

## Legal Framework

### Section 19 Minibus Permits

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#### Introduction

The starting point for much passenger transport legislation is the Public Passenger Vehicles Act 1981 as this contains key definitions of 'public service vehicle' or 'PSV', 'hire or reward' and 'operator'. Taken together, these definitions explain why Permits are usually needed by non-profit organisations as an alternative to the commercial PSV regime.

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#### Definition of public service vehicle

##### The Law says:

1. (1) *Subject to the provisions of this section, in this Act 'public service vehicle' means a motor vehicle (other than a tramcar) which -*

- (a) *being a vehicle adapted to carry more than eight passengers, is used for carrying passengers for hire or reward; or*
- (b) *being a vehicle not so adapted, is used for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers.*

Source: Public Passenger Vehicles Act 1981

Minibuses are adapted to carry more than eight passengers, and so therefore come into (a) above.

If a vehicle with a passenger capacity of less than nine is to be run without being part of a business where separate fares are charged, it will not be a PSV. It is possible under section 1(4) of the same Act to charge fares on a non-profit basis. In any other situation the vehicle may be subject to taxi, private hire or even PSV legislation. This legal framework for 'car-sharing' - which is used extensively in the community transport sector - is discussed in [Community Car Schemes & the Law](#).

#### **The Law says:**

- (2) *For the purposes of sub section (1) above a vehicle 'is used' as mentioned in paragraph (a) or (b) of that sub section if it is being so used or if it has been used as mentioned in that paragraph and that use has not been permanently discontinued.*

Source: Public Passenger Vehicles Act 1981

This makes it clear that once a minibus has been used for hire or reward, it will be considered to be a public service vehicle at all times, not just when it happens to be carrying passengers. The only way to avoid this is to permanently discontinue its use in terms of these provisions. In practice, convincing evidence would be needed to show that this discontinuance was, in fact, permanent.

One possible scenario is that operators carrying people seated in wheelchairs find that they can lay the bus out with a mix of seats and wheelchair spaces which adds up to less than nine, leaving a number of removable seats in storage. However, the bus is still capable of carrying more than eight, and therefore remains a PSV.

In order to demonstrate that the seating reduction was permanent, the following would seem to be necessary (a copy of all letters should be kept):

- a formal letter to the DVLA (Vehicle Section) at Swansea
- a change of MOT class
- removal of any Permit disc displayed on the vehicle
- written notification to the insurer
- affixing a notice of reduced capacity to the bus, and removal of any notice or sign indicating a higher capacity

There are considerable drawbacks in converting a 'minibus' into a 'car'. A vehicle which is constructed or adapted to carry eight or fewer passengers is a 'car', and the relevant construction standards for cars would apply to it. This would, for example,

include the need for all seats to be fitted with seat belt anchorages to M1 (car strength) standard - a substantially higher standard than that which applies to small or large buses.

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## Hire or reward

### The Law says:

- (5) *For the purposes of this section and Schedule 1 to this Act -*
- (a) *a vehicle is to be treated as carrying passengers for hire or reward if payment is made for, or for matters which include, the carrying of passengers, irrespective of the person to whom the payment is made and, in the case of a transaction effected by or on behalf of a member of any association of persons (whether incorporated or not) on the one hand and the association or another member thereof on the other hand, notwithstanding any rule of law as to such transactions;*
- (b) *a payment made for the carrying of a passenger shall be treated as a fare notwithstanding that it is made in consideration of other matters in addition to the journey and irrespective of the person by or to whom it is made;*
- (c) *a payment shall be treated as made for the carrying of a passenger if made in consideration of a person's being given a right to be carried, whether for one or more journeys and whether or not the right is exercised.*

Source: Public Passenger Vehicles Act 1981

This is a very strict definition, which is reinforced by actual case law. Hire or reward does not only mean individuals paying fares. Any form of benefit to the operator (not necessarily even money) which gives a person an opportunity to travel will count, regardless of who pays whom on behalf of whoever - and whether the activity is for profit or not.

This can therefore include:

- direct charges or fares, in the common sense meaning, for distance covered or for a return trip whether as an individual or part of a group
- local authority or health authority payments by grant or contract for transport provision
- payments by grant or contract for services such as day centres or youth clubs which include transport by bus
- 'free' transport, for example, to an event or to hotel accommodation for which a charge is made - the fare is deemed to be hidden within the overall charge
- university or college minibuses, where the cost of, for example, field trips and shuttles between parts of the campus are covered by the tuition fees payable by either the student, LEA or both
- school minibus trips where the costs are offset by fundraising and voluntary donations from parents or the Parent Teachers Association

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Central Support Office

CTA  
Highbank  
Halton Street  
Hyde  
Cheshire  
SK14 2NY

0870 774 3586