



Department
for Transport

Goods vehicle operator licensing exemptions and related regulatory changes

Government Response to Consultation

December 2017

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Ministerial Foreword

I would like to thank all those who replied to the relevant consultations addressed by this response. We have carefully noted the views expressed.

After considering the responses, and after further discussions between my Department and relevant industry parties, we have decided to proceed with removing the exemption from operator licensing that currently applies to operators of mobile concrete batching plant (also referred to as volumetric concrete mixers). This is a positive step, for the industry's reputation, for road safety and for fair competition. It will increase the enforcement agencies' ability to check the application of the drivers' hours, working time and tachograph rules.



We have also decided a way forward on the specific issue of operating weights of mobile concrete batching plant. We welcome the innovation that this form of operation has brought to the concrete delivery market and appreciate the economic contribution that part of the industry makes. However, the current situation of heavy-weight running is unsatisfactory, causes excess wear on roads and bridges and also raises questions of fairness and proper competition. We are therefore putting in place a clear policy framework for the operation of these vehicles, which is designed to provide the legal clarity which the industry desires, while being fair to other operators and road users.

We separately and more recently consulted on removing the blanket exemption from for all electrically-powered goods vehicles, but retaining a limited exemption for alternatively-fuelled vehicles up to 4.25 tonnes. We have decided to proceed with those plans, in order to help incentivise the use of cleaner fuel vans, while avoiding the regulatory 'payload penalty' associated with heavier powertrains (including battery weights). Alongside this change, we are also taking the common-sense step of bringing electric vans under normal roadworthiness testing rules.

We intend to bring forward amending legislation to put these decisions into effect.

A handwritten signature in black ink that reads "Jesse Norman". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jesse Norman MP

Parliamentary Under Secretary of State for Roads, Local Transport and Devolution

Introduction

1. In 2014 the Government consulted on removing a number of exemptions from goods vehicle operator licensing.¹ Operator licensing is the regulatory regime which exists to ensure the safe and proper use of goods vehicles and to protect the environment around operating centres. It is administered by the Traffic Commissioners. Generally, businesses are subject to the regime if they use vehicles above 3.5 tonnes to carry goods for hire or reward or in connection with a trade or business. Any exemptions from regulations need to be up-to-date and justifiable, both from the perspectives of road safety and of fair competition.
2. The consultation sought views on the proposition that some exemptions to this regime may no longer be justifiable and should hence be removed. In particular, Government proposed removing the exemption for vehicles with fixed plant that also carry goods. This exemption is used primarily by operators of mobile concrete batching plant vehicles (MCBP), also referred to as volumetric concrete mixers.
3. MCBP are mixers in specialised vehicles which carry concrete constituents to customer sites. At the site, the machinery mounted on the vehicle mixes the constituents to produce concrete of the quantity and specification required by the customer. They differ from more typical barrel mixers (which are subject to operator licensing) in that they transport the concrete mixing equipment on the vehicle and perform this function on site. There are around 700 MCBP in the UK.
4. The consultation also asked for views on the appropriateness of operating licensing exemptions for:
 - Recovery and breakdown vehicles;
 - Showman's vehicles;
 - Mobile cranes; and
 - Electrically operated vehicles.
5. A summary of the responses to this consultation was published in 2015.²
6. We subsequently consulted again, in 2017, on the exemption for electric vehicles, as part of a wider consultation on the regulation of alternatively-fuelled vans.³ There, we proposed to remove the blanket exemption but to introduce a limited exemption from restricted operator licensing requirements for alternatively-fuelled vans up to 4.25 tonnes. In particular this was intended to address the 'payload penalty' issue, created by heavier powertrains. We also proposed to remove the exemption from MOT testing for electric vans. This document sets out the final government decision on all of these proposals, considered collectively. It is without prejudice to the Government decision on the proposed driving licence derogation for alternatively-fuelled vans up

¹

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/385957/Goods_Vehicle_Operator_Licensing_Exemptions_Consultation.pdf

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449359/licensing-response.pdf

³ <https://www.gov.uk/government/consultations/category-b-driving-licence-derogation-for-alternatively-fuelled-commercial-vehicles>

to 4.25 tonnes, which will be issued separately in due course.

7. Alongside the 2014 operator licensing consultation, we ran a parallel consultation on the removal of certain exemptions from the goods vehicles testing regime. The decision to remove a number of these exemptions, including the exemption which currently applies to MCBP, was announced in September 2017 and will come into effect from May 2018.⁴
8. In the 2014 consultation on goods vehicle testing exemptions, we raised the question of operating weights for MCBP. It has been common practice for these vehicles to be operated in excess of the standard 32 tonne limit (for four-axle rigid vehicles). The consultation sought views on whether VCMs should be permitted to exceed the standard 32 tonne weight limit for vehicles of their design. The summary of responses to this consultation, including this specific question, was published in 2015.⁵ The consultation was the starting point of further detailed policy work on MCBP operating weights with interested industry parties. This document sets out the Government's decision on this issue too.

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/644428/specialised-heavy-vehicles-exemptions-from-annual-testing-government-response-to-consultation.pdf

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449362/HGV-responses.pdf

Operator licensing exemptions

Plant-related exemption (affecting mobile concrete batching plant)

9. We consider that there is no good justification for retaining the exemption that applies to mobile plant that also carries goods used in connection with the plant. There was broad support at consultation for removing this exemption, primarily on the grounds of fair competition with goods vehicles that are subject to operator licensing, and on the grounds of road safety.
10. The main objections related to potential consequential impacts of such a change on operating weights for MCBP, which is addressed in the next section.
11. **We will amend the relevant exemption⁶ such that only plant that does not carry goods (including materials) will remain exempt.** As explained in the Introduction, we anticipate that in practice the main effect of this change will be to make MCBP subject to operator licensing. This will have the benefit of increasing the effectiveness of the enforcement of the commercial vehicle rules as they apply to these vehicles. This includes the drivers' hours, mobile working time and tachograph rules. The Department considers that MCBP are generally covered by these rules, and, unless an exemption applies to the specific operation, non-application is a breach of the legal requirements.
12. For the avoidance of doubt, we did not propose to, and will not, modify the exemptions that apply specifically to: the treatment of grain, the production of animal fodder and road cleaning.
13. The Department and the Traffic Commissioners will continue to liaise with relevant industry parties to facilitate the entry of MCBP into the operator licensing regime.

Electrically-propelled vehicles

14. In the 2014 consultation there was little response in relation to this vehicle type. In the 2017 consultation, there was also limited response to the proposed approach, with 15 respondents in total replying to the relevant question, including operators of such vehicles, trade bodies and public bodies. Seven respondents either agreed in full with the proposal or had no objections to it. Seven other respondents broadly agreed with the proposal to remove the blanket exemption but to retain a limited exemption for alternatively-fuelled vehicles up to 4.25 tonnes. However, they disagreed that this exemption should be limited to own-account haulage only, preferring that it also applied to hire or reward operations. Just one respondent disagreed entirely, on the grounds of safety and security concerns.
15. The reasons submitted for preferring the limited exemption to apply to hire or reward

⁶ Item 15 (a) of Schedule 3 of the Goods Vehicles (Licensing of Operators) Regulations 1995.

haulage included:

- The vast majority of new vans are used for hire or reward haulage.
- The need to obtain an operator's licence and the costs associated with this, especially around financial standing and operating centres, would discourage many hire or reward firms from taking up clean vans.
- Larger companies may already hold operator's licences but the bases out of which they may wish to operate clean vans are not necessarily already operating bases.
- A differential approach between hire or reward and own-account haulage would disadvantage certain commercial models and competition.

Having listened to the stakeholder feedback, **we have decided 1) remove the current exemption for all electrically-propelled vehicles, except for those first registered before 1 March 2015; and 2) to introduce a new exemption for alternatively-fuelled vehicles up to 4.25 tonnes, that are not used internationally.** This new exemption will apply to both hire or reward and own-account haulage operations.

Recovery / breakdown vehicles

16. There was some support for removing the exemption for these vehicles at consultation. However, concerns were also raised about the cost to businesses and the benefit to the public, given the nature of the operation of these vehicles. They tend to transport the broken-down vehicles (the goods) only for limited distances to places of repairs.
17. **The Government considers that there is no compelling case to make these vehicles subject to operator licensing and will not therefore change the legislation relating to them.** The removal of the exemption from goods vehicle testing for breakdown vehicles, announced in September 2017, is an important measure to help to mitigate the road safety risk that they may pose.

Showman's vehicles

18. At consultation, while road safety groups preferred all HGV-type vehicles to be subject to operator licensing, there was a strong response from the showman's industry against the idea of removing their existing exemption. Key arguments raised were that, owing to the unique nature of their operational practice, the road safety risk posed by these vehicles is extremely low. The vehicles also often travel in convoy and generally have low mileage compared with other heavy vehicles. In addition, there is a difficulty in identifying an 'operating base', which is a key element of the operator licensing regime.
19. **The Government accepts these arguments and considers that it would be disproportionate to make these vehicles subject to operator licensing and will not therefore remove or modify this exemption.**

Mobile cranes

20. There was limited response at consultation on the question of the application of

operator licensing to mobile cranes. No compelling case was made to include them in the regime. It should also be noted that they do not carry 'goods' in the normal sense of a movable load, since the crane is permanently mounted to the vehicle.

21. **The Government considers that there is no compelling case to make these vehicles subject to operator licensing and will not therefore change the legislation relating to them.** The removal of the exemption from goods vehicle testing for mobile cranes (which are based on an HGV chassis), announced in September 2017, is an important measure to help to mitigate the road safety risk that they may pose.

MOT exemption for electric goods vehicles (vans) up to 3.5 tonnes

22. We proposed to remove the exemption from MOT testing for electric goods vehicles up to 3.5 tonnes.⁷ This would correct an anomalous and historical exemption, which dated from a time when electric goods vehicles were not of normal vehicle construction standards or capable of travelling at normal speeds. In addition, it would be important for avoiding the creation of regulatory disincentive to the uptake of heavier electric vans (for example of around 4 tonnes), once the equivalent exemption from roadworthiness testing applicable to electrically-propelled heavy goods vehicles (above 3.5 tonnes) was removed. This latter change was announced in September, with effect from 20 May 2018.
23. There was limited consultation response to this question, with 14 respondents in total submitting a response. 13 of these were either in full support of the proposal to remove the exemption or indicated that they envisaged no difficulty with it. One respondent did not disagree with the proposal but raised the operational issue of MOT testers needing additional equipment and training.
24. **We have decided to proceed with the removal of the exemption, except for those vehicles first registered before 1 March 2015.** Electric cars are already subject to MOT testing and the Driver and Vehicle Standards Agency will communicate necessary information to garages in advance of this change.

⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/635902/category-b-driving-licence-derogation-consultation.pdf p.17

Operating weights of mobile concrete batching plant

37. At consultation, the MCBP industry made a case that the economic costs to them of their vehicles being subject to the standard 32 tonne limit (for four-axle rigid trucks) would be very high, with a serious risk of a number of companies going out of business and cost increases for customers and effects on the wider economy. Other parties strongly favoured MCBP being treated like other goods vehicles for the purposes of weight regulations, on the grounds of fair competition and road safety. However, there was general support for a transitional period, given the reality of current operational practice.
38. The responses to the consultation questions about potential changes to operating weights for MCBP caused us to further reflect on the question and to engage further with industry parties to find a viable solution.
39. **The current operational practice of running some MCBP at up to (and sometimes beyond) their design gross weight (of around 42 tonnes) and above normal axle limits should not continue.** It has implications for the wear and tear of road surfaces, which increase dramatically with axle loadings. The Department, working with Highways England, has reviewed the effect of the loading of these vehicles on older local authority-owned bridges. This loading is outside modelled tolerances and hence has an unacceptable, unknown negative impact on structures. At the same time, the Government acknowledges that business models have been developed on the basis of long-established operational practice in this regard.
40. The Government has decided to put in place a **temporary arrangement**, using vehicle special orders (VSO). The VSOs will limit MCBP axle weights to no more than 20% greater than the standard limits, and limit gross vehicle weights to 38.4 tonnes (20% above the maximum standard limit) for the dominant 4-axle vehicle design (with similar arrangements for the much smaller number of 2-, 3- and 5-axle vehicles). The exact weight arrangements will also be subject to a vehicle's design weights. Further details on these arrangements are set out in the annex.
41. This will represent a significant change in operational practice for the MCBP industry, which currently operates these vehicles at up to 42 tonnes. It will bring operation within structural tolerances and will significantly reduce the abnormal road wear costs associated with current operational practice.
42. Our intention is that this regime will last between 7 and 10 years. In the open letter published alongside this document, we are seeking further representations on this point by 1 February 2018 before finalising the position shortly thereafter.

Potential permanent arrangement

43. The MCBP industry has indicated a desire to move towards a new vehicle design that would spread the load more evenly across five, as opposed to the usual four,

axles, in order to retain payload capacities similar to current operational practice.

44. We are proposing that as a potential permanent arrangement, MCBP operators would be able to gain additional weight by adding a fifth axle to their vehicle design, via their inclusion in the 'special types' regime. This option is not open to rigid vehicles in the standard weight regime. It would not permit operators to exceed standard axle weights, and would therefore eliminate the abnormal road wear costs associated with current operations. Given the higher unladen weight of a 5-axle vehicle (compared with a 4-axle vehicle), a gross weight of 44 tonnes approximately equates to the same payload capacity as the current common four-axle design with a 42 tonne design weight for off-road use. The 'special types' approach might be extendible to other axle configurations.
45. As set out in more detail in the open letter published alongside this document, we are seeking further representations on this issue by 1 February 2018 before finalising the position shortly thereafter. During this period, and in this context, the Department will also be discussing with stakeholders the rules for the operation of heavy mobile concrete pumps. This is in response to some practical issues which have come to light in the context of the movement of certain specialised heavy vehicles into the testing regime.

Next steps

46. The policy changes set out in this document will be implemented through amendments to the Goods Vehicles (Licensing of Operators) Regulations 1995, the Motor Vehicles (Test) Regulations 1981, and through the administrative issuance by the Vehicle Certification Agency of Vehicle Special Orders. The Department for Transport and the Traffic Commissioners will continue to work closely with the MCBP industry in advance of these changes.

Annex: Details of temporary operating weight arrangements for mobile concrete batching plant

1. “Mobile (concrete) batching plant” (“MCBP”) and “volumetric concrete mixer” are widely used terms to refer to a distinct type of vehicle with a specific function. This is a vehicle specially designed, constructed or adapted for the purposes of: 1) carrying the separate constituents of concrete; 2) treating those constituents whilst on the vehicle with permanently fixed equipment in order to produce concrete and 3) not generally carrying materials other than those it is designed to treat.
2. The Department for Transport will issue Vehicle Special Orders (VSOs) for individual MCBP at the operator’s request. VSOs are legal instruments that authorise the road use of a vehicle. The VSO specifies which of the normal regulatory requirements apply, plus any additional terms and conditions of the use of such a vehicle.
3. The VSOs available to MCBP will provide the following derogations from the standard requirements (all other requirements, including design weights, would apply):
 - In place of the usual gross vehicle weights specified in Schedule 1 (parts I and II) to the Road Vehicles (Authorised Weight) Regulations 1998 (“AWR”)⁸, the following gross weight limits will apply to the relevant MCBP design configuration. For all other design configurations, the usual AWR requirements will apply.
 - 2-axle rigid: 21.6 tonnes
 - 3-axle rigid: 31 tonnes
 - 4-axle rigid: 38.4 tonnes
 - 5-axle rigid (or more than 5-axle rigid): 44 tonnes
 - The gross weight must also not exceed 6 tonnes per metre of the front-rear axle distance.
 - Schedule 3 to the AWR (axle weight limits) shall not apply. However, axle weights shall not exceed the relevant standard limits by more than a factor of 20%.

⁸ Here and elsewhere, to be understood as referring alternatively to the equivalent provisions in the Road Vehicles (Construction and Use) Regulations 1986 (as amended).