
STATUTORY INSTRUMENTS

1995 No. 2869

The Goods Vehicles (Licensing of Operators) Regulations 1995

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a motor vehicle specified in an operator's licence ("the specified vehicle") has been rendered unfit for service, or withdrawn from service for overhaul or repair, and the licence-holder informs the traffic commissioner of his desire to have a variation of the licence specifying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(1) 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(2), 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, is 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.