

TRANSPORT ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part V: Miscellaneous and Supplementary Provisions

263. **Section 255 - 256: Charges for Streetworks on highways.** *Section 255* inserts a new section 74A into the New Roads and Street Works Act 1991, and allows Ministers to make regulations which would permit highway authorities to charge undertakers (such as gas, water or telecommunications companies) carrying out street works for occupying the highway from the commencement of works. The detailed arrangements for operating such a charging system would be set out in the regulations.
264. *Section 256* makes a number of amendments to section 74 of the New Roads and Street Works Act 1991, which provides for Ministers to issue regulations permitting highway authorities to charge undertakers where they fail to complete street works by an agreed deadline. Again, the detailed arrangements for operating such a system would be set out in the regulations.

Sections 257 to 260 and Schedule 29: Driver training and driving instruction

265. *Section 257*, with *paragraphs 2 to 6 of Schedule 29*, which is introduced by *section 260*, makes provision for the training of drivers who have not passed a driving test on a particular class of vehicle. The only legislative provision requiring drivers to undertake a training course currently extant is contained in regulations made under section 89(3A) and (3B) of the Road Traffic Act 1988 and relates only to motor cycles and mopeds. Those provisions are repealed by virtue of *Schedule 31 (Part V(I))* and replaced by a power enabling the Secretary of State to make regulations imposing a training obligation on drivers –
- before they drive a particular class of vehicle on the road, or
 - before they take a test for a full licence to drive a class of vehicle, or
 - who, having passed a test on one class of vehicle, would otherwise be entitled to drive a vehicle of a different class without further training.

The regulation-making power is contained in four new sections added to the 1988 Act

266. *Sections 258 to 260*, with *paragraphs 7 to 12 of Schedule 29 (4)*, amend the law relating to driving instructors.
267. *Section 258* replaces the provisions of Schedule 3 to the Road Traffic Act 1988 (which provide for appeals by driving instructors against decisions of the Registrar of Approved Driving Instructors (“the Registrar”) to be determined by the Secretary of State) by a right of appeal to the Transport Tribunal. *Section 259* amends sections 127 to 131 of the 1988 Act by providing that decisions of the Registrar are to take effect 14 days from the date when they are made unless either the Registrar suspends the decision himself or the Transport Tribunal orders the suspension of a decision on application by an aggrieved instructor. *Paragraphs 9 to 11 of Schedule 29* provide for tests of continued

ability and fitness to give instruction (required to be undertaken by instructors as a condition of registration – see section 125(5) of the 1988 Act) to be subject to review by a magistrates' court, also on application by an aggrieved instructor, and makes provision for the payment of fees.

Section 261 to 263: Licensing of operators of goods vehicles

- 268. *Sections 261 to 263* and *Schedule 30* relates to the Goods Vehicle (Licensing of Operators) Act 1995 which provides for a system of operator licensing for users of commercial goods vehicles that weigh over 3.5 tonnes. This is intended to ensure the safe and proper use of goods vehicles and the protection of the environment around operating centres (the place where an operator normally keeps the vehicles). Licences are granted and, where appropriate, disciplinary action taken against licence holders by traffic commissioners, who are individuals appointed by the Secretary of State. The Vehicle Inspectorate, an Executive Agency of the Department of the Environment, Transport and the Regions, has responsibility for ensuring compliance with the laws on operator licensing.
- 269. *Section 261* amends section 2 of the Goods Vehicles (Licensing of Operators) Act 1995 to increase the maximum fine for operating without a licence from level 4 on the standard scale (currently £2,500) to level 5 on the scale (currently £5,000).
- 270. *Section 262* and *Schedule 30* give the Vehicle Inspectorate powers to detain, remove and dispose of illegally operated heavy goods vehicles ("HGVs") at roadside checks. *Schedule 30* sets out a new *Schedule 1A* to be inserted in the Goods Vehicles (Licensing of Operators) Act 1995. The new *Schedule* enables the Secretary of State to make regulations providing for the detention of goods vehicles used without an operator's licence.
- 271. *Section 263* substitutes a new section 5(6) of the Goods Vehicles (Licensing of Operators) Act 1995 to abolish the "margin concession". The current provision enables newly acquired vehicles within the maximum number authorised under an operator's licence to be used for up to a month without notification to a traffic commissioner and without a disc being displayed. This means that a vehicle may be operating legally even though an operator's licence disc is not displayed on the windscreen. The detention scheme will only be workable if it is clear to Vehicle Inspectorate examiners at the roadside that a vehicle is being operated without a valid operator's licence.

Section 264: Type approvals: exemptions

- 272. *Section 264* of the Act allows additional flexibility by providing an Order-making procedure to exempt specified vehicles or vehicles of specified persons - for example prototypes, or vehicles constructed for specific purposes, such as carrying abnormal loads - from particular aspects of the type approval rules.

Section 265: Vehicles subject to regulation as private hire vehicles

- 273. *Section 265* amends the Public Passenger Vehicles Act 1981 ("the 1981 Act") and the Criminal Justice and Public Order Act 1994 ("the 1994 Act") in relation to vehicles which may be used as public service vehicles or private hire vehicles.
- 274. The effect of the amendment to the 1981 Act is that (subject to the limited exception mentioned below) a small public service vehicle ("PSV") called a "small bus" in the section, can no longer be used for private hire work by virtue of its operator being licensed under the PSV operator licensing system. Instead, to undertake private hire work, the vehicles and their operators will need to be licensed under the Private Hire Vehicle ("PHV") licensing system.
- 275. By virtue of Part II of the Local Government (Miscellaneous Provisions) Act 1976, the Private Hire Vehicles (London) Act 1998 and certain local legislation PSVs in general

are exempt from the licensing requirements of those enactments which are otherwise applicable to PHVs. PHVs are vehicles adapted to carry no more than 8 passengers which are provided for hire with the services of a driver for the purposes of carrying passengers otherwise than at separate fares (i.e. the vehicles are hired as a whole). PSVs are divided by section 1(1) of the 1981 Act into two categories, small PSVs being vehicles of the same size as PHVs used in the course of a business to carry passengers for hire or reward at separate fares (i.e. passengers pay individually as on a bus). Operators of small PSVs are required to be licensed by the traffic commissioners under the 1981 Act but PHVs and their operators are required to be licensed by local authorities.

276. *Subsection (2)* adds a new section 79A to the 1981 Act which provides that, save in one case, a small PSV vehicle which is being used to carry passengers otherwise than at separate fares is not to be treated as a PSV for the purposes of gaining exemption from the PHV licensing requirements. The exception applies where the vehicle is provided in the course of a passenger-carrying business all but a small part of which involves the operation of large PSVs (which are vehicles having more than 8 passenger seats and are described as “large buses”). *Subsection (1)* makes a consequential amendment in section 79 of that Act.
277. *Subsection (4)* amends the prohibition on toutting for the hire of taxis and PHVs in section 167 of the 1994 Act. That section currently provides a defence to someone accused of toutting if the vehicle is a PSV, however it is to be used at the relevant time. This subsection limits the defence so that it only applies if the vehicle in question is to be used to carry passengers at separate fares

Section 266: Drivers' hours.

278. *Section 266* amends Part VI of the Transport Act 1968 to enable the Vehicle Inspectorate and the Police to prohibit drivers of vehicle registered in the UK who have exceeded their permitted driving time from continuing their journey until they have had the necessary break or rest period required under the drivers' hours rule

Section 267: London service permit appeals

279. *Section 267* amends section 189 of the Greater London Authority Act 1999 which provides for appeals against decisions of Transport for London relating to London service permits to be made to the Mayor. (A London service permit is a permit to operate a local service in Greater London which is not part of the London bus network as defined in section 181 of that Act.) Provision is made instead for such appeals to be heard by an independent panel.

Sections 268 to 269: Quiet lanes and home zones and rural road speed limits

280. *Section 268* makes provision for quiet lanes and home zones. It enables local traffic authorities to designate roads for which they are responsible as quiet lanes or home zones. There is no constraint on the use of this power, except that the appropriate national authority may give guidance as to its use, to which local traffic authorities must have regard.
281. Designation as a quiet lane or a home zone will, in itself, make no difference to the roads in question. But it will enable the local traffic authority to make use orders and speed orders relating to these roads, subject to procedures which may be specified in regulation by the appropriate national authority, and which may include approval of the individual order by that authority or another body (which might, for example, be the Greater London Authority for orders in London.)
282. Use orders would permit the road to be used for purposes other than passage. They might be particularly appropriate in Home Zones, to give legal status to activities other than progress up and down the road, for example children's play. These activities would

be subject to requirements not to obstruct the lawful use of the road by others, or to deny reasonable access to premises.

283. Speed orders would enable the local traffic authority to introduce speed-reducing measures. These could include traffic calming measures in which respect the new provisions neither add to nor detract from local authorities' existing powers. The new features of speed orders are that the scope is not limited to traffic calming measures, and that they have to specify the speed below which they are intended to hold the traffic. They will not, by themselves, impose speed limits at that level. These will need to be set by order for individual roads, and any local speed limits below 20 mph will, (unless current restrictions are changed) require the approval of the appropriate national authority.
284. The appropriate national authority, for this section, is the Secretary of State in England and the National Assembly in Wales
285. *Section 269* relates to a proposed hierarchy of roads in rural areas. It imposes a duty on the Secretary of State to review the application of speed limits on rural roads, and prepare a report for Parliament within 12 months of Royal Assent

Section 270: School crossing patrols

286. *Section 270* amends the Road Traffic Regulation Act 1984 . The purpose is to allow school crossing patrols to assist pedestrians of any age, not just school-aged children, and to remove the restrictions on the hours they can operate.

Section 271: Stands etc for bicycles or motor cycles

287. *Section 271* modifies section 63 of the Road Traffic Regulation Act 1984 so as to permit the provision of stands and racks for motor cycles as well as for pedal cycles. It also permits the provision of devices for securing motor cycles or pedal cycles.

Section 272: Financial assistance: inland waterway and sea freight

288. *Section 272* provides for the existing inland waterway freight facilities grants scheme to be extended in scope and application. Specifically, it confers powers to extend coverage to coastal and short sea shipping.

Sections 273 to 280: Supplementary

289. *Section 273* provides that where an offence is committed by a company with the consent or connivance of, or due to the negligence of, a director or manager or officer, that person as well as the company commits an offence.
290. *Sections 274 to 276* provide for repeals, commencement (by commencement order) and transitional provisions.
291. *Section 277* permits the making of further consequential amendments by order.
292. *Section 278* summarises the financial provisions for the Act.
293. *Section 279* is a summary of the extent but it should be noted that any amendments to legislation made by Parts 1 and IV, and the repeals and revocations relating to those Parts of the Act, have the same extent as the legislation amended, repealed or revoked. Where reference is made to a Part of the Act, that reference includes Schedules relating to that Part.

Provisions extending to England and Wales only - Part II, Part III, repeals relating to Parts 1 and III, sections 255, 256, 265, 267, 268, 270 and 271. Repeals in Part V (2) of Schedule 31.

*These notes refer to the Transport Act 2000 (c.38)
which received Royal Assent on 30 November 2000*

Provision extending to England and Wales and Scotland only – Part IV, sections 257 to 264, 266 and 269. Schedules 29 and 30. Part V (1) of Schedule 31.

Provisions extending to England and Wales, Scotland and Northern Ireland – sections 247 and 250. Paragraph 14 of Schedule 14 and Schedule 26.