EXPLANATORY MEMORANDUM TO

THE GOODS VEHICLES (LICENSING OF OPERATORS) (TEMPORARY USE IN GREAT BRITAIN) (AMENDMENT) REGULATIONS 2019

2019 No. 670

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument amends the Goods Vehicles (Licensing of Operators) (Temporary Use in Great Britain) Regulations 1996 (S.I. 1996/2186) ("the 1996 Regulations") to give effect to agreements with several countries in eastern Europe and the Balkans. The agreements will facilitate the growth of road freight between those countries and the UK. This instrument also ensures that goods vehicles from Norway, Iceland and Liechtenstein will continue to be able to enter the UK without the need for a permit.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales and Scotland.

4.2 The territorial application of this instrument is England and Wales and Scotland

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Section 2(1) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the 1995 Act") prohibits the use of goods vehicles on roads in Great Britain for business purposes except under a licence issued under the 1995 Act. Section 57(6) allows the Secretary of State to make regulations modifying the effect of the provisions of the Act in relation to vehicles brought temporarily into Great Britain. Accordingly, the 1996 Regulations modify the requirements of section 2(1) of the 1995 Act in relation to the temporary use in Great Britain of certain foreign goods vehicles and Northern Ireland goods vehicles.

6.2 This instrument exempts operators established in Serbia, Bosnia and Herzegovina, Kosovo and Montenegro from the requirement in section 2(1) of the 1995 Act to possess a UK operator's licence when their goods vehicles are used temporarily in the UK to carry goods on international journeys without the need for them to hold a valid permit.

6.3 This instrument exempts operators established in Belarus and Kazakhstan from the requirement in section 2(1) of the 1995 Act to possess a UK operator's licence when their goods vehicles are used temporarily in the UK to carry goods on international journeys, provided they hold a valid permit or fall within one of the exemptions specified in Schedule 2 of the 1996 regulations.

6.4 This instrument exempts operators established in Iceland, Liechtenstein and Norway (the members of the European Economic Area, outside the European Union) from the requirement in section 2(1) of the 1995 Act to possess a UK operator's licence when their goods vehicles are used temporarily in the UK to carry goods on international journeys. They will not need to hold a permit. This instrument also requires the operators to hold a Community Licence or be covered by one of a number of specific exemptions, set out in Schedule 2 of the 1996 regulations.

6.5 This gives effect to agreements signed with Serbia on 6th February 2019, Kazakhstan on 22nd November 2006 and Belarus on 18th March 2019. Agreements are being negotiated with Bosnia and Herzegovina, Kosovo and Montenegro, with negotiations on schedule to conclude in all cases by the end of May 2019. Until those agreements come into force an agreement that was reached between the Government of the Socialist Federal Republic of Yugoslavia and the Government of the United Kingdom of Great Britain and Northern Ireland on the International Carriage of Goods on 16th July 1969 (CM 3987), continues to be in force, in as far as it applies to Bosnia and Herzegovina, Kosovo and Montenegro. In all cases, operators from those countries are not permitted to conduct cabotage operations in the UK.

6.6 Operators from Iceland, Liechtenstein and Norway are currently exempt from the requirement of section 2(1) of the Goods Vehicle (Licensing of Operators) Act 1995 that they should hold a UK operator's licence when their goods vehicles are used temporarily in the UK to carry goods on international journeys. This is due to the provisions of Regulation 1072/2009 (incorporated into the European Economic Area Agreement), applicable directly or as European Union retained law. This will lapse when the UK leaves the European Union. This instrument will ensure that goods vehicles from Iceland, Liechtenstein and Norway will continue to be eligible to carry goods on international journeys in the UK without the need to carry a permit or hold a UK operator's licence.

6.7 Northern Irish secondary legislation will also exempt operators from Serbia, Belarus, Kazakhstan, Bosnia and Herzegovina, Kosovo and Montenegro from the requirement to hold a Northern Irish Operator's Licence by virtue of the changes made in this instrument. Article 19 of Schedule 1 to the Goods Vehicles (Licensing of Operators) (Exemption) Regulations (Northern Ireland) 2012 (S.R. 2012/256) exempts vehicle operators from the requirement to hold a Northern Irish operator's licence if the vehicle is exempt in Great Britain due to an international agreement or permit issued by the Secretary of State. The Department of Infrastructure in Northern Ireland has been consulted about the agreements.

7. Policy background

What is being done and why?

7.1 This instrument amends the 1996 Regulations to accommodate road transport agreements with Serbia, Bosnia and Herzegovina, Kosovo and Montenegro, Belarus and Kazakhstan; and an amendment to an existing agreement with Ukraine.

7.2 Currently, Bosnian and Herzegovina, Kosovan and Montenegrin operators can access the UK only if they obtain a permit issued under the European Council of Ministers of Transport ("ECMT") multilateral permit scheme. There are 43 member countries that participate in the system which is designed to be one part of the international framework for road haulage in Europe. The number of permits issued under the ECMT scheme is limited. Application of the UK-Yugoslavia agreement to Bosnia and Herzegovina, Kosovo and Montenegro will allow the bilateral arrangements for road transport between those countries and the UK. This will facilitate more trade and allow hauliers more flexibility when deciding which permit to purchase.

7.3 New agreements are being negotiated with the Bosnian and Herzegovinian, Kosovan and Montenegrin Governments to supersede the UK-Yugoslavia agreement. These agreements are drafted not to require permits. This instrument allows for these agreements to be completed and implemented, by way of the amendments 30 I, 30J and 30 K to the 1996 Regulations, as specified in Regulation 2 of this instrument. We are making this change now so that operators from these countries will not need to hold a permit when their goods vehicles are used temporarily in the UK to carry goods on international journeys. In the interim any permit requirements consistent with the UK-Yugoslavia agreement will be enforced administratively. If there were to be a failure in any of the negotiations, which are all scheduled for completion during April and May, a further amending statutory instrument may be introduced in relation to the permit requirement.

7.4 The UK has signed a new agreement with the Serbian Government, so that permits are no longer required for road transport between the UK and Serbia. The common overall objective is to boost trade between our two countries. This instrument provides for the necessary exemptions from the operator licensing requirements needed to issue permits again under the agreement.

7.5 Removing the need for Ukrainian goods vehicles with Euro V and VI engines to carry permits when travelling in the UK is a step towards full liberalisation of commercial road transport. It also encourages the use of cleaner vehicles. Regulation 2 of this instrument amends the 1996 Regulations to effect this change. An agreement with Ukraine was signed on 13 November 1995. It was published as Ukraine No. 1 (1996) Cm 3158 and re-published in October 2000 as Treaty series no. 121.

7.6 Until recently the UK had no formal arrangement for the exchange of permits with Belarus and these were exchanged informally via letter. These changes will accommodate the exchange of permits in accordance with the agreement signed on 18th March.

7.7 The UK has an existing agreement with Kazakhstan signed on 22 November 2006 (CP 60) but this has been laid in Parliament only recently. This legislation will accommodate the exchange of permits with Kazakhstan, by way of amendment 30G, to the 1996 Regulations, as specified in Regulation 2 of this instrument.

7.8 Iceland, Liechtenstein and Norway are the members of the European Economic Area, who are not members of the European Union. This instrument, by way of the amendments 30L, 30M and 30N to the 1996 Regulations, as specified in Regulation 2 of this instrument, confirms access rights to the UK for vehicles operated from these countries continue to be equivalent to those available through the UK's membership of the European Union.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are no plans to consolidate the 1996 Regulations.

10. Consultation outcome

10.1 A consultation was held from 29th June 2018 to 20th July 2018 and was targeted at representative bodies of the UK freight industry. The Freight Transport Association and the Road Haulage Association both responded to confirm they were content with the proposals.

11. Guidance

11.1 No guidance is planned. Published information about bilateral agreements will be updated to cover the changes under these new agreements on the gov.uk website. The enforcement authorities (the Police and the Driver and Vehicle Standards Agency) will be informed by email.

12. Impact

12.1 There is no, or no significant, impact on business, 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 of the low level of impact on businesses. A few UK hauliers may benefit from a small cost reduction by avoiding the fee for permits to visit Serbia. There is likely to be a positive effect on trade with Serbia, but this is relatively small and difficult to estimate. There should be similar positive effects on trade with Ukraine from reducing the permit requirements. Given the distances involved, there is minimal trade with Kazakhstan, Montenegro, Bosnia and Herzegovina and Kosovo so we would estimate a low impact. Having regularised the relationship with Belarus we expect to see an increase in freight movements but this is again difficult to quantify. The position for Iceland, Liechtenstein and Norway is maintained.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses. The only effects are likely to be positive, due to increased trade and for those UK haulage firms avoiding the need for a permit to travel to Serbia and Ukraine. There should be no impact on small businesses from the formalisation of the relationship with Belarus, Kosovo, Bosnia and Herzegovina and Montenegro given the very limited volume of trade with these countries.

14. Monitoring & review

14.1 The 1996 Regulations do not include a statutory review clause and in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Jesse Norman has made the following statement:

"Having regard to sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015, and the statutory guidance under section 31 of that Act, I have decided that it is not appropriate to make provision for review of these provisions of this instrument because it would be disproportionate to do so taking into account the economic impact of those provisions. These provisions will be required as long as the UK is an active party to the agreements specified and changes to the Regulations will be made as and when required by changes to the status or content of the agreements."

15. Contact

15.1 David Pope at the Department for Transport (Telephone: 020 7944 8797 or email: david.pope@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Duncan Price, Manager of Freight, Operator Licensing and Roadworthiness Division at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Jesse Norman, Minister of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.