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STATUTORY INSTRUMENTS

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**1995 No. 2869**

**ROAD TRAFFIC**

**The Goods Vehicles (Licensing of Operators) Regulations 1995**

*Made* - - - - *6th November 1995*  
*Laid before Parliament* *14th November 1995*  
*Coming into force* - - *1st January 1996*

The Secretary of State for Transport—

- (a) in exercise of the powers conferred by sections 2, 5(3) and (8), 8(3), (4) and (5), 10, 11(2), 12(2), (3), (6) and (7), 14(5), 17(2), 18(3), 19(9) and (10), 23(2), 30(1) and (4), 31(5), 33, 34(1), 35(3), 36(2) and (3), 46(1) and (2), 47, 48(2), (3) and (4) and 57(1), (2), (3), (4), (5), (7), (8) and (9) of, and paragraphs 1 and 3 of Schedule 4 to, the Goods Vehicles (Licensing of Operators) Act 1995(1), and
- (b) being a Minister designated(2) for the purposes of subsection (2) of section 2 of the European Communities Act 1972(3) in relation to the regulation and supervision of the qualifications of persons engaged in road transport, in exercise of the powers conferred by that section;

and in exercise of all other powers enabling him in that behalf, hereby makes the following Regulations having consulted with representative organisations in accordance with section 57 (12) of the Goods Vehicles (Licensing of Operators) Act 1995, and the Council on Tribunals in accordance with the requirements of section 8 of the Tribunals and Inquiries Act 1992(4):—

**PART I**  
**GENERAL**

**Commencement and citation**

**1.** These Regulations may be cited as the Goods Vehicles (Licensing of Operators) Regulations 1995, and shall come into force on 1st January 1996.

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(1) 1995 c. 23.  
(2) S.I. 1975/1707.  
(3) 1972 c. 68; which has been modified by the European Communities (Amendment) Act 1993 c. 32.  
(4) 1992 c. 53; to which there are amendments not relevant to these Regulations.

**Revocation**

2. The Regulations set out in Schedule 5 are hereby revoked.

**Interpretation**

- 3.—(1) In these Regulations, unless the context otherwise requires, any reference to—
- (a) a numbered section is a reference to the section bearing that number in the Goods Vehicles (Licensing of Operators) Act 1995;
  - (b) a numbered regulation or Schedule is a reference to the regulation or, as the case may be, the Schedule bearing that number in these Regulations; and
  - (c) a numbered paragraph is a reference to the paragraph bearing that number in the regulation in which the reference appears.
- (2) In these Regulations, unless the context otherwise requires—
- “the 1995 Act” means the Goods Vehicles (Licensing of Operators) Act 1995;
- “application for a licence” means an application for an operator’s licence for which publication is required by section 10(1);
- “application for the variation of a licence” means an application for the variation of an operator’s licence for which publication is required by section 17(3) and, “application” when used otherwise than as part of those expressions means—
- (a) an application for a licence, or
  - (b) an application for the variation of a licence;
- “Applications and Decisions” means a statement issued by a traffic commissioner under regulation 21;
- “company” shall be construed as provided in section 735 of the Companies Act 1985(5);
- “disc” means a disc issued in accordance with regulation 23(1) and (2) or 27(2);
- “dual purpose vehicle” has the meaning given in column 2 of the Table in regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986(6);
- “farm” includes a market garden;
- “firm” has the same meaning as in section 4 of the Partnership Act 1890(7);
- “goods vehicle” has the same meaning as in section 58(1) but excludes a small goods vehicle as described in Schedule 1 to the 1995 Act;
- “keeper”, in relation to a goods vehicle, is the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994(8);
- “licence” means an operator’s licence (whether standard or restricted) as defined in section 2(1) and, where the context so requires, includes the documentation which evidences the grant of an application;
- “licence-holder”, and “holder” in relation to a licence, mean the person to whom the licence was issued;
- “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;
- “maintenance” in relation to a goods vehicle includes inspection, repair and fuelling;
- “officer” has the meaning given in section 42;

(5) 1985 c. 6; to which there are amendments not relevant to these Regulations.

(6) S.I. 1986/1078, as amended by S.I. 1994/329.

(7) 1890 c. 39.

(8) 1994 c. 22; section 60A was inserted by paragraph 26 of Schedule 4 to the Finance Act 1995 (c. 4).

“recovery vehicle” has the same meaning as in Part V of Schedule 1 to the Vehicle Excise and Registration Act 1994;

“relevant conviction” means any conviction mentioned in paragraph 5 of Schedule 2 to the 1995 Act or any conviction of contravening any provision of the law of Northern Ireland or of a country or territory outside the United Kingdom corresponding to any such conviction, not being in either case a spent conviction within the meaning of section 1(1) of the Rehabilitation of Offenders Act 1974<sup>(9)</sup>;

“showman’s goods vehicle” has the same meaning as in section 62 of the Vehicle Excise and Registration Act 1994;

“tower wagon” has the same meaning as in paragraph 17(2) of Schedule 2 to the Vehicle Excise and Registration Act 1994 (as originally enacted);

“trade licence” is a licence granted under section 11 of the Vehicle Excise and Registration Act 1994;

“visiting force”, “headquarters” and “vehicle in the service of a visiting force or a headquarters” have the same meanings as in the Visiting Forces and International Headquarters (Application of Law) Order 1965<sup>(10)</sup>.

## PART II

### APPLICATIONS

#### **Manner of making applications**

4. Every application shall—
  - (a) be made on a form supplied by the traffic commissioner to whom the application is made and contain the information required by that form;
  - (b) be signed—
    - (i) if made by an individual, by that person,
    - (ii) if made by a firm, by all of the partners of that firm or by one of them with the authority of the others, and
    - (iii) if made by any other body or group of persons, by one or more individual persons authorised for that purpose by the body or group;
  - (c) if made for the issue of a licence, state whether it relates to a standard licence or to a restricted licence and, if it relates to a standard licence, state whether the licence is to cover—
    - (i) both national and international transport operations, or
    - (ii) national transport operations only.

#### **Time of applications**

5. Every application shall be sent to the traffic commissioner so as to reach him not less than 9 weeks before the time at which the applicant desires the licence or variation applied for to take effect.

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<sup>(9)</sup> 1974 c. 53.

<sup>(10)</sup> S.I. 1965/1536.

**Dispensations as to applications**

6. The traffic commissioner may consider an application notwithstanding that the requirement specified in regulation 5 has not been complied with.

**Notice of applications**

7.—(1) The prescribed manner in which a notice of any application for a licence as mentioned in section 10 or for a variation as mentioned in section 17 is published by the traffic commissioner is that a summary of the application which adequately specifies the subject-matter of the application shall be published in Applications and Decisions as mentioned in regulation 21.

(2) The notice of an application to be published in accordance with section 11 or section 18 shall give the information specified in Schedule 1.

**Restrictions on applications**

8.—(1) The traffic commissioner may decline to proceed with an application for a licence if it appears to him that the grant of that application would lead to a contravention of section 8(2).

(2) The traffic commissioner may decline to proceed with an application if and so long as it appears to him that the application relates to any motor vehicle which is specified in an existing licence, and the grant of that application would lead to a contravention of section 5(8).

**Inspection of applications**

9.—(1) The traffic commissioner by whom an application is received shall, until the application has been determined, make available for inspection—

- (a) to any person authorised to make the inspection by a local authority, a planning authority, chief officer of police or trade union or association specified in regulation 10, such part of the application (or the whole of it) as any such person in writing requests to see; and
- (b) to any person who is, by virtue of section 12(4) or 19(2)(b) entitled to make representations in respect of the application, or a person authorised by such a person to make the inspection on his behalf, such part of the application as is, in the opinion of the traffic commissioner, relevant to the representation.

(2) A traffic commissioner by whom a licence is issued shall, during the currency of the licence, make a copy of it available for inspection by any person who appears to the traffic commissioner to have reasonable grounds for making such an inspection.

(3) A traffic commissioner shall satisfy his obligation under paragraph (1) by—

- (a) making the application or, as the case may be, part of it, available for inspection at the office of his traffic area; or
- (b) on prior receipt of his expenses in that behalf, by posting a copy of the application or, as the case may be, part of it, to the address given for that purpose by the person wanting to make the inspection.

(4) A traffic commissioner shall satisfy his obligation under paragraph (2) by—

- (a) making a copy of the licence or, as the case may require, part of it, available for inspection at the office of his traffic area; or
- (b) on prior receipt of his expenses in that behalf, by posting a copy of the licence or, as the case may require, part of it, to the address given for that purpose by the person requesting to make the inspection.

## PART III

### OBJECTIONS AND REPRESENTATIONS

#### **Prescribed trade unions and associations**

**10.**—(1) The trade unions and associations specified in paragraph (2), being trade unions or associations whose members consist of or include persons holding licences or employees of any such persons, are hereby prescribed as persons who may object as provided in section 12(2), either as applied by section 19(2)(a) or not.

(2) Those trade unions and associations are—

- The British Association of Removers;
- The Freight Transport Association;
- The General and Municipal Workers' Union;
- The National Union of Rail, Maritime and Transport Workers;
- The Road Haulage Association;
- The Transport and General Workers' Union;
- The Union of Shop, Distributive and Allied Workers; and
- The United Road Transport Union.

#### **Manner of making objections and representations**

**11.**—(1) For the purposes of sections 12(6)(b), 12(7)(b) and 19(10), the prescribed manner of making an objection to, or representation against, an application is by delivering a document to the traffic commissioner at the office of his traffic area—

- (a) setting out the objection or representation as the case may be; and
- (b) signed—
  - (i) if made by an individual, by that person,
  - (ii) if made by a firm, by all of the partners of that firm or by one of them with the authority of the others,
  - (iii) if made by any other body or group of persons, by one or more individual persons authorised for that purpose by the body or group,or, in any of the above cases, by a solicitor acting on behalf of (as the case may be) the person, firm, body or group.

(2) A copy of the document delivered under paragraph (1) shall be sent by the objector, or the person making the representation, to the applicant on the same day as, or the next working day after, the delivery to the traffic commissioner.

#### **Time of making objections and representations**

**12.**—(1) The prescribed time within which an objection under section 12(1)(a) or (b) to an application for a licence must be made is the period commencing immediately after notice of the application is published under section 11(2) and ending 21 days after the date on which notice of the application is published in Applications and Decisions.

(2) The prescribed time within which a representation under section 12(4) in respect of an application for a licence must be made is the period of 21 days beginning with the date on which notice of the application is published under section 11(2).

(3) The prescribed time within which an objection under section 12(1)(a) as applied by section 17(5) or section 19(2) to or in respect of an application for a variation of a licence must be made is the period commencing immediately after notice of the application is published under section 18(3) (or, if none, the making of the application to which the objection relates) and ending 21 days after the date on which the notice of the application is published in Applications and Decisions.

(4) The prescribed time within which a representation under section 19(2) in respect of an application for a variation of a licence must be made is the period of 21 days beginning with the date on which the notice of the application is published under section 18(3).

### **Consideration of objections and representations**

**13.**—(1) The traffic commissioner shall consider every objection duly made in considering whether or not to hold an inquiry as provided in section 35.

(2) The traffic commissioner shall consider every representation duly made in considering whether or not to hold an inquiry as provided in section 35.

## **PART IV**

### **OPERATING CENTRES**

#### **Conditions which may be attached to a licence**

**14.** The conditions which may be attached under section 23 to a licence are conditions regulating—

- (a) the number, type and size of authorised motor vehicles or trailers which may at any one time be at any operating centre of the licence-holder in the area of the traffic commissioner for the purposes of maintenance and parking;
- (b) the parking arrangements to be provided for authorised motor vehicles or trailers at or in the vicinity of every such operating centre;
- (c) the times between which there may be carried out at every such operating centre any maintenance or movement of any authorised motor vehicle or trailer and the times at which any equipment may be used for any such maintenance or movement; and
- (d) the means of ingress to and egress from every such operating centre for any authorised motor vehicle or trailer.

#### **Considerations relevant to determinations**

**15.**—(1) The considerations prescribed as relevant to any determination of a kind specified in section 34(2) are—

- (a) the nature and the use of any other land in the vicinity of the land used or proposed to be used as an operating centre, and any effect which the use of the land as an operating centre has, or would be likely to have, on the environment of that vicinity;
- (b) in a case where the land proposed to be used as an operating centre is, or has previously been, used as an operating centre, the extent to which the grant of the application would result in any material change as regards that operating centre, or its use, which would adversely affect the environment of the vicinity of that land;
- (c) in the case of an application which, if granted, would result in land which has not previously been used as an operating centre being used as one, any information known to the traffic commissioner to whom the application is made about any planning permission

or application for planning permission relating to the land or any other land in the vicinity of that land;

- (d) the number, type and size of motor vehicles or trailers;
  - (e) the arrangements for the parking of motor vehicles or trailers or the proposed or likely arrangements for such parking;
  - (f) the nature and the times of the use of the land for the purpose of an operating centre or the proposed nature and times of the use of the land proposed to be used for that purpose;
  - (g) the nature and the times of the use of any equipment installed on the land used as an operating centre for the purpose of the use of that land as an operating centre or of any equipment proposed or likely to be installed on the land proposed to be used as an operating centre for that purpose; and
  - (h) the means and frequency of vehicular ingress to, and egress from, the land used as an operating centre or the proposed means and frequency of such ingress to, and egress from, the land proposed to be used as an operating centre.
- (2) In this regulation—

“operating centre” includes part of an operating centre and the place which would be the operating centre if the application were granted; and

“planning permission” has the same meaning, as regards England and Wales, as in section 336(1) of the Town and Country Planning Act 1990<sup>(11)</sup>, and, as regards Scotland, as in section 274(1) of the Town and Country Planning (Scotland) Act 1972<sup>(12)</sup>.

### **Conditions to be satisfied in relation to specified operating centres**

**16.** The prescribed condition under sections 14(5)(c), 19(9)(c) and paragraphs 1(7)(b) and 3(7)(b) of Schedule 4 to the 1995 Act is that either—

- (a) proceedings on any appeal (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired; or
- (b) any review under section 36 has been determined or the time for giving notice of intention to review under section 36(2) has expired and no such notice of review has been served,

and if any appeal or notice of intention is withdrawn or abandoned the date of such withdrawal or abandonment shall be taken to be the time of expiry.

### **Period for service of notice on review of an operating centre**

**17.** The period prescribed for the purpose of section 30(1) is two months.

### **Manner of service of notice on review of an operating centre**

**18.** Paragraph 6 of Schedule 4 shall have effect in relation to serving of notices by the traffic commissioner on a licence-holder for the purposes of section 30(1), as if “section 30” were substituted for “the Schedule” in sub-paragraph (1) of that paragraph.

### **Manner of making representations in relation to a review**

**19.** Without prejudice to section 31(5), the prescribed manner of making representations in relation to a review is by delivering a document to the traffic commissioner at the office of his traffic area—

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(11) 1990 c. 80.

(12) 1972 c. 52.

- (a) setting out the representations;
- (b) clearly identifying—
  - (i) the person making the representations,
  - (ii) the place specified in the operator’s licence to which the representations relate,
  - (iii) land or property in the vicinity which is owned or occupied by the person making the representations; and
- (c) signed—
  - (i) if made by an individual, by that person,
  - (ii) if made by a firm, by all of the partners of that firm or by one of them with the authority of the others,
  - (iii) if made by any other body or group of persons, by one or more individual persons authorised for that purpose by the body or group,or, in any of the above cases, by a solicitor acting on behalf of (as the case may be) the person, firm, body or group.

## PART V INQUIRIES

### Provisions about inquiries

- 20.** Schedule 4 shall have effect in relation to any inquiry held by a traffic commissioner.

## PART VI APPLICATIONS AND DECISIONS

### Statement to be issued by the traffic commissioner

**21.—(1)** The traffic commissioner shall publish as occasion may require a statement known as “Applications and Decisions” which shall contain (unless previously notified)—

- (a) as regards applications—
  - (i) notices of the applications,
  - (ii) the dates on which and the places at which he proposes to hold inquiries and the applications which he proposes to consider at those inquiries, and
  - (iii) the traffic commissioner’s decisions on applications, other than his decisions to issue an interim licence under section 24, or to make an interim direction under section 25;
- (b) any direction to revoke, suspend or curtail a licence given under section 26 or section 27;
- (c) the dates on which and the places at which he proposes to hold any inquiries other than those mentioned in sub-paragraph (a)(ii) above; and
- (d) any decision of his following a review under section 30.

(2) The publication of the date of any inquiry in Applications and Decisions shall not prevent the traffic commissioner from adjourning, cancelling or postponing the consideration of any application and in particular any inquiry held or proposed to be held in connection with the application.



(3) Copies of Applications and Decisions may be inspected at the office of the traffic area of the traffic commissioner by whom it was issued and at such other places (if any) as he may determine and copies of the whole or the relevant parts thereof shall be supplied to any person requiring them on payment of such sum as the traffic commissioner may require to cover the cost of supplying the copy.

### **Notification of decisions**

**22.**—(1) Subject to paragraph (2), where a traffic commissioner grants or refuses an application, he shall send a written statement of his reasons to—

- (a) the applicant;
- (b) every objector; and
- (c) every person who has made a representation in accordance with sections 12(4), 19(2) or 19(4) and asked the traffic commissioner for such a statement.

(2) Paragraph (1) does not apply where—

- (a) the traffic commissioner grants an application in the terms applied for; and
- (b) no objection or representation has been made in accordance with sections 12(1), 12(4), 19(2) or 19(4).

(3) Where a traffic commissioner makes a direction under section 31 or 32, he shall send a written statement of his reasons to the licence-holder.

## **PART VII**

### **OTHER MATTERS**

#### **Identification of motor vehicles**

**23.**—(1) The traffic commissioner shall, when any motor vehicle to be used under a licence is specified in the licence, issue to the licence-holder a disc in respect of the vehicle.

(2) The disc shall clearly indicate (by colour or other means)—

- (a) whether a vehicle is being used under a standard licence or under a restricted licence; and
- (b) in the case of a vehicle being used under a standard licence, whether the vehicle covers both international and national transport operations or national transport operations only.

(3) The licence-holder shall, during such time as any motor vehicle is specified in the licence and whether or not for the time being the vehicle is being used for the purpose for which a licence is required, cause a disc appropriate to the vehicle to be fixed to, and exhibited in a legible condition on, that vehicle in a waterproof container—

- (a) in the case of a vehicle fitted with a front windscreen, on the near side and near the lower edge of the windscreen with the obverse side facing forwards;
- (b) in the case of a vehicle not fitted with a front windscreen, in a conspicuous position on the front or near side of the vehicle.

(4) At no time shall any person except the traffic commissioner, or a person authorised to do so on his behalf, write on or make any other alteration to a disc.

#### **Temporary addition of a motor vehicle**

**24.** Where—

- (a) a motor vehicle specified in an operator's licence ("the specified vehicle") has been rendered unfit for service, or withdrawn from service for overhaul or repair, and the licence-holder informs the traffic commissioner of his desire to have a variation of the licence specifying another motor vehicle in its place ("the additional vehicle"); or
- (b) the specified vehicle has been rendered fit for service again, and the licence-holder informs the traffic commissioner of his desire to have a variation of the licence whereby the additional vehicle will cease to be specified on the licence,

the provisions of regulations 4 and 5 shall not apply.

#### **Notification of change of address**

**25.** If during the currency of a licence the address for correspondence as notified in the licence-holder's application or as subsequently notified under this regulation ceases to be an effective address for correspondence the licence-holder shall within 28 days from the date of such event notify the traffic commissioner by whom the licence was granted of an effective address for correspondence.

#### **Production of licence for examination**

**26.—**(1) The licence-holder shall produce the licence for inspection by an officer or a police constable on being required by such a person to do so, and the licence-holder may do so at any operating centre covered by the licence or at his head or principal place of business within the traffic area in which any such operating centre lies or, if the requirement is made by a police constable, at a police station chosen by the licence-holder.

(1) The licence-holder shall comply with any requirement mentioned in paragraph (1) within 14 days of the day on which the requirement is made.

#### **Issue of copies of licences and discs**

**27.—**(1) If a licence or disc has been lost, destroyed or defaced, the person to whom it was issued shall forthwith notify in writing the traffic commissioner by whom the licence or disc was issued.

(2) If—

- (a) the traffic commissioner is satisfied that a licence or disc has been lost, destroyed or defaced; and
- (b) in the case of a licence or disc which has been defaced, it is surrendered to the traffic commissioner,

the traffic commissioner shall issue a copy (so marked) which shall have effect as the original licence or disc.

(3) Where a licence or disc has been lost and after a copy has been issued the lost licence or disc is found by or comes into the possession of the licence-holder he shall forthwith return the original licence or disc to the traffic commissioner.

#### **Return of licences and discs**

**28.—**(1) If the licence-holder ceases to use under the licence any motor vehicle specified in the licence he shall within 21 days beginning with the date of ceasing to use the vehicle or vehicles notify the traffic commissioner by whom the licence was issued and return to that traffic commissioner the licence for variation and the disc relating to the vehicle.

(2) If a licence is varied under section 17, 31, 32 or 36 its holder shall, when required by the traffic commissioner so to do, return to the traffic commissioner—

- (a) the licence; and

(b) if the number of motor vehicles specified in the licence has been reduced, the disc relating to any vehicle no longer specified in the licence.

(3) If a licence is revoked, surrendered, suspended, curtailed or terminated for any other reason, or if a traffic commissioner has given a direction in respect of a licence under section 26(2), the licence-holder shall on or before the date specified in a notice to that effect, send or deliver to the office of the traffic area of the traffic commissioner by whom the licence was issued—

(a) the licence; and

(b) the disc relating to any motor vehicle which the traffic commissioner may specify, for cancellation, retention during the time of suspension, or alteration as the case may be.

(4) The notice referred to in paragraph (3) shall be delivered personally to the licence-holder or sent to him by recorded delivery service at the address shown in his application or last notified in accordance with regulation 25.

(5) In the event of the traffic commissioner deciding to make a variation under paragraph 9 of the Schedule to the Goods Vehicles (Licensing of Operators) Act 1995 (Commencement and Transitional Provisions) Order 1995(13) the licence-holder shall return the licence to the traffic commissioner for him to amend the licence so that it conforms to the variation before returning it to the holder.

## Partnerships

**29.**—(1) The provision in section 8(2) that a person shall not at the same time hold more than one operator's licence in respect of the same area shall apply so that a firm shall be treated as a person separate from any partner of that firm or an individual in any other partnership.

(2) For the purposes of authorising goods vehicles to be used under section 5(1) when the licence-holder is a firm, any vehicle in the lawful possession of any partner of a firm shall be regarded as in the lawful possession of the firm.

(3) The provisions of section 13(3) shall apply in any case where an applicant for a standard licence is a firm so that the traffic commissioner is required to satisfy himself that—

(a) every one of the partners of that firm is of good repute;

(b) the firm satisfies the requirement of appropriate financial standing; and

(c) either—

(i) if one of the firm's partners manage the road transport business carried on by the firm, he, or if more than one each of them, is professionally competent, or

(ii) the firm employs a transport manager or transport managers who, or if more than one each of whom, is of good repute and professionally competent.

(4) The provisions of section 13(4) shall apply in any case where an applicant for a restricted licence is a firm so that the traffic commissioner is required to satisfy himself that everyone of the partners of that firm is not unfit to hold an operator's licence by reason of any activities or convictions covered by section 34(a) or (b).

(5) The provisions of section 13(6) shall apply in any case where an applicant is a firm and in such case the financial resources referred to in that subsection shall be those of the firm.

(6) The provisions of section 26 shall apply in any case where the licence-holder is a firm and in such a case any act, omission or conviction of a partner of that firm shall be regarded as the act, omission or conviction of the firm.

(7) The provisions of section 27(1) shall apply in any case where the licence-holder is a firm if—

- (a) any one or more of the partners of that firm cease to satisfy the requirement to be of good repute; or
- (b) the firm ceases to satisfy the requirement to be of appropriate financial standing; or
- (c) when the requirement as to professional competence is satisfied by one or more of the firm's partners who manage the road transport business carried on by the firm, he, or if more than one each of them, ceases to do so, or when the firm employs a transport manager or transport managers such manager, or if more than one any of them, ceases to be of good repute, or when the firm relies upon the employment of a single transport manager to satisfy the requirement as to professional competence, that transport manager ceases to be employed by the firm.

(8) The provisions of section 28 shall apply to the revocation of an operator's licence held by a firm and in such a case the powers conferred by subsections (1) and (4) shall be exercisable in respect of each and every partner of that firm.

(9) Except in a case falling within paragraph (9) any requirement, obligation or prohibition (however expressed) placed on a person making an application or on the licence-holder by, or in pursuance of, a provision in the 1995 Act or these Regulations, shall apply where the licence-holder is a firm and the duty to meet the requirement or obligation or to comply with the prohibition, shall apply to the partners of that firm severally as well as jointly.

(10) Where an application is made by, or the licence-holder is a firm a requirement or obligation placed on the applicant or licence-holder by virtue of sections 8(4), 9(1) or 17(2) of the 1995 Act to inform the traffic commissioner of a notifiable conviction within the meaning given in paragraph 4 of Schedule 2 to the 1995 Act shall apply in relation to the notifiable conviction of each partner of that firm, and the duty to meet the requirement shall apply to the person convicted.

(11) The provisions in section 16(5) as to the events on which an operator's licence held by an individual terminates apply in a case where such a licence is held by a firm, if—

- (a) the partnership is dissolved; or
- (b) one or more of the persons dies or becomes a patient within the meaning of Part VII of the Mental Health Act 1983(14), or if (in Scotland) a curator bonis is appointed in respect of him, with the result that only one other of such persons who is not such a patient or so incapable remains in the partnership.

(12) In Schedule 3 to the 1995 Act—

- (a) the provisions in paragraph 1 as regards determining whether an individual is of good repute apply, in a case of a firm in respect of each of the partners of that firm as they apply to an individual;
- (b) the provision in paragraph 6 as regards determining whether the applicant for, or the holder of, a licence is of appropriate financial standing shall apply, in the case of a firm, to the financial standing of the firm;
- (c) the provision in paragraph 8(2) that a company satisfies the requirement as to professional competence if, and so long as, it has a transport manager or transport managers of its road transport business who, or if more than one each of whom, is of good repute and professionally competent shall apply in the case of a firm so that the firm satisfies the said requirement if, and so long as, each of its partners is of good repute, and either—
  - (i) if one or more of the firm's partners manage the road transport business carried on by the firm, he, or if more than one each of them, is professionally competent, or

- (ii) the firm employs a transport manager or transport managers of its road transport business who, or if more than one each of whom, if of good repute and professionally competent; and
- (d) in a case where one or more partners of a firm manage the road transport business carried on by that firm or the firm employs a transport manager or transport managers the provision in paragraphs 10 and 11 shall apply—
  - (i) as regards one such person or a single transport manager employed by the firm as it applies as regards a single transport manager employed by a company, and
  - (ii) as regards two or more such persons or two or more transport managers employed by the firm as it applies as regards two or more transport managers employed by a company.

### **Holding companies and subsidiaries**

**30.**—(1) A holding company may apply to the traffic commissioner for any traffic area—

- (a) if it does not already hold a licence in respect of that area, for the issue of a licence; or
- (b) if it already holds a licence in respect of that area, for a variation of its licence by a direction under section 17(1)(a),

which would have the effect, if the application were granted, of including in the licence to be issued to, or already held by, the holding company, goods vehicles in the lawful possession of a subsidiary of that company specified in the application.

(2) An application by a holding company under paragraph (1) shall, unless

- (a) the subsidiary is not the licence-holder; or
- (b) the licence or variation applied for by the holding company will not take effect until any licence held by the subsidiary has been surrendered or has otherwise terminated,

be accompanied by an application by the subsidiary for the variation of the licence held by the subsidiary by a direction under section 17(1)(b) for the removal therefrom of all or some of the goods vehicles authorised to be used thereunder, being the vehicles to which the application of the holding company relates.

(3) Where a holding company, on an application under paragraph (1) signifies to the traffic commissioner its desire that the provisions of this regulation should have effect as respects a subsidiary of that company, then, in relation to the application and to any licence granted to the holding company, or held by the holding company and varied, on that application, and to the use of any goods vehicles authorised to be used under any such licence, the 1995 Act and these Regulations shall have effect subject to the modifications specified in Schedule 2.

(4) The provisions of this regulation shall cease to have effect as respects a holding company and its subsidiary—

- (a) if the holding company gives notice to the traffic commissioner who issued or varied its licence that it desires that this regulation should, as from any date, cease to apply to the holding company and that subsidiary, as from that date; or
- (b) as from the date on which that subsidiary ceases to be a subsidiary of that holding company.

(5) Where by virtue of the provisions of paragraphs (1) to (3) a holding company holds a licence which includes goods vehicles in the lawful possession of a subsidiary of that company, and the holding company gives notice under paragraph (4)(a), then, in relation to any application by the subsidiary for the issue of a licence in respect of all or any of those vehicles, section 10 shall have effect as if for sub-section (1) there were substituted the following sub-section—

“(1) The traffic commissioner may publish in the prescribed manner notice of any application to him for an operator’s licence made by a company or other body corporate in pursuance of Regulations made under section 46 of this Act.”.

(6) Where the provisions of this regulation cease to have effect as respects a holding company and its subsidiary by virtue of paragraph (4)(b) the company which was the holding company shall within 21 days of the event which caused the subsidiary to cease to be a subsidiary of that company—

- (a) notify the traffic commissioner by whom the licence was issued, and
- (b) supply all material details of the event, and
- (c) return to the traffic commissioner the licence and the discs relating to the motor vehicles authorised to be used thereunder,

and in so far as the holding company fails to satisfy those requirements the company which was the subsidiary company shall, on being so directed by the traffic commissioner, within 7 days of that direction supply the details, or return the licence and the discs, as the case may require.

(7) In a case where the applicant for, or the holder of, a standard licence is a holding company and the goods vehicles used, or to be used, under the licence belong to, or are in the possession of, a subsidiary of that holding company, the provisions of these Regulations apply as if—

- (a) the road transport undertaking and any operating centre of the subsidiary were the road transport undertaking and an operating centre of the holding company;
- (b) for purposes of, or relating to, the reputation and financial standing of the holding company, the activities, relevant convictions and financial resources of the subsidiary were activities, convictions and resources of the holding company; and
- (c) in relation to a transport manager, his employment by the subsidiary were employment by the holding company.

### **Continuance of licence on death, bankruptcy etc**

**31.**—(1) In this regulation, “actual holder” in relation to a licence means the person to whom the licence was issued.

(2) This regulation applies in the event—

- (a) of the death of the actual holder of a licence;
- (b) of the actual holder of a licence becoming a patient under Part VII of the Mental Health Act 1983, or in Scotland a curator bonis being appointed in respect of him on the ground that he is incapable, by reason of mental disorder, of adequately managing his property and affairs;
- (c) of the bankruptcy of the actual holder of a licence;
- (d) in the case of a company, of the actual holder of a licence going into liquidation or an administration order being made in relation to the actual holder; or
- (e) of the appointment of a receiver or manager of the trade or business of the actual holder of a licence.

(3) After the happening of either of the events mentioned in paragraphs (2)(a) or (b) the traffic commissioner may direct that the licence shall not be treated as terminated when the actual holder died or became a patient but suspended until the date when a direction under paragraph (4) comes into force.

(4) After the happening of any of the events mentioned in paragraph (2) the traffic commissioner may direct that a person carrying on the trade or business of the actual holder of the licence is to be treated for the purposes of the 1995 Act as if he were the holder thereof for such purpose and to such extent as is specified in the direction for a period not exceeding—

- (a) if it appears to the traffic commissioner that there are special circumstances, 18 months;
- (b) in any other case, 12 months,

from the date of the coming into force of that direction.

(5) The powers under paragraph (4) shall be exercisable in relation to a standard licence whether or not the person carrying on the trade or business of the actual holder of the licence satisfies the requirement of professional competence.

(6) Where a person is treated as if he were the licence-holder by virtue of a direction under this regulation—

- (a) any goods vehicle which had been in the lawful possession of the actual holder of the licence shall for the purposes of the 1995 Act be treated as if it was in the lawful possession of that person; and
- (b) if the licence is a standard licence, nothing in section 27 shall oblige the traffic commissioner to revoke the licence by reason only of that person not satisfying the requirement of professional competence.

### **Offences**

**32.** Any contravention of, or failure to comply with, a provision in regulations 23(3), 23(4), 25, 26, 27(1), 27(3), 28(1), 28(2), 28(3), 28(4) or 30(6), is hereby declared to be an offence and for the purposes of section 57(9) any provision mentioned above shall be regarded as made under the 1995 Act.

### **Classes of vehicle for which a licence is not required**

**33.—(1)** The classes of vehicle specified under section 2(2)(d) as those to which section 2(1) does not apply are the classes mentioned in Part I of Schedule 3.

(2) The relevant plated weight of a goods vehicle, for the purposes of Schedule 1 to the 1995 Act (meaning of “small goods vehicle”) is the gross weight not to be exceeded in Great Britain of the vehicle as shown on a Ministry plate as defined in column 2 of the Table in regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986 or, if no such plate has been issued in respect of that vehicle, the maximum gross weight of the vehicle as shown on a plate affixed to the vehicle by virtue of regulation 66 of those Regulations.

### **Period for service of notice of review on ground of procedural irregularity**

**34.** The period prescribed for the purposes of section 36(2) is two months.

### **Manner of service of notice of review on ground of procedural irregularity**

**35.** Paragraph 6 of Schedule 4 shall have effect in relation to the serving of notices by the traffic commissioner on the applicant or (as the case may be) the licence-holder which state his intention to review a decision referred to in section 36(1), and in such a case “section 36(2)(a)” shall be substituted for “this Schedule” in sub-paragraph (1) of that paragraph.

### **Meaning of “relevant weight”**

**36.—(1)** A motor vehicle or trailer of any prescribed class referred to in section 5(3) means any vehicle described in section 2(1) as needing an operator’s licence, and the relevant weight of such a vehicle is its revenue weight.

(2) For purposes of this regulation “revenue weight” shall have the meaning given in section 60A of the Vehicle Excise and Registration Act 1994.

- (3) In its application to this regulation, section 60A of that Act shall have effect as if—
- (a) subsection (6) of that section were omitted; and
  - (b) no provision had been made under section 61A(2) of that Act.

Signed by authority of the Secretary of State for Transport

6th November 1995

*Steven Norris*  
Parliamentary Under Secretary of State,  
Department of Transport



## SCHEDULE 1

Regulation 7(2)

### NOTICE OF APPLICATION FOR A LICENCE OR A VARIATION OF A LICENCE

1. Information to be given in Notice of Application—
  - (a) Name of applicant.
  - (b) Trading name, if any.
  - (c) Address for receipt of correspondence.
  - (d) Whether the application is in respect of a new licence, or the variation of a licence.
  - (e) The place or places proposed to be used as an operating centre or centres (including, if available, the postal address or addresses).
  - (f) The number of motor vehicles and trailers proposed to be kept at each operating centre or centres.
  - (g) The number of motor vehicles and trailers now kept, if different.
  - (h) In respect of an existing licence, details of any proposed changes to or removal of existing conditions or undertakings affecting an operating centre.
2. Every notice shall contain the following wording:

“Owners or occupiers of land (including buildings) near the operating centre(s) who believe that their use or enjoyment of that land would be affected, should make written representations to the Traffic Commissioner at [address of Traffic Area Office] stating their reasons, within 21 days of this notice. Representors must at the same time send a copy of their representations to the applicant at the address given at the top of this notice. A Guide to making representations is available from the Traffic Commissioner’s office.”

## SCHEDULE 2

Regulation 30(3)

### MODIFICATIONS IN RELATION TO HOLDING COMPANIES AND SUB SIDIARIES

1. The 1995 Act and these Regulations have effect as if any reference (except in this Schedule) to a provision which is modified by this Schedule were a reference to that provision as so modified.
2. The 1995 Act has effect as if—
  - (a) goods vehicles in the lawful possession of the subsidiary were in the lawful possession of the holding company;
  - (b) where a goods vehicle is used in circumstances in which, but for the provisions of regulation 30 the subsidiary would be deemed to be the user, the holding company were the user;
  - (c) a trade or business carried on by the subsidiary were carried on by the holding company;
  - (d) the subsidiary were an applicant for the grant or variation of the licence;
  - (e) any operating centre of the subsidiary were an operating centre of the holding company;
  - (f) any person who is a director of the subsidiary were a director of the holding company;
  - (g) any person who is an employee of the subsidiary were an employee of the holding company;
  - (h) for section 10(1) there were substituted the following sub-section—

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- “(1) The traffic commissioner may publish in the prescribed manner notice of any application to him for an operator’s licence made by a company or other body corporate in pursuance of Regulations made under section 46 of this Act”;
- (i) in section 22(1) the reference in paragraph (b) to persons holding shares in the company included a reference to persons holding shares in the subsidiary, and the reference in paragraph (c) to the licence-holder included a reference to the subsidiary;
  - (j) in section 17(3) for the words “Except in the case mentioned in subsection (4), the traffic commissioner shall publish” there were substituted “In the case of an application for a direction under subsection (1)(a) of this section made by a company or other body corporate in pursuance of Regulations made under section 46 of this Act, the traffic commissioner may publish”;
  - (k) in section 26(1) the references in paragraphs (a), (b), (d), (e), (g) and (h) to the licence-holder included references to the subsidiary;
  - (l) in section 26(5) the reference to the licence-holder included a reference to the subsidiary;
  - (m) in section 26(1)(c) the references to the licence-holder or any servant or agent of his included references to the subsidiary or any servant or agent of it, and as if the reference in sub-paragraph (iii) to a vehicle of which the licence-holder was the owner included a reference to a vehicle of which the subsidiary was the owner;
  - (n) in section 28(1) the reference to the licence-holder included a reference to the subsidiary;
  - (o) in section 28(4)(a) after sub-paragraph (ii) there were inserted the following sub-paragraph—
    - “(iii) a company which is a subsidiary of such a company; or”;
  - (p) in section 28(5) there were substituted for paragraph (a) “where that person is a company or other body corporate which is the licence-holder in respect of a subsidiary of that company or other body corporate in pursuance of Regulations made under section 46 of this Act, in relation to any director of that company or other body corporate or of that subsidiary.”.
- 3.** These Regulations shall have effect as if—
- (a) in section 8 the reference to an operating centre of the applicant included a reference to an operating centre of the subsidiary;
  - (b) in regulation 26 the reference to the licence-holder included a reference to the subsidiary.

## SCHEDULE 3

Regulation 33

### CLASSES OF VEHICLES FOR WHICH A LICENCE IS NOT REQUIRED

#### PART I

- 1.** Any tractor as defined in paragraph 4(3) of Part IV of Schedule 1 to the Vehicle Excise and Registration Act 1994 (as originally enacted) while being used for one or more of the purposes specified in Part II of this Schedule.
- 2.** A dual-purpose vehicle and any trailer drawn by it.
- 3.** A vehicle used on a road only in passing from private premises to other private premises in the immediate neighbourhood belonging (except in the case of a vehicle so used only in connection

with excavation or demolition) to the same person, provided that the distance travelled on a road by any such vehicle does not exceed in the aggregate 9.654 kilometres, (6 miles), in any one week.

4. A motor vehicle constructed or adapted primarily for the carriage of passengers and their effects, and any trailer drawn by it, while being so used.

5. A vehicle which is being used for funerals.

6. A vehicle which is being used for police, fire brigade or ambulance purposes.

7. A vehicle which is being used for fire-fighting or rescue operations at mines.

8. A vehicle on which no permanent body has been constructed, which is being used only for carrying burden which either is carried solely for the purpose of test or trial, or consists of articles and equipment which will form part of the completed vehicle when the body is constructed.

9. A vehicle which is being used under a trade licence.

10. A vehicle in the service of a visiting force or of a headquarters.

11. A vehicle used by or under the control of Her Majesty's United Kingdom forces.

12. A trailer not constructed primarily for the carriage of goods but which is being used incidentally for that purpose in connection with the construction, maintenance or repair of roads.

13. A road roller and any trailer drawn by it.

14. A vehicle while being used under the direction of HM Coastguard or of the Royal National Lifeboat Institution for the carriage of life-boats, life-saving appliances or crew.

15. A vehicle fitted with a machine, appliance, apparatus or other contrivance which is a permanent or essentially permanent fixture, provided that the only goods carried on the vehicle are—

- (a) required for use in connection with the machine, appliance, apparatus or contrivance or the running of the vehicle;
- (b) to be mixed by the machine, appliance, apparatus or contrivance with other goods not carried on the vehicle on a road in order to thrash, grade, clean or chemically treat grain;
- (c) to be mixed by the machine, appliance, apparatus or contrivance with other goods not carried on the vehicle in order to make fodder for animals; or
- (d) mud or other matter swept up from the surface of a road by the use of the machine, appliance, apparatus or other contrivance.

16. A vehicle while being used by a local authority for the purposes of the enactments relating to weights and measures or the sale of food and drugs.

17. A vehicle while being used by a local authority in the discharge of any function conferred on or exercisable by that authority under Regulations made under the Civil Defence Act 1948(15).

18. A steam-propelled vehicle.

19. A tower wagon or trailer drawn thereby, provided that the only goods carried on the trailer are goods required for use in connection with the work on which the tower wagon is ordinarily used as such.

20. A vehicle while being used for the carriage of goods within an aerodrome within the meaning of section 105(1) of the Civil Aviation Act 1982(16).

21. An electrically propelled vehicle.

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(15) 1948 c. 5, (12, 13 & 14 Geo. 6).

(16) 1982 c. 16.

22. A showman's goods vehicle and any trailer drawn thereby.
23. A vehicle permitted to carry out cabotage in the United Kingdom under Community Council Regulation (EEC) No. 3118/93 dated 25 October 1993<sup>(17)</sup> laying down conditions under which non-resident carriers may operate national road haulage services within a Member State.
24. A goods vehicle first used before 1 January 1977 which has an unladen weight not exceeding 1525 kilograms and for which the maximum gross weight, as shown on a plate affixed to the vehicle by virtue of regulation 66 of the Motor Vehicles (Construction and Use) Regulations 1986 or any provision which that regulation replaced, exceeds 3500 kilograms but does not exceed 3556.21 kilograms (3½ tons).
25. A vehicle while being used by a highway authority for the purposes of section 196 the Road Traffic Act 1988<sup>(18)</sup>.
26. A vehicle being held ready for use in an emergency by an undertaking for the supply of water, electricity, gas or telephone services.
27. A recovery vehicle.
28. A vehicle which is being used for snow clearing, or for the distribution of grit, salt or other materials on frosted, icebound or snow-covered roads or for going to or from the place where it is to be used for the said purposes or for any other purpose directly connected with those purposes.
29. A vehicle proceeding to or from a station provided by the Secretary of State under section 45 of the Road Traffic Act 1988 for the purposes of an examination of that vehicle under that section provided that—
  - (a) the only load being carried is a load required for the purposes of the examination; and
  - (b) it is being carried at the request of the Secretary of State.

## PART II

### purposes referred to in paragraph 1 of part i of this schedule

1. Hauling—
  - (a) threshing appliances;
  - (b) farming implements;
  - (c) a living van for the accommodation of persons employed to drive the tractor; or
  - (d) supplies of water or fuel required for the tractor.
2. Hauling articles for a farm required by the keeper, being either the occupier of the farm or a contractor employed to do agricultural work on the farm by the occupier of the farm.
3. Hauling articles for a forestry estate required by the keeper where the keeper is the occupier of that estate or employed to do forestry work on the estate by the occupier or a contractor employed to do forestry work on the estate by the occupier.
4. Hauling within 24.135 kilometres, (15 miles), of a farm or a forestry estate occupied by the keeper, agricultural or woodland produce of that farm or estate.
5. Hauling within 24.135 kilometres, (15 miles), of a farm or a forestry estate occupied by the keeper, material to be spread on roads to deal with frost, ice or snow.
6. Hauling a snow plough or a similar contrivance for the purpose of clearing snow; and

<sup>(17)</sup> O.J. No L279, 12.11.93, p1.

<sup>(18)</sup> 1988 c. 52; to which there are amendments not relevant to this provision.

7. Hauling—

- (a) soil for landscaping or similar works; or
- (b) a mowing machine,

where the keeper is a local authority.

SCHEDULE 4

Regulation 20

INQUIRIES

**Notification of an inquiry**

1.—(1) The traffic commissioner shall send to every person entitled to appear in accordance with paragraph 3 of this Schedule at an inquiry written notice of the date, time and place fixed for the holding of the inquiry.

Such notice shall be sent at least 21 days before the date so fixed.

(2) The traffic commissioner may vary the date, time or place for the holding of the inquiry; and when he varies the date he shall send to every person so entitled to appear at the inquiry, written notice of the date, time and place of the holding of the inquiry as varied.

Such notice shall be sent at least 21 days before the date as varied.

(3) The periods referred to in sub-paragraph (1) and (2) may be abridged with the consent of every person so entitled to appear at the inquiry.

(4) Where the traffic commissioner varies the time or place for the holding of an inquiry without varying the date, he shall give such notice of the variation as appears to him to be reasonable.

(5) Nothing in this paragraph shall authorise the traffic commissioner to hold an inquiry before the date published in Applications and Decisions pursuant to regulation 21.

(6) The foregoing provisions of this paragraph shall apply to an adjourned inquiry save that—

- (a) if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice of that date, time and place shall be required; and
- (b) sub-paragraphs (1) and (2) shall have effect in relation to an adjourned inquiry as if for “21 days” there were substituted “7 days”.

**Admission to an inquiry**

2.—(1) Subject to the provisions of this paragraph, an inquiry shall be held in public.

(2) The traffic commissioner may direct that the whole or any part of an inquiry be held in private if he is satisfied that by reason of—

- (a) the likelihood of disclosure of intimate personal or financial circumstances;
- (b) the likelihood of disclosure of commercially sensitive information or information obtained in confidence; or
- (c) exceptional circumstances not falling within sub-paragraphs (a) or (b),

it is just and reasonable for him so to do.

(3) Where the hearing is in private the traffic commissioner may admit such persons as he considers appropriate.

(4) Without prejudice to sub-paragraph (2), where any question relating to the appropriate financial resources of any persons is to be or is being considered during an inquiry, the traffic

commissioner may exclude such persons as he thinks fit from the part of the inquiry during which that question is considered.

(5) Notwithstanding the foregoing provisions of this paragraph, a member of the Council on Tribunals or the Scottish Committee of that Council may be present in his capacity as such notwithstanding that the inquiry, or part of an inquiry is not in public and such a person shall not be excluded under sub-paragraph (4).

### **Appearances at an inquiry**

3.—(1) The following persons shall be entitled to appear at an inquiry relating to an application namely—

- (a) the applicant;
- (b) a person who has duly made an objection to the application; and
- (c) a person who has duly made representations in respect of the application.

(2) Where a traffic commissioner holds an inquiry with a view to exercising his powers under section 26 or 30, in respect of a licence, the licence-holder shall be entitled to appear at the inquiry.

(3) Without prejudice to sub-paragraph (2), where a person has requested an inquiry under section 29(1), that person shall be entitled to appear at any inquiry held at his request.

(4) If, in relation to any proceedings,

- (a) a transport manager has been given notice under paragraph 15 of Schedule 3 to the 1995 Act that an issue in the proceedings is whether he is of good repute or professionally competent;
- (b) the transport manager has duly made a representation under that paragraph; and
- (c) the issue is to be considered at an inquiry,

the transport manager shall be entitled to appear at the inquiry.

(5) Any other person may appear at an inquiry at the discretion of the traffic commissioner.

(6) Any person entitled or permitted to appear at an inquiry may do so on his own behalf or be represented by counsel, solicitor or, at the discretion of the traffic commissioner, by any other person.

### **Inquiries relating to more than one application**

4. Without prejudice to section 35(2), where a traffic commissioner decides that two or more applications should be the subject of an inquiry, he may hold a single inquiry in relation to those applications if it appears to him that it would be just and convenient so to do.

### **Procedure at inquiry**

5.—(1) Except as otherwise provided in this Schedule, the traffic commissioner shall determine the procedure at an inquiry.

(2) Subject to sub-paragraph (5), a person entitled to appear at an inquiry in accordance with paragraph 3 of this Schedule shall be entitled to give evidence, call witnesses, to cross examine witnesses and to address the traffic commissioner both on the evidence and generally on the subject matter of the proceedings.

(3) The giving of evidence, the calling of witnesses, the cross examination of witnesses and the making of such addresses by other persons appearing at an inquiry shall be at the traffic commissioner's discretion.

(4) Subject to sub-paragraph (5), any person present at an inquiry may submit any written evidence or other matter in writing before the close of the inquiry.

(5) Without prejudice to sub-paragraph (3), the traffic commissioner may refuse to permit—

- (a) the giving or calling of evidence;
- (b) cross examination of persons giving evidence; or
- (c) the presentation of any other matter,

which he considers to be irrelevant, repetitious, frivolous or vexatious.

(6) The traffic commissioner may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave and may refuse to permit that person to return.

(7) The traffic commissioner may proceed with an inquiry in the absence of any person entitled to appear, but if he was required to give such a person notice of the inquiry under paragraph 1 of this Schedule he shall not so proceed in the person's absence unless—

- (a) he is satisfied that such notice had been duly given; or
- (b) he decides to proceed with the inquiry under paragraph 7 of this Schedule on the basis that no injustice would be caused to the person as a result of such notice not having been duly given to him.

(8) The traffic commissioner shall not take into account any written evidence or other matter in writing received by him from any person before an inquiry opens or during any inquiry unless he discloses it at the inquiry.

(9) The traffic commissioner may from time to time adjourn an inquiry.

### **Giving of notices**

6.—(1) A notice required or authorised to be sent to a person under this Schedule may be effected by—

- (a) delivering it to him at an address which is his proper address; or
- (b) sending it to him by post to an address which is his proper address; or
- (c) transmitting to him a facsimile copy of it by means of electronic signals.

(2) A notice sent under paragraph (1) shall, for the purposes of this Schedule, be deemed to have been sent when it would have been delivered in the ordinary course of post notwithstanding that—

- (a) the notice was returned as undelivered or was for any reason not received; or
- (b) was in fact delivered or received at some other time.

(3) Any such document may—

- (a) in the case of a body corporate, be sent to the secretary or clerk of that body;
- (b) in the case of a partnership, be sent to any partner;
- (c) in the case of an unincorporated association other than a partnership, be sent to any member of the governing body of the association.

(4) For the purposes of this paragraph and section 7 of the Interpretation Act 1978, the proper address of any person is his last known address (whether of his residence or a place where he carries on business or is employed) and also any address applicable in his case under the following provisions—

- (a) in the case of a body corporate, its secretary or its clerk, the address of its registered or principal office in the United Kingdom;
- (b) in the case of an unincorporated association (other than a partnership) or member of its governing body, its principal office in the United Kingdom.

(5) Where a person has in the licence-holder's application notified the traffic commissioner of an address, or, subsequently notified a new address under regulation 25, at which documents may

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be given to him for the purposes of correspondence that address shall also be his proper address for service for the purposes mentioned in sub-paragraph (3) or, as the case may be, his proper address for those purposes in substitution for that previously notified.

### **Irregularities in the giving of notices**

7. Where a notice of the date, time and place fixed for the holding of an inquiry is not given in accordance with this Schedule, the traffic commissioner may nevertheless proceed with the inquiry as if notice had been duly given provided he is satisfied that no injustice or inconvenience would be caused.

### **Interpretation**

8. In this Schedule “inquiry” means an inquiry held for the purposes of the Goods Vehicles (Licensing of Operators) Act 1995.

## SCHEDULE 5

Regulation 2

### LIST OF REGULATIONS REVOKED

Year and Number	Title
1984/176	The Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984
1986/666	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1986
1986/1391	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) (No. 2) Regulations 1986
1987/841	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1987
1987/2170	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) (No. 2) Regulations 1987
1988/2128	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1988
1990/1849	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1990
1990/2640	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) (No. 2) Regulations 1990
1991/1969	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1991



Year and Number	Title
1991/2239	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) (No. 2) Regulations 1991
1992/2319	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1992
1993/301	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1993
1994/1209	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1994
1995/1488	The Goods Vehicles (Operators' Licences, Qualifications and Fees) (Amendment) Regulations 1995

## EXPLANATORY NOTE

(This Note is not part of the Regulations)

1. These Regulations are made under powers conferred by the Goods Vehicles (Licensing of Operators) Act 1995 (“the 1995 Act”) and the European Communities Act 1972.

2. These Regulations revoke and substantially re-enact the 1984 Regulations, although provisions in the 1984 Regulations dealing with the qualification requirements of operators have been moved to the 1995 Act, and provisions dealing with fees are now contained in the Goods Vehicles (Licensing of Operators) (Fees) Regulations 1995. These Regulations also include new provisions consequent on the prospective changes to the goods vehicle operator licensing system made by Chapter III of Part I of the Deregulation and Contracting Out Act 1994 which were included in the consolidating 1995 Act, including continuous licensing and review of operating centres, and for partnerships.

3. Part I (regulations 1—3) contains general provisions including commencement, revocation and interpretation.

4. Part II (regulations 4—9) prescribes matters relating to applications for licences. In particular—

- (a) regulation 4 requires applications to be made on a form supplied by the traffic commissioner, to contain information required by that form and to be executed as specified;
- (b) regulations 5 and 6 require that unless the traffic commissioner decides otherwise an application shall reach him not less than 9 weeks before the licence or variation applied for is to take effect;
- (c) regulation 7 prescribes the manner of publication by a traffic commissioner of notice of applications and stipulates that it shall contain the information contained in Schedule 1;

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

- (d) regulation 8 imposes restrictions on proceeding with applications; and
  - (e) regulation 9 provides that specified persons shall have facility to inspect applications.
5. Part III (regulations 10—13) prescribes various matters relating to objections and representations. In particular—
- (a) regulation 10 specifies which trade unions and associations may make an objection;
  - (b) regulation 11 prescribes the manner in which objections or representations shall be made;
  - (c) regulation 12 makes provision about the timing of objections and representations; and
  - (d) regulation 13 provides that the traffic commissioner shall consider every objection or representation received by him when deciding whether or not to hold an inquiry.
6. Part IV (regulations 14—19) contains provisions about operating centres. In particular—
- (a) regulation 14 prescribes the conditions as to use of the operating centre which may be attached to a licence (including number, type and size of goods vehicles, parking and access arrangements and times of operation);
  - (b) regulation 15 prescribes the environmental considerations which the traffic commissioner shall have regard to when determining the suitability of a place for use as an operating centre, or attaching, varying or removing a condition to a licence, or the effect or likely effect that an operating centre might have on the locality;
  - (c) regulation 16 prescribes conditions to be satisfied in relation to determination of when an operating centre is regarded as being specified in an operator's licence;
  - (d) regulations 17 and 18 prescribe the period for and the manner of service of a notice stating that the traffic commissioner proposes to review an operating centre; and
  - (e) regulation 19 prescribes the manner of making a representation in relation to a review of an operating centre.
7. Part V (regulation 20) and Schedule 4 prescribe various matters relating to inquiries held by a traffic commissioner under section 35 of the 1995 Act.
8. Part VI (regulations 21 and 22) prescribes matters relating to the content, publication and availability of statements (known as “Applications and Decisions”) by a traffic commissioner, and relating to the provision of reasons for his decisions.
9. Part VII (regulations 23—36) prescribes other matters relating to licences. In particular—
- (a) regulation 23 provides for specified motor vehicles being used under a licence to be identified as such by a disc;
  - (b) regulation 24 provides for the temporary use of a motor vehicle under a licence when a vehicle specified in a licence has become unfit for service or is being restored;
  - (c) regulation 25 provides for a traffic commissioner to be notified of a change of the address of the licence-holder;
  - (d) regulation 26 requires that the licence-holder must within 14 days produce the licence for inspection in certain circumstances;
  - (e) regulation 27 provides for the issue by the traffic commissioner in certain circumstances of copy licences or discs;
  - (f) regulation 28 provides that if the licence-holder of a licence ceases to use a motor vehicle under a licence he must return the licence and the relevant discs for the traffic commissioner to vary, cancel or retain as the case may require;
  - (g) regulation 29 provides in respect of partnerships;
  - (h) regulation 30 with Schedule 2 provides in respect of holding companies and subsidiaries;

- (i) regulation 31 provides for the temporary continuance of the licence in specified circumstances of death, mental disorder, bankruptcy, liquidation and receivership of a licence-holder;
- (j) regulation 32 creates an offence for contravening or failing to comply with specified obligations contained in these Regulations;
- (k) regulation 33 with Schedule 3 specifies classes of vehicles for which an operator's licence is not required;
- (l) regulations 34 and 35 provide the time of and manner for service of a notice of review on the ground of procedural irregularity by the traffic commissioner; and
- (m) regulation 36 interprets "relevant weight" for the purpose of determining whether a goods vehicle's weight exceeds a weight restriction specified in an operator's licence.