- (d) that a maximum number of trailers be specified in the licence in accordance with section 6(2)(a) of the 1995 Act;
- (e) that a provision such as is mentioned in section 6(1)(b) or (2)(b) of the 1995 Act be included in the licence;
- (f) that any statement having effect as an undertaking by virtue of paragraph 4 above immediately before the direction or a statement to the like effect be recorded in the licence as an undertaking; or
- (g) that an alteration of any other description be made which appears to the traffic commissioner to be consequential to the coming into force of the 1995 Act;

or any two or more of those things; and paragraph 5 of this Schedule shall be disregarded for the purposes of paragraphs (b) to (e) above.

(2) The powers under sub-paragraph (1) above shall be exercised in such a way as appears to the traffic commissioner—

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- (a) to put the licence into a form that would have been appropriate had the 1995 Act been in force at the time it was granted; and
 - (b) to leave the holder of the licence in the same position as he was immediately before the licence is varied or as near to that position as is practicable using those powers while meeting the requirements of paragraph (a) above.
- (3) If it appears to a traffic commissioner that an old-style licence is in a form that would have been appropriate had the 1995 Act been in force at the time it was granted, he may at any time after the appointed day give a direction that no variation is to be made to the licence under this paragraph.
- (4) A traffic commissioner shall not exercise his powers under this paragraph without first giving the holder of the licence an opportunity to make representations to the commissioner with respect to the proposed variation.

Revocation etc. of old-style licences

11. Section 26 of the 1995 Act (which replaces section 69 of the 1968 Act) shall have effect in relation to an old-style licence as if in subsection (11) for paragraphs (b) and (c) there were substituted—

- “(b) that the maximum number of trailers or of motor vehicles specified in the licence in pursuance of (or having effect as specified in the licence in pursuance of) section 5(1)(b) or (c) of the 1995 Act (as substituted by paragraph 5 of the Schedule to the Goods Vehicles (Licensing of Operators) Act 1995 (Commencement and Transitional Provisions) Order 1995) be reduced;
- (c) that the addition of vehicles under the said section 5(1)(c) (as so substituted) be no longer permitted;”.

Periods of review of operating centres

12.—(1) Subject to sub-paragraph (2) below, section 30(2) of the 1995 Act shall not have effect in relation to an existing licence, but in relation to such a licence, the periods of review for the purposes of the 1995 Act are—

- (a) the period—
 - (i) beginning with the date specified in the licence as the date on which it came into force, and
 - (ii) ending at the end of the last day that the licence would have continued in force by virtue of section 67(2) of the 1968 Act had neither the Deregulation and Contracting Out Act 1994(2) nor the 1995 Act been passed; and
- (b) each consecutive period of five years.

(2) Sections 30, 31 and 32 of the 1995 Act shall not have effect in relation to a licence to which paragraph 2 or 3 above applies.

Removal of operating centres on review

13.—(1) This paragraph has effect where a person at any time—

- (a) after the date that this Order is made, and
- (b) before the appointed day,

makes representations to the traffic commissioner as to the unsuitability of a relevant place on environmental grounds for continued use as an operating centre for vehicles used under any

(2) 1994 c. 40.

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operator's licence; and for the purposes of this sub-paragraph a relevant place is a place specified in an operator's licence issued by the traffic commissioner.

(2) If the representations comply with paragraphs (a) and (b) of regulation 18 of the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984⁽³⁾, the representations shall for the purposes of section 31 of the 1995 Act—

- (a) be deemed to comply with the requirements of subsection (5)(a) of that section; and
- (b) have effect as if that section had been in force at the time the representations are made.

(3) Representations made on or before the date that this Order is made shall be disregarded for the purposes of section 31 of the 1995 Act.

Fees

14. Nothing in section 45(3) of the 1995 Act shall in any circumstances affect the validity of—

- (a) any decision made;
- (b) any direction given;
- (c) any licence issued; or
- (d) any variation effected,

before the appointed day.

⁽³⁾ [S.I. 1984/176](#); relevant amending instrument is [S.I. 1987/841](#).