



Department
for Transport

Goods Vehicle Operator Licensing Exemptions Consultation (2014)

December 2014

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Contents

Foreword	4
Executive summary	6
The proposals	9
Consultation questions.....	13
What will happen next.....	14
Annex A	15
Annex B Impact assessment.....	20
Annex C Consultation principles	21

Foreword

The purpose of this document is to seek views on the Department's proposal to remove certain exemptions from Heavy Goods Vehicle (HGV) operator licensing. Our proposal is to remove the exemption related to those vehicles which deliver (as well as process) materials, included in the current definition of engineering plant (as that relates to operator licensing). The consequence would be that operators of vehicles in those formerly exempt HGV classes would be required to have those vehicles specified on an operator's licence.

The main purpose of the goods vehicle operator licensing system (established in 1933) is to ensure the safe and proper use of goods vehicles and to protect the environment around operating centres.

Subject to certain exceptions, you need an operator's licence to carry goods for hire or reward, or for or in connection with any trade or business if you use a motor vehicle on a road with:

- a gross plated weight of more than 3.5 tonnes; or
- if it has no gross plated weight, an unladen weight of more than 1525kg.

The use of vehicle combinations also generally requires a licence.

An operator's licence can be issued in one of three formats:

- Restricted - to carry your own goods in the course of your trade or business
- Standard National - to carry your own goods in Great Britain, and to carry goods for other people for hire or reward in Great Britain.
- Standard International - to carry your own goods, and goods for other people for hire or reward, both in Great Britain and on international journeys.

There are certain types of vehicle or operation that are exempt from the need to be operated under a licence. A full list is shown at Annex A but examples include; agricultural vehicles, emergency services and road construction vehicles.

The Department will also be consulting on the subject of certain types of heavy vehicle being exempt from the requirement for an annual

roadworthiness test. This separate consultation is being done as we need to ensure those categories of exempt vehicles will be compatible with those specified in Directive 2009/40/EC and to be specified in 2014/45/EU. There will be commonalities on licensing exemptions and testing exemptions. By consulting on these areas in tandem we will be able to consider all responses and test whether our assumptions on the effects to industry are valid. As both areas have consequences for road safety we are keen that the road safety community has the opportunity to consider the consultations alongside each other. If you would like to view the annual test exemption consultation please use the following link:

<https://www.gov.uk/government/consultations/hgv-periodic-testing-and-inspections-exemptions>

Primarily, we wish to ensure that regulations are equitable and supportive of road safety.

Executive summary

- 1.1 Exemptions from any regulatory regime can raise safety concerns and have an effect on competition within the market. Regulatory authorities need to ensure that exemptions that are allowed are done so for good reason and do not result in wider societal dis-benefits.
- 1.2 We need to ensure that exemptions are in keeping with wider EU law. EC Regulation 1071/2009 does allow Member States to exempt vehicles operated for hire and reward in certain circumstances.
- 1.3 Our primary aim as Government is to ensure the safety of all road users in Great Britain is secured whilst not putting an unfair burden of operator licensing on vehicles or operators that either do not warrant it, or are unable to comply with its requirements.
- 1.4 We are proposing to remove the exemption covering vehicles falling within the definition of the engineering plant exemption for the purpose of operator licencing that deliver materials as well as processing those materials (this includes volumetric concrete mixers). Our initial estimate – based on DVSA operator licensing statistics – is that up to 729 vehicles might fall within the exempt HGV classes we are considering here. If the relevant 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 those currently exempt vehicles on their licence.
- 1.5 However, we need to balance any additional burden against road safety considerations and ensuring fair competition. The purpose of this consultation is to establish whether the removal of the exemption for these vehicles would be beneficial to society as a whole. We are also considering whether any of the other exemptions should be removed or amended.

How to respond

The consultation period began on 11 December 2014 and will run until 5 March 2015. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at

<https://www.gov.uk/government/consultations/goods-vehicle-operator-licensing-exemptions> or you can contact Mark Heverin if you would like alternative formats (Braille, audio CD, etc).

Please send consultation responses to:

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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.

Freedom of Information

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.

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.

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 we receive a

request for disclosure of the information, we will take full account of your explanation, but we 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.

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.

The proposals

- 2.1 Operator licensing was established in 1933 and a number of categories of vehicle were exempted from operator licensing at that time, primarily because they were considered to be non - standard types of vehicle, or vehicles which were limited in number or limited in use on the public road.
- 2.2 Over time the amount of exempted vehicles has grown, both in category and number. The number of such vehicles is now estimated as 40,000. This represents a 12% share of the total heavy goods vehicle market according to DVSA figures.
- 2.3 A list of the classes of vehicles for which a licence is not currently required can be found in Schedule 3 to The Goods Vehicles (Licensing of Operator) Regulations 1995 (Annex A).
- 2.4 There are certain types of vehicle, currently recognised as engineering plant for the purpose of operator licensing, that carry goods as well as processing or treating those materials. These in effect deliver or collect the goods for the customer and we believe should be not be exempted from the operator licensing requirements. The Department has identified vehicles that deliver and mix concrete (Volumetric Concrete Mixers) as coming into this category.
- 2.5 Operators who comply with regulations regarding maintenance, driver hours and safe loading are considered safer than undertakings who are not subject to these rules. Similarly, vehicles that are subject to regular testing are again considered safer than those which are not tested. As such there is a safety concern identified with vehicles that are operated outside of a regulatory framework.
- 2.6 During recent targeted enforcement activity in London focussed on construction traffic, over 80% of inspected vehicles were prohibited from continuing their journeys due to road safety faults or being severely overloaded. Dealing with volumetric concrete mixers as a specific set of vehicles, during October and November last year, 6

vehicles were stopped. Of these vehicles 5 received immediate prohibitions for mechanical defects and 3 of these were also prohibited because of either overloading or an insecure load - in one case 15 faults were found. Even allowing for the small sample, at over 80% this is a much higher rate than the benchmark prohibition rates for randomly selected goods vehicles of 11.5%.

- 2.7 There is a competition issue in respect of the volumetric mixers that are exempted from operator licensing. The competing vehicle type, a drum mixer, does require operator licensing even though it provides a similar service.
- 2.8 The Government and the licensing authority for the industry (Traffic Commissioners) seek to protect compliant operators from unfair competition. Competitive advantages obtained by non-compliant operators, or operators who do not contribute to enforcement and administrative processes, results in distortion in the market and places increased pressure on the margins of compliant and regulated operators.
- 2.9 Licence fees pay for the regulation and monitoring of the road haulage and road passenger industries. The fees, importantly, contribute to the enforcement of the industry which today is mostly undertaken by the Driver and Vehicle Standards Agency (DVSA). Such activities include roadside checks where large vehicles, including those from other countries and vehicles outside the operator licensing system that are subject to a technical inspection. It is appropriate that the operators of such vehicle contribute towards the cost of enforcement of the industry.
- 2.10 Operator licensing is part of a broader legislative regime covering the running of large motor vehicle for commercial purposes. Other elements include driver licensing, driver hours, permitted speeds and roadworthiness. Bringing operators of large vehicles into scope of operator licensing will improve safety for employees and other road users by supporting effective compliance and enforcement of the rules. We feel that operators who do operate in a safe manner will only be marginally affected by the change.
- 2.11 Greater clarity over which sectors of the market are legitimately exempted will help industry and enforcement authorities more easily understand which vehicles are, or are not, exempt from operator licensing.

2.12 It would be difficult to substantiate an in-principle argument as to why such vehicles should continue to be exempted from operator licensing. Withdrawing these exemptions would also remove the current unfairness whereby HGVs which are exempt from operator licensing are in some cases in direct competition with vehicles which are not exempt.

Other issues

2.13 Our initial view is that the exemption for engineering plant should be changed for vehicles such as volumetric concrete mixers where material is carried and delivered on a commercial basis. Other categories of currently exempt vehicles which could be included in operator licensing on which we will invite comment are;

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

2.14 For each of these categories we have identified that:

- most of these vehicle types are based on a normal HGV chassis;
- in some cases the number of such vehicles is increasing;
- most need to be maintained in exactly the same way as any other type of HGV; and,
- the main purpose of operator licensing is to ensure the safe and proper use of HGVs.

2.15 A recovery vehicle is one which is constructed or permanently adapted for the purposes of lifting, towing and transporting a disabled vehicle. They may not carry other unrelated goods under the Recovery / Breakdown vehicle exemption.

2.16 Vehicles that are operated by circuses and funfairs are classed as Showman's vehicles. They are not permitted to carry goods for third parties under the Showman's vehicle exemption.

2.17 Mobile Cranes are vehicles which carry an integral expanding or extendible device for the lifting of loads. They do not carry the load except for very short distances and then usually not on the highway – they are not constructed for the conveyance of any other load.

2.18 Electrically propelled vehicles are normal HGVs which are propelled by electric motors rather than an internal combustion engine which is directly connected by a transmission train to the drive wheels. Electrically propelled vehicles are a growing segment of the commercial vehicle market. Electric HGVs currently weigh up to 12 tonnes and can travel at more than 50mph. We expect that, with advances in technology, electric vehicles of more than 12 tonnes will soon be commercially available.

2.19 We could look to removing all exemptions from operator licensing for all large commercial vehicles. We believe this would be disproportionate because it would include some sectors where there is a high number of vehicles operated, such as agricultural vehicles, where there is a very low usage or annual mileage. It would also include vehicles being used for emergency purposes or to cover some temporary scenarios (such as vehicles being transported for export). We feel that a total removal of exemptions would not be proportionate nor in the public interest.

2.20 The Impact Assessment assessing the proposed change is at Annex B.

Consultation questions

It would be helpful if, when you reply, you could focus your response on the following 5 questions, though we would, of course, also be pleased to consider any other comments that you may wish to make.

- 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.

What will happen next

A summary of responses, including the next steps, will be published on <https://www.gov.uk/government/consultations> within three months of the consultation closing. Paper copies will be available on request.

Annex A

List of exemptions from operator licensing in Schedule 3 of The Goods Vehicles (Licensing of Operator) Regulations 1995.

1. Any tractor as defined in paragraph 4(3) of Part IV of Schedule 1 to the Vehicle Excise and Registration Act 1994 (as originally enacted) while being used for one or more of the purposes specified in Part II of this Schedule.
2. A dual-purpose vehicle and any trailer drawn by it.
3. A vehicle used on a road only in passing from private premises to other private premises in the immediate neighbourhood belonging (except in the case of a vehicle so used only in connection with excavation or demolition) to the same person, provided that the distance travelled on a road by any such vehicle does not exceed in the aggregate 9.654 kilometres, (6 miles), in any one week.
4. A motor vehicle constructed or adapted primarily for the carriage of passengers and their effects, and any trailer drawn by it, while being so used.
5. A vehicle which is being used for funerals.
6. A vehicle which is being used for police, Scottish Fire and Rescue Service or, in England, fire and rescue authority or ambulance or National Crime Agency purposes.
7. A vehicle which is being used for fire-fighting or rescue operations at mines.
8. A vehicle on which no permanent body has been constructed, which is being used only for carrying burden which either is carried solely for the purpose of test or trial, or consists of articles and equipment which will form part of the completed vehicle when the body is constructed.
9. A vehicle which is being used under a trade licence.
10. A vehicle in the service of a visiting force or of a headquarters.
11. A vehicle used by or under the control of Her Majesty's United Kingdom forces.

12. A trailer not constructed primarily for the carriage of goods but which is being used incidentally for that purpose in connection with the construction, maintenance or repair of roads.

13. A road roller and any trailer drawn by it.

14. A vehicle while being used under the direction of HM Coastguard or of the Royal National Lifeboat Institution for the carriage of life-boats, life-saving appliances or crew.

15. A vehicle fitted with a machine, appliance, apparatus or other contrivance which is a permanent or essentially permanent fixture, provided that the only goods carried on the vehicle are—

(a) required for use in connection with the machine, appliance, apparatus or contrivance or the running of the vehicle;

(b) to be mixed by the machine, appliance, apparatus or contrivance with other goods not carried on the vehicle on a road in order to thresh, grade, clean or chemically treat grain;

(c) to be mixed by the machine, appliance, apparatus or contrivance with other goods not carried on the vehicle in order to make fodder for animals; or

(d) mud or other matter swept up from the surface of a road by the use of the machine, appliance, apparatus or other contrivance.

16. A vehicle while being used by a local authority for the purposes of the enactments relating to weights and measures or the sale of food and drugs.

17. A vehicle while being used by a local authority in the discharge of any function conferred on or exercisable by that authority under Regulations made under the Civil Defence Act 1948.

18. A steam-propelled vehicle.

19. A tower wagon or trailer drawn thereby, provided that the only goods carried on the trailer are goods required for use in connection with the work on which the tower wagon is ordinarily used as such.

20. A vehicle while being used for the carriage of goods within an aerodrome within the meaning of section 105(1) of the Civil Aviation Act 1982.

21. An electrically propelled vehicle.

22. A showman's goods vehicle and any trailer drawn thereby.

23. A vehicle which is being used to carry out a cabotage operation consisting of national carriage for hire or reward on a temporary basis in the United Kingdom in accordance with the provisions of Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21

October 2009 on common rules for access to the international road haulage market.

23A. (1) A vehicle which is being used in Great Britain to carry out a cabotage operation—

(a) which consists of national carriage for hire or reward by a haulier who is a holder of a Community licence and whose driver, if a national of a country which is not a member State, holds a driver attestation;

(b) where the vehicle is being used only for the carriage of vehicles in categories M1 and N1, as defined in Annex II to Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles; and

(c) the vehicle is being used at any time during a period beginning with—

(i) 22nd February and ending with 31st March; or

(ii) 25th August and ending with 30th September.

(2) In this paragraph “Community licence” and “driver attestation” have the same meanings as in Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market.]

24. A goods vehicle first used before 1 January 1977 which has an unladen weight not exceeding 1525 kilograms and for which the maximum gross weight, as shown on a plate affixed to the vehicle by virtue of regulation 66 of the Motor Vehicles (Construction and Use) Regulations 1986 or any provision which that regulation replaced, exceeds 3500 kilograms but does not exceed 3556.21 kilograms (3 1/2 tons).

25. A vehicle while being used by a highway authority for the purposes of section 106 of the Road Traffic Act 1988.

26. A vehicle being held ready for use in an emergency by an undertaking for the supply of water, electricity, gas or telephone services.

27. A recovery vehicle.

28. A vehicle which is being used for snow clearing, or for the distribution of grit, salt or other materials on frosted, icebound or snow-covered roads or for going to or from the place where it is to be used for the said purposes or for any other purpose directly connected with those purposes.

29. A vehicle proceeding to or from a station provided by the Secretary of State under section 45 of the Road Traffic Act 1988 for the purposes of an examination of that vehicle under that section provided that—

(a) the only load being carried is a load required for the purposes of the examination; and

(b) it is being carried at the request of the Secretary of State.

30. A vehicle in a category or sub-category listed in column 1 of Table 2 in regulation 37 of the Motor Vehicles (Driving Licences) Regulations 1999, provided that—

(a) no goods are being carried on the vehicle or trailer other than any that may be carried on the vehicle for the purposes of a practical test of driving skills and behaviour, as prescribed in that regulation 37;

(b) any goods that are being carried on the vehicle or trailer are being carried only for the purposes of driver instruction and not otherwise—

(i) for hire or reward, or

(ii) for or in connection with any trade or business; and

(c) the vehicle is—

(i) being used for the instruction of a driver who has not passed a test of competence to drive that class of vehicle under section 89 of the Road Traffic Act 1988;

(ii) proceeding to or from a test of competence to drive that class of vehicle under section 89 of the Road Traffic Act 1988 or being used in such a test; or

(iii) being used in the course of—

(aa) a driving lesson for the purpose of enabling a person to obtain a CPC within the meaning of the Vehicle Drivers (Certificate of Professional Competence) Regulations 2007;

(bb) periodic training as defined in regulation 2(1) of the Vehicle Drivers (Certificate of Professional Competence) Regulations 2007; or

(cc) an initial CPC test as defined in regulation 2(1) of the Vehicle Drivers (Certificate of Professional Competence) Regulations 2007.

Part II

Purposes Referred to in Paragraph 1 of Part I of this Schedule

1. Hauling—

- (a) threshing appliances;
- (b) farming implements;
- (c) a living van for the accommodation of persons employed to drive the tractor; or
- (d) supplies of water or fuel required for the tractor.

2. Hauling articles for a farm required by the keeper, being either the occupier of the farm or a contractor employed to do agricultural work on the farm by the occupier of the farm.

3. Hauling articles for a forestry estate required by the keeper where the keeper is the occupier of that estate or employed to do forestry work on the estate by the occupier or a contractor employed to do forestry work on the estate by the occupier.

4. Hauling within 24.135 kilometres, (15 miles), of a farm or a forestry estate occupied by the keeper, agricultural or woodland produce of that farm or estate.

5. Hauling within 24.135 kilometres, (15 miles), of a farm or a forestry estate occupied by the keeper, material to be spread on roads to deal with frost, ice or snow.

6. Hauling a snow plough or a similar contrivance for the purpose of clearing snow; and

7 Hauling—

- (a) soil for landscaping or similar works; or
 - (b) a mowing machine,
- where the keeper is a local authority.

Annex B Impact assessment

A copy of the consultation stage Impact Assessment is available at <https://www.gov.uk/government/consultations/goods-vehicle-operator-licensing-exemptions>

When responding to the consultation, please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.

Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

Annex C Consultation principles

The consultation 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://www.gov.uk/government/publications/consultation-principles-guidance>

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

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