EXPLANATORY MEMORANDUM TO

THE SECTION 19 PERMIT REGULATIONS 2009

2009 No. 365

AND

THE COMMUNITY BUS REGULATIONS 2009

2009 No. 366

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instruments revoke and replace existing Regulations which govern the use of public service vehicles by community transport operators under so-called "section 19" and "community bus" permits. These permits are issued to not-for-profit bodies concerned with education, religion, social welfare and other activities of benefit to the community. They exempt the permit holder from the normal licensing requirements which apply to public service vehicles, enabling them to operate community transport services subject to certain conditions.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The purpose of the two instruments is to revoke and replace the Minibus and Other Section 19 Permit Buses Regulations 1987 (S.I. 1987/1230) and the Community Bus Regulations 1986 (S.I. 1986/1245). Amendments to these Regulations were needed to support the implementation of provisions contained in sections 57 to 61 of the Local Transport Act 2008. Those sections amend sections 19 to 23 of the Transport Act 1985, under which permits may be issued to community transport operators as described in paragraph 2.1 above. Permits may be issued by the traffic commissioners, and "standard permits" issued under section 19 of the Transport Act 1985 may additionally be granted by the bodies designated under the Section 19 Minibus (Designated Bodies) Order 1987 (S.I. 1987/1229) ("the Designated Bodies Order").

4.2 Section 7 below describes the policy background to the two instruments covered by this Memorandum; these instruments relate to the first four of the effects described in paragraph 7.2 and, in part, the fifth. A separate instrument will be required in due course to bring into effect fully the revocation and replacement of all permits granted prior to 6th April 2009 (the remainder of the fifth effect), and to

impose any additional requirements about record-keeping (the sixth effect). The Government expects to consult on proposals during the course of 2009.

4.3 The Government has also indicated that it is minded to review the existing arrangements relating to designated bodies, which could lead to future amendments to the Designated Bodies Order.

4.4 The relevant provisions contained in the Local Transport Act 2008 are brought into force by The Local Transport Act 2008 (Commencement No. 1 and Transitional Provisions) Order 2009 (SI 2009/107 C. 08).

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The primary purpose of the amendments contained in sections 57 to 61 of the Local Transport Act 2008 is to remove certain regulatory requirements so as to increase flexibility for the community transport sector, which plays an important role in the provision of local transport services where people's transport needs would otherwise be unmet. The Act also includes provisions designed to modernise the arrangements for the issuing of permits to community transport operators and to improve record keeping.

7.2 The main effects of these amendments made by the Local Transport Act 2008 are: first, to enable vehicles with fewer than nine passenger seats to be operated under a "section 19" permit; secondly, to enable vehicles with more than 16 passenger seats to be operated under a "community bus" permit; thirdly, to remove the restriction in section 23 of the Transport Act 1985 which limited the scope for drivers of community bus services to be paid; fourthly, to enable regulations to require permits issued after a prescribed date to contain an expiry date (which must be no more than five years from the date on which the permit is granted); fifthly, to require all existing (non-time-limited permits) to be revoked and replaced within a five-year period in accordance with provision to be made in regulations; and sixthly, to enable regulations to impose additional requirements about record-keeping.

7.3 The two instruments covered by this Memorandum prescribe the requirements that are to be met by the new classes of vehicles that may be used to provide transport services under "section 19" and "community bus" permits, and by the drivers of those vehicles. These requirements are needed to ensure that these vehicles meet appropriate conditions of fitness, and that drivers are suitably qualified to drive them. Many of these requirements derive from EC legislation. The two instruments also

require that any permit issued on or after 6th April 2009 shall be valid for a period of no more than five years. As a consequence of the provisions in the Local Transport Act 2008, a number of changes are needed to the design of both "section 19" and "community bus" permits and discs, which are also reflected in the two instruments.

- ***Consolidation***

7.4 These two instruments revoke and replace the Minibus and Other Section 19 Permit Buses Regulations 1987 (S.I. 1987/1230) and the Community Bus Regulations 1986 (S.I. 1986/1245), as those instruments had already been amended on a number of occasions.

8. Consultation outcome

8.1 Drafts of these two instruments were published for public consultation on 21 July 2008, and the consultation closed on 17 October 2008, allowing a consultation period of just over 12 weeks. 61 responses were received from a variety of interested parties, including community transport operators and their representative body (the Community Transport Association), local authorities, bus operators and others. The responses indicated widespread support for the proposals, and included a variety of comments at a more detailed level.

8.2 A range of views was expressed about the timing of implementation of the Regulations. Some respondents argued that they should be brought into force at the earliest opportunity (in effect, two months after the Act was passed), while others felt that too short a lead-time could present difficulties for designated bodies and others. The Government concluded that an implementation date of 6th April 2009, with information being disseminated to the community transport sector from February 2009, would strike the most appropriate balance.

8.3 Various other changes were made to the draft instruments following the consultation. More detail about specific matters raised by respondents is contained in the Government's response to the consultation, *Proposals for secondary legislation on community transport permits: response to consultation*, available at www.dft.gov.uk/localtransportact.

9. Guidance

9.1 The Vehicle and Operator Services Agency (VOSA) has issued information leaflets to the designated bodies mentioned in paragraph 4.1 above, who will be most directly affected by the changes, and is working with the Community Transport Association to raise awareness of the increased flexibility that will be available to the sector.

9.2 A revised version of VOSA's guidance about the operation of the community transport permit system will be issued shortly.

10. Impact

10.1 An Impact Assessment is attached to this memorandum.

10.2 Not-for-profit bodies providing community transport services will benefit from the increased flexibility afforded to them by the provisions contained in the Local Transport Act 2008 and these instruments. Some very modest costs will arise as a result of the transition to a system of time-limited permits.

10.3 The proposals do not directly affect the business sector. Community transport operators normally exist to fill gaps in commercial bus service provision, rather than to compete directly with commercial operators, so indirect impacts on the business sector are expected to be limited in scope.

10.4 The Vehicle and Operator Services Agency will incur some costs in implementing and raising awareness of the changes, but these costs are capable of being met from within existing resources.

11. Regulating small business

11.1 The legislation relates to the not-for-profit (community transport) sector, and accordingly does not apply to small business.

12. Monitoring & review

12.1 The outcome of the relevant provisions of the Local Transport Act 2008, and associated secondary legislation, will be assessed as part of the post-legislative scrutiny of that Act in accordance with *Post-Legislative Scrutiny – the Government's Approach* (March 2008, Cm 7320).

13. Contact

Matt Tyler at the Department for Transport (Tel: 020 7944 2284 or email: Matt.Tyler@dft.gsi.gov.uk) can answer any queries regarding the two instruments.

Summary: Intervention & Options

Department /Agency:	Title:	
Department for Transport	**Impact Assessment of The Section 19 Permit Regulations 2009 and The Community Bus Regulations 2009**	
Stage: Implementation	**Version:** Final	**Date: 6 April 2009**

Related Publications: (1) Local Transport Act 2008. (2) Local Transport Act 2008: Proposals for secondary legislation on community transport permits: response to consultation.

Available to view or download at:

http://www.opsi.gov.uk. Annexed to Explanatory Memorandum accompanying the Regulations

Contact for enquiries: Matt.Tyler@dft.gsi.gov.uk **Telephone:** 020 7944 2284

What is the problem under consideration? Why is government intervention necessary?

Community transport plays an important role, principally where there are transport needs that are not being met, and cannot easily be met, by commercial bus operators. The sector provides many of our most vulnerable groups with access to essential goods and services and to social or leisure activities. The Local Transport Act 2008 includes measures to increase flexibility in the provision of transport services by removing unnecessary restrictions on this sector, and to modernise some aspects of the operation of the community transport permit system.

What are the policy objectives and the intended effects?

The policy objectives of these provisions in the Act are to increase the opportunities for not-for-profit bodies to provide specialist transport for the clients they serve (including, in particular, older or disabled people), and to fill gaps in the provision of public transport by commercial bus operators. This should be achieved in ways that provide an acceptable safety standard but avoids unnecessary bureaucracy or expense for the not-for-profit sector.

What policy options have been considered? Please justify any preferred option.

Options are fairly narrowly constrained since many of the matters are subject to EU legislation for which there are various degrees of derogation for non-commercial use. The existing national legislation, primary and secondary, has aimed to make best use of the available derogations and the same approach is being followed with these regulations. In essence, the two options are to make the regulations (enabling the community transport sector to benefit from the reforms contained in the Local Transport Act) or not to do so.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

As part of wider post-legislative scrutiny of the Local Transport Act 2008, in accordance with "Post-Legislative Scrutiny - The Government's Approach" (March 2008, Cm 7320).

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Paul Clark .....Date: 21st February 2009

Summary: Analysis & Evidence

Policy Option:	Description: **Make regulations to give full effect to relevant provisions in the Local Transport Act 2008**

COSTS

ANNUAL COSTS	
One-off (Transition) **Yrs**	Description and scale of **key monetised costs** by 'main affected groups' Service providers (permit holding bodies) will incur the additional direct cost arising from the need to renew permits and pay fees at 5 yearly intervals rather than on one occasion only. Other costs from taking up new options will be at the discretion of the service provider.
£ none monetised	
Average Annual Cost (excluding one-off)	
£ 75,000 from 2014	**Total Cost** (PV) **£ 300,000**

Other **key non-monetised costs** by 'main affected groups' The bodies that simply continue to operate as they did before the Act comes into force will not incur any additional costs other than renewing permits. However, some of the additional opportunities come at a price, eg certain drivers, if paid, will need an additional category of driving licence.

BENEFITS

ANNUAL BENEFITS	
One-off **Yrs**	Description and scale of **key monetised benefits** by 'main affected groups' The main benefits are the security and public protection from an effective permit scheme and the much greater flexibility to offer enhanced community transport services. It would not be feasible to quantify these, but we are confident they would exceed the very low costs of renewing permits.
£ none monetised	
Average Annual Benefit (excluding one-off)	
£ none monetised	**Total Benefit** (PV) **£**

Other **key non-monetised benefits** by 'main affected groups' Greater flexibility for providers, increasing service provision for users. Changes will aid enforcement and safety for the public, and will boost public confidence in the sector by helping ensure the permit system is not used (or abused) by commercial operators seeking to avoid the usual regulatory requirements.

Key Assumptions/Sensitivities/Risks The overall impact of the Regulations will depend on the extent to which the permit holders take up the new opportunities in the Local Transport Act.

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£**

What is the geographic coverage of the policy/option?				Great Britain	
On what date will the policy be implemented?				6th April 2009	
Which organisation(s) will enforce the policy?				TCs/VOSA	
What is the total annual cost of enforcement for these organisations?				£ Negligible	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				N/A	
What is the value of the proposed offsetting measure per year?				£ n/a	
What is the value of changes in greenhouse gas emissions?				£ n/a	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **n/a**	Small **n/a**	Medium **n/a**	Large **n/a**	
Are any of these organisations exempt?	No	No	N/A	N/A	

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ 0 Decrease of £ 0 **Net Impact** **£** 0

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Overview

1. The community transport sector plays an important role in supplying transport needs that cannot be provided by conventional bus services, including services for disabled persons and other vulnerable groups. These services are provided under the two permit systems under sections 19 and 22, respectively, of the Transport Act 1985. The sector has welcomed the provisions in the Local Transport Act 2008 which will remove various restrictions and constraints and enable them to expand the range of services they can offer.

2. The changes to the primary legislation made by the Local Transport Act 2008 meant that the existing regulations had to be amended. The opportunity is being taken to revoke the current regulations which date from 1986 and 1987 and re-enact them with the necessary changes and general modernisation.

3. Permits under section 19 and 22 may be issued only to bodies who operate passenger transport neither with a view to profit, nor incidentally to another activity that is carried out with a view to profit. In the case of section 19 permits (which only authorise the carriage of specified classes of person) they must be bodies concerned with education, religion, social welfare, recreation or other activities of benefit to the community; in the case of section 22 permits (which allow the provision of local services for the public), bodies concerned for the social or welfare needs of one or more communities. Hence permits cannot be held by commercial organisations, though they can include schools in the maintained sector and schools that are registered charities, as well as churches and other faith groups, charities, youth organisations etc. The permits allow these organisations to carry passengers in buses for payment ("hire or reward") – activities which would otherwise require a Public Service Vehicle (PSV) operator's licence, which would be a far more onerous regulatory requirement.

4. The Department's intention is to regulate the voluntary sector no more than is necessary for the purpose of public safety. The sector has a good safety record, but it is important that effective enforcement can take place where it is necessary, and it is important to the community transport sector that the permit system is not used by commercial or quasi-commercial operators seeking a means to avoid the regulatory regime that should rightly apply to them.

The Impact Assessment for the Local Transport Bill

5. The Impact Assessment for the Local Transport Bill gave the following assessment of the provisions concerning community transport permits in the Bill:

> "…relaxation of certain restrictions on the community transport sector. These would (i) increase flexibility as to the type of vehicles that may be used by holders of certain community transport permits; and (ii) enable the drivers of vehicles operated under "section 22" permits to be paid. These measures do not impose costs on community transport operators and will provide new opportunities for those who wish to take them up. The Bill will also replace permits of indefinite duration with time-limited permits and require the keeping of records of permits issued. This will improve monitoring and enforcement and impose only a modest additional cost on designated bodies and permit holders".

6. Nothing in the regulations is judged to vary this assessment.

7. However, the cost implications of the change to time-limited permits (which would normally be granted for the maximum period of 5 years) are sensitive to decisions taken on the level of fee to be charged. The analysis in this IA assumes that fees will remain (in real terms) around the current levels, though this is a matter that will need to be kept under review.

8. These regulations set a date (6th April 2009) from which all new permits will be issued on a time-limited basis (without, for the time being, invalidating existing timeless permits). After this date, newly-issued permits and discs will conform to a new design, which will include an expiry date. In addition, where a permit and/or disc are reported after this date as being lost or destroyed, they will be replaced with a new-style permit and disc, bearing an expiry date. Given that all existing permits will need to be replaced with new-style (time-limited) permits by April 2014, this is considered to be the most straightforward approach – the alternative would have been to issue a duplicate of the old-style (timeless) permit and subsequently recall it for replacement with a new-style (time-limited) permit.

Conditions to be fulfilled by drivers

9. So far as possible, the conditions prescribed in the regulations mirror those in the existing regulations. In many cases they are no different from those which would apply to the driver of a vehicle of the relevant class in other circumstances, but as there are some differences – additional requirements or derogations – it is convenient to spell them out in full in each case. The normal driver requirements are prescribed by the Motor Vehicles (Driving Licences) Regulations 1999 which transpose Council Directive 91/439/EEC ("the Council Directive"), as amended.

10. The new conditions applying to drivers of Community Buses adapted to carry more than 16 passengers ("large buses") are the same as those which apply to drivers under large bus section 19 permits. These are no different from the normal driver requirements, and therefore create no new or additional costs.

11. The conditions applying to drivers of small community buses have been aligned to the corresponding conditions under the section 19 regulations to take account of the fact that it will be possible to pay the drivers. The conditions under each set of regulations rely on a derogation from the Council Directive which applies only to the driving of vehicles with 9 to 16 passenger seats (sub-category D1) for social purposes for a non-commercial body in a voluntary capacity. If these conditions are not all satisfied, the driver must hold a licence to drive vehicles in category D or sub-category D1. The details are set out more fully in the regulations themselves.

12. The Section 19 Permit Regulations apply conditions as to age of drivers and the minimum period for which a licence must have been held to the drivers of vehicles with fewer than 9 passenger seats. These conditions (which also apply to the drivers of small buses under permits) are justified on grounds of safety, to prevent young or inexperienced drivers from driving vehicles with paid passengers. They reduce the available pool of drivers, but do not otherwise impose any cost or burden on the bodies holding the permits. In finalising this aspect of the Regulations, careful consideration has been given to the need to balance public safety with the benefits of flexibility. In coming to a final view, the Department has attached particular weight to the views of the sector's representative body, the Community Transport Association, who supported the inclusion of these provisions.

Conditions of fitness for vehicles

13. In general any public service vehicle adapted to carry more than 8 passengers requires a Certificate of Initial Fitness (COIF). To obtain one, the vehicle must be inspected and passed as compliant with the conditions of fitness prescribed for such vehicles. The primary legislation makes provision for exemptions from the COIF requirement for any vehicle used under a small bus section 19 permit or under a section 22 permit, provided

that other conditions of fitness are satisfied. As with the driver conditions, the new regulations mirror as far as possible the conditions prescribed in the previous regulations.

14. For vehicles adapted to carry more than 16 passengers ("large buses" under the existing section 19 regulations), no special conditions have been prescribed and these vehicles require a COIF. The Community Bus Regulations 2009 would treat large buses used under section 22 permits in the same way.

15. Although there is expense and time involved in submitting a vehicle for a COIF test, we consider that in real terms the burden would be negligible. This is because a COIF is required only when a vehicle has not previously been used as a public service vehicle. On the evidence of existing section 19 large buses, it is unlikely that a non-commercial body would acquire a new bus outside the 9-16 seat category, and it would also be unlikely to acquire a second-hand bus that had not already obtained a COIF (very few vehicles of these types are in use in Great Britain that have not at some time been used as public service vehicles). So at worst the cost of the COIF would be reflected in the price of the second-hand vehicle. At present (as from 1 August 2008) the fee for submitting a vehicle for a COIF is £269. This would be a small element in the cost of purchasing and operating a used vehicle.

16. For vehicles in the 9-16 passenger category, it is sufficient to comply with the regulations that apply to this type of vehicle generally – these are regulations 41 to 43 of the Construction and Use Regulations 1986. However, certain vehicles still in use may have been first used before those regulations came into force, and provision is made for them by reference to certain provisions in the Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations 1981 – these correspond to the conditions prescribed in now repealed regulations from 1977 and 1978. The effect therefore is simply to provide for the continued use of these older vehicles without the need for a COIF.

17. The vehicle conditions will be further reviewed when decisions have been taken as to the implementation of a European Directive on Whole Vehicle Type Approval. A consultation on this subject is in progress.

Permits and discs

18. In relation to the permits and discs themselves, the regulations differ in some detail from the existing ones, mainly to deal with the new vehicle categories and the introduction of time-limited permits. These changes in themselves will have no impact on the user, although the addition of a new category of person who may be carried under section 19 permits will add further flexibility to community transport operators.

19. The consultation-stage impact assessment noted that there would be some small cost to the designated bodies if they need to destroy unissued permits and discs of the old type, but this will be negligible, and replace these with new-style permits. However, since the consultation, VOSA has indicated that new-style permits will be supplied in reasonable quantities to designated bodies free of charge, so this is no longer considered to be an issue.

20. There will be no immediate need for permit holders (ie community transport operators themselves) to replace existing permits and discs with time-limited ones, but this need will arise at some point within the next 5 years, depending on future decisions about the timescale for their replacement. There will be further consultation on this issue, and regulations will be drafted under separate primary powers for that purpose in due course.

21. The main purpose of placing a time limit on permits is to ensure that the traffic commissioners and designated bodies have an opportunity to review the suitability of the permit-holder to continue as such, and generally to promote better communication with the permit holders. Increasing the rigour of the permit system, with better central record-keeping, will help to protect and enhance the reputation of the community transport sector,

by helping to ensure that the permit system is not abused by commercial operators seeking to avoid the operator licensing system that applies to them. This issue was raised by quite a number of respondents to the consultation on the draft regulations. .

22. The Act provides for a duration of permits not exceeding 5 years. This is also the maximum period before a licence to operate a public service vehicle commercially needs to be reviewed. It would be possible in these regulations to prescribe a shorter period than 5 years, but significantly more frequent renewals (e.g. every 1 or 2 years) would be an added administrative burden with no obvious regulatory benefit. It would also be an expensive option as a fee of some kind would have to be charged by the traffic commissioners and local authorities to cover the administrative costs. A period significantly longer than 5 years would have fewer advantages over a timeless system, since the permit-granting bodies would still be in danger of losing touch with the permit holders and hence unable to regulate the use of the permits satisfactorily. Renewal every 5 years seems about the right balance to ensure regular contact and awareness by the holder that the permit will need to be renewed and that renewal is not automatic. The maximum 5 years duration is prescribed in the primary legislation.

23. The following table shows the number of permits of each category granted (a) in financial year 2007-08, and (b) cumulatively over the last five financial years.

Period	Small bus s19 - TC	Small bus s19 – LA	Small bus s19 – other DB*	Large bus s19	Community bus s22
2007-08	1,424	1,631	1,111	33	1
Cumulative since 2003-04	10,031	8,548	7,083	338	71

* Designated bodies other than local authorities

24. A comparison of the two rows will show that there is considerable year-on-year fluctuation, particularly in the rarer categories (50 community bus permits were granted in 2006-07 but only one in the following year), so a calculation based on a single year's figures would be misleading.

25. Each permit (and each disc) authorises the use of one vehicle, but is interchangeable between vehicles. As permits currently have no expiry date it is impossible to know how many of those granted since 2003-04 are still in use, but we may assume that the majority are, as well as many that were granted in earlier years. They will only have fallen out of use if the body in question ceases to provide the services, or no longer requires as many vehicles, so has permits surplus to its current requirements. Since vehicles may be shared by more than one body, each separate one requiring the permit, it does not follow that each permit currently in use represents one vehicle. Conversely, a body may hold one permit, but use different vehicles on different occasions (particularly if it hires or borrows them from other organisations).

26. The lack of basic information has over the years created a situation where the traffic commissioners have little contact, if any, with the permit holders and few means of ensuring that the conditions of issue are understood and complied with, and this may also apply to some of the local authorities who issue permits as designated bodies. Enforcement of the conditions of use rests largely with the traffic commissioners and VOSA on their behalf, since it is not realistic to expect the designated bodies (apart perhaps from local authorities) to undertake this function. The consultation document *Strengthening local delivery: the draft Local Transport Bill* had proposed that in future there should only be one body – the traffic commissioners – issuing all section 19 permits. However, this proposal was strongly opposed by the community transport sector, and the Act therefore preserves the existing arrangements. The replacement of timeless permits

with ones limited to 5 years – together with stronger record-keeping requirements - was included in the Bill when it was introduced to Parliament, as a less burdensome alternative that would help improve the flow of information to the traffic commissioners and allow more effective oversight of the permit system.

27. The pattern of permit issue over recent years suggests that the number of section 19 small buses in service continues to grow whereas the number of section 19 large buses, and community buses, never large, is fairly static. However, the provisions in the Local Transport Act are likely to increase the demand for community bus permits, in some cases from bodies that currently use section 19 permits. This might (but will not necessarily) lead to a drop in demand for additional section 19 permits.

28. It is fairly evident that the vast majority of the permits granted since 2003-04 are still in use and will need to be replaced with time-limited permits before the date (still to be determined) when they are deemed to be invalid. But apart from that it is extremely difficult to forecast the number of new or replacement permits that will be applied for in future years, and hence the economic effect of the transition to time-limited permits.

Benefits and costs

29. The benefits and costs are easy enough to define but, for reasons stated above, very difficult to quantify. Almost entirely, too, they arise from the changes in primary legislation rather than the specific provisions of these regulations. The regulations are simply a necessary step to enable the primary legislation to be brought into effect.

30. *Benefits* are:

31. The ability of bodies holding section 19 small bus permits to use vehicles with fewer than 9 passenger seats as well as those in the 9-16 passenger band. This could be helpful where demand is variable and the availability of drivers with D1 entitlement may also be variable. It would also enable some voluntary car schemes who rely on the car-sharing exemption from public service vehicle operator licensing to operate under section 19 permits. Despite the cost of a permit, this could be economically advantageous as it would allow them more flexibility over the fares they charge. It would also provide more flexibility for groups serving disabled people, since the removal of seats to provide wheelchair space need not affect the right to use a vehicle under a section 19 permit even if the resulting number of passenger spaces was less than 9. Under the provisions of these regulations existing holders of small bus permits would be able to use the smaller vehicles without needing to exchange permits or obtain new ones. The small bus permits – reclassified as “standard permits” would authorise the use of any passenger vehicle up to the 16 passenger limit, with no lower limit.

32. For users of section 22 permits, the extension to vehicles adapted to carry more than 16 passengers could be helpful where existing vehicles are full to capacity, or where available replacement models have higher seating capacity. The ability to employ drivers for payment as well as rely on pure volunteers has been welcomed by the community transport sector despite the fact that, because of driver licensing rules, not all drivers could accept payment without passing the more demanding category D driving test. In this respect the regulations make the best use of available derogations from the Council Directive.

33. *Costs* are inevitably incurred by those who take up the new options (except perhaps for the one of using smaller vehicles under section 19 permits) but all of these options, and hence costs, are discretionary. They will be only incurred where there is a financial and economic case and the benefits of new services are sufficient to justify an expansion. The only unavoidable cost is that of replacing permits at 5 yearly intervals rather than holding them indefinitely. Experience with managing the indefinite permit system suggests that the change will bring benefits to the end-user – the passenger, in terms of a better regulated sector, though at some cost to the bodies providing the service. A modest cost that recurs

(for each vehicle) only at five yearly intervals is only a very small proportion of the total cost of the operation. The monetised cost on the "Summary: Analysis and evidence" sheet assumes that 5,000 permits would need to be replaced in a typical year, at an average cost of £15 per permit. Given that time-limited permits will start to be issued from April 2009, the net present value shown on the summary sheet also assumes that replacement costs will be incurred only from 2014.

Competition and small firms impact

34. For the most part, community transport has developed in order to meet particular transport needs that are not financially attractive for the commercial sector to provide in the free market. Many of the community transport operators who will benefit from the provisions in the 2008 Act and these Regulations will be small, local operators.

35. There may be some competition between community transport bodies and commercial operators at the margin, and where it arises such competition may particularly affect smaller commercial operators. However, such competition is judged to be limited and localised in scope, and the Government considers that the benefits resulting from community transport provision significantly outweigh any adverse impact on commercial operators. It is recognised that changes made by the 2008 Act and these Regulations could increase the scope for competition between community transport and commercial operators, as some respondents to the consultation have pointed out. Accordingly, once the new arrangements have bedded in, the Government would welcome any evidence of the extent to which this is happening in practice.

Rural impact

36. Lower population densities, and consequently limited demand for public transport services, mean that the community transport sector often plays a particularly important role in rural areas. Accordingly, although the provisions in the Local Transport Act and these regulations apply equally to rural and urban areas, there is scope for their impact to be particularly beneficial in rural areas.

37. In the consultation on the draft regulations, a significant number of responses suggested that there has been a lack of certainty about the extent to which services provided under section 19 permits may be used to carry members of the general public (as opposed to persons falling within a particular category) who happen to live in more remote rural areas. In response to that lack of certainty, the regulations have been revised so as to include a new category of persons who may be carried under section 19 permits. It is hoped that this will address the apparent lack of certainty, with particular benefits for the provision of community transport in rural areas. It also remains the case that services may be provided for the general public under section 22 permits.

Other impacts – race, disability and gender equality

38. The community transport sector is a major provider of specialist services for disabled people, in particular those who are prevented by their disabilities from driving or from using mainstream public transport. It also caters for various other minority or disadvantaged groups through the provision of services by bodies concerned with social welfare, education etc. It also includes a number of bodies related to churches and other faith organisations. The changes in the Local Transport Act which these regulations will help implement have potential benefits for all users of community transport. The regulations themselves are neutral in respect of equality issues.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	No	No
Rural Proofing	Yes	No