STATUTORY INSTRUMENTS

2010 No. 464

ROAD TRAFFIC

The Goods Vehicles (Licensing of Operators) (Fees) (Amendment) Regulations 2010

Made - - - -	*23rd February 2010*
Laid before Parliament	*2nd March 2010*
Coming into force - -	*1st April 2010*

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by sections 45(1) and 57(1), (2) and (7) of the Goods Vehicles (Licensing of Operators) Act 1995(**a**).

The Secretary of State has consulted with such representative organisations as were thought fit in accordance with section 57(12) of that Act.

The Administrative Justice and Tribunals Council has been consulted and that Council has consulted the Scottish and Welsh Committees, in accordance with section 44 of and paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(**b**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Goods Vehicles (Licensing of Operators) (Fees) (Amendment) Regulations 2010 and come into force on 1st April 2010.

(2) In these Regulations, "the principal Regulations" means the Goods Vehicles (Licensing of Operators) (Fees) Regulations 1995(**c**).

Amendments to the Goods Vehicles (Licensing of Operators) (Fees) Regulations 1995

2.—(1) The principal Regulations are amended as follows.

(2) In regulation 2(2), the definitions of "election", "five yearly anniversary" and "one yearly anniversary" are omitted.

(3) In regulation 3, paragraph (7A) is omitted.

(4) Regulations 4 and 5 are omitted.

(**a**) 1995 c.23. See section 58(1) for the meaning of "prescribed" and "regulations".
(**b**) 2007 c.15. The Traffic Commissioners are a listed tribunal for the purposes of paragraph 24 of Schedule 7 by virtue of the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007 (S.I. 2007/2951) and the Administrative Justice and Tribunals Council (Listed Tribunals) (Scotland) Order 2007 (S.S.I. 2007/436) . The "Scottish Committee", "Welsh Committee" and "procedural rules" are each defined in paragraph 28(1) of Schedule 7.
(**c**) S.I. 1995/3000, to which relevant amendments have been made by S.I. 2007/687, S.I. 2008/1474 and S.I. 2009/804.

Refunds

3.—(1) For the purposes of these Regulations—

(a) a licence has "ceased to be in force" where it has been revoked under sections 26(1) or 27(1) or has been surrendered or otherwise terminated under the Goods Vehicles (Licensing of Operators) Act 1995 or any other enactment;

(b) "an earlier refund" is a refund payment made, before 1st April 2010, under regulation 4 of the principal Regulations as they had effect before the coming into force of these Regulations;

(c) the "effective date" of an earlier refund is to be determined in accordance with section A of Part 3 of the Schedule;

(d) subject to paragraph (4), "the monthly rate" is F÷N, where F is the relevant fee payment and N is the number of months in the relevant fee period;

(e) a "relevant fee payment " is a payment made at the rate applicable before 20th April 2009 in respect of fee numbers (v) or (vi) in the Schedule to the principal Regulations as they had effect before that date;

(f) the "relevant fee period" is the period for which a relevant fee payment was payable in accordance with regulation 3(5) of the principal Regulations as they had effect before 20th April 2009.

(2) Subject to paragraphs (4), (5) and (6), a refund, calculated in accordance with the formula set out in Part 1 of the Schedule, is to be paid in respect of that part of any relevant fee payment which relates to any part of a relevant fee period occurring after 31st March 2010.

(3) Subject to paragraphs (4), (5) and (7), a refund, calculated in accordance with the formula set out in Part 2 of the Schedule, is to be paid in respect of that part of any relevant fee payment which relates to any part of a relevant fee period occurring after 31st March 2009 and before 1st April 2010.

(4) Where there has been an earlier refund, the monthly rate is to be adjusted, for the purpose of calculating the refund due under paragraph (2) or (3), as follows —

(a) the monthly rate is to be applied in full only to that part of the relevant fee period occurring before the effective date of the first or only earlier refund; and

(b) a deduction, or successive deductions, calculated in accordance with section B of Part 3 of the Schedule, is to be made to the monthly rate, for the period beginning on the effective date of each earlier refund and ending on the last day of the relevant fee period.

(5) Where there was an entitlement in respect of a relevant fee payment to a refund under regulation 4 of the principal Regulations, as they had effect before the coming into force of these Regulations, but none was made, before 1st April 2010, any refund paid in respect of that relevant fee payment under paragraph (2) or (3) is to discharge an equivalent amount of that earlier entitlement.

(6) Paragraph (2) does not apply where a licence has ceased to be in force before the coming into force of these Regulations.

(7) Where a licence has ceased to be in force before the coming into force of these Regulations payment of a refund under paragraph (3) is to be made only —

(a) if an application in writing for that refund has been made to a traffic commissioner (**a**); and

(b) in respect of complete months in the period before the licence ceases to be in force or before the effective date of an earlier refund (if earlier).

(**a**) Traffic commissioners are appointed under section 4 of the Public Passenger Vehicles Act 1981 (c.14) as substituted by section 3(2) of the Transport Act 1985(c.67); section 4 is amended by section 2 of the Local Transport Act 2008 (c.26) from a day to be appointed.

Signed by authority of the Secretary of State

Paul Clark
Parliamentary Under Secretary of State
Department of Transport

23rd February 2010

SCHEDULE

Regulation 3

Calculation of refunds

PART 1

Calculation of refund due in accordance with regulation 3(2)

The refund payable, in accordance with regulation 3(2), in respect of a relevant fee payment is calculated using the formula—

$$R1 = M1 \times MR$$

Where—

R1 is the refund due in accordance with regulation 3(2);

M1 is the number of complete months in the period starting on 1st April 2010 and ending on the last day of the relevant fee period; and

MR is the monthly rate, as defined in regulation 3(1)(d).

PART 2

Calculation of refund due in accordance with regulation 3(3)

The refund payable, in accordance with regulation 3(3), in respect of a relevant fee payment is calculated using the formula—

$$R2 = \left(M2 \times MR\right) \div 2$$

where—

R2 is the refund due in accordance with regulation 3(3);

M2 is the number of complete months falling within the period that began on 1st April 2009 and ended on either the last day of the relevant fee period, or 31st March 2010, whichever is the earlier; and

MR is the monthly rate, as defined in regulation 3(1)(d).

PART 3

Section A

Determining the effective date of an earlier refund for the purposes of regulation 3(1)(c)

The "effective date" of an earlier refund is the first day of the earliest or only complete 12 month period in respect of which the earlier refund is payable, working continuously backwards from the last day of the relevant fee period.

Section B

Deduction to be applied to the monthly rate, in accordance with regulation 3(4)(b)

A deduction to be applied to the monthly rate (MR), in accordance with regulation 3(4)(b) is calculated using the formula—

$$D = \left(E \div M3\right) \times N$$

where—

D is the amount by which the MR is to be reduced for the remainder of the period, after the effective date of the earlier refund;

N has the same meaning as in regulation 3(1)(d);

E is the earlier refund;

M3 is the number of complete months which were taken into account, under regulation 4 of the principal Regulations (as they had effect before the coming into force of these Regulations) for the purposes of calculating E.

In the case of multiple earlier refunds, an additional deduction, calculated with the same formula, is to be made to MR, for each period beginning on the effective date of each earlier refund and ending on the last day of the relevant fee period.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Goods Vehicles (Licensing of Operators) (Fees) Regulations 1995 ("the principal Regulations") and make provision for refunds of certain fees previously charged under them. The principal Regulations prescribe fees, in relation to the licensing of operators of goods vehicles, under the Goods Vehicles (Licensing of Operators) Act 1995.

The principal Regulations were last amended with effect from 20th April 2009, by the Goods Vehicles (Licensing of Operators) (Fees) (Amendment) Regulations 2009 (S.I. 2009/804) ("the 2009 Amending Regulations"). The 2009 Amending Regulations abolished vehicle related charges (those in Part II of the Schedule to the principal Regulations) from 1st April 2010 and reduced those charges to an amount equal to £2 per vehicle, per month, or part thereof, in respect of the transitional period up to and including 31st March 2010.

These Regulations contain refund provisions relating to vehicle related charges which have been paid in advance, at rates applicable before the 2009 Amending Regulations came into force. Payments made at those rates in respect of each complete month beginning on or after the 1st April 2010 are refunded in full (*regulation 3(2) and Part 1 of the Schedule*). Payments which were made at these earlier rates in respect of complete months in the period beginning on 1st April 2009 and ending on either 31st March 2010 or an earlier date, are refunded at half the rate paid (*regulation 3(3) and Part 2 of the Schedule*). Payments made at transitional rates prescribed by the 2009 Amending Regulations do not attract a refund

Where an earlier refund has been made against part of the relevant fee payment (defined in *regulation 3(1)(d)*), for all or part of the period that the relevant fee payment was intended to cover, the value of the monthly rate used to calculate the refund payable under *regulation 3(2)* or *(3)* is reduced *(regulation 3(4))*. Where a refund entitlement arose under regulation 4 of the principal Regulations, as they had effect before the coming into force of these Regulations, but has not yet been paid, any refund paid under these Regulations is to discharge the equivalent amount of such an entitlement (*regulation 3(5))*.

In addition, where a licence ceased to be in force before the date of coming into force of these Regulations, no refund is payable under *regulation 3(2)*, although a refund may be payable under *regulation 3(3),* provided the operator makes an application in writing (*regulation 3(6) and (7)*).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the VOSA Corporate Office, Berkeley House, Croydon Street, Bristol BS5 0DA. The impact assessment is also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website at www.opsi.gov.uk.

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