

Statutory Instrument 2000 No.
3146

**The Private Hire Vehicles (London)
(Operators' Licences) Regulations 2000**

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STATUTORY INSTRUMENTS

2000 No. 3146

METROPOLITAN AND CITY POLICE DISTRICTS

PRIVATE HIRE VEHICLES

The Private Hire Vehicles (London) (Operators' Licences)
Regulations 2000

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| <i>Made</i> | <i>28th November 2000</i> |
| <i>Laid before Parliament</i> | <i>28th November 2000</i> |
| <i>Coming into force</i> | <i>22nd January 2001</i> |

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The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred by sections 3(4), 4(3) and (4), 20(1) and (2), 23(1), 32 and 37 of the Private Hire Vehicles (London) Act 1998[1], and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Private Hire Vehicles (London) (Operators' Licences) Regulations 2000 and shall come into force on 22nd January 2001.

Interpretation

2. In these Regulations, unless the context otherwise requires -

"the 1998 Act" means the Private Hire Vehicles (London) Act 1998;

"application" means an application for the grant or variation of a licence;

"business name" means a name which if used by a person for the purpose of carrying on business would make him subject to the Business Names Act 1985[2];

"CB apparatus" means wireless telegraphy apparatus known as "Citizens' Band" which is designed or adapted, or has facilities permitting its adaptation, for the purpose of transmitting spoken messages on the frequency band 26.1 MHz to 28 MHz;

"certificate of insurance" and "certificate of security" shall be construed in accordance with section 147 of the Road Traffic Act 1988[3];

"Community licence" and "Northern Ireland licence" have the same meanings as in section 108(1) of the Road Traffic Act 1988;

"driving licence" means a licence to drive a motor car granted under Part III of the Road Traffic Act 1988 (other than a provisional licence), or a licence authorising the driving of a motor car by virtue of section 99A(1) or 109(1) of that Act (Community licences and Northern Ireland licences);

"firm" has the same meaning as in section 4 of the Partnership Act 1890[4];

"licence" means a London PHV operator's licence;

"licensing authority" means the person appointed under section 24(1) of the 1998 Act for the purpose of exercising the functions of the Secretary of State under that Act or, where no such appointment has been made, the Secretary of State[5];

"MOT test certificate" means, in relation to a vehicle to which section 47 of the Road Traffic Act 1998 applies, a test certificate issued in respect of the vehicle as mentioned in subsection (1) of that section;

"national insurance number" has the same meaning as in regulation 1(2) of the Social Security (Contributions) Regulations 1979[6];

"officer", in relation to a body corporate, shall be construed in accordance with section 744 of the Companies Act 1985[7];

"operator" means a London PHV operator and in relation to a licence means the operator to whom the licence was granted;

"registered keeper" means, in relation to a vehicle, the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994[8];

"registration mark" means, in relation to a vehicle, the mark assigned to the vehicle in accordance with section 23 of the Vehicle Excise and Registration Act 1994;

"variation" means a variation of a licence at the operator's

request under section 18 of the 1998 Act; and
"wireless telegraphy apparatus" shall be construed in
accordance with section 19(1) of the Wireless Telegraphy
Act 1949[9].

PART II

APPLICATIONS

Manner of making applications

3. Every application shall -

(a) be made on a form supplied by the licensing authority
and include the information and declarations required by that
form;

(b) be signed -

(i) if made by an individual, by that person,

(ii) if made by a firm, by one of the partners of that
firm with the authority of the others, or

(iii) if made by any other body or group of persons,
by one or more individual persons authorised for that
purpose by the body or group; and

(c) be accompanied by the appropriate fee prescribed by
regulation 4.

Fees

4. The appropriate fee for the purpose of regulation 3 is -

(a) £425 in the case of an application for the grant of a
licence; and

(b) £25 in the case of an application for the variation of a
licence.

Determination of applications

5. - (1) If the licensing authority is satisfied that a licence may
properly be -

(a) granted for five years -

(i) in the terms applied for; and

(ii) without the need for any additional conditions

other than those prescribed in regulation 9, or

(b) varied in the terms applied for,

the authority shall approve the application and give the applicant notice of the decision.

(2) If the authority is not so satisfied and decides -

(a) to approve the application other than in the terms applied for;

(b) in the case of an application for the grant of a licence, to approve the application on the basis that -

(i) additional conditions shall be attached to the licence, or

(ii) the licence shall be granted for a shorter period than five years; or

(c) to refuse the application,

the authority shall give the applicant notice of the decision and the grounds for it.

PART III

LICENCES

Grant and variation

6. - (1) Where the decision has been made to approve an application in accordance with regulation 5(1) or 5(2)(a) or (b) the licensing authority shall, provided that any appropriate fee prescribed by regulation 7 is received within the period of 28 days commencing on the date specified in paragraph (2), grant or vary the licence, as the case may be, and send the licence or any replacement licence to the applicant.

(2) The date referred to in paragraph (1) is -

(a) the date of service of the notice given in accordance with regulation 5; or

(b) where an appeal is brought against that decision, the date of disposal or withdrawal of that appeal.

(3) If any appropriate fee prescribed by regulation 7 is not

received by the licensing authority in accordance with paragraph (1) the approval will lapse, the application will be deemed to have been withdrawn and the licensing authority shall be entitled to retain the fee accompanying it.

Fees

7. - (1) Subject to paragraph (2), for the purpose of regulation 6 the fee for the grant of a licence for a period of five years is £975.

(2) Where an applicant for the grant of a licence meets the requirement set out in paragraph (3), he may elect that the amount of £375 shall be substituted for the amount of £975 referred to in paragraph (1).

(3) The requirement referred to in paragraph (2) is that no more than two private hire vehicles will be available to the applicant for carrying out bookings accepted by him at all the operating centres which will be specified in his licence.

(4) Subject to paragraphs (5) and (6), for the purpose of regulation 6 the fee for the grant of a licence for a period of less than five years is an amount equal to that proportion of the amount of £975 which the proposed period of the licence bears in relation to the period of five years.

(5) Where an applicant for the grant of a licence meets the requirement set out in paragraph (3), he may elect that the amount of £375 shall be substituted for the amount of £975 referred to in paragraph (4).

(6) Where the calculation of any fee in accordance with paragraph (4) would have the result that the amount payable would include a fraction of a pound then the amount payable shall be adjusted downwards to the nearest pound.

Refund of fees

8. - (1) Subject to paragraph (5), where the licensing authority is satisfied that -

(a) an operator has ceased to operate from every operating centre specified in his licence, other than by reason of the suspension or revocation of that licence;

(b) that operator has transferred some or all of his undertaking as an operator to another person, and

(c) before the date of the transfer the transferee has been granted a new licence in relation to any operating centre specified in the transferor's licence,

the licensing authority shall, upon receipt of a written request for a refund accompanied by the transferor's licence, refund a proportion of the fee paid for the grant of that licence being an amount calculated in accordance with paragraph (3).

(2) Subject to paragraph (5), where a licence has been granted following an election made under regulation 7(2) or (5) and before its expiry the operator has been granted a new licence in circumstances where he did not meet the requirement set out in regulation 7(3) in relation to all of the operating centres to be specified in that licence, the licensing authority shall, upon receipt of a written request for a refund accompanied by the first mentioned licence, refund a proportion of the fee paid for the grant of that licence being an amount calculated in accordance with paragraph (3).

(3) Subject to paragraph (4), the amount referred to in paragraphs (1) and (2) shall be that proportion of the fee which the number of full years remaining on the licence bears to the period for which the licence was granted, the number of full years being calculated from the date of receipt by the licensing authority of both the request for a refund and the licence.

(4) Where the calculation in accordance with paragraph (3) would have the result that the amount refundable would include a fraction of a pound then the amount refundable shall be adjusted downwards to the nearest pound.

(5) Where a proportion of the fee paid for the grant of a licence is refunded in accordance with paragraph (1) or (2), that licence shall cease to have effect.

Conditions

9. - (1) Every licence shall be granted subject to the conditions set out in the following provisions of this regulation.

(2) In respect of any operating centre specified in the licence which is accessible to members of the public, the operator shall maintain in force a policy of insurance against public liability risks which provides a minimum indemnity of £5,000,000 in respect of any one event.

(3) The operator shall, if required to do so by a person making a private hire booking -

(a) agree the fare for the journey booked, or

(b) provide an estimate of that fare.

(4) If, during the currency of the licence -

(a) any conviction is recorded -

(i) where the operator is an individual, against him,

(ii) where the operator is a firm, against any partner of that firm, or

(iii) where the operator is another type of body or group of persons, against that body or group or any officer of that body or group;

(b) any information provided in the application for the grant of the licence, or for any variation thereof, changes; or

(c) any driver ceases to be available to the operator for carrying out bookings, by virtue of that driver's unsatisfactory conduct in connection with the driving of a private hire vehicle,

the operator shall, within 14 days of the date of such event, give the licensing authority notice containing details of the conviction or change, as the case may be, or, in a case falling within subparagraph (c), the name of the driver and the circumstances of the case.

(5) No CB apparatus shall be used in connection with a private hire booking at any operating centre specified in the licence or in any private hire vehicle available for carrying out bookings accepted at any such operating centre.

(6) The operator shall preserve records in accordance with regulation 16(1)(a) and (b).

(7) The operator shall establish and maintain a procedure for dealing with -

(a) complaints, and

(b) lost property,

arising in connection with any private hire booking accepted by him and shall keep and preserve records in accordance with regulations 14, 15 and 16(1)(c).

(8) Where an operator provides a London cab for the purpose of carrying out a private hire booking, any fare payable in respect of the booking shall be calculated as if the vehicle was a private hire vehicle unless the fare shown on the taximeter is less.

(9) In the case of a licence granted following an election made under regulation 7(2) or (5), the operator must, during the currency of the licence, continue to meet the requirement that no more than two private hire vehicles are available to him for carrying out bookings accepted by him at all the operating centres specified in his licence.

PART IV

RECORDS

Form of record of private hire bookings

10. The record which an operator is required to keep by virtue of section 4(3)(b) of the 1998 Act at each operating centre specified in his licence of the private hire bookings accepted by him there shall be kept -

- (a) in writing, or
- (b) in such other form that the information contained in it can easily be reduced to writing.

Particulars of private hire bookings

11. Before the commencement of each journey booked at an operating centre specified in his licence an operator shall enter the following particulars of the booking in the record referred to in regulation 10 -

- (a) the date on which the booking is made and, if different, the date of the proposed journey;
- (b) the name of the person for whom the booking is made or other identification of him, or, if more than one person, the name or other identification of one of them;
- (c) the agreed time and place of collection, or, if more than one, the agreed time and place of the first;
- (d) the main destination specified at the time of the booking;
- (e) any fare or estimated fare quoted;
- (f) the name of the driver carrying out the booking or other identification of him;
- (g) if applicable, the name of the other operator to whom the booking has been sub-contracted, and

(h) the registered number of the vehicle to be used or such other means of identifying it as may be adopted.

Particulars of private hire vehicles

12. - (1) For the purposes of section 4(3)(d) of the 1998 Act, an operator shall keep at each operating centre specified in his licence a record, containing the particulars set out in paragraph (2), of each private hire vehicle which is available to him for carrying out bookings accepted by him at that centre.

(2) In relation to each vehicle the particulars referred to in paragraph (1) are -

- (a) the make, model and colour;
- (b) the registration mark;
- (c) the name and address of the registered keeper;
- (d) in the case of a vehicle to which section 47 of the Road Traffic Act 1988 applies, a copy of the current MOT test certificate;
- (e) a copy of the current certificate of insurance or certificate of security;
- (f) the date on which the vehicle became available to the operator and
- (g) the date on which the vehicle ceased to be so available.

Particulars of drivers

13. - (1) For the purposes of section 4(3)(d) of the 1998 Act, an operator shall keep at each operating centre specified in his licence a record, containing the particulars set out in paragraph (2), of each driver who is available to him for carrying out bookings accepted by him at that centre.

(2) In relation to each driver the particulars referred to in paragraph (1) are -

- (a) his surname, forenames, address and date of birth;
- (b) his national insurance number;
- (c) a photocopy of his driving licence;
- (d) a photograph of him;

(e) the date on which he became available to the operator,
and

(f) the date on which he ceased to be so available.

Record of complaints

14. - (1) An operator shall keep at each operating centre specified in his licence a record containing -

(a) the particulars set out in paragraph (2) of any complaint made in respect of a private hire booking accepted by him at that centre; and

(b) the particulars set out in paragraph (2)(d), (e), and (f) of any other complaint made in respect of his undertaking as an operator at that centre.

(2) In relation to each complaint the particulars referred to in paragraph (1) are -

(a) the date of the related booking;

(b) the name of the driver who carried out the booking;

(c) the registration mark of the vehicle used;

(d) the name of the complainant and any address, telephone number or other contact details provided by him;

(e) the nature of the complaint, and

(f) details of any investigation carried out and subsequent action taken as a result.

Record of lost property

15. - (1) An operator shall keep at each operating centre specified in his licence a record, containing the particulars set out in paragraph (2), of any lost property found -

(a) at that centre, or

(b) in any private hire vehicle used to carry out a booking accepted by him there.

(2) In relation to each item of lost property the particulars referred to in paragraph (1) are -

(a) the date on which it was found;

(b) the place where it was found and if it was found in a

vehicle, the registration mark of that vehicle;

(c) a description of the item;

(d) evidence to show that, where practical, an attempt was made to return the item to the owner and whether or not this was successful, and

(e) in the case of any unclaimed item which has been disposed of, how it was disposed of.

(3) An operator shall keep at each operating centre specified in his licence a record, containing the particulars set out in paragraph (4), of any property reported to him at that centre as having been lost.

(4) In relation to each item of property reported as having been lost the particulars referred to in paragraph (3) are -

(a) the date of the report;

(b) the date on which it is alleged to have been lost;

(c) the place where it is alleged to have been lost;

(d) a description of the item, and

(e) evidence to show that, where practical, an attempt was made to find the item.

Preservation of records

16. - (1) Subject to paragraph (3), an operator shall preserve the particulars of -

(a) each private hire booking recorded in accordance with regulation 11 for six months from the date on which the booking was accepted;

(b) each private hire vehicle and driver recorded in accordance with regulations 12 and 13 for twelve months from the date on which the vehicle or, as the case may be, the driver ceased to be available for carrying out bookings;

(c) each complaint and item of lost property recorded in accordance with regulations 14 and 15 for six months from the date on which they were entered in the respective record.

(2) Where an operator tape-records a private hire booking he shall preserve the tape-recording of that conversation for a period of six months.

(3) For the purpose of section 4(4) of the 1998 Act, if an operator ceases to use an operating centre specified in his licence, he shall, in relation to that operating centre, preserve -

(a) the record referred to in regulation 10 for six months; and

(b) the records kept in accordance with regulations 12 and 13 for twelve months,

from the date of the last entry.

PART V

OTHER MATTERS

Register of licences

17. - (1) The register maintained by the licensing authority in relation to each licence issued under the 1998 Act shall contain, in addition to the matters set out in section 23(1)(a) of that Act, the further particulars set out in paragraph (2).

(2) In relation to each licence the further particulars referred to in paragraph (1) are -

(a) the address of each operating centre specified in the licence; and

(b) an indication that it is current, suspended or revoked.

Issue of replacement licences

18. - (1) Subject to paragraph (2), where an operator notifies the licensing authority that -

(a) he has adopted, altered or dispensed with a business name;

(b) he has changed his name; or

(c) his licence has been lost, destroyed or defaced,

the licensing authority shall issue a replacement licence.

(2) Except where a licence has been lost or destroyed, no replacement shall be issued until the original licence has been returned to the licensing authority.

Continuance of licence on death, bankruptcy etc

19. - (1) This regulation applies in relation to a licence granted in the sole name of an individual in the event of -

- (a) the death of that individual;
- (b) the bankruptcy of that individual; or
- (c) that individual becoming a patient under Part VII of the Mental Health Act 1983^[10].

(2) After the happening of the event mentioned in paragraph (1)(a) the licensing authority may direct that the licence shall not be treated as terminated when the individual died but suspended until the date when a direction under paragraph (3) comes into force.

(3) After the happening of any of the events mentioned in paragraph (1) the licensing authority may direct that a person carrying on the business of the operator is to be treated for the purposes of the 1998 Act as if he were the operator for such purpose and to such extent as is specified in the direction for a period not exceeding -

- (a) six months from the date of the coming into force of that direction; or
- (b) if less, the remainder of the period of the licence.

Transitional provisions

20. - (1) Subject to paragraph (2), where an application is received by the licensing authority before 22nd August 2001 but no determination under regulation 5 has been made in relation to that application before 22nd October 2001, the licensing authority shall -

- (a) issue the applicant with a temporary permit, in the terms applied for, to make provision for the invitation or acceptance of, or accept, private hire bookings, or
- (b) make a temporary variation of the applicant's licence in the terms applied for,

which shall have effect from the latter date as if it were a licence granted or, as the case may be, variation made under the 1998 Act.

(2) Any temporary permit issued or variation made under paragraph (1) shall, unless the permit or, as the case may be, the licence to which the variation applies, has already been suspended or revoked under the 1998 Act, cease to have effect for the purposes of that Act -

(a) on the grant or variation of a licence pursuant to the outstanding application; or

(b) where no such licence is granted or varied, on the expiry of the period of 28 days commencing on the date specified in paragraph (3).

(3) The date referred to in paragraph (2)(b) is -

(a) the date of service of the notice given in accordance with regulation 5 of a decision in relation to the outstanding application; or

(b) where an appeal is brought against that decision, the date of disposal or withdrawal of that appeal.

Signed by authority of the Secretary of State

Keith Hill

Parliamentary Under Secretary of State, Department of the Environment, Transport and the Regions

28th November 2000

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under powers conferred by the Private Hire Vehicles (London) Act 1998 ("the 1998 Act"), make provision for the licensing of private hire vehicle operators in London.

Part I (*regulations 1 and 2*) contains general provisions covering citation, commencement and interpretation.

Part II prescribes matters relating to applications for the grant or variation of a private hire vehicle operator's licence for London ("a London PHV operator's licence"). In particular -

(a) *regulation 3* requires an application to be made on a form supplied by the licensing authority, to contain information and declarations required by that form, to be signed as specified and to be accompanied by the appropriate

application fee;

(b) *regulation 4* prescribes the fees payable on an application for the grant or variation of a London PHV operator's licence; and

(c) *regulation 5* deals with the determination of an application and sets out the manner in which the applicant must be notified of the licensing authority's decision.

Part III prescribes various matters relating to London PHV operator's licences and in particular -

(a) *regulation 6* provides for the grant or variation of a licence upon receipt of the appropriate fee within the time limits specified and for the licence or any replacement licence to be sent to the applicant;

(b) *regulation 7* prescribes the fees payable on the grant of a licence and makes provision for a reduced fee in the case of an operator who has no more than two vehicles available to him at all of his operating centres;

(c) *regulation 8* provides for the refund of fees in certain circumstances; and

(d) *regulation 9* prescribes the conditions subject to which every licence is granted.

Part IV contains provisions about the keeping and preservation of records. In particular -

(a) *regulation 10* provides that the record of the private hire bookings accepted by an operator, which he is required to keep under section 4(3)(b) of the 1998 Act, shall be in writing or in such other form that the information contained in it can easily be reduced to writing;

(b) *regulation 11* prescribes the particulars of each private hire booking which must be entered in that record;

(c) *regulations 12 and 13* require an operator to keep records at each operating centre specified in his licence of the particulars of the private hire vehicles and drivers which are available to him for carrying out bookings accepted by him at that centre, and prescribe the particulars to be contained in those records;

(d) *regulations 14 and 15*, in conjunction with regulation 9(7), require an operator to keep records of complaints and

lost property and set out the particulars to be contained in those records; and

(e) *regulation 16* prescribes the periods for which records, which are mandatory by virtue of section 4 of the 1998 Act, must be preserved, and specifies the periods for which other records must be kept.

Part V deals with other matters relating to London PHV operators' licences. In particular -

(a) *regulation 17* makes provision for the register of licences maintained under section 23 of the 1998 Act to contain, in addition to the particulars set out in subsection (1)(a) of that section, the address of each operating centre specified in a London PHV operator's licence and an indication as to whether that licence is current, suspended or revoked;

(b) *regulation 18* provides for the issue in certain circumstances of replacement licences;

(c) *regulation 19* provides for the temporary continuation of a licence in certain specified circumstances of death, mental disorder and insolvency;

(d) *regulation 20* sets out transitional provisions which will enable temporary permits to be issued and temporary variations to be made in certain cases.

A regulatory impact assessment has been prepared and copies can be obtained from the Department of the Environment, Transport and the Regions, Zone 3/12, Great Minster House, 76 Marsham Street, London SW1P 4DR (Telephone: 020 7944 2293). A copy has been placed in the library of each House of Parliament.

Notes:

[1] 1998 c. 34; the Act is prospectively amended by section 254 of, and Schedule 21 to, the Greater London Authority Act 1999 (c. 29).

[2] 1985 c. 7.

[3] 1988 c. 52; section 99A was inserted, and section 108 was amended, by the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974) and section 99A was amended by the Driving Licences (Community Driving Licence) Regulations 1998 (S.I. 1998/1420). Sections 108 and 109 were amended by section 7 of, and Schedule 3 to, the Road Traffic (Driver Licensing

and Information Systems) Act 1989 (c. 22).

[4] 1890 c. 39.

[5] Section 254 of, and Schedule 21 to, the Greater London Authority Act 1999 (c. 29) ("the 1999 Act") provide for some of the functions of the Secretary of State under the Private Hire Vehicles (London) Act 1998 (c. 34) to be transferred to Transport for London. Section 415(5) of the 1999 Act provides that the transferee shall be substituted for the transferor in any instruments which relate to any of the functions transferred and are made or commenced before the transfer takes effect.

[6] S.I. 1979/591; to which there are amendments not relevant to these Regulations.

[7] 1985 c. 6; to which there are amendments not relevant to these Regulations.

[8] 1994 c. 22; to which there are amendments not relevant to these Regulations.

[9] 1949 c. 54; section 19(1) was amended by section 57(2) of, and Schedule 6 to, the Cable and Broadcasting Act 1984 (c. 46).

[10] 1983 c. 20.

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