Draft Regulations laid before Parliament under paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and section 101(3A) of the Transport Act 1968, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2011 No.

ROAD TRAFFIC

The Road Vehicles (Powers to Stop) Regulations 2011

Made - - - -	*2011*
Coming into force - -	*2011*

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**a**) and section 95(1) of the Transport Act 1968(**b**).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to matters relating to the testing of the roadworthiness of motor vehicles and their trailers(**c**); the regulation of the type, description, construction or equipment of vehicles, and of components of vehicles, and in particular any vehicle type approval scheme(**d**); the regulation and supervision of qualifications and working conditions of persons engaged in road transport(**e**); and the carriage of passengers and goods by road(**f**).

In accordance with section 101(6) of the Transport Act 1968 the Secretary of State has consulted with such representative organisations as he thinks fit.

A draft of this instrument has been laid before Parliament in accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and section 101(3A) of the Transport Act 1968 and approved by a resolution of each House of Parliament.

(**a**) 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) and the European Union (Amendment) Act 2008 (c.7), section 3(3), Schedule, Part 1.
(**b**) 1968 c.73. Sections 95 and 101 were amended by the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c.3), section 2(1); section 95 was also amended by S.I. 2007/1819, regulations 5, 6.
(**c**) S.I. 1977/1718.
(**d**) S.I. 1972/1811.
(**e**) S.I. 1975/1707.
(**f**) S.I. 1996/266.

PART 1

Preliminary provisions

Citation and commencement

1. These Regulations may be cited as the Road Vehicles (Powers to Stop) Regulations 2011 and come into force on the day after the day on which they are made.

PART 2

Amendments to primary legislation

Amendment of the Road Traffic Act 1988

2.—(1) The Road Traffic Act 1988(**a**) is amended as follows.

(2) After section 66A (appointment of examiners) insert—

"*Stopping officers*

66B Appointment of stopping officers

(1) The Secretary of State shall appoint such officers as the Secretary of State considers necessary for the purpose of exercising the powers conferred on them by—

(a) this Part of this Act;

(b) the Goods Vehicles (Licensing of Operators) Act 1995(**b**);

(c) the Public Passenger Vehicles Act 1981(**c**);

(d) the Transport Act 1968;

(e) any other enactment.

(2) An officer appointed under this section shall act under the general directions of the Secretary of State.

(3) The Secretary of State must not appoint a person under this section unless the Secretary of State is satisfied that—

(a) the person is a suitable person to exercise the powers of a stopping officer;

(b) the person is capable of effectively exercising those powers; and

(c) the person has received adequate training for the exercise of those powers.

(4) A power exercisable by virtue of an appointment under this section is exercisable only by a person wearing such uniform as may be determined or approved for the purposes of this section by the Secretary of State.

(5) In this Part "stopping officer" means an officer appointed under this section.

66C Stopping officers: offences

(1) A person commits an offence if the person, with intent to deceive, impersonates a stopping officer or makes any statement or does any act calculated falsely to suggest that the person is a stopping officer.

(2) A person commits an offence if the person resists or wilfully obstructs a stopping officer who is exercising the powers of a stopping officer.".

(**a**) 1988 c.52. Section 66A was inserted by the Road Traffic Act 1991, section 9(1).
(**b**) 1995 c.23.
(**c**) 1981 c.14.

(3) In section 67 (testing of condition of vehicles on roads)—

(a) in subsection (3) at the beginning insert "Subject to subsection (3A)";

(b) after that subsection insert—

"(3A) A stopping officer may direct the driver of a vehicle to stop the vehicle for the purposes of a test if the vehicle appears to the officer to be one to which subsection (3B) could apply.

(3B) This subsection applies to motor vehicles and trailers defined in categories 1, 2 and 3 of Annex I to Directive 2009/40/EC(**a**).";

(c) in subsection (7)—

(i) for "a constable" substitute—

"—

(a) a constable, or

(b) in the case of a vehicle to which subsection (3B) applies, a stopping officer,";

(ii) for "he" in both places substitute "the constable or stopping officer";

(d) in subsection (8)—

(i) for "a constable" substitute—

"—

(a) a constable, or

(b) in the case of a vehicle to which subsection (3B) applies, a stopping officer,";

(ii) for "he" substitute "the constable or stopping officer";

(e) after subsection (9) insert—

"(9A) In subsection (3B) "Directive 2009/40/EC" means the Directive of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers.".

(4) In section 79 (further provisions relating to weighing of motor vehicles)—

(a) before subsection (1) insert—

"(A1) A stopping officer may direct the driver of a vehicle to stop the vehicle for the purpose of it being weighed under section 78 if the vehicle appears to the officer to be one to which subsection (A2) could apply.

(A2) This subsection applies to—

(a) motor vehicles in categories M_2 and M_3 and their trailers in category O;

(b) motor vehicles in categories N_2 and N_3 and their trailers in categories O_3 and O_4,

as defined in Annex II to Directive 2007/46/EC(**b**).";

(b) at the end insert—

"(6) In subsection (A2) "Directive 2007/46/EC" means the Directive 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.".

(5) In section 86 (index to Part II), in the table, after the entry "Sold or supplied by retail" insert—

"Stopping officer Section 66B".

(**a**) OJ No. L141, 6.6.2009, p.12.
(**b**) OJ No. L263, 9.10.2007, p.1.

Amendment of the Road Traffic Offenders Act 1988

3.—(1) In the Road Traffic Offenders Act 1988(**a**), Part 1 of Schedule 2 (offences under the Traffic Acts) is amended as follows.

(2) After the entry beginning "RTA section 65A" insert—

"RTA section 66C(1)	Impersonating a stopping officer etc. with intent to deceive	Summarily	Level 5 on the standard scale			
RTA section 66C(2)	Resisting or wilfully obstructing a stopping officer	Summarily	One month or level 3 on the standard scale or both"			

Amendment of the Transport Act 1968

4.—(1) The Transport Act 1968(**b**) is amended as follows.

(2) After section 99ZF (power to seize documents) insert—

"99ZG Power to stop

(1) Subsection (2) applies if a vehicle appears to a stopping officer to be one to which this Part could apply.

(2) The officer may direct the driver to stop the vehicle for the purpose of enabling a Part 6 officer to exercise powers under this Part.

(3) In this section—

"Part 6 officer" means an officer as defined in section 99(8);

"stopping officer" means an officer appointed under section 66B of the Road Traffic Act 1988.".

Amendment of the Public Passenger Vehicles Act 1981

5.—(1) The Public Passenger Vehicles Act 1981(**c**) is amended as follows.

(2) After section 12A (detention of certain PSVs used without PSV operators' licences) insert—

"12B Power to stop

(1) Subsection (2) applies if it appears to a stopping officer that a vehicle is being used in circumstances such that a PSV operator's licence could be required.

(2) The officer may direct the driver to stop the vehicle for the purpose of enabling checks to be carried out to establish whether the use of the vehicle is in contravention of section 12(1) or 18(1).

(3) In this section a "stopping officer" means an officer appointed under section 66B of the Road Traffic Act 1988.".

(**a**) 1988 c.53. In Part 1 of Schedule 2, the entry relating to RTA section 65A was inserted by S.I. 1992/3107, regulation 16, Schedule 2, paragraph 7.
(**b**) 1968 c.73. Sections 99ZA to 99ZF were inserted by S.I. 2005/1904, regulation 6.
(**c**) 1981 c.14. Section 12A was inserted by the Local Transport Act 2008, section 47(1).

Amendment of the Goods Vehicles (Licensing of Operators) Act 1995

6.—(1) The Goods Vehicles (Licensing of Operators) Act 1995(**a**) is amended as follows.

(2) After section 2A (detention of vehicle used without operator's licence) insert—

"2B Power to stop

(1) Subsection (2) applies if it appears to a stopping officer that a vehicle is being used in circumstances such that an operator's licence could be required.

(2) The officer may direct the driver to stop the vehicle for the purpose of enabling checks to be carried out to establish whether the use of the vehicle is in contravention of section 2(1).

(3) In this section "stopping officer" means an officer appointed under section 66B of the Road Traffic Act 1988.".

Amendment of the Road Traffic (Northern Ireland) Order 1995

7.—(1) The Road Traffic (Northern Ireland) Order 1995(**b**) is amended as follows.

(2) In Article 74 (appointment of examiners) after paragraph (4) insert—

"(5) A person commits an offence if, for the purpose of directing the driver of a vehicle to stop the vehicle, the person, with intent to deceive, impersonates a vehicle examiner or makes any statement or does any act calculated falsely to suggest that the person is a vehicle examiner.".

Amendment of the Road Traffic Offenders (Northern Ireland) Order 1996

8.—(1) In the Road Traffic Offenders (Northern Ireland) Order 1996(**c**), Part 1 of Schedule 1 (offences under the Road Traffic Orders) is amended as follows.

(2) In the section entitled "Offences under the Order of 1995" after the entry beginning "Article 71" insert—

"Article 74(5)	Impersonating a vehicle examiner etc. with intent to deceive	Summarily	Level 5 on the standard scale"			

PART 3

Amendments to subordinate legislation

Amendment of the Goods Vehicles (Community Authorisations) Regulations 1992

9.—(1) The Goods Vehicles (Community Authorisations) Regulations 1992(**d**) are amended as follows.

(2) After regulation 7 (effect of failure to comply with conditions governing use of Community authorisation) insert—

(**a**) 1995 c.23. Section 2A was inserted by the Transport Act 2000, section 262(1).
(**b**) S.I. 1995/2994 (N.I. 18).
(**c**) S.I. 1996/1320 (N.I. 10).
(**d**) S.I. 1992/3077, to which there are amendments not relevant to these Regulations.

"7A Power to stop

(1) Paragraph (2) applies if it appears to—

(a) in Great Britain, a stopping officer, or

(b) in Northern Ireland, a vehicle examiner,

that a vehicle is being used in circumstances such that a Community authorisation could be required.

(2) The stopping officer or vehicle examiner may direct the driver to stop the vehicle so that an authorised inspecting officer can conduct checks as to whether an offence has been committed under regulation 3 or 7.

(3) In this regulation—

"stopping officer" means an officer appointed under section 66B of the Road Traffic Act 1988; and

"vehicle examiner" means an examiner appointed under Article 74 of the Road Traffic (Northern Ireland) Order 1995.".

(3) In regulation 8 (authorised inspecting officers) after "Council Regulation" insert "and these Regulations".

Amendment of the Public Service Vehicles (Community Licences) Regulations 1999

10.—(1) The Public Service Vehicles (Community Licences) Regulations 1999(**a**) are amended as follows.

(2) After regulation 7 (effect of failure to comply with conditions governing use of Community licences) insert—

"7A Power to stop

(1) Paragraph (2) applies if it appears to a stopping officer that a vehicle is being used in circumstances such that a Community licence could be required by Article 3a(1) of the Council Regulation.

(2) The officer may direct the driver to stop the vehicle so that an authorised inspecting officer can conduct checks as to whether an offence has been committed under regulation 3 or 7.

(3) In this regulation "stopping officer" means an officer appointed under section 66B of the Road Traffic Act 1988.".

(3) In regulation 8 (authorised inspecting officers) after "Council Regulation" insert "and these Regulations".

Amendment of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999

11.—(1) The Road Transport (Passenger Vehicles Cabotage) Regulations 1999(**b**) are amended as follows.

(2) After regulation 6 (appeals) insert—

"6A Power to stop

(1) Paragraph (2) applies if it appears to a stopping officer that a vehicle could be being used for the purpose of UK cabotage operations.

(2) The officer may direct the driver to stop the vehicle for the purpose of enabling an authorised inspecting officer to inspect the documents referred to in regulation 7.

(**a**) S.I. 1999/1322, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 1999/3413, to which there are amendments not relevant to these Regulations.

(3) In this regulation "stopping officer" means an officer appointed under section 66B of the Road Traffic Act 1988.".

(3) In regulation 8 (authorised inspecting officers) after "Council Regulation" insert "and these Regulations".

Amendment of the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007

12.—(1) The Vehicle Drivers (Certificates of Professional Competence) Regulations 2007(**a**) are amended as follows.

(2) In regulation 11 (requirement to carry and produce evidence of CPC or of training exemption in vehicle)—

(a) after paragraph (5B) insert—

"(5C) Paragraph (5D) applies if it appears to—

(a) in Great Britain, a stopping officer, or

(b) in Northern Ireland, a vehicle examiner,

that the vehicle a person is driving could be a relevant vehicle.

(5D) The stopping officer or vehicle examiner may direct the driver to stop the vehicle for the purpose of enabling a vehicle examiner to exercise the powers under paragraph (6).";

(b) after paragraph (8) insert—

"(9) In this regulation "stopping officer" means an officer appointed under section 66B of the 1988 Act.".

Signed by authority of the Secretary of State

Parliamentary Under Secretary of State
Department for Transport

(**a**) S.I. 2007/605, amended by S.I. 2008/1965; there are other amending instruments but none is relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Road Traffic Act 1988 to provide the Secretary of State with a power to appoint "stopping officers" in Great Britain. They also make amendments to provide stopping officers with powers to stop certain commercial vehicles on roads for the purposes of specific checks by vehicle examiners and other authorised persons. Regulations 9 and 12 also add to the existing powers of vehicle examiners appointed in Northern Ireland aligning their powers to stop commercial vehicles on roads with those of stopping officers in Great Britain.

When appointing stopping officers, the Secretary of State must be satisfied that the person to be appointed is suitable, capable and adequately trained to exercise the powers for which that person is being appointed. Furthermore, stopping officers must act under the general directions of the Secretary of State and are only permitted to exercise their powers whilst wearing approved uniforms.

These Regulations create offences of impersonating and wilfully obstructing stopping officers and, in Northern Ireland, create an offence of impersonating a vehicle examiner.

These Regulations provide stopping officers with powers to stop for the following purposes:

- Vehicle roadworthiness inspections by authorised examiners under section 67 of the Road Traffic Act 1988 (regulation 2(3));
- Vehicle weight checking by authorised persons under section 78 of the Road Traffic Act 1988 (regulation 2(4));
- Inspection of documents, records and recording equipment by officers under Part 6 (Drivers' Hours) of the Transport Act 1968 (regulation 4);
- Checks by vehicle examiners and other authorised persons in relation to section 12(1) (the obligation to hold a public service vehicle operator's licence) or section 18(1) (the duty to exhibit an operator's disc) of the Public Passenger Vehicles Act 1981 (regulation 5);
- Checks by vehicle examiners and other authorised persons in relation to section 2(1) (the obligation to hold a goods vehicle operator's licence) of the Goods Vehicles (Licensing of Operators) Act 1995 (regulation 6);
- Checks by authorised inspecting officers in relation to regulation 3 (use of a public service vehicle without Community licence) and regulation 7 (failure to comply with conditions governing the use of Community licence) of the Public Service Vehicles (Community Licences) Regulations 1999 (regulation 10);
- Inspection of the documents referred to in regulation 7 (production of Community licence and control document) of the Road Transport (Passenger Vehicles Cabotage) Regulations 1999 by authorised inspecting officers (regulation 11);

and they provide stopping officers, and vehicle examiners appointed in Northern Ireland, with powers to stop for the following purposes:

- Checks by authorised inspecting officers in relation to regulation 3 (use of a goods vehicle without Community authorisation) and regulation 7 (failure to comply with conditions governing the use of Community authorisation) of the Goods Vehicles (Community Authorisations) Regulations 1992 (regulation 9);
- Checks by vehicle examiners in relation to the requirement to carry evidence of CPC or of training exemption in the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 (regulation 12).

An impact assessment of the effect that this instrument will have on the costs of business, the public sector and the voluntary sector is available from the Freight, Insurance and Licensing Division of the Department for Transport, Great Minster House, 76 Marsham Street, London,

SW1P 4DR. A copy may be obtained from the Department for Transport website (www.dft.gov.uk).

A copy of the impact assessment has been placed in the library of each House of Parliament. The impact assessment is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.

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