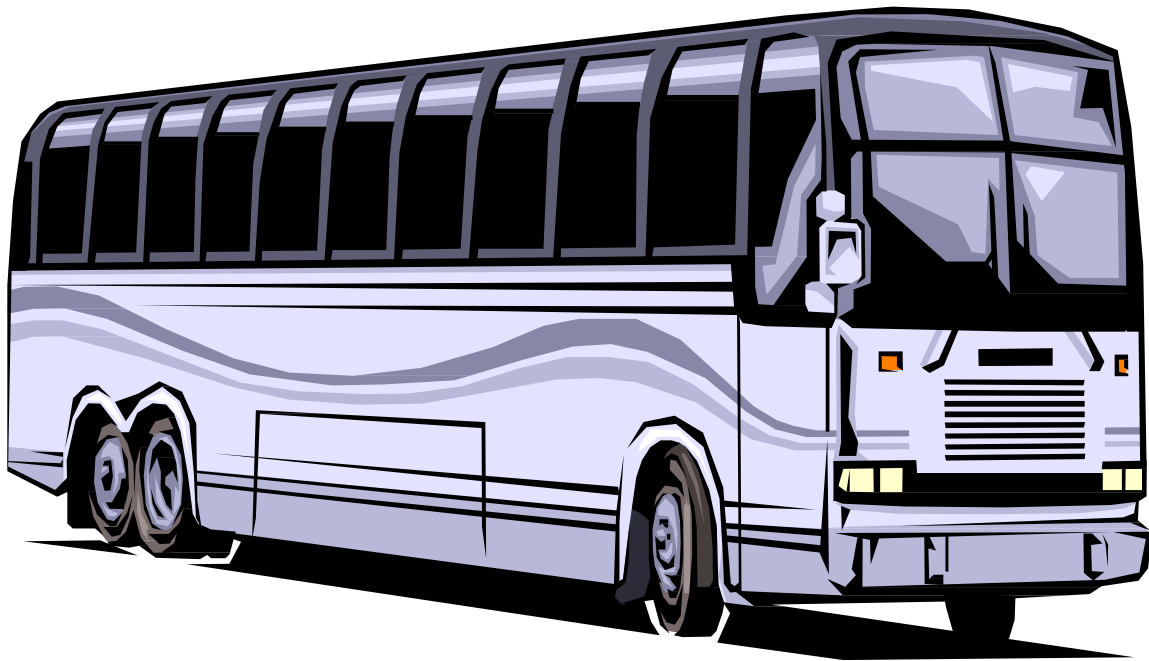




# A GUIDE TO LICENSING FOR BUS OPERATORS



**Revised November 2017**  
Bus Operator Licensing Guide V1.9

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## CONTENTS

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	Page Numbers
Introduction	4
Important Notes	5
Format of Guide	6
<b>Part 1 – Applying for and Keeping a Licence and the Requirements to be met</b>	<b>8</b>
<b>Part 2 - The Grant of a Licence</b>	<b>19</b>
What happens when the Bus operator's licence is granted?	
<b>Part 3 - Refusal of a Licence</b>	<b>20</b>
Can the Department refuse to grant a licence? Can I appeal against the Department's decision?	
<b>Part 4 - Regulatory Action</b>	<b>21</b>
Can a licence be withdrawn?	
<b>Part 5 - Changes to a Licence</b>	<b>22</b>
How do I change the type of Bus operator's licence which I hold? How do I change the vehicles listed? How do I change or add an Operating Centre? What do I do if there are changes in the business? Can a licence be transferred?	
<b>Part 6 – Legal Requirements</b>	<b>24</b>

## Appendices

<b>A</b>	<b>Exemptions from Road Service (Bus Operator) Licensing</b>	<b>31</b>
<b>B</b>	<b>Definitions of categories of services and requirements and procedures for approving services</b>	<b>32</b>
<b>C</b>	<b>Professional competency and recognised qualifications for transport managers</b>	<b>34</b>
<b>D</b>	<b>Repute and traffic offences</b>	<b>38</b>
<b>E</b>	<b>Maintaining Roadworthiness – FAQs</b>	<b>42</b>

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V1.3	14/03/13	App A: Changed Finance & Planning Requirement
V1.4	02/01/14	Changes to financial requirements
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## INTRODUCTION

These guidelines provide information and advice about how the licensing of bus operators works in Northern Ireland. It provides answers to frequently asked questions and sets out, in broad terms, the procedures used by the Department to make decisions about applications for licences and to regulate the activities of licence holders. It provides general guidance to applicants applying for a licence and about the standards that the Department expects from licence holders in the conduct of their business.

In Northern Ireland, the Department for Infrastructure is responsible for licensing bus operators and the work is carried out by the Driver & Vehicle Agency (DVA). In this document, the terms “the Department” and “the Agency” are used largely interchangeably but in most cases, the actions being described will be carried out by the Agency, acting as part of the Department.

Applicants and licence holders are encouraged to consult DVA before applying for a licence and on any issue of concern or uncertainty during the lifetime of a licence. The Agency’s contact details are:

Driver & Vehicle Agency  
Passenger Transport Licensing Division  
County Hall, Castlerock Road  
Waterside  
Coleraine BT51 3HS

Telephone: (028) 9025 4100

Email:  
[busoperators@infrastructure-ni.gov.uk](mailto:busoperators@infrastructure-ni.gov.uk)

### Important Notes:

These guidelines are intended as a helpful source of advice and assistance. They are not a statement of the law and must not be relied upon as such. Neither the Department nor DVA can provide legal advice to operators. If you have any doubts about your compliance with the law, you should seek your own legal advice.

Although the Department will usually follow the procedures set out in these guidelines, every application and situation must be treated on its own merits. That means that, except where adherence is required by law, the Department has the right to depart from procedures set out in the guidelines, if it believes that it would be right to do so in a particular case.

Applications for licences must be made in good time. **Applications should be made at least two months before a licence is required. Operations cannot start until a licence has been granted. Operating without a licence is an offence and starting operations before getting a licence may prejudice the award of a licence.**

## **Format of the Guide**

### **Part 1 of the guide sets out what you need to do to apply for or retain an operator's licence.**

This part gives details about the procedures followed by the Department when it is considering an application for a licence. It should help you to understand the matters that the Department takes into account both when considering new applications and in monitoring the activities of licence holders. This part should be read together with Part 4 and Appendices A, B, and C

### **Part 2 of the guide sets out what happens when a licence is granted.**

### **Part 3 of the guide explains what happens when an application is refused and the applicant's right of appeal.**

### **Part 4 of the guide sets out the circumstances in which a licence may be suspended or revoked.**

This part should be read together with Part 1.

### **Part 5 of the guide explains what to do if you want to apply for changes to the licence.**

### **Part 6 of this guide sets out a brief outline of the main legislative requirements for bus operator licensing.**

This part describes, in ordinary language, what the law requires if you want to apply for a licence and what you must do if you have a licence. It sets out the matters that the Department must take into account when deciding if a licence should be granted or not and how the Department should act to regulate the behaviour, attitudes and activities of licence holders. This explanation of the legal framework is intended only to give you general information about the legal position and to outline the Department's interpretation of the relevant law. While every effort has been made to ensure that the information given is accurate, you must not rely on it as a definitive or comprehensive statement of the law and the Department will not be bound by any statement made in this guide.

**Appendix A sets out activities which you can undertake without needing a bus operator's licence.**

**Appendix B sets out the different types of services that can be included on an operator's licence**

This sets out the different types of services that can be included on an operator's licence. It describes how the Department distinguishes different types of services and sets out conditions that apply to different types of services and how the Department decides if services can be granted on the licence applied for.

**Appendix C sets out the qualifications that operators or their transport managers need to be professionally competent, which is one of the conditions that has to be met in order to get a licence.**

**Appendix D shows how the Department will take repeated traffic offences into account.**

**Appendix E gives some guidance on maintaining roadworthiness.**

## PART 1 - APPLYING FOR AND KEEPING A LICENCE AND THE REQUIREMENTS TO BE MET

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### *Do I need a Licence to carry people for reward?*

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You need a bus operator's licence to carry passengers if you use a vehicle that is constructed and equipped for carrying more than nine persons (including the driver) for hire or reward. Hire or reward means any payment in cash or kind to enable the passenger to use the service. The payment could be made to the driver or anyone representing the operator and it could be paid by the passenger or anyone else on behalf of the passenger. It could be a direct fare or an indirect payment such as part of a club membership fee or part of an entrance charge for an event. Hire and reward still applies even if no profit is made from payments received (but see Appendix A about exemptions from licensing)

If the vehicle used to carry passengers for hire or reward is constructed and equipped for carrying up to eight persons in addition to the driver, it is a taxi, not a bus. Separate guidance is available from DVA about operating taxi services.

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### *Who is "the user" of the vehicle?*

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You are classed as "the user" if you are:

- (a) the owner of the vehicle;
- (b) leasing it or buying it under hire purchase;

If you employ someone to drive one of your vehicles you are still "the user" of the vehicle for operator and licensing purposes.

You need a bus operator's licence even if you use a vehicle for reward only for a short period, e.g., a month or even just for one day.

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### *How do I get a bus operator's licence?*

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- (a) You can get an application form (BOL1) from the DVA at the address given at the start of this guide.
- (b) A supplement sheet (BOL2) must also be completed for each vehicle you propose to operate giving details of the types of service you propose to operate, i.e., contract carriage, excursions and tours, or occasional private hire. (See Appendix B for service definitions). If you do not have enough space on the form to tell us what you intend to do please attach plain paper to the form and continue there. Remember that the more you tell us to begin with reduces our questions later.
- (c) If it is your first application you should return your completed forms **at least 8 weeks before the licence is needed**. This allows time for any necessary



enquiries to be made. There is no provision for the issue of temporary licences or for the determination of applications without carrying out the full procedure required by law.

- (d) Licences are usually for a one year period; you have to apply for a completely new one on each occasion. If you have a licence which is due to expire, the Department will usually send you an application form (BOL1) and supplement sheet(s) (BOL2) about 8 weeks before your present licence expires. However, you should **always** note the expiry date of your licence and make sure you apply for another one in good time. The responsibility for doing so is yours alone. The Department has no duty to issue a reminder and the absence of a reminder will **not** be accepted as a reason for failing to renew a licence. If you have submitted an application to renew your bus operator licence before your current licence expires, your current licence will remain in force until a decision is issued on your renewal application. If you do not apply to renew your licence before the expiry date of the current licence, your application will be treated as a new licence and will be issued from the date when all of the necessary information has been received, not the date of expiry of the old licence.
- (e) At any stage of its consideration of an application for a licence, the Department may require further information or require the applicant to attend for interview. The Department may also, if it thinks it would be helpful, ask bodies who made representations about the application to supply further information or to attend an interview. Third parties have no right to demand an oral hearing and have no right of appeal against the Department's decision about the licence application.

## REQUIREMENTS FOR A LICENCE

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### ***What requirements must I meet before I can get a bus operator's licence?***

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When determining an application for an operator's licence, the Department considers two elements:

- Your suitability as an operator and
- The suitability of the services you want to operate

#### **1. The operator**

To grant you a bus operator's licence, the Department must be satisfied that:

- (a) You and all relevant partners or directors are of good repute
- (b) You have at least the minimum required financial resources to ensure the launching and proper administration of the undertaking (see page 15 for

details)

(c) You, or the person employed to be responsible for transport operations, are professionally competent. The person nominated to meet this requirement must have continuous and effective responsibility for managing the vehicle operations. This Transport Manager must be of good repute and professionally competent (see page 16 and Appendix C).

(d) you must also be able to satisfy the Department of the following:

- (i) that you can fulfil the PSV licence condition that you are able to keep your vehicles, their accessories and equipment in good order and repair, take all practical means to ensure that all parts of the mechanism, including the brakes, are free from defects and in efficient working order and ensure that the relevant requirements for public service vehicle accessibility under the Disability Discrimination Act are satisfied.

It is your responsibility as operator to ensure that you meet these requirements at all times. You must ensure that daily walk round checks are carried out, as well as regular safety inspections, and ensure that any necessary maintenance work is carried out as soon as you become aware of a problem.

You may carry out the safety inspections and maintenance work yourself if you employ someone who is suitably qualified and you have adequate facilities available, or you may contract this work out to a third party. If you contract the work out you should have a formal contract in place with them and you may be asked to provide a copy of this contract with your application. A brief guide to maintaining roadworthiness is set out in Annex F. A full guide "Guide to Maintaining Roadworthiness for Commercial Goods and Passenger Carrying Vehicles" is available at <http://www.doeni.gov.uk/aguidetomaintainingroadworthiness.pdf> and gives information setting out the specific standards for inspections, checks and the monitoring of maintenance arrangements. You are strongly advised to read this document.

You may also seek advice from trade associations such as the Federation of Passenger Transport and Freight Transport Association, or from DVA vehicle examiners.

- (ii) that you have an operating centre suitable for your vehicles, bearing in mind such things as size, location and means of access and egress and that the vehicles can all be parked off the road when not in use; you may need to obtain planning approval and should check with your local planning office.
- (iii) that you have arrangements to ensure that the rules about drivers' hours are followed and that the requirements of the Construction and Use regulations for vehicles are complied with.
- (iv) that you understand that all your drivers must hold a full category 'D1' driving licence (up to 16 seats - for hire and reward) or a full category 'D' driving licence (17 seats

and over).

You must have management structures, monitoring and reporting systems in place to ensure that you can meet all of these requirements. You might be asked to show that you have the appropriate organisation in place to manage the undertaking well.

Applicants might not be routinely asked to provide evidence of the satisfaction of all of these matters, but the Department reserves the right to ask for such evidence as it considers appropriate either randomly or because of any information held or received that gives rise to any doubts about the proposed licence holder's ability to meet these requirements.

- (e) If you have already held a bus operator's licence or have been involved in a business licensed to carry passengers for reward, the Department will also check on your previous conduct (or that of the business) relating to the use of passenger vehicles. **In particular**, it will note any convictions or penalties for offences relating to:
- (i) passenger overloading;
  - (ii) roadworthiness of vehicles;
  - (iii) taxation or licensing of vehicles;
  - (iv) drivers' hours and tachographs;
  - (v) driver licensing.
- (f) You must have at least one vehicle available for the undertaking and every vehicle you use must have the appropriate PSV licence.

## 2. The services

- (a) When the Department receives your application (whether this is for a first licence or the "renewal" of a licence or for the addition of services), it is required to take account of:
- Any previous conduct of the applicant
  - Any previous refusal, revocation or suspension of a bus operator's licence by the applicant

A notice outlining every application received will be posted on the Agency's website for 14 days and the Agency will take account of any representations made by the relevant bodies during that period or while the application is still under consideration. It is not possible to set out how the Department will deal with representations made as every case is dealt with on its own merits. However, Appendix B sets out some of the matters that might be raised and it also outlines the Department's starting position when considering such matters.

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### ***How is good repute decided?***

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Good repute is not fully defined in the legislation and the Department has wide discretion in determining if an applicant is of good repute and the matters considered by the Department and the procedures used are too extensive to be set out in full in this document. However, the following are the main factors taken into account:

Any convictions, infringements or penalties (not only those in relation to passenger vehicles

or motoring offences) which have occurred in the United Kingdom or the European Community. The application form asks for details of convictions of all partners, directors and any nominated transport manager. In addition, a Basic Disclosure Certificate must be supplied by the applicant(s) for each person named on the application resident in Northern Ireland. For persons resident outside Northern Ireland, the Department will check repute with the relevant licensing authority. If the person is not known to another licensing authority, the Department may require the submission of other suitable evidence.

### **Basic Disclosure Certificate**

The Basic Disclosure Certificate will show details of all convictions considered to be unspent under the Rehabilitation of Offenders (Northern Ireland) Order 1978, or state that no such convictions were found.

You can apply for a Basic Disclosure Certificate by:

- Completing an application form, copies of which are available on the AccessNI website
- Having the PSNI validate your identity
- **By paying the required fee (currently £26) to AccessNI**

**Access NI can be contacted by e-mail, post, telephone or fax.**

**Website address:** [www.accessni.gov.uk](http://www.accessni.gov.uk)

**E-mail:** [accessni@ani.x.gsi.gov.uk](mailto:accessni@ani.x.gsi.gov.uk)

**Post:** Access Northern Ireland  
PO Box 1085  
Belfast  
BT59BD

**Telephone:** 028 90 259100

**Fax:** 028 90 259186

### **IMPORTANT NOTE**

**Applications for bus operator's licences will not be accepted unless they are accompanied by a Basic Disclosure Certificate for any person named in the application. This includes Directors, Partners and Transport Managers.**

Convictions which are "spent" under the Rehabilitation of Offenders (NI) Order 1978 need not be declared, but if you are in doubt about whether this applies, it is safer to declare them. If they are spent, the Department will not take them into account.

You **must** notify the Department within 28 days if you, a partner, director or any nominated transport manager in your application are convicted of **any** offence (not just transport related offences) after the application is sent in and before the Department reaches a decision on it. It is also a condition of every licence, that you must notify the Department

within 28 days of **any** convictions during the lifetime of a licence.

**Failure to declare relevant convictions is considered by the Department to be a very serious matter, going to the core of the applicant's or licence holder's integrity and good repute. Any such failure is likely to have very serious implications for the granting or retention of an operator's licence.**

The Department will take into account the repute of:

- the applicant,
- all partners in the case of a partnership,
- the body corporate in the case of an application by a company,
- all directors of bodies corporate
- the transport manager or other competent person,
- persons or companies, including shareholders, having a controlling interest in the body applying for the licence,
- any person deemed to be making the application as a nominee or agent for another person.
- any other relevant person

In relation to these parties, the Department will, in particular, take into account:

- previous conduct in relation to any involvement with passenger transport (bus) operations;
- any previous revocation or suspension of a bus operator's licence or any refusal to grant a licence.
- convictions

The Department will consider, in particular, if there are any compelling grounds for doubting the repute of the operator or the transport manager because of convictions or penalties incurred for any serious infringements of UK or EU law in relation to:

- Commercial law
- Insolvency law
- Pay and employment conditions in the industry
- Road traffic
- Professional liability
- Trafficking in human being or drugs

In addition, if, in any Member State, the operator or transport manager has been convicted of a serious criminal offence or incurred a penalty for a serious infringement of Community rules relating, in particular (but not exclusively) to: -

- The driving time and rest periods of drivers, working time and the installation and use of recording equipment;
- Maximum weights and dimensions of buses
- The initial qualification and continuous training of drivers

- The roadworthiness of vehicles and testing requirements
- Access to the market
- The installation of speed limiters, where required
- Driving licences
- Admission to the occupation of bus operator or transport manager
- Any of the most serious infringements of Community rules set out in Annex IV to Regulation (EC) 1071/2009

The Department will investigate the matter with the presumption that the operator and/or transport manager has lost repute, unless the Department decides, in the specific circumstances of the case, that the loss of repute (and therefore the loss of the licence) would constitute a disproportionate response.

**Transport Offences.** Where any person (including a corporate body) closely associated with the bus operations of an applicant for or the holder of a bus operator's licence has been convicted, within the last 3 years (on a rolling basis) of at least 3 transport offences and the number of such offences equals or is greater than 10% of the greatest number of vehicles noted on the bus operator's licence at any one time during the period in question, the refusal of the application or the suspension or revocation of the licence will be considered.

**History of Convictions.** Where any person (including a corporate body) closely associated with the bus operations of an applicant for or the holder of a bus operator's licence has been convicted of at least one serious offence and at least two transport offences within the last 3 years, the refusal of the application or the suspension or revocation of the licence will be considered.

**Previous Conduct.** Where any person (including a corporate body) closely associated with the bus operations of an applicant for or the holder of an bus operator's licence has been previously associated with a passenger transport (bus) undertaking which has had operator licences refused or revoked or where the record of that other undertaking gave rise to concern in any aspect of its operation, the refusal of the application or the suspension or revocation of the licence will be considered

**Other Conduct Giving Rise to Concern.** Where the actions or operations of any person (including a corporate body) closely associated with the bus operations of an applicant for or the holder of an bus operator's licence give rise for concern (for example, in relation to adverse reports received from DVA's enforcement section, testing centres, Traffic Commissioners, the police, HM Revenue and Customs, industry representative bodies or in relation to action taken by the Serious Organised Crime Agency, etc), the refusal of the application or the suspension or revocation of the licence will be considered

**Licensing Offences.** If an operator or any partner, employee, officer or agent has been convicted of;

- using an unlicensed vehicle,
- operating a vehicle contrary to any conditions applied to the use of that vehicle,
- forgery of licences or other related documents,
- making false statements,
- obstructing an inspector,

the refusal of the application or the suspension or revocation of the licence will be considered. In the case of repeated offences of this nature, there will be a presumption that the application will be refused or the licence suspended or revoked.

**Repeated convictions for road traffic offences** indicate either wilful non-compliance or an inability to manage the undertaking safely. Where such convictions occur during the lifetime of a licensed undertaking, proportionate and escalating regulatory action will be taken, determined by the number of convictions and the number of buses operated, culminating, where necessary, in the revocation of licences. Details of how an accumulation of minor offences will be taken into account are set out in Appendix D.

**The accumulation of fixed penalties for road traffic offences** will be dealt with in a similar manner to repeated traffic offences. (see Appendix D)

**Regulatory action by other competent authorities** or law enforcement agencies in NI or in GB and other EU Member States will be taken into account and, unless the Department believes that there is a good reason not to do so, the loss of good repute by another competent authority **will** be applied in Northern Ireland and result in the revocation of the licence. Any infringement in other EU member States will be taken into account.

The Department will also consider closely applications where it believes that an application has been made by someone acting as a nominee of another person who would not get a licence because of their previous conduct.

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### ***What are the financial requirements?***

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For a new licence you will need to satisfy the Department that you have adequate financial resources to launch and administer the business. For both a National and International Licence you will be required to show evidence of having available £7,950 for the first vehicle and £4,400 for any additional vehicles (these figures will be adjusted from time to time). The supporting evidence must clearly demonstrate that the applicant or operator has immediate access to the funding (promissory statements about future or conditional access to funding will not be sufficient). Up-to-date statements may be requested at any stage throughout the application or the life of the licence. However, for ongoing undertakings, proof of finance will usually only be necessary once every five years but the Department has the right to seek evidence of financial standing annually and may, at its discretion, require the submission of certified accounts.

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### ***What is Professional Competence?***

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If you or the nominated Transport Manager cannot show proof of professional competence the Department must refuse your application for a bus operator's licence.

Professional competence can be established in any one of the following ways:

- an international CPC, or
- a national CPC obtained before 4 December 2011, or

- an exemption as a result of having continuously managed a transport undertaking for a period of 10 years before 4 December 2009, or
- an existing third party qualification

Professional competence is established by:

- passing the examinations for a Certificate of Professional Competence (CPC) set by the OCR Examination Board
- holding certain diplomas and qualifications from professional institutes.

As proof of professional competence you must forward your original OCR Certificate, Institute Membership card and/or a Licensing Authority Certificate. This will be returned to you promptly.

In determining if an applicant has made sufficient provision for professional competency, the Department will consider if adequate arrangements have been made so that suitably qualified managers have continuous and effective responsibility for the transport operation, especially in relation to vehicle safety and the supervision of drivers, including driver's hours and the associated record keeping. The relevant factors to be taken into account will include:

- (i) the number of operator licences for which the transport manager will be responsible;
- (ii) the proportion of time the transport manager will spend working for the applicant;
- (iii) the number of operating centres and the number of vehicles for which the transport manager will be responsible (both in relation to the applicant's business and other undertakings);
- (iv) the geographical location of the transport manager's base, the applicant's operating centre(s) and the other centres for which the transport manager has responsibility;
- (v) any other work undertaken by the transport manager;
- (vi) the nature of the contract between the transport manager and the applicant;
- (vii) the previous conduct of the transport manager in relation to any passenger transport (bus) operations in which he has been engaged.

The Department may require any information considered necessary at any time to enable it to consider if the requirement for professional competency is satisfied.

**Full details of the qualifications for professional competency are set out in Appendix C**

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### ***How can I obtain a Certificate of Professional Competence?***

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The Oxford Cambridge and Royal Society of Arts and Examinations Board (OCR) holds lists of local colleges and registered Training Centres who run courses. Details of the courses, dates, centres and topics covered by the examinations are available from:



- OCR Examinations  
Board, Westwood Way,  
Coventry,  
CV4 8HS Telephone: 02476 470033.

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### ***What is meant by "Operating Centres"?***

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An operating centre is the place where your vehicles are normally kept when not in use. Vehicles must not be parked overnight on public roads. You must therefore own, or have permission to use, a suitable operating centre. The application form asks you for the address of your centre so that, at the first nomination of the centre, it can be inspected to make sure it is suitable for your vehicles, taking account of the size, location and means of access. It may be necessary to inspect the centre again if your undertaking changes (for example, if you add more vehicles to your fleet). The operating centre must be in Northern Ireland and it must have the required technical equipment and facilities required to conduct the operation effectively and continuously or you must have satisfactory arrangements (for which evidence will be required) with a third party in Northern Ireland for the proper maintenance of your vehicles.

The first time you nominate an operating centre, you must declare that it has existing planning approval or has a Certificate of Lawful Use or Development, or does not require planning approval and is outside the scope of any planning enforcement action.

Please note that details of your operating centre may be sent to the Planning Service for consideration.

You must have premises in the UK in which all core business documents are kept. This includes all accounting, personnel and documents relation to driver hours and all other documents to which the Department might require access to verify compliance with operator licensing requirements.

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### ***Compliance with Passenger Rights Regulations***

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You must comply with the relevant provisions of EU Regulation 181/2011 on the rights of bus and coach passengers. This Regulation includes provisions on

- Non discriminatory ticket prices and conditions;
- Compensation and assistance in the event of accidents;
- Rights of disabled people and people with reduced mobility;
- Passenger rights in the event of cancellation or delay;
- Information for passengers and the handling of complaints;
- Enforcement and national enforcement bodies.

Not all of the provisions of the Regulation are currently in force and this guidance deals only with the provisions that are in force now.

The following provisions apply to **Occasional Services**, which are defined in the Regulation as services that do not fall within the definition of regular services and the main characteristic of which is the carriage of groups of passengers constituted on the initiative of the customers or the carrier himself:-

- All passengers must be provided with a ticket, unless other documents give entitlement to travel.
- No direct or indirect discrimination must occur in relation to tariffs or conditions on the grounds of nationality.
- If any requirements under this Regulation have been entrusted to an agent, the carrier remains responsible for them.
- Passengers are entitled to compensation for death or personal injury or for the loss of or damage to luggage arising out of the use of the bus. The maximum compensation payable will be not less than 220,000 euros for death or injury and 1,200 euros per item of luggage.
- In the event of an accident arising out of the use of the bus, passengers must be provided with reasonable and proportionate assistance, including, where appropriate, accommodation, food, clothes, transport and first aid. The maximum liability for the provision of accommodation is 80 euros per night and for a maximum of 2 nights.
- Carriers are liable for the loss of or damage to wheelchairs and other mobility equipment or assistive devices caused by them. Compensation equivalent to the cost of replacement or repair must be provided.

**You must ensure that you comply with all relevant requirements of this Regulation. Failure to do so will constitute a breach of your licence and could result in prosecution and/or the suspension or revocation of your operator's licence**

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## PART 2 - THE GRANT OF A LICENCE

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### *What happens when the bus operator's licence is granted?*

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If the Department decides to grant you a bus operator's licence you will be advised by letter and asked to send the appropriate fee. A licence costs £78.00 per vehicle at present and is normally valid for a period of one year. The licence will state the type of licence granted (National or International), the specified operating centre, the nominated Transport Manager (if applicable), the vehicles licensed, the type(s) of services licensed and any other conditions which may be attached to the licence by the Department.

- (a) If during the course of the year you wish to apply for an additional vehicle to be included on your licence a supplement sheet (BOL2) must be completed and forwarded to the Department together with copies of current tax and Northern Ireland PSV discs, driver's category D or full D1 Driving Licence, insurance documents, proof of purchase and relevant fees (£6.50 per month). Depending on the financial information already submitted, you may be required to provide evidence of the availability of additional finance to cover the additional vehicles to be put on the licence. You must have at least £4,400 for each additional vehicle.
- (b) If during the course of a year you wish to apply for an additional service to be included on your licence a supplement sheet (BOL2) must be completed and forwarded to the Department for consideration.
- (c) If you hold an International bus operator's licence you will be provided with Community Licences for each vehicle licensed. These documents are very important and one must be retained in each vehicle that you use for international journeys. Failure to produce this document may lead to prosecution by other authorities within the European Community.
- (d) **You must notify the Department within 28 days of any event that could affect the fulfilment of the good repute, financial standing or professional competence requirements for holding a licence.**

## PART 3 - REFUSAL OF A LICENCE

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### ***Can the Department refuse to grant a Licence?***

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The Department **must** refuse to grant you a bus operator's licence if you do not satisfy the requirements of good repute, financial standing or professional competence.

A bus operator's licence may also be refused if the Department is not satisfied as to your previous conduct in the use of passenger vehicles or if you do not have a suitable operating centre.

The Department may refuse to grant a licence because ,after taking account of the relevant factors that (see "Requirements for a licence) it does not think that the services applied for are appropriate The Department may grant a licence that only specifies some of the services applied for.

### ***Can I appeal against the Department's decision?***

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If you have been told that your application for a bus operator's licence has been refused, you can appeal the decision to the County Court within 28 days from the service of the notice, also giving written notice to the Department.

## PART 4 – REGULATORY ACTION

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### ***Can a Licence be withdrawn?***

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The Department may withdraw, suspend or revoke a bus operator's licence for a wide variety of reasons, including (but not limited to):

- (a) the holder has broken any conditions attached to the licence;
- (b) buses have been detected on the road when un-roadworthy or overloaded;
- (c) the licence holder, transport manager or any other person closely associated with the business is convicted of certain offences;
- (d) the licence holder and/or the drivers have incurred excessive fixed penalties;
- (e) any of the statements made in the licence application are false;
- (f) the licence holder has been made bankrupt or has gone into liquidation or can no longer demonstrate the required financial requirements;
- (g) there has been a material change in any of the circumstances of the licence holder, transport manager or any other person closely associated with the business relevant to the licence;
- (h) the licence holder has used a place not listed on the licence as an operating centre;
- (i) the operation no longer employs a competent person (a qualified transport manager);
- (j) the licence holder or other relevant person in the undertaking is deemed to have lost good repute;
- (k) the operator has failed, without a reasonable explanation accepted by the Department, to operate the services as specified on the licence.

The Department has wide discretionary powers in determining the repute of the licence holder, transport manager or any other person closely associated with the business. In addition to using information within its own remit, reports of inappropriate conduct from any competent authority (e.g. licensing authorities in GB and EU Member States, the police, HM Revenue and Customs, the Serious Organised Crime Agency, etc) may be taken into account.

In serious cases the Department can prevent a person, partner or director of a company from holding a bus operator's licence for as long as it thinks fit. If the Department decides to revoke a bus operator's licence you will be served a notice stating the reasons for the decision. The revocation will take effect 28 days from the date of the notice. You will, however, have the right within those 28 days to appeal to the County Court giving written notice to the Department of your intention to appeal. If you do so, the revocation will not take effect until the appeal has been determined.

## PART 5 - CHANGES TO A LICENCE

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### ***How do I change the type of bus operator's licence which I hold?***

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If you wish to change from a National to an International licence you must provide proof that the professionally competent person has passed the additional examination for an International Licence. An amended licence will be issued free of charge on application.

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### ***How do I change the vehicles listed?***

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If you stop using a vehicle or wish to add additional vehicles you must notify the Department immediately for refund or amendment. You must always have at least one vehicle available to carry out your business. All vehicles used must have the appropriate PSV licence.

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### ***How do I change or add an Operating Centre?***

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If you want to use a new operating centre you must advise the Department in writing. If the new premises are not owned by you, a parking agreement form (obtainable from the Agency) should be completed. The Department will want to inspect new premises.

If the new premises are found to be suitable, an amended licence will be issued free of charge.

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### ***What do I do if there are changes in the business?***

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You must advise the Department in writing within 28 days of:

- (a) any change in the control of the business, e.g., change from sole trader to partnership, business becoming a limited company, or any other change as the new business is not the legal holder of the existing licence. A fresh application would be required in these circumstances;
- (b) any change in the business address;
- (c) any changes affecting a professionally competent partner or nominated Transport Manager;
- (d) any case where the holder of the licence or the nominated Transport Manager has been convicted of any offence;
- (e) any case where the licence holder, any director or partner is declared bankrupt or the company goes into liquidation;
- (f) any case where an order for seizure is made against the licence holder's property, or a receiver is appointed in relation to the holder's trade or business;
- (g) any event that could affect the fulfilment of the good repute, financial standing or professional competence requirements for holding a licence.

If you are in doubt as to whether the Department needs to know about changes, please contact us and we will be happy to advise you. You should always assume that the Department needs to know about any significant change to your business.

## **IMPORTANT NOTE**

**In circumstances where a new Director, Partner or Transport Manager is to be included on an operator's licence, a Basic Disclosure Certificate must be included with such a request.**

**For details of how to obtain a Basic Disclosure Certificate, see Section 6 (a).**

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### ***Can a licence be transferred?***

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An operator's licence cannot be transferred. However, in certain circumstances, such as the death, physical or mental incapacity or bankruptcy of the holder of a licence or any professionally competent partner or transport manager, the Department may be able to allow you, your successors, etc, some time to keep the business running before a new licence is needed. However, the Department must be told of the change of circumstances within 28 days. If notification is not made to the Department within that period then no flexibility is possible and a new licence will be required. If any such circumstances arise, you should contact the Department immediately.

## Part 6

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### ***Summary of the legal requirements and the procedures applied by the Department in making decisions.***

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#### **Note:**

**This Part contains a guide to the main legal provisions contained in the Transport Act (NI) 1967(as amended) and in EC Regulation 1071/2009. It is not a comprehensive or authoritative statement of the law and must not be relied upon as such.**

#### **Requirement for a licence**

Anyone using a motor vehicle that is constructed and equipped to carry more than 9 persons including the driver, or causing such a vehicle to be used, to carry passengers and their luggage for reward (which means receiving consideration of any kind) must have a bus operator's licence. However, a bus operator's licence is not required for some activities. These are set out in Appendix A.

A licence is only valid when used by the holder and it must be used in compliance with the statutory requirements and any conditions set out in the licence.

A bus operator's licence is not required to operate a bus that has been granted a permit under Section 10B of the 1967 Act or for a bus used by an Education and Library Board in carrying out their statutory functions.

A minibus with not more than 17 seats (including the driver) used in the course of a business whose main object is not the carriage of passengers will require a Restricted bus operator's licence.

#### **Provision of Information**

Applicants for licences must provide the Department with all information reasonably required in order to help the Department decide whether to grant or refuse to grant a licence. In particular, the applicant must provide information about:

- The types of vehicles to be used
- The services to be provided
- Any previous experience of the applicant in providing passenger services
- Any arrangements with third parties affecting the services to be provided
- Any financial interest (past, present or proposed) of the applicant, or anyone else involved in the undertaking, in any facilities for passenger services
- Any convictions in the past 5 years (or during the time the application is under consideration) of any person named in the licence application



- Financial resources available for the undertaking
- Professional competence qualifications
- The status of the transport manager
- Any intended use of the vehicles on the licence in providing passenger services outside the UK

### **Criteria for Determination of Licence Applications**

The Department will not grant a licence to an applicant who does not have:

- good repute
- appropriate financial standing
- professional competence (which may be provided by the employment of a suitably qualified person - the transport manager, who shall be specified in the licence)

and, in the case of an application from a corporate body, the Department will require the transport manager (who shall be specified in the licence), as well as the corporate body per se, to meet the requirements in relation to repute and competence and in the case of a non- corporate body, the conditions relating to good repute will apply to the transport manager and the applicant and the conditions relating to professional competence will apply to the transport manager.

In making decisions about the granting of licences and services that licence holders want to specify on their licence or on whether to attach conditions to the licence, the Department will take into account:

- The previous conduct of the applicant in providing passenger services.
- The revocation or suspension of any other bus operator's licence held by the applicant or by a company in which he has or had a controlling interest, or any previous rejection of an application for a licence.
- The previous conduct in providing passenger services of any person for whom the applicant is acting as a nominee or agent.
- Where the application is made by a corporate body, the rejection of a previous application or the suspension or revocation of a licence held by any other corporate body that has a controlling interest in the applicant company or in which the applicant company has or had a controlling interest. Directors or shareholders with controlling interests will be assessed in the same manner.

## **Conditions Applied to the Licence**

Every licence will have the following conditions attached to it:

- A requirement to notify the Department, within 28 days, of anything that affects good repute, financial standing or professional competency, including anything affecting the good repute or competency of the transport manager.
- A requirement to comply with the relevant provisions of Regulation (EU) 181/2011 on Passenger Rights

The Department may attach other conditions to any licence granted, in particular (and without prejudice to the generality of the Department's powers to attach conditions), in relation to the safety and convenience of the public. Such conditions, which may be amended at any time with the consent of the holder, may include (but are not limited to):

- a prohibition on using the vehicles on the licence for providing services outside the UK
- a requirement to report convictions (of the licence holder and any person specified on the licence), bankruptcy, liquidation, receivership, administration or the seizure of assets or the cessation of the employment of any person specified on the licence

Failure to comply with a condition on the licence is an offence. Frequent, wilful or dangerous breaches of conditions attached to a licence may result in the licence being suspended or revoked.

## **Duration of a Licence/Renewal of Licences**

A bus operator's licence will usually last for one year but another period may be specified. Providing a valid application for a new licence is made before the expiry of the old licence, the old licence will remain in force until a decision is made on the new application. In this case the licence will be dated from the expiry of the old licence.

If the renewal application is received after the expiry date of the old licence, then the application will be treated as a new licence. All the information necessary for a new application will be required. The licence will commence from the date that all the relevant information is available; not the date of the expiry of the previous licence.

## **Fees**

Fees as specified by Regulations will be payable.

## **Revocation or Suspension of Licences**

A licence may be revoked or suspended by the Department if:

- a condition of the licence is breached and the Department considers that suspension or revocation is reasonable because of the frequency of the breaches, wilfulness in breaching the condition or because the breach posed a danger to the public
- where a person who was refused a licence or had a licence revoked or suspended becomes a director or controlling shareholder in a company holding a licence
- the licence holder loses his good repute, financial standing or professional competence (if the person supplying the required professional competence ceases to be employed, the Department may, at its discretion, allow up to 12 months [or 18 months in exceptional circumstances] before revoking a licence)

If the Department decides to revoke or suspend an operator's licence, it will inform the licence holder in writing, setting out the reasons for the decision and the revocation or suspension will not take effect for 28 days or, in case of an appeal to the courts, until the appeal is dealt with. Licence holders can appeal to the county court within 28 days of being notified of the suspension or revocation of a licence.

## **Transfer of Licences**

A licence holder cannot transfer a licence to any other person or company. In exceptional circumstances, the Department may allow another person or company to continue to operate on the licence for a specified period.

## **Premises for Retention of Documents**

Every operator must have premises in Northern Ireland in which it keeps its core business documents. These include accounting and personnel management documents and data on drivers' hours and rest periods. The use of a Post Office or third party address is not acceptable.

Tachograph records must be kept for one year and records required under the Working Time Directive must be kept for two years. Operators may be required to produce records to demonstrate a history of proper inspection and maintenance of their vehicles and it is recommended that records about inspections and maintenance are retained for two years.

## **Determination of Good Repute**

The Department will not grant a bus operator's licence unless it is satisfied that the applicant is of good repute. In determining the issue of repute, the Department will take the specified factors into account, in relation to:

- the applicant,
- all partners in the case of a partnership,
- the body corporate in the case of an application by a company,
- all directors of bodies corporate,
- the transport manager or other competent person,

- persons or companies having a controlling interest in the body applying for the licence,
- any person deemed to be making the application as a nominee or agent for another person,
- any other relevant person.

In relation to these parties, the specified factors that the Department will take into account in determining repute are:

- previous conduct in relation to any involvement with passenger transport (bus) operations;
- any previous revocation or suspension of a bus operator's licence or any refusal to grant a licence;
- any other conduct that the department considers relevant

The Department will consider if there are any compelling grounds for doubting the repute of the operator or the transport manager because of convictions or penalties incurred for any serious infringements of UK law in relation to:

- Commercial law
- Insolvency law
- Pay and employment conditions in the industry
- Road traffic
- Professional liability
- Trafficking in human being or drugs

In addition, if, in any Member State, the operator or transport manager has been convicted of a serious criminal offence or incurred a penalty for a serious infringement of Community rules relating, in particular (but not exclusively) to: -

- The driving time and rest periods of drivers, working time and the installation and use of recording equipment;
- Maximum weights and dimensions of buses
- The initial qualification and continuous training of drivers
- The roadworthiness of vehicles and testing requirements
- Access to the market
- The installation of speed limiters, where required
- Driving licences
- Admission to the occupation of bus operator or transport manager
- Any of the most serious infringements of Community rules set out in Annex IV to Regulation (EC) 1071/2009

The Department will investigate the matter with the presumption that the operator and/or transport manager has lost repute, unless the Department decides, in the specific circumstances of the case, that the loss of repute (and therefore the loss of the licence) would constitute a disproportionate response.

## **Financial Standing**

The Department will not grant a bus operator's licence unless the applicant has appropriate financial resources to enable the undertaking to be properly launched, administered and operated.

Applicants will be required to show evidence of the availability of £7,950 for the first vehicle and £4,400 for each additional vehicle (these figures may be adjusted periodically). Written evidence of the availability of the required finances will be required in the form of bank statements and/or evidence of cash holdings or loan/overdraft facilities. The Department has the right to demand production of certified accounts in relation to the demonstration of appropriate financial standing.

## **Professional Competence**

Operators must have a designated transport manager who must be either an inherent part of the licensed undertaking (e.g. owner, partner, director or employee) or an external transport manager (for example, a self-employed person offering transport management services) contracted to the licensed undertaking. In the case of an external transport manager, there must be a clear contract between the undertaking and the transport manager that specifies the tasks to be performed. A transport manager may not work for more than four operators, with a combined fleet of 50 vehicles. Nominated transport managers must be of good repute and meet the requirements for professional competency.

From 4 December 2011, nominated transport managers must either have:

- an international CPC, or
- a national CPC obtained before 4 December 2011, or
- an exemption as a result of having continuously managed a transport undertaking for a period of 10 years before 4 December 2009, or
- an existing third party qualification

Professional competence is established by:

- passing the examinations for a Certificate of Professional Competence (CPC) set by the OCR Examination Board
- holding certain diplomas and qualifications from professional institutes.

**Full details of the qualifications required for transport managers are set out in Appendix C**

## **Vehicles**

From 4 December 2011, a licence will only be granted to an applicant who can demonstrate that he has at least one vehicle available for the operation of the undertaking. While the availability of vehicles will not be checked routinely by the Department, it reserves the right to do so either randomly or as a result of any concerns about an individual undertaking.

## **Appeals**

### **Refusal of a bus operator's licence**

Section 6(A)(8) of the Transport Act (NI) 1967 provides for the right of appeal to the County against the refusal to grant a bus operator's

licence.

## **Revocation or suspension of an operator's licence**

Section 10(5) of the Transport Act (NI) 1967 provides for the right of appeal to the County Court against the revocation or suspension of a bus operator's licence.

## **Offences**

### **Deception**

It is an offence, with the intent to deceive, to alter, use, or lend any licence, notice or distinguishing mark issued by the Department.

### **False Statements**

It is an offence to knowingly make any false statement for the purpose of obtaining a licence, preventing the grant of a licence, influencing conditions on a licence, obtaining a permit, certificate or control document.

## **Inspections**

Inspectors appointed by the Department have power to:

- enter and inspect any vehicle used for the carriage of passengers for reward and to stop and detain vehicles for inspection
- enter and inspect premises where vehicles are kept or which are used in connection with the bus operation
- require the provision of information in relation to any vehicle that he believes is used for the carriage of passengers for reward
- seize documents believed to be relevant to an offence

It is an offence to wilfully obstruct an inspector or to fail to provide information required or to provide false information to an inspector.

## APPENDIX A

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### **EXEMPTIONS FROM BUS OPERATOR LICENSING (Regulation 10, Roads Service Licensing Regulations (NI) 1989)**

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**You do not need a bus operator's licence for the following activities:**

- (i) the use of a vehicle by the proprietor of a hotel to carry guests and their luggage to or from the hotel to or from a railway station, bus stop, quay or airport;
- (ii) the use of a taxi, that is a vehicle with seating capacity for up to 8 persons (not counting the driver), which stands or plies for hire or is hired without a driver to carry persons and their luggage; (there are separate licensing provisions for taxis)
- (iii) the use of an ambulance to carry persons to or from a hospital;
- (iv) the use of a vehicle by a funeral undertaker for the purposes of funerals;
- (v) the use of a vehicle having seating capacity for up to 8 persons (not counting the driver), pursuant to an arrangement with an Education and Library board to carry children to and from school under Article 52 of the Education and Libraries (Northern Ireland) Order 1986(a).

In addition, undertakings only operating buses under permits issued under the provisions of Section 10B of the Transport Act (NI) 1967 do not require a bus operator's licence. A permit can be obtained by not-for-profit organisations concerned with religion, education, social welfare or other socially beneficial activities. Further guidance is available at;

[www.infrastructure-ni.gov.uk/publications/letter-regarding-issue-and-use-section-10b-permits-road-passenger-transport-and-minibus-driving](http://www.infrastructure-ni.gov.uk/publications/letter-regarding-issue-and-use-section-10b-permits-road-passenger-transport-and-minibus-driving)

## APPENDIX B

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### **DEFINITIONS OF CATEGORIES OF THE SERVICES AND PROCEDURES USED FOR THE DETERMINATION OF APPLICATIONS TO INCLUDE SERVICES ON LICENCES**

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As a result of the introduction of the New Commercial Bus Service Permit System on 5 October 2015, all applications that include bus route licensing, e.g. stage carriage, express services, demand responsive, event specific and scheduled tourist/sightseeing services, will have that function dealt with by the Public Transport Services Division (PTSD) within the Department for Infrastructure (DRD), which has overall responsibility for transport policy.

DVA will continue to be responsible for issuing bus operator licences.

#### **1.REGULAR CONTRACT CARRIAGE.**

This occurs where the holder of a bus operator's licence has a contract with an organisation or group for the hire of his vehicle on a "regular basis", e.g. on one or more occasions per week. Separate fares may be collected but not by the bus operator or any of his employees or agents. In particular **no money** may be collected **on board** the vehicle. The operator will be expected to receive lump sum remuneration from the Contractor no more frequently than weekly.

Since these are individual and specific contractual arrangements, there will be an opening presumption that all the criteria in relation to the interests of passengers, operators and competition have been satisfied.

#### **2.OCCASIONAL PRIVATE HIRE.**

This occurs when a licensed bus operator's vehicle is engaged on an occasional basis to carry a group of passengers, e.g., a day trip, and no money is collected on the vehicle. The operator is paid a lump sum by the organiser to provide the agreed service. Since these are individual and specific contractual arrangements, there will be an opening presumption that all the criteria in relation to the interests of passengers, operators and competition have been satisfied.

#### **3.EXCURSIONS OR TOURS.**

Excursions or Tours are occasional or timetabled, advertised services for the carriage of passengers whereby the nature of the service is, in the Department's opinion, clearly designed only to provide tours or excursions for visitors to the area served within the UK. In case of doubt, the Department will seek an opinion from the NI Tourist Board as to the nature of the proposed service.

NOTE: Applicants will not normally be required to list those destinations over 30 miles from point of departure. Only details of the under 30 miles destinations will routinely need to be supplied to the Department i.e. pick up points and destinations.



As these are specialised services designed to meet a niche demand, there will be an opening presumption that all the criteria in relation to the interests of passengers, operators and competition have been satisfied. However, the Department may, at its discretion, impose licensing conditions, restrict services and/or refuse applications for licences or services where it considers it appropriate to do so in the interests of the safety and convenience of passengers and other road users or in the interests of the tourist industry and the promotion of a positive image of Northern Ireland. In cases of doubt, the Department will seek representations from the PSNI, NI Tourist Board, local authorities DRD and appropriate sponsored bodies for the promotion of tourism.

NOTE: The Department will be watchful of any attempt to use this category of service to disguise what are, in effect, stage carriage or express services.

#### **4. AIRPORT-TYPE SHUTTLE SERVICES.**

This occurs when a licensed bus operator's vehicle is engaged in scheduled or responsive services from a car park to a fixed location, with a single pick up and set down location. As these are specialised services designed to meet a niche demand, there will be an opening presumption that all the criteria in relation to the interests of passengers, operators and competition have been satisfied. However, the Department may, at its discretion, impose licensing conditions, restrict services and/or refuse applications for licences or services where it considers it appropriate to do so in the interests of the safety and convenience of passengers and other road users.

NOTE: The Department will be watchful of any attempt to use this category of service to disguise what are, in effect, stage carriage or express services.

#### **SEPARATE FARES.**

The Department will regard this as including payments to an employer, whether by deductions from payroll or by direct debit collection for the purposes of securing travel to and from work. It would also include the sharing of travel costs within a group, payments to a travel agent, club or association, or payment of a larger sum for a different purpose but which also included the right of a payee to be carried.

If separate fares are paid or collected by the bus operator licensee, his employee, or an agent, in return for any consideration whatsoever, the service cannot be defined as "contract carriage".

## APPENDIX C

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### **PROFESSIONAL COMPETENCY - RECOGNISED QUALIFICATIONS FOR TRANSPORT MANAGERS**

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#### **Transport Managers**

A professionally competent person must be nominated as transport manager on a standard licence. This person can be you if you are qualified or a qualified transport manager that you employ. The person does not have to be part of your full-time staff but must have and be able to demonstrate continuous and effective control of the transport operations. The business may employ more than one transport manager. The professionally competent person must also be of good repute.

If the transport manager is changed at any time, you must notify the Department within 28 days.

A person can be professionally competent for national operations only, or for both national and international operations. If the transport manager has professional competence for national operations only, you should apply for a standard national licence. If they have professional competence for both national and international operations you can apply for a standard international licence.

Changes to the rules concerning transport managers came into effect on 4 December 2011.

#### **The changes are as follows:**

There will be two types of transport manager – “**internal**” and “**external**”;

##### **Internal transport managers**

This type of transport manager is closely connected with the operator. To qualify, they must meet three requirements:

- be resident in a European Union country
- effectively and continuously perform their transport manager role for the operator in question
- have a genuine link to the operator such as being a full-time employee, director or owner.

The same person can act as an “internal” part-time employee transport manager for more than one operator, and therefore be named on more than one operator’s licence. However, in each case, the DVA would need to be satisfied that the person had a genuine link to the operator and satisfy that the requirement of effective and continuous management, as set out above.

## External transport managers

When an operator does not:

- himself/herself fulfil the role of transport manager (i.e. they lack the professional qualification and are perhaps an owner/driver or sole trader); or
- employ a qualified transport manager on a full or part-time basis (i.e. the operator does not have an 'internal' transport manager)

the operator may 'hire in' a transport manager – e.g. a consultant transport manager under contract to an operator on a part-time basis. This is considered to be an 'external' transport manager. The contractor must have effective and continuous management responsibility for the transport activities of the operator and:

- be of good repute and be resident in a European Union country
- have a contract with the operator that specifies the tasks they perform as transport manager. The new regulation sets out, in broader terms, what that contract should cover, although contract details will be a matter for individual transport managers and operators to determine.
- only work for a maximum of 4 operators with a combined maximum total fleet of 50 vehicles – meaning that across all four operators, they cannot have responsibility for more than 50 vehicles. Individual Member States have freedom to lower the 4/50 maximum and DVA is able to set lower limits in individual cases.
- each transport manager must act solely in the interests of the operator and independently of transport customers.

At the discretion of the Department, it is possible for internal transport managers to do some consultancy work for another standard licence holder – as an external transport manager.

## Establishing professional competence

**There are three ways professional competence can be established. These are:**

### **1. Holding grandfather or acquired rights**

There are new rules which came into effect from 4<sup>th</sup> December 2011, which mean that the 'Grandfather Rights' exemptions need to be renewed to remain valid after the 4 December 2011.

A new certificate (which will now be known as "Transport Manager Acquired Rights") will automatically be issued by the Department to all transport managers with 'grandfather rights' who are listed on an operator's licence.

If you were a grandfather rights holder but not listed on an operator's licence in late 2011, you will need to apply to the Department to have those rights renewed.

**TAKE NOTE:** You have until 4 December 2013 to apply for a replacement certificate. These certificates will not be available after that date and, without one, grandfather rights will no longer be valid.

## **2. Possession of a Transport Manager Certificate of Professional Competence**

From the 4 December 2011 a number of Awarding Organisations are able to offer the Certificate of Professional Competence (CPC) examination. A list of Awarding Organisations who have approval to supply the exam is provided at the end of this section. We will update the list over time.

From 4 December 2011 the national Transport Manager CPC examination will be discontinued – all future examinations will be for the International Transport manager CPC. Existing national Transport Manager CPCs will remain valid for national operations after that date.

There are no academic entry requirements for the examination. Neither are there any fixed rules or requirements for study. You can prepare for the examination by:

- Attending a residential course
- Attending a non-residential course
- Studying with the help of a special learning pack or by correspondence course; or
- Studying without assistance.

For details of examination dates, test and syllabus, contact an examination provider.

List of current Transport Manager CPC Awarding Organisations:

- OCR Examinations Board  
Progress House  
Westwood Way  
Coventry CV 4 8JQ

Telephone: 02476 851509

Email: [www.ocr.org.uk](http://www.ocr.org.uk)

## **3. By holding certain professional qualifications given by one of the following groups:**

There are a number of other qualifications that are acceptable as proof for professional competence for the operation of PSVs – as long as they have been obtained before 4 December 2011. You are likely to be exempt from CPC examination if you have one of these qualifications listed below.

The bodies that provided the original qualifications may have provided the qualified persons with new certificates of Transport Manager CPC exemption in late 2011. For licences granted on or after 4 December 2011 an accompanying CPC exemption certificate issued by the examination body will be required to claim exemption from the Transport Manager CPC examination. If you do not have an exemption certificate, but believe you qualify for one, please contact your examining body listed below.

**Note:** These qualifications remain valid as proof of professional competence but only for those who held the qualification on or before the **4 December 2011**.

**For national and international operations:**

- Fellow (FCILT) OR Chartered Member (CMILT) of the Chartered Institute of Logistics and Transport by examination and/or formal accreditation in road passenger transport, on production of the exemption certificate issued by the Institute;
- Member or Associate Member of the Institute of Road Transport Engineers;
- Holder of the Institute of Logistics and Transport Certificate in Logistics and Transport with an endorsement in road passenger transport, on production of the exemption certificate issued by the Institute; or
- Associate of the Institute of Transport Administration by examination.
- Appropriate qualifications awarded in another Member State

**For national operations only:**

- Holder of the Royal Society of Arts Certificate in Road Passenger Transport. This certificate exempts you from the CPC only if it was obtained after May 1984.
- Member (MILT) of the Chartered Institute of Logistics and Transport by examination and/or formal accreditation in road passenger transport, on production of the exemption certificate issued by the institute;
- Associate of the Institute of Road Transport Engineers (by examination); or
- Holder of the Institute of Logistics and Transport Certificate in Logistics and Transport with an endorsement in passenger transport coordination, on production of the exemption certificate issued by the institute.
- Appropriate qualifications awarded in another Member State

**Validity of professional competence in other EU member states (passenger transport)**

If you need to prove your professional competence in another EU country, you will require an international qualification. Depending on the type of qualification, you may also need an additional certificate.

A RSA or OCR full professional competence certificate, issued no earlier than March 1992 (whether it is national or international), is valid in any EU country.

## APPENDIX D

### Repute and Traffic Offences

Repeated convictions for road traffic offences indicate wilful non-compliance, negligence, a disregard for the law and the safety of others or an operator's inability to manage the undertaking properly. The Department will monitor such breaches of the law and will take action on the following basis:

#### 1. Convictions for Road Traffic Offences

<b>Size of Fleet</b> (i.e. max. no. of vehicles on licence during period in question)	<b>Number of Convictions</b> in rolling period of 12 months	<b>Action to be Considered</b>
Up to 9	2	Written Warning
	3	Warning that licence may not be renewed if further offences occur
	4 or more	Referral to case panel for consideration of revocation of road service licence under 10 (3A)
10 - 19	2	Written Warning
	3	Interview and written warning
	4	Warning that licence may not be renewed if further offences occur
	5 or more	Referral to case panel for consideration of revocation of road service licence under 10(3A)

<b>Size of Fleet</b> (i.e. max. no. of vehicles on licence during period in question)	<b>Number of Convictions</b> in rolling period of 12 months	<b>Action to be Considered</b>
20 – 29	3	Written Warning
	4	Interview and written warning
	5	Warning that licence may not be renewed if further offences occur
	6 or more	Referral to case panel for consideration of revocation of road service licence under S10(3A)
30-60	4	Written Warning
	5	Interview and written warning
	6	Warning that licence may not be renewed if further offences occur
	7 or more	Referral to Case Panel for consideration of revocation of road service licence under S10 (3A)
61 or more	5	Written Warning
	6	Interview and written warning
	7	Warning that licence may not be renewed if further offences occur
	8 or more	Referral to Case Panel for consideration of revocation of road service licence under S10 (3A)

## 2. Fixed Penalties, Prohibition and Defect Notices

The imposition of fixed penalties, prohibition notices, defect notices and other action by enforcement authorities will also be taken into account in determining the repute of an operator. In order to establish and maintain procedures that are responsive, proportionate and consistent, action will be graduated. The seriousness of enforcement action will be measured by the award of the following points:

Penalty/Action	Value Assigned	Comments
Driver Fixed Penalty	1 point for each £30 of penalty or part thereof (e.g. penalty of £200 attracts 7 points)	If a defect notice or prohibition notice is served on the operator for the same offence, the total points scored against the operator will be the higher of the score for the fixed penalty or the notice, not both.
Defect Notice	2 points	
Prohibition Notice - deferred rectification	4 points	
Prohibition Notice - immediate rectification	6 points	
Prohibition Notice - endorsed	12 points	A prohibition notice will be “endorsed” by the enforcement officer where the nature of the defect(s) found indicates a high level of non-compliance or inadequate maintenance and inspection practices.
VED Offence - Mitigated penalty - Conviction	3 points 4 points	These are not within the fixed penalty system but will be treated in the same manner



In relation to the points scored against an operator, regulatory action will be triggered on the following basis:

<b>Size of Fleet</b> (i.e. max. no. of vehicle licences held during period 1 - 9	<b>Number of Points</b> in rolling period of 12 months	<b>Action to be considered</b>
1 - 9	10	Written Warning
	20	Interview and warning
	30	Referral to case panel for consideration of the imposition of licence conditions or revocation of the road service licence
10 -19	20	Written Warning
	30	Interview and warning
	40	Referral to case panel for consideration of the imposition of licence conditions or revocation of the road service licence
20 -29	30	Written Warning
	40	Interview and warning
	50	Referral to case panel for consideration of the imposition of licence conditions or suspension of the road service licence
30 -60	40	Written Warning
	50	Interview and warning
	60	Referral to Case Panel for consideration of imposition of licence conditions or revocation of road service licence
61 and over	50	Written Warning
	70	Interview and warning
	90	Referral to Case Panel for consideration of imposition of licence conditions or revocation of road service licence

In addition, every endorsed prohibition notice will result in the operator being interviewed and warned.

## APPENDIX E

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### *Maintaining Roadworthiness- Frequently Asked Questions*

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#### **1. What are the maintenance requirements for passenger vehicles?**

All operators must ensure that their vehicles are maintained in a safe and roadworthy condition at all times when in use on a road. There are two types of essential inspections:-

- (i) **daily walk around checks** which cover the external condition, ensuring in particular that the lights, tyres, wheel fixings, bodywork, trailer coupling, load and ancillary equipment are serviceable
- (ii) **regular safety inspections** which cover all the items included in the statutory annual test

#### **2. What records must be kept?**

Systems must be in place to record defects and their repair. Safety inspection and repair work records must be kept for at least 15 months as part of a vehicle's maintenance record.

#### **3. How often are safety checks required?**

In addition to the daily walk around checks, regular safety inspections are required. The frequencies are in weekly increments to take account of the type of work undertaken, the operating conditions and mileages covered and range between every 4 to 13 weeks.

#### **4. Can an operator do his own maintenance?**

An operator may decide to undertake his own safety inspections and maintenance work in-house or to contract all or part of the work to someone else. If they decide to provide their own safety inspection facilities, they must ensure they are adequate for the job.

#### **5. Can failure at annual test count against an operator's licence?**

In the future the Department plans to introduce an operator compliance risk score which is a mechanism used to calculate which operators are most likely to be non-compliant when checked at the roadside. First and annual test data, including any defects resulting in a failure will be used in the calculation of the score.