

ROAD TRANSPORT ACT 2001

(Chapter 27)

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AN ACT

to make new provision for regulating the transport of passengers and goods by road; and for connected purposes.

PART 1

THE ROAD TRANSPORT LICENSING COMMITTEE

1 The Road Transport Licensing Committee

(1) There is constituted a body by the name of 'the Road Transport Licensing Committee' (in this Act referred to as 'the Committee').

(2) The Committee shall consist of a chairman, a vice-chairman and 3 other members, all of whom shall be appointed by the Council of Ministers subject to the approval of Tynwald.

(3) Subject to the following provisions of this section a member of the Committee shall hold office for a term of 5 years beginning with the date of his appointment, but may be removed from office during that term by the Council of Ministers.

(4) A person shall be disqualified for being appointed or being a member of the Committee if-

(a) he is a member of the Council or the Keys, or

(b) he has any financial interest in any trade or business involving the carriage of passengers or goods.

(5) Section 3(5) and (7) of the Statutory Boards Act 1987 applies to the Committee as it applies to a Statutory Board.

(6) It is the duty of the Committee to enforce the provisions of this Act.

(7) The expenses of the Committee under this Act shall be paid out of money provided by Tynwald.

2 Proceedings of the Committee

(1) The Department of Transport ('the Department') may make regulations with respect to any proceedings of the Committee and, in particular,-

- (a) the notice to be given of the proceedings and decisions of the Committee, and of any decision on an appeal referred to in section 60;
- (b) the making of objections and representations with respect to an application to the Committee or any other matter to be considered by the Committee;
- (c) the evidence to be lodged as to any matter;
- (d) the quorum of the Committee;
- (e) the taking of evidence by the Committee;
- (f) the inspection of premises in the course of the proceedings, or the determination of an application or other matter without inspection;
- (g) the representation in the proceedings of a company by a director or other officer of the company;
- (h) the determination of an application or other matter without the appearance of the applicant;
- (i) the determination of interlocutory matters by the chairman or vice-chairman alone;
- (j) the adjournment of the proceedings;
- (k) the manner in which the proceedings may be withdrawn or abandoned.

(2) Subject to any regulations under subsection (1), and to any other provision of this Act, the procedure of the Committee shall be such as the Committee may determine.

(3) In considering any technical or financial question which appears to it to arise in relation to the exercise of its functions under this Act, the Committee may be assisted by an assessor drawn from a panel of persons appointed for the purpose by the Department.

(4) For the purposes of the Payment of Members' Expenses Act 1989 an assessor shall be treated as a member of the Committee.

PART 2

REGULATION OF OPERATORS

Registers and licences

3 Registers and licences

(1) The Committee shall maintain-

- (a) a register of passenger vehicle operators; and
- (b) a register of goods vehicle operators,

in such form as may be prescribed.

(2) The Committee may in accordance with this Part grant passenger vehicle operators' licences and goods vehicle operators' licences; and shall keep-

- (a) a list of all passenger vehicle operators' licences, and
- (b) a list of all goods vehicle operators' licences,

in such form as may be prescribed.

(3) References in this Act to registration of a person as a passenger vehicle operator, as a goods vehicle operator or as an operator are to entry of that person's name in the register of passenger vehicle operators, in the register of goods vehicle operators or in either of them, as the case may be; and 'registered', in relation to a passenger vehicle operator or goods vehicle operator, shall be construed accordingly.

(4) The Committee shall make each of the registers kept under subsection (1), and each of the lists kept under subsection (2), available for inspection at all reasonable times; and any person inspecting any such register or list shall be entitled

to make copies of entries in it on payment of such reasonable fee as the Committee may determine.

Passenger vehicles

4 Commercial use of passenger vehicles

(1) In this Act 'passenger vehicle' means a vehicle constructed or adapted to carry passengers.

(2) Subject to subsections (4) and (5), for the purposes of this Act a person uses a passenger vehicle commercially for the carriage of passengers if he uses it on a highway maintainable at the public expense-

(a) in connection with any business of carrying passengers;

(b) in connection with any other trade or business carried on by him or by an associated company of his; or

(c) otherwise for hire or reward.

(3) Subject to subsection (5), for the purposes of this Act a person also uses a passenger vehicle commercially for the carriage of passengers if he uses it for standing or plying for hire in a road or other public place.

(4) Subsection (2)(b) does not apply in the case of a vehicle which is not adapted to carry more than 8 passengers in addition to the driver.

(5) A passenger vehicle carrying passengers for payment shall not be regarded as used commercially for the carriage of passengers where-

(a) the vehicle is not adapted to carry more than 8 passengers in addition to the driver;

(b) the payment or aggregate of the payments made in respect of the journey does not exceed the amount of the running expenses of the vehicle for the journey; and

(c) the arrangements for the payment by the passenger or passengers carried were made before the journey began.

(6) Where in any proceedings it is alleged that a vehicle is not used as a passenger vehicle commercially for the carriage of passengers by virtue of subsection (5), the court may, if it thinks fit, have regard to any information as to the running costs of vehicles published by or on behalf of the Department, a government department of the United Kingdom or any organisation representative of users of vehicles.

(7) For the purposes of this Act-

(a) a passenger vehicle is to be treated as carrying passengers for hire or reward if payment is made for, or for matters which include, the carrying of passengers-

(i) irrespective of the person to whom the payment is made, and

(ii) in the case of a transaction effected by or on behalf of a member of any association of persons (whether incorporated or not) on the one hand and the association or another member of it on the other hand, notwithstanding any rule of law as to such transactions;

(b) a payment made for the carrying of a passenger shall be treated as a fare-

(i) even though it is made in consideration of other matters in addition to the journey, and

(ii) irrespective of the person by or to whom it is made;

(c) a payment shall be treated as made for the carrying of a passenger if made in consideration of a person's being given a right to be carried, whether for one or more journeys and whether or not the right is exercised.

(8) In this section 'payment' includes consideration of any kind, whether monetary or not.

5 Passenger vehicles: requirement for registration or licence

(1) Subject to sections 25 and 29 and to the following provisions of this Part-

(a) a person may use a passenger vehicle commercially for the carriage of passengers if-

(i) he is the holder of a passenger vehicle operator's licence, or

(ii) he is a registered passenger vehicle operator and is entered in a separate part of the register prescribed for the purpose of this paragraph;

(b) a person may use a passenger vehicle of a class prescribed for the purpose of this paragraph commercially for the carriage of passengers-

(i) in connection with any business of carrying passengers, other than one excluded by subsection (2); or

(ii) in connection with any other trade or business carried on by him or by an associated company of his, other than one so excluded;

if he is a registered passenger vehicle operator.

(2) Subsection (1)(b) does not apply to a business of carrying passengers which-

(a) consists of or includes the provision of a regular service (within the meaning of Part 3); or

(b) is prescribed for the purpose of this subsection.

(3) Except in such cases or circumstances or under such conditions as are specified in regulations, a person who uses a passenger vehicle commercially for the carriage of passengers where he is not authorised to do so by subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(4) No person may be-

(a) both registered as a passenger vehicle operator and the holder of a passenger vehicle operator's licence; or

(b) the holder of more than one passenger vehicle operator's licence.

6 Exemption for charities etc

(1) The Committee may, on an application by or on behalf of a voluntary organisation, issue an exemption certificate in respect of the organisation.

(2) Where an exemption certificate is in force in respect of a voluntary organisation, then, subject to compliance with such conditions as are specified in the certificate, a passenger vehicle of a description so specified shall not be regarded as used commercially for the carriage of passengers by reason only that it is used by the organisation for carrying passengers for hire or reward for purposes incidental to an activity of the organisation (other than an activity consisting wholly or mainly of carrying passengers).

(3) The Committee may vary or cancel an exemption certificate.

(4) In deciding-

(a) whether or not to issue, vary or cancel an exemption certificate, and

(b) what conditions should be specified in such a certificate,

the Committee shall have regard to all the circumstances of the case and in particular to the need to ensure the safety of passengers carried by vehicles when used by the organisation in question as mentioned in subsection (2).

(5) Unless it is cancelled under subsection (3), an exemption certificate shall continue in force for such period not exceeding 5 years as the Committee considers appropriate and is specified in the certificate.

(6) The Committee shall keep a list of all exemption certificates in such form as may be prescribed; and section 3(4) applies to that list as it applies to the lists kept under section 3(2).

(7) In this section 'voluntary organisation' means-

- (a) a registered charity within the meaning of the Charities Registration Act 1989,
 - (b) an institution exempted from registration under section 2(3) of that Act; and
 - (c) any other body whose activities are carried on otherwise than for profit;
- but does not include any public or local authority.

Goods vehicles

7 Commercial use of goods vehicles

(1) In this Act 'goods vehicle' means-

- (a) a motor vehicle constructed or adapted for use for the carriage of goods, or
 - (b) a trailer so constructed or adapted,
- the maximum weight of which exceeds such weight as is prescribed.

(2) No weight less than 7,500kg may be prescribed for the purpose of subsection (1).

(3) For the purposes of this Part a person uses a goods vehicle commercially for the carriage of goods if he uses it on a highway maintainable at the public expense-

- (a) in connection with any business of carrying goods;
- (b) in connection with any other trade or business carried on by him or by an associated company of his; or
- (c) otherwise for hire or reward.

8 Goods vehicles: requirement for registration or licence

(1) Subject to the following provisions of this Part-

- (a) a person may use any goods vehicle commercially for the carriage of goods if-
 - (i) he is the holder of a goods vehicle operator's licence; or
 - (ii) he is a registered goods vehicle operator and is entered in a separate part of the register prescribed for the purpose of this paragraph;
- (b) a person may use a goods vehicle of a class prescribed for the purpose of this paragraph for the carriage of goods-
 - (i) in connection with any business of carrying goods; or
 - (ii) in connection with any other trade or business carried on by him or by an associated company of his;if he is a registered goods vehicle operator.

(2) Except in such cases or circumstances or under such conditions as are specified in regulations, a person who uses a goods vehicle commercially for the carriage of goods where he is not authorised to do so by subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(3) No person may be-

- (a) both registered as a goods vehicle operator and the holder of a goods vehicle operator's licence; or
- (b) the holder of more than one goods vehicle operator's licence.

Application for registration or licence

9 Application for registration or licence

(1) An application for registration or an operator's licence shall be made in such form as the Committee may require, and shall be accompanied by the prescribed fee; and the applicant shall give the Committee such information, in such form, as it may reasonably require for disposing of the application.

(2) The application shall specify-

- (a) one or more places as the places which are to be used as an operating centre of the applicant under the registration or licence, and
- (b) the number of passenger vehicles or goods vehicles, as the case may be, or the number of such vehicles of any prescribed class, which the applicant proposes to use under the registration or licence.

10 Registration and grant of licences

(1) An application for an operator's licence or for registration shall not be granted unless the Committee is satisfied that the applicant is of good repute.

(2) An application for-

- (a) an operator's licence,
- (b) entry in the separate part of the register of passenger vehicle operators referred to in section 5(1)(a), or
- (c) entry in the separate part of the register of goods vehicle operators referred to in section 8(1)(a),

shall not be granted unless the Committee is satisfied that the applicant is of appropriate financial standing and professionally competent.

(3) Schedule 1 has effect for supplementing subsections (1) and (2).

(4) In addition to the requirements of subsection (1) or (2), an application for registration or an operator's licence shall not be granted unless the Committee is satisfied that any place specified in the application as an operating centre of the applicant is suitable-

- (a) for use as such an operating centre, and
- (b) for use as such an operating centre for the number of vehicles, or the number of vehicles of any specified class, proposed to be used under the registration or licence.

(5) Where a place is specified as an operating centre in an application for registration as a passenger vehicle operator or for a passenger vehicle operator's licence and-

- (a) is also used as an operating centre by another passenger vehicle operator, or under a registration as a goods vehicle operator or a goods vehicle operator's licence, or
- (b) is also specified as an operating centre in another application for registration as a passenger vehicle operator or for a passenger vehicle operator's licence, or in an application for registration as a goods vehicle operator or a goods vehicle operator's licence,

the Committee shall take into account the use or proposed use mentioned in paragraph (a) or (b) in determining the suitability of the place for the purposes of the application.

(6) Where a place is specified as an operating centre in an application for registration as a goods vehicle operator or for a goods vehicle operator's licence and-

- (a) is also used as an operating centre by another goods vehicle operator, or under a registration as a passenger vehicle operator or a passenger vehicle operator's licence, or
- (b) is also specified as an operating centre in another application for registration as a goods vehicle operator or for a goods vehicle operator's licence, or in

an application for registration as a passenger vehicle operator or a passenger vehicle operator's licence, the Committee shall take into account the use or proposed use mentioned in paragraph (a) or (b) in determining the suitability of the place for the purposes of the application.

(7) In considering on an application for registration or an operator's licence whether the requirements mentioned in subsection (4) are satisfied, the Committee may take into account any undertakings given by the applicant (or procured by him to be given) for the purposes of the application and may assume that those undertakings will be fulfilled.

(8) If on an application for registration or an operator's licence the Committee decides that-

- (a) the relevant requirements mentioned in subsection (1) or (2), and
- (b) the further requirements mentioned in subsection (4),

are satisfied, it shall grant the application.

11 Objections to application for registration or licence

(1) Where an application is made for registration or for an operator's licence, the Committee shall publish in the prescribed manner notice of the application, and shall send a copy of the notice to-

- (a) the Department;
- (b) the Chief Constable;
- (c) the Department of Local Government and the Environment;
- (d) the local authority for the district in which any operating centre

specified in the application is situated; and

(e) to such representative body or bodies as appear to the Committee to be appropriate.

(2) The Department, the Chief Constable or a representative body may object to the registration or the grant of the licence on the ground that one or more of the requirements mentioned in section 10(1) or (2) are not satisfied in relation to the application.

(3) Any person may object to the registration or the grant of the licence on the ground that the requirement mentioned in section 10(4) is not satisfied in relation to the application.

(4) An objection under this section shall be made within the prescribed time and in the prescribed manner and shall contain particulars of the ground on which it is made.

(5) Where the Committee considers there to be exceptional circumstances that justify its doing so, it may direct that an objection be treated for the purposes of this Part as duly made under this section, even though it was not made within the prescribed time or in the prescribed manner.

12 Duration of registration and licence

(1) There shall be specified in every entry in the register and every operator's licence the date on which the registration or licence is to come into force.

(2) Subject to its revocation or other termination under any provision of this Act or any other statutory provision, an operator's licence shall continue in force for such period-

- (a) not exceeding 5 years, or
- (b) not exceeding such period (being less than 5 years) as the applicant

may have requested,

as the Committee considers appropriate and is specified in the licence.

(3) Subject to its revocation or other termination under any provision of this Act or another statutory provision, registration as a passenger vehicle operator or goods vehicle operator shall continue in force indefinitely.

(4) If a licensed operator or registered operator requests the Committee to terminate his licence or registration at any time, the Committee shall, subject to subsection (5), comply with the request.

(5) The Committee may refuse to comply with the request if it is considering taking action in respect of the licence or registration under section 18(1) or (2).

(6) Subject to regulations under section 55(2), an operator's licence held by an individual, and the registration of an individual, terminates-

(a) if he dies, or

(b) if a receiver is appointed for him under section 103 of the Mental Health Act 1998.

(7) If on the expiry of an operator's licence an application by the holder of that licence is pending for the grant of a new operator's licence to replace that licence, that licence shall continue in force until the application is disposed of.

(8) The grant to any person of a passenger vehicle operator's licence cancels, with effect from the coming into force of the licence, any existing registration of him as a passenger vehicle operator and any other passenger vehicle operator's licence held by him; and the registration of any person in the register of passenger vehicle operators cancels, with effect from the coming into force of the registration, any passenger vehicle operator's licence held by him.

(9) The grant to any person of a goods vehicle operator's licence cancels, with effect from the coming into force of the licence, any existing registration of him as a goods vehicle operator and any other goods vehicle operator's licence held by him; and the registration of any person in the register of goods vehicle operators cancels, with effect from the coming into force of the registration, any goods vehicle operator's licence held by him.

Contents of registers and licences

13 Contents of registers and licences etc

(1) An entry in the register shall include the following particulars-

(a) the name and address of the registered operator;

(b) the address or location of the places in the Island (of which there must be at least one) which is or are his operating centre or operating centres;

(c) the numbers of vehicles mentioned in section 15(1);

(d) any undertakings taken into account by the Committee in making or varying the registration;

(e) the date mentioned in section 12(1); and

(f) such other particulars as may be prescribed.

(2) An operator's licence shall include the following particulars-

(a) the name and address of the holder of the licence;

(b) the address or location of the places in the Island (of which there must be at least one) which is or are his operating centre or operating centres;

(c) the numbers of vehicles mentioned in section 15(1);

(d) any undertakings taken into account by the Committee in granting or varying the licence;

(e) the dates mentioned in section 12(1) and (2); and

(f) such other particulars as may be prescribed.

14 Operating centres

(1) A person may not use a place in the Island, or cause or permit such a place to be used, as an operating centre for a passenger vehicle used as mentioned in section 5(1) unless that place is specified as an operating centre in an entry relating to him in the register of passenger vehicle operators or in a passenger vehicle operator's licence held by him.

(2) A person may not use a place in the Island, or cause or permit such a place to be used, as an operating centre for a goods vehicle used as mentioned in section 8(1) unless that place is specified as an operating centre in an entry relating to him in the register of goods vehicle operators or in a goods vehicle operator's licence held by him.

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

15 Maximum number of vehicles

(1) Any entry in the register, and any licence-

(a) shall specify the maximum number of passenger vehicles or goods vehicles, as the case may be, which may be used under the registration or licence;

(b) may specify the maximum number (if any) of passenger vehicles or goods vehicles of a class specified in the entry or licence which may be used under the registration or licence; and

(c) may prohibit passenger vehicles or goods vehicles of a class specified in the entry or licence being used under the registration or licence.

(2) If a registered operator or licence-holder uses as mentioned in section 5(1) or 8(1), as the case may be,-

(a) at any one time, more than the number of passenger vehicles or goods vehicles, as the case may be, specified under subsection (1)(a); or

(b) at any one time, more than the number specified under subsection (1)(b) of passenger vehicles or goods vehicles of a class so specified; or

(c) any passenger vehicles or goods vehicles of a class specified under subsection (1)(c),

he is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

(3) The terms of a registration or operator's licence mentioned in subsection (1) do not affect the use by the registered operator or licence-holder of a vehicle in circumstances such that another person falls to be treated as using the vehicle (for example, by virtue of regulations under section 55).

16 Conditions of registration or licence

(1) The Committee may, on granting an application for registration or an operator's licence, attach to the registration or licence such condition or conditions as it thinks fit for restricting or regulating the use of vehicles under the registration or licence, being conditions of any prescribed description.

(2) If a condition attached to a registration or operator's licence is contravened, the registered operator or licence-holder is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(3) Compliance with any condition attached to a registration or operator's licence may be temporarily dispensed with by the Committee if it is satisfied that compliance with the condition would be unduly onerous by reason of circumstances not foreseen when the condition was attached or, if the condition has been varied, when it was last varied.

Variation, revocation etc. of registration and licences

17 Variation of registration and operators' licences

- (1) On the application of a registered operator or licence-holder, the Committee may vary the entry in the register or the licence by directing-
- (a) that the maximum number of passenger vehicles or goods vehicles, as the case may be, or the maximum number of such vehicles of any class, specified in it under section 15(1) be increased or reduced;
 - (b) that a new place be specified in it as an operating centre of the registered operator or licence-holder, or that any place cease to be so specified;
 - (c) that any condition of the registration or licence, or any prohibition under section 15(1)(c), be varied or cancelled;
 - (d) that any undertaking recorded in the entry or licence be relaxed or cancelled; or
 - (e) that any particulars in the register or licence be corrected.

(2) The applicant for any variation under subsection (1) shall give to the Committee such information, in such form, as it may reasonably require for the disposal of the application.

(3) In considering whether to grant an application under subsection (1), the Committee may take into account any undertakings given by the applicant (or procured by him to be given) for the purposes of the application, and may assume that those undertakings will be fulfilled.

(4) Except in such cases or to such extent as may be prescribed, sections 9 to 12 apply with any necessary modifications to applications under subsection (1) as they apply to an application for registration or for a licence.

18 Revocation etc of registration or licence

(1) The Committee shall by order revoke a registration or operator's licence if it appears to it at any time that the registered operator or licence-holder no longer satisfies any one or more of the requirements of section 10(1) or (2), as the case may be.

(2) Without prejudice to subsection (1), the Committee may, on any of the grounds specified in subsection (3), at any time-

- (a) by order revoke a registration or operator's licence;
- (b) by order suspend the registration or licence for such period as is specified in the order;
- (c) direct that the maximum number of passenger vehicles or goods vehicles, as the case may be, or the maximum number of such vehicles of any class, specified in the registration or licence under section 15(1) be increased or reduced;
- (d) prohibit passenger vehicles or goods vehicles of any specified class being used under the registration or licence;
- (e) direct that a place cease to be specified in it as an operating centre of the registered operator or licence-holder;
- (f) direct that any condition of the registration or licence be varied, or that a new condition be attached to it (in addition to or in place of any existing condition).

(3) The grounds for action under subsection (2) are-

(a) that the registered operator or licence-holder made or procured to be made for the purposes of his application for registration or the licence, or for the purposes of an application for a variation of the registration or licence,-

(i) a statement of fact which (whether to his knowledge or not) was false, or

(ii) a statement of expectation which has not been fulfilled;

(b) that any undertaking recorded in the register or licence has not been fulfilled;

- (c) that there has been a contravention of any condition attached to the registration or licence;
- (d) that a prohibition under paragraph 6I or 6J of Schedule 2 to the Road Traffic Act 1985 has been imposed with respect to a vehicle owned or operated by the registered operator or licence-holder, or that he has been convicted of an offence under either of those paragraphs arising out of the contravention of such a prohibition;
- (e) that a service licence held by the registered operator or licence-holder has been revoked (otherwise than on an application by him) under section 33;
- (f) that there has been since registration was made or the licence was granted or varied a material change in any of the circumstances of the registered operator or licence-holder which were relevant to the grant or variation of the registration or licence;
- (g) that the registered operator or licence-holder has persistently failed to maintain in a good and serviceable condition any vehicle used under the registration or licence.

(4) The Committee shall not take any action under subsection (1) or (2) in respect of any registration or licence without first holding an inquiry if the registered operator or licence-holder requests it to do so.

(5) Where the Committee decides to revoke a registration or licence under this section, it may direct that the revocation shall not take effect for such period as appears to it reasonably required to enable the operations carried on under the registration or licence to be transferred to another person authorised (by virtue of registration or an operator's licence) to carry them on.

(6) Where a registration or licence is suspended under this section, it remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.

(7) Where the Committee has suspended a registration or licence under this section, it may at any time cancel the suspension or vary the period for which it is in force.

(8) Schedule 1 applies for the purposes of subsection (1) as it applies for the purposes of section 10(1).

(9) The Committee may at any time correct any particulars in a register or operator's licence which appear to the Committee to be incorrect.

19 Disqualification

(1) Where under section 18 the Committee directs that a person's registration or operator's licence be revoked, the Committee may order that he be disqualified, either indefinitely or for such period as the Committee thinks fit, for being registered, or holding or obtaining an operator's licence.

(2) So long as a disqualification under subsection (1) is in force-

(a) any registration or operator's licence held by him at the date of the making of the order (other than the registration or licence revoked) shall be suspended, and

(b) notwithstanding anything in section 10, he may not be registered and no operator's licence may be issued to him.

(3) If a person applies for or obtains registration or an operator's licence while he is disqualified under subsection (1)-

(a) he is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500, and

(b) any registration effected or licence issued on the application shall be void.

(4) Where the Committee makes an order under subsection (1) in respect of any person, it may direct that if that person, at any time or during such period as it may specify-

(a) is a director of, or holds a controlling interest in-

- (i) a company which is registered or holds an operator's licence, or
- (ii) a company of which such a company is a subsidiary, or

(b) uses any passenger vehicles or goods vehicles commercially in partnership with a person who is registered or holds an operator's licence, that company's or person's registration or licence shall be liable to revocation, suspension or curtailment under section 18.

(5) The powers conferred by subsections (1) and (4) in relation to the person who was registered or the holder of an operator's licence shall be exercisable also-

(a) where that person was a company, in relation to any director of that company, and

(b) where that person used any passenger vehicles or goods vehicles in partnership with other persons, in relation to any of those other persons; and any reference to subsection (1) or (4) includes a reference to that subsection as it applies by virtue of this subsection.

(6) The Committee may at any time-

(a) cancel any order disqualifying a person which was made under subsection (1) together with any direction that was given under subsection (4) when the order was made;

(b) cancel any such direction; or

(c) vary the order or any such direction (or both the order and any such direction).

(7) Any power under this section which is exercisable in consequence of the revocation of registration as a passenger vehicle operator or a passenger vehicle operator's licence may be exercised either-

(a) as respects registration and licensing as a passenger vehicle operator only, or

(b) as respects registration and licensing both as a passenger vehicle operator and as a goods vehicle operator.

(8) Any power under this section which is exercisable in consequence of the revocation of registration as a goods vehicle operator or a goods vehicle operator's licence may be exercised either-

(a) as respects registration and licensing as a goods vehicle operator only, or

(b) as respects registration and licensing both as a goods vehicle operator and as a passenger vehicle operator.

(9) Where a registration or licence is suspended under this section, the registration or licence remains in force during the time of its suspension subject to the limitation that no vehicles are authorised to be used under it.

20 Duty to inform Committee of certain convictions etc

(1) A person who has applied for registration or an operator's licence shall forthwith notify the Committee if, in the interval between the making of the application and the date on which it is disposed of, a relevant conviction occurs of the applicant, or any employee or agent of his, or of any person proposed to be engaged as transport manager whose repute and competence are relied on in connection with the application.

(2) A registered operator or holder of an operator's licence shall give notice in writing to the Committee of-

(a) any relevant conviction of himself; and
(b) any relevant conviction of any officer, employee or agent of his for an offence committed in the course of his transport undertaking,
and shall do so within 28 days of the conviction in the case of a conviction of himself or his transport manager and within 28 days of the conviction coming to his knowledge in any other case.

(3) A registered operator or holder of an operator's licence shall give notice in writing to the Committee of-

(a) the bankruptcy or liquidation of himself or the appointment of a receiver, manager or trustee of his transport undertaking; or
(b) any change in the identity of the transport manager of the holder's transport undertaking,
within 28 days of the occurrence of that event.

(4) Where the Committee makes or varies a registration or grants or varies an operator's licence, or at any time thereafter, it may require the registered operator or licence-holder to inform it forthwith or within a time specified by it of any material change specified by it in any of his circumstances which were relevant to the registration or variation thereof or the grant or variation of the licence.

(5) A person who contravenes subsection (1), (2) or (3), or any requirement under subsection (4), is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(6) In this section 'relevant conviction' has the same meaning as in paragraph 1 of Schedule 1.

Appeals

21 Rights of appeal

(1) An applicant for, or for the variation of, registration or an operator's licence may appeal to the High Bailiff against the refusal of the application or (as the case may be) against the terms of the registration or licence or of the variation.

(2) A registered operator or holder of an operator's licence may appeal to the High Bailiff against any order or direction given under section 18(1) or (2) or 19(1) or (4) in respect of the registration or licence.

(3) A person in respect of whom an order has been made under section 19(1) may appeal to the High Bailiff against that order and against any direction given under section 19(4) when the order was made.

(4) A person who has duly made an objection to an application for, or for a variation of, a registration or operator's licence may appeal to the High Bailiff against the grant of the application.

(5) Where an appeal lies under subsection (1), (2), (3) or (4) against any decision of the Committee, any notice of the decision must include a statement of the Committee's reasons for its decision.

(6) If before the expiry of an operator's licence an appeal has been made against the refusal of an application by the holder of that licence for the grant of a new operator's licence to replace that licence, that licence shall continue in force until the appeal is withdrawn or determined.

(7) Where a registered operator or holder of an operator's licence appeals to the High Bailiff against a variation of the conditions attached to that registration or licence, that variation shall not have effect until the appeal has been disposed of.

(8) Subsections (6) and (7) are without prejudice to the exercise in the meantime of powers under sections 18 and 19.

Supplemental

22 Display of certificate of registration or licence

(1) Where the Committee registers a person as a passenger vehicle operator or goods vehicle operator, it shall issue to the applicant a certificate of registration.

(2) A registered operator or holder of an operator's licence shall display the certificate of registration or a copy of it, or a copy of the operator's licence, in a conspicuous place in-

(a) each operating centre under the registration or licence, and

(b) any other place where he carries on his transport undertaking.

(3) If a registered operator or licence-holder contravenes subsection (2), he is guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(4) The Committee may issue a duplicate certificate of registration, or a duplicate licence, in such circumstances and on payment of such fee as may be prescribed.

23 Operator's discs

(1) Where a vehicle is being used in circumstances such that registration or an operator's licence is required, there shall be exhibited on the vehicle in the prescribed manner an operator's disc issued under subsection (2) showing particulars of-

(a) the operator of the vehicle,

(b) the registration or operator's licence under which the vehicle is being used, or the exemption certificate ; and

(c) where appropriate, the class of vehicle to which the disc relates.

(2) Where the Committee makes a registration or grants an operator's licence, it shall supply the registered operator or licence-holder with-

(a) a number of operator's discs, or a number of operator's discs specifying a class of vehicle, equal to the maximum number of vehicles, or of vehicles of that class, that he may use under the registration or licence in accordance with section 15; or

(b) such lesser number of operators' discs as he may request.

(3) Where a vehicle is being used in circumstances such that registration or an operator's licence would be required but for an exemption certificate, there shall be exhibited on the vehicle in the prescribed manner an operator's disc issued under subsection (4) showing particulars of-

(a) the exemption certificate, and

(b) the voluntary organisation to which the certificate is issued.

(4) Where the Committee issues an exemption certificate, it shall supply the voluntary organisation in question with such number of operator's discs as it may reasonably request.

(5) Where, in the case of any registration or operator's licence, the maximum number referred to in subsection (2)(a) is increased on the variation of one or more of the conditions there referred to, the Committee on making the variation shall supply the holder of the licence-

(a) with such number of additional operators' discs as will bring the total number of operators' discs held by him in respect of the licence to that maximum number, or

(b) with such lesser number of additional operators' discs as he may request.

(6) Where the number of operators' discs currently held in respect of a registration or operator's licence is less than the maximum number referred to in subsection (2)(a), the Committee shall on the application of the holder of the licence supply him with such number of additional operators' discs as is mentioned in subsection (5)(a) or (b).

(7) Where, in accordance with regulations under subsection (9)(a), an operator's disc held in respect of a registration or operator's licence expires, the Committee shall supply the holder of the licence with a new operator's disc.

(8) Regulations may make provision as to the form of operators' discs and (subject to subsection (1)) the particulars to be shown on them, but so that different forms shall be prescribed for discs issued in respect of-

- (a) registration as a passenger vehicle operator;
- (b) a passenger vehicle operator's licence;
- (c) registration as a goods vehicle operator;
- (d) a goods vehicle operator's licence;
- (e) an exemption certificate.

(9) Regulations may make provision-

- (a) as to the expiry of operators' discs;
- (b) with respect to the custody and production of operators' discs;
- (c) for the issue of new operators' discs in place of those lost, destroyed or defaced;
- (d) for the return of operators' discs-
 - (i) on their expiry or otherwise ceasing to have effect,
 - (ii) on the revocation or termination of a registration or operator's licence, or the cancellation or termination of an exemption certificate,
 - (iii) in the event of a variation of a licence having the effect of reducing the maximum number of vehicles, or the maximum number of vehicles of any class, which may be used under the licence;
- (e) for the voluntary return of operators' discs by a registered operator, licence-holder or voluntary organisation..

(10) If person uses a vehicle in contravention of subsection (1) or (3), he is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(11) Regulations under subsection (9) may provide that contravention of a prescribed requirement of the regulations shall be an offence punishable on summary conviction by a fine not exceeding such amount (which shall not exceed £1,000) as is prescribed.

24 Regulations

(1) Regulations may make provision with respect to the following-

- (a) the procedure on applications for, and the determination of questions in connection with, registration, operators' licences and exemption certificates and the variation of registrations, operators' licences and exemption certificates;
- (b) the maintenance of the registers of passenger vehicle operators and goods vehicle operators, and the provision of facilities for their inspection and the taking of copies of entries in them;
- (c) the maintenance of lists of operators' licences and exemption certificates, and the provision of facilities for their inspection and the taking of copies of entries in them;
- (d) the custody, production, return and cancellation of operators' licences, certificates of registration and exemption certificates;

(e) the notification to the Committee of vehicles which are used, or have ceased to be used, under a registration or operator's licence;

(f) the repayment (or partial repayment) in prescribed circumstances of fees paid under this Part.

(2) Regulations under this section may provide that contravention of a prescribed requirement of the regulations shall be an offence punishable on summary conviction by a fine not exceeding such amount (which shall not exceed £1,000) as is prescribed.

PART 3

PASSENGER TRANSPORT

Licence for regular service

25 Licence for regular service

(1) No person shall use a public passenger vehicle for the provision of a regular service unless he is the holder of a licence granted by the Committee which authorises him to provide that service.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(3) In this Part-

'excursion' means a service for the carriage of passengers on a return journey, where all the passengers are taken up at the beginning and set down at the end of the journey, and the time spent at any place in the course of the journey does not exceed 5 hours;

'regular service' means a service (not being an excursion), provided on more than one occasion, for the carriage of passengers at separate fares on either a predetermined route or a variable route which falls within predetermined limits, whether passengers are taken up or set down at predetermined stopping places or on demand.

26 Application for licence for regular service

(1) An application for a licence under section 25 shall be made to the Committee in such form as the Committee may require, and shall be accompanied by-

(a) a statement containing such particulars as the Committee may require of-

(i) if required by the Committee, the fares proposed to be charged on the regular service proposed to be provided under the licence;

(ii) the vehicle or class of vehicles to be used on the service;

(iii) the operating centre for the vehicles to be used on the service;

and

(iv) the route or route-limits and time-tables of the service; and

(b) the prescribed fee;

and the applicant shall give the Committee such information, in such form, as it may reasonably require for disposing of the application.

(2) The Committee shall publish in the prescribed manner notice of any application for a licence under section 25, and shall send a copy of the notice to-

(a) the Chief Constable;

(b) the Department;

(c) the Department of Local Government and the Environment;

(d) any local authority in whose district the proposed route or route-limits or any part of the proposed route or route-limits is situated; and

(e) such representative body or bodies as appear to the Committee to be appropriate.

(3) The notice shall state-

(a) that any person may make objections or representations relating to the application with respect to any matter to be taken into account by the Committee under section 27; and

(b) the time within which, and the manner in which, any such objections or representations are to be made.

(4) In determining an application for a licence under section 25 the Committee shall take into consideration any objections or representations which may be made by any person pursuant to a notice under subsection (2).

27 Grant of licence for regular service

(1) The Committee shall refuse an application for a licence under section 25 if the applicant-

(a) is not a registered passenger vehicle operator or the holder of a passenger vehicle operator's licence, or

(b) is disqualified under section 33(4) for holding a service licence.

(2) The Committee shall refuse an application for a licence under section 25 in respect of a route if it appears to it from the statement furnished under section 26(1)(a) that any restriction on speed imposed by or under any enactment and affecting the route or any part of it is likely to be contravened.

(3) The Committee shall refuse an application for a licence under section 25 if it is satisfied, having regard to-

(a) the matters which it is required to take into consideration under subsection (4), and

(b) any conditions which it has power to impose under subsection (5), that the grant of the licence would be against the public interest; but otherwise (subject to subsections (1) and (2)) the Committee shall grant the licence, specifying in it the route or route-limits and time-tables of the service to be provided under it.

(4) In determining an application for a licence under section 25 in respect of any route or route-limits, and whether to attach conditions to such a licence, the Committee shall take into consideration the following matters-

(a) the safety and convenience of the public;

(b) the suitability of the routes on which, or route-limits within which, a service may be provided under the licence;

(c) the extent, if any, to which the needs of the proposed routes or route-limits or any of them are already adequately served;

(d) the extent to which the proposed service is necessary or desirable in the public interest;

(e) the number of passengers likely to require to be carried on the proposed routes or within the proposed route-limits at the times when it is proposed to provide the service;

(f) the needs of the Island as a whole in relation to traffic (including the provision of adequate, suitable and efficient services, the elimination of unnecessary services and the provision of unremunerative services);

(g) whether the applicant or any other passenger vehicle operator provides regular services wholly or mainly at the public expense to meet a social need;

(h) any general directions given by the Department for the purpose of co-ordinating all forms of passenger transport, including transport by rail.

(5) The Committee may grant a licence under section 25 subject to such conditions as appear to the Committee to be appropriate and are specified in the

licence with respect to the matters to which it is required to have regard under subsection (4).

(6) The Committee, on granting a licence under section 25, shall publish particulars of it in the prescribed manner.

(7) If a person, being the holder of a licence under section 25, contravenes any of the conditions attached to the licence, he is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

28 Variation of licence for regular service

(1) On the application of the holder of a licence under section 25 the Committee may vary the licence by-

- (a) amending or cancelling any condition subject to which it is granted, or
- (b) amending the route or route-limits and timetable specified in it.

(2) The Committee may of its own motion vary a licence under section 25 by amending or cancelling any condition subject to which it is granted.

(3) Sections 26 and 27 apply with any necessary modifications to an application under subsection (1) as they apply to an application for a service licence.

(4) The Committee, on varying a licence under this section, shall publish particulars of it in the prescribed manner.

Licence to ply for hire

29 Licence to ply for hire

(1) No person shall use a public passenger vehicle for standing or plying for hire in a road or other public place unless he is the holder of a licence granted by the Committee authorising him to do so.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

30 Application for licence to ply for hire

(1) An application for a licence under section 29 shall be made to the Committee in such form as the Committee may require, and shall be accompanied by-

- (a) a statement containing such particulars as the Committee may require of-
 - (i) if required by the Committee, the fares proposed to be charged on the service proposed to be provided under the licence;
 - (ii) the vehicle or class of vehicles to be used on the service;
 - (iii) the operating centre for the vehicles to be used on the service;

and

- (iv) the area or areas in which the applicant proposes to use the vehicles for standing or plying for hire; and

- (b) the prescribed fee;

and the applicant shall give the Committee such information, in such form, as it may reasonably require for disposing of the application.

(2) The Committee shall send notice of any application for a licence under section 29 to the Chief Constable and the Department.

31 Grant of licence to ply for hire

(1) The Committee shall refuse an application for a licence under section 29 if the applicant-

- (a) is not a registered passenger vehicle operator or the holder of a passenger vehicle operator's licence, or

- (b) is disqualified under section 33(4) for holding a service licence, but otherwise the Committee shall grant the licence.

(2) The Committee, on granting a licence under section 29, shall publish particulars of it in the prescribed manner.

Service licences: general

32 Duration of service licences

(1) Subject to its revocation or other termination under any provision of this Act or any other statutory provision, a licence under section 25 or 29 (a 'service licence') shall continue in force for such period-

(a) not exceeding 5 years, and

(b) not exceeding such period as the applicant may have requested, as the Committee considers appropriate and is specified in the licence.

(2) If the holder of a service licence requests the Committee to terminate his licence at any time, the Committee shall, subject to subsection (3), comply with the request.

(3) The Committee may refuse to comply with the request if it is considering taking action in respect of the licence under section 33.

(4) Subject to regulations under section 55(2), a service licence held by an individual terminates-

(a) if he dies, or

(b) if a receiver is appointed for him under section 103 of the Mental Health Act 1998.

(5) If on the expiry of a service licence an application by the holder of that licence is pending for the grant of a new service licence to replace that licence, that licence shall continue in force until the application is disposed of, but without prejudice to the exercise in the meantime of powers under section 33.

(6) Nothing in this section prevents the grant of a licence under section 25 subject to a condition that the service shall be limited to one or more particular periods or occasions.

33 Revocation etc of service licences

(1) The Committee, if it is satisfied that it should do so, may revoke or suspend a licence under section 25 on the ground that-

(a) any condition subject to which the licence was granted has not been complied with;

(b) the holder of the licence has contravened any requirement of section 37 or 38 or of regulations under section 35 or 36; or

(c) the holder has failed to provide the service in accordance with the licence.

(2) The Committee, if it is satisfied that it should do so, may revoke or suspend a licence under section 29 on the ground that the holder of the licence has contravened any requirement of section 37 or 38 or of regulations under section 35 or 36.

(3) Where a person is convicted of-

(a) an offence under section 25(2), 27(7) or 29(2), or

(b) an offence under regulations under section 35 or 36,

the court by which he is convicted may revoke or suspend any service licence held by that person.

(4) Where the Committee or a court-

(a) revokes a licence under section 29 by virtue of subsection (2) or (3), or

(b) would have had power to do so if the licence had not previously been revoked or otherwise terminated,

it may disqualify the holder or former holder for holding such a licence for such period as it thinks fit.

(5) In determining whether to exercise its powers under subsection (1), (2), (3) or (4) the Committee or court shall have regard to such of the following matters as is appropriate-

- (a) the frequency of the failure or breach of condition;
- (b) whether the failure or breach was committed intentionally;
- (c) the danger to the public involved in the breach.

(6) If the holder of a service licence ceases to be a registered passenger vehicle operator or the holder of a passenger vehicle operator's licence, the service licence shall cease to have effect.

(7) A service licence may be suspended under this section for such period (not exceeding 12 months) as the Committee or court thinks appropriate, and shall be of no effect while it is suspended.

(8) Where a court revokes or suspends a service licence or imposes a disqualification under this section, the clerk of the court shall give notice of it to the Committee; and where a service licence is revoked or suspended, or ceases to have effect under subsection (6), the Committee shall publish particulars of it in the prescribed manner.

34 Appeals in connection with service licences

(1) An applicant for, or for the variation of, a service licence may appeal to the High Bailiff against-

- (a) the refusal of the application;
- (b) the conditions subject to which the licence is granted; or
- (c) any conditions imposed on the variation,

as the case may be.

(2) The holder of a service licence may appeal to the High Bailiff against-

- (a) the variation of the licence under section 28(2);
- (b) the revocation or suspension of the licence under section 33(1) or (2);

or

- (c) a disqualification by the Committee under section 33(4).

(3) A person who has duly made an objection to an application for, or for a variation of, a service licence may appeal to the High Bailiff against the grant of the application.

(4) If before the expiry of a service licence an appeal has been made against the refusal of an application by the holder of that licence for the grant of a new service licence to replace that licence, that licence shall continue in force until the appeal is withdrawn or determined.

(5) Where the holder of a service licence appeals to the High Bailiff against a variation of the conditions attached to that licence, that variation shall not have effect until the appeal is withdrawn or determined.

(6) Subsections (4) and (5) are without prejudice to the exercise in the meantime of powers under section 33.

Operation of public passenger vehicles

35 Fares and fare-meters

(1) This section applies to public passenger vehicles while being used-

- (a) under a service licence; or
- (b) for such other purpose as may be prescribed.

(2) Regulations may be made with respect to the use of such a vehicle-

(a) for enabling the Committee to fix the maximum fares which may be charged for journeys;

(b) for requiring, in the case of a journey where a maximum fare is prescribed by reference to the distance travelled, the use of a meter of a prescribed kind for the purpose of ascertaining the fare which may be charged;

(c) for requiring fare tables to be displayed in the vehicle.

(3) Regulations under this section may provide that-

(a) charging a fare for a journey exceeding the maximum fixed for that journey, or

(b) contravention of a requirement under subsection (2)(b) or (c), shall be an offence punishable on summary conviction by a fine not exceeding such amount (which shall not exceed £1,000) as is prescribed.

36 Marking etc of vehicles

(1) This section applies to public passenger vehicles which are used-

(a) under a service licence; or

(b) for such other purpose as may be prescribed.

(2) Regulations may be made with respect to-

(a) the means by which vehicles may be identified, whether by plates, signs, marks or otherwise, as being used or authorised to be used as mentioned in subsection (1);

(b) the carrying or display on vehicles of documents, signs, plates, marks and any other means of identification prescribed under paragraph (a);

(c) the issue by the Committee or other prescribed authority, and the custody, production, return and cancellation, of documents and of plates or other means of identification prescribed under paragraph (a).

(3) The power under subsection (2)(b) includes power to require that any means of identification prescribed for a vehicle shall be carried or displayed even though for the time being the vehicle is not being used as mentioned in subsection (1)(a) or (b).

(4) Regulations under this section may provide that contravention of a prescribed requirement of the regulations shall be an offence punishable on summary conviction by a fine not exceeding such amount (which shall not exceed £500) as is prescribed.

37 Obligation to carry passengers

(1) Subject to subsection (2) and to regulations under section 45, it shall be a condition of every licence under section 25 for any regular service that any individual shall be entitled to be carried on a passenger vehicle used to provide the service, if there is room for him in the vehicle without any regulations under section 46 being contravened.

(2) Subsection (1) does not apply where the licence includes a condition that the service is limited to the carriage of passengers of a particular class or description specified in the licence.

(3) Subject to regulations under section 45, it shall be a condition of every licence under section 29 that any individual shall be entitled to be carried on a passenger vehicle when plying for hire in a road or other public place in pursuance of the licence, if there is room for him in the vehicle without any regulations under section 46 being contravened.

38 Examination etc of public passenger vehicles

(1) Regulations may require public passenger vehicles, or public passenger vehicles of such a class or description as may be prescribed, to be submitted for examination by an authorised examiner-

(a) where it appears to an authorised examiner that the vehicle does not comply with any prescribed requirements as to its construction, equipment or condition; or

(b) where any prescribed alteration to the vehicle or its equipment has been made.

(2) Regulations may provide that, where an authorised examiner has carried out such an examination of a public passenger vehicle, he may issue a notice prohibiting the commercial use, or any class of commercial use specified in the notice, of the vehicle for the carriage of passengers-

(a) absolutely, or

(b) until the work specified in the notice (being work required to comply with any prescribed requirement as to its construction, equipment or condition so specified) has been carried out.

(3) Where regulations make any provision under subsection (2) they shall also provide for-

(a) the re-examination by an authorised examiner, at the request of any person using it, of any vehicle in respect of which a notice mentioned in that subsection has been issued; and

(b) the cancellation of the notice where the examiner is satisfied that the vehicle complies with the prescribed requirements as to its construction, equipment and condition.

(4) Regulations may-

(a) require a prescribed alteration to a public passenger vehicle or its equipment to be notified to the Department; and

(b) require a prescribed fee to be paid for an examination or re-examination under subsection (1)(b) or (3)(a).

(5) Regulations under this section may provide that contravention of-

(a) a prescribed requirement of the regulations, or

(b) a notice mentioned in subsection (2),

shall be an offence punishable on summary conviction by a fine not exceeding such amount (which shall not exceed £2,500) as is prescribed.

(6) Regulations under this section-

(a) shall provide that paragraph 6G (appeals) of Schedule 2 to the Road Traffic Act 1985 shall apply to-

(i) a determination made by an authorised examiner on an examination or re-examination under subsection (1) or (3)(a), and

(ii) a notice mentioned in subsection (2),

as it applies to a determination mentioned in that paragraph; and

(b) may apply any other provision of that Act, with or without modifications, to any proceedings or other matter under the regulations.

(7) In this section-

'authorised examiner' means a person appointed by the Department as an examiner for the purpose of regulations under this section;

'the prescribed requirements', in relation to a public passenger vehicle of any class or description, means any applicable requirements of regulations under paragraph 1 of Schedule 2 to the Road Traffic Act 1985.

39 Returns to be provided by operators

(1) The holder of every licence under section 25 shall-

- (a) keep such accounts and records, and
- (b) make to the Committee such financial and statistical returns, in such manner and at such times,

in relation to the provision of regular services by him as the Committee may from time to time require.

(2) The holder of every licence under section 29 shall-

- (a) keep such records, and
- (b) make to the Committee such statistical returns, in such manner and at such times,

as the Committee may from time to time require.

(3) If the holder of a service licence contravenes subsection (1) or (2), he is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

Licensing of passenger vehicle drivers

40 Drivers' licences

(1) Except in such cases as are prescribed, a person shall not-

- (a) drive a public passenger vehicle, or
- (b) cause or permit a person to drive a public passenger vehicle,

unless he or that person, as the case may be, is licensed for the purpose by the Committee under this section.

(2) A licence under this section to drive a public passenger vehicle may be limited to-

- (a) any class or description of public passenger vehicle specified in the licence, or
- (b) one or more commercial uses of passenger vehicles for the carriage of passengers which are so specified.

(3) A person is disqualified for obtaining a licence under this section-

- (a) if he is under the prescribed age, or
- (b) if he does not fulfil such other conditions as may be prescribed.

(4) Subject to subsection (6), the Committee shall not grant a licence under this section unless it is satisfied that the applicant for the licence-

- (a) is a fit person to drive a public passenger vehicle, and
- (b) in the case of a licence to drive a public passenger vehicle which is of such class or description, or used for such a purpose, as may be prescribed, has sufficient knowledge of the Island.

(5) The Committee may at any time suspend or revoke a licence under this section on the ground that, by reason of his conduct, the holder is not a fit person to hold such a licence; and a licence suspended under this subsection shall be of no effect during the time of suspension.

(6) In determining whether to grant or refuse a licence under this section to drive a passenger vehicle of any class or description, or to suspend or revoke such a licence, the Committee shall assume that the holder of a driving licence authorising him to drive a passenger vehicle of that class or description is competent to drive such a vehicle.

(7) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(8) In this section 'driving licence' means a licence (other than a provisional licence) under paragraph 6 of Schedule 3 to the Road Traffic Act 1985.

41 Duration of drivers' licences

(1) A licence under section 40 shall, unless previously revoked, continue in force for 3 years from the date on which it is expressed to take effect.

(2) If on the expiry of a licence under section 40 an application has been made by the holder of that licence for the grant of a new licence to replace that licence, that licence shall continue in force until the application is disposed of.

(3) If on the expiry of a licence under section 40 an appeal has been made against the refusal of an application by the holder of that licence for the grant of a new licence to replace that licence, that licence shall continue in force until the appeal is withdrawn or determined.

42 Appeals in connection with drivers' licences

(1) An applicant for a licence under section 40 may appeal to the High Bailiff against-

- (a) the refusal of the application; or
- (b) any limitation imposed on the licence.

(2) The holder of a licence under section 40 may appeal to the High Bailiff against the revocation or suspension of the licence under section 40(5).

43 Supply of liquor to driver or conductor

(1) If any person knowingly supplies for immediate consumption any liquor, whether by way of gift or sale, to the driver or conductor of a public passenger vehicle while the driver or conductor is in charge or control of the vehicle, wherever it may be, he is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(2) If any driver or conductor of a public passenger vehicle consumes any liquor while he is in charge or control of the vehicle, wherever it may be, he is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(3) Where a person is convicted of an offence under subsection (2), the court may disqualify him, for such period as the court thinks appropriate, for holding a licence under section 40.

(4) In any proceedings relating to an offence under subsection (2), evidence that liquor was about to be consumed shall be evidence that liquor was consumed without proof of actual consumption.

(5) In this section 'liquor' has the same meaning as in the Licensing Act 1995.

Conduct on passenger vehicles

44 Regulation of drivers, inspectors and conductors

(1) Regulations may require a public passenger vehicle to carry a conductor in addition to the driver in prescribed cases.

(2) Regulations may make provision for regulating the conduct, when acting as such, of drivers and conductors of public passenger vehicles and inspectors.

(3) Regulations under this section may provide that contravention of a prescribed requirement of the regulations shall be an offence punishable on summary conviction by a fine not exceeding such amount (which shall not exceed £1,000) as is prescribed.

45 Regulation of conduct of passengers

(1) Regulations may make provision for the exercise of the right conferred by section 37, and generally as to the conduct of passengers on public passenger vehicles.

(2) Regulations under subsection (1) may make provision in particular for-

(a) enabling the driver or conductor to refuse admittance to any intending passenger-

or (i) who appears to him to be under the influence of drink or drugs,

(ii) whose person or clothing is filthy or offensive;

(b) requiring a passenger whose admittance might be refused under paragraph (a), and a passenger infringing the regulations, to leave a public passenger vehicle;

(c) authorising the removal from a public passenger vehicle of a passenger whose admittance might be refused under paragraph (a), and a passenger infringing the regulations, by the driver or conductor of the vehicle or an inspector or, at the request of the driver or conductor or an inspector, by a constable;

(d) requiring a passenger in a public passenger vehicle who is reasonably suspected by the driver or conductor or an inspector of contravening the regulations to give his name and address to the driver, conductor or inspector on demand, and to produce evidence verifying the name and address given.

(3) Regulations under subsection (1) may, with respect to public passenger vehicles used to provide a regular service, make provision in particular for-

(a) requiring a passenger, on boarding the vehicle or during his journey, if so requested by the driver or conductor or an inspector-

(i) to declare the journey he intends to take or has taken in the passenger vehicle; and

(ii) to tender the appropriate fare for the journey or to produce a ticket or other evidence that the fare has been prepaid;

(b) requiring the issue to every passenger who pays a fare, and the acceptance by him, of a ticket;

(c) requiring a passenger, on demand by the driver or conductor or an inspector, to produce during the journey and to surrender at the end of the journey any ticket issued to him;

(d) requiring a passenger, if so requested by the driver or conductor or an inspector, to leave a passenger vehicle on the completion of the journey the fare for which he has paid;

(e) requiring the holder of a ticket issued for a period to surrender it at the expiry of that period.

(4) Regulations under subsection (1) may, with respect to public passenger vehicles used for standing or plying for hire in a road or other public place, make provision in particular for requiring a passenger-

(a) to tender the fare, and

(b) to leave the vehicle,

at the end of the journey for which he has contracted.

(5) Regulations under this section may provide that contravention of a prescribed requirement of the regulations shall be an offence punishable on summary conviction by a fine not exceeding such amount (which shall not exceed £1,000) as is prescribed.

46 Control of number of passengers

(1) Regulations may make provision with respect to public passenger vehicles for-

(a) the determination by or under the regulations of-

(i) the maximum number of passengers,

(ii) the maximum number of the seated passengers, and

(iii) the maximum number of standing passengers (if any),

which a passenger vehicle is constructed or adapted and fit to carry;

(b) the marks to be carried on a passenger vehicle showing those numbers and the manner in which those marks are to be carried when the vehicle is being used commercially for the carriage of passengers; and

(c) prohibiting the carriage of-

(i) more than the maximum number so determined of passengers, of seated passengers or of standing passengers, or

(ii) standing passengers, when the vehicle is being so used.

(2) Regulations under this section may provide that contravention of a prescribed requirement of the regulations shall be an offence punishable on summary conviction by a fine not exceeding such amount (which shall not exceed £500) as is prescribed.

Supplemental

47 Regulations: miscellaneous

(1) Regulations may make provision with respect to any of the following-

(a) the forms to be used for the purposes of this Part;

(b) applications for and the issue of licences;

(c) the issue of copies of licences in the case of licences lost or destroyed;

(d) the badges to be worn by drivers, conductors and inspectors of public passenger vehicles, and the manner in which they are to be worn;

(e) the custody, production and cancellation on revocation or expiration of licences, and the return to the Committee of licences which have become void, or have been revoked, and as to the custody, production and return of badges;

(f) the carriage of luggage and goods on public passenger vehicles;

(g) the safe custody and re-delivery or disposal of any property accidentally left in a public passenger vehicle and fixing the charges made in respect thereof;

(h) for modifying any provisions of this Part in relation to public passenger vehicles brought into the Island for the purpose of carrying persons making only a temporary stay there.

(2) Regulations under this section may provide that contravention of a prescribed requirement of the regulations shall be an offence punishable on summary conviction by a fine not exceeding such amount (which shall not exceed £500) as is prescribed.

PART 4

MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

Forgery, false statements, etc.

48 Forgery of documents, etc

(1) If any person, with intent to deceive,-

(a) forges, alters or uses a document or other thing to which this section applies;

(b) lends to, or allows to be used by, any other person a document or other thing to which this section applies; or

(c) makes or has in his possession any document or other thing so closely resembling a document or other thing to which this section applies as to be calculated to deceive,

he is guilty of an offence and liable-

(i) on summary conviction, to a fine not exceeding £5,000;

(ii) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.

- (2) This section applies to the following documents and other things-
- (a) an operator's licence;
 - (b) an operator's disc;
 - (c) a service licence;
 - (d) a certificate of registration;
 - (e) any document evidencing the authorisation of any person for any purpose of this Act;
 - (f) a certificate of competence, diploma or other qualification referred to in paragraph 13 of Schedule 1.

(3) In this section 'forge' means make a false document or other thing in order that it may be used as genuine.

49 False statements

If a person knowingly makes a false statement for the purpose of-

- (a) obtaining registration of himself or any other person, or the issue to himself or any other person of an operator's licence or service licence;
- (b) obtaining the variation of any such registration or licence;
- (c) preventing the issue or variation of any such registration or licence; or
- (d) preventing or procuring the imposition of a condition or limitation in relation to any such registration or licence;

he is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

Enforcement etc.

50 Offences: general

(1) Except where otherwise provided, no prosecution shall be brought for an offence under this Act except-

- (a) by a constable;
- (b) by or on behalf of the Department or the Committee; or
- (c) by or with the consent of the Attorney General.

(2) Where the holder of a licence is charged with an offence under this Act in respect of an act or omission by an employee or agent of his, it is a defence for him to show-

- (a) that the offence was committed without his knowledge or consent; and
- (b) that he took all reasonable precautions and used all due diligence to prevent the commission of the offence.

(3) Summary proceedings for an offence under this Act may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than 3 years after the commission of the offence.

(4) For the purposes of this section a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(5) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) Where the affairs of a body corporate are managed by its members, subsection (5) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

51 Inspection of maintenance facilities

(1) An authorised officer may, at any time which is reasonable having regard to the circumstances of the case, enter any premises of-

- (a) an applicant for registration or an operator's licence, or
- (b) a registered operator or holder of an operator's licence,

and inspect any facilities on those premises for maintaining in a fit and serviceable condition the vehicles used or to be used under the registration or licence.

(2) Any person who obstructs an authorised officer in the exercise of his powers under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

52 Power to seize documents etc

(1) If an authorised officer has reason to believe that-

- (a) a document or article carried on or by the driver of a vehicle, or
- (b) a document produced to him in pursuance of this Act,

is a document or article in relation to which an offence has been committed under section 48 or 49, he may seize that document or article.

(2) Where-

- (a) a document or article is seized under subsection (1),
- (b) no person has, within 6 months of the date on which the document or article was seized, been charged since that date with an offence in relation to it under section 48 or 49, and
- (c) the document or article is still detained,

then any of the persons mentioned in subsection (3) may make an application to a court of summary jurisdiction.

(3) The persons who may make an application under subsection (2) are-

- (a) an authorised officer;
- (b) the driver or owner of the vehicle;
- (c) the person from whom the document was seized.

(4) On an application under subsection (2), the court shall-

- (a) make such order respecting the delivery or disposal of the document or article, and
 - (b) award such costs,
- as the justice of the case may require.

53 Evidence by certificate

(1) In any proceedings for an offence under this Act the following certificate shall be evidence of the facts stated in it, that is, a certificate signed on behalf of the Committee which states-

- (a) that, on any date, a person was or was not a registered operator or the holder of a licence or exemption certificate;
- (b) that, by virtue of a direction given by the Committee under regulations made under section 55(2)(b) or (3), a person is to be treated as having been registered or a licence-holder on any date;
- (c) the date of the coming into force of any registration, operator's licence or exemption certificate;
- (d) the date on which any registration, operator's licence or exemption certificate ceased to be in force;

- (e) the terms and conditions of any registration, operator's licence or exemption certificate;
- (f) that a person is by virtue of an order of the Committee disqualified from being registered, or holding or obtaining an operator's licence, either indefinitely or for a specified period;
- (g) that a direction, having effect indefinitely or for a specified period, has been given under section 19(4) in relation to any person; or
- (h) that, by virtue of a direction given by the Committee under regulations made under section 55(2)(a), a registration or operator's licence is to be treated as having been suspended on any date or during any specified period.

(2) Any such certificate which purports to be signed on behalf of the Committee shall be taken to be so signed unless the contrary is proved.

54 Admissibility of records as evidence

- (1) A statement contained in a document purporting to be-
- (a) a part of any register, list or other records maintained by the Committee or the Department in connection with any its functions under this Act, the Road Traffic Act 1985 or the Licensing and Registration of Vehicles Act 1985; or
 - (b) a copy of a document forming part of those records; or
 - (c) a note of any information contained in those records,
- and to be authenticated by a person authorised in that behalf by the Committee or the Department, as the case may be, shall be admissible in any proceedings as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

(2) In subsection (1) 'document' and 'statement' have the same meanings as in section 10(1) of the Civil Evidence Act 1973, and the reference to a copy of a document shall be construed in accordance with section 10(2) of that Act; but nothing in this subsection shall be construed as limiting to civil proceedings the references to proceedings in subsection (1).

(3) In subsection (1)-

- (a) references to the Department include references to an authority exercising corresponding functions in any part of the United Kingdom, the Republic of Ireland or any of the Channel Islands, and
- (b) references to Road Traffic Act 1985 or the Licensing and Registration of Vehicles Act 1985 include a reference to any corresponding provision in force in any part of the United Kingdom, the Republic of Ireland or any of the Channel Islands, as the case may be.

Miscellaneous

55 Transfer of registration or licence

- (1) Subject to subsections (2) and (3), none of the following is either transferable or assignable-
- (a) registration as a passenger vehicle operator or goods vehicle operator;
 - (b) a passenger vehicle operator's licence or goods vehicle operator's licence;
 - (c) a service licence.

(2) Regulations may enable the Committee, where a registered operator or the holder of an operator's licence or service licence has died or a receiver is appointed for him under section 103 of the Mental Health Act 1998, to direct that the registration or licence be treated-

- (a) as not having terminated at the time when the holder died or a receiver was appointed for him but as having been suspended (that is, as having remained in

force but subject to the limitation that no vehicles were authorised to be used under it) from that time until the time when the direction comes into force; and

(b) as having effect from the time when the direction comes into force for a specified period, and during that period (for such purposes and to such extent as may be specified) as being held not by the holder but by such other person carrying on the holder's business, or part of the holder's business, as may be specified.

(3) Regulations may enable the Committee in prescribed circumstances to direct that any registration, operator's licence or service licence is to be treated (for such purposes, for such period and to such extent as may be specified) as being held not by the holder but as being held by such other person carrying on the holder's business, or part of the holder's business, as may be specified.

(4) Regulations may enable the Committee to direct, for the purpose of giving effect to or supplementing a direction under subsection (2) or (3), that Part 2 or 3, as the case may be, is to apply with specified modifications in relation to the person who is to be treated under the direction as the holder of a service licence.

(5) In this section 'specified', in relation to a direction, means specified-

(a) in the regulations under which the direction was given; or

(b) in the direction in accordance with those regulations.

56 Fees

(1) Such fees as may be prescribed under the Fees and Duties Act 1989 shall be charged by the Committee in respect of applications for-

(a) registrations and operators' licences;

(b) the variation of registrations and operators' licences;

(c) the renewal of operators' licences;

(d) service licences;

(e) the variation and renewal of service licences;

(f) licences under section 40;

(g) the renewal of licences under section 40.

(2) The Committee may decline to proceed with an application referred to in subsection (1) until any fee in respect of the application is duly paid.

(3) If any fee in respect of the application referred to in subsection (1) is not duly paid by the prescribed time-

(a) the application shall be treated as withdrawn at that time, and

(b) any decision made or direction given on the application, and any registration made, licence issued or variation effected in pursuance of such a direction, ceases to have effect or terminates at that time.

(4) All fees payable under this Act shall be paid into the general revenue of the Island.

57 Supply of information

The Department and the Chief Constable shall supply to the Committee such information in their possession relating to-

(a) holders of and applicants for passenger vehicle operators' licences and goods vehicle operators' licences;

(b) persons registered as, and applicants for registration as, passenger vehicle operators and goods vehicle operators; and

(c) transport managers of transport undertakings of any of the persons referred to in paragraphs (a) and (b);

(d) holders of and applicants for service licences; and

(e) holders of and applicants for licences under section 40,

as the Committee may reasonably require for the exercise of its functions under this Act.

58 Companies and partnerships

(1) Regulations may make provision for the purpose of enabling any company or other body corporate which has one or more subsidiaries to be registered, or hold an operator's licence, with respect to vehicles which consist of or include vehicles belonging to or in the possession of any of its subsidiaries.

(2) Regulations under subsection (1) may-

(a) modify or supplement any of the provisions of this Act, so far as appears to the Department to be necessary or expedient for or in connection with the purpose mentioned in subsection (1), and

(b) contain such other supplementary and incidental provisions as appear to the Department to be requisite.

(3) Regulations may provide for this Act to apply in relation to partnerships with such modifications as may be specified in the regulations.

59 Associated companies

(1) For the purposes of this Act a company is an associated company of a company if it is-

(a) a subsidiary of that company,

(b) a holding company for that company, or

(c) a subsidiary of a company which is a holding company both for that subsidiary and for that company.

(2) For the purposes of this Act a company is an associated company of an individual or of a body corporate (other than a company) if that individual or body controls the company.

(3) For the purposes of subsection (2) an individual or body corporate controls a company if-

(a) he or it is empowered by statute to control the company's activities, or

(b) if he or it were a company, the company would be his or its subsidiary.

(4) In this section 'holding company' and 'subsidiary' have the meanings given by section 1 of the Companies Act 1974.

60 Appeals: general

(1) An appeal to the High Bailiff under this Act shall be by way of an application for an order.

(2) The time within which any such application may be made is 21 days from the date on which the Committee's decision was notified in writing to the person desiring to appeal.

(3) In any case where such an appeal lies, the document notifying the person concerned of the decision of the Committee shall state the right of appeal and the time within which such an appeal may be brought.

(4) Notice of any such appeal shall be given by the appellant to-

(a) the Committee;

(b) the Department; and

(c) the Chief Constable;

and the Committee shall cause notice of the appeal to be given to any person by whom any representation or objection was made with respect to the decision appealed against.

(5) On an appeal under this Act the High Bailiff may reverse or vary a decision of the Committee if, and to the extent that, he considers that the Committee in reaching the decision-

- (a) erred in law; or
- (b) based its decision on any incorrect material fact; or
- (c) exercised its discretion in an unreasonable manner.

(6) The Chief Registrar shall give notice of the High Bailiff's decision on any appeal under this Act, with his reasons, to the appellant and to the Committee, who shall cause a copy of such notice to be given to the Department, the Chief Constable and any person by whom any representation or objection was made with respect to the decision appealed against.

(7) Where on an appeal under this Act the High Bailiff reverses or varies a decision of the Committee, the Committee shall give effect to his order, and in particular shall grant or issue any necessary licence or other document and make or alter any necessary entry in any list or register.

61 Savings

(1) Nothing in this Act authorises a person to use on a road a vehicle so constructed or used as to cause a public or private nuisance, or affect the liability, whether under statute or common law, of the driver or owner so using such a vehicle.

(2) Nothing in this Act authorises the use of a vehicle for standing or plying for hire within an airport maintained and operated by the Department otherwise than in compliance with any requirements of byelaws under section 2 of the Airports and Civil Aviation Act 1987.

Regulations

62 Regulations: general

(1) The Department may make regulations for any purpose for which regulations may be made under this Act, and for prescribing anything (other than any fee) which may be prescribed under this Act.

(2) Regulations may provide that any provision of this Act shall, in relation to vehicles brought temporarily into the Island, have effect subject to such modifications as may be prescribed.

(3) Regulations may, for any purposes of this Act, classify-

- (a) passenger vehicles and goods vehicles, and
- (b) commercial uses of passenger vehicles and goods vehicles,

and may do so by reference to any characteristics or circumstances whatever.

(4) Regulations may prescribe-

(a) the circumstances in which goods are to be treated for the purposes of this Act as carried for hire or reward, and

(b) the circumstances in which goods are to be treated for those purposes as carried by any person for or in connection with a trade or business carried on by him or another person.

(5) Before making any regulations under this Act the Department shall consult-

- (a) the Committee, and
- (b) such representative bodies as the Department thinks fit.

(6) Regulations under this Act shall not have effect unless they are approved by Tynwald.

Interpretation

63 Interpretation

(1) In this Act-

'associated company' has the meaning given by section 59;

'authorised examiner', for the purpose of any provision of this Act, means a person appointed by the Department as an examiner for the purpose of that provision;

'authorised officer' means a person authorised by the Committee to act as an authorised officer for the purposes of this Act;

'business' includes the activities of a public authority;

'carriage of goods' includes haulage of goods;

'commercial use', in relation to a vehicle, and cognate expressions, shall be construed in accordance with section 4 or 7, as the case may be (but subject to subsection (6));

'the Committee' means the Road Transport Licensing Committee;

'conductor', in relation to a public passenger vehicle, means a person authorised to act as a conductor or attendant by the person by whom the vehicle is being used;

'contravention', in relation to any provision, condition or requirement, includes a failure to comply with the provision, condition or requirement, and 'contravene' shall be construed accordingly;

'the Department' means the Department of Transport;

'driver', in relation to a trailer, means the driver of the vehicle by which the trailer is drawn, and 'drive' shall be construed accordingly;

'exemption certificate' means a certificate issued under section 6(1);

'fare' shall be construed in accordance with section 4(7)(b) and (c);

'goods' includes goods or burden of any description;

'goods vehicle' has the meaning given by section 7(1);

'inspector', in relation to a public passenger vehicle, means a person authorised to act as an inspector by the person by whom the vehicle is being used;

'maximum weight' has the meaning given by subsection (2);

'motor vehicle' and 'trailer' have the same meanings as in the Road Traffic Act 1985;

'operating centre', in relation to a vehicle, means the base or centre at which the vehicle is normally kept, and references to an operating centre of a registered operator or the holder of an operator's licence are references to any place which is an operating centre for vehicles used under his registration or operator's licence;

'operator's licence' means a passenger vehicle operator's licence or a goods vehicle operator's licence;

'passenger vehicle' has the meaning given by section 4(1);

'prescribed' means-

(a) in relation to fees, prescribed under the Fees and Duties Act 1989;

(b) otherwise, prescribed by regulations;

'public passenger vehicle' means a passenger vehicle used commercially for the carriage of passengers;

'public place' includes any place to which the public has access, whether on payment or otherwise, and any place where vehicles are permitted to wait, whether on payment or otherwise;

'registered', 'registered passenger vehicle operator', 'registered goods vehicle operator' and 'registration' shall be construed in accordance with section 3(3);

'regulations' means regulations made by the Department;

'representative body' means a body appearing to the Committee to be representative of passenger vehicle operators or goods vehicle operators, as the case may be, or of any class of such operators;

'road' means any highway and any other road to which the public has access, and includes a footway or a verge forming part of a road, and a bridge over which a road passes.;

'service licence' means a licence under section 25 or 29;

'transport manager', in relation to the transport undertaking of any person, means an individual who is in, or who is engaged to enter into, the employment of that person and who, either alone or jointly with one or more other persons, has continuous and effective responsibility for the management of the undertaking in so far as it relates to the commercial use of passenger vehicles or goods vehicles or both;

'transport undertaking', in relation to any person, means the activities carried on by that person which consist of or include the commercial use of passenger vehicles or goods vehicles or both;

'use', in relation to a vehicle, shall be construed in accordance with subsections (3) to (5).

(2) In this Act 'maximum weight'-

(a) in relation to a motor vehicle which is designed or adapted to be used as part of an articulated vehicle, means its maximum train weight;

(b) in relation to any other vehicle, means its maximum laden weight; and for this purpose-

'articulated vehicle' means a motor vehicle so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle;

'maximum laden weight', in relation to a vehicle, means its maximum weight laden which is permitted by regulations under paragraph 1 of Schedule 2 to the Road Traffic Act 1985;

'maximum train weight', in relation to a motor vehicle, means the maximum combined laden weight of the vehicle and any trailer drawn by it which is permitted by regulations under the said paragraph 1.

(3) For the purposes of this Act-

(a) the driver of a vehicle, if it belongs to him or is in his possession under an agreement for hire, hire-purchase or loan; or

(b) the person whose employee or agent the driver is, in any other case, shall be treated as the person using the vehicle; and references to using a vehicle shall be construed accordingly.

(4) For the purposes of this Act the person using a motor vehicle drawing a trailer shall be treated as the person using the trailer.

(5) Regulations may make provision as to the person who is to be regarded as using a passenger vehicle or goods vehicle which is made available by one registered operator or holder of an operator's licence or service licence to another under a hiring arrangement; and subsections (3) and (4) shall have effect subject to any such provision.

(6) For the purposes of this Act, where a vehicle is specially designed or adapted to provide a facility or service while stationary (other than a service consisting principally of the sale or supply of goods in the course of a trade or business), its use for carrying passengers or goods or both for the purpose only of providing that facility or service while stationary shall not be treated as a commercial use.

(7) In this Act references to vehicles being authorised to be used under a registration or operator's licence are to be read in accordance with section 5(1) or 8(1), as the case may be.

Supplementary provisions

64 Transitional provisions, amendments and repeals

(1) Schedule 2 makes transitional provision with respect to certain licences for hackney carriages and licences under section 29.

(2) Regulations may make such transitional provision (consistent with Schedule 2) as the Department considers appropriate with respect to-

(a) licences of a description mentioned in subsection (3) in force immediately before the commencement of the relevant provisions of this Act; and

(b) applications for, and appeals relating to, such licences which are pending immediately before such commencement;

including provision deeming the holder of such a licence, for such period as is prescribed, to be a registered operator, or the holder of a licence, under this Act.

(3) The licences referred to in subsection (2)(a) and (b) are any of the following-

(a) public service vehicle licences, road service licences and licences to drive a public service vehicle under the Road Traffic (Public Service Vehicles) Act 1964;

(b) licences for hackney carriages and stage coaches and licences to drive a hackney carriage or stage coach under Part IV of the Local Government Consolidation Act 1916.

(4) The enactments mentioned in Schedule 3 shall have effect subject to the amendments there specified (being amendments consequential upon the provisions of this Act).

(5) The enactments specified in Schedule 4 are repealed to the extent specified in the third column of that Schedule.

65 Short title and commencement

(1) This Act may be cited as the Road Transport Act 2001.

(2) Subject to subsection (3)-

(a) Part 1, sections 62 and 63 and this section shall come into operation on the 1st January 2002;

(b) except as provided by paragraph (a), this Act shall come into operation-

(i) for the purpose of making and approving regulations, on the 1st January 2002;

(ii) for all other purposes, on the 1st April 2002.

(3) The Department may by order bring any provision of this Act into operation on a date earlier than a date specified in relation to it in subsection (2); and an order under this subsection may contain such transitional and consequential provisions as appear to the Department to be necessary or expedient for the purposes of the order.

[See SD503/01.]

[ADO (Part 1 (ss 1 and 2), ss 62, 63 and 65, for all purposes) 10/9/2001 (SD503/01); (rest of Act, for the purpose only of making and approving regulations) 10/9/2001 (SD503/01); (rest of Act, for all purposes) 1/4/2002. See this Act s 65(2).]

Schedule 1

Qualifications for Registration and Operator's Licences

Sections 10(3) and 18(8) Good repute

1. (1) In determining whether an individual is of good repute, the Committee may have regard to any matter but shall, in particular, have regard to-

(a) any relevant convictions of the individual or of his employees or agents; and

(b) any other information in its possession which appears to it to relate to the individual's fitness to hold a licence or to be registered.

(2) In determining whether a company is of good repute, the Committee shall have regard to all the material evidence including, in particular-

(a) any relevant convictions of the company or of any of its officers, employees or agents; and

(b) any other information in its possession as to the previous conduct of-

(i) any of the company's officers, employees or agents, or

(ii) any of its directors, in whatever capacity,

if that conduct appears to it to relate to the company's fitness to hold a licence or to be registered.

(3) For the purposes of this paragraph, the relevant convictions of any person are-

(a) any conviction of that person of an offence prescribed for the purpose of this sub-paragraph;

(b) any conviction of that person of an offence under the law of any part of the United Kingdom corresponding to an offence so prescribed;

(c) any conviction of that person of a serious offence within the meaning given in paragraph 3; and

(d) any conviction of that person of a road transport offence within the meaning given in paragraph 4.

2. Without prejudice to the generality of the Committee's power under paragraph 1 to determine that a person is not of good repute, the Committee shall determine that an individual is not of good repute if that individual-

(a) has more than one conviction of a serious offence; or

(b) has repeatedly been convicted of road transport offences.

3. A person has a conviction of a 'serious offence' if-

(a) he has been convicted of any offence under the law of the Island or of any part of the United Kingdom, and

(b) on such conviction there was imposed on him for that offence-

(i) a sentence of custody for a term exceeding 3 months;

(ii) a fine exceeding £2,500;

(iii) a community service order requiring him to perform work for more than 60 hours; or

(iv) in the case of an offence committed under the law of any part of the United Kingdom, any punishment corresponding to those mentioned in subparagraphs (i) to (iii).

4. 'Road transport offence' means an offence under the law of the Island or of any part of the United Kingdom relating to road transport including, in particular, offences relating to-

(a) drivers' hours of work and rest periods;

(b) the weights and dimensions of commercial vehicles; and

(c) road and vehicle safety.

5. (1) Any reference in paragraphs 1 to 4 to an offence under the law of any part of the United Kingdom includes a reference to a civil offence (wherever committed) within the meaning of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (Acts of Parliament).

(2) For the purposes of paragraphs 1 to 4 the Committee may disregard an offence if such time as it thinks appropriate has elapsed since the date of the conviction.

Appropriate financial standing

6. (1) Any of the following-

- (a) an applicant for, or the holder of, an operator's licence,
- (b) an applicant for registration as an operator, or
- (c) a registered operator,

is of the appropriate financial standing if he has available to him sufficient financial resources to ensure the establishment and proper administration of his transport undertaking.

(2) Regulations may prescribe the financial resources which are to be regarded as sufficient for the purpose of sub-paragraph (1), either in relation to passenger vehicle operators or goods vehicle operators generally or in relation to any class of passenger vehicle operator or goods vehicle operator.

Professional competence

7. In this Schedule references to 'the requirement of professional competence' are references to any requirement imposed by a provision of this Act that a person be (or continue to be) professionally competent.

8. (1) The requirement of professional competence falls to be satisfied by an individual.

(2) Accordingly, where a company is required to satisfy that requirement, it does so if and so long as-

- (a) it has in respect of its transport undertaking a transport manager or managers, and such number of them as the Committee may require; and
- (b) that transport manager, or (as the case may be) each such manager, is-
 - (i) of good repute, and
 - (ii) professionally competent.

9. Where an individual is not himself professionally competent, he shall be regarded as satisfying the requirement of professional competence if and so long as he has, as the transport manager of his transport undertaking, an individual who is-

- (a) of good repute, and
- (b) professionally competent.

10. Where the holder of an operator's licence or a registered operator relies on a single transport manager to satisfy the requirement of professional competence and that manager-

- (a) dies,
- (b) ceases, by reason of physical disability or mental disorder, to be capable of discharging his duties as transport manager,
- (c) ceases to work for the business, or
- (d) ceases to be of good repute,

the holder of the licence or registered operator shall not be treated as failing to satisfy the requirement of professional competence until the expiry of such period (not exceeding 18 months) as, in the opinion of the Committee, is reasonably required for the appointment of a new transport manager.

11. Where-

- (a) the holder of an operator's licence or a registered operator is a company which has 2 or more transport managers, and
 - (b) any of those managers ceases to be of good repute,
- the company shall not be treated as failing to satisfy the requirement of professional competence until the expiry of such period as, in the opinion of the Committee, is reasonably required for that manager's removal or the appointment of another transport manager in his place.

12. Paragraphs 1 to 5 shall have effect for the purposes of any provision of paragraphs 8 to 11 by virtue of which it falls to be determined whether or not a transport manager is of good repute as they have effect for the purpose of determining for the purposes of any other provision of this Act whether or not any other individual is of good repute, but disregarding the reference in paragraph 1(1)(a) to the employees or agents of an individual.

13. (1) An individual shall be regarded as professionally competent if, and only if-

(a) he has demonstrated that he possesses the requisite skills by passing a written examination organised by an approved body and is the holder of a certificate to that effect issued by that body; or

(b) he is the holder of any other certificate of competence, diploma or other qualification recognised for the purposes of this sub-paragraph by the Department.

(2) The written examination mentioned in sub-paragraph (1)(a) may take the form of a multiple-choice examination.

(3) In sub-paragraph (1)-

'approved body' means a body approved by the Department for the purposes of that sub-paragraph;

'the requisite skills' means skills in the subjects listed-

(a) in the case of a passenger vehicle operator's licence, in Parts A and B of the Annex to Council Directive 74/562/EEC dated 12th November 1974 on admission to the occupation of road passenger transport operator in national and international transport operations, as amended by Council Directive 89/438/EEC dated 21st June 1989;

(b) in the case of registration as a passenger vehicle operator with an entry prescribed for the purpose of section 5(1)(a), in Part A of the Annex referred to in (a) above;

(c) in the case of a goods vehicle operator's licence, in Parts A and B of the Annex to Council Directive 74/561/EEC dated 12th November 1974 on admission to the occupation of road haulage operator in national and international transport operations, as amended by Council Directive 89/438/EEC dated 21st June 1989;

(d) in the case of registration as a goods vehicle operator with an entry prescribed for the purpose of section 8(1)(a), in Part A of the Annex referred to in (c) above.

Transport manager to be notified of proceedings

14. (1) The Committee shall not in any proceedings under this Act make a finding that a transport manager is not of good repute or is not professionally competent unless-

(a) it is satisfied that he has been served with a notice-

(i) stating that the question whether he is of good repute or (as the case may be) professionally competent is an issue in the proceedings;

(ii) setting out the nature of the allegations against him; and

(iii) stating that he is entitled to make representations under this paragraph within 28 days beginning with the date on which the notice is served on him; and

(b) where he has made representations under this paragraph, the Committee has considered the representations.

(2) A notice shall be deemed for the purposes of sub-paragraph (1) to have been served on a transport manager on the date on which it would have been delivered in the ordinary course of post if it was sent by post addressed to him at his last known

address, even though the notice was returned as undelivered or was for any other reason not received by him.

Schedule 2

Plying for Hire - Transitional Provisions

Section 64(1) Interpretation

1. In this Schedule-

'the 1916 Act' means the Local Government Consolidation Act 1916;

'hackney carriage', 'hire and drive carriage' and 'job carriage' have the same meanings as in the 1916 Act;

'hackney carriage licence' means a licence granted under section 288 of the 1916 Act for a hackney carriage (not being a licence restricting its use to use as a hire and drive carriage or job carriage);

'the relevant period' means-

(a) the period of 6 months beginning with the commencement of section 29, or

(b) if the person in question makes an application for a section 29 licence within the period mentioned in (a) above, the period beginning with such commencement and ending with the determination or withdrawal of that application or, if he appeals under section 34(1)(a) against the refusal of the application, the determination or withdrawal of that appeal;

'the relevant section 288 district', in relation to a hackney carriage licence, means the district referred to in section 288(1) of the 1916 Act in respect of which the licence was granted;

'section 29 licence' means a licence under section 29;

references to a district specified in a section 29 licence are to a district referred to in paragraph 3(5) which is specified in the licence pursuant to paragraph 3(1).

Duration

2. (1) This Schedule shall cease to have effect on such day or days as the Department may by order appoint.

(2) An order under sub-paragraph (1)-

(a) shall not come into operation before the 1st April 2007; and

(b) shall not have effect unless it is approved by Tynwald.

Temporary restrictions on plying for hire

3. (1) Every section 29 licence shall specify one or more districts for the purpose of this paragraph.

(2) A section 29 licence shall not authorise the holder of the licence to stand or ply for hire in a road or other public place except within-

(a) the district or districts specified in the licence, and

(b) any parish district outside that district or those districts.

(3) An application for a section 29 licence shall specify under section 30(1)(a)(iv) one or more districts as the area or areas in which the applicant proposes to use the vehicles specified in the application for standing or plying for hire, and no district shall be specified in the licence other than a district specified in the application.

(4) Subject to paragraph 5, the Committee, in determining whether to specify a district in a section 29 licence, shall take into account the following matters-

(a) whether there are, or are likely to be, enough section 29 licences to fulfil all reasonable needs at all times and places within that district for the services of public passenger vehicles plying for hire; and

(b) any representations made by local authorities within that district with respect to those needs.

(5) The districts which may be specified in a section 29 licence are those listed in column 1 of the following table, each of which shall comprise the local government districts specified in relation thereto in column 2 of the table-

Name of district	Local government districts
East district	The borough of Douglas, the local government district of Onchan, the village district of Laxey and the parish districts of Braddan, Lonan and Marown
North-west district	The town districts of Peel and Ramsey, the local government district of Michael and the parish districts of Andreas, Ballaugh, Bride, German, Jurby, Lezayre, Maughold and Patrick
South district	The town district of Castletown, the village districts of Port Erin and Port St Mary and the parish districts of Arbory, Rushen and Santon
Malew district	The parish district of Malew

Alternative restrictions on plying for hire

4. (1) The Department may by order substitute the following provision for paragraph 3-

'3. The Committee, in determining whether to grant a section 29 licence, shall take into account whether there are, or are likely to be, enough section 29 licences to fulfil all reasonable needs at all times and places within the Island for the services of public passenger vehicles plying for hire.'

(2) Paragraph 2(2) applies to an order under sub-paragraph (1) as it applies to an order under paragraph 2(1).

Restrictions on use of certain vehicles

5. (1) Without prejudice to section 29, no person shall use for standing or plying for hire in a road or other public place a vehicle which is adapted to carry more than 8 passengers in addition to the driver.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

Temporary continuance of existing licences

6. Where immediately before the commencement of section 29 any person is the holder of a hackney carriage licence, he shall, until the expiration of the relevant period, be deemed to be the holder of a section 29 licence authorising him to use the vehicle for which the hackney carriage licence was granted for standing or plying for hire within the relevant section 288 district and not elsewhere.

Applications by existing licence-holders

7. (1) If, within the period of 6 months beginning with the commencement of section 29, a person who had for not less than 12 months immediately before such commencement held a hackney carriage licence makes an application for a section 29 licence which specifies under paragraph 3(3) a district comprising or including the whole or part of the relevant section 288 district, he shall (subject to section 31(1) and sub-paragraph (2)) be entitled to be granted a section 29 licence specifying that district.

(2) The holder of a hackney carriage licence granted by the local authority for the town district of Castletown shall be entitled under sub-paragraph (1) to be granted a section 29 licence specifying whichever of the South district and the Malew district is specified in the application, but shall not be so entitled to be granted a licence specifying both those districts.

Temporary provision for Ronaldsway airport
8. Notwithstanding section 61(2) the holder of a section 29 licence which specifies the Malew district shall not be required to obtain any licence or permission of the Department to stand or ply for hire within Ronaldsway airport, but shall be subject to all other material requirements of byelaws under section 2 of the Airports and Civil Aviation Act 1987.

Schedule 3

Amendments of Enactments

Section 64(4)[Sch 3 amends the following Acts-

- Energy Act 1980 q.v.
- Road Traffic Regulation Act 1985 q.v.
- Road Traffic Act 1985 q.v.
- Highways Act 1986 q.v.
- Airports and Civil Aviation Act 1987 q.v.
- Civil Service Act 1990 q.v.
- Public Health Act 1990 q.v.
- Water Act 1991 q.v.]

Schedule 4

Enactments Repealed

Section 64(5)[Sch 4 repeals the following Acts wholly-

- Local Government (Drivers' and Conductors' Licences) Act 1950
- Road Traffic Act 1963
- Road Traffic (Public Service Vehicles) Act 1964
- Road Traffic (Public Service Vehicles) Amendment Act 1965
- Road Traffic (Public Service Vehicles) Amendment (No. 2) Act 1965
- Road Traffic Act 1967
- Road Traffic (Public Service Vehicles) (Amendment) Act 1976
- Road Traffic (Amendment) Act 1986

and the following Acts and Order in part-

- Local Government Consolidation Act 1916
- Highway Act 1927
- Petty Sessions and Summary Jurisdiction Act 1927
- Local Government Act 1963
- Statute Law Revision Act 1981
- Local Government (Miscellaneous Provisions) Act 1984
- Road Traffic Regulation Act 1985
- Road Traffic Act 1985
- Highways Act 1986
- Department of Highways, Ports and Properties Order 1986 (GC190/86) in

Schedule 5, para 17.

- Statute Law Revision Act 1989
- Summary Jurisdiction Act 1989
- Statute Law Revision Act 1992
- Post Office Act 1993
- Road Traffic (Amendment) Act 1996.]