



Department
for Transport

Goods Vehicle Operator Licensing

Summary of responses and outcome of the call for evidence on changes to the operator licensing regime and arrangements for the temporary posting of workers in the UK and EU

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Introduction

On 29 June 2021, the Department for Transport (DfT) published a call for evidence entitled ‘Changes to the UK operator licensing regime and arrangements for the temporary posting of workers in the UK and EU: request for evidence’ which closed on 24 August 2021.

The call for evidence received a total of 113 responses. Of those, 49 were from individuals and 64 were from representatives of organisations. 5 organisations were based in Northern Ireland, the rest in Great Britain.

The call for evidence sought to collect evidence and consult on views on changes to the operator licensing regime within the UK that need to be made following the conclusion of the UK-EU negotiations and the signing of the [Trade and Cooperation Agreement \(TCA\)](#).

As part of this agreement, the UK agreed to implement elements of the EU Mobility Package with two main areas of change, which are the subject of this call for evidence, becoming applicable from February 2022 (posting of workers and some HGV operator licensing changes) and May 2022 (operator licensing).

Consequently, in May 2022, there will be changes to the UK operator licensing regime. The most significant change is an expansion in the goods operator licensing regime to include vehicles used for hire or reward that weigh more than 2.5 tonnes and up to 3.5 tonnes (including when used in combination with a trailer) which will apply from May 2022.

This change will bring vehicles such as vans used by couriers and delivery services (among others) internationally (including to the Republic of Ireland) into the scope of operator licensing for the first time.

Some changes are also taking place that will affect operators of heavy goods vehicles (HGVs) from February 2022. These are slight changes in the requirements associated with effective and stable establishment, and professional competence.

There will also be changes in February 2022 relating to the posting of drivers. Generally, the term ‘posted worker’ means a worker who, for a limited period, carries out their work in the territory of an EU state other than the state in which they normally work. The changes described in this document are related to procedures specific to goods vehicle drivers in the context of commercial road transport provided for in the TCA.

We took steps to target the call for evidence toward interested stakeholders, including via email to all 8,000 operators in the road haulage industry that are on a Driver and Vehicle Standards Agency (DVSA) mailing list.

The department is grateful for the considered feedback received in the call for evidence. The responses have brought a range of issues to our attention and they have helped to inform a decision on the best way forward.

Next steps

Draft legislation has been prepared to implement the requirements of the Trade and Cooperation Agreement relating to operator licensing, as set out above. This legislation, namely [The Goods Vehicles \(Licensing of Operators\) \(Amendment\) Regulations 2022](#) was introduced into parliament on 11 January 2022.

A further consultation with key stakeholders has taken place on the detail of the legislation to ensure it reflects the needs of industry. This was sent out to a group of six key stakeholders for their views. Of those approached, three responded. Two were supportive of the proposed measures, while one expressed concern over the effects this may have on small businesses and owner/operator businesses. Overall, stakeholders were supportive of the changes to financial standing requirements. 2 of the responses expressed their concerns over transport managers and the time required for acquired rights. They both noted that external transport managers should be allowed.

In relation to the fees associated with operator licensing, our proposal is that these should not be amended as a part of this change, and we received no objections to this approach.

Further legislation will be introduced separately in relation to the posting of workers.

Summary of responses on changes to operator licensing

A summary of the responses by topic area is set out below:

Bringing light goods vehicles on international journeys for hire or reward into scope of operator licensing

A slight majority of respondents (18) who commented supported the new requirements, and several of these felt that the licensing regime should be extended more widely to all UK operators, including those engaged on domestic commercial journeys. It was felt that such a move was overdue and that the entire goods van sector would benefit from stronger regulation, to strengthen fair competition and road safety.

Conversely, several respondents wished to register their disapproval of these new measures, of the 113 who responded 17 expressed opposition to an extension of the rules to light goods vehicles. Some respondents viewed these new rules as bringing extra unnecessary costs to businesses. While, a few respondents were disappointed that these requirements had been brought in despite Brexit, believing that the UK would not be subject to new EU rules. This view possibly reflects a misunderstanding regarding the applicability of the new rules to international journeys only.

12 organisations who currently operate light goods vans indicated in the survey that they would likely have to cease or reduce operations due to these changes.

The remaining responses (79) indicated no strong views in favour or opposition to the new requirements.

One trade association raised concerns that there was a risk of vehicles that were only being used domestically by an operator who had in-scope vehicles in their fleet being drawn into scope of operator licensing requirements, such as financial standing. They wanted to ensure that implementing legislation made clear that there was a specific exemption for any out of scope vehicles from these requirements.

One trade association was keen to ensure that the any vans coming into scope of operator licensing would be expected to be maintained to the same standard as HGVs, to ensure fair competition and to not compromise road safety.

Our response

The move to bring lighter vehicles into scope of operator licensing is a requirement of the TCA. These new rules apply to all light goods vehicle operators across the EU who do international work and is not a consequence of Brexit and will only affect UK operators who transport goods internationally, not those who solely undertake domestic work. Failure to implement these requirements would effectively prevent affected UK operators from continuing to trade internationally.

Regarding an extension of operator licensing to the domestic market, the department has no plans to do so at this time. Such a move, which would have a significant impact on the UK economy and the van operator industry, would first need major research and public consultation before being considered further.

When drafting legislation to implement these changes we will ensure that that we are not increasing regulatory burdens on industry by not bringing into scope any vehicle which is not used specifically for hire or reward on international journeys. However, it should be noted that the use of a van for any single international journey for hire or reward brings it in-scope of the operator licensing requirements. There is no exemption based on frequency of international journeys. Any van travelling to the EU for the purposes of hire or reward will therefore need to be specified on the licence.

We agree that it is important from a road safety perspective to ensure well maintained vans and we have no plans to exempt in-scope light goods vehicles from the maintenance requirements of operator licensing.

Reducing environmental considerations on light goods vehicles

62 respondents thought that the same parking requirements that apply to HGV operators when applying for a licence should apply to operators with LGVs only. 49 respondents thought they should not. 56 respondents thought the same parking requirements should apply when LGV only operators submit a major variation request, while 43 thought not.

60 respondents thought that the same requirements on advertising that apply to HGV operators when applying for a licence should apply to operators with LGVs only. 48 respondents thought they should not. 56 respondents thought these same requirements should apply when submitting a major variation request, while 44 thought not.

The primary concern from those opposed shared the opinion that the parking of vans in residential areas was a nuisance.

One trade association wanted to ensure that mixed fleet operators (i.e. those with both HGV and LGV vehicles) would be subject to the same exemptions proposed for those who only have light goods vehicles. These exemptions include not having to specify an operating centre and ensure adequate parking, and not having to advertise in a local newspaper when applying for a licence. They were concerned that not doing this would undermine fair competition by giving LGV-only fleet operators a competitive advantage over mixed fleet operators.

Our response

After consideration and analysing the responses from the call for evidence we have decided that we will proceed as intended and reduce additional burdens on those operators with light goods vehicles by limiting their need to follow the same requirements as those of HGV operators.

This decision has been made on the basis that light goods vehicles have a smaller environmental impact than that of HGVs. Many owner/driver van operators will have their vans parked on the driveway of their home or outside their house. Furthermore, there is little possibility that the new requirements for operator licensing will increase the number of vans used for international travel and therefore would not result in an increase in the number of vans parked either in operating centres or in residential areas.

To ensure fair competition we will ensure when drawing up legislation that mixed fleet operators are subject to the same benefits around light goods vehicles as those of operators with only light goods.

New requirements to have a qualified transport manager

24 organisations said they would need to make no changes as a result. 9 organisations told us that because of these changes they would need to either employ new qualified transport managers (including 3rd party) or send existing transport managers on a course to obtain the qualification (or both).

Acquired rights for transport managers

Responses broadly indicated support for the proposals to allow transport managers who have been managing light goods vehicles (including single owner drivers) for at least 10 years to apply for a temporary exemption from the formal qualification requirements. Of those who expressed a view 62 respondents supported the concept of allowing acquired rights and 45 respondents opposed it.

14 respondents said that acquired rights should expire after 3 years, 23 respondents felt that that acquired rights should last indefinitely, and 15 respondents felt it should be more than 3 years. 7 respondents said that acquire rights should last fewer than 3 years.

One trade association argued that there should be no time limit on the acquired rights. They also felt that consideration should be given to require an additional level of training to keep the acquired right entitlement beyond an initial period.

One trade association, while supporting our overall approach on acquired rights, were keen for us to consider whether there might be scope for giving the light goods vehicle sector more flexibility by removing the current requirement for 3rd party transport managers to only look after a maximum of 4 operators and 50 vehicles (the “4/50 rule”). This flexibility has come about as the TCA only requires the 4/50 rule to apply to international operations and Brexit means we could amend this rule for national operators.

Our response

We intend to proceed as originally set out in the call for evidence, allowing those eligible to obtain acquired rights thus exempting them from needing to obtain the Transport Manger CPC qualification for three years. We believe that the three-year limit on acquired rights is reasonable and will give those using those acquired rights time to study and pass the necessary examination. To ensure that the standards of professionalism within the industry are maintained it is important that all transport managers holding a standard or international operator’s licence are professionally qualified, regardless of the size of the vehicle operated.

In our view making changes to the domestic requirements on 3rd party transport managers would require further consultation and the Traffic Commissioners for Great Britain would need to be satisfied that it would not lead to an erosion of standards. Change in this area

should form part of a wider consultation about ways of taking advantage of new post-Brexit flexibilities for the haulage industry.

Minor adjustments to operator licensing requirements for all standard and international operators

One trade association wanted to ensure that those operators who are partnerships and/or sole traders would not be disadvantaged by being required to register with Companies House in order to fulfil new requirements around an operator being registered on the official register of commercial companies.

One trade association was concerned about new requirements on ensuring that the number of vehicles and drivers at an establishment are in proportion to the volume of transport operations carried out by the undertaking (which were put in place by the European Commission to help prevent “letterbox” companies from exploiting the rules). Their concerns were that this might lead to a formulaic approach by the Traffic Commissioners which would place a burden on an industry which needs flexibility, particularly regarding the use of agency drivers.

Our response

The legislative proposals to cover these TCA required changes are that corporate entities that hold operator licences will now need to ensure:

- that they fulfil their obligations in terms of taxation under the Tax Acts
- they are registered on the register of commercial companies at Companies House, if required to do so by the Companies Act 2006
- they have a valid VAT registration number, if required under the Value Added Tax Act 1994

Regarding proportionality, we have no plans to introduce a formulaic approach to assessing this which might reduce the flexibility operators need to run efficiently. The Traffic Commissioners are already aware of how to assess and spot applications from HGV operators that may be set up as a letterbox company and the same principles can be applied to those of lighter goods vehicles.

No other respondents made any comments on these minor adjustments. It remains our view that these new adjustments will not present industry with any significant issues or additional administrative burdens once implemented.

The department intends to bring all operators in scope of these new requirements. This is to ensure long term consistency between operators regardless of whether or not they are on standard or international licences.

Physical operator discs

A trade association wanted to explore if, as part of these immediate legislative changes, we could remove the requirements for physical operator discs for all goods vehicles. They see these discs as archaic and irrelevant due to new technology.

Our response

Such a move would be outside of the immediate scope of these proposed changes and should be part of a wider long-term consultation on post Brexit regulatory reforms to assist the haulage industry.

Enforcement

A trade association wanted to emphasise the importance of ensuring that effective enforcement of the new rules was enabled to ensure that compliant operators were not put at a commercial disadvantage by less compliant ones. Comments from some other stakeholders agreed with a strong enforcement strategy, including the need to check foreign operators at the border. A trade association was also keen to ensure that DVSA enforcement was directed at important road safety considerations such as roadworthiness and drivers' hours rules, and not at administrative processes.

Our response

We agree that that effective enforcement is a priority for DVSA. We will ensure that legislation is in place to ensure adequate stopping powers are available for DVSA officers to enforce adequately at the roadside.

Size estimates of lights goods vehicles affected by changes

This call for evidence estimated that around 21,000 light goods vehicles in Great Britain and Northern Ireland would be brought into scope due to the planned changes, and that around 4,200 operators would need to apply for an operator licence.

There are around 9,000 holders of the standard international operator's licence in the UK. All of these operators will be subject to the new minor requirements of operator licensing that come into force on 21 February 2022.

22 respondents to the call for evidence thought that our estimates on the number of light goods vehicles were too high, while 32 respondents thought that they were too low. 41 respondents thought that they were broadly correct. 18 respondents did not offer views on this topic.

24 respondents thought that our estimates on the number of operators affected were too high, while 26 respondents thought that they were too low. 46 respondents thought that they were broadly correct. 17 respondents did not offer views on this topic.

For those respondents who set out in greater detail their concerns, and those who thought that our estimates might be too low, following points were raised:

- the main concern was a view that not enough consideration had been taken regarding smaller single owner driver operations
- additionally, some operators might operate abroad for only a very limited amount of time, but even if they only undertake a single journey, then they will still fall into the scope of these changes
- there might also be issues around how hire or reward would be defined, and that numbers of affected vehicles and operators may be higher than estimated as a result

Our response

On balance the call for evidence responses seem to broadly support our estimates, therefore we will retain these for the purposes of estimating the impact of the changes on industry and enforcement agencies.

Summary of response on new postings requirements

There were no comments by stakeholder organisations on these new requirements. However, 36 respondents did provide detail regarding the expected administrative burdens of being asked to fill out the information required by the postings requirements.

9 respondents indicated that none of the total journeys undertaken by their firm would be affected by the new postings requirements, while 17 indicated that the figure would be 25 percent or less of their total journeys.

Conversely, 8 respondents indicated that 70 percent or higher of their firm's total journeys would be affected. These percentages were also reflected in the answers regarding the percentage of revenue generated by foreign journeys.

11 respondents of 35 do adjust driver's pay when undertaking journeys in the EU, while 21 do not.

Most respondents (20) thought that the total amount of staff time needed to input the required information would be three hours a month or less. 5 respondents estimated that it would equate to 12 hours or more.

Our response

The information received will help inform the impact assessment that will accompany the legislation that we will bring in to assist enforcement of the Postings Directive as required by the TCA.