

SCHEDULES

SCHEDULE 1

EXISTING HGV AND PSV DRIVERS' LICENCES

PART I

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Preliminary

- 1 In this Part of this Schedule—
- “conduct” means—
- (a) in relation to the holder of an existing heavy goods vehicle licence, his conduct as a driver of a motor vehicle, and
 - (b) in relation to the holder of an existing public service vehicle licence, his conduct both as a driver of a motor vehicle and in any other respect relevant to his holding a public service vehicle licence,
- including, in either case, such conduct in Northern Ireland;
- “existing licence” means a licence to drive heavy goods vehicles or public service vehicles (as the case may be) continued in force by section 1(2) of this Act, and “existing heavy goods vehicle licence” and “existing public service vehicle licence” shall be construed accordingly;
- “full”, in relation to an existing heavy goods vehicle licence, indicates a licence other than a provisional licence;
- “heavy goods vehicle” has the same meaning as it had for the purposes of Part IV of the 1988 Act before its repeal by section 1 of this Act and “large goods vehicle” has the same meaning;
- “notice” means notice in writing and “notify” shall be construed accordingly;
- “passenger-carrying vehicle” has the same meaning as it has in Part IV of the 1988 Act;
- “prescribed”, unless the context requires otherwise, means prescribed by regulations made under paragraph 8 below; and
- “public service vehicle” has the same meaning as it had for the purposes of section 22 of the 1981 Act before its repeal by section 1 of this Act.

Functions of Secretary of State and Traffic Commissioners

- 2 (1) The functions conferred by the following provisions of this Part of this Schedule in relation to existing licences shall be functions of the Secretary of State except where, by any provision, the function is conferred on a traffic commissioner or any court.

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- (2) Traffic commissioners shall, in the exercise of those functions, act in accordance with directions given by the Secretary of State; but such directions shall be general directions not relating to the exercise of functions in a particular case.

Conditions of existing HGV licences

- 3 (1) An existing heavy goods vehicle licence issued as a provisional licence, or an existing full heavy goods vehicle licence held by a person under the age of 21, is subject to the prescribed conditions, and if the holder of the licence fails, without reasonable excuse, to comply with any of the conditions he is guilty of an offence.
- (2) It is an offence for a person knowingly to cause or permit another person who is under the age of 21 to drive a heavy goods vehicle of any class in contravention of any prescribed conditions to which that other person's licence is subject.

Duration of existing licences

- 4 (1) An existing heavy goods vehicle licence shall, unless previously revoked, suspended or surrendered, continue in force for 3 years from the date on which it is expressed to take effect.
- (2) Subject to sub-paragraph (3) below, a provisional heavy goods vehicle licence shall, unless previously revoked, suspended or surrendered, continue in force for 6 months from the date on which it is expressed to take effect.
- (3) Sub-paragraph (2) above does not apply to a heavy goods vehicle licence treated as a provisional licence by virtue of regulations under paragraph 8 below.
- (4) An existing public service vehicle licence shall, unless previously revoked, suspended or surrendered, continue in force for 5 years from the date on which it is expressed to take effect.
- (5) If on the date on which an application is made under Part III of the 1988 Act for a licence to drive large goods vehicles or passenger-carrying vehicles, the applicant is the holder of an existing heavy goods vehicle licence or an existing public service vehicle licence, as the case may be, his existing licence shall not expire in accordance with the foregoing provisions before the application is disposed of.

Revocation or suspension of existing licences

- 5 (1) An existing heavy goods vehicle licence or public service vehicle licence—
- (a) must be revoked—
- (i) if its holder develops such physical disability as may be prescribed, or
- (ii) if there come into existence, in relation to its holder, such circumstances relating to his conduct as may be prescribed;
- (b) must be revoked or suspended if his conduct or physical disability is such as to make him unfit to hold such a licence;
- and where the licence is suspended under paragraph (b) above it shall during the time of suspension be of no effect.
- (2) Where it appears that the conduct or physical disability of the holder of an existing licence falls within both sub-paragraph (1)(a) above and sub-paragraph (1)(b) above,

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proceedings shall be taken or continued under sub-paragraph (1)(a) and not sub-paragraph (1)(b) and accordingly the power to suspend the licence, rather than revoke it, shall not be available.

- (3) Regulations made for the purposes of sub-paragraph (1)(a) above—
 - (a) may make different provision for heavy goods vehicles and for public service vehicles and for different descriptions of persons; and
 - (b) shall provide for the determination of the cases in which, under paragraph 6 below, a person whose licence has been revoked is to be disqualified indefinitely or for a period and, if for a period, for the determination of the period.
- (4) Any question arising under sub-paragraph (1)(b) above as to whether a person is or is not, by reason of his conduct, fit to hold a heavy goods vehicle licence or a public service vehicle licence, as the case may be, may be referred by the Secretary of State to the traffic commissioner for the area in which the holder of the licence resides.
- (5) Where, on any reference under sub-paragraph (4) above, the traffic commissioner determines that the holder of the licence is not fit to hold a heavy goods vehicle licence or a public service vehicle licence, as the case may be, he shall also determine whether the conduct of the holder of the licence is such as to require the revocation of his licence or only its suspension; and, if the former, whether the holder of the licence should be disqualified under paragraph 6(2)(a) below (and, if so, for what period) or under paragraph 6(2)(b) below.
- (6) A traffic commissioner to whom a reference has been made under sub-paragraph (4) above may require the holder of the licence to furnish the commissioner with such information as he may require and may, by notice to the holder, require him to attend before the commissioner at the time and place specified by the commissioner to furnish the information and to answer such questions (if any) relating to the subject matter of the reference as the commissioner may put to him.
- (7) If the holder of the licence fails without reasonable excuse to furnish information to or to attend before or answer questions properly put by a commissioner when required to do so under sub-paragraph (6) above, the commissioner may notify the failure to the Secretary of State and, if the commissioner does so, the Secretary of State may, as he thinks fit, revoke the licence or suspend it for such period as he thinks fit.
- (8) Except where he has given such a notification as is mentioned in sub-paragraph (7) above, the traffic commissioner to whom a reference has been made under sub-paragraph (4) above shall notify the Secretary of State and the holder of the licence of his determination in the matter and the decision of the commissioner shall be binding on the Secretary of State.
- (9) Where the Secretary of State, without making such a reference, determines to revoke or suspend a person's licence under sub-paragraph (1) above he shall notify his determination in the matter to the holder of the licence and, where he suspends it, to the traffic commissioner for the area in which the holder of the licence resides.

Disqualification on revocation of existing licences

- 6 (1) Where in pursuance of paragraph 5(1)(a) above the Secretary of State revokes a person's existing licence, the Secretary of State must, in accordance with the regulations made for the purposes of that paragraph, order that person to be

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disqualified indefinitely or for the period determined in accordance with the regulations.

- (2) Where in pursuance of paragraph 5(1)(b) above the Secretary of State revokes an existing licence, he may—
 - (a) order the holder to be disqualified indefinitely or for such period as the Secretary of State thinks fit, or
 - (b) except where the licence is a provisional licence, if it appears to the Secretary of State that, owing to the conduct or physical disability of the holder of the licence it is expedient to require him to comply with the prescribed conditions applicable to provisional licences under Part III of the 1988 Act until he passes the prescribed test of competence under that Part to drive large goods vehicles or passenger-carrying vehicles of any class, order him to be disqualified for holding or obtaining a full licence to drive until he passes such a test.
- (3) If, while the holder of an existing licence is disqualified under sub-paragraph (1) above, the circumstances prescribed for the purposes of paragraph 5(1)(a)(ii) above cease to exist in his case, the Secretary of State must, on an application made to him for the purpose, remove the disqualification.
- (4) Where the holder of an existing licence is disqualified under sub-paragraph (2)(a) above, the Secretary of State may, in such circumstances as may be prescribed, remove the disqualification.
- (5) Where the holder of an existing full licence is disqualified under sub-paragraph (2)(b) above, the Secretary of State must not afterwards grant him a full licence under Part III of the 1988 Act to drive large goods vehicles or passenger-carrying vehicles of any class unless satisfied that he has since the disqualification passed the prescribed test of competence under that Part to drive vehicles of that class, and until he passes that test any such full Part III licence obtained by him shall be of no effect.
- (6) So long as the disqualification under sub-paragraph (1) or (2)(a) above of the holder of an existing licence continues in force, no licence under Part III of the 1988 Act to drive large goods vehicles or passenger-carrying vehicles (as the case may be) shall be granted to him and any such licence obtained by him shall be of no effect.
- (7) In this paragraph “disqualified”—
 - (a) in a case of revocation on the ground of the conduct of the holder of the licence as a driver, means disqualified for holding or obtaining a licence under Part III of the 1988 Act to drive large goods vehicles of the prescribed classes and passenger-carrying vehicles of the prescribed classes; and
 - (b) in a case of revocation of a public service vehicle licence on the ground of the conduct of the holder otherwise than as a driver, means disqualified for holding or obtaining a licence under Part III of the 1988 Act to drive passenger-carrying vehicles of the prescribed classes.

Appeals relating to existing licences

- 7 (1) The holder of an existing licence who is aggrieved by the Secretary of State's—
 - (a) suspension or revocation of his licence under paragraph 5 above, or
 - (b) ordering of disqualification under paragraph 6 above,
 may, after giving to the Secretary of State and any traffic commissioner to whom the matter was referred notice of his intention to do so, appeal to a magistrates' court

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acting for the petty sessions area in which the holder of the licence resides, or, in Scotland, to the sheriff within whose jurisdiction he resides.

- (2) On an appeal under sub-paragraph (1)(a) above the Secretary of State and, if the matter was referred to a traffic commissioner, the commissioner shall be respondent.
- (3) On any appeal under sub-paragraph (1) above the court or sheriff may make such order as it or he thinks fit and the order shall be binding on the Secretary of State.

Regulations

- 8 (1) The Secretary of State may make regulations for prescribing anything which may be prescribed under this Part of this Schedule and generally for the purpose of carrying its provisions into effect.
- (2) Regulations under this paragraph may make different provision for different cases and circumstances and may in particular—
 - (a) provide that a full licence to drive heavy goods vehicles of a particular class shall also be treated for the purposes of this Part of this Schedule as a provisional licence to drive heavy goods vehicles of another prescribed class;
 - (b) make provision with respect to the custody and production of existing licences and requiring, and regulating the procedure on, the surrender or production to the Secretary of State, a traffic commissioner or any constable or officer of existing licences which have been revoked or suspended or have expired;
 - (c) provide for the issue by traffic commissioners of duplicate licences in place of existing licences lost or defaced on payment of the prescribed fee;
 - (d) provide that a person who contravenes or fails to comply with any specified provision is guilty of an offence; and
 - (e) provide that this Part of this Schedule shall not apply to prescribed classes of heavy goods vehicle or of public service vehicle either generally or in such circumstances as may be prescribed.
- (3) The power to make regulations under this paragraph is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Before making any regulations under this paragraph the Secretary of State must consult with such representative organisations as he thinks fit.

Provisions as to existing Northern Ireland licences

- 9 (1) In this paragraph “existing Northern Ireland licence” means a licence specifically to drive heavy goods vehicles or public service vehicles granted under the law of Northern Ireland.
- (2) The Secretary of State may exercise as respects Great Britain the like power of revoking or suspending any existing Northern Ireland licence and of making an order under paragraph 6(2) above as is conferred on him in relation to an existing heavy goods vehicle licence or public service vehicle licence by paragraphs 5(1)(b) and 6(2) above, and the provisions of paragraphs 5(1) and (4) to (9) and 6(2), (4), (5), (6) and (7) and the power to make regulations under paragraph 8(2)(b) shall have effect accordingly subject to the modification that references to the traffic commissioner

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for the area in which the holder of the licence resides shall be construed as references to the prescribed traffic commissioner.

- (3) Where an existing Northern Ireland licence which has been revoked is surrendered to the Secretary of State in pursuance of regulations made under paragraph 8(2)(b), the Secretary of State shall send it to the licensing authority in Northern Ireland together with particulars of the revocation.
- (4) A holder of an existing Northern Ireland licence who is aggrieved by the revocation or suspension of the licence or the ordering of disqualification by virtue of sub-paragraph (2) above shall have the like right of appeal as is conferred by paragraph 7 above except that an appeal brought by virtue of this sub-paragraph shall, if the appellant is not resident in Great Britain, lie to a prescribed magistrates' court or a prescribed sheriff.