Draft Order laid before House of Commons under section 102(5) of the Finance (No 2) Act 1987, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2009 No. 0000

FEES AND CHARGES

The Department for Transport (Fees) Order 2009

Made - - - - 2009

Coming into force in accordance with Article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 102(3) and (4) of the Finance (No.2) Act 1987(**1**).

In accordance with section 102(5) of that Act, a draft of this Order was laid before the House of Commons and approved by a resolution of that House.

Citation, commencement and interpretation

1. This Order may be cited as the Department for Transport (Fees) Order 2009 and shall come into force on the day after that on which it is made.

2.—(1) In this Order—

"the 1976 Act" means the International Carriage of Perishable Foodstuffs Act 1976 (**2**)

"the 1981 Act" means the Public Passenger Vehicles Act 1981(**3**);

"the 1985 Act" means the Transport Act 1985(**4**)

"the 1987 Act" means the Finance (No.2) Act 1987;

"the 1988 Act" means the Road Traffic Act 1988(**5**)

"the 1994 Act" means the Vehicle Excise and Registration Act 1994(**6**)

"the 1995 Act" means that the Goods Vehicles (Licensing of Operators) Act 1995(**7**);

(**1**) 1987 c.51 Section 102 is extended by section 3(4) of the Government Trading Funds Act 1973 (c.63) as inserted by the Government Trading Act 1990 (c.30), section 2(1).
(**2**) 1976 c.58
(**3**) 1981 c.14
(**4**) 1985 c.67
(**5**) 1988 c.52
(**6**) 1994 c.22
(**7**) 1995 c.23

"enforcement and compliance functions" include, without limitation, any functions of or relating to—

(a) the inspection, checking or monitoring of activities;

(b) the investigation and prosecution of offences;

(c) the suspension, revocation or discontinuance of any licence or permit, or disqualifying a person from holding such a licence or permit;

(d) the issuing or imposition of any warning, restriction, condition or prohibition or the imposition of any other sanction other than prosecution;

(e) the immobilisation, removal or disposal of any vehicle;

(f) preparation for or participation in legal proceedings, including assistance to any court or tribunal;

(g) development of enforcement policy or practice; and

(h) any other action to promote enforcement of or compliance with any legal requirement, including the provision of guidance, advice, publicity or other assistance to encourage understanding and observance;

"examination for plating" and "goods vehicle test" have the same meaning as in section 49(4) of the 1988 Act;

"Minister's approval certificate" has the same meaning as in section 58 of the 1988 Act;

"public service vehicle" has the same meaning as in section 1 of the 1981 Act(**8**);

"traffic commissioner" means a commissioner appointed under section 4(**9**) of the 1981 Act;

"senior traffic commissioner" means a traffic commissioner appointed by the Secretary of State as senior traffic commissioner under section 4A(**10**) of the 1981 Act and any reference to a traffic commissioner includes reference to the senior traffic commissioner;

"vehicle examiner" means an examiner appointed under section 66A(**11**) of the 1988 Act.

(2) In this Order references to powers to fix fees are references to powers of the Secretary of State.

Fees under the International Carriage of Perishable Foodstuffs Act 1976

3.—(1) In relation to the powers to fix a fee under section 3(1)(d) and (g) of the 1976 Act (fees for examination and testing of transport equipment and the issue of certified copies of certificates), the functions listed in paragraphs 1 and 3 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(2) In relation to the power to fix a fee under section 4(1) of the 1976 Act (fees for approval of type equipment) the functions listed in paragraphs 2 and 3 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

Fees under the Public Passenger Vehicles Act 1981

4.—(1) In relation to the powers in the 1981 Act to fix a fee under:

(a) section 52(1)(a)(ii)(**12**) and section 60(1)(e)(**13**) (fees in relation to certificates of initial fitness or equivalent);

(**8**) Words were omitted from section 1(3) and (5) of the 1981 Act by Schedule 8 of the Transport Act 1985.
(**9**) Section 4 of the 1981 Act was amended by section 2 of the Local Transport Act 2008 (c.26).
(**10**) Section 4A of the 1981 Act was inserted by section 3 of the Local Transport Act 2008 (c.26).
(**11**) Section 66A of the 1988 Act was inserted by section 9(1) of the Road Traffic Act 1991 (c.40).
(**12**) Relevant amendments to section 52(1) were made by the Transport Act 1985, Schedule 1, paragraph 7; Schedule 2, Part II, paragraph 4(14)(a) and Schedule 8. Sub-paragraphs (ia) and (ib) of paragraph (a) of section 52(1) were inserted by the Deregulation and Contracting Out Act 1994 (c.40), section 66(2).

(b) section 10(1) and section 60(1)(e) (fees in relation to approval of vehicle as type vehicle);

the functions listed in paragraphs 4 to 6 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(2) In relation to the powers to fix fees under sub-paragraphs (i), (ia), (ib), (iii) and (iv) of section 52(1)(a) and section 60(1)(e) of the 1981 Act (fees in relation to licences to operate public service vehicles etc.), the functions listed in paragraphs 7 to 11 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(3) In relation to the power to fix a fee under section 52 (1)(a)(v) and section 60(1)(e) of the 1981 Act (fees in relation to documents required for public service vehicles registered in Great Britain to make journeys to or from places outside Great Britain or in relation to public service vehicles registered outside Great Britain), the functions listed in paragraph 12 and 13 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(4) In relation to the power to fix a fee under section 52(1) and section 60(1)(e) of the 1981 Act as applied by sections 126(1)(**14**) and 134(1) of the 1985 Act —

(a) in relation to applications for the registration of local bus services and the cancellation, variation or continuing in force of such registrations, the functions listed in paragraphs 14 to 17 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act;

(b) in relation to applications for and the grant of permits under sections 19(**15**) and 22 of the 1985 Act, the functions listed in paragraphs 18 to 20 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

Fees under the Road Traffic Act 1988

5.—(1) In relation to the powers in the 1988 Act to fix a fee under section 45(7) and —

(a) section 46(1)(h)(**16**) (fees for the issue of duplicates and copies of test certificates);

(b) section 46(5) (fees for particulars of records);

(c) section 46(6) (charges for the sale of information derived from records),

where the fee relates to certificates or records with regard to the inspection, testing or examination of public service vehicles, the functions listed in paragraphs 21 to 23 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(2) In relation to the power to fix a fee under section 45(7) and section 46(1)(f) of the 1988 Act (fees on an application or appeal relating to a vehicle examination), where a fee is charged in respect of the inspecting, testing, examination or re-examination of public service vehicles, the functions listed in paragraphs 21 to 24 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(3) In relation to the powers in the 1988 Act to fix a fee under section 45(7) and—

(a) the powers listed in paragraphs (1) and (2);

(b) section 45(6A)(**17**) (fees for attendance on courses in connection with the carrying out of vehicle examinations);

(**13**) Relevant amendments to section 60(1) were made by the Transport Act 1985, Schedule 2, Part II, paragraph 18 and Schedule 8, and paragraph (e) was substituted by section 66(5) of the Deregulation and Contracting Out Act 1994.
(**14**) Section 126(1) was amended by section 52 of the Local Transport Act 2008 (c.26).
(**15**) Functions under section 19(7) of the Transport Act 1985 were transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Schedule 1 and, in so far as they are exercisable in or as regards Scotland, to the Scottish Ministers, by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999, SI 1999/1750, art 2, Schedule 1.
(**16**) Section 46 was substituted by section 2 of the Road Traffic (Vehicle Testing) Act 1999.
(**17**) Section 45(6A) was inserted by section 1(3) of the Road Traffic (Vehicle Testing) Act 1999 (c.12).

(c) section 46(1)(j) and section 46(4) (charges paid by authorised examiners or designated councils);

(d) section 46(2)(b) (fees in respect of applications for or continuation of the Secretary of State's authorisation, approval or designation),

where a fee relates to the inspection, testing or examination of vehicles other than public service vehicles, or in relation to certificates, or records with regard to such inspection, testing or examination, the functions listed in paragraphs 25 to 27 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(4) In relation to the powers in the 1988 Act to fix a fee under section 49 and—

(a) section 51(1) (h) (fees on an application or appeal relating to vehicle examination);

(b) section 51(1) (k) (fees for replacement of plates, plating certificates and goods vehicle test certificates),

the functions listed in paragraphs 28 to 31 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(5) In relation to the powers in the 1988 Act to fix a fee under section 61(1) and —

(a) section 61(2)(d) (fees for type approval examinations etc.)

(b) section 61(2)(e) (fees for services or facilities or the issue of certificates and other documents);

(c) section 61(2)(h) (fees for issue of replacement plates, certificates of conformity and approval certificates),

the functions listed in paragraphs 32 to 35 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(6) In relation to the powers in the 1988 Act to fix a fee under section 63A(3)(b), (d) and (e)(**18**) (fees for applications and appeals relating to plated weights for goods vehicles without examination, including the issue of replacement plates), the functions listed in paragraphs 28 to 35 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(7) In relation to the powers in the 1988 Act to fix a fee under—

(a) section 72(8)(**19**) (fees for inspection of a vehicle with a view to removal of a prohibition);

(b) section 72(9) (fees for appeals relating to removal of a prohibition),

the functions listed in paragraphs 36 to 38 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

Fees under the Vehicle Excise and Registration Act 1994

6.—(1) In relation to the powers to fix fees under paragraphs (b), (d), (g), (h) and (j) of section 22A(3) of the 1994 Act (**20**) (fees in relation to examinations and appeals for the purposes of vehicle identity checks etc.), the functions listed in paragraphs 39 and 43(a) of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(2) In relation to the power to fix a fee under section 61A(4)(**21**) of the 1994 Act (fees in relation to examinations and appeals for the purposes of determining the design weight of a vehicle), the functions listed in paragraphs 40, 41 and 43(b) of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

(**18**) Section 63A was inserted by section 18 of the Transport Act 1982 (c. 49).
(**19**) Section 72 was substituted by section 16 of the Road Traffic Act 1991 (c. 40).
(**20**) Section 22A of the 1994 Act was inserted by section 33(2) of the Vehicles (Crime) Act 2001 (c.3).
(**21**) Section 61A of the 1994 Act was inserted, in relation to licences taken out on or after 1 July 1995 and in relation to the use of certain vehicles after 30 June 1995, by the Finance Act 1995, s 19, Schedule 4, paragraphs 16, 28, 29.

(3) In relation to the power to fix a fee under section 61B(1)(d) and (3)(b)(**22**) of the Vehicle Excise and Registration Act 1994 (fees in relation to examinations and re-examinations for reduced pollution certificates) the functions listed in paragraphs 42 and 43(c) of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

Fees under the Goods Vehicles (Licensing of Operators) Act 1995

7. In relation to the power to fix a fee under section 45(1) and sections 57(2) (b) and (f) of the 1995 Act, (fees in respect of licences to operate goods vehicles etc.) the functions listed in paragraphs 44 to 47 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

Fees under the Disability Discrimination Act 1995

8. In relation to the power to fix a fee under section 45(1) of the Disability Discrimination Act 1995(**23**) (fees in relation to accessibility and approval certificates, etc.), the functions listed in paragraphs 48 to 51 of Schedule 1 are specified for the purposes of section 102(3) of the 1987 Act.

Matters to be taken into account in determining costs

9. The matters listed in Schedule 2 are specified as matters that for the purpose of section 102(4) of the 1987 Act are to be taken into account, in determining the costs of each of the functions specified in Schedule 1.

Amendment of the Department of Transport (Fees) Order 1988

10.—(1) The Department of Transport (Fees) Order 1988(**24**) shall be further amended as follows.

(2) In Schedule 1 the following entries are omitted—

(a) Table I,

(b) Paragraphs 1 to 4A of Table III,

(c) Table IV,

(d) Table V, except for paragraph 3A and

(e) Table VI.

(3) In Table II of Schedule 1, (fees payable under the Finance Act 1973),

(a) in column 2 (specified functions) —

(i) in paragraph A(i), the words "pursuant to any Community obligation or any international road transport agreement or arrangement" are substituted for the words "in relation to obligations under EEC regulations and bilateral road transport agreements";

(ii) in paragraph B(i), the words "pursuant to any Community obligation" are substituted for the words "in relation to any EEC Directive" and "EEC" is omitted before "type approval";

(iii) in paragraph D(ii), the words "pursuant to any Community obligation" are substituted for the words "under EEC regulations";

(**22**) Section 61B of the 1994 Act was inserted by the Finance Act 1998, s 16, Schedule 1, paragraph 2.
(**23**) 1995 c.50
(**24**) S.I. 1988/643 in relation to which the relevant amending instruments are statutory instruments 1991/288, 1991/811, 1995/1684, 1996/1961, 1998/459, 2003/1094 and 2003/2994.