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Date: 1 June 2010

Dear Consultee:

## **CONSULTATION PAPER ON THE FUTURE OF BUS OPERATOR LICENSING IN NORTHERN IRELAND**

A copy of a consultation document, which seeks your views on the Department of the Environment (DOE) planned proposals on the future of bus operator licensing in Northern Ireland, is attached.

We would welcome your comments on the 31 specific questions asked in the document, a complete list of which is provided in Appendix A of the consultation.

### **How to respond**

Responses, using the enclosed form, should be received no later than **24 August 2010**. Details on how to respond can be found within chapter one of the attached consultation document.

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

### **Freedom of Information Act 2000 – Confidentiality of Consultations**

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of information Act provides that:

- The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided.
- The Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature.
- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses, please contact the Information Commissioner's Office at:

Information Commissioner's Office – Northern Ireland  
Room 101  
Regus House  
33 Clarendon Dock  
Laganside  
Belfast  
BT1 3BG

Tel. (028) 9051 1270  
Email to [ni@ico.gsi.gov.uk](mailto:ni@ico.gsi.gov.uk)

Alternatively, see their website at: [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

Yours Faithfully,



**JOHN BROGAN**

# The future of Bus Operator Licensing in Northern Ireland



## A Consultation Document



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# **1 CONSULTATION ARRANGEMENTS**

## **1.1 Purpose of Consultation**

1.1.1 This Consultation Document seeks views on proposals by the Department of the Environment (DOE) to introduce a new Bus Operator Licensing system in Northern Ireland.

1.1.2 Your views are invited on the proposals and, in particular, the likely impact of them for you or your organisation.

## **1.2 Consultees**

1.2.1 The consultation is aimed at people involved in, or connected with, the passenger transport industry in Northern Ireland. It includes industry representative associations, users, the Consumer Council and other interested parties.

1.2.2 A full list of consultees can be found at Appendix B.

## **1.3 Responses**

1.3.1 If you wish to respond to this consultation, please complete the attached form at Appendix A and forward your comments in either of the following ways:

E-mail: [Helen.McIlwaine@doeni.gov.uk](mailto:Helen.McIlwaine@doeni.gov.uk)

Write to: Helen McIlwaine  
Road Safety Policy Branch  
Department of the Environment  
Clarence Court  
10 – 18 Adelaide Street  
BELFAST  
BT2 8GB

Textphone: (028) 9054 0642

## **1.4 Code of Practice on Access to Government**

1.4.1 Please note that information supplied to the Department may be disclosed in response to a request under the Code of Practice on access to Government Information. If you consider that any such information is either confidential or commercially sensitive, you should identify the information to the Department and specify any reasons for its sensitivity. The Department will consult you about the information before making a decision on any Code of Practice on access to Government Information request received.

## **1.5 Help with Queries**

1.5.1 If you have any queries or require further information about this

consultation, please do not hesitate to contact Helen McIlwaine on telephone number 028 9054 0918 or at the above address. This consultation document can also be found at [www.doeni.gov.uk/roadsafety](http://www.doeni.gov.uk/roadsafety)

## **1.6 Closing Date for Responses**

1.6.1 The closing date for responses is 24 August 2010.

## **2 INTRODUCTION**

- 2.1 The DOE through the Driver and Vehicle Agency (DVA) is responsible under the Transport Act (NI) 1967 (The Transport Act) for granting a Road Service Licence (RSL) to passenger transport operators who wish to carry passengers by road for reward. The RSL applies to a vehicle (buses and minibuses) designed or adapted to carry nine or more passengers for hire or reward.
- 2.2 The RSL is composed of two elements:
  - Fitness to be in the industry.
  - The routes/ services buses operate on.
- 2.3 Currently the DOE and the Department for Regional Development (DRD) share responsibility for transport policy.
- 2.4 Under the Transport Act DOE has the powers to regulate the bus industry in terms of the criteria that must be met to enter the industry (i.e. those applicable to the bus operator) and also for controlling the routes and services that an operator can provide.
- 2.5 At present this is done in consultation with DRD (on the routes and services part of the licence only, as DRD has its own policy responsibility for routes and services).
- 2.6 While DOE has full responsibility and powers at present for the issue of the RSL (Operator and route/ service element) under the ongoing reform of Public Transport by DRD these elements will be separated. DOE will retain the policy and legislation responsibility to license bus operators based on their suitability to be in the industry and DRD will take over full responsibility for the policy and legislation of all routes and services.
- 2.7 DRD is bringing forward new legislation to allow them to regulate services. This consultation, however details initial proposals by DOE to replace the existing RSL with a more modern bus operator licensing regime. This will create a licensing regime which is flexible, transparent and supports fair competition in the industry. It is likely that new primary legislation will be required to support the regime described in this consultation.

## **3 BACKGROUND**

- 3.1 In Northern Ireland, there are currently more than 200 operators licensed to carry passengers for hire or reward when using a vehicle designed or adapted to carry nine or more passengers under a RSL.
- 3.2 The Transport Act also provides for a permanent exemption from a RSL through the 10B permit scheme. It is estimated that there are over 2500 operators who operate under this exemption. This permit was introduced for voluntary groups carrying out a range of activities such as



those associated with education, religion, social welfare and other activities that benefit the community.

3.3 A RSL is valid for a period of one year and DVA receives around 200 applications for the renewal of these Road Service Operator licences annually, together with around 10 to 15 applications for new licences.

3.4 Regulation of the existing licensing regime has been problematic for the following reasons:

### 3.5 Current Licensing System

#### 3.5.1 *There are two types of Road Service Licences*

- a) A National Licence – to carry passengers for reward within the United Kingdom
- b) An International Licence – to carry passengers for reward on international journeys including the Republic of Ireland

3.5.2 The main problems with the full operator licence are as follows:

- There is no means of distinguishing between licensed and unlicensed vehicles making enforcement difficult.
- There is an inadequate fee structure.
- Operators have to apply to be licensed annually.
- The Department can only revoke or suspend the complete RSL for breaches of licensing conditions, so operators often lose their RSL completely. It cannot act proportionately based on the extent of the offence(s).

#### 3.5.3 *10B Permit Scheme*

3.5.4 The main problems with the 10B permit scheme are as follows:

- Currently there are a large number of “designated bodies” who have the authority to issue small bus permits, and there is no consistency in the way they are administered. There is no way of determining how many have been issued or their current status.
- A 10B permit has no expiry date.
- A 10B permit is a virtually unconditional exemption from normal vehicle, driver and operator licensing requirements.
- There is no charge for a 10B permit and therefore there is no mechanism for the Department to recover its costs.
- The legislation does not clearly define the activities that the permit is intended to cover.
- The 10B permit exempts holders from the requirement to comply with disability discrimination legislation.
- It is difficult to establish that passengers are being carried on a non-profit making basis.

## 4 PROPOSALS

4.1 The Department is considering introducing the following improvements:

- A more streamlined structure of licences to avoid the confusion that exists at present.
- Better management of the licensing process by the Department to allow fairer application of the rules governing the licensing of passenger transport.
- Improved enforcement procedures to ensure fairness across the industry.
- Greater clarity in the industry for operators, their vehicles and drivers as to the requirements and rules of licensing.

4.2 A number of options for future operator licensing are set out below with advantages and disadvantages for each listed; and while the Departments preference is identified, we would like your comments on all of the options.

## 5 OPTIONS FOR LICENSING

### 5.1 Option 1 - Do nothing.

5.1.1 The DRD reform of public transport will remove the responsibility from DOE for the route/service element of bus licensing leaving the operator element and the 10B permit scheme to continue. The Department could accommodate the separation of the route and service elements and consolidate existing powers for operator licensing and 10B permits. However, this is not a realistic option as the Department recognises that the existing licensing regime is not able to accommodate the needs of a modern bus industry.

#### 5.1.2 *Advantages*

- The existing system in relation to RSL's is tried and tested.
- It requires no additional resources other than those needed to support the DRD changes.

#### 5.1.3 *Disadvantages*

- The existing system is not flexible enough to deal with the variety of bus transport providers currently operating.
- The concept that a transport provider has to be either licensed (i.e. has to meet full licensing requirements) or exempted (i.e. does not have to meet any requirements) does not support a level playing field for the industry to operate in.
- Commercial bus operators perceive 10B permits as providing a back door into the industry, potentially allowing unfair competition.
- 10B permits provide the holder with permanent exemption for all

transport activities.

*Q1 — Do you find Option 1 to be a feasible option for consideration?*

## **5.2 Option 2 – A single Licensing Regime**

5.2.1 Create a single licensing scheme for all. The existing operator licensing regime would be extended to cover all bodies currently operating under 10B permits.

### *5.2.2 Advantages*

- Existing operator licensing is tried and tested.
- It would create a level playing field as all bus operators would have to meet the same requirements.
- It would be a completely transparent system and would be fully enforceable.
- All operators would be competing on an equal basis.
- It would contribute to road and passenger safety as it would ensure that all vehicles were suitably maintained and licensed and all drivers appropriately licensed.
- It would do away with the 10B permit scheme.

### *5.2.3 Disadvantages*

- It would exacerbate the lack of flexibility that exists in the current system. The Department is aware that one size does not fit all.
- It would adversely affect school, church and community groups who would not be able to meet the financial or competence requirements.
- It could affect school-owned minibus transport.
- It would have serious financial implications for all the voluntary groups who operate on a completely non-commercial basis.
- It would have serious administrative implications for the Department as it would have to license the hundreds of church and community groups who currently operate under 10B permits.

*Q2 — Do you find Option 2 to be a feasible option for consideration?*

## **5.3 Option 3 - New 3 Tier Licensing Regime**

5.3.1 Develop a new, more flexible, regime based on a three tier licensing system.

5.3.2 **Tier 1** would be full bus operator licensing and would essentially take the same form and have largely similar requirements as the existing operator element to the Road Service licence. A full licence would cover a bus operator for all potential commercial bus transport services.

5.3.3 **Tier 2** would make greater use of restricted operator licences. Here an applicant would have to meet the same repute, vehicle and driver licensing requirements as for a full licence but lesser financial and competence requirements. The licence would restrict the operator to operating minibuses (9 – 16 passenger seats). These operators would be able to pay their drivers and cover their operating costs.

5.3.4 **Tier 3** would be a scheme with similar aims and objectives as 10B permits but would take the form of a licence rather than an exemption. An applicant would be responsible for ensuring that repute requirements are met. Groups operating appropriately within the 10B permit would be unlikely to notice any difference. Transport would be an ancillary activity for the group, not the main function.

#### 5.3.5 *Advantages*

- Full operator licensing is tried and tested.
- Restricted operator licences are currently being used to licence groups whose operation is not strictly voluntary.
- It would be a completely transparent system which would be fully enforceable as all tiers would have specific conditions set out in regulations.
- It would address the concerns of commercial operators as those with restricted licences or permits would be limited in the types of activities they could carry out.
- It would contribute to road and passenger safety as it would require that all vehicles were suitably maintained and licensed and all drivers appropriately licensed.
- It would maintain the aims and objectives of the existing 10B permit in that voluntary groups would not have to meet the same rigorous standards as full and restricted operator licence holders.
- It would allow church and voluntary groups to operate similarly to the way they do now.

#### 5.3.6 *Disadvantages*

- It would require significant resources to develop and introduce the legislation.
- It would require additional resources to operate and administer the new licensing regime.
- It will have additional financial implications for the voluntary groups.

Q3 — <i>Do you find Option 3 to be a feasible option for consideration?</i>
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Q4 — <i>Which of the 3 options do you believe to be the most viable?</i>
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## 6 THE DEPARTMENTS PREFERRED OPTION – OPTION 3

6.1 The Department wishes to know your comments on all of the above options, but favours this option set out below in more detail.

### 6.2 Tier 1 – Full Bus Operator Licence

6.2.1 **Competence** – the Operator or Transport Manager must be professionally competent i.e. they must hold ‘CPC for National or International Passenger Transport Operations’.

6.2.2 **Repute** – Operator, Partners, Transport Manager, Directors etc (all persons named on the application) must meet good repute requirements and supply Access NI Basic Disclosure Certificates.

6.2.3 **Finance** – the Operator must provide proof of sufficient finances to launch and administer the business in accordance with EC requirements.

6.2.4 **Operating Centre** – Operators must have a suitable operating centre to keep vehicles when they are not in use (vehicles are not permitted to be parked overnight on public roads).

6.2.5 **Vehicles** – must:

- Have NI Public Service Vehicle (PSV) test certificate/disc;
- Have bus vehicle excise duty disc (TAX);
- Have hire or reward Insurance specifying vehicle registration mark(s); and
- Be properly maintained.

6.2.6 **Drivers** – must have:

- Full category D or D1 Driving Licence; and
- ‘Driver CPC’ qualifications.

6.2.7 This licence gives the operator unqualified access to the industry in that it allows them to compete for services.

<p><i>Q5 — Do you agree with the requirements detailed in relation to Tier 1 applicants?</i></p>
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### 6.3 Tier 2 – Restricted Bus Operator Licence

6.3.1 **Competence** – No compulsory competence requirement.

6.3.2 **Repute** – Operator, Partners, Managers, Directors etc (all persons named on the application) must meet good repute requirements and supply Access NI Basic Disclosure Certificates.

6.3.3 **Finance** – an operator will be required to provide proof of sufficient finances to ensure the upkeep of the vehicle and the operating centre.

6.3.4 **Operating Centre** – Operators must have a suitable operating centre to keep vehicles when they are not in use (vehicles are not permitted to be parked overnight on public roads).

6.3.5 **Vehicles** – must:

- Have a NI Public Service Vehicle (PSV) test certificate/disc;
- Have a bus vehicle excise duty disc (TAX);
- Appropriate insurance specifically for their type of operation; and
- Be properly maintained.

6.3.6 **Drivers** – must have:

- Full category D or D1 Driving Licence; and
- ‘Driver CPC’ qualifications.

6.3.7 Under this licence an Operator will be able to make a not for profit charge to pay their drivers and cover their operating costs.

<i>Q6 — Do you agree with the requirements detailed in relation to Tier 2 applicants?</i>
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#### 6.4 **Tier 3 –Voluntary Groups Operator Licence**

6.4.1 **Repute** – an applicant would be responsible for ensuring that repute requirements are met.

6.4.2 **Operating Centre** – Operators must have a suitable operating centre to keep vehicles when they are not in use (vehicles are not permitted to be parked overnight on public roads).

6.4.3 **Vehicles** – must:

- Have an appropriate vehicle test certificate;
- Have a bus vehicle excise duty disc (TAX);
- Have appropriate insurance for their type of operation; and
- Be properly maintained.

6.4.4 Drivers will be required to have the appropriate category of driving licence.

6.4.5 Under the permit / licence the voluntary groups can only transport their own members and cover the running costs of the bus.

<i>Q7 — Do you agree with the requirements detailed in relation to Tier 3 applicants?</i>
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## **7 CARRIAGE OF ALCOHOL ON BUSES**

- 7.1 The Department proposes to make it a condition of the licence that the Operator makes arrangements for the separate carriage of alcohol on buses.

*Q8 — Do you agree with the proposal of separate carriage of alcohol on buses?*

## **8 DESIGNATED BODIES**

- 8.1 The Department intends to bring all tiers of licensing within its control. This will mean that the existing “designated bodies” would no longer have the power to issue permits.

*Q9 — Do you agree that the Department will be the only body with the power to issue permits?*

## **9 CONTINUOUS LICENSING**

- 9.1 At present Road Service Operator Licences last for 1 year. The Department intends to move to continuous licensing for bus operators. Under continuous licensing, licences are reviewed regularly and operators are asked to confirm the details of the licence. The Department has discretion to review the suitability of the Operating Centre at the same time. Vehicles will continue to be tested and licensed annually.

*Q10 — Do you agree with the proposed five year review period?*

## **10 VARIATION OF LICENCES**

- 10.1 Under the new arrangements, it will be possible to remove vehicles from an existing licence and add others on, provided the total vehicle authorisation is not exceeded.
- 10.2 However, the addition of extra vehicles in excess of the number authorised, or the change of, or addition of a new operating centre, will be regarded as a major variation to an Operator’s Licence, which would require a new application.

*Q11 — Do you agree with the proposal in relation to variation of vehicles on a licence, as long as the original authorised number is adhered to?*

## 11 PUBLICATION OF NOTICES OF APPLICATION FOR A LICENCE

11.1 Applications for a full or restricted licence or variation of those licences will be required to be published in a prescribed manner. This will require applicants (or the Department) to arrange publication in specified newspapers and for the Licensing Authority to also publish details of applications and decisions for the benefit of statutory objectors.

*Q12 — Do you agree with the Departments proposal to publish notices of licence application?*

## 12 OBJECTIONS AND REPRESENTATIONS

12.1 Advertising of the application will afford the opportunity to bodies such as:-

- A prescribed trade union or association;
- The PSNI;
- A District Council;
- The DoE Planning Service;
- The DoE Northern Ireland Environment Agency; and
- The Department for Regional Development's Roads Service

to make an objection to the grant of a licence. They may object on the grounds of fitness, finance and the professional competence of an operator as well as environmental and/or general suitability of an operating centre.

*Q13 — Do you agree that the listed bodies should have the ability to make objection on the grounds of fitness, finance and the professional competence of an operator, and environmental/ general suitability of an operating centre?*

12.2 Owners or occupiers of land or buildings in the vicinity of an operating centre, who believe that the use of a site as an operating centre could prejudice the use or enjoyment of their land, would have the right to make representations to the Department. Representations may be made only on environmental grounds.

12.3 Anyone would be able to complain at any time about the suitability of an operating centre after it has been specified on an Operator's Licence. Under the continuous licensing system, the Department, when reviewing the operating centres would have the opportunity of taking into account the nature of the complaint.

*Q14 — Do you agree with owners/ occupiers in the vicinity of an operating centre would have the ability to make representation to the Department on environmental grounds?*

*Q15 — Do you agree that any person may complain about the suitability of an operating centre at any time during the licence/ permit validity?*



## 13 OPERATING CENTRES

13.1 The operating centre will be the place where vehicles are normally kept when not in use. The Department will require to be satisfied that the operating centre is suitable, i.e. is it big enough with safe and suitable access and in an environmentally suitable location? In deciding environmental suitability, the Department will take into account the following factors:

- The requirements of planning legislation, if appropriate;
- The nature and use of any other land in the vicinity of the operating centre and the effect that granting the application would be likely to have on the environment of that land;
- How much harm would be done to the environment of the land in the vicinity, by granting an application which is materially to change the use of an existing (or previously used) operating centre;
- The number, type and size of the authorised vehicles which will use the operating centre;
- The parking arrangements for the authorised vehicles which will use the operating centre;
- The nature and times of use of the equipment at the operating centre; and
- How many vehicles would be entering and leaving the operating centre and how often.

*Q16 — Do you agree with the factors considered in relation to suitability of an operating centre?*

## 14 ENVIRONMENTAL CONDITIONS

14.1 To prevent or minimise adverse effects on the environment, the Department may attach conditions to a licence covering:

- The number, type and size of authorised vehicles at the operating centre for maintenance or parking;
- Parking arrangements for the authorised vehicles at the operating centre or in its vicinity;
- The times when the operating centre may be used for maintenance or movement of authorised vehicles; and
- How authorised vehicles enter and leave the operating centre.

*Q17 — Do you agree with the proposed conditions which may be applied to a licence in relation to environmental conditions?*

## 15 UNDERTAKINGS

15.1 The Department will require to be satisfied that the applicant/operator will maintain his/her vehicles in a fit and serviceable condition at all times and comply with traffic and transport related laws. The applicant at the time of application will be required to give such undertakings in the form of a declaration which will be part of the application form for an Operator's Licence and which the applicant will be required to sign. If the undertakings are not kept, disciplinary action may be taken against the operator.

*Q18 — Do you agree with the declaration required with the application form in relation to vehicle maintenance/ servicing and compliance with traffic and transport related laws?*

## 16 PUBLIC ENQUIRIES

16.1 Under the new proposals, the Department will have powers to hold and control the conduct of a public enquiry into an application for an Operator's Licence or a major variation to an existing licence. The purpose of a public inquiry, which will be at the Department's discretion, is to consider aspects of an application where there are doubts as to the applicant's ability to meet the necessary criteria and to hear objections and representations before coming to a decision on the application.

*Q19 — Do you agree with the public enquiry proposals?*

## 17 DISCIPLINARY ACTION

17.1 Where a licensed operator:-

- No longer fulfils the statutory requirements for holding a licence e.g. in relation to good repute/fitness, financial standing or professional competence;
- Contravenes the conditions of the licence;
- Fails to keep any undertakings;
- Uses an unauthorised operating centre; or
- Incurs convictions, prohibitions etc in specified circumstances

the Department will have powers to revoke, suspend or curtail an Operator's Licence. If the Department proposes to take disciplinary action, it must first hold a public inquiry if this is requested by the licence holder or by the person against whom the disciplinary action is being taken.

*Q20 — Do you agree with the Departments proposal on disciplinary actions, and the powers to revoke, suspend or curtail licences/ permits as a result of this?*

## **18 APPEAL PROCEDURES**

18.1 New legislation will also provide for procedures which will allow an applicant or a licence holder to appeal the decision of the Department in respect of:-

- The refusal of an application;
- The imposition of conditions to a licence;
- Disciplinary decisions; or
- Added or varied conditions following the review of an operating centre.

18.2 A statutory objector to a licence application or variation will also have a right of appeal. Representors do not have a right to initiate an appeal, but may become parties to an appeal if one is made by an objector or applicant.

18.3 The Department intends to put in place a means of appeal, with appeal to the Department in the first instance.

*Q21 — Do you agree with the Departments proposals on appeal procedures?*

## **19 FEES**

19.1 The Department operates a full cost recovery scheme across all aspects of testing and licensing. An appropriate fee will apply to each of the tiers of licence. Details of the fees and fee structures will be consulted on at the regulation stage.

*Q22 — Do you agree that the Department introduces fees on a cost recovery basis?*

## **20 ILLEGALLY OPERATED BUSES**

20.1 It is proposed to introduce a scheme for the detention or impounding of illegally operated buses i.e. those without an Operator's Licence. Illegal operators, who avoid the standard checks and controls which are an important feature of the operator licensing system, pose a major threat to safety and environmental standards within the passenger transport industry.

20.2 Under the proposed scheme, a Driver and Vehicle Agency (DVA) examiner, would, at a roadside check, identify a vehicle which he/she believed to be operating illegally. The examiner would first check against a database to ensure that the vehicle was definitely not included on any Operator's Licence. Unlicensed vehicles would then be detained and removed to a pound from which they could be reclaimed, once legally specified on an Operator's Licence. Unclaimed vehicles could be sold or disposed of after a set period.

20.3 Arrangements would have to be made in each case for the onward carriage of the passengers before the vehicle is impounded.

20.4 An operator, whose vehicle was detained/impounded, would have a right of appeal.

20.5 It is the responsibility not only of operators, but also of drivers, to ensure that the rules for drivers and vehicles are complied with.

*Q23 — Do you agree with the proposals in relation to impounding of vehicles?*

20.6 The Department proposes to introduce provisions to enable driving of a vehicle to be prohibited for non-compliance with drivers' hours rules. The Department also proposes to strengthen on-road enforcement in respect of the following:

- The maintenance of vehicles and failure to keep them in a fit and serviceable condition;
- Vehicle testing;
- Drivers' licensing;
- Community licences;
- Forgery of, for example, licensing documents;
- Speed limits;
- Contravention of parking restrictions and prohibitions;
- Unlawful use of vehicles; and
- Insurance.

*Q24 — Do you agree with proposals relating to the strengthening of on-road enforcement?*

## **21 IMPLEMENTATION**

21.1 In order to bring about the proposed changes, the Department would need to introduce new primary legislation to support the proposals.

21.2 The Department is aware of the impact the proposals would have on the industry, especially for small businesses. Consideration will be given, therefore, to how the legislation will be implemented for both new and existing operators.

## **22 CONCLUSION**

22.1 The Department believes that it must bring the NI system of Bus Operator Licensing up to date so that it contributes to the provision of a fair and safe passenger transport industry. While the regulatory implications of the proposals are recognised, particularly for a significant part of the small business community, the Department believes that these proposals can make a significant contribution to the overall objectives of improving road safety in Northern Ireland, reducing the

activity and volume of illegal operators through effective enforcement and enhancing the environment through stricter control of operating centres.

*Q25 — Do you agree that the Department must change the NI system of Bus Operator Licensing in order to bring it up to date so that it contributes to the provision of a fair and safe passenger transport industry?*

## **23 DRAFT EQUALITY IMPACT ASSESSMENT**

### **Introduction**

This is a draft equality impact assessment (EQIA) of the proposals for the future of bus operator licensing. As this is a draft, it concentrates on the general overall effect of the policy proposals – the full EQIA, which will be completed following public consultation, will address in detail the equality impact of each proposal.

Analysis of the responses received for the public consultation document will inform the developing policy and will provide detailed information on how the proposed changes might affect each sector. When this information has been gathered, full EQIAs will be completed.

### **Background**

These policy proposals are the outcome of a review of bus operator licensing which has taken place over the last year. The overall aims and objectives of the review and the resulting policy proposals are to accommodate the transfer of the regulatory powers to licence bus routes to DRD and to create a new regulatory framework for bus operators in Northern Ireland. They are aimed at creating a more effective and equitable framework, which promotes road and passenger safety, improves accessibility and facilitates fair competition in the industry.

This assessment has been carried out in accordance with the guidance set down by the Equality Commission in its Practical Guidance on Equality Impact Assessment.

### **Section 75 of the Northern Ireland Act 1998**

Section 75(1) of the Northern Ireland Act 1998 (the Act), which was

introduced on 1 January 2000, requires public authorities, in carrying out their functions in relation to Northern Ireland, to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

In addition, Section 75(2) states that,

“without prejudice to its obligations above, a public authority shall, in carrying out its functions relating to Northern Ireland, have regard to the desirability of promoting good relations between persons of different religious belief, political opinion and racial group”.

In line with its legal obligations and the specific comments in its Equality Scheme, the Department of the Environment is committed fully to adhering to the provisions of Section 75 of the Act when reviewing and developing policy.

The Act requires public authorities to conduct an EQIA where a proposed policy is likely to have a differential impact on equality of opportunity. The purpose of this assessment is to identify those categories for which the proposed policies may have a differential impact, the extent of this and whether it can be justified in policy terms.

<p><b>1. What are the policies?</b></p> <p><b>To:</b></p> <ul style="list-style-type: none"> <li>• facilitate and support DRDs proposals for the reform of public transport;</li> <li>• create a stand alone bus operator licensing system that is transparent and equitable;</li> <li>• modernise bus operator licensing to align it better with what is planned for other transport providers;</li> <li>• clarify the licensing categories and those eligible for each type of licence or permit;</li> <li>• create a new permit scheme for voluntary groups;</li> <li>• make more appropriate use of the restricted bus operator category.</li> </ul>	
<p><b>2. What are the aims and objectives of the policies?</b></p> <p>To modernise and enhance the existing regulatory system for bus operator licensing in Northern Ireland.</p>	<p><b>3. How do these proposals meet or hinder other government policies, values or objectives?</b></p> <p>The proposals will meet the terms of the Disability Discrimination Act 1996 and will affect areas of responsibility held by DRD and DVA</p>
<p><b>4. Who implements the policies?</b></p> <p>The Department of the Environment and DVA.</p>	<p><b>5. What factors could contribute/detract from the outcomes?</b></p> <p>It is possible one such factor would be the financial impact on the voluntary and community groups.</p>
<p><b>6. What outcomes do we want to achieve with the policies? For whom?</b></p> <p>The creation of a more modern,</p>	<p><b>7. How does DOE interface with other bodies in relation to the implementation of the policies?</b></p> <ul style="list-style-type: none"> <li>• DRD regarding the reform of</li> </ul>



<p>effective and equitable regulatory framework for bus operators in Northern Ireland and the promotion of road and personal safety and fair competition.</p>	<p>public transport and their responsibilities for route or service licensing</p> <ul style="list-style-type: none"> <li>• DVA regarding licensing and enforcement issues</li> <li>• OFMDFM as regards alignment of new policy with disability legislation requirements.</li> </ul>
<p>8. Who are the main stakeholders?</p> <ul style="list-style-type: none"> <li>• private bus operators</li> <li>• Translink</li> <li>• Voluntary groups</li> <li>• Rural and community transport providers</li> <li>• Disability groups</li> </ul>	<p>9. Are there any groups who would be expected to benefit from the intended outcomes which do not?</p> <p>No</p>

## Consideration of available data and research

Engagements with key stakeholders have been important sources of information. During the review we met with key stakeholders including:

- DVA
- DRD
- Translink
- Federation of Passenger Transport
- Community Transport Association
- IMTAC.

During that engagement the following issues were raised:

- lack of transparency in the licensing system;
- lack of enforceability particularly around 10B permits;
- abuse of the permits scheme;
- lack of flexibility in the system resulting in the inappropriate use of permits;
- the numbers of designated bodies being able to issue permits and the lack of information on the numbers issued;
- absence of means of identifying licensed operators' vehicles.

The review is looking at how commercial bus operators are licensed as well as how transport is provided under the 10B permit scheme. However, the proposals for change to the commercial bus operator licence are such that it is unlikely that anyone in any of the Section 75 categories providing or availing of these bus services will notice any difference.

This EQIA looks at two distinct groups:

- the users of 10B permitted transport
- providers of transport under the 10B scheme.

Currently the Department of the Environment issues 10B permits to cover the use of large buses (i.e. those with greater than 16 seats) and there are 48 “designated bodies” able to issue 10B permits to cover small buses (those

with less than 16 seats i.e. minibuses).

### **Large Bus Permits**

To date the Department has issued around 850 large bus permits and 92% of these have been to schools and the Education Boards. Around 2% cover church activities and 3% have been issued to youth and recreation groups. Approximately 1% has been issued to groups providing transport solely to disabled people. (See Table1)

### **Small Bus Permits**

We are uncertain as to the reliability of the data on small bus permits as it is dependant on the return of information from the designated bodies. However, records show that around 2000 small bus permits have been issued. Table 1 shows the percentage of permits issued for each activity.

**Table 1: Table of 10B permits by activity**

<b>Activity</b>	<b>Large Bus permits</b>	<b>Small Bus Permits</b>
	%	%
Education	92	38
Youth/Community/Recreation	3	48
Church	2	10
Disability groups	1	3
Issued but not used	2	<1

From the data it is likely that the changes are most likely to impact on education based transport and in the community, recreation and youth sectors.

## **Assessment of Impacts**

As this is a draft EQIA, this section identifies those groups and people most likely to be affected by changes to bus operator licensing. Using the information gathered and the responses received from the public consultation, the full EQIA will deal with the specific impacts that the policy changes will have.

### **Religious belief**

The proposals will not affect bus operators, permit holders or bus users according to their religious belief.

### **Political opinion**

The proposals will not affect bus operators, permit holders or bus users according to their political opinion.

### **Racial group**

The proposals will not affect bus operators, permit holders or bus users according to their racial group.

### **Age**

From the limited data available it is likely that the majority of people being transported under the 10B permit scheme will be children and young people either as part of school or youth and recreational activities and older people as part of the rural and community transport schemes.

### **Marital status**

The proposals will not affect bus operators, permit holders or bus users according to their marital status.

### **Sexual orientation**

The proposals will not affect bus operators, permit holders or bus users according to their sexual orientation.

### **Gender**

It is possible that a significant proportion of the older people being transported will be female.

## **People with dependants**

The proposals will not affect bus operators, permit holders or bus users according to whether they have dependants.

## **People with a disability**

It is likely that a significant number of people with disabilities use transport provided under the 10B permit scheme. It is believed that the proposed policies, in their compliance with the Disability Discrimination Act 1995, will ensure that that people who have a disability will benefit as holders of a 10B permit will no longer be exempt from its requirements.

## **Rural communities**

Due to restrictions in public transport, those who live in rural communities may rely on rural and community transport.

## **Further Consultation**

Consultation on this Draft EQIA will be carried out in line with the Department's Equality Scheme and in accordance with guidance from the Equality Commission. A wide range of stakeholders, including Section 75 groups, political parties, commercial bus operators, voluntary and youth groups, churches and community transport providers are being consulted.

The results from this consultation will inform the final EQIA. Where appropriate more detailed EQIAs will be carried out and policy decisions will continue to be considered and modified if necessary, having due regard to the equality implications.

Your views are welcomed on the impact that the proposals listed in the Summary of Proposed Policies will have on equality issues and on bus

transport providers in Northern Ireland.

### **Monitoring**

Any adverse impacts will be monitored and addressed as part of an ongoing review process in line with the guidance issued by the Equality Commission for Northern Ireland.

### **Conclusion**

We are keen to hear the opinions of all bus transport providers and people who use bus transport either on a commercial basis or under the 10B scheme. Responses to this draft EQIA, together with responses to the public consultation document and feedback from stakeholder engagement will be used in the development of a full EQIA.

## EQIA Questions

<b>Q26</b>	Do you agree with the assumed impacts outlined in this EQIA?
<b>Q27</b>	If no, please can you explain why and provide any evidence which supports that view?
<b>Q28</b>	Are there any issues that will impact specifically on Section 75 groups?
<b>Q29</b>	If there are any such issues, can you explain them and provide evidence that supports that view?

## **24 RURAL PROOFING**

Rural proofing is a process through which Government policies are examined fairly and objectively to ensure that they treat rural dwellers equally, affording them the same access to goods and services as those people who live in other areas.

The ethos of rural proofing is to ensure that the needs and special considerations of rural communities are considered routinely as part of the policy development process. The process of rural proofing must apply to all significant new policies.

We realise that the issue of transport provision is especially important in rural areas. A lack of good, integrated transport can have adverse effects on people's educational and employment opportunities and on their access to health care facilities and social and leisure activities.

It is recognised that there is a need to support the types of transport offered in rural areas and to acknowledge that rural and community type transport assists in this.

It is accepted that due to the restrictions in public transport, rural dwellers may rely more on rural and community transport than those in other areas. Bearing this in mind, it is important that we take account the needs of the users of this type of transport and especially consider older people and people with disabilities.

We have identified a concern that the change in licensing requirements for rural and community transport may affect the provision of transport and the costs of such transport.



## **25 DRAFT PARTIAL REGULATORY IMPACT ASSESSMENT**

### **Introduction**

A Regulatory Impact Assessment (RIA) is a tool that informs policy decisions. It provides a basis on which potential impacts can be identified and highlights the costs, benefits and risks of a proposal or set of proposals.

It is Government policy that all Departments and Agencies, where they exercise statutory powers and make rules that will have a general effect on others, should produce RIAs.

A full RIA will be published following the completion of the public consultation process, when all responses and opinions have been taken into account and the final policies agreed.

In turn, this initial RIA has informed the public consultation process by highlighting likely impacts and their effects.

### **Purpose and intended effect**

#### **Objective**

The proposals in the public consultation document are designed to create a more effective and equitable regulatory framework for the operation of buses in Northern Ireland and to promote road and personal safety and fair competition.

The introduction of a new bus operator licensing regime will achieve this objective.

The key objectives are to:

- facilitate and support DRD's proposals for the reform of public transport;
- create a stand alone bus operator licensing system that is transparent and equitable;
- improve and enhance the licensing and enforcement functions as undertaken by the Department of the Environment;
- to ensure road, passenger and driver safety for all passenger journeys in Northern Ireland.

## **Background**

This partial RIA gauges the potential impact that the recommendations of the review of bus operator licensing will have on the bus industry, other related businesses, bus users and wider society.

As a partial RIA it gives a preliminary indication of the assumed impact of the review's proposals.

Provisions for the implementation of any agreed recommendations will be made through primary legislation i.e. a new Bus Operator Licensing Act and through new secondary legislation in the form of regulations.

Under the Transport Act the Department is responsible for the licensing of bus operators (and at present the routes and services they provide), buses and their drivers. The Driver and Vehicle Agency is responsible for the enforcement of the prescribed licensing requirements. The Department is also responsible for administering the 10B permit scheme but some 48 "designated bodies" have the authority to issue permits.

DRD consulted on proposals for public transport reform from November 2009 to January 2010. The overall aim of the proposed reforms of public transport

is to continue to improve services for the benefit of customers, the environment and the economy generally. The proposals are aimed at ensuring that public transport services for the future are provided in a way which best meets the needs of the travelling public.

Once the changes envisaged as part of the public transport reform are implemented DOE will have separate responsibility for bus operator licensing.

### **Full Operator Licensing**

The Department considers that existing operators holding a full Road Service Licence will not be significantly impacted by the proposed changes. However, the new regime will be fairer and more easily enforced so these operators should benefit because they will not have to compete with unlicensed bus operators

### **10B Permit Scheme**

Currently the 10B permit scheme is applied to all operators who are not considered to operate on a fully commercial or provide a voluntary ancillary service. Currently no charge can be made for the issue of a 10B permit and the permits are not time bound. The proposed changes will mean that all operators whether their main purpose is for providing public transport or they operate on voluntary basis will require to be licensed and for the first time a charge will be made. This impact will be different depending on the size of the bus and the service provided.

### **Large Bus Permits**

Under the new proposals all operators of large buses would be required to hold full operator licenses. To date the Department has issued around 850 large bus permits and 92% of these have been to schools and the Education Boards. Around 2% cover church activities and 3% have been issued to youth and recreation groups. Approximately 1% has been issued to groups providing transport solely to disabled people. (See Table1) Proposals for future licensing of operators providing this type of transport would mean that

rather than a working under a 10B they would be licensed. The Department anticipates that this part of the bus transport sector would be significantly impacted by the proposals.

### **Small Bus Permits**

We are uncertain as to the reliability of the data on small bus permits as it is dependant on the return of information from the designated bodies. However, records show that around 2000 small bus permits have been issued. Table 1 shows the percentage of permits issued for each activity. The Department anticipates that there is likely to be significant impact on bodies whose main activity is transporting the public and small buses are used for this purpose.

**Table 1: Table of 10B permits by activity**

<b>Activity</b>	<b>Large Bus permits</b>	<b>Small Bus Permits</b>
	%	%
Education	92	38
Youth/Community/Recreation	3	48
Church	2	10
Disability groups	1	3
Issued but not used	2	<1

### **Voluntary Groups**

The 10B permit scheme was introduced to allow voluntary groups to provide transport to their members to enhance and facilitate the activities that the groups offer.

**RIA Questions – please provide any relevant supporting data.**

<b>Q30</b>	Do you agree with the assumptions of the impact of the proposed changes on the various categories of operator?
<b>Q31</b>	If not, please can you explain why and provide any evidence which supports that view?

*Appendix A – Reply Form*

Please Note: The Department is unable to consider any views submitted anonymously. We would therefore be grateful if the following details could be completed.

Title	Mr—Mrs—Miss—Ms
Name	_____
Address	_____
	_____
	_____
Postcode	_____
Telephone number	_____
Email address	_____
	_____
<i>If applicable:</i>	
Organisation Name	_____
Address	_____
	_____
	_____
Postcode	_____
Telephone number	_____
Email address	_____
	_____
Type of Organisation	_____
No. of views represented	_____
	_____

The following reply form contains a 'tick box' style answer sheet, with room for additional comments. If you need to use a separate sheet to complete your answer to any of the proposals, please ensure the sheet is cross referenced with the proposal number.

Q1— <i>Do you find Option 1 to be a feasible option for consideration?</i>	Yes	
	No	
Additional comments:		

Q2— <i>Do you find Option 2 to be a feasible option for consideration?</i>	Yes	
	No	
Additional comments:		

Q3— <i>Do you find Option 3 to be a feasible option for consideration?</i>	Yes	
	No	
Additional comments:		

Q4— <i>Which of the options proposed do you believe to be the most viable?</i>	1	
	2	
	3	
Additional comments:		

Q5— <i>Do you agree with the requirements detailed in relation to Tier 1 applicants?</i>	Yes	
	No	
Additional comments:		

Q6— <i>Do you agree with the requirements detailed in relation to Tier 2 applicants?</i>	Yes	
	No	
Additional comments:		

Q7— <i>Do you agree with the requirements detailed in relation to Tier 3 applicants?</i>	Yes	
	No	
Additional comments:		

Q8— <i>Do you agree with the proposal of separate carriage of alcohol on buses?</i>	Yes	
	No	
Additional comments:		



Q9— <i>Do you agree that the Department will be the only body with the power to issue permits?</i>	Yes	
	No	
Additional comments:		

Q10— <i>Do you agree with the proposed five year review period?</i>	Yes	
	No	
Additional comments:		

Q11— <i>Do you agree with the proposal in relation to variation of vehicles on a licence, as long as the original authorised number is adhered to?</i>	Yes	
	No	
Additional comments:		

Q12— <i>Do you agree with the Departments proposal to publish notices of licence application?</i>	Yes	
	No	
Additional comments:		

Q13— <i>Do you agree that the listed bodies should have the ability to make objection on the grounds of fitness, finance and the professional competence of an operator, and environmental/ general suitability of an operating centre?</i>	Yes	
	No	
Additional comments:		

Q14— <i>Do you agree with owners/ occupiers in the vicinity of an operating centre would have the ability to make representation to the Department on environmental grounds?</i>	Yes	
	No	
Additional comments:		

Q15— Do you agree that any person may complain about the suitability of an operating centre at any time during the licence/ permit validity?	Yes	
	No	
Additional comments:		

Q16— <i>Do you agree with the factors considered in relation to suitability of an operating centre?</i>	Yes	
	No	
Additional comments:		

Q17— <i>Do you agree with the proposed conditions which may be applied to a licence in relation to environmental conditions?</i>	Yes	
	No	
Additional comments:		

Q18 — <i>Do you agree with the declaration required with the application form in relation to vehicle maintenance/ servicing and compliance with traffic and transport related laws?</i>	Yes	
	No	
Additional comments:		

Q19 — <i>Do you agree with the public enquiry proposals?</i>	Yes	
	No	
Additional comments:		

Q20 — <i>Do you agree with the Departments proposal on disciplinary actions, and the powers to revoke, suspend or curtail licences/ permits as a result of this?</i>	Yes	
	No	
Additional comments:		

Q21 — <i>Do you agree with the Departments proposals on appeal procedures?</i>	Yes	
	No	
Additional comments:		

Q22 — <i>Do you agree that the Department introduces fees on a cost recovery basis?</i>	Yes	
	No	
Additional comments:		

Q23 — <i>Do you agree with the proposals in relation to impounding of vehicles?</i>	Yes	
	No	
Additional comments:		

Q24 — <i>Do you agree with proposals relating to the strengthening of on-road enforcement?</i>	Yes	
	No	
Additional comments:		

Q25 — <i>Do you agree that the Department must change the NI system of Bus Operator Licensing in order to bring it up to date so that it contributes to the provision of a fair and safe passenger transport industry?</i>	Yes	
	No	
Additional comments:		

**EQIA Questions**

Q26 — <i>Do you agree with the assumed impacts outlined in this EQIA?</i>	Yes	
	No	
Additional comments:		

Q27 — <i>If no, please can you explain why and provide any evidence which supports that view?</i>	Yes	
	No	
Additional comments:		

Q28 — <i>Are there any issues that will impact specifically on Section 75 groups?</i>	Yes	
	No	
Additional comments:		

<i>Q29 — If there are any such issues, can you explain them and provide evidence that supports that view?</i>	Yes	
	No	
Additional comments:		

**RIA Questions**

<i>Q30 — Do you agree with the assumptions of the impact of the proposed changes on the various categories of operator?</i>	Yes	
	No	
Additional comments:		

<i>Q31 — If not, please can you explain why and provide any evidence which supports that view?</i>	Yes	
	No	
Additional comments:		

## *Appendix B - Consultees*

The following is not an exhaustive list, but is indicative of the types of organisations this document was sent to.

10B Permit bodies
Departmental Library
Departmental Solicitors' Office
Education and Library Boards
Executive Council of the Inn of Court of NI
Government Departments
Health and Social Care Trusts and Boards
Legal Deposit Libraries
Local Government Councils
Local Strategic Partnerships
MLAs
MPs and MEPs
National Library of Ireland
North/South Ministerial Council
Northern Ireland Assembly
Northern Ireland Office
Northern Ireland Party Leaders
Office of the First Minister and Deputy First Minister
Other Transport Related Bodies
Road Service Licence Holders
Rural Community Transport Partnerships
Section 75 Consultees
Other external agencies, individuals or organisations who requested further information.