



Department
for Transport

Goods Vehicle Operator Licensing Exemptions Consultation 2014: Summary of Responses

July 2015

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

Department for Transport
Great Minster House
33 Horseferry Road
London SW1P 4DR
Telephone 0300 330 3000
Website www.gov.uk/dft
General enquiries: <https://forms.dft.gov.uk>

© Crown copyright 2015

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos or third-party material) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Contents

Part 1 - Introduction	4
Part 2 - Executive Summary	7
Part 3 – Detailed Summary of Responses	9
Part 4 – DfT Comments	15

Part 1 - Introduction

- 1.1** The impacts arising from exemptions from any regulatory regime need to be carefully understood. In the context of road haulage operations exemptions can raise safety concerns, can impact on operating efficiency and have an effect on competition within the market. Regulatory authorities need to ensure that regulations and any exemptions from them exist for good reason and do not result in wider societal dis-benefits.
- 1.2** We also need to ensure that exemptions are in keeping with wider EU law. In terms of operator licensing the key rules exist within EC Regulation 1071/2009 for vehicles operated for hire and reward.
- 1.3** In our December 2014 consultation we proposed to remove the exemption covering vehicles falling within the definition of the engineering plant exemption for the purpose of operator licencing that carry and deliver materials as well as processing those materials.
- 1.4** If exemptions were to be removed it would mean that operators of the vehicles concerned could face new burdens in either:
 - (a) having to obtain an operator's licence; or
 - (b) for those already holding an operator's licence, having to specify currently exempt vehicles on their licence.
- 1.5** In the consultation we also sought views on:
 - (a) which other exemptions should be removed or modified,
 - (b) the impacts of any changes,
 - (c) issues specific to particular exemptions proposed for removal
- 1.6** The consultation document was published on 11 December 2014 and ran for 12 weeks until 5 March 2015. The Department received 76 responses. We are grateful for the time people took to reply. Responses to the consultation were used to inform the Government's decision on next steps.
- 1.7** Not all respondents indicated an organisation or sector. However, from the information provided respondents were broadly categorised into 8 main groups as follows:

Table 1.1

Organisation	Number of responses
Police Force	2
Local Authority	2
Safety Campaign Group	1
Trade associations	18
Vehicle recovery operators	11
Showmen vehicle operators	32
Other vehicle operators	8
Others	2

1.8 List of Consultation Questions

No.	Question
Q1	Do you agree that it is necessary to review the scope of the definition in Schedule 3, Part 1 of The Goods Vehicles (Licensing of Operators) Regulations 1995 relating to engineering plant so that heavy vehicles with fixed equipment that deliver goods (either processed or not) are no longer exempted from the requirement to be placed on an operator's licence – please explain why or not?
Q2	Do you believe that we should remove the exemption from operator licensing for any or all of the categories of heavy vehicles listed in paragraph 2.13 – please explain why or why not for each case you wish us to consider?
Q3	Do you consider that any other of the exempt categories of vehicle listed in Annex A should be subject to operator licensing in future – please explain why or why not in each case?
Q4	Do you agree with the draft Impact Assessment at Annex B – and /or can you help us to more precisely estimate costs and benefits?

Q5

Please provide any evidence or information that you feel may assist us in considering the exemptions.

Part 2 - Executive Summary

- 2.1** A total of 76 responses were received.
- 2.2** Sixty-one individual consultees responded to some or all of the five specific questions posed in the consultation. The remaining responses were general comments not directly related to the consultation questions and many of these restricted their comments to changes that could apply to their own circumstances.
- 2.3** Table 2.1 summarises the 61 more detailed responses from those that directly answered some or all of the five questions.

Table 2.1		
Questions	In favour	Against / Disagree
Q1 Do you agree that it is necessary to review the scope of the definition in Schedule 3, Part 1 of The Goods Vehicles (Licensing of Operators) Regulations 1995 relating to engineering plant so that heavy vehicles with fixed equipment that deliver goods (either processed or not) are no longer exempted from the requirement to be placed on an operator's licence – please explain why or why not?	16	7
Q2 Do you believe that we should remove the exemption from operator licensing for any or all of the categories of heavy vehicles listed in paragraph 2.13 please explain why or why not for each case you wish to consider?	13	41
Q3 Do you consider that any other of the exempt categories of vehicle listed in Annex A should be subject to operator licensing in future – please explain why or why not in each case?	10	5
Q4 Do you agree with the draft Impact Assessment at Annex B – and / or can you help us to more precisely estimate costs and benefits?	11	6
Q5 Please provide any evidence or information that you feel may assist us in considering the exemptions.	N/A	N/A

- 2.4** There was majority support for inclusion in operator licensing of the vehicles identified in question 1. Most concerns relating to these vehicles related to non-operator licensing issues such as operating weight limits.

- 2.5** The question 2 responses included 32 showmen (circus & funfair operators) all of whom wanted to keep the exemption they currently have from operator licensing.
- 2.6** In considering the remaining vehicles identified in question 2 the views were more mixed. Even when more regulation was supported, many felt that operator licensing was not appropriate to these particular vehicle operations.
- 2.7** Of those that did not answer the 5 specific questions, but expressed a general opinion, a high number of respondents indicated a preference for not having the particular category of vehicle they operate (or represent) brought into operator licensing. As in many responses to question 2, some consultees stated they were in favour of some elements of regulation applying to their own industry / category but rejected the notion of full compliance with the entirety of the operator licensing rules – stating a view that the rules were not appropriate to their sector.
- 2.8** A number of respondents implied that they could not afford any cost increase but did not specify what they anticipated were the actual costs involved.
- 2.9** A number of parties, particularly trade associations, who responded to this consultation also responded to the consultation on HGV Periodic Testing and Inspections Exemptions that DfT had launched in parallel.

Part 3 – Detailed Summary of Responses

- 3.1** Part 3 summarises the responses to each of the questions asked in the consultation, picking out key points.
- 3.2** Sixty-one respondents specifically answered some or all of the five key questions put forward in the consultation. These are considered in detail below.
- 3.3** There was a broader general response from the remaining contributors who provided more generic comments. This latter group were less supportive of possible change and most were in favour of preserving the current exemption that applies to their own circumstances. It is worth noting that many of the general responses provided information relating to question 5 without making a specific reference to that question.
- 3.4** Six of the general responses were in favour of bringing a specific vehicle type they identified into operator licensing. Some consultees stated they were in favour of some elements of regulation applying to their own industry / category but rejected the notion of full compliance with the entirety of the operator licensing rules on the basis that the rules did not fit their sector.

Question 1

- 3.5** Do you agree that it is necessary to review the scope of the definition in Schedule 3, Part 1 of The Goods Vehicles (Licensing of Operators) Regulations 1995 relating to engineering plant so that heavy vehicles with fixed equipment that deliver goods (either processed or not) are no longer exempted from the requirement to be placed on an operator's licence?

Q1

In favour (of Operator Licensing)	16
Against	7
Don't know / Unspecified	6

- 3.6** Safety and enforcement organisations are unanimous in supporting the removal of this exemption. The majority of trade associations are in favour of removing the exemption relating to those vehicles that carry goods. Vehicle operators as a category themselves were more balanced in their response with five in favour and three against.
- 3.7** Two of the trade groups that expressed the view that the exemption for vehicles that deliver goods should be removed are the Freight Transport Association and the Road Haulage Association. Together these two associations represent members who account for over 300,000 of the lorries operated in UK.
- 3.8** Some respondents did recognise the anomaly of having two types of vehicles engaged in providing concrete; with one type being operated under operator licensing and the other type being exempt. Road Tech Group for example stated that
- “volumetric concrete mixers being a very good example. There is a case to be answered that they are in direct competition with regular barrel type concrete mixers”.*
- 3.9** Other specific comments included some from the National Farming Union (NFU) who believed that the current provisions provided a proportionate level of regulation for vehicles that are used predominantly off road.
- 3.10** The British Concrete Pumping Group believed “the goods vehicle operator licensing exemptions should remain in place for mobile concrete pumping vehicles”. However, it should be noted that these vehicles do not carry the goods they process at sites and so were not intended fall within scope of question 1 in this consultation.
- 3.11** Concern was expressed as regards other possible consequential effects of the proposals put forward in the consultation. The Batched on Site Association, who are the main trade body for volumetric concrete mixer operators, would like their members to be able to continue operating vehicles at weights above the limits

applicable to ‘goods vehicles’ under construction and use legislation. They were prepared to consider operating under a licence but “not if this leads to a change in weight limits for Mobile Batching Plant as proposed”. This view was echoed by Lightwater Quarries who agreed with improved regulation but did not want a reduction to the vehicle weights they wished to operate at “...if this improves road safety by allowing DVSA and the Traffic Commissioner to regulate operators more effectively then I agree. However I do not agree if this removes the ability for engineering plant - including volumetric concrete plants - to operate at design weight.”¹

Question 2

3.12 Do you believe that we should remove the exemption from operator licensing for any or all of the categories of heavy vehicles listed in paragraph 2.13? This question is in relation to;

- Recovery / Breakdown vehicles
- Showman’s Vehicles
- Mobile cranes
- Electrically Operated vehicles.

Q2	
In favour (of Operator Licensing)	13
Against	41
Don’t know / Unspecified	7

3.13 The safety and enforcement respondents are again in favour of operator licensing for all the listed categories in question 2. The view of operators and trade associations is less clear on the removal of exemptions from this wider set of categories.

3.14 Trade associations and operating companies responses are balanced on this proposition, however of those that objected to the removal of a current exemption, most objections were usually focused on their own particular sector. For instance, the

¹ Design weights for vehicles are set by vehicle manufacturers, these are generally higher than the maximum weights permitted for road operation set for goods vehicles under vehicle construction and use legislation.

Showmen's Guild does not believe there is a justification to remove the current exemption for showmen's goods vehicles.

- 3.15** A good number (32) of showmen responded individually, all of whom wanted to keep the exemption they currently enjoy from operator licensing. This group covers circuses and fairs with many of the showmen using vehicles as living quarters. They have been recognised as a separate category for both operator licensing and vehicle taxation. This exemption was given as, traditionally, showmen did not travel many miles, travel slowly in groups, and do not have a fixed operating base. The showmen maintain that those conditions still apply and were against removal of the exemption from operator licensing for that reason.
- 3.16** Many showmen believed that they would need to employ additional staff to carry out the administration associated with operator licensing. Zippos Circus felt operator licensing "...would increase our expenses dramatically and would require more staff to enable us to comply with the requirements".
- 3.17** On whether the exemptions for other categories should be removed, replies were more subjective. Local authorities felt all listed categories should be included whilst the Road Haulage Association (RHA) and National Farmers Union (NFU) felt that if any vehicle were operated commercially on a HGV chassis it should be included. Other respondents were more specific with one suggesting that television broadcast vehicles should be included.
- 3.18** The RAC felt that compliance with Operator Licensing for recovery vehicles would be felt more by small companies as it would "...add significant cost to all recovery operators across the industry, but disproportionately to smaller contractors operating a handful of recovery vehicles".
- 3.19** Interestingly, there have been other views from the same sector supporting licensing in the sector. Allianz Recovery felt that recovery vehicles should be licensed as they "...not only to recover vehicles, but also the people that are with the vehicle, so this means they could also be carrying single or multiple passengers, families and vulnerable people". Whereas Adept Recovery felt that the "...breakdown and recovery sector, rightly enjoys the exemption because unlike the other forms of the transport sector, recovery vehicles only carry vehicles and occupants from where they have broken down, to a place of safety or place of repair".

- 3.20** A number of responses, whilst stating a view, were qualified in some way. The NFU for instance said in relation to mobile cranes “.. if mobile cranes are to be included within the scope of operator licensing, the regulations should reflect that agricultural materials handlers are classified as agricultural motor vehicles and therefore should not be subject to operator licensing”.
- 3.21** There was little response relating to electric vehicles with only one operator of electric vehicles responding, who was against inclusion. The increasing number of electrically propelled vehicles that carry goods was recognised by some respondents who would prefer that electric vehicles being used as HGV’s to carry goods should be operated under operator licensing provisions.

Question 3

- 3.22** Do you consider that any other of the exempt categories of vehicle listed in Annex A should be subject to operator licensing in future?

The Annex A list of exemptions from operator licensing in Schedule 3 of The Goods Vehicles Regulations 1995 includes 30 vehicle types not considered in earlier questions within this consultation.

Q3	
In favour (of Operator Licensing)	10
Against	5
Don't know / Unspecified	14

- 3.23** As this list covers some 30 vehicle categories not already considered in questions 1 and 2 many respondents offered general comments rather than comment on all possible categories of exempted vehicle that were on the list.
- 3.24** Thomas Morrison Aggregates raised the point that a number of those exemptions apply to vehicles that have been traditionally operated by the state or public sector. They suggested that the exemption should no longer apply if such services are being provided commercially as a result of privatisation.
- 3.25** Many of the respondents were of the view that if the vehicles operated were based on HGV chassis then they should be

operated under an operators licence. Their reasoning was that such vehicles are used on the highway and at similar speeds as goods vehicles and as such they represent an equal danger to other road users. This view was also expressed by the Freight Transport Association (FTA) and the RHA.

Question 4

3.26 Q4 Do you agree with the draft Impact Assessment at Annex B?

Q4	
Agreed	11
Disagreed	6
Don't know / Unspecified	12

3.27 Opinion among the trade associations and operating companies was more equally divided as to whether the estimates that the Department made did reflect the actual costs involved. However, those that agreed with the Department's assessment included the FTA and RHA.

3.28 Of those who questioned the accuracy of the Department's costs only the Batched on Site Association provided detailed information for their view.

3.29 This information provided by the Batched on Site Association was contained in a report the BSA had commissioned from a consultancy firm Regeneris. However, much of the evidence on costs focused on the issue of operating at vehicle design weight rather than the costs of operating under a licence and so was out of scope for this consultation (it will be considered in more detail in respect of the consultation dealing with annual roadworthiness testing).

Question 5

3.30 Question 5 was an opportunity to provide additional information. Only three respondents answered this directly, they repeated their answer to Q1 and listed their objections for their own industry being brought into operator licensing.

Part 4 – DfT Comments

- 4.1** The Government will consider its response related to this consultation alongside the consultation on exemptions to annual vehicle testing for HGV's.
- 4.2** Responses have confirmed that there is a concern that there can be competition between regulated vehicles and non-regulated vehicles operating in the same market. The most obvious example is between rotary cement mixers and volumetric concrete mixers where both vehicle types carry and deliver similar products, but under different regulatory regimes.
- 4.3** It is noted that there was a broad consensus that for vehicles that both carry and deliver a product there is little justification for these vehicle not being operated under an operator's licence.
- 4.4** Similarly, it was noted that there was support for the principle that the means of propulsion should not have bearing on the need to conform to operator licensing, and as such general view that electrically propelled vehicles should not be exempted from operator licensing.
- 4.5** The Department recognises that operators will have based their operation on existing interpretations of the law. They will have made fleet decisions and investments on that understanding. If it considers vehicle types should fall in scope of operator licensing it likely that phasing any such changes would be considered so as to minimise the effect on businesses.

- 4.6** The situation on recovery vehicles is mixed given that there was some support from within the sector itself for a form of licensing system, but not the current operator licensing system. The Department intends to make further studies into the implications of a licensing system for this industry, and mobile crane operators separately from this consultation.
- 4.7** It is accepted that the long established exemption for genuine showmen's vehicles, where there is a low mileage and a difficulty in identifying a regular operating base, is not compatible with the operator licensing system.
- 4.8** While there was some support for including other categories of vehicle referred to in question 3 into operator licensing, there were no compelling cases made to support this.
- 4.9** The Government will consider the responses to this consultation over the coming months and is expected to decide if any changes will be made to current exemptions in late 2015.