
STATUTORY INSTRUMENTS

1995 No. 2835 (C.68)

DEREGULATION

**The Deregulation and Contracting Out Act 1994
(Commencement No. 4 and Transitional Provisions) Order 1995**

Made - - - - 2nd November 1995

The Secretary of State, in exercise of the powers conferred on him by section 82(4) and (5) of the Deregulation and Contracting Out Act(1), hereby makes the following Order:

1. This Order may be cited as the Deregulation and Contracting Out Act 1994 (Commencement No. 4 and Transitional Provisions) Order 1995.
2. The Deregulation and Contracting Out Act 1994, so far as it has not been brought into force before, or is not brought into force as part of the Goods Vehicles (Licensing of Operators) Act 1995(2) on, 1st January 1996 shall come into force on that day.
3. The Schedule to this Order (transitional provisions) shall have effect.

Signed by authority of the Secretary of State

2nd November 1995

Steven Norris
Parliamentary Under Secretary of State,
Department of Transport

(1) 1994 c. 40. Chapter III of Part I and Schedules 12 and 13 are prospectively repealed by the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23) (see next footnote).
(2) 1995 c. 23. The Act is a consolidation Act some of whose provisions derive from the Deregulation and Contracting Out Act 1994 and which is brought into force by the Goods Vehicles (Licensing of Operators) Act 1995 (Commencement and Transitional Provisions) Order 1995 (S.I. 1995/2181).

THE SCHEDULE

Article 3

TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

“the 1981 Act” means the Public Passenger Vehicles Act 1981(3);

“the 1994 Act” means the Deregulation and Contracting Out Act 1994;

“the appointed day” means 1st January 1996;

“existing licence” means a PSV operator’s licence which was in force immediately before the appointed day;

“PSV operator’s licence” has the same meaning as in the 1981 Act;

“old-style licence” means an existing licence in respect of which no direction has been given under paragraph 6 below.

Licences with expiry dates prior to the appointed day

2.—(1) This paragraph applies to an existing licence if—

(a) on the date that the licence was due to expire, proceedings were pending before the traffic commissioner on an application by the holder of the licence for the grant to him of a new licence in substitution for it; and

(b) the licence was in force immediately before the appointed day by virtue of that application and section 15(3) or (4) or 50(2) of the 1981 Act.

(2) Subject to paragraph (4) below, an existing licence to which this paragraph applies shall, unless previously revoked or otherwise terminated under any provision of the 1981 Act or any other statutory provision, terminate upon the requirements of sub-paragraph (3) below being met.

(3) The requirements of this sub-paragraph are that—

(a) the application, and

(b) any appeal under section 50 of the 1981 Act arising out of the application,

are disposed of.

(4) Section 15(4) of the 1981 Act as it was in force immediately before the appointed day shall, notwithstanding anything in the 1994 Act, continue to have effect in relation to an existing licence to which this paragraph applies.

(5) Section 15(2) of the 1981 Act shall, on and after the appointed day, have effect subject to this paragraph.

Prematurely terminated licences

3.—(1) This paragraph applies to an existing licence if—

(3) **1981 c. 14.** Section 4 is substituted by the Transport Act 1985 (c. 67) (“the 1985 Act”), s.3(2). Section 15 is amended by the 1985 Act, Sch. 2, Part II, para. 4(1) and (6) and by section 61 of the Deregulation and Contracting Out Act 1994 (c. 40) (“the 1994 Act”). Section 16 is amended by the 1985 Act, s.24, Sch. 2, Part II, para. 4(1) and (7), Sch. 7, para. 21(1) and (4) and Sch. 8 and by the 1994 Act, s.59, Sch. 14, para. 4 and Sch. 17. Section 17 is amended by the 1985 Act, Sch. 2, para. 4(1) and (8) and Sch. 7, para 21(1) and (6) and by the 1994 Act, ss. 59 and 62, Sch. 14, para. 5 and Sch. 8. Section 50 is substituted by the 1985 Act, s.31 and amended by the 1994 Act, s.65 and Sch. 14, para. 7 and Sch. 17. Section 52 is amended by the Metropolitan Traffic Area (Transfer of Functions) Order 1984 (S.I. 1984/31), by the 1985 Act, Sch. 2, Part II, para. 4(1) and (14) and Sch. 8, the Road Traffic (Driver Licensing and Information System) Act 1989 (c. 22), Sch. 6 and by the 1984 Act, s.66. Other amendments have been made which are not relevant to this Order.

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(a) a traffic commissioner has before the appointed day curtailed the period of validity of the licence under section 17(2) of the 1981 Act; and

(b) the expiry date of the licence is the appointed day or any day thereafter.

(2) Subject to sub-paragraphs (3) and (4) below, an existing licence to which this paragraph applies shall, unless previously revoked or otherwise terminated under any provision of the 1981 Act or any other statutory provision, terminate on the expiry date.

(3) If, immediately before an existing licence is due to expire by virtue of sub-paragraph (2) above, proceedings are pending before the traffic commissioner on an application by the holder of that licence for the grant to him of a new licence in substitution for it, the existing licence shall, subject to its revocation or other termination under any provision of the 1981 Act or any other statutory provision, continue in force until—

(a) the application, and

(b) any appeal under section 50 of the 1981 Act arising out of the application,

are disposed of.

(4) Section 15(4) of the 1981 Act as it was in force immediately before the appointed day shall, notwithstanding anything in the 1994 Act, continue to have effect in relation to an existing licence to which this paragraph applies.

(5) For the purposes of this paragraph, the expiry date of a licence that has, before the appointed day, been curtailed under subsection (2) of section 17 of the 1981 Act is the date on which it would have expired by virtue of the curtailment had the 1994 Act not been passed and no application were made for a licence in substitution for it.

(6) Section 15(2) of the 1981 Act shall, on and after the appointed day, have effect subject to this paragraph.

Statements of intent

4.—(1) Where—

(a) the holder of an old-style licence had made or procured to be made—

(i) for the purposes of his application for the licence, or

(ii) for the purposes of an application for the variation of the licence,
a statement of intent in writing; and

(b) the application was determined before the appointed day,

the statement shall for the purposes of the 1981 Act, on and after the appointed day, have effect as if it were an undertaking recorded in the licence.

Variation of an old-style licence

5. Section 16(6) of the 1981 Act shall, on and after the appointed day, have effect in relation to an old-style licence as if after paragraph (c), there were inserted—

“or

(d) direct that any statement of intent which by virtue of paragraph 4 of the Schedule to the Deregulation and Contracting Out Act 1994 (Commencement No. 4 and Transitional Provisions) Order 1995 has effect as if it were an undertaking recorded in the licence, cease to have such effect.”.

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Conversion of old-style licences

6.—(1) The traffic commissioner by whom an old-style licence was issued may at any time after the appointed day vary the licence by directing—

- (a) that any statement of intent having effect as an undertaking by virtue of paragraph 4 above immediately before the variation, or a statement that appears to the traffic commissioner to be to the like effect, be recorded as an undertaking in the licence; or
- (b) that an alteration of any other description be made which appears to the traffic commissioner to be consequential to the coming into force of the 1994 Act;

or both of those things.

(2) The powers under paragraph (1) above shall be exercised in such a way as appears to the traffic commissioner—

- (a) to put the licence into a form that would have been appropriate had the 1994 Act been in force at the time it was granted; and
- (b) to leave the holder of the licence in the same position as he was immediately before the licence is varied or as near to that position as is practicable using those powers while meeting the requirements of paragraph (a) above.

(3) A traffic commissioner shall not exercise his powers under this paragraph without first giving the holder of the licence an opportunity to make representations to the commissioner with respect to the proposed variation.

Fees

7. Nothing in sections 52(2A), (2B) or (2D) of the 1981 Act shall in any circumstances affect the validity, on or after the appointed day, of—

- (a) any decision made;
- (b) any licence granted;
- (c) any variation effected; or
- (d) any disc issued,

before the appointed day.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st January 1996 the provisions of the Deregulation and Contracting Out Act 1994 so far as they have not been brought into force before, or are not brought into force as part of the Goods Vehicles (Licensing of Operators) Act 1995 on, that date.

The provisions brought into force by this Order include the provisions that relate to public service vehicle operator licensing so far as those provisions are not already in force. The Order contains transitional provisions relating to such licences.

The provisions brought into force by this Order also include the provisions that relate to the inspection of independent schools.

NOTE AS TO EARLIER COMMENCEMENT ORDERS*(This note is not part of the Order)*

The following provisions of the Deregulation and Contracting Out Act 1994 have been or are to be brought into force by commencement order made before the date of this order:

Provision	Date of Commencement	S.I. No.
s. 8	3.1.95	S.I. 1994/3188
s.11	3.1.95	S.I. 1994/3188
s. 13(1)	1.7.95	S.I. 1995/1433
s.13(2) so far as is necessary to enable regulations to be made under Articles 603B(6)(f) and 603C(2)(f) of the Companies (Northern Ireland) Order 1986	1.7.95	S.I. 1995/1433
s.13(2) so far as not already in force	1.11.95	S.I. 1995/1433
s.19	3.1.95	S.I. 1994/3188
s.22 to 24	1.12.94	S.I. 1994/3037
s.35	3.1.95	S.I. 1994/3188
s.36(1)	3.1.95	S.I. 1994/3188
s.36(2)	3.1.95	S.R. (N.I.) 1994 No. 488
s.39 so far as relating to the Licensing Act 1964 and to s.77 of the Fair Trading Act 1973	3.1.95	S.I. 1994/3188
s.39 so far as relating to section 2(1) of the Company Directors Disqualification Act 1986	1.7.95	S.I. 1995/1433
s.39 so far as relating to Article 5(1) of the Companies (Northern Ireland) Order 1989	1.11.95	S.I. 1995/1433
s.51	3.1.95	S.I. 1994/3188
s.58	3.1.95	S.I. 1994/3188
s.60	1.4.95	S.I. 1994/3188
s.62	3.1.95	S.I. 1994/3188
s.64	3.1.95	S.I. 1994/3188
s.67	3.1.95	S.I. 1994/3188
s.68 so far as relating to the entries referred to in article 3(r) of S.I. 1994/3188	3.1.95	S.I. 1994/3188

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Provision	Date of Commencement	S.I. No.
s.81 so far as relating to the entries referred to in article 3(e) of S.I. 1994/3037	1.12.94	S.I. 1994/3037
s.81 so far as relating to the entries referred to in article 3(s) of S.I. 1994/3188	3.1.95	S.I. 1994/3188
Schedule 5	1.7.95	S.I. 1995/1433
In Schedule 6, para 1 and para 2 so far as is necessary to enable regulations to be made under Articles 603B(6)(f) and 603C(2)(f) of the Companies (Northern Ireland) Order 1986	1.7.95	S.I. 1995/1433
Schedule 6 so far as not already in force	1.11.95	S.I. 1995/1433
Schedule 7	3.1.95	S.I. 1994/3188
Schedule 10	3.1.95	S.I. 1994/3188
In Schedule 11, para 1 and para 2 so far as relating to s.77 of the Fair Trading Act 1973	3.1.95	S.I. 1994/3188
In Schedule 11, para 6	1.7.95	S.I. 1995/1433
In Schedule 11, para 10	1.11.95	S.I. 1995/1433
In Schedule 14, para 1 so far as relating to the following paras and paras 3 and 5(2)(b)	3.1.95	S.I. 1994/3188
In Schedule 17, the entries in respect of the Shops Act 1950, the Shops (Airports) Act 1962, the Shops (Early Closing Days) Act 1965, the Local Government Act 1972, the Local Government (Scotland) Act 1973, the Cinemas Act 1985, the Employment Act 1989 and the Sunday Trading Act 1994	1.12.94	S.I. 1994/3037
In Schedule 17, the entries in respect of the Merchant Shipping Act 1894, the Licensing Act 1964, the Employment Agencies Act 1973, the House of Commons Disqualification Act 1975, the Employment Protection Act 1975, the Employment	3.1.95	S.I. 1994/3188

Provision	Date of Commencement	S.I. No.
Protection (Consolidation) Act 1978, the Merchant Shipping Act 1979, the Public Passenger Vehicles Act 1981, so far as relating to ss. 14A(3), 17(2) (b) and 27 of that Act, the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 and the Income and Corporation Taxes Act 1988.		