



Department
for Transport

Red Tape Challenge (RTC) & Logistics Growth Review (LGR)

Request for views on commitments
related to drivers' hours; tachographs
and the support of green technology
through the Operator Licensing
Regime

December 2012

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1. Who Should Read this Document?

1.1 This document will be of interest to:

- Drivers and operators of commercial goods vehicles and passenger carrying vehicles;
- Trade Unions representing drivers;
- Trade Associations representing drivers and operators;
- Those in the security industry transporting valuables and cash in secure vehicles;
- Operators of goods vehicles with an interest in green vehicle technologies – especially those who are operating vehicles under 3.5 tonnes.

2. Introduction

Red Tape Challenge

- 2.1 In December 2011, the Department for Transport (DfT) published the [Red Tape Challenge - Road Transportation document](#)¹, which laid out proposals for amending/revoking existing regulations in each transport sector, with the aim of cutting down unnecessary burdens on business and members of the public.
- 2.2 This document relates to the commitments concerning the following regulations:
- a) Community Drivers' Hours and Recording Equipment Regulations 2007;
 - b) Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations 2008;
 - c) The Drivers' Hours (Goods Vehicles) (Keeping of Records) Regulations 1987;
 - d) Drivers' Hours (Passenger and Goods Vehicles) (Exemption) Regulations 1996; and
 - e) The Passenger and Goods Vehicles (Recording Equipment) Regulations 1989.

Logistics Growth Review

- 2.3 In November 2011, as part of the Government's growth agenda, DfT published [The Logistics Growth Review - Connecting People with Goods](#)², which included a diverse package of measures targeting real barriers to growth identified by businesses across the sector.
- 2.4 Five core areas were identified in the Logistics Growth Review (LGR) in which Government could play a significant part in increasing the productivity of the UK industry and strengthening its role in the UK economy:

- a) Giving industry greater confidence to invest;

¹ <http://assets.dft.gov.uk/consultations/gov-20110520/rtc-road-transport-summary.pdf>

² <http://assets.dft.gov.uk/publications/logistics-growth-review/logistics-growth-review.pdf>

- b) Improving the longer term capacity, performance and resilience of our congested road and rail networks;
- c) Promoting the image of the sector at local level;
- d) Reducing unnecessary regulation; and
- e) Attracting and retaining high calibre recruits.

2.5 In addition, the importance of low carbon dimension to growth of the logistics sector was also identified.

2.6 This document relates to two of the commitments identified in the review:

- a) *Development of proposals to allow an increase in the time required between tachograph data downloads (also a commitment in RTC); and*
- b) *Explore opportunities to support green technologies through the operator licensing regime.*

3. Background

Red Tape Challenge

EU drivers' hours rules

- 3.1 The EU drivers' hours rules (Regulation (EC) 561/2006) apply to goods vehicles over 3.5 tonnes and passenger vehicles with 10 or more seats unless covered by a range of specific EU-wide exemptions and national derogations.

- 3.2 Detailed information on the EU drivers' hours rules can be found on the new government website www.gov.uk. The EU drivers' hours rules also include a number of specific exemptions – including for gas and electrically powered vehicles up to 7.5 tonnes and operated not more than 50 km from base.

Tachographs

- 3.3 Drivers and operators of vehicles that are in scope of the EU drivers' hours rules are required to fit and use a tachograph – a mechanical device which records, in real time, each driver's driving time.

- 3.4 The rules on using the tachograph are contained in Regulation (EC) 3821/85 (as amended). The digital tachograph was first required in new vehicles from 2006, and the previous paper-based analogue tachograph is still used in older vehicles.

- 3.5 Analogue tachograph recordings are made by a stylus cutting traces into a wax-coated chart. Digital tachographs work by storing digital data on the driver and vehicle in their own memory and separately on a driver's smart card. Each driver has a unique card issued to them which must be used with the digital tachograph for each daily working period to store the driver's activity.

- 3.6 Transport operators must periodically download this data from the digital tachograph (known as the Vehicle Unit or VU) every 56 days

and from driver cards every 28 days and analyse the information to ensure that the rules have been complied with.

GB domestic drivers' hours rules

- 3.7 The GB domestic drivers' hours rules apply to most goods and passenger vehicles that are not within scope of the EU drivers' hours rules.
- 3.8 Drivers of in-scope passenger and goods vehicles must keep records (either on a record sheet or tachograph) for any day on which they drive.
- 3.9 Detailed guidance on drivers' hours and tachographs can be found on the new gov.uk website at <https://www.gov.uk/drivers-hours>

Logistic Growth Review

Operator Licensing Regime

- 3.10 In Great Britain, operators of goods vehicles over 3.5 tonnes are required to hold an operator's licence issued by one of eight regionally-based traffic commissioners. There are two types of licence:
- *For those running haulage operations ('hire or reward')*. These vehicles carry goods that do not belong to the operators themselves - examples include removals vehicles and delivery services. The rules for applying for and retaining these licences are determined at European level³.
 - *For those carrying goods belonging to the operators ('restricted licences')*. These licences are for operators who use large vehicles as part of a business that is unconnected with haulage – examples include vehicles carrying scaffolding or those operated by utility companies. These are not governed by EU law and the rules are determined in domestic legislation⁴.

³ Regulation (EC) No 1071/2009

⁴ The Goods Vehicles (Licensing of Operators) Act 1995

3.11 Exemptions to the requirement to hold a restricted licence are determined in domestic legislation and a number already exist – e.g. for certain categories of farm operations and recovery vehicles. For haulage operations operated under EU law, individual Member States are also able to provide any exemption from the operator licensing (O-licensing) regime under Article 1(5) of Regulation (EC) No 1071/2009. However, under this Article, any exemption must meet two criteria:

- It can only apply to national transport operations; and
- It must have only a minor impact on the transport market, either because of the nature of the goods carried or the short distances involved.

3.12 Detailed information on the requirements of O-licensing can be found on the gov.uk website.

4. Proposals

Red Tape Challenge

Proposal 1: Exempt vehicles carrying cash/valuables from the EU drivers' hours rules

- 4.1 The EU drivers' hours rules (Regulation (EC) 561/2006) enable Member States to exempt certain types, and operations, of vehicles on their territory from its requirements - through discretionary national derogations. A list of the possible national derogations are contained in Article 13 of [Regulation \(EC\) 561/2006](#)⁵
- 4.2 The Community Drivers' Hours and Recording Equipment Regulations 2007 (which facilitates compliance and enables enforcement of Regulation 561/2006) was also used to adopt all but one of the national derogations in Regulation (EC) 561/2006. The derogation not adopted was the one for specialised vehicles transporting money and/or valuables. As this sector had been operating in scope of the rules without any apparent difficulties and the case for exemption was not made by that sector at that time, it was decided not to include this derogation in the 2007 Regulations. However, one of the actions arising from the RTC was that the Department should consider implementing this last remaining national derogation.
- 4.3 If it were adopted, drivers of these vehicles would fall in scope of the GB domestic drivers' hours rules. Although under these rules they would still need to abide by certain driving and duty rules they would not need to have a tachograph fitted to record their time.

Proposal 2: Adopt the European timescales for downloading digital data

- 4.4 Under the EU drivers' hours rules (Regulation (EC) 561/2006) Member States are required to ensure transport undertakings that use vehicles fitted with a tachograph download all relevant data from the vehicle unit and driver card regularly. To meet this

⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:102:0001:0013:EN:PDF>

requirement the Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations 2008, were made following a public consultation in 2007.

- 4.5 These Regulations require drivers in scope of the EU drivers' hours rules to return records of their activities to their employer within 28 days from the driver card. It also requires operators to ensure tachograph data is not lost, by downloading data every 56 days and to make data accessible to enforcement officers if required.
- 4.6 EC Regulation 581/2010 adopted on 1 July 2010, introduced maximum periods for the downloading of relevant data and specified that digital tachograph data from the vehicles unit should be downloaded at least every 90 days before it is overwritten.
- 4.7 As part of both the LGR and the RTC DfT agreed to consult on the option to adopt the maximum EU 90 day limit.

Proposal 3: Remove three regulations from the statute books

[The Drivers' Hours \(Goods Vehicles\) \(Keeping of Records\) Regulations 1987](#)⁶

- 4.8 The above Regulations require drivers of goods vehicles and passenger vehicles that require an Operator's licence and would normally come under scope of the EU drivers' hours rules (but qualify for an exemption or national derogation), to keep a written record of their driving time. The Regulations specify what the driver's record books should contain.
- 4.9 The Department is considering whether the requirement to keep records should be removed.

[Drivers' Hours \(Passenger and Goods Vehicles\) \(Exemption\) Regulations 1996](#)⁷

- 4.10 The above Regulations granted an emergency relaxation from the GB domestic drivers' hours rules for drivers affected by the severe weather conditions in GB in February 1996. The Regulations lasted

⁶ <http://www.legislation.gov.uk/uksi/1987/1421/contents/made>

⁷ <http://www.legislation.gov.uk/uksi/1996/240/made>

from 9 February to 18 February 1996 and therefore will now be removed from the statute book.

[The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 1989](#)⁸

4.11 The above Regulations have been amended so heavily that there are now no substantive provisions in them. Therefore, we are minded to revoke them.

Logistic Growth Review

Proposal 4: Incentivising the use of goods vehicles using greener technologies through the operator licensing system

4.12 All operator licence (O-licence) holders must meet a number of general requirements to obtain and retain their O-licence. They must be of good repute, have appropriate financial standing and maintain their vehicles properly. Those operating for hire or reward (i.e. haulage companies) must comply with EU rules on operator licensing, and in addition to the requirements above, those rules also require these operators to be professionally competent (by employing a transport manager who holds an appropriate qualification) and meet a more stringent financial standing requirement.

4.13 Whilst these requirements are necessary to ensure proper road safety and fair competition, they do impose additional burdens and costs. The Department is aware that these rules can present a particular barrier to the adoption of green vehicle technologies - for example, smaller goods vehicles (e.g. vans under 3.5 tonnes) which, when fitted with some green technologies that add weight to the vehicles, take them over the 3.5 tonne weight threshold where an O-licence is needed. Where this happens, the vehicle must be made lighter or smaller to remain exempt – reducing payload. This can present a barrier to their wider adoption.

⁸ <http://www.legislation.gov.uk/uksi/1989/2121/made>

Current ‘green’ propulsion technologies

4.14 The currently available alternative propulsion technologies have two principal elements:

Fuel used

4.15 These include some form of gas power, such as liquid petroleum gas or compressed natural gas, and those producing electricity such as lithium-ion batteries and hydrogen fuel cells.

Powertrain

4.16 The way these alternative fuels are used to power the wheels can also vary too. There are three principal technologies:

- **Single power source** – the vehicle is propelled by a gas-powered internal combustion engine or by an electric motor using batteries or a fuel cell.
- **Series hybrid** – these vehicles are only driven by electric traction, but also have an alternative power source on board that can drive the electric motor. An example would be a delivery vehicle that uses an electric motor/battery combination to drive the wheels, but where the battery can be recharged by a small on-board diesel engine, thereby extending the vehicle’s operating range.
- **Parallel hybrid** – these use two separate forms of power to drive the wheels. An example would be a vehicle that uses an electric motor powered by batteries to drive the wheels in slow-moving traffic, but which could switch to a diesel engine on clear roads or on motorways.

Options to further support green vehicles technologies through operator licensing

4.17 We have looked at what could be done through the O-licensing system to make green vehicles more attractive to operators. There are three key conclusions from our initial assessment:

- **Electrically propelled goods vehicles (regardless of size) are already exempt from EU and domestic operator licensing** – covering both wholly electric, powered by batteries, and series hybrid vehicles where a battery/ diesel engine powers an electric motor. Such vehicles, up to 7.5 tonnes and operated not more than 50km from base, are also exempt from EU drivers' hours rules.
- **EU law also allows parallel hybrid vehicles an exemption from O-licensing for domestic journeys over a defined maximum distance from base.** We do not currently allow this domestically and there is no current scope to exempt these vehicles from the EU drivers' hours rules.
- **EU law also allows us to introduce, for gas-powered vehicles, an exemption from O-licensing for domestic journeys over a defined maximum distance from base.** We do not currently allow this domestically, but these vehicles (up to 7.5 tonnes operated not more than 50km from base) are currently exempt from EU drivers' hours rules.

4.18 Taking the above into account, further options to support green vehicle technologies include:

Exempting gas-powered vehicles from the requirements of operator licensing

4.19 Given that electrically propelled vehicles are already exempt from the requirements of O-licensing (whether operated by haulage companies or those carrying their own goods), the exemption could be extended to gas-powered vehicles such as those using natural or liquid petroleum gas. As explained earlier, under EU law, such vehicles (up to 7.5 tonnes) are already exempt from the drivers' hours requirements, provided they do not operate more than 50km from base. An exemption from the O-licensing regime would add a further incentive to using these vehicles.

Exempting parallel hybrid vehicles

4.20 These vehicles are not currently exempt from O-licensing because they use both an electric motor and a diesel engine to drive the wheels, and therefore do not fall within the current exemption for

electrically-propelled vehicles. It is possible to provide an O-licensing exemption to this class of vehicle, whether operated for hire or reward or on a restricted licence. However, these vehicles, whether operated under a restricted or hire or reward basis, would still need to comply with the EU drivers' hours rules.

4.21 There are also a number of further options for framing an exemption for *gas-powered* and *parallel hybrid* vehicles:

- It could apply to all classes of this type of vehicle or only to those within a weight limit – say, up to 7.5 tonnes gross vehicle weight, which would mirror the existing drivers' hours exemption (see first bullet of paragraph 4.17 above).
- It could apply only to vehicles used for haulage operations (hire or reward) or also to vehicles operated under a restricted licence (see the definitions in paragraph 3.11 above).

4.22 **NOTE:** Any exemption from O-licensing for haulage operations would need to comply with the EU rules on O-licensing, and this imposes certain restrictions - it could not apply to vehicles that travel outside the UK and would need to be subject to a distance-from-base restriction.

Applying a vehicle weight threshold

4.23 Exempting vehicles with green technologies over 3.5 tonnes from O-licensing would mean that operators would no longer need to satisfy a traffic commissioner that they were of good repute, had appropriate financial standing, or maintained their vehicles properly. In addition, hire and reward operators would no longer need to employ a transport manager who holds a professional qualification. Operators of such vehicles would still be required to ensure that their vehicles remained roadworthy at all times and they would still be subject to on-the-road enforcement by the Vehicle and Operator Services Agency (VOSA), such as the issuing of immediate or delayed prohibitions for vehicle defects and fixed penalties for drivers' hours violations. However, traffic commissioners would not be able to take the more permanent enforcement action that is available under the current O-licensing regime, such as banning an operator who repeatedly (and perhaps wantonly) breaches the O-licensing or drivers' hours rules.

4.24 In this context, trials of low carbon goods vehicles are currently underway, in a £11.3m project funded by the DfT in co-operation with the Technology Strategy Board. These trials involve a mix of haulage companies and operators carrying their own goods. If the trial proves successful, the use of large goods vehicles using gas-power could increase. As the existing O-licensing rules apply to any size of vehicle over 3.5 tonnes, this begs the question whether all vehicles using green technology, regardless of size, should be made exempt from O-licensing (and the checks and balances outlined in paragraph 4.23 above) or whether, on road safety grounds, any exemption should be subject to a maximum weight threshold – say, 7.5 tonnes – which would match the current threshold for the exemption from EU drivers' hours rules.

Driver licensing

4.25 The current rules on driver licensing would not change under these proposals. It must also be borne in mind that, whilst smaller vans can be driven on a category B (car) licence, a driver of a vehicle over 3.5 tonnes would continue to need a C1 or a C entitlement. That fact may require the driver to gain additional categories on their driving licence.

5. Consultation questions

| Red Tape Challenge | |
|---|---|
| Proposal 1: Exempt vehicles carrying cash/valuables from the EU drivers' hours rules | |
| 1 | Do you think DfT should exempt these vehicles from the EU drivers' hours rules? Please explain your reason. |
| 2 | Can you provide an estimate of the number of these vehicles currently in operation and the number of hours driven in any 24 hour period? |
| 3 | What are your views of the potential costs and benefits of exempting these vehicles? |
| 4 | How many drivers do you think will benefit from this exemption? |
| 5 | Do you have any relevant data or information to send to the DfT to help inform an impact assessment? |
| Proposal 2: Adopt the European timescales for downloading digital data | |
| 6 | Do you think DfT should adopt the EU maximum 90 day limit for downloading data? Please explain your reason. |
| 7 | If this was adopted what do you believe would be the benefits to industry? |
| 8 | If this was adopted what do you believe would be the risks – including to enforcement? |
| 9 | Do you have any relevant data or information to send to the DfT to help inform an impact assessment? |
| Proposal 3: Removal of regulations from the statute books | |
| 10 | Do you think DfT should remove the requirement for a small number of drivers to keep records of their driving time, contained in the Drivers' Hours (Goods Vehicles) (Keeping of Records) Regulations 1987? Please explain your reason. |

| | |
|---|--|
| 11 | How many drivers do you think currently need to keep records of their driving time? |
| 12 | How much of the driver's time do you think is spent maintaining these records? |
| 13 | What are the benefits of these drivers keeping these records? |
| 14 | Can you see any risks resulting in the removal of this requirement? |
| 15 | Are there any provisions in the Passenger and Goods Vehicles (Recording Equipment) Regulations 1989, which you believe are not covered by other legislation and should be retained? Please give details. |
| Logistic Growth Review | |
| Proposal 4: Incentivising the use of goods vehicles using greener technologies through the operator licensing system | |
| 16 | Should gas-powered vehicles be exempt from O-licensing? How is such a move likely to grow the market for these vehicles? |
| 17 | Should parallel hybrid vehicles be exempt from O-licensing – bearing in mind they would not be exempt from drivers' hours rules? How is such a move likely to grow the market for these vehicles? |
| 18 | Should either or both of the above exemptions be subject to a maximum weight limit – say 7.5 tonnes? If so, why? |
| 19 | Should either or both of the exemptions apply to both haulage (hire or reward) operators and operators of vehicles carrying their own goods under restricted licences? Please state your reasons. |
| 20 | Are there any other measures - through the O-licensing system or elsewhere - that you think would encourage the use of green vehicle technologies? |
| 21 | Do you consider that exempting certain types of goods vehicles to promote greener technologies would present any risks to operators or customers or have any unintended consequences? |

6. How to respond

6.1 Please ensure that your response reaches us before the closing date of **Friday 22 February 2013**. If you would like further copies of this document, it can be found on the DfT website.

6.2 Please send responses to:

RTC & LGR consultation team
Freight, Operator Licensing and Roadworthiness Division
Roads Directorate
Department for Transport
Great Minster House
3 Horseferry Road
LONDON SW1P 4DR

Email: RTCandLGR@dft.gsi.gov.uk

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

6.4 If you have any suggestions of others who may wish to be involved in this process please contact us or pass on the link to this document to them direct.

Freedom of Information

6.5 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

6.6 If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a

statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

- 6.7 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If DfT receive a request for disclosure of the information, DfT will take full account of your explanation, but DfT cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 6.8 The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Next steps

- 6.9 The comments/information received from this document will help to formulate Government policy decisions and inform any final impact assessments made on any proposed changes to legislation.

7. Consultation Principles

This exercise is being conducted in line with the Government's key consultation principles which are listed below. Further information is available on the Better Regulation Executive website at <https://update.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 1/14 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk

Consultation Principles

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected