

From: *****

BY EMAIL

Tel: *****

Fax: *****

Date: 14th November 2006

Our Ref: *****

Dear *****

FREEDOM OF INFORMATION ACT 2000

I refer to your e-mail of 8th November 2006 concerning applications for HGV Operator Licences, and who may object to such applications.

Persons allowed to make an objection are succinctly laid out in Section 12 of the Goods Vehicle (Licensing of Operators) Act 1995, and are consequently known as statutory objectors (as they are named in statute). I have copied the relevant section of the act below for your ease of reference. The full text can be found by clicking on the following link http://www.opsi.gov.uk/acts/acts1995/Ukpga_19950023_en_1.htm.

Section 12

(1) Any of the persons mentioned in subsection (2) may make an objection to the grant of an application for an operator's licence on the ground –

- (a) that any of the requirements of section 13 are not satisfied in the case of the application; or
- (b) that any place in the traffic commissioner's area which, if the licence is issued, will be an operating centre of the holder of the licence will be unsuitable on environmental grounds for use as such.

(2) The persons who may make such an objection are –

- (a) a prescribed trade union or association;
- (b) a chief officer of police;
- (c) a local authority; and
- (d) a planning authority

(3) The trade unions and associations which may be prescribed for the purposes of subsection (2)(a) are trade unions or associations whose membership consists of or includes –

- (a) persons holding operators' licences, or
- (b) employees of any such persons.

(4) Where an application for an operator's licence is made, any person who is the owner or occupier of land in the vicinity of any place in the traffic commissioner's area which, if the licence is issued, will be an operating centre of the holder of the licence may make representations against the grant of the application on the ground that that place will be unsuitable on environmental grounds for use as such.

(5) A person may not make representations under subsection (4) unless any adverse effects on environmental conditions arising from the use of the place in question as an operating centre of the holder of the licence would be capable of prejudicially affecting the use or enjoyment of the land mentioned in that subsection.

(6) Any objection under subsection (1)(a) shall be made –

- (a) within the prescribed time; and
- (b) in the prescribed manner

(7) Any objection under subsection (1)(b) or representation under subsection (4) shall be made –

- (a) within the prescribed time after the making of the application to which they relate; and
- (b) in the prescribed manner

(8) Where the traffic commissioner considers there to be exceptional circumstances that justify his doing so, he may direct that an objection or representations be treated for the purposes of this Act as duly made under this section, notwithstanding that the objection was not, or the representations were not, made within the prescribed time or in the prescribed manner.

(9) Any objection under subsection (1) shall contain –

- (a) in the case of an objection under paragraph (a), particulars of the ground on which it is made, and
- (b) in the case of an objection under paragraph (b), particulars of any matters alleged by the person making the objection to be relevant to the issue to which it relates.

(10) Any representations under subsection (4) shall contain particulars of any matters alleged by the person making the representations to be relevant to the issue to which they relate.

(11) In subsection (1) the reference to "the requirements of section 13" is a reference –

- (a) in the case of an application for a standard licence, to the requirements of subsections (3), (5) and (6) of that section; and

- (b) in the case of an application for a restricted licence, to the requirements of subsections (4), (5) and (6) of that section

(12) In this section –

“local authority” means –

- (a) as respects England, the council of a county, district or London borough and the Common Council of the City of London;
- (b) as respects Wales, the council of a county or county borough; and
- (c) as respects Scotland, a council constituted under Section 2 of the of the [1994 c. 39.] Local Government etc (Scotland) Act 1994;

“planning authority” means any body other than a local authority which by virtue of any statutory provision for the time being in force is –

- (a) in England and Wales, the local planning authority for any area for the purpose of determining applications for planning permission under Part III of the [1990 c. 8.] Town and Country Planning Act 1990 (general planning control); and
- (b) in Scotland, the planning authority for any area for the purpose of determining applications for planning permission under Part III of the [1972 c. 52.] Town and Country Planning (Scotland) Act 1972 (general planning control); and

“trade union” has the same meaning as in the [1992 c. 52.] Trade Union and Labour Relations (Consolidation) Act 1992;

and, in relation to any application for an operator’s licence, references to the traffic commissioner are references to the traffic commissioner to whom the application has been made.

To change this, new primary legislation would be required. This may be a matter you wish to take up with your local MP.

Turning now to the wording of the adverts published in the local press. The form of these have to take is set out in Schedule 1 of the Goods Vehicle (Licencing of Operators) Regulations 1995. I reproduce the contents of that Schedule below:-

NOTIFICATION OF APPLICATION FOR A LICENCE OR VARIATION OF A LICENCE

1) Information to be given in Notice of Application –

- (a) Name of applicant.
- (b) Trading name, if any.
- (c) Address for receipt of correspondence.
- (d) Whether the application is in respect of a new licence, or the variation of a licence.
- (e) The place or places proposed to be used as an operating centre or centres (including, if available, the postal address or addresses).
- (f) The number of motor vehicles and trailers proposed to be kept at each operating centre or centres.

- (g) The number of motor vehicles and trailers now kept, if different.
- (h) In respect of an existing licence, details of any proposed changes to or removal of existing conditions or undertakings affecting an operating centre.

2) Every notice shall contain the following wording:

“Owners or occupiers of land (including buildings) near the operating centre(s) who believe that their use or enjoyment of that land would be affected, should make written representations to the Traffic Commissioner at [address of Traffic Area Office] stating their reasons, within 21 days of this notice. Representors must at the same time send a copy of their representations to the applicant at the address given at the top of this notice. A guide to making representations is available from the Traffic Commissioners office.”

A full copy of these regulations can be found by clicking on the following link: http://www.opsi.gov.uk/si/si1995/Uksi_19952869_en_1.htm#tcon. Any change to these regulation would again need a change in legislation, and you may wish to lobby your MP on this subject. The Guide to Making Representations mentioned above is also available on-line by clicking the following link [http://www.vosa.gov.uk/vosacorp/repository/Guide%20To%20Making%20Representations%20and%20Complaints%20\(GV%2074R\).pdf](http://www.vosa.gov.uk/vosacorp/repository/Guide%20To%20Making%20Representations%20and%20Complaints%20(GV%2074R).pdf)

If you have any queries about the information you have received, please contact me, and I will be happy to assist you. My contact details are given at the head of this letter.

If you are unhappy with the information supplied, you may ask for an internal review. To request an internal review, please write to ***** or email ***** , giving the reasons for your dissatisfaction. It will help us if you quote the reference number for your case.

If you do not agree with the outcome of the internal review, you may lodge an appeal with the Information Commissioner (www.informationcommissioner.gov.uk). The Information Commissioner is an independent official appointed by the Crown to oversee the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

The Information Commissioner can consider complaints about any aspect of the way in which requests for information have been handled. Please note: the Information Commissioner would be unlikely to consider your complaint if you have not first requested an internal review.

You can write to the Information Commissioner at:

The Information Commissioner's Office
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire
SK9 5AF

If you have any queries about this letter, please contact us, quoting reference
*****.

Yours sincerely

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