

SCHEDULES

SCHEDULE 13

Section 57.

GOODS VEHICLE OPERATOR LICENSING: MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENT OF THE TRANSPORT ACT 1968 (1968 c. 73)

- 1 (1) In section 62(2) the words from “which” to the end of paragraph (c) shall be omitted.
(2) In section 62(4)(g) for “authorised vehicles” there shall be substituted “vehicles referred to in the statement under subsection (2) of this section”.
- 2 (1) In section 63(3) after “64(2)” there shall be inserted “to (4)”.
(2) Section 63(5) shall be omitted.
(3) In section 63(6) the definition of “statutory provision” shall be omitted.
- 3 In section 66(1)(a) for “the authorised vehicles are used” there shall be substituted “vehicles are used under the licence (or, if the licence is at any time suspended under section 69 of this Act, were used under the licence immediately before its suspension)”.
- 4 (1) In section 69(4) for “(1)(b)” there shall be substituted “(1)(c) and (d)”.
(2) In section 69(6) the words “premature termination” shall be omitted.
(3) In section 69(7) for “the authorised vehicles” there shall be substituted “vehicles under the licence”.
(4) In section 69(7A) for the words from “if” to the end there shall be substituted “if before that date the licence which is directed to be suspended or curtailed ceases to be in force, on the date on which it ceases to be in force”.
(5) In section 69(9) for “(5), (6) or (7)” there shall be substituted “(5) or (6)”.
(6) In section 69(10) for “(7) or (7A)” there shall be substituted “or (7A)”.
(7) After section 69(10) there shall be inserted—
“(10A) Where an operator’s licence is suspended under this section, the licence remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.”
- 5 (1) In section 69A(1)—
 - (a) for “authorised vehicles” there shall be substituted “vehicles authorised to be used”; and
 - (b) after “specified” there shall be inserted “as an operating centre of his”.
(2) In section 69A(3) for “authorised vehicles” there shall be substituted “vehicles used”.

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- (3) After section 69A(3) there shall be inserted—
- “(3A) The statement under subsection (2) of this section and any particulars required under subsection (3) of this section shall be given to the licensing authority in such form as he may require.”
- 6 (1) In section 69B(1) and (2)—
- (a) after “any place” there shall be inserted “in the licensing authority’s area”, and
- (b) for “is unsuitable” there shall be substituted “will be unsuitable”.
- (2) In section 69B(3)—
- (a) for “authorised vehicles” there shall be substituted “vehicles used”, and
- (b) after “any place” there shall be inserted “in the authority’s area”.
- (3) In section 69B(4)—
- (a) after “any place” there shall be inserted “in the authority’s area”, and
- (b) for “is unsuitable” there shall be substituted “would be unsuitable”.
- (4) For section 69B(6) there shall be substituted—
- “(6) Where in the case of any application for an operator’s licence—
- (a) the licensing authority has power to refuse the application under subsection (3) or (4) of this section; and
- (b) any place other than a place that will be unsuitable for use as an operating centre is referred to in the statement under section 69A(2) of this Act as a proposed operating centre of the applicant,
- the authority may, instead of refusing the application, issue the licence specifying in it only such place or places referred to in that statement as will not be unsuitable for use as an operating centre.
- (6A) For the purposes of subsection (6) of this section, a place will be unsuitable for use as an operating centre if the licensing authority has power to refuse the application under subsection (3) or (4) of this section in consequence of the proposed use of that place as an operating centre.”
- (5) Section 69B(7) shall be omitted.
- 7 (1) For section 69C(1) there shall be substituted—
- “(1) A licensing authority, on granting an operator’s licence or on varying such a licence on an application of which notice has been published under section 68(4) of this Act, may attach to it such conditions as he thinks fit for preventing or minimising any adverse effects on environmental conditions arising from the use of a place in the area of the authority as an operating centre of the licence-holder.”
- (2) For section 69C(3) and (4) there shall be substituted—
- “(3) On varying an operator’s licence on an application of which notice has been published under section 68(4) of this Act, the licensing authority may vary or remove any condition attached to the licence under this section.”
- (3) For section 69C(5) there shall be substituted—
- “(5) The licensing authority shall not—

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- (a) attach any condition such as is mentioned in this section to an operator's licence; or
- (b) vary in such manner as imposes new or further restrictions or requirements any condition attached to an operator's licence under this section,

without first giving the applicant for the licence or (as the case may be) the licence-holder an opportunity of making representations to the authority with respect to the effect on his business of the proposed condition or variation.

- (5A) The licensing authority shall give special consideration to any representations made under subsection (5) of this section in determining whether to attach the proposed condition or make the proposed variation.”

8 Section 69F shall be omitted.

9 For section 69G there shall be substituted—

“69G Objections and representations: supplementary provisions

- (1) Any objection or representations under section 69B, 69D or 69EB of this Act shall contain particulars of any matters alleged by the person making the objection or representations to be relevant to the issue to which the objection or representations relate.
- (2) Any such objection or representations shall be made in the prescribed manner and, in the case of an objection or representations under section 69B or 69D of this Act, within the prescribed time after the making of the application to which the objection or representations relate.
- (3) In the case of an objection or representations under section 69B or 69D of this Act, the prescribed manner and prescribed time shall be stated in the notice of the application published under section 63(1) or (as the case may be) 68(4) of this Act.
- (4) Where the licensing authority considers there to be exceptional circumstances that justify his doing so, he may direct that for the purposes of this Part of this Act—
 - (a) objections or representations be treated as duly made under section 69B or 69D of this Act, notwithstanding that they were not made in the prescribed manner or within the prescribed time;
 - (b) representations be treated as duly made under section 69EB of this Act, notwithstanding that they were not made in the prescribed manner or within the period of review in question.

69H Determinations as to environmental matters: supplementary provisions

- (1) In making any determination of a description mentioned in subsection (2) of this section, the licensing authority shall have regard to such considerations as may be prescribed as relevant to determinations of that description.
- (2) The determinations referred to are—
 - (a) any determination with respect to the suitability of any place on environmental grounds for use as an operating centre of the holder of an operator's licence;

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- (b) any determination with respect to attaching any condition such as is mentioned in section 69C of this Act to an operator's licence or varying or removing any such condition attached to an operator's licence; and
 - (c) any determination with respect to the effect on environmental conditions in any locality of the use in any particular manner of any operating centre of the holder of an operator's licence.
- (3) In making any such determination for the purposes of exercising—
- (a) any of his functions in relation to an application for, or for the variation of, an operator's licence; or
 - (b) any of his functions under sections 69EA to 69EC of this Act,
- the licensing authority may take into account any undertakings given by the applicant or licence-holder (or procured by him to be given) for the purposes of the application or the review under sections 69EA to 69EC, and may assume that those undertakings will be fulfilled.
- (4) In making for those purposes a determination of a description mentioned in subsection (2)(a) or (c) of this section, the licensing authority may take into account any conditions such as are mentioned in section 69C of this Act that could be attached to the licence in question, and may assume that any conditions so attached will not be contravened.
- (5) Where the licensing authority—
- (a) grants an application for, or for the variation of, an operator's licence; or
 - (b) having served notice under section 69EA of this Act in respect of any place specified in such a licence, exercises or determines not to exercise any of his powers under sections 69EB and 69EC of this Act in relation to that place,
- any undertakings taken into account by the authority under subsection (4) of this section that the authority considers to be material to the application or (as the case may be) to his decision under sections 69EB and 69EC shall be recorded in the licence in question.”
- 10 In section 82(4) for “authorised vehicles” there shall be substituted “vehicles used under the licence”.
- 11 (1) After section 84(a) there shall be inserted—
- “(aa) that, by virtue of a direction given by the authority under regulations made under section 86(2)(b) or (3) of this Act, a person is to be treated as having been the holder of an operator's licence on any date;”.
- (2) For section 84(b) there shall be substituted—
- “(b) the date of the coming into force of any operator's licence granted by the authority;
 - (bb) the date on which any operator's licence granted by the authority ceased to be in force;”.
- (3) For section 84(f) there shall be substituted—

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- (a) the definition of “authorised vehicle” shall be omitted,
- (b) after the definition of “large goods vehicle” there shall be inserted—
 - ““modification” includes addition, omission and alteration, and related expressions shall be construed accordingly;”
- (c) in the definition of “operating centre”, for “authorised vehicles” there shall be substituted “vehicles used”, and
- (d) after the definition of “regulations” there shall be inserted—
 - ““statutory provision” means a provision contained in an Act or in subordinate legislation within the meaning of the Interpretation Act 1978;”.

(2) After section 92(2) there shall be inserted—

“(2A) In this Part of this Act references to vehicles being authorised to be used under an operator’s licence are to be read in accordance with section 61 of this Act.

(2B) In this Part of this Act references to the date on which an application is finally disposed of are references—

- (a) subject to paragraph (b) of this subsection, to the earliest date by which the application and any appeal to the Transport Tribunal arising out of the application have been determined and any time for bringing such an appeal has expired; or
- (b) if the application is withdrawn or any such appeal is abandoned, to the date of the withdrawal or abandonment.”

(3) For section 92(3)(b) and (c) there shall be substituted—

- “(b) that a provision such as is mentioned in section 61(1A) or 61A(1)(b) or (2)(b) of this Act be included in the licence;
- (c) that any maximum number specified in the licence under section 61A of this Act be reduced;”.

(4) After section 92(4) there shall be inserted—

“(4A) In this Part of this Act, references to a person becoming a patient within the meaning of Part VII of the Mental Health Act 1983 include references to a curator bonis being appointed in respect of him in Scotland on the ground that he is incapable, by reason of mental disorder, of adequately managing and administering his property and affairs.”

(5) In section 92(5) for the words from “operated under” to the end there shall be substituted “, within the meaning of the Road Traffic Act 1988”.

PART II

AMENDMENT OF OTHER ENACTMENTS

16 In section 233(1)(c) of the Road Traffic Act 1960—

- (a) for “or mark” there shall be substituted “, mark or other thing”, and
- (b) for “an authorised vehicle” there shall be substituted “authorised to be used, or as being used, under an operator’s licence”.

- 17 In section 2(2) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 for “64(2)(c)” there shall be substituted “64(3)(a)”.
- 18 (1) Section 73 of the Road Traffic Act 1988 shall be amended as follows.
- (2) In subsection (1)—
- (a) for “an authorised vehicle” there shall be substituted “by virtue of section 61 of the Transport Act 1968 authorised to be used under an operator’s licence”, and
 - (b) for “the operator’s licence was granted for the vehicle” there shall be substituted “the licence was granted”.
- (3) After subsection (1) there shall be inserted—
- “(1ZA) Where in a case within subsection (1) above it appears to the person giving the notice that the vehicle is authorised to be used under two or more operators' licences—
- (a) if those licences were granted by different traffic commissioners, his duty under paragraph (a) of that subsection may be discharged by taking steps to bring the contents of the notice to the attention of any one of those commissioners,
 - (b) if those licences are held by different persons and none of those persons is in charge of the vehicle at the time when the notice is given, his duty under paragraph (b) of that subsection may be discharged by taking steps to bring the contents of the notice to the attention of any one of those persons, and
 - (c) if those licences are held by different persons and any of those persons is in charge of the vehicle at the time when the notice is given, no steps need be taken under that subsection to bring the contents of the notice to the attention of the others.”
- (4) In subsection (4) for the words from “and section 72” to “have” there shall be substituted ““operator’s licence” has”.