

**2009 No. 3245**

**PUBLIC PASSENGER TRANSPORT, ENGLAND AND WALES**

**The Public Service Vehicles (Registration of Local Services)  
(Quality Contracts Schemes) (England and Wales) Regulations  
2009**

*Made* - - - - - *7th December 2009*

*Laid before Parliament* *14th December 2009*

*Coming into force in accordance with regulation 1(2)*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 6(3)(a) and (9)(b), (c) and (h) and 6B(5) and (7) of the Transport Act 1985(a) and section 60(1) and (1A) of the Public Passenger Vehicles Act 1981(b).

The Secretary of State has consulted representative organisations in accordance with section 61(2) of the Public Passenger Vehicles Act 1981(c), and the Administrative Justice and Tribunals Council in accordance with paragraph 24(1) of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(d).

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- (a) 1985 c. 67. By virtue of section 137 of the Act, “regulations” means regulations made by the Secretary of State. Section 6 of the Transport Act 1985 has been amended by the Railways Act 2005 (c. 14), section 59(1) and Schedule 12, paragraph 8; the Education and Inspections Act 2006 (c. 40), section 85 and Schedule 10, paragraphs 2(1) to (3); the Local Transport Act 2008 (c. 26), sections 48(1) and (2) and 65(2) to (4). Section 6(2B) and (7A) were inserted by section 49(1) to (3) of the Local Transport Act 2008, and section 6(8) was amended by section 49(1) and (4) of that Act. There are other amendments to section 6 but none is relevant. Section 6B was inserted by section 49(5) of the Local Transport Act 2008.
- (b) 1981 c. 14. Section 134 of the Transport Act 1985 provides that section 60 of the Public Passenger Vehicles Act 1981 (c. 14) (general power to make regulations for purposes of Act) has effect as if Parts 1 and 2 of the Transport Act 1985 were contained in the Public Passenger Vehicles Act 1981. Consequently, the requirements and powers in section 60 of the Public Passenger Vehicles Act 1981 apply to the making of these Regulations. Section 60(1) was amended by the Transport Act 1985, sections 3, 134(2) and 139(2), Part 3 of Schedule 2, Schedule 7 and Schedule 8. Section 60(1A) was inserted by section 134(2) of the Transport Act 1985. There are other amendments to section 60 but none is relevant.
- (c) For the reasons described in the footnote to the reference to the Public Passenger Vehicles Act 1981, the requirements in section 61 of that Act apply to the making of these Regulations. Section 61(2) was amended by the Transport Act 1985, sections 135(1) and 139(3) and Schedule 8.
- (d) 2007 c. 15. The effect of paragraph 24(1) of Schedule 7 to this Act is that the power of the Secretary of State to make procedural rules for any listed tribunal can be exercised only after consultation with the Administrative Justice and Tribunals Council. The traffic commissioners for areas in England and Wales are a listed tribunal for the purposes of paragraph 24(1) by virtue of the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007 (S.I. 2007/2951).

# PART 1

## GENERAL

### Citation, commencement and extent

1.—(1) These Regulations may be cited as the Public Service Vehicles (Registration of Local Services) (Quality Contracts Schemes) (England and Wales) Regulations 2009.

(2) These Regulations come into force—

- (a) as respects England, on 11th January 2010; and
- (b) as respects Wales, on the date appointed by the Welsh Ministers for the coming into force in Wales of section 127 of the Transport Act 2000(a) (in so far as it is not already in force).

(3) These Regulations extend to England and Wales(b).

### Interpretation

2.—(1) In these Regulations—

“the 1985 Act” means the Transport Act 1985;

“the 2000 Act” means the Transport Act 2000(c);

“quality contract” has the meaning given in section 124(4) of the 2000 Act;

“scheme” means a quality contracts scheme, as defined in section 124(3) of the 2000 Act(d);

“transitional period” means, in relation to any scheme or (in the case of a scheme which provides for different provisions to come into operation on different dates) any provision of a scheme, the period commencing on the date on which the scheme is made under section 127 of the 2000 Act (making of scheme)(e) and ending on the date on which, on the coming into force of a quality contract, a person would be required by virtue of section 129(1)(b) of the 2000 Act (prohibition on provision of local services other than under a quality contract)(f) to cease providing a local service.

(2) Any period of days prescribed in these Regulations is to be calculated excluding any day which is Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(g).

## PART 2

### REGISTRATION DURING TRANSITIONAL PERIOD

### Applications to which this Part applies

3.—(1) This Part applies to any application—

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- (a) 2000 c. 38. Section 127 is in force in Wales only in so far as it relates to the powers to make Regulations under sections 128(4), 130(8), 131(2) to (4), 132(6), 133 and 134 (see S.I. 2001/2788, article 2 and Schedule 1 paragraph 3). Section 127 is amended by section 26 of the Local Transport Act 2008 and those amendments will come into force on a day to be appointed by the Welsh Ministers.
  - (b) The power to make regulations under section 6 of the Transport Act 1985 has been transferred to the Scottish Ministers under section 53 of the Scotland Act 1998 (c. 46). Section 6B of the Transport Act 1985 extends only to England and Wales.
  - (c) The provisions about quality contracts schemes are contained in sections 124 to 134B of that Act. These provisions were amended by sections 19 to 44 of the Local Transport Act 2008.
  - (d) Section 124(3) was amended by section 19(1) and (4) of the Local Transport Act 2008.
  - (e) Section 127 was amended by section 26(1) to (8) of the Local Transport Act 2008.
  - (f) Section 129(1) was amended by section 29(1) and (2) of the Local Transport Act 2008.
  - (g) 1971 c. 80.

- (a) to register particulars of a local service(a) under section 6 of the 1985 Act (registration of local services, or
- (b) to vary or cancel an existing registration made under that section,

in the circumstances described in paragraph (2).

(2) The circumstances are that the application—

- (a) relates to a local service which has one or more stopping places(b) in any area to which a scheme relates; and
- (b) is made during the transitional period which relates to that scheme.

(3) Where this Part applies, regulations 5 to 8 of the Public Service Vehicles (Registration of Local Services) Regulations 1986(c) (periods of notice: local services registrations) do not apply.

### **Period of notice for new registration during transitional period**

4.—(1) Subject to paragraph (2) and regulations 7 and 8, the period of notice prescribed for the purposes of section 6(3)(a) of the 1985 Act in respect of an application to which this Part applies is—

- (a) 28 days in the case of a community bus service(d), or
- (b) 56 days in the case of any other service(e),

commencing on the date on which the traffic commissioner accepts the application.

(2) In the circumstances described in paragraph (3), section 6(3) of the 1985 Act has effect as if paragraph (a) and the words “if longer,” at the beginning of paragraph (b) of that subsection were omitted.

(3) The circumstances are that—

- (a) a person has applied to vary or cancel a registration with the effect that affected local services are to cease to be provided by that person before the coming into force of a quality contract;
- (b) a person has applied to register particulars of local services (“new local services”) which are the same as or similar to the affected local services described in sub-paragraph (a); and
- (c) the new local services described in sub-paragraph (b) will be provided under an agreement entered into by an authority responsible for expenditure on public passenger transport services by reason of the impending cessation of the affected local services.

(4) For the purposes of this regulation—

“affected local services” means services which, on the coming into force of a quality contract, the person providing those services would be required by virtue of section 129(1)(b) of the 2000 Act to cease to provide; and

“authority responsible for expenditure on public passenger transport services” takes the meaning given in section 88(8) of the 1985 Act(f).

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(a) The term “local service” is defined in section 2 of the Transport Act 1985.  
(b) The term “stopping place” is defined in section 137(1) of the Transport Act 1985.  
(c) S.I. 1986/1671. These Regulations have been revoked in relation to Scotland by SSI 2001/219, regulation 3(1) and Schedule 2. Regulation 5 was substituted in relation to England and Wales by S.I. 2004/10, regulations 2 and 6, and amended by S.I. 2009/443, regulation 7 and the Schedule, paragraph 2. Regulation 7 was amended by S.I. 1988/1879, regulation 5; S.I. 1989/1064, regulation 4; and S.I. 2004/10, regulations 2 and 7. Regulation 8 was amended by S.I. 2004/10, regulations 2 and 8. There are other amendments to these Regulations but none is relevant.  
(d) The term “community bus service” is defined in section 22(1) of the Transport Act 1985. This definition was amended by section 59(1) and (2) of the Local Transport Act 2008.  
(e) The term “service” is defined for the purposes of section 6 of the Transport Act 1985 in subsection (1) of that section.  
(f) Section 88(8) was amended by S.I. 2003/1615, article 2 and Schedule 1, Part 1 paragraph 12(1) and (3). There are other amendments but none is relevant.

### **Period of notice for cancellation of registration during transitional period**

5.—(1) Subject to regulations 7 and 8, the cancellation of a service registration to which this Part applies becomes effective, for the purposes of section 6(8)(a) of the 1985 Act, on the expiry of the period prescribed in paragraph (2).

(2) The period is—

- (a) 28 days in the case of a community bus service,
- (b) 56 days in the case of a service which is not a community bus service, and which has been excluded from the scheme by virtue of section 127(4) of the 2000 Act, or
- (c) 112 days in the case of any other service,

commencing on the date on which the traffic commissioner accepts the application.

### **Period of notice for variation of registration during transitional period**

6.—(1) Subject to regulations 7 and 8, the variation of a service registration to which this Part applies becomes effective, for the purposes of section 6(8)(a) of the 1985 Act, on the expiry of the period prescribed in paragraph (2).

(2) Subject to paragraph (4) the period is—

- (a) 28 days in the case of a community bus service,
- (b) 112 days in the case of a service in respect of which a traffic commissioner has, having satisfied the requirements prescribed in paragraph (3), determined that the variation would have a significantly detrimental effect on persons using the service, or on a significant proportion of such persons, or
- (c) 56 days in the case of—
  - (i) a service which, before the service is varied in accordance with the application to which this regulation relates, is to be excluded from the scheme by virtue of section 127(4) of the 2000 Act, or
  - (ii) any service not falling within sub-paragraph (a), (b) or (c)(i),

commencing on the date on which the traffic commissioner accepts the application.

(3) Before making a determination under paragraph (2)(b) the traffic commissioner—

- (a) must, where the operator has given less than 112 days notice of the proposed variation, consult, and have regard to any representations made by, the local transport authority or authorities, as defined in section 108(4) of the 2000 Act(a), who made the scheme; and
- (b) must take into account other applications made during the transitional period to register particulars of a service or to vary service registrations.

(4) If an application to vary a service registration satisfies more than one of the criteria described in paragraph (2), the shorter or shortest period which applies to that application by virtue of those criteria is to apply for the purposes of section 6(8)(a) of the 1985 Act.

### **Determination of period by traffic commissioner**

7.—(1) In respect of an application to which this Part applies, in any of the circumstances specified in paragraph (2)—

- (a) section 6(2)(b) of the 1985 Act, where it applies, is to have effect as if for the words “the period of notice”, there were substituted the words “such period of notice as the traffic commissioner may determine”; and

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(a) Section 108(4)(c) was substituted by the Local Transport Act 2008, section 77(5) and Schedule 4, Part 3, paragraphs 41 and 42.

(b) section 6(8)(a) of the 1985 Act, where it applies, is to have effect as if for the words “with the date determined in accordance with regulations under this section” there were substituted the words “on such date as the traffic commissioner may determine”.

(2) The circumstances are—

- (a) where an operator applies to register, except in the situation described in regulation 4(3), particulars of a service, or to vary an existing registration, with respect to a service or part of a service which, if the application were to be accepted, would be substantially similar to and replace a service, or part of a service, which either the operator making the application, or another operator, has ceased to operate;
- (b) where an operator applies to vary or cancel the registration of a service which is either not available to members of the general public or not generally used by them;
- (c) where an operator applies to vary or cancel the registration of a service in response to representations from a person authorised by—
  - (i) a traffic authority, as defined in section 121A of the Road Traffic Regulation Act 1984(a), or
  - (ii) a chief officer of police,on a matter concerning road traffic regulation or road safety;
- (d) where an operator applies to register particulars of a service, or to vary an existing registration, and the effect is to introduce a new service, or to augment an existing service, for a period not exceeding 21 days in connection with a specified event or occasion which will cause an additional demand for a service;
- (e) where an operator applies to vary a registration by adjusting the timetable of a service without significantly affecting the level of service provision, and the adjusted timings are—
  - (i) in no case more than 10 minutes earlier or later than those which they replace; or
  - (ii) required to adapt the service to a variation in a connecting rail, ferry or air service;
- (f) where an operator applies to vary a registration so as to vary or suspend a service during a period not exceeding 14 days in response to public holidays restricted to the relevant locality or holidays taken by a substantial proportion of the population in that locality;
- (g) where an operator, due to circumstances which could not reasonably have been foreseen, failed to make an application in sufficient time for the completion of the period of notice which would apply apart from this sub-paragraph;
- (h) where an operator applies to register particulars of a service, or vary a registration, with respect to a service or part of a service in order to meet an urgent and exceptional public passenger transport requirement.

#### **Circumstances in which no period applies**

**8.—**(1) In respect of an application to which this Part applies, in the circumstances described in paragraph (2)—

- (a) section 6(3) of the 1985 Act, where it applies, has effect as if paragraph (a) and the words “if longer,” at the beginning of paragraph (b) of that subsection were omitted; and
- (b) section 6(8) of the 1985 Act, where it applies, has effect as if paragraph (a) and the words “if later,” at the beginning of paragraph (b) of that subsection were omitted.

(2) The circumstances are—

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(a) 1984 c. 27. Section 121A was inserted by the New Roads and Street Works Act 1991 (c. 22), section 168(1) and Schedule 8, Part 2, paragraph 70. It was amended by the Greater London Authority Act 1999 (c. 29), section 271(1) to (3) and S.I. 2001/1400, article 2 and the Schedule, paragraphs 1(1) and (5). There are other amendments but none is relevant.

- (a) where the application is in respect of a service for the carriage of passengers by road that is provided as an alternative to the whole or a part of a railway passenger service that has been discontinued, reduced or modified (whether temporarily or permanently);
  - (b) where the application is to vary a registration only to enable the operator of the service to comply with a traffic regulation condition<sup>(a)</sup> or any other provision made by or under an enactment prohibiting or restricting the use of any road by vehicular traffic;
  - (c) where the application is to vary a registration only in respect of a change in the operator's address.
- (3) For the purposes of this regulation—
- “railway passenger service” means any service for the carriage of passengers by railway; and
- “railway” has the meaning given in section 67(1) of the Transport and Works Act 1992<sup>(b)</sup>.

**Consequential amendments**

9. The consequential amendments in the Schedule have effect.

**PART 3**

**APPLICATIONS FOR REGISTRATION WHERE SCHEME IN FORCE**

**Prescribed time for submission of clearance certificate**

10. For the purposes of section 6B(5) of the 1985 Act (clearance certificates), the prescribed time for the authority or authorities to submit a clearance certificate to the traffic commissioner is 28 days, commencing on the date on which the authority or authorities receive notice of consultation from the traffic commissioner by virtue of section 6B(4) of that Act.

**Cases where requirement to obtain clearance certificate does not apply**

11.—(1) Section 6B(3) to (6) of the 1985 Act (procedure for determining applications for registration where quality contracts scheme in force) does not apply in the cases prescribed in paragraph (2).

- (2) The cases are where the application is to vary the registration only—
- (a) to enable the operator of the service to comply with a traffic regulation condition or any other provision made by or under an enactment prohibiting or restricting the use of any road by vehicular traffic; or
  - (b) in respect of a change in the operator's address.

Signed by authority of the Secretary of State

7th December 2009

*Sadiq Khan*  
Minister of State  
Department for Transport

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(a) The term “traffic regulation conditions” is defined in section 7(1) of the Transport Act 1985. Section 7(1) was amended by section 50(1) and (2) of the Local Transport Act 2008.

(b) 1992 c. 42.

## SCHEDULE

Regulation 9

### CONSEQUENTIAL AMENDMENTS

#### **Amendments to the Public Service Vehicles (Registration of Local Services) Regulations 1986**

1.—(1) The Public Service Vehicles (Registration of Local Services) Regulations 1986(a) are amended as follows.

(2) After regulation 4 insert—

“**4A.** Regulations 5 to 8 do not apply to any application—

- (a) to register particulars of a local service, or
- (b) to vary or cancel an existing registration,

to which Part 2 of the Public Service Vehicles (Registration of Local Services) (Quality Contracts Schemes) (England and Wales) Regulations 2009(b) applies.”.

(3) In regulation 5(1), after “Subject to regulations” insert “4A,”.

(4) In regulation 5(2), after “Subject to regulations” insert “4A,”.

(5) In regulation 7(1), for “In the cases” substitute “Subject to regulation 4A, in the cases”.

(6) In regulation 8(1), for “In the cases” substitute “Subject to regulation 4A, in the cases”.

(7) In regulation 9A(1), after “by the person who registered it,” insert “or if the person is required to cease providing it by virtue of section 129(1)(b) of the Transport Act 2000 (prohibition on provision of local services other than under a quality contract),”.

(8) In regulation 9A(3)(a), for “, or” at the end substitute “,”.

(9) In regulation 9A(3)(b), for “it has been dissolved.” substitute “it has been dissolved, or”.

(10) After regulation 9A(3)(b) insert—

“(c) the person is required to cease providing the service by virtue of section 129(1)(b) of the Transport Act 2000 (prohibition on provision of local services other than under a quality contract).”.

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(a) S.I. 1986/1671. These Regulations have been revoked in relation to Scotland by SSI 2001/219, regulation 3(1) and Schedule 2. Regulation 5 was substituted in relation to England and Wales by S.I. 2004/10, regulations 2 and 6, and amended by S.I. 2009/443, regulation 7 and the Schedule, paragraph 2. Regulation 7 was amended by S.I. 1988/1879, regulation 5; S.I. 1989/1064, regulation 4; and S.I. 2004/10, regulations 2 and 7. Regulation 8 was amended by S.I. 2004/10, regulations 2 and 8. Regulation 9A was inserted by S.I. 1988/1879, regulation 7 and amended by S.I. 1989/1064, regulation 7. There are other amendments to these Regulations but none is relevant.

(b) S.I. 2009/3245.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision about the registration of local bus services in England and Wales, and the variation or cancellation of such registrations, during the period between the making of a quality contracts scheme and its coming into force. They also make provision about applications for the registration of bus services, or variation of such registrations, where a quality contracts scheme is in force.

A quality contracts scheme is a scheme made under the Transport Act 2000 under which a local transport authority determines the local bus network in the area to which the scheme relates. Where a scheme is in place, local bus services can only (with some exceptions) be provided under quality contracts. A quality contract is a contract made by the authority under which a particular operator is granted the exclusive right to operate specified services. New provisions in the Transport Act 1985 (inserted by the Local Transport Act 2008) allow services to be operated other than under a quality contract in circumstances where the local authority is satisfied that there would be no adverse effect on services provided under the scheme.

*Part 1* contains general provisions.

*Part 2* prescribes certain notice periods for the purposes of section 6 of the Transport Act 1985 (registration of local services) during the transitional period (as defined in *regulation 2*). *Regulation 3* prescribes the circumstances in which this Part is to apply and provides that, where this Part applies, regulations 5 to 8 of the Public Service Vehicles (Registration of Local Services) Regulations 1986 (S.I. 1986/1671) (“the 1986 Regulations”), which apply to service registrations generally, do not apply.

*Regulation 4* prescribes the period of notice for new registrations during the transitional period. If an operator ceases to provide a service before a quality contract comes into force, and the local authority makes an agreement with another operator to provide a replacement service, the notice period ends on the date on which the operator proposes to start operating the replacement service.

*Regulation 5* prescribes the period of notice for cancelling a registration during the transitional period. The period is extended from 56 days to 112 days where the service is one which, once the quality contracts scheme is in force, will be provided under a quality contract.

*Regulation 6* prescribes the period of notice for varying a service registration during the transitional period. Where the traffic commissioner, having consulted the local transport authority and taken into account other changes to service registrations in the area of the scheme, considers that the variation would have a detrimental effect on passengers, the period is extended from 56 days to 112 days.

*Regulations 7 and 8* prescribe exceptions to the periods prescribed in regulations 4 to 6. *Regulation 9* introduces the *Schedule*, which makes consequential amendments to the 1986 Regulations.

*Part 3* contains provisions made under new section 6B of the Transport Act 1985 (inserted by section 49(5) of the Local Transport Act 2008) which apply to applications to register a new service, or to vary an existing registration, where a quality contracts scheme is in force. *Regulation 10* prescribes 28 days as the period within which an authority may submit a clearance certificate to the traffic commissioner (without which the commissioner cannot accept the application) if satisfied that the registration or variation will not be detrimental to services provided under the scheme. *Regulation 11* prescribes exceptions to the requirement to obtain a clearance certificate in respect of an application to vary a registration.

An impact assessment has been prepared and copies can be obtained from the Department for Transport, Great Minster House, 76 Marsham Street, London, SW1P 4DR. The assessment is annexed to the Explanatory Memorandum which can be found alongside these Regulations on the Office of Public Sector Information website ([www.opsi.gov.uk](http://www.opsi.gov.uk)).



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