Draft Order laid before Parliament under section 90E(4) of the Road Traffic Offenders Act 1988 and section 8(4) of the Traffic Management Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No.

ROAD TRAFFIC

The Heavy Commercial Vehicles in Kent (No. 1) Order 2019

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 90B(2) and 90E(3) of the Road Traffic Offenders Act 1988(**a**) ("the 1988 Act") and section 8(1) to (3) of the Traffic Management Act 2004(**b**) ("the 2004 Act").

The Secretary of State is satisfied, in accordance with section 8(2) of the 2004 Act, that the further special powers conferred on traffic officers(**c**) by this Order are necessary for the purpose of facilitating the performance of duties which may be assigned to them.

The Secretary of State has consulted with such representative organisations as appear appropriate in accordance with section 90E(2) of the 1988 Act.

A draft of this Order has been approved by a resolution of each House of Parliament in accordance with section 90E(4) of the 1988 Act and section 8(4) of the 2004 Act.

Citation, commencement and extent

1. This Order—

(a) may be cited as the Heavy Commercial Vehicles in Kent (No. 1) Order 2019;

(b) comes into force on 31st October 2019 or the day after the day on which it is made, whichever is later; and

(c) extends to England and Wales and Scotland, except for article 2 which extends to England and Wales only.

Conferral of further special powers on traffic officers

2.—(1) The Secretary of State, as the appropriate national authority for the purposes of Part 1 of the Traffic Management Act 2004, confers the following further special powers on traffic officers.

(**a**) 1988 c. 53; Part 3A, which includes sections 90A to 90F, was inserted by the Road Safety Act 2006 (c. 49), section 11.

(**b**) 2004 c. 18; the power under section 8 is conferred on "the appropriate national authority", which is defined in section 15 and means, as respects England, the Secretary of State.

(**c**) See section 1 (traffic officers: introduction) of the Traffic Management Act 2004.

(2) A traffic officer may require a person driving a heavy commercial vehicle on a road in Kent to produce the following documents if carried on the vehicle or by the driver—

(a) any documents relating to the vehicle's journey that specify the origin and destination points of, and any goods to be collected or delivered on, that journey;

(b) any documents relating to goods that are being exported on the vehicle from the United Kingdom to any other country.

(3) If a traffic officer reasonably believes that a heavy commercial vehicle being driven on a road in Kent is on a relevant journey, they may direct the driver—

(a) not to proceed to the Channel Tunnel at Folkestone or the Port of Dover other than via a specified road or route in Kent that is open to such traffic;

(b) to proceed directly to a specified special road in Kent, including via a specified road or route in Kent that is open to such traffic.

(4) A direction under paragraph (3)—

(a) must be given by written notice;

(b) may specify a carriageway, lane or length of a road; and

(c) ceases to have effect after 24 hours unless given during a traffic restriction period, in which case it ceases to have effect at the end of that period.

(5) A traffic officer, when giving a direction under paragraph (3), must provide a document to the driver indicating routes in Kent that are open to heavy commercial vehicles on relevant journeys (with or without other information).

(6) It is an offence for the driver of a vehicle to fail to comply with or contravene—

(a) a requirement imposed under paragraph (2); or

(b) a direction given under paragraph (3) unless that direction is disregarded—

(i) at the direction, or with the permission, of a constable or traffic officer or an examiner appointed under section 66A of the Road Traffic Act 1988(**a**); or

(ii) in compliance with a direction displayed on a traffic sign placed on or near a road.

(7) A person who commits an offence under paragraph (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) In this article—

"heavy commercial vehicle" has the meaning given in section 138 of the Road Traffic Regulation Act 1984(**b**);

"Kent" means the geographical area comprised of the areas of Kent County Council and Medway Council;

"relevant journey" means a journey to a place outside the United Kingdom—

(a) via the Channel Tunnel at Folkestone; or

(b) which involves embarking from the Port of Dover;

"special road" has the meaning given in section 329(1) of the Highways Act 1980(**c**);

"traffic restriction period" means a period of time when a restriction imposed by article 2(1) of the Heavy Commercial Vehicles in Kent (No. 3) Order 2019(**d**) applies.

(9) This article ceases to have effect at the end of 31st December 2020.

(**a**) 1988 c. 52; section 66A was inserted by the Road Traffic Act 1991 (c. 40), section 9(1), and amended by the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23), section 60(1) and Schedule 7, paragraph 11.

(**b**) 1984 c. 27; section 138 was amended by the Road Traffic (Consequential Provisions) Act 1988 (c. 54), section 4 and Schedule 3, paragraph 25(8). There is another amendment to section 138 that is not relevant.

(**c**) 1980 c. 66; the definition of "special road" was amended by the Planning Act 2008 (c. 29), section 36 and Schedule 2, paragraph 29(2).

(**d**) S.I. 2019/***.

Amendment of the Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009

3.—(1) The Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009(**a**) is amended as follows.

(2) In Part 2 (secondary legislation) of Schedule 1, after Table 7 (The Trailer Registration Regulations 2018) insert—

"**Table 8**

The Heavy Commercial Vehicles in Kent (No. 1) Order 2019

(1) Provision creating offence	*(2) General nature of offence*	*(3) Deposit*
1. Article 2(6)	Driver of a heavy commercial vehicle in Kent failing to comply with or contravening a direction given, or requirement imposed, by a traffic officer	£300"

(3) In Schedule 2 (deposits for graduated fixed penalty offences), after Table 6 (Section 42 Road Traffic Act 1988) insert—

"**Table 7**

Section 17(4) Road Traffic Regulation Act 1984

(1) Nature of contravention or failure constituting the offence	*(2) Applicable level of deposit*
Contravening article 2(1), 3(2) or 3(4) of the Heavy Commercial Vehicles in Kent (No. 3) Order 2019	£300

Table 8

Section 20(5) Road Traffic Regulation Act 1984

(1) Nature of contravention or failure constituting the offence	*(2) Applicable level of deposit*
Contravening article 3(1) or 4(1) of the Heavy Commercial Vehicles in Kent (No. 2) Order 2019	£300"

Signed by authority of the Secretary of State for Transport

Name
Minister of State
Department for Transport

Date

(**a**) S.I. 2009/492, amended by S.I. 2018/1233; there are other amending instruments but none is relevant.

EXPLANATORY NOTE

(This note is not part of the Order)

The Heavy Commercial Vehicles in Kent (No. 1) Order 2019, the Heavy Commercial Vehicles in Kent (No. 2) Order 2019 and the Heavy Commercial Vehicles in Kent (No. 3) Order 2019 enable the movement of cross-Channel lorries in Kent to be controlled by regulating access to the road network, conferring new powers on traffic officers to allow for such vehicles to be detected and directed, and making ancillary provision relating to enforcement.

This Order empowers traffic officers to—

(a) require the driver of a heavy commercial vehicle in Kent to produce documents relating to the vehicle's journey (to establish its destination) and documents relating to goods that are being exported (to ascertain the vehicle's readiness to cross the border);

(b) direct the driver of such a vehicle not to proceed to the Channel Tunnel at Folkestone or the Port of Dover except via a specified road or route in Kent;

(c) direct the driver of such a vehicle to proceed to a specified motorway in Kent (removing it from the local road network) (article 2).

These powers are exercisable until 31st December 2020.

This Order also creates an offence of failing to comply with a traffic officer exercising the powers described immediately above (article 2(6)) and sets the financial penalty deposit amount for that offence and for breaching the new restrictions (created by the No. 2 and No. 3 Orders) on using cross-Channel lorries on roads in Kent (article 3).

A full Impact Assessment has not been produced for this instrument as it is not expected to have significant impact on the private, public or voluntary sectors. An Explanatory Memorandum has been prepared for this Order and is available alongside this instrument on the UK Legislation website at www.legislation.gov.uk.

© Crown copyright 2019

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.90

UK201908281005 09/2019 19585

http://www.legislation.gov.uk/id/ukdsi/2019/9780111189344

ISBN 978-0-11-118934-4

9 780111 189344