EXPLANATORY MEMORANDUM TO

THE GOODS VEHICLES (LICENSING OF OPERATORS) (AMENDMENT) REGULATIONS 2022

2022 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by The Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to amend legislation governing the goods vehicle operator licensing regime. The UK is obliged to implement these changes following commitments included in the UK-EU Trade and Cooperation Agreement ("the TCA")[1], which come into effect during 2022. Making these changes ensures consistency with the TCA requirements, and to ensure the continued commercial access to EU markets for UK goods road transport operators. EU operators will be subject to the requirements in the TCA in the UK.

2.2 The principal change that this instrument introduces is the extension of the goods vehicle operator licensing regimes in Great Britain and Northern Ireland to include light goods vehicles (LGVs), such as vans or pick-up trucks, which weigh more than 2.5 tonnes and up to 3.5 tonnes in maximum laden weight[2] (either alone, or combined weight when used with a trailer) and which operate internationally, for hire or reward.

2.3 These regulations also introduce other minor changes to the wider goods vehicle operator licensing regime, which will also affect operators of Heavy Goods Vehicles (HGVs).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 We are using these regulations to correct a deficiency in the Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019[3] ("the 2019 Regulations") where one regulation was incorrectly applied to the UK rather than to Great Britain. This is detailed further in paragraph 7.39 of this document.

Early commencement

3.2 Most of the provisions of this instrument will come into force on the day after the day it is made. This is to allow as much lead-in time as possible for persons to apply for an operator licence authorising the use of goods vehicles exceeding 2.5 tonnes. The requirement to hold an operator's licence authorising the use of such vehicles for hire

[1] The text of TCA is published at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/982648/TS_8.2021_UK_EU_EAEC_Trade_and_Cooperation_Agreement.pdf

[2] Or permissible laden mass, which is the equivalent term in EU Legislation

[3] The 2019 Regulations https://www.legislation.gov.uk/uksi/2019/708/contents/made

or reward on international transport operations comes into force at 11 p.m. on 20th May 2022, in compliance with Article 464(d) of the TCA.

3.3 The additional obligations that early commencement imposes on an existing holder of an operator's licence are already required for the usual registration and function of a business. The amendments make it an explicit requirement that in order to hold an operator licence, in compliance with Article 5(b) and (c) of Section 1 of Part A of Annex 31 to the TCA, that its holder is subject to tax on revenues, has a VAT number (if required) and, if a company, is a registered company. This requirement should therefore not impose any particular burden on business.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State at the Department for Transport, Baroness Vere, has made the following statement regarding Human Rights:

"In my view the provisions of the Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 The Goods Vehicles (Licensing of Operators) Act 1995[4] ("the 1995 Act") and associated regulations provide the legislative framework for the licensing of road transport operators. Operator licensing is a reserved matter in Scotland and Wales.

6.2 The Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010[5] (the "2010 NI Act") provides the legislative framework for the licensing of road transport operators in Northern Ireland. Operator licensing is a devolved matter in Northern Ireland.

Inclusion of Northern Ireland

6.3 Although the regulation of operator licensing is a devolved matter, the implementation date of 23:00 GMT on 20 May 2022 or 0:00 CET on 21 May 2022 (EU implementation date of 21 May 2022) is at a similar time to the end of the current mandate of the Northern Ireland assembly. This timing means that there is a risk the necessary legislative amendments might not be made and operative by May 2022. Further to this, and in light of the fact that the legislative powers being exercised derive from the European Union (Withdrawal) Act 2018[6] and the European Union (Future Relationship) Act 2020[7] which both extend across the United Kingdom, this instrument includes provisions for Northern Ireland.

---

[4] The Goods Vehicles (Licensing of Operators) Act 1995 https://www.legislation.gov.uk/ukpga/1995/23/contents

[5] The Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 https://www.legislation.gov.uk/nia/2010/2/contents

[6] The EU (Withdrawal) Act 2018 https://www.legislation.gov.uk/ukpga/2018/16/contents/enacted

[7] The EU (Future Relationship) Act 2020 https://www.legislation.gov.uk/ukpga/2020/29/contents

6.4 The Minister for Infrastructure in Northern Ireland, Nichola Mallon, has given her consent to this approach, which has the benefit of ensuring an equivalent legislative regime will apply throughout the United Kingdom.

Retained EU Regulations

6.5 Regulations (EC) 1071/2009[8], and (EC) 1072/2009[9] have been retained (as "retained EU law") under Section 2 of the EU (Withdrawal) Act 2018 and, along with the UK legislation, help regulate the operator licensing regime. Those regulations were amended immediately following the end of the "Implementation Period[10]" following Brexit. This instrument will make further amendments to retained Regulation (EC) 1071/2009 and 1072/2009 (the "EU Regulations"), as well as to domestic legislation.

6.6 In general the EU Regulations have not previously applied to vehicles used for the haulage of goods where the laden mass of the vehicle does not exceed 3.5 tonnes, or those used to transport passengers exclusively for non-commercial purposes, or where the maximum authorised speed of the vehicle is 40km/h.

6.7 Regulation (EC) 2020/1055[11] amends EC Regulation (EC) 1071/2009 and Regulation (EC) 1072/2009 in the European Union. Most of the amendments have been incorporated into the TCA, specifically in Article 464 and in Annex 31 (part A, section 1) in respect of goods transport within the scope of the TCA (i.e. the international road transport of goods). The provisions of Regulation (EC) 2020/1055 did not apply at 31st December 2020 (the end of the "Implementation Period" following Brexit), but applies in the EU during 2022, with some provisions reflected in the TCA.

Legislative approach

6.8 The general approach in this instrument is to make the majority of required amendments to domestic legislation, principally the 1995 Act and equivalent 2010 NI Act. It is only to amend the EU Regulations where essential to ensure compatibility with the TCA and avoid the consequences outlined in paragraphs 2.1 and 7.1.

6.9 Taking this approach means that the regulation of passenger vehicles, which is also governed under the EU Regulations, is unaffected by the changes which are being applied to goods vehicles as a result of this instrument.

6.10 With the exception of a small number of amendments to ensure the coherence of the wider goods vehicle operator licensing regime, and to make corrections to anomalies identified during the drafting process as set out in paragraph 7.39, the changes included within this legislation have been restricted to those specifically required by the TCA.

---

[8] (EC) 1071/2009 established common rules across the European Union concerning the conditions that need to be complied with to pursue the occupation of a road transport operator, engaged in the transport of goods or passengers. Retained 1071/2009 https://www.legislation.gov.uk/eur/2009/1071/contents

[9] (EC) No 1072/2009 established common rules on how the international road haulage market operates across the EU, including a system of Community licences issued by each member state to hauliers whose business is established in their country. Retained 1072/2009 https://www.legislation.gov.uk/eur/2009/1072/contents

[10]The temporary post-Brexit period during which the UK was bound to follow and implement changes to certain EU legislation.

[11] Regulation (EU) 2020/1055 amends Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector.

7. Policy background

What is being done and why?

7.1 The changes to legislation are being made so that the UK complies with obligations that are part of the TCA. If these obligations were not implemented, EU Member States could prevent road transport operations (particularly involving certain LGVs) from entering the EU on the basis that they do not comply with the requirements of the TCA.

7.2 This instrument amends the 1995 Act and 2010 NI Act to include definitions of national and international transport and brings the new goods vehicle licensing requirements into force. Exemptions to the new requirements are provided, in order that only vehicles (or combinations) weighing at least 2.5 tonnes (in respect of maximum permissible weight) and used on international journeys for hire or reward are in fact brought in-scope of the goods vehicle operator licensing regime.

7.3 The aim of the goods operator licensing regime is to ensure that goods are transported in a fair and safe way. There are mandatory criteria required for an operator's licence, which are:

- effective and stable establishment,
- financial standing,
- professional competence,
- good repute.

7.4 Adherence to these criteria has been a long-standing requirement for all licensed HGV operators in the UK. The suitability of an operator to hold a licence is assessed by Traffic Commissioners in Great Britain and in Northern Ireland by the Transport Regulation Unit (TRU), a part of the Department for Infrastructure.

Types of operator licence, before and after the change

7.5 Under the laws prior to this change, there were three types of "operator's licence" that may be issued, restricted: standard-national, and standard-international.

Table 1: Operator's licences that may be issued before amendments

Name	**Operator's licence**
Type	Restricted Standard-national Standard-international

The amendments allow for the same three types of operator's licence to be issued, but in one of two categories: "heavy goods vehicle licence" or "light goods vehicle licence".

Table 2: Operator's licences that may be issued after amendments (from 21 May 2022)

Name	**Operator's licence**	
Category	**Heavy goods vehicle licence**	**Light goods vehicle licence**
Type	Restricted Standard-national	Restricted Standard-national

	Standard-international	Standard-international

7.6 After the commencement of the Regulations, all pre-existing operator's licences will be treated as a heavy goods vehicle licence and may be varied (on application) to authorise one or more LGV, i.e. a vehicle not exceeding 3.5 tonnes.

7.7 A light goods vehicle licence can be applied for from the commencement of these Regulations by any person who only uses light goods vehicle for the carriage of goods. A standard-international light goods vehicle licence is mandatory for a person who carries goods to the European Union for hire or reward on or after 11 p.m. on 20th May 2021. To note standard-national and restricted licences for LGVs are not required but may be issued.

Which vehicles are not affected by the change?

7.8 This legislation does not affect LGVs used exclusively within the UK, or those which are not used within the UK or internationally for hire or reward (e.g. vans used by tradespersons such as plumbers or electricians transporting only their own tools).

7.9 Vehicles that weigh less than 2.5 tonnes, used for the purposes of hire or reward in the EU (for example, a car derived van) are also outside the scope of the changes.

What is being changed?

7.10 As required by the TCA, there is no exemption based on the frequency of international journeys. Therefore, carrying out a single international journey will bring a vehicle into scope.

7.11 Operators of these newly in-scope vehicles will be able to apply for a standard international licence, which will allow them to continue to operate legally in the EU from 21 May 2022 in compliance with the TCA.

7.12 Other changes affecting Transport Managers, operating centres, good repute, and effective establishment, including for the operation of heavier goods vehicles already requiring operator licences, are set out below.

Changes related to Transport Managers

7.13 Transport Managers fulfil an important role within a transport company engaged in either the transport of goods or passengers. They need to be competent in ensuring that drivers have valid licences for the types of vehicle they are driving, are working the appropriate hours and taking the required rest breaks. Competence also includes ensuring the vehicles listed on an operator licence have valid insurance, have been tested, are properly maintained, and correctly loaded when in use. Further detailed guidance on the role, and how people can qualify as a Transport Manager is published on gov.uk[12].

7.14 Changes affecting Transport Managers can be found in the following Parts of these regulations.

- Part 2: amendments to Article 4 of 1071/2009,
- Part 6: amendments to the Goods Vehicle (Licensing of Operators) Act 1995,

[12] Being a Transport Manager https://www.gov.uk/government/publications/whats-involved-in-being-a-road-transport-manager/being-a-road-transport-manager-your-responsibilities

- Part 7: amendments to Goods Vehicle (Licensing of Operators) Regulations 1995[13],
- Part 10: amendments to Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010,
- Part 12: amendments to the Goods Vehicles (Qualifications of Operators) (Northern Ireland) Regulations 2012[14],
- Part 13: amendments to the Goods Vehicles (Licensing of Operators) (Northern Ireland) Regulations 2012[15].

7.15 There are three principal areas of change related to the role of a Transport Manager specified on a goods vehicle operator licence.

(i) Temporary exemption from holding a Certificate of Professional Competence for Transport Managers (TM CPC)

7.16 Currently holders of an operator licence are required to appoint at least one Transport Manager to manage day to day vehicle operations, such as work scheduling, driver rest and ensuring vehicles listed on the operator licence are subject to a maintenance regime so that they remain safe. This requirement will also be extended to operators of newly in-scope LGVs.

7.17 To help manage the transition, the TCA allows for an exemption from the requirement to hold a Transport Manager Certificate of Professional Competence (TMCPC) for individuals who can demonstrate they have been managing light goods vehicle fleets for a continuous period of at least 10 years prior to 20 August 2020[16].

7.18 The UK has decided that individuals who are able to demonstrate the requisite experience will be able to take up these "acquired rights" on a time limited basis of up to 3 years. However, in order to continue in this role after the 3-year duration has elapsed, they will need to take and pass the relevant examinations. The decision to limit these acquired rights in this way, is based on previous experience that indicates that those who obtained these rights and do not subsequently formally train and qualify, are more likely to appear before a Traffic Commissioner at a hearing.

7.19 Applications for acquired rights will be allowed up to 20 May 2024, with all UK issued acquired rights expiring on 21 May 2025. Individuals taking up this option will therefore have the certification for at least a 12-month period.

7.20 Individuals taking up these acquired rights are only able to manage fleets comprising solely of LGVs. They cannot use these rights to manage fleets which include or are solely comprised of HGVs.

7.21 Individuals who do not have the requisite 10 years' experience are unable to take up these acquired rights. Instead they will need to complete the Transport Manager Certificate of Professional Competence (TM CPC) qualification in order to work as a Transport Manager and manage goods vehicles after 21 May 2022. However, holders

[13] Amendments to the 1995 Regulations https://www.legislation.gov.uk/uksi/1995/2869/contents/made
[14]Amendments to the 2012 (Qualifications) Regulations https://www.legislation.gov.uk/nisr/2012/257/contents
[15] Amendments to the 2012 (Licensing) Regulations https://www.legislation.gov.uk/nisr/2012/261/contents/made
[16] This is specified in Article 9 of Annex 31 within the TCA.

of this qualification will be able to manage fleets of goods vehicles comprised of HGVs or LGVs or a mixture of the two vehicle types.

7.22 Individuals who hold acquired rights will also need to have completed the formal TM CPC qualification to continue managing LGVs after 21 May 2025. This qualification will also allow individuals to manage HGVs.

(ii) The rehabilitation of Transport Managers

7.23 Regulation 122 of the instrument provides that a Transport Manager cannot be "rehabilitated" (reinstated) and able to manage an undertaking for the purposes of competence for at least one-year following being found unfit to do so. Furthermore, the Transport Manager in question must also complete appropriate training for at least 3 months or pass the Transport Manager CPC exam. Previously the minimum rehabilitation period was six months and there was not a specific training duration or examination requirement.

(iii) Application of the "4/50 rule" for fleets managed

7.24 There is one further change concerning Transport Managers who are external to the operator, which specifies the number of fleets, and vehicles that they may manage on this basis.

7.25 An external Transport Manager (i.e. one who is self-employed, rather than being directly employed by the operator), is not prohibited from acting as a Transport Manager by a Traffic Commissioner. However, to ensure that such external Transport Managers can properly undertake their duties, they are restricted by legislation to being able to work for a maximum of 4 operators, with up to 50 vehicles specified on an operator licence between them. However, a Traffic Commissioner may consider lower limits appropriate in some circumstances.

7.26 When operator licensing changes come into effect, an individual who is working as an external (e.g. self-employed, contracted in, not directly employed by the operator) Transport Manager for LGVs will still be subject to these limits in relation to HGVs that are used either domestically or internationally, and LGVs which travel internationally which will be required to be listed on an operator licence. From this point, the 50 vehicles could comprise either solely of HGVs, or LGVs or a mixture of both types, across up to 4 operator licences. Transport Managers who are already managing up to 50 HGVs across up to 4 operations, will not be able to manage LGVs specified on an International Operator Licence, if that takes the number over 50 vehicles

7.27 However, the Transport Manager is not restricted in terms of the number of domestic (and thus non-licensed) LGVs that they may be operating, alongside the 50 vehicles that may be specified on an operator licence as outlined above. In taking on responsibility for domestic LGVs alongside international operations, Transport Managers should nonetheless consider whether they have capacity to manage large numbers of vehicles effectively in terms of the time and other requirements. A Traffic Commissioner will have the power to impose lower limits if considered appropriate.

Operating Centres and Advertising Requirements

7.28 HGV operators applying for an operator's licence must specify an operating centre[17] and demonstrate that this is suitable as a place from which to operate HGVs. In assessing applications, the Traffic Commissioners and TRU consider the environmental impact and the general suitability of the nominated location to be used in this way.

7.29 For HGVs an important purpose of an operating centre is to ensure there is a suitable off-road location where these vehicles can be parked, avoiding the adverse effects that may arise when large vehicles are routinely parked in unsuitable locations. The requirements are specified in UK law, and there is no obligation within the TCA that this be extended to operators of LGVs. Having considered and consulted upon this element of the operator licensing regime, a decision has therefore been made not to impose the requirement to have an operating centre in relation to LGVs at this time and through this statutory instrument.

7.30 As well as exempting newly in-scope LGVs from the requirement for an operating centre to be specified, we are also not applying the requirement to advertise locally for applications for operator licences solely in relation to LGVs, and for adequate parking to be provided for these vehicles.

7.31 In choosing to exempt LGVs used in the EU from 21 May 2022 from these two aspects of the operator licensing regime, we are taking appropriate steps to limit any regulatory burden that arises as a result of these changes.

Changes relating to good repute and effective establishment

7.32 New requirements in the TCA making changes to the existing licensing regime on matters such as the establishing of an effective and stable establishment, financial standing, and the rehabilitation (reinstatement) of Transport Managers who have lost good repute, are required to be applied to holders of standard international licences (i.e. those operators of vehicles travelling between the UK and EU member states and thus within the scope of the TCA).

7.33 However, this instrument will also apply the changes that follow in this section to operators who hold standard national licences. It also applies changes to the rehabilitation of Transport Managers to national operations. Making these changes ensures that there are consistent requirements in both national and international regimes and avoid operational and enforcement difficulties that may arise if there is divergence between the two types of licence. The requirements that are being introduced associated with effective establishment should already form part of the normal business practice of operators, and therefore they should not present a particular burden for operators.

Storage of records

7.34 A change to the requirements on the records to be kept at an operator's premises in order for that location to be considered an establishment is being made to allow for electronic records, as an alternative to hard copy originals. Electronic records could include transport contracts, vehicle documents, labour contracts, social security

[17] Operating Centres https://www.gov.uk/being-a-goods-vehicle-operator/operating-centres

documents, documents setting out dispatching and posting of drivers, and documents related to cabotage trips.

Availability of vehicles and drivers

7.35 A new requirement is being introduced to require the operator (or the undertaking) to have available vehicles and drivers at the operating base that are proportionate to the volumes of transport operations being undertaken. The intention of this requirement is to safeguard against bogus operations, which are established in one location, but are in reality operated from somewhere else, including abroad.

Registration of businesses

7.36 Operators will be required as part of operator licensing regulations to be on the register of Companies House[18] if their business is legally required to register[19]. This is being made a requirement for all operators as a result of the stable and effective establishment requirements contained in the TCA. This does not apply to operators who fall outside the remit of Companies House e.g. partnerships[20] or sole traders[21], which should be registered with HMRC.

Conformity with tax legislation

7.37 Operators will be required specifically as part of the operator licensing regulations to ensure that they are paying the appropriate taxes, and if required already under UK national law, have a valid VAT[22] registration number.

Changes to Financial Standing relating to LGVs

7.38 Financial standing requirements are amended to reflect lower requirements for light goods vehicles. The financial standing requirements are also amended to allow operators a new flexible approach to demonstrating appropriate financial standing by means of "any other binding document".

Miscellaneous amendments correcting defects in legislation associated with operator licensing.

7.39 In addition to the changes associated with the TCA, and as referenced in paragraph 3.1 this instrument also makes corrections to a defect in existing operator licensing legislation that was identified whilst preparing this instrument. This defect has not previously been reported to JCSI and relates to an amendment to the Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019 ("the 2019 Regulations"). This amended various pieces of legislation, some that extends to GB only, some that extends to NI only, and some that extends UK-wide. In preparing this current instrument two minor deficiencies with the 2019 Regulations came to light. Regulations 7 and 10 were both incorrectly applied to the UK, Regulation 7 was incorrectly extended to Great Britain, and Regulation 10 was incorrectly extended to Northern Ireland. We are therefore using this instrument to correct these defects.

[18] Companies House https://www.gov.uk/government/organisations/companies-house
[19] Setting up a business https://www.gov.uk/set-up-business
[20] Business Partnerships https://www.gov.uk/set-up-business-partnership
[21] Sole Traders https://www.gov.uk/set-up-sole-trader
[22] VAT Registration https://www.gov.uk/vat-registration

Explanations

What did any law do before the changes to be made by this instrument?

7.40 Before the end of the Implementation Period on 31 December 2020, Regulation (EC) 1071/2009 had direct effect in the UK and other Member States, creating a framework for the licensing of road haulage operators and public transport operators. This framework sets out the conditions under which national licensing authorities could both issue and withdraw operator licences.

7.41 Regulation (EC) 1072/2009 set out the conditions under which road haulage operators from EU Member States could operate in other Member States under a "Community licence" issued by the Member State in which the haulier is established.

7.42 Domestic legislation gave practical effect to these two EU Regulations, setting out the procedures for UK hauliers to follow to apply for a Community Licence, and for dealing with changes of circumstances, and penalties for infringements. The legislation also clarifies that EU hauliers who operate in the UK under a Community Licence are exempted in domestic legislation from the requirement to hold a UK operator's licence.

7.43 At the end of the Implementation Period, regulations (EC) 1071/2009 and 1072/2009 were retained, having been modified by the 2019 Regulations. These regulations corrected deficiencies in retained EU law and made consequential amendments to related domestic legislation that arose as a result of the UK leaving the EU. In particular, this instrument reflects the fact that, following its departure from the EU, the UK is no longer able to issue Community Licences. It made broadly equivalent arrangements for hauliers operating between the UK and Member States following the end of the implementation period.

Why is it being changed?

7.44 Because the TCA includes planned changes applying in the EU during 2022 to Regulation (EC) 1071/2009, the UK also needs to make these changes to the retained version of this EU regulation. The changes are included within the scope of article 463 of the TCA, which relates to international transport. Annex 31, part A, section 1 of the TCA summarises the provisions, some of which were in place prior to the UK leaving the EU, and some of which (including some minor changes related to the appointment of professional Transport Managers, conditions and requirements of establishment and changes associated with financial standing) are due to come into effect within the EU during 2022.

7.45 Article 464 of the TCA provides an exemption from the requirements of article 463 and Annex 31, part A, section 1 for goods vehicles with a permissible laden mass of which, including that of trailers, does not exceed 2.5 tonnes with effect from 21 May 2022 (as opposed to 3.5 tonnes previously). Article 464 continues to exempt some operations, including all "own account" transports from these requirements.

What will it do now?

7.46 Those requirements for operator licensing included in the TCA for international road goods transport will be applied to in-scope UK operators. This includes minor changes for goods vehicle operators who are already within the current scope of operator licensing. These rules will also extend to include operators of in-scope LGVs once those changes come into effect in May 2022.

7.47 The bulk of the required changes are being made to domestic legislation, principally affecting the GB 1995 Act and the 2010 Northern Ireland Act. This approach will avoid affecting the passenger vehicle licensing regime which also uses the retained Regulation (EC) 1071/2009. The general regulatory burden contained within this instrument will shift the bulk of the detailed requirements so that they are held within the 1995 Act and 2010 NI Act.

7.48 The effect of this is that the retained Regulation (EC) 1071/2009 will require operators to fulfil the requirements as set out in the 1995 Act and 2010 NI Act, which will be updated with the latest requirements stemming from the TCA.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is being made using powers contained in the European Union (Withdrawal) Act 2018 ("EUWA"), and relates to the withdrawal of the United Kingdom from the European Union, as it is associated with the implementation of the EU-UK Trade and Cooperation Agreement.

8.2 Sifting of this instrument is not required, as under paragraphs 34(1) to (3) of Schedule 5 of the European Union (Future Relationship) Act 2020 we are overriding the negative resolution procedure, and the sifting process set out in the EUWA.

9. Consolidation

9.1 This instrument does not consolidate other regulations.

10. Consultation outcome

10.1 An 8-week public call for evidence was held from 29 June 2021 to 24 August 2021; the call for evidence received 113 responses. As well as publishing on gov.uk, we took steps to ensure that it was publicised to industry, by notifying trade associations and key stakeholders who represent people and businesses working in the haulage industry.

10.2 The call for evidence and summary of responses can be viewed on gov.uk.[23]

10.3 Based on responses from free text fields, 18 respondents approved of the measures, arguing that the sector required better regulation, several of these also felt that these changes should be extended more widely to apply to national operations. However, to do so would go beyond the scope of the TCA requirements. Conversely, 17 respondents objected to the extension of operator licensing to light goods vehicles, on the grounds that this would increase regulatory burdens. The remaining respondents did not use the free text fields to indicate approval/objection. 12 organisations who currently operate light goods vans indicated in the survey that they would likely have to cease or reduce operations due to these changes.

10.4 Respondents were split on easing the requirements on environmental considerations for LGVs. Of the 113 responses, 62 respondents indicated that the same parking requirements that apply to HGV operators when applying for a licence should apply to operators with LGVs only, while 49 respondents considered they should not. 60 respondents considered that the same requirements for advertising that apply to HGV

[23] Call for evidence https://www.gov.uk/government/consultations/changes-to-the-uk-operator-licensing-regime-and-arrangements-for-the-temporary-posting-of-workers-in-the-uk-and-eu-request-for-evidence.

operators when applying for a licence should apply to operators with LGVs only and 48 respondents indicated they should not. The remaining respondents answered that they did not know if the same requirements should apply.

10.5 62 respondents supported allowing acquired rights for Transport Managers who have been managing light goods vehicles (including single owner drivers) for at least 10 years and 45 respondents opposed it. 14 respondents agreed with the proposal that the acquired rights should expire after 3 years, 23 respondents felt there should be no time limit on expiry of these rights, and 15 respondents felt it should be more than 3 years. 7 respondents felt it should be less than 3 years.

10.6 Key industry stakeholder trade associations were broadly supportive of the proposals.

10.7 Following the call for evidence, the detailed Government proposals were subject to a further 2-week consultation with key stakeholders in November 2021. This consultation was designed to check and confirm that the final legislative proposals were fit for purpose and would not cause any unintended consequences to industry.

10.8 The outcome of that further engagement was broadly that the proposals were fit for purpose. Of the 6 key stakeholders, only 3 responded to the consultation. 2 were supportive of the proposed regulations and 1 expressed concern over the effects they may have on small and owner/operator businesses.

10.9 Overall, stakeholders were supportive of the changes to financial standing requirements. 2 of the responses expressed their concerns over Transport Managers and the time required for acquired rights. They both noted that external Transport Managers should be allowed, and this is being provided for.

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

11. Guidance

11.1 Guidance to provide operators with the information they need to prepare for the change in rules associated with this instrument was published on gov.uk in August 2021. This guidance can be found here: www.gov.uk/guidance/transport-goods-in-and-out-of-the-uk-using-vans-or-car-and-trailers-from-21-may-2022.

12. Impact

12.1 There is no, or no significant, impact on charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because the Department estimates that the total cost to UK business is less than £5 million in total per year.

12.4 The Department has estimated that around 4,200 operators in the UK will be affected by the changes to LGV licensing. However, those operators with mixed fleets (i.e. HGVs and LGVs) will already be subject to operator licensing so should not incur significant additional regulatory costs.

12.5 For those operators coming in-scope for the first time, additional costs will come from the requirements to pay fees to obtain and hold a licence. Currently these are £658 over the first 5-year period, (comprising of a £257 application fee, and a £401 issuing

fee), and £401 for every 5 years after. Operators also need to fulfil other requirements associated with holding an operator licence. The fees charged go towards the costs associated with the assessment and administration of the operator licensing regime.

12.6 Details of the fees charged are published on gov.uk[24] and are subject to periodic review.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (defined as those employing up to 50 people), the approach taken has been to use flexibilities within the TCA to exempt Transport Managers who have been managing light goods vehicle fleets for a continuous period of 10 years before August 2020 from immediate requirements to hold a Transport Manager CPC qualification as set out in paragraphs 7.13 - 7.21

13.3 We have also removed some of the environmental requirements imposed on HGV operators that stem from UK law, and are not required by the TCA. This is set out in paragraphs 7.28 and 7.29.

13.4 The final decision on how to assist small businesses was based on responses to the Department's initial Call for Evidence. Key trade associations supported the Department's proposed stance on allowing light goods vehicle fleets the additional flexibility described in 13.2

14. Monitoring & review

14.1 The approach to monitoring of this legislation will be continuing liaison with the Office of the Traffic Commissioners and the TRU. These bodies will provide the Department with information about the number of licence applications and operator compliance with the requirements.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Parliamentary Under Secretary of State for Transport, Baroness Vere of Norbiton, has made the following statement:

"This instrument does not include a statutory review clause because the Government assessment is that the impact on UK business from these new requirements should not be greater than the £5 million net annualised threshold. The Government will continue to monitor closely the effect of the instrument on businesses."

15. Contact

15.1 Antony Ovens at the Department for Transport. Telephone: 07977 432199 or email: antony.ovens@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Duncan Price, Deputy Director for Road Freight Regulation, at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

[24] Operator licence fees https://www.gov.uk/being-a-goods-vehicle-operator/fees-for-goods-vehicle-licences

15.3 Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018 and the European Union (Future Relationship) Act 2020

Part 1A

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before IP completion day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising section 8 or part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 5 or 19, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 14, Schedule 8	Anybody making an SI after IP completion day under powers conferred before the start of the 2017-19 session of Parliament which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 15, Schedule 8	Anybody making an SI after IP completion day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before IP completion day, and explaining the instrument's effect on retained EU law.

Part 1B

Table of Statements under the 2020 Act

This table sets out the statements that may be required under the 2020 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraph 8 Schedule 5	Ministers of the Crown exercising section 31 to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees

Part 2

Statements required under the European Union (Withdrawal) 2018 Act or the European Union (Future Relationship) Act 2020

1. Appropriateness statement

1.1 The Parliamentary Under Secretary of State for Transport, Baroness Vere of Norbiton, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022 do no more than is appropriate".

1.2 This is the case because the instrument makes changes that are required by the UK to comply with the UK-EU Trade and Cooperation Act and does not do more than is necessary to ensure consistency and continuity of the current approach to operator licensing. The specific changes are set out in the Policy Background section in paragraphs 7.1 to 7.48

2. Good reasons

2.1 The Parliamentary Under Secretary of State for Transport, Baroness Vere of Norbiton, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action".

2.2 These are ensuring that the UK meets its requirements on changes to the operator licensing regime as set out in the TCA and correcting minor anomalies in UK legislation (as mentioned in paragraph 6.10 in the legislation section and paragraph 7.39 in the policy section).

3. Equalities

3.1 The Parliamentary Under Secretary of State for Transport, Baroness Vere of Norbiton, has made the following statement(s):

"The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006, or the Equality Act 2010 or subordinate legislation made under those Acts.

3.2 The Parliamentary Under Secretary of State for Transport, Baroness Vere of Norbiton, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the instrument, I Baroness Vere, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010."