

21 JULY 2008

Dear Sir/Madam,

LOCAL TRANSPORT BILL – PROPOSALS FOR SECONDARY LEGISLATION ON COMMUNITY TRANSPORT PERMITS

I am writing to invite you to comment on draft regulations which the Department is proposing to make assuming the Local Transport Bill, which is currently before Parliament, receives Royal Assent. The regulations relate to the conditions of use and procedures applying to vehicles used under permits granted to community transport groups under section 19 and section 22 of the Transport Act 1985, as this Act would be amended by clauses 52 to 56¹ of the Local Transport Bill. The amendments in those clauses would allow greater flexibility over vehicle size, and over the payment of drivers of community buses. They also make provision for the issue of time-limited permits, the phasing out of existing timeless permits, and for the keeping of records of permit issue. **The regulations would apply throughout Great Britain.**

Two sets of draft regulations are annexed, one in relation to section 19 permits and the other in relation to Community Bus (section 22) permits. These regulations would revoke and replace the existing sets which date from 1987 and 1986 respectively. Further secondary legislation, to amend the Designated Bodies Order and to phase out the existing “timeless” permits is planned for a later stage.

The closing date for responses is **Friday 17 October 2008**.

Background

The Local Transport Bill is currently before Parliament. The provisions in the Bill relating to community transport have so far attracted no opposition in the Parliamentary debates. We therefore consider it appropriate to consult on our proposals for the regulations which Ministers would wish to make as a consequence of changes to the existing legislation which are contained in the Bill. A consultation exercise in advance of Royal Assent will allow us to minimise the time between Royal Assent, should the Bill be enacted, and commencement of the relevant provisions so that community transport providers can take advantage of the new added flexibilities as soon as possible.

¹ References are to clauses in the 8th May print of the Local Transport Bill as amended in Public Bill Committee in the House of Commons. An electronic version of this print is available from the UK Parliament website (www.parliament.uk). Apart from renumbering, no amendments have been made to these clauses since the Bill was introduced in the House of Lords in November 2007.

This consultation is not about the principle of amending the permit legislation. That was covered in the wider consultation exercise on the draft Bill which took place in 2007. Clauses 52 to 56 of the Bill have been drafted in the light of that consultation and are now being considered by Parliament. This consultation exercise therefore concentrates on the draft regulations which will be needed in order to bring into force the provisions on vehicle size, driver payment and the issuing of time limited permits. It also sets out the Department's proposals for the later group of changes, to seek preliminary views prior to a further consultation.

Purpose of the Regulations

As mentioned above, there are two sets of draft regulations, relating to the two permit systems. However, they have many features in common.

The draft Section 19 Permit Regulations would revoke and replace the Minibus and Other Section 19 Permit Buses Regulations 1987 (S.I. 1987/1230) as amended.

The draft Community Bus Regulations would revoke and replace the Community Bus Regulations 1986 (S.I. 1986/1245) as amended.

In addition to re-enacting the existing regulations, with some modernisation, the Section 19 Permit Regulations would provide for the use of vehicles adapted to carry fewer than 9 passengers (when used as public service vehicles rather than for exclusive hire) under section 19 permits. The new Community Bus Regulations would provide additionally for the use of vehicles adapted to carry more than 16 passengers and for the attachment of conditions relating to the type of vehicle that may be used under a section 22 permit. They would also make additional provision for the driving licence requirements of drivers who are paid to drive community buses, over and above the out-of-pocket expenses permitted under existing legislation.

The provisions about permits and discs in both sets of regulations are amended to provide that all permits issued after a particular future date will expire after a period of time (maximum 5 years) rather than remaining in force indefinitely. The regulations include appropriate amendments to the design of permits and discs to reflect these and other changes.

Annexes

The following Annexes are attached to this document:

- A. A full description of the proposals, with requests for comments.
- B. The draft Section 19 Permit Regulations.
- C. The draft Community Bus Regulations.
- D. A consultation-stage Impact Assessment, covering both sets of regulations.
- E. A summary of the questions on which we are seeking feedback
- F. A pro-forma for responding.
- G. A list of those consulted.
- H. The Code of Practice on Consultation.

Copies of documents, and other enquiries

Paper copies of the consultation papers can be obtained by e-mailing your postal address to LocalTransportBill@dft.gsi.gov.uk. General enquiries about the proposed regulations should also be made to the same e-mail address. Electronic copies of the consultation documents are available on the DfT website at www.dft.gov.uk/localtransportbill.

Responses

If you wish to submit a response to this consultation, it should be e-mailed to LocalTransportBill@dft.gsi.gov.uk (with *Local Transport Bill (Community Transport) Consultation* in the e-mail subject line), or sent to

Sharon Adhikari
Local Transport Bill (Community Transport) Consultation
Zone 3/11
Department for Transport
76 Marsham Street
London SW1P 4DR

When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

Responses should arrive no later than 17 October 2008, please.

The information you send us may need to be passed to colleagues within the Department for Transport, and we intend to publish a summary of the responses received to this consultation. In accordance with the requirements of the Freedom of Information Act 2000, all information contained in your response to this consultation may be subject to publication or disclosure. This may include personal information such as your name and address. If you want your response or your name and address to remain confidential, you should state this clearly in your response, and explain why confidentiality is necessary. Your request will be granted only if it is consistent with Freedom of Information Act obligations. An automatic confidentiality disclaimer generated by your e-mail system will not be regarded as binding on the Department. Anonymous responses will be disregarded.

Code of Practice on Consultation

This consultation has been produced in accordance with the principles of the Government's Code of Practice on Consultation. A copy of the Consultation Criteria is included at Annex H.

If you have any suggestions of others who may wish to be involved in this consultation please contact us.

What will happen next

A summary of responses to this consultation will be published after the consultation period has closed on our website: www.dft.gov.uk. Paper copies will be available on request.

The Department maintains an e-mail distribution list, which it uses to inform interested parties of latest developments relating to the Local Transport Bill. If you wish to be included in this distribution list, please email localtransportbill@dft.gsi.gov.uk.

Our detailed plans for bringing into force the provisions in the Bill relating to community transport will depend on the responses received to this consultation, and on the remaining stages of the Parliamentary process. Our current working assumption is that the provisions about vehicle size and payment of drivers would be brought into force, together with these Regulations, around the beginning of 2009, and that provisions for the issue of time-limited permits will come into force in spring 2009.

Yours sincerely

Peter Openshaw

LOCAL TRANSPORT BILL: PROPOSALS FOR SECONDARY LEGISLATION ON COMMUNITY TRANSPORT PERMITS

Explanation of the proposals and request for comments

Introduction

Local Transport Bill

1. The Local Transport Bill (“the Bill”) is currently before Parliament. It was introduced in the House of Lords in November 2007 and brought to the House of Commons on 31 January 2008. Prior to Introduction, the Department for Transport published a draft of the Bill for consultation in May 2007 and the Bill as introduced took account of responses to that consultation, including responses about the community transport provisions.
2. Clauses 52 to 56 of the Bill¹ make various changes to the primary legislation on community transport contained in sections 18 to 23 of the Transport Act 1985 (“TA 1985”). The purpose of the changes is to remove certain legislative restrictions that are no longer considered necessary, and to modernise the community transport “permit” systems. The intention is that these measures will help the community transport sector to enhance further its contribution to meeting transport needs that are not well served by commercial operators.

The Transport Act 1985

3. Section 18 of the TA 1985 disapplies the requirement for a public service vehicle (“PSV”) operator’s licence to be held where PSVs are used under permits granted in accordance with section 19 or section 22 of that Act. *Section 19* permits may be granted to bodies concerned with education, religion, social welfare, recreation or other activities of benefit to the community. A condition of use is that the vehicles must not carry members of the general public, but only specified classes of person, and must not be used with a view to profit, nor incidentally to an activity which is itself carried on with a view to profit. There are two types of section 19 permit. “Small bus permits” (the vast majority in issue) authorise the use of vehicles adapted to carry more than 8 but no more than 16 passengers. These may be granted either by the traffic commissioners or by various

¹ References are to clauses in the 8th May print of the Local Transport Bill as amended in Public Bill Committee in the House of Commons. An electronic version of this print is available from the UK Parliament website. Apart from renumbering, no amendments have been made to these clauses since the Bill was introduced in the House of Lords in November 2007.

Designated Bodies², which include local authorities and a number of national organisations. “Large bus permits” may be granted only by the traffic commissioners and only to “a body which assists and co-ordinates the activities” of bodies concerned with education, religion, social welfare or other activities of benefit to the community.

4. *Section 22* permits may be granted (by the traffic commissioners only) to bodies concerned with the social and welfare needs of one or more communities for the purpose of running local bus services available to the general public (which, like other local services, must be registered with the traffic commissioner) and the service must be operated without a view to profit, either on the part of the body or of anyone else. The vehicles used under a *section 22* permit must be adapted to carry more than 8 but no more than 16 passengers.
5. For each permit system, conditions relating to the driver and vehicle, and other matters, may be prescribed by regulations made under *section 21* and *section 23* of the 1985 Act respectively

How the Bill will affect this

6. The effect of the amendments to the TA 1985 in the Bill, in brief, is:
 - a. to extend the *section 19* permit scheme so that vehicles adapted to carry fewer than 9 passengers can be used under permits. These vehicles would be useable under what are currently called “small bus permits”, currently available for vehicles adapted to carry between 9 and 16 passengers.³
 - b. to extend the *section 22* permit scheme to vehicles above the current threshold of 16 passengers.
 - c. to remove the prohibition on paying drivers of *section 22* permit vehicles.
 - d. to move from the current system of permits of indefinite duration to one where permits are granted for a period of up to 5 years.
 - e. to formalise the record keeping requirements for traffic commissioners and designated bodies.

² These are bodies designated in an order made by the Secretary of State, or Welsh Ministers, under *section 19(7)* of the TA 1985.

³ Please note however, that such vehicles can only be so used as “public service vehicles” within the meaning of *section 1(1)(b)* of the Public Passenger Vehicles Act 1981 – “for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers”. In other words they cannot be used to provide exclusive hirings, where the vehicle is hired as a whole like a taxi or private hire vehicle (“PHV”).

How these changes relate to the secondary legislation

7. These changes have implications for the secondary legislation made under the TA 1985. It will be necessary to amend that legislation before the clauses in the Bill are brought into effect – though not all amendments are equally urgent. The Department wishes to give priority to commencing the provisions that will bring benefits and increased opportunities to the community transport sector, while the phasing out of timeless permits and the record-keeping requirements can be brought in more gradually.
8. The secondary legislation currently in force is:
- The Community Bus Regulations 1986 (S.I. 1986/1245) as amended (“CBR”);
 - The Minibus and Other section 19 Permit Buses Regulations 1987 (S.I. 1987/1230) as amended (“MR”);
 - The Section 19 Minibus (Designated Bodies) Order 1987 (S.I. 1987/1229) as amended (“DBO”).
 - Also relevant are: The Public Service Vehicles (Traffic Commissioners: Publication and Inquiries) Regulations 1986 (S.I. 1986/1629) as amended (“TCR”) which make provisions about record-keeping.
9. The following table explains how the changes in the Bill need to be reflected in the secondary legislation:

<i>Clause</i>	<i>Effect</i>	<i>Regulation needed</i>
52	S19: Use of smaller PSVs (fewer than 9 passengers)	MR: Change of wording on permits and discs – “small bus” no longer appropriate. MR: Specification of conditions to be fulfilled by driver of PSV with fewer than 9 passenger seats.
52(6)	S19: Designated bodies to keep records, and make returns on variations and revocations	DBO
54(2)	S22: Use of larger PSVs (more than 16 passengers)	CBR: Requirements for vehicle standards; provision for vehicle size conditions on permits.
54(4)	S22: Removal of restriction on paying drivers	CBR: Requirements for paid drivers will need to comply with European Community legislation (as with MR).
55	S19/22 Time limited permits	CBR and MR: Implications for permit/disc design and fees.
56	Record keeping by traffic commissioners.	TCR

10. As a number of related changes need to be made, we propose to replace the existing MR and CBR with new sets of regulations, revoking and re-enacting the provisions in the existing regulations that are still relevant. This will be more “user-friendly” than amending the existing regulations. In particular, the CBR, dating from 1986, are not readily available in electronic form, as new regulations would be.
11. Drafts of the proposed new regulations are attached at Annexes B and C.
12. The provisions on record-keeping will also require amendments to the DBO and the TCR. These are less urgent and will be the subject of separate consultation. The Department intends to carry out a review of the Designated Bodies during 2009-10 and there are also likely to be other amendments needed to the TCR.

Our proposals

General approach

13. Successive administrations since the 1970s, when the first “minibus permits” were introduced, have always favoured a “light touch” approach to regulating the community transport sector, recognising that while safety must be maintained it is unrealistic to expect fully professional standards of operation. In particular, the financial resources expected of commercial operators would not be appropriate for bodies that, by definition, do not operate passenger vehicles with a view to profit, or to support other profit-making activities. We aim to continue that approach.
14. Since the 1970s, the harmonisation of vehicle standards across Europe has virtually eliminated constructional differences between private and commercial minibuses. Increasingly this will be true of driving standards also, though holders of full category B (car) driving licences since before 1997 may still drive minibuses under section 19 or 22 permits subject to certain conditions. By virtue of derogations under the 2nd and 3rd Driving Licence Directives⁴, so too can more recently qualified car drivers, provided they are unpaid volunteers. No such derogations apply to drivers of vehicles with more than 16 passenger seats. We intend to make full use of the derogations while recognising that, with generational changes and the increasing use of paid drivers, a higher proportion of drivers in the sector will need to have the full passenger-carrying vehicle driving licences.

⁴ Council Directive 91/439/EEC, amended by Council directives 94/72/EC; 96/47/EC and 97/26/EC, Commission directive 2000/56; Directive 2003/59/EC of the European Parliament and of the Council; and Regulation EC 1882/2003 of the European Parliament and of the Council.

15. Our aim therefore is to introduce appropriate and proportionate regulation of the new vehicle categories to be introduced by the changes in the Bill, consistent with the form of regulation that applies to existing categories.
16. At the same time, we recognise that there are aspects of the current permit regimes that make them difficult to enforce when enforcement is needed. In particular, the issue of indefinite permits, which since 1986-7 have also not related to specified vehicles, has made it difficult for the traffic commissioners and some designated bodies to keep track of the holders of permits and the use to which the permits are put. One consequence of that is that the Government has no reliable information on the number of permits – and hence vehicles – which are currently being used to provide services under section 19 permits. In particular it is impossible to estimate the number of “dormant” permits that are not in current use but are still technically valid. Among other things, there is a risk that these could be stolen, or otherwise fall into the wrong hands, leading to abuse and potential danger.
17. More reliable information would allow increased contact between the permit holders and the traffic commissioners and designated bodies. It would make enforcement, where it is necessary, more effective and better targeted. This is the reasoning behind the move towards permits that are renewable at 5 yearly intervals. Whilst any permits issued after a date to be identified in the regulations will be time limited, we intend to phase in the new system gradually, allowing ample time for the existing indefinite permits to be replaced.

Conditions to be fulfilled by drivers

(a) Driving licences

18. The current Regulations make provision for the driving of “small buses” (9-16 vehicles) by drivers who hold a licence with the pre-1997 entitlement of “D1 (not for hire or reward)”. Since its introduction that category, which was automatically added to persons who, before 1st January 1997, were holders of full category B licences, has authorised the driving of minibuses under section 19 or 22 permits, as well as purely social or domestic driving of such vehicles.
19. The holders of licences with category B entitlements gained on or after 1st January 1997 are permitted to drive small buses under a section 19 permit provided they fulfil the following conditions: that they have held the licence for at least 2 years, are aged 21 years or over and, if aged 70 or over, can fulfil the medical requirements appropriate for a category D1 licence, and are not receiving payment other than out-of-pocket expenses. These conditions are based on the derogation in the Driving Licence Directives referred to in paragraph 14 above.

20. The condition regarding not receiving payment does not appear in the 1986 CBR because section 23(2)(a) of the TA 1985 prohibited the payment of all drivers of services under a section 22 permit. However, with the proposed repeal of that paragraph by the Bill, it will be necessary, in order to comply with the Driving Licence Directives, for the new CBR to prohibit the payment of drivers of such vehicles who hold licences with category B entitlements gained on or after 1st January 1997. Consequently drivers of small buses under section 22 permits who are paid will need to hold either a pre-1997 licence with the “D1 (not for hire or reward)” category or a full licence which authorises the driving of vehicles in category D or D1. That is the same position as currently applies to the drivers of small buses under section 19 permits.
21. We now need to consider appropriate provision for drivers of the new vehicle categories – vehicles adapted to carry fewer than 9 passengers (section 19 permits) and vehicles adapted to carry more than 16 passengers (section 22 permits).
22. For the “under 9” category (described in the draft section 19 regulations as “a public service vehicle other than a bus”) a full licence which authorises the driving of vehicles in category B is sufficient to fulfil the requirements of the Driving Licence Directives. We consider, however, that the additional requirements that the driver is at least 21 years old and has held a full licence in that category for at least 2 years are worthwhile safety measures and should apply to the drivers of “under 9s” as well as to the “small buses”.
23. There does not seem to be any need to specify conditions regarding medical standards or payment for drivers of these vehicles.
24. **Do consultees agree that the driver of a vehicle with fewer than 9 seats used under a section 19 permit –**
- a. **should be at least 21 years old and have held a full category B licence for at least 2 years?**
 - b. **should not be subject to conditions as to medical standards, or be prohibited from receiving payment? [Q1]**
25. For the “over 16” (or “large bus”) categories, there is no available derogation from the Driving Licence Directives nor is the pre-1997 D1 category available. We consider that to drive a vehicle of this size and weight safely it is necessary to have passed a test in the appropriate category and therefore do not propose any exceptions to the rule that a category D licence should be held, even to the limited extent that this would be compatible with the Driving Licence Directives. **Do consultees agree that no exception should be made for the drivers of “large buses”?** [Q2]

(b) Conduct of drivers

26. The 1986 CBR apply certain provisions of the Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990⁵ (“the Conduct Regulations”) to drivers of section 22 community buses. However, this is now unnecessary because the provisions of the Conduct Regulations automatically apply to these drivers. This was not the case prior to the abolition of “vocational” PSV driver licensing, because the enabling power for the regulations (in section 24 of the Public Passenger Vehicles Act 1981) applied only to drivers licensed to drive public service vehicles, and drivers under section 22 permits did not require this vocational licence. However, since the enabling power has been amended, the Conduct Regulations do apply equally to drivers of vehicles used under PSV operators’ licences and drivers of vehicles used under section 22 permits. There is therefore no need to make compliance with the Conduct Regulations a condition for holding a section 22 permit.
27. The definition of “vehicle” in the Conduct Regulations does, however, exclude vehicles used under section 19 permits from the scope of the Regulations. Many provisions of those Regulations – including those applying to passengers as well as drivers - are not appropriate for many of the uses to which vehicles used under section 19 permits are put, and we do not propose to apply these regulations to the use of such vehicles. However, section 22 permits are for vehicles used in providing local services for the general public and it is entirely appropriate that the Conduct Regulations should apply to them. So we are not proposing any substantive changes here.

Vehicle requirements

(a) Conditions of fitness

28. Vehicles adapted to carry more than 8 passengers which are used under PSV operators’ licences require a Certificate of Initial Fitness (COIF), under section 6 of the Public Passenger Vehicles Act 1981. The terms of the primary legislation relating to vehicles used under sections 19 and 22 permits are such that if alternative conditions of fitness are prescribed in the regulations in relation to a small bus, the requirement for a COIF can be disapplied for such vehicles. The effect of the current MR and CBR is that, provided a “small bus” complies with the relevant conditions of fitness prescribed in those regulations, it need not have a COIF. We intend to continue this in the new regulations.

⁵ S.I. 1990/1020, amended by S.I. 1995/186 and S.I. 2002/1724.

29. The current MR and CBR prescribe different conditions of fitness, depending on the age of the vehicle. Vehicles first used on or after 1st April 1988 must comply with regulations 41 to 43 of the Construction and Use Regulations⁶. (“C&U”). The existing CBR and MR also make provision for older vehicles. The MR prescribe that such vehicles may either comply with regulations 41 to 43 of the C&U, or with requirements specified in the Minibus (Conditions of Fitness, Equipment and Use) Regulations 1977 (“the 1977 Regulations”). The CBR prescribe that such older vehicles must comply with requirements specified in the Community Bus Regulations 1978 (“the 1978 Regulations”). Both the 1977 and 1978 Regulations have lapsed following the repeal of their primary powers, so we can no longer cite them as legal requirements. However, bearing in mind that there could well be a number of serviceable vehicles first used before that date, we wish to make appropriate provision so that they can continue to be used.
30. The conditions of fitness in the 1977 and 1978 Regulations were in fact a selection of the conditions then applying to commercial public service vehicles under the Public Service Vehicles (Conditions of Fitness, Equipment and Use) Regulations 1972. These were revoked and replaced by the Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations 1981, which are still in force. We propose therefore to provide that vehicles first used before 1st April 1988 must either comply with the relevant conditions of the 1981 Regulations, or with regulations 41 to 43 of the C&U.
31. **We would welcome (a) information as to the extent to which pre-April 1988 minibuses are still used under section 19 or 22 permits, (b) comments as to whether the conditions proposed to be prescribed in the new regulations would provide for the continued use of pre-April 1988 vehicles. [Q3]**
32. There is no need to make special provision for vehicles with fewer than 9 passenger seats used under section 19 permits, because COIF does not apply to vehicles of that size.
33. For vehicles adapted to carry more than 16 passengers which, under the changes contained in the Bill, could be used under section 22 permits as well as under section 19, we consider that the same standards should apply as to PSVs under an operator’s licence and that there should be no exemption from the COIF requirement. There is no power to prescribe different conditions of fitness for vehicles used under “large bus” section 19 permits, and the Bill does not change this. Although different conditions of fitness could be prescribed for large buses used under a section 22 permit, we do not propose to do so. While this may appear to be an unnecessary burden on the voluntary sector, it is likely that the majority, if not all, of the vehicles they purchase will be second-hand buses previously used under PSV operators’ licences and will therefore already have a

⁶ SI 1986/1078, amended by SI 2005/2987.

COIF (the certificates are not time-limited). Similarly, companies which lease vehicles of this type, their main business being with commercial operators, would be unlikely to lease vehicles which did not have a COIF. We consider that the requirement brings important safety benefits and see no case for disapplying it.

34. Do consultees agree that “large buses” used under section 22 permits should be required to have a Certificate of Initial Fitness, as is already the case for “large buses” under section 19? [Q4]

35. In the near future, the phased implementation of the European Directive on Whole Vehicle Type Approval⁷ will require further changes to the vehicle construction requirements and a review of the COIF system in domestic legislation. The vehicle requirements applying to permit vehicles will therefore be kept under review and amended as appropriate following further consultation.

(b) Conditions as to size and type of vehicle (section 22 permits)

36. With the extension of section 22 permits to vehicles with more than 16 passengers, an issue arises as to the suitability of existing arrangements for maintaining vehicles. The traffic commissioners are required to be satisfied, before granting permits, that there are suitable facilities and arrangements for maintenance and this is normally established by an inspection of the premises by the Vehicle and Operator Services Agency (“VOSA”). However, until now they have only had to consider the maintenance of “small buses”. The relaxation of the rules relating to section 22 permits contained in the Bill could bring into play larger vehicles, including double-decked buses – or indeed articulated buses – even though we doubt whether there will often be sufficient volumes of passengers to require the largest types of vehicle. Unlike section 19 permits, there would not be a separate category of permit for the “large buses”.

37. It is therefore likely that existing permit holders may not be adequately equipped to maintain all the types of vehicle they could theoretically use under a section 22 permit. However, it would be unfair and excessively burdensome to require *all* section 22 permit holders to have facilities sufficient to maintain *any* type of PSV, given that many permit holders may not wish to use the larger vehicles.

38. We therefore propose to deal with this as follows:

- A transitional provision (probably in the Commencement Order which brings these provisions into force following Royal Assent) will provide that existing permits can only be used in respect of vehicles adapted to carry not more than 16 passengers.

⁷ Directive 2007/46/EC. The Department issued a consultation document on the implementation of this Directive in the UK on 2 June 2008, which can be accessed on the DfT website.

- This restriction can be lifted by applying for a new permit with a less restrictive condition, but only after the traffic commissioner is satisfied that the larger vehicles can be properly maintained.
 - In future, the traffic commissioners may (and normally will) attach to a new section 22 permit a condition specifying the type(s) and size(s) of vehicle that can be used under the permit.
39. We do not propose that the traffic commissioners should be restricted in the type of vehicle condition they can attach. They might for example consider it appropriate to set an upper limit of 22 passenger seats, or to permit any rigid single-decked bus but no double-decked or articulated buses.
40. Any condition imposed could be subsequently be varied by imposing another condition. This might be done either at the permit-holder's request (to allow the holder to use a larger vehicle) or by the traffic commissioner in the case of poor maintenance of the larger vehicles.
41. **Do consultees agree with the proposals for the use of large buses under section 22 permits? If not, what alternatives are thought to be more appropriate? [Q5]**

Permits and discs

42. Two amendments to the TA 1985 contained in the Bill will affect the format of permits and discs for both the section 19 and section 22 regimes. Firstly the introduction of the new vehicle size categories (and the possibility of conditions as to the type of vehicle used) will require certain changes in the information shown. Secondly the move towards time-limited permits means that the permits and discs will need to show an expiry date. We consider therefore that both the permits and the discs will need to be redesigned.
43. Although these two unrelated changes may not take effect at the same time, we consider that there should only be one change in the design of permits and discs, to avoid unnecessary costs.

(a) Section 19

44. The section 19 permit system will need to accommodate the new category of "PSV other than a bus" – vehicles adapted to carry no more than 8 passengers. We do not propose to create a separate category of permit for these vehicles – indeed the Bill does not provide for that – but we do propose that existing small bus permits should also allow the use of vehicles with fewer than 9 passenger seats. However, the term "small bus permit" will no longer be appropriate because of the definition of that term in the TA 1985. We propose that the new permits and discs should be described as "standard" – the term "large bus permit/disc" would remain unchanged.

45. The draft regulations include a transitional provision which would provide for existing small bus permits and discs to be used in connection with PSVs with fewer than 9 passenger seats until they are replaced by the new time-limited permits and discs.
46. All section 19 permits contain conditions as to the classes of passenger that may be carried – one condition of use is that the general public may not be carried. The current classes A to E (which are printed on the permits) have not been changed since 1987. In the new regulations (as annexed) we propose to amend the wording of class C, to replace the term “handicapped” with the definition of “disabled person” in the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005). For consistency with the existing class we would need to include a reference to the “seriously ill” who may not necessarily fall within the definition in that Act.
47. However, this is also an opportune time to reconsider the classes of passenger more widely. Accordingly, **we would welcome comments on whether any other changes or additions to the existing classes would be useful. [Q6]**
48. The newly designed permits and discs would include a space for an expiry date even if, initially, that does not need to be filled in (because the provision for time-limiting permits has not yet come into effect) (see paragraphs 50-52 below).

(b) Section 22

49. The section 22 permits will need to include a space for conditions as to vehicle size, if the proposal in paragraph 38 is carried through. Apart from the inclusion of an expiry date, on both permit and disc, no other changes appear necessary.

Transition to time-limited permits

50. Changes to the TA 1985 contained in the Bill provide for permits issued on or after a prescribed date to be time-limited permits, to no more than 5 years duration, and we intend to bring in that requirement as soon as reasonably practicable. An appropriate provision is included in both sets of draft regulations, although the date from which this will happen has not been decided (see paragraph 54 below). The main practical constraints are the printing and distribution of new permits and discs and the setting up of any necessary administrative procedures. In the case of *section 19* permits, this will affect the Designated Bodies as well as VOSA which provides operational support for the traffic commissioners. We recognise that the Designated Bodies (or some of them at least) may require longer to make the necessary changes than VOSA, even though the work in volume terms will be larger for VOSA than for any single Designated Body. The transfer date would not necessarily need to be the same for both

section 19 and section 22 permits, nor for small bus/standard and large bus section 19 permits, although there are administrative advantages in having a common date.

51. The Bill also provides a power for a date to be set in regulations on which the existing time-limitless permits would be revoked. The Department recognises that the task of identifying, recalling and replacing the timeless permits and discs issued in accordance with the existing regulations (and possibly under their precursors, the Minibus Regulations 1977) will be more difficult than providing for new permits to be time-limited, and the draft regulations make no provision for this. This will be a particular problem for VOSA and for local authorities, since they may subsequently have lost all contact with the bodies to whom they granted permits many years ago. Other designated bodies who may only grant permits to their members or affiliates will presumably have a less difficult task. The important thing is that sufficient time is allowed for any body that holds permits to return them and apply for as many new ones as they require, and that sufficient measures are taken to reach those bodies who are known to have had permits granted to them and ensure they are aware of the need to replace them, if they are still required.
52. Our preferred option would be to commence the issue of time-limited (normally 5 year) permits on the date the proposed regulations come into force, ie 1st January 2009. However, we are prepared to consider later dates, eg 1st April 2009, if the proposed date would cause too many practical difficulties for VOSA or the Designated Bodies.
53. **We welcome views on whether it is practicable for the issue of time-limited permits and discs to commence on 1st January 2009. Views from the Designated Bodies are particularly welcomed. [Q7]**
54. Once time limited permits have been introduced, the date from which timeless permits would be revoked (which would be prescribed in regulations) must be no more than 5 years later. However, we would prefer, in principle, a shorter transitional period than 5 years – we would be happier with 2 or 3 years (or even less) if that would allow sufficient time.
55. **Users of permits and Designated Bodies are invited to give brief preliminary views on the timetable for replacing timeless permits, though as noted earlier this will be a matter for future regulations on which there will be separate consultation in due course. [Q8]**

Fees

56. The power to prescribe fees in regulations extends only to permits granted by the traffic commissioners (which includes all large bus section 19 permits and all section 22 permits). There is no separate power to charge a fee for a disc – even a duplicate disc. Designated Bodies may make what charges they like, or none at all. We understand that the normal practice is for Designated Bodies either to charge the fee prescribed for the issue of a permit by the traffic commissioners, a lower fee, or none at all, but would be interested to receive further information about this.
57. The Department makes a small charge to Designated Bodies for the issue of pads of 5 blank permits (£1.90) and pads of 5 blank discs (£1.50). This charge is determined administratively rather than by regulations.
58. VOSA have recently reviewed all their statutory fees and a number of them are to be increased with effect from 1 August 2008, including the fee for a section 22 permit, which will increase from £53 to £55. The fees for section 19 permits remain unchanged for the present at £20 for a large bus permit and £11 for a small bus permit.
59. The practice adopted by VOSA in recent years has been to increase the fees for section 19 and 22 permits pro rata with the increase in operator licensing fees rather than carry out a separate costing exercise. However, it has been recognised for some time that the fees set for *section 19* permits are barely sufficient to cover the administrative costs of issuing the permits and discs, and insufficient to allow for any supervision and monitoring of the bodies to whom the permits are granted. There is some concern among the traffic commissioners and others that the low fees do not provide VOSA with sufficient resources to ensure that the permit systems are working as intended and the conditions of use properly observed.
60. VOSA are currently undertaking an exercise to ascertain the actual cost of their function in processing permit applications, and what would be the cost of a more proactive role in educating permit-holders and supervising and monitoring the use of permits. Depending on the outcome of that work, further consultation by the Department or VOSA may be forthcoming in due course.

Permits granted under earlier legislation

61. The existing MR contain transitional provisions to continue the validity of permits granted under section 42 of the Public Passenger Vehicles Act 1981 (which was repealed by the TA 1985). This would include permits granted under the Minibus Act 1977 which was consolidated in the 1981 Act. These permits were originally granted in respect of specified vehicles, hence when the vehicle ceased to be used, the body would have needed to apply for a section 19 permit. The draft regulations would continue these provisions – though ultimately, they would need to be replaced by time-limited permits under the new regulations. However, **we would be interested to know if any permits granted prior to the 1987 regulations are still in use. [Q9]**

Other matters

62. We do not currently see the need for any other matters to be prescribed in these regulations. However, **we would welcome any further suggestions from consultees as to matters for which regulation might be needed [Q10]**, bearing in mind our general approach that the regulatory regime applying to this sector should not be disproportionate or over-burdensome.

63. **We would also welcome any further data or evidence that would inform the analysis in the accompanying impact assessment. [Q11]**

Responses

64. If you wish to submit a response to this consultation, it should be e-mailed to LocalTransportBill@dft.gsi.gov.uk (with *Local Transport Bill (Community Transport) Consultation* in the e-mail subject line), or sent to

Sharon Adhikari
Local Transport Bill (Community Transport) Consultation
Zone 3/11
Department for Transport
76 Marsham Street
London SW1P 4DR

to arrive no later than 17 October 2008.

65. When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

66. The information you send us may need to be passed to colleagues within the Department for Transport, and we intend to publish a summary of the responses received in response to this consultation. In accordance with the requirements of the Freedom of Information Act 2000, all information contained in your response to this consultation may be subject to publication or disclosure. This may include personal information such as your name and address. If you want your response or your name and address to remain confidential, you should state this clearly in your response, and explain why confidentiality is necessary. Your request will be granted only if it is consistent with Freedom of Information Act obligations. An automatic confidentiality disclaimer generated by your e-mail system will not be regarded as binding on the Department. Anonymous responses will be disregarded.
67. If you have any general queries, please contact Sharon Adhikari or Rosemary White at the above address.

 S T A T U T O R Y I N S T R U M E N T S

200X No. XXXX**PUBLIC PASSENGER TRANSPORT****Section 19 Permit Regulations 200X**

<i>Made</i> - - - -	200X
<i>Laid before Parliament</i>	200X
<i>Coming into force</i> - -	200X

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 21 and 23A of the Transport Act 1985(a), and section 52(1) of the Public Passenger Vehicles Act 1981(b).

The Secretary of State has consulted such representative organisations as the Secretary of State thinks fit as required by section 61(2) of the Public Passenger Vehicles Act 1981(c).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Section 19 Permit Regulations 200X and shall come into force on xx 200X.

(2) These Regulations extend to England, Scotland and Wales.

Interpretation

2.—(1) In these Regulations—

“the 1981 Act” means the Public Passenger Vehicles Act 1981;

“the 1985 Act” means the Transport Act 1985;

“the 1988 Act” means the Road Traffic Act 1988(d);

“the 1986 Regulations” means the Road Vehicles (Construction and Use) Regulations 1986(e)

“designated body” means a body designated in an order made under section 19(7) of the 1985 Act(f);

“holder” means a body to which a permit has been granted; and

(a) 1985 c.67. Sections 19 to 21 were amended by [sections 52 and 53 of the Local Transport Act 2008 (c. xx)] and section 23A was inserted by section [55] of that Act.

(b) 1981 c.14.

(c) Section 134 of the Transport Act 1985 provides that section 60 of the Public Passenger Vehicles Act 1981 (general power to make regulations for purposes of Act) has effect as if Parts 1 and 2 of the Transport Act 1985 were contained in the Public Passenger Vehicles Act 1981. The requirements in sections 60 and 61 of the Public Passenger Vehicles Act 1981 apply therefore to the making of these Regulations.

(d) 1988 c.52.

(e) S.I. 1986/1078.

(f) See the Section 19 Minibus (Designated Bodies) Order 1987 (S.I. 1987/1229), amended by S.I. 1990/1708, 1995/1540 and 1997/535.

“public service vehicle other than a bus” means a public service vehicle which is adapted to carry not more than eight passengers.

(2) In Regulations 3 to 5—

- (a) the following expressions have the meaning given them in section 108 of the 1988 Act—
 - full licence(a); and
 - Northern Ireland licence(b)
- (b) the expression “PCV Community licence” has the meaning given in section 110 of the 1988 Act(c);
- (c) the expression “passenger-carrying vehicle” has the meaning given in section 121 of the 1988 Act(d);
- (d) expressions relating to categories or sub-categories of motor vehicle have the meaning given to them in regulation 4(2)(a) and (b) of the Motor Vehicles (Driving Licences) Regulations 1999(e);
- (e) a person holds a valid full licence granted under Part 3 of the 1988 Act authorising the driving of motor vehicles included in any category or sub-category if that person is authorised to drive such vehicles under section 88(1) of that Act(f).

Conditions to be fulfilled by driver of large bus

3. The driver of a large bus used under a permit must hold either—

- (a) a passenger-carrying vehicle driver’s licence;
- (b) a PCV Community licence; or
- (c) a Northern Ireland licence corresponding to a passenger-carrying vehicle driver’s licence,

which authorises the driving of that vehicle.

Conditions to be fulfilled by driver of small bus

4.—(1) The driver of a small bus used under a permit who is not the holder of—

- (a) a passenger-carrying vehicle driver’s licence;
- (b) a PCV Community licence; or
- (c) a Northern Ireland licence corresponding to a passenger-carrying vehicle driver’s licence,

which authorises the driving of that vehicle must, if that driver does not fulfil the licence conditions specified in paragraph (2), fulfil the alternative licence conditions specified in paragraph (3).

(2) The licence conditions are that the driver—

- (a) is the holder of—
 - (i) a valid full licence granted under Part 3 of the 1988 Act;

-
- (a) This definition was inserted by the Road Traffic (Driver Licensing and Information Systems) Act 1989, section 7 and Schedule 3, paragraph 15(c).
 - (b) This definition was inserted by the Road Traffic (Driver Licensing and Information Systems) Act 1989, section 7 and Schedule 3, paragraph 15(e) and amended by the Crime (International Co-operation) Act 2003, section 91(1) and Schedule 5, paragraphs 17 and 25(b).
 - (c) This definition was inserted by the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974, regulation 2 and Schedule 1, paragraph 20).
 - (d) This definition was amended by the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974, regulation 2 and Schedule 1, paragraph 28(1) and (2)(d).
 - (e) S.I. 1999/2864; there are amending instruments but none is relevant.
 - (f) Section 88(1) was amended by the Road Traffic (Driver Licensing and Information Systems) Act 1989, section 3(1) and (2), the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974, regulation 2 and Schedule 1, paragraph 1(1) and (2), and the Driving Licences (Community Driving Licence) Regulations 1998 (S.I. 1998/1420), regulations 2 and 3(1) and (2).

- (ii) a valid Northern Ireland licence corresponding to a licence described in paragraph (i); or
 - (iii) a valid Community licence, as defined in section 108 of the 1988 Act^(a), authorising the driving of motor vehicles in category B (other than vehicles in sub-category B1);
 - (b) has held a licence described in paragraph (a) for a period of, or periods amounting in aggregate to, not less than 2 years;
 - (c) is aged 21 years or over;
 - (d) if aged 70 years or over, is not suffering from a relevant disability, as defined in section 92 of the 1988 Act, in respect of which the Secretary of State would have to refuse that driver a licence authorising the driving of a class of vehicles in sub-category D1; and
 - (e) receives no payment or other consideration for driving the vehicle other than the reimbursement of any reasonable expenses incurred by that driver in being available to drive.
- (3) The alternative licence conditions are that the driver—
- (a) was first granted a full licence under Part 3 of the 1988 Act authorising the driving of motor vehicles in category B (other than vehicles in sub-category B1) before 1st January 1997; and
 - (b) is the holder of a valid full licence under that Part of that Act authorising the driving of motor vehicles in category B (other than vehicles in sub-category B1) and sub-category D1 (not for hire or reward).

Conditions to be fulfilled by driver of public service vehicle other than a bus

5.—(1) The driver of a public service vehicle other than a bus used under a permit who is not the holder of—

- (a) a passenger-carrying vehicle driver's licence;
- (b) a PCV Community licence; or
- (c) a Northern Ireland licence corresponding to a passenger-carrying vehicle driver's licence,

which authorises the driving of that vehicle must fulfil the licence conditions specified in paragraph (2).

(2) The licence conditions are that the driver—

- (a) is the holder of a valid full licence granted under Part 3 of the 1988 Act authorising the driving of motor vehicles in category B (other than vehicles in sub-category B1);
- (b) has held a licence described in paragraph (a) for a period of, or periods amounting in aggregate to, not less than 2 years; and
- (c) is aged 21 years or over.

Conditions of fitness for use of a small bus

6.—(1) The date on which a vehicle is first used for the purposes of this regulation is to be determined in accordance with regulation 3(3) of the 1986 Regulations.

(2) The requirements as to fitness with which a small bus used under a permit must comply are—

- (a) in respect of a vehicle first used before 1st April 1988, either—
 - (i) those specified in regulations 6 to 33, 35 to 44 and 45A of the Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations

^(a) This definition was amended by the Driving Licences (Community Driving Licence) Regulations 1996 (S.I.1996/1974) regulation 2 and Schedule 1, paragraph 19(1) and (2)(b).

- 1981(a), or
- (ii) those specified in regulations 41 to 43 of the 1986 Regulations (b); and
- (b) in respect of a vehicle first used on or after 1st April 1988, those specified in regulations 41 to 43 of the 1986 Regulations.

Fees

- 7.—(1) The fees to be paid for the grant of a permit by a traffic commissioner are—
- (a) £20 where the permit authorises the use of a large bus; and
- (b) £11 where the permit authorises the use of a public service vehicle other than a large bus.
- (2) Fees payable under paragraph (1) must be paid before the permit is granted.

Form of permits

8.—(1) A permit granted on or after [xx xxxx 20XX] is to be granted for such period as is identified in that permit in accordance with paragraph (2).

(2) The period referred to in paragraph (1) must not exceed five years from the date on which the permit is granted.

(3) A permit must contain the information described in paragraph (4).

(4) That information is—

- (a) the identity of the traffic commissioner or, as the case may be, designated body who granted the permit;
- (b) the name of the body to whom the permit was granted;
- (c) the date on which the permit was granted;
- (d) where there is one, the expiry date of the permit;
- (e) the number of the permit;
- (f) whether it authorises the use of —
- (i) a large bus; or
- (ii) a small bus and a public service vehicle other than a bus (a standard permit);
- (g) which of the conditions described in paragraph (5) must be complied with when a vehicle is used under the permit; and
- (h) the classes of persons who may be carried in the vehicle when it is being used under the permit as identified by the corresponding letter codes in the table in paragraph (6).

(5) The conditions referred to in paragraph (4)(g) are—

- (a) the conditions to be fulfilled by the driver of the vehicle under regulations 3, 4 or 5;
- (b) the requirements of regulation 9(6) (display of disc);
- (c) where the permit authorises the use of a small bus, the conditions of fitness with which that vehicle must comply; and
- (d) such other conditions as the traffic commissioner or, as the case may be, designated body may attach to the permit under section 20(4) of the 1985 Act.

(6) The classes of persons described in paragraph (4)(h) are—

(a) S.I. 1981/257, amended by S.I. 1982/1058, 1989/2359, 1995/305, 2002/335 and 2005/3128; there are other amending instruments but none is relevant.

(b) Regulation 41A was inserted by regulations 2 and 3 of the Road Vehicles (Construction and Use)(Amendment)(No. 3) Regulations 2005 (S.I. 2005/2987); there are other amending instruments but none is relevant.

<i>Letter code</i>	<i>Classes of person</i>
A	Members of the body holding the permit;
B	Persons whom the body exists to benefit, and persons assisting them;
C	Disabled persons as defined in the Disability Discrimination Act 1995(a) and persons who are seriously ill, and persons assisting them;
D	Pupils or students of any school, college, university or other educational establishment and staff or other helpers accompanying them;
E	Other class of persons specified in the permit.

Discs

9.—(1) Where a traffic commissioner or designated body grants a permit that traffic commissioner or, as the case may be, designated body must, at the same time, issue a disc relating to that permit containing the information described in paragraph (2).

(2) That information is—

- (a) the identity of the traffic commissioner or, as the case may be, designated body who granted the permit;
- (b) the name of the body to whom the permit was granted;
- (c) the date on which the permit was granted;
- (d) where there is one, the expiry date of the permit;
- (e) the number of the permit; and
- (f) the appropriate letter codes as described in regulation 8(6) indicating the classes of persons who may be carried in any vehicle used under the permit to which that disc relates.

(3) A disc must contain the words “Transport Act 1985: section 19 permit vehicle”.

(4) Where a permit authorises the use of a large bus, the disc issued with that permit must be coloured red and contain at the top the words “large bus disc”.

(5) Where a permit authorises the use of a small bus and a public service vehicle other than a bus, the disc issued with that permit must be coloured purple and contain at the top the words “standard disc”.

(6) A disc must, at all times when a vehicle is being used under the permit to which that disc relates, be affixed to the inside of the vehicle in such place that the disc—

- (a) does not interfere with the ability of the driver of the vehicle to drive that vehicle in safety; and
- (b) can easily be seen and read in daylight from the outside of that vehicle.

Duplicate permits and discs

10.—(1) If a permit or disc is lost or destroyed the holder must immediately give notice of that fact to the traffic commissioner or, as the case may be, designated body which granted that permit or issued that disc.

(2) If a permit or disc is defaced or becomes illegible the holder must immediately give notice of that fact to the traffic commissioner or, as the case may be, designated body which granted that permit or issued that disc, and surrender that permit or disc to that traffic commissioner or designated body.

(3) Where a traffic commissioner or, as the case may be, designated body receives notice under paragraphs (1) or (2) that traffic commissioner or designated body must, if satisfied that the permit or disc has been lost, destroyed, defaced or become illegible, issue a duplicate permit or disc to the holder.

(a) 1995 c.50, amended by the Disability Discrimination Act 2005 (2005 c.13).

(4) A permit or disc issued under paragraph (3) must be marked as a duplicate.

(5) Provisions in these Regulations apply to a duplicate permit or disc as they applied to the original.

(6) If, at any time after notice has been given under paragraph (1), the permit or disc notified as having been lost or destroyed comes into the possession of the holder, that holder must immediately return that permit or disc to the traffic commissioner or, as the case may be, designated body which issued it.

Return of permits and discs

11. Where a permit ceases to have effect for one of the reasons described in section 20(7) of the 1985 Act, the holder must return that permit and the disc relating to that permit to either—

- (a) the traffic commissioner or, as the case may be, designated body who revoked the permit, or
- (b) where the permit was granted by a designated body which has ceased to be so designated, the traffic commissioner for the traffic area in which any vehicle was last used under the permit.

Transitional provisions about 1981 Act permits

12.—(1) For the purposes of this regulation a “1981 Act permit” means a permit granted under section 42 of the 1981 Act (a).

(2) Any 1981 Act permit is deemed to have been granted under section 19 of the 1985 Act and any disc issued in connection with such a permit is deemed to have been issued under these Regulations.

(3) A permit to which paragraph (2) applies can only authorise the use of the vehicle specified in that permit.

(4) A 1981 Act permit granted by the council of a local authority authorising the use of a large bus is deemed to have been granted, and the disc which relates to that permit issued, under section 19 of the 1985 Act by the traffic commissioner for the traffic area in which any vehicle used under that permit is ordinarily kept.

Transitional provisions about permits and discs

13. A permit granted prior to the commencement of these Regulations which authorises the use of a small bus is deemed to authorise the use of a small bus and a public service vehicle other than a bus, and a disc relating to such a permit containing the words “small bus” is deemed to contain the wording prescribed in regulation 9(5).

Revocation

14. The Regulations listed in the Schedule are revoked.

Signatory text

Address
Date

Name
Minister of State
Department for Transport

(a) Section 42 was repealed by section 139(3) of and Schedule 8 to the Transport Act 1985. Permits issued under that section at the time of its repeal were continued in force by virtue of regulation 10 of the Minibus and Other Section 19 Permit Buses Regulations 1987 (S.I. 1987/1230), which these Regulations revoke.

SCHEDULE

REVOCATIONS

<i>Regulations revoked</i>	<i>References</i>
Minibus and Other Section 19 Permit Buses Regulations 1987	S.I. 1987/1230
Minibus and Other Section 19 Permit Buses (Amendment) Regulations 1996	S.I. 1996/3088
Minibus and Other Section 19 Permit Buses (Amendment) Regulations 1997	S.I. 1997/2916
Minibus and Other Section 19 Permit Buses (Amendment) Regulations 2007	S.I. 2007/691

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Minibus and Other Section 19 Permit Buses Regulations 1987 and apply to any vehicle used under a section 19 permit, and to any drivers of such vehicles. A section 19 permit is a permit granted under section 19 of the Transport Act 1985 under which certain educational and other bodies may carry their members and certain other people on a public service vehicle without having to satisfy the usual licensing requirements. Such vehicles may not be used to carry members of the general public and must not be used with a view to a profit. Permits may be issued by traffic commissioners, or by bodies designated for this purpose in an order made under section 19(7) of the Transport Act 1985.

Provisions in the [Local Transport Act 2008] amend section 19 so as to enable public service vehicles with fewer than 9 passenger seats to be used to provide services under a section 19 permit. This change necessitated the making of new Regulations to apply to such vehicles when used under a permit.

Regulations 3 to 5 prescribe the conditions that must be met by the drivers of certain categories of vehicles.

Regulation 6 prescribes the conditions of fitness to be satisfied by any small bus used to provide services under a permit.

Regulation 7 prescribes the fees to be paid to the traffic commissioner for the grant of a permit. Where permits are granted by a designated body, it is for that body to determine the fee.

Amendments to the Transport Act 1985 contained in the [Local Transport Act 2008] empower the Secretary of State to limit the validity of section 19 permits to a period not exceeding five years. Regulation 8(1) provides for all section 19 permits issued after [xxx xxxx 20XX] to be so limited. Regulation 8 also prescribes the information that must be included in a permit, and regulation 9 specifies that a disc must be issued with every permit. Such a disc must be displayed on the vehicle providing a service under a permit, and contain the information prescribed in that regulation. Regulations 10 and 11 prescribe the procedure to be followed where a permit or disc is lost, destroyed, defaced or become illegible, or when a permit needs to be returned to the issuing body.

Regulations 12 and 13 contain transitional provisions, and regulation 14 revokes the Minibus and Other Section 19 Permit Buses Regulations 1987, together with three other amending instruments. These instruments are listed in the Schedule to these Regulations.

An impact assessment has been prepared and copies can be obtained from the Department for Transport, Great Minster House, 76 Marsham Street, London, SW1P 4DR. A copy has been placed in the Library of each House of Parliament.

Copies of the impact assessment may also be accessed on the HMSO website at www.opsi.gov.uk.

 STATUTORY INSTRUMENTS

200X No. XXXX**PUBLIC PASSENGER TRANSPORT****Community Bus Regulations 200X**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 23(2), (3) and (8) and 23A of the Transport Act 1985(a), and section 52(1) of the Public Passenger Vehicles Act 1981(b).

The Secretary of State has consulted such representative organisations as the Secretary of State thinks fit as required by section 61(2) of the Public Passenger Vehicles Act 1981(c).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Community Bus Regulations 200X and shall come into force on xx 200X.

(2) These Regulations extend to England, Scotland and Wales.

Interpretation

2.—(1) In these Regulations—

“the 1985 Act” means the Transport Act 1985;

“the 1988 Act” means the Road Traffic Act 1988(d);

“the 1986 Regulations” means the Road Vehicles (Construction and Use) Regulations 1986(e);

“holder” means a body to which a permit has been granted;

“large bus” means a public service vehicle which is adapted to carry more than sixteen passengers;

“permit” means a community bus permit as defined in section 22(1) of the 1985 Act; and

(a) 1985 c.67. Section 23 was amended by section [54] of the Local Transport Act 2008 (c.xx) and section 23A was inserted by section [55] of that Act.

(b) 1981 c.14.

(c) Section 134 of the Transport Act 1985 provides that section 60 of the Public Passenger Vehicles Act 1981 (general power to make regulations for purposes of Act) has effect as if Parts 1 and 2 of the Transport Act 1985 were contained in the Public Passenger Vehicles Act 1981. The requirements in sections 60 and 61 of the Public Passenger Vehicles Act 1981 apply therefore to the making of these Regulations.

(d) 1988 c.52.

(e) S.I. 1986/1078.

“small bus” means a public service vehicle which is adapted to carry more than eight but not more than sixteen passengers.

(2) In regulations 3 and 4—

- (a) the following expressions have the meaning given to them in section 108 of the 1988 Act—
 - full licence(a); and
 - Northern Ireland licence(b);
- (b) the expression “PCV Community licence” has the meaning given to it in section 110 of the 1988 Act(c);
- (c) the expression “passenger-carrying vehicle” has the meaning given to it in section 121 of the 1988 Act(d);
- (d) expressions relating to categories or sub-categories of motor vehicle have the meaning given to them in regulation 4(2)(a) and (b) of the Motor Vehicles (Driving Licences) Regulations 1999(e);
- (e) a person holds a valid full licence granted under Part 3 of the 1988 Act authorising the driving of motor vehicles included in any category or sub-category if that person is authorised to drive such vehicles under section 88(1) of that Act(f).

Conditions to be fulfilled by driver of large bus

3. The driver of a large bus used under a permit must hold either—

- (a) a passenger-carrying vehicle driver’s licence;
- (b) a PCV Community licence; or
- (c) a Northern Ireland licence corresponding to a passenger-carrying vehicle driver’s licence,

which authorises the driving of that vehicle.

Conditions to be fulfilled by driver of small bus

4.—(1) The driver of a small bus used under a permit who is not the holder of—

- (a) a passenger-carrying vehicle driver’s licence;
- (b) a PCV Community licence; or
- (c) a Northern Ireland licence corresponding to a passenger-carrying vehicle driver’s licence,

which authorises the driving of that vehicle must, if that driver does not fulfil the licence conditions specified in paragraph (2), fulfil the alternative licence conditions specified in paragraph (3).

(2) The licence conditions are that the driver—

- (a) is the holder of—
 - (i) a valid full licence granted under Part 3 of the 1988 Act;

-
- (a) This definition was inserted by the Road Traffic (Driver Licensing and Information Systems) Act 1989, section 7 and Schedule 3, paragraph 15(c).
 - (b) This definition was inserted by the Road Traffic (Driver Licensing and Information Systems) Act 1989, section 7 and Schedule 3, paragraph 15(e) and amended by the Crime (International Co-operation) Act 2003, section 91(1) and Schedule 5, paragraphs 17 and 25(b).
 - (c) This definition was inserted by the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974, regulation 2 and Schedule,1 paragraph 20).
 - (d) This definition was amended by the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974, regulation 2 and Schedule 1 paragraph 28(1) and (2)(d).
 - (e) S.I. 1999/2864; there are amending instruments but none is relevant.
 - (f) Section 88(1) was amended by the Road Traffic (Driver Licensing and Information Systems) Act 1989, section 3(1) and (2), the Driving Licences (Community Driving Licence) Regulations 1996 (S.I. 1996/1974), regulation 2 and Schedule 1 paragraph 1(1) and (2), and the Driving Licences (Community Driving Licence) Regulations 1998 (S.I. 1998/1420) regulations 3(1) and (2).

- (ii) a valid Northern Ireland licence corresponding to a licence described in paragraph (i); or
 - (iii) a valid Community licence, as defined in section 108 of the 1988 Act(a), authorising the driving of motor vehicles in category B (other than vehicles in sub-category B1);
 - (b) has held a licence described in paragraph (a) for a period of, or periods amounting in aggregate to, not less than 2 years;
 - (c) is aged 21 years or over;
 - (d) if aged 70 years or over, is not suffering from a relevant disability, as defined in section 92 of the 1988 Act, in respect of which the Secretary of State would have to refuse that driver a licence authorising the driving of a class of vehicles in sub-category D1; and
 - (e) receives no payment or other consideration for driving the vehicle other than the reimbursement of any reasonable expenses incurred by that driver in being available to drive.
- (3) The alternative licence conditions are that the driver—
- (a) was first granted a full licence under Part 3 of the 1988 Act authorising the driving of motor vehicles in category B (other than vehicles in sub-category B1) before 1st January 1997; and
 - (b) is the holder of a valid full licence under that Part of that Act authorising the driving of motor vehicles in category B (other than vehicles in sub-category B1) and sub-category D1 (not for hire or reward).

Conditions of fitness for use of a small bus

5.—(1) The date on which a vehicle is first used for the purposes of this regulation is to be determined in accordance with regulation 3(3) of the 1986 Regulations.

(2) The requirements as to fitness with which a small bus used under a permit must comply are—

- (a) in respect of a vehicle first used before 1st April 1988, either—
 - (i) those specified in regulations 6 to 33, 35 to 44 and 45A of the Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations 1981(b); or
 - (ii) those specified in regulations 41 to 43 of the 1986 Regulations(c); and
- (b) in respect of a vehicle first used on or after 1st April 1988, those specified in regulations 41 to 43 of the 1986 Regulations.

Attaching conditions to permits

6.—(1) A traffic commissioner may at any time attach to a community bus permit a condition to restrict the vehicles used under that permit to vehicles of a particular size or type.

(2) A condition imposed by virtue of paragraph (1) may, in particular, prohibit the use of a large bus, or a particular type of large bus, under a permit unless the traffic commissioner is satisfied that adequate facilities or arrangements are in place for maintaining a large bus in a fit and serviceable condition.

(a) This definition was amended by the Driving Licences (Community Driving Licence) Regulations 1996 (S.I.1996/1974) regulation 2 and Schedule 1, paragraph 19(1) and (2)(b).

(b) S.I. 1981/257, amended by S.I. 1982/1058, 1989/2359, 1995/305, 2002/335 and 2005/3128: there are other amending instruments but none is relevant.

(c) Regulation 41A was inserted by regulations 2 and 3 of the Road Vehicles (Construction and Use)(Amendment)(No. 3) Regulations 2005 (S.I. 2005/2987): there are other amending instruments but none is relevant.

Attaching traffic regulation conditions to permits

7.—(1) The holder of a permit must, on receipt of a written notice from the traffic commissioner who granted that permit, produce it to that traffic commissioner so that traffic regulation conditions, as defined in section 7(1) of the 1985 Act, can be attached to it.

(2) A notice issued under paragraph (1) can be served by electronic means only where the party on whom the notice is to be served has previously expressly indicated in writing to the traffic commissioner that that party is willing to accept service by electronic means, and has provided the fax number, e-mail address or other electronic identification to which that notice may be sent.

(3) Subject to paragraph (4), on receipt of a notice issued under paragraph (1) the holder must, within 14 days of the date on which the notice is received by that holder, produce the permit to a person authorised by the traffic commissioner—

- (a) at such address;
- (b) and within such business hours,

as may be specified in the notice.

(4) The 14 day period referred to in paragraph (3) excludes any day which is a bank holiday under the Banking and Financial Dealings Act 1971(a).

(5) Where, in response to a notice issued under paragraph (1), the holder sends the permit by post, the permit is not to be treated as having been produced until it is received by the traffic commissioner.

Fee

8.—(1) The fee to be paid for the grant of a permit is £55.

(2) A fee payable under paragraph (1) must be paid before the permit is granted.

Permits and discs

9.—(1) A permit granted on or after [xx xxxx 2009] is to be granted for such period as is identified in that permit in accordance with paragraph (2).

(2) The period referred to in paragraph (1) must not exceed five years from the date on which the permit is granted.

(3) Where a traffic commissioner grants a permit that traffic commissioner must, at the same time, issue a disc containing the information described in paragraph (4).

(4) That information is—

- (a) the name of the holder of the permit to which that disc relates;
- (b) the number of the permit; and
- (c) where there is one, the expiry date of that permit.

(5) A disc issued under paragraph (3) must contain the words “Community Bus Disc”.

(6) A disc must, at all times when a vehicle is being used under the permit to which that disc relates, be affixed to the inside of the vehicle in such place that the disc—

- (a) does not interfere with the ability of the driver of the vehicle to drive that vehicle in safety; and
- (b) can easily be seen and read in daylight from the outside of that vehicle.

Duplicate permits and discs

10.—(1) If a permit or disc is lost or destroyed, the holder must immediately give notice of that fact to the traffic commissioner who granted that permit or, as the case may be, issued that disc.

(a) 1971 c.80.

(2) If a permit or disc is defaced or becomes illegible, the holder must immediately give notice of that fact to the traffic commissioner who granted that permit or, as the case may be, issued that disc and surrender that permit or disc to that traffic commissioner.

(3) Where a traffic commissioner receives notice under paragraphs (1) or (2) that traffic commissioner must, if satisfied that the permit or disc has been lost, destroyed, defaced or become illegible, issue a duplicate permit or disc to the holder.

(4) A permit or disc issued under paragraph (3) must be marked as a duplicate.

(5) Provisions in these Regulations apply to a duplicate permit or disc as they applied to the original.

(6) If, at any time after notice has been given under paragraph (1), the permit or disc notified as having been lost or destroyed comes into the possession of the holder, that holder must immediately return that permit or disc to the traffic commissioner who issued it.

Surrender of permits and discs

11. Where a permit is revoked under section 23(6) of the 1985 Act, or if the holder ceases to operate local services under the permit, that holder must immediately surrender the permit and disc to the traffic commissioner who granted and issued them.

Revocation

12. The Regulations listed in the Schedule are revoked.

Signatory text

Address
Date

Name
Minister of State
Department for Transport

SCHEDULE
REVOCATIONS

<i>Regulations revoked</i>	<i>References</i>
Community Bus Regulations 1986	S.I. 1986/1245
Community Bus (Amendment) Regulations 1996	S.I. 1996/3087
Community Bus (Amendment) Regulations 1997	S.I. 1997/2917
Community Bus (Amendment) Regulations 2008	S.I. 2008/1465

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Community Bus Regulations 1986 and apply to any vehicle used to provide a community bus service, and to the drivers of such vehicles. The term community bus service is defined in section 22(1) of the 1985 Act as a local service (as defined in section 2 of that Act) provided by a body which is concerned for the social and welfare needs of one or more local communities. Such services must be provided without a view to a profit.

Provisions in the [Local Transport Act 2008] relaxed the restrictions which applied to the provision of community bus services in two particular respects. First, the restriction on the use of vehicles adapted to carry more than sixteen passengers was removed. Secondly, the prohibition on certain drivers of such vehicles from being paid was removed. These changes necessitated the making of new regulations to apply to community bus services.

Regulations 3 and 4 prescribe the conditions which must be fulfilled by the driver of a community bus service, and these vary depending on whether the vehicle used under the permit is a small bus or a large bus. Drivers with particular types of driver licence will be eligible to be paid for driving vehicles used under permits.

Regulation 5 prescribes the conditions of fitness to be satisfied by any small bus used to provide services under a permit.

Regulation 6 empowers a traffic commissioner to attach conditions to permits restricting the size or type of vehicle which may be used under that permit, and regulation 7 prescribes the procedure to be followed where a traffic commissioner attaches a traffic regulation condition to a permit.

Regulation 8 provides that the fee for the grant of a community bus permit is £55. This corresponds to the fee in the Community Bus Regulations 1986, as amended by the Community Bus (Amendment) Regulations 2008.

Amendments to the Transport Act 1985 contained in [the Local Transport Act 2008] empower the Secretary of State to limit the validity of community bus permits to a period not exceeding five years. Regulation 9(1) provides for all community bus permits issued after [xx xxxx 2009] to be so limited. That regulation also obliges the traffic commissioner to issue a disc with every permit. Such a disc must be displayed on the vehicle providing the service, and contain the information prescribed in that regulation. Regulations 10 and 11 prescribe the procedure to be followed where a permit or disc is lost, destroyed, defaced or becomes illegible, or when a permit needs to be returned to the issuing body.

Regulation 12 revokes the Community Bus Regulations 1986, together with three amending instruments. These instruments are listed in the Schedule to these Regulations.

An impact assessment has been prepared and copies can be obtained from the Department for Transport, Great Minster House, 76 Marsham Street, London, SW1P 4DR. A copy has been placed in the Library of each House of Parliament.

Copies of the impact assessment may also be accessed on the HMSO website at www.opsi.gov.uk.

Summary: Intervention & Options

Department /Agency: DEPARTMENT FOR TRANSPORT	Title: Impact Assessment of Regulations relating to community transport permits	
Stage: Consultation		Date: July 2008
Related Publications: Local Transport Bill		

Available to view or download at:

<http://www.dft.gov.uk/localtransportbill>

Contact for enquiries: Peter.openshaw@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 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 Bill includes measures to increase flexibility in the provision of transport services by removing unnecessary restrictions on this sector. Some changes to secondary legislation are needed as a consequence.

What are the policy objectives and the intended effects?

The policy objectives of these provisions in the Bill are to increase the opportunities for (predominantly) Third Sector 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 Third Sector.

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

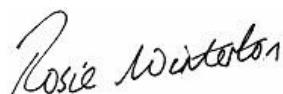
Options are fairly narrowly constrained since many of the matters are subject to EU legislation for which there are various degrees of derogation for non-commercial use. The existing national legislation, primary and secondary, has aimed to make best use of the available derogations and the same approach is being followed with these regulations. Because of the objective of "light touch" regulation we are not proposing any further regulatory measures, though we may need to reconsider that in the light of consultation responses.

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 Bill, in accordance with "Post-Legislative Scrutiny - The Government's Approach" (March 2008, Cm 7320).

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	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.		
	One-off (Transition) Yrs			
	£ Nil			
	Average Annual Cost (excluding one-off)			
	£ [75k from 2014]	Total Cost (PV)	£	
Other key non-monetised costs by 'main affected groups' The bodies that simply continue to operate as they did before the Bill 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	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.		
	One-off Yrs			
	£ None monetised			
	Average Annual Benefit (excluding one-off)			
	£ None monetised	Total Benefit (PV)	£	
Other key non-monetised benefits by 'main affected groups' For providers, reduced operating costs through greater flexibility, with potential to increase service provision for benefit of users. Improvements to the permit issuing system will aid enforcement and safety for the public.				

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 Bill.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ Positive
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What is the geographic coverage of the policy/option?	Great Britain			
On what date will the policy be implemented?	Depends on consult'n			
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	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

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

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

Evidence Base (for summary sheets)

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 Bill which will remove various restrictions and constraints and enable them to expand the range of services they can offer.
2. The changes in the primary legislation through the Bill would necessitate some amendments to the regulations. 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 only be issued to bodies who operate passenger transport without a view to profit, or incidentally to another profit-making activity. 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.

The IA 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 draft regulations as attached to the consultation document appears likely 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 would set a date (probably during 2009) after which all new permits would be issued on a time-limited basis (without, for the time being, invalidating existing timeless permits), and the consultation document asks for comments as to what that date should be. In setting the date the Department wants to avoid placing excessive burdens on bodies. The regulations also provide for the inclusion of an expiry date on permits and discs.

Conditions to be fulfilled by drivers

9. So far as possible, the conditions prescribed in the draft 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.
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 regulation 4(2) of each set 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 draft regulations and the main consultation document.
12. Regulation 5 of the Section 19 Permit Regulations would 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 (marginally) reduce the available pool of drivers, but do not otherwise impose any cost or burden on the bodies holding the permits.

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 draft regulations mirror as far as possible the conditions prescribed in the existing 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 draft community bus regulations 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. The draft 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. There will 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. These bodies are supplied with permits at the cost of £1.90 per pad of five, and discs at the cost of £1.50 per pad of five – these administrative charges have not been increased for a number of years. Although some bodies order large numbers of pads at one time, we do not consider it likely that large quantities of unused pads will be in storage.
19. There will be no immediate need 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 the outcome of this consultation as to the timescales required. Regulations will be drafted under separate primary powers for that purpose in the course of 2009 and will be the subject of further consultation.
20. 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. The existence of timeless permits which are difficult to keep track of could well lead to misuse, either inadvertently (because the user does not understand the conditions on which they were granted) or through their falling into the wrong hands. It is likely that a number of permits are no longer in use, but have neither been surrendered nor destroyed.

21. The Bill 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.
22. 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.

<i>Period</i>	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

23. 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.
24. 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).
25. 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 on the Draft Local Transport Bill (*Strengthening local delivery*) 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 Bill 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, as introduced, as a less burdensome alternative that would help improve the flow of information to the traffic commissioners and allow enforcement to be better targeted.

26. 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 section 19 large buses, and community buses, never large, is fairly static. However, the provisions in the Local Transport Bill 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.
27. 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

28. 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. (See section above on “The IA for the Local Transport Bill”).

Benefits are:

29. 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.
30. 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 draft regulations make the best use of available derogations from the Council Directive.
31. *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.

Competition assessment

32. 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. Although there may be some competition between community transport bodies and commercial operators at the margin, this is limited and the Government considers that the benefits resulting from community transport provision significantly outweigh any adverse impact on commercial operators.
33. The draft regulations would have little if any effect on the competitive balance between the commercial and voluntary sectors.

Other impacts – race, disability and gender equality

34. 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 Bill which these regulations would 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	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
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	No	No

LIST OF CONSULTATION QUESTIONS

Q1. Do consultees agree that the driver of a vehicle with fewer than 9 seats used under a section 19 permit –

- a. should be at least 21 years old and have held a full category B licence for at least 2 years?
- b. should not be subject to conditions as to medical standards, or be prohibited from receiving payment? (paragraph 24).

Q2. Do consultees agree that no exception from the normal driver licensing requirements should be made for the drivers of “large buses”? (paragraph 25).

Q3. We would welcome (a) information as to the extent to which pre-April 1988 minibuses are still used under section 19 or 22 permits, (b) comments as to whether the conditions proposed to be prescribed in the new regulations would provide for the continued use of pre-April 1988 vehicles (paragraph 31).

Q4. Do consultees agree that “large buses” used under section 22 permits should be required to have a Certificate of Initial Fitness, as is already the case for “large buses” under section 19? (paragraph 34).

Q5. Do consultees agree with the proposals for the use of large buses under section 22 permits? If not, what alternatives are thought to be more appropriate? (paragraph 41).

Q6. We would welcome comments on whether any other changes or additions to the existing passenger classes under section 19 permits would be useful (paragraph 47).

Q7. We welcome views on whether it is practicable for the issue of time-limited permits and discs to commence on 1st January 2009. Views from the Designated Bodies are particularly welcomed (paragraph 53).

Q8. Users of permits and Designated Bodies are invited to give brief preliminary views on the timetable for replacing timeless permits, though as noted earlier this will be a matter for future regulations on which there will be separate consultation in due course (paragraph 55).

Q9. We would be interested to know if any permits granted (under the Minibus Act 1977 or section 42 of the Public Passenger Vehicles Act 1981) prior to the 1987 regulations are still in use (paragraph 61).

Q10. We would welcome any further suggestions from consultees as to matters for which regulation might be needed (paragraph 62).

Q11. We would also welcome any further data or evidence that would inform the analysis in the accompanying impact assessment (paragraph 63).

Pro-forma for use when responding

<i>Name of respondent</i>	
<i>Organisation (if applicable)</i>	
<i>Interest (eg trade; local authority; passenger representative)</i>	
<p>Q1. Do consultees agree that the driver of a vehicle with fewer than 9 seats used under a section 19 permit –</p> <ul style="list-style-type: none"> a. should be at least 21 years old and have held a full category B licence for at least 2 years? b. should not be subject to conditions as to medical standards, or be prohibited from receiving payment? (paragraph 24). 	
<p>Q2. Do consultees agree that no exception from the normal driver licensing requirements should be made for the drivers of “large buses”? (paragraph 25).</p>	
<p>Q3. We would welcome (a) information as to the extent to which pre-April 1988 minibuses are still used under section 19 or 22 permits, (b) comments as to whether the conditions proposed to be prescribed in the new regulations would provide for the continued use of pre-April 1988 vehicles (paragraph 31).</p>	
<p>Q4. Do consultees agree that “large buses” used under section 22 permits should be required to have a Certificate of Initial Fitness, as is already the case for “large buses” under section 19? (paragraph 34).</p>	
<p>Q5. Do consultees agree with the proposals for the use of large buses under section 22 permits? If not, what alternatives are thought to be more appropriate? (paragraph 41).</p>	

ANNEX F

Q6. We would welcome comments on whether any other changes or additions to the existing passenger classes under section 19 permits would be useful (paragraph 47).	
Q7. We welcome views on whether it is practicable for the issue of time-limited permits and discs to commence on 1 st January 2009. Views from the Designated Bodies are particularly welcomed (paragraph 53).	
Q8. Users of permits and Designated Bodies are invited to give brief preliminary views on the timetable for replacing timeless permits, though as noted earlier this will be a matter for future regulations on which there will be separate consultation in due course (paragraph 55).	
Q9. We would be interested to know if any permits granted (under the Minibus Act 1977 or section 42 of the Public Passenger Vehicles Act 1981) prior to the 1987 regulations are still in use (paragraph 61).	
Q10. We would welcome any further suggestions from consultees as to matters for which regulation might be needed (paragraph 62).	
Q11. We would also welcome any further data or evidence that would inform the analysis in the accompanying impact assessment (paragraph 63).	

A Microsoft Word version of this pro-forma is available for download at www.dft.gov.uk/localtransportbill, or on request from LocalTransportBill@dft.gsi.gov.uk.

LIST OF CONSULTEES

All local authorities in England, Wales and Scotland (except Parish and Community Councils)

All other bodies designated under section 19(7) of the Transport Act 1985

Association of Local Bus Managers (ALBUM)

Association of Transport Co-ordinating Officers

Bus Users UK

Commission for Integrated Transport

Community Transport Association

Confederation of Passenger Transport UK

Confederation of Scottish Local Authorities

Disabled Persons Transport Advisory Committee

Institute of Licensing

Local Government Association

London Private Hire Car Association

National Association of Licensing Enforcement Officers

National Private Hire Association

National Taxi Association

Passenger Transport Executives and the Passenger Transport Executive Group

Scottish Executive

Scottish Taxi Federation

Traffic Commissioners

Transport for London

Welsh Assembly Government

Welsh Local Government Association

CODE OF PRACTICE ON CONSULTATION

The Government has adopted a code of practice on consultations. The code of practice applies to all UK public consultations by government departments and agencies, including consultations on EU directives.

Though the code does not have legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), it should otherwise generally be regarded as binding unless Ministers conclude that exceptional circumstances require a departure.

The code contains six criteria. They should be reproduced in all consultation documents. There should be an explanation of any departure from the criteria and confirmation that they have otherwise been followed.

Consultation criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the time-scale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.

A full version of the code of practice is available on the Better Regulation Executive web-site at:

<http://bre.berr.gov.uk/regulation/documents/consultation/pdf/code.pdf>

If you consider that this consultation does not comply with the criteria or have comments about the **consultation process** please contact:

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