EXPLANATORY MEMORANDUM TO

THE VEHICLE DRIVERS (CERTIFICATES OF PROFESSIONAL COMPETENCE) (AMENDMENT) REGULATIONS 2013

2013 No. 2667

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 Directive 2003/59/EC (the "CPC Directive") on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers requires drivers of large vehicles to hold a driver Certificate of Professional Competence ("CPC"), and to complete 35 hours of periodic training in every five year period.

2.2 This statutory instrument provides an exemption from the requirement to hold a CPC for people who are not professional drivers but whose work includes an incidental element of driving empty lorries, buses and coaches in their local area. If these people also drive any of those vehicles outside the terms of the exemptions, they will still need to obtain a CPC.

3 Matters of special interest to the Joint Committee on Statutory Instruments

None.

4 Legislative Context

4.1 This statutory instrument applies exemptions to the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 (the "2007 Regulations"), which implement the requirements of the CPC Directive.

4.2 The CPC Directive contains provisions related to driver CPC with the aims of improving road safety, saving money though fuel efficient/defensive driving, and raising the profile and professionalism of the occupation of driving large vehicles for the carriage of goods or passengers.

4.3 The CPC Directive allows exemptions to be applied to certain types of driving and provides acquired rights for those who already hold Passenger Carrying Vehicle (PCV) or Large Goods Vehicle (LGV) driving entitlements. The 2007 Regulations already applied some exemptions to a number of these drivers, for example in relation to non-commercial journeys for personal use. This statutory instrument applies two new exemptions to the 2007 Regulations:

a) it exempts driving these vehicles to and from official road tests (driving these vehicles during the tests was already exempt under the 2007 Regulations); and

b) it exempts non-professional drivers from having to possess driver CPC, if they only drive within a local area and do not carry passengers or goods. The driver's principal work activity must be something other than driving, and the vehicle may only be driven within a 50km radius of the driver's base. Driver's base is defined as the address where the driver came on duty following his last period off-duty of at least nine hours.

5. Territorial Extent and Application

5.1 This statutory instrument applies to Great Britain and Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 This statutory instrument exempts drivers undertaking two types of journey from the requirement to have driver CPC.

7.2 The driver CPC requirements fall on drivers of vehicles which require a driving licence of category C, C+E, D or D+E (as defined in Article 4(4) of Directive 2006/126/EC of 20 December 2006 (OJ No L 403, 30.12.2006, p18-60)), or a driving licence recognised as equivalent, unless their driving falls within one or more exemptions. Examples of exemptions already in place include for the non-commercial carriage of passengers or goods for personal use and the carriage of material or equipment to be used by the driver in the course of their work (provided that driving that vehicle is not the driver's principal activity).

7.3 The first new exemption in the 2007 Regulations is for journeys to and from official road tests. This supplements the existing exemption that applies during these road tests. So, for example, an engineer delivering a vehicle to a statutory roadworthiness test at a VOSA test centre or authorised testing facility would be covered by this exemption.

7.4 This statutory instrument also exempts some drivers moving vehicles that are not carrying passengers or goods. The driving must take place within 50 kilometres of the driver's base, and driving the vehicle must not be the driver's principal work activity. So for example it enables staff delivering minibuses, other PCVs or LGVs to hirers to do so without holding a driver CPC, provided they drive only within a 50km radius from their base and driving large vehicles is not their principal work activity. Likewise it may also allow valets to park large vehicles, depot operatives to move empty buses on public roads near their depots, operatives to take vehicles for refuelling and mechanics to pick up and drop off large vehicles for servicing.

7.5 These changes are intended to reduce the regulatory burden on these groups and their employers. Drivers will still need to have the correct driving entitlement on their

driving licence for the class of vehicle they are driving, ensuring road safety standards are maintained.

7.6 This statutory instrument aims to avoid imposing the costs of driver CPC on individuals and industry where it is disproportionate to the safety benefits. Proportionality was a stated intention of the CPC Directive. The aim of this statutory instrument is to remove from the requirements some people who drive large vehicles for short distances in the course of their work, without carrying passengers or goods. It is estimated that around 75,000 people may be affected and that there are about £24m per year of avoidable costs to business, with there being very little effect on the achievement of the overall objectives of driver CPC itself.

Driver's Base

7.7 Driver's base, in the context of the provision limiting the exemption to within a 50 kilometre radius, is defined as the address where the driver came on duty immediately following his last period off-duty of at least nine hours. So for some people the base may be different for different periods on duty. It may also be a home address if a driver starts work at home, following at least nine hours off-duty. The driver's base cannot change until the driver is off-duty for at least 9 hours. It may be different locations on different days, provided the driver was off-duty for at least nine hours between them. But the requirement for an "address" means that for the driver's base condition to be met, the driver must come on duty at an identifiable location at which a person or organization is situated. Travel covered by this exemption must be within a 50 kilometre radius, so the actual distance travelled by road to reach a location within the 50 kilometre radius may be greater than 50 kilometres, provided the straight line distance from the address where the driver came on duty is less than 50 kilometres. Examples:

A. Mechanic who occasionally drives lorries as part of his work

7.8 A mechanic working a five day week from 9am to 5pm and not on duty from 5pm to 9am would have his 'driver's base' for each day defined by the place he started work at 9am that day. So if this mechanic arrived at his garage on Monday at 9am to work, that would be his "driver's base" on Monday; if he arrived at a second establishment at 9am on Tuesday, the exemption would operate within a 50 kilometre radius of the second establishment on Tuesday.

7.9 If on the Tuesday the same mechanic was asked to do over-time until 1am, he would not have nine hours off-duty before 9am on Wednesday, so his base for Wednesday would continue to be the establishment at which he started work on Tuesday, until he did take 9 hours off-duty. Whenever the mechanic is on duty for several periods without a period off-duty of at least nine hours, he will be limited to working within 50km of the single base until he is off-duty for at least nine hours.

7.10 The mechanic's period on duty will start when he comes on duty after at least nine hours off-duty, whether that is at home or at work, or at a customer's address. That address will continue to be his "driver's base" until he is off-duty for at least nine hours.

B. Bus depot engineer

7.11 If a bus depot engineer worked one day at depot A from 9 am until half past midnight and then returned to start work at a different depot B at 9am the next morning, the exemption would operate within a 50 kilometre radius of the first bus depot A on both days. This is because the two periods of duty are separated by less than nine hours off-duty. If however the engineer started work at depot B at 10am (rather than 9am) the next

morning, the exemption would operate within a 50 kilometre radius of depot B for the second period of duty, as he would have been off-duty for more than 9 hours before coming on duty at depot B.

8. Consultation outcome

8.1 On 7 June 2013, the Driving Standards Agency issued a consultation letter seeking views from key stakeholders about the following two proposals:

- **Proposal 1**: exempt drivers of a vehicle that is being driven with the permission of the vehicle operator or lessor (as appropriate) and where the following additional conditions are also met:
    - within 50 kilometres of the driver's base;
    - the vehicle is not being used for hire or reward;
    - no goods or passengers are carried; and
    - driving such vehicles is not the driver's principal activity.

- **Proposal 2**: exempt vehicles attending a VOSA test centre (including VOSA authorised testing facilities).

The closing date for responses was 28 June 2013.

8.2 There were 141 responses to the consultation. Those responding included the Traffic Commissioners, driver trainers, vehicle dealers and representatives of the vehicle hire, road haulage and passenger carrying industries.

8.3 A report about the consultation has been published by the Department at is available at: https://www.gov.uk/government/consultations/driver-cpc-changes-to-the-scope-of-exemptions.

8.4 The overwhelming majority of respondents supported the proposals in full with 5 respondents being opposed either to widening the scope of the exemptions or who considered that these proposals may result in people being disadvantaged by not having a CPC.

8.5 The exemptions, as consulted upon, are the subject of this statutory instrument and no changes were made to the proposals in the light of the consultation outcome. The Driving Standards Agency did not consider evidence was provided from the consultation that was sufficient to warrant introducing further exemptions.

9. Guidance

9.1 There is no statutory guidance associated with the instrument. However, the Driving Standards Agency has previously issued informal guidance on the application of the exemptions and this will be updated to reflect changes made when this statutory instrument comes into force.

10 Impact

10.1 Applying these exemptions will ensure UK businesses are not put at a competitive

disadvantage compared with their European counterparts. The use of these exemptions would also provide estimated monetised benefits through reducing costs for drivers, their employers and their customers of £250m over ten years.

10.2 The impact on the public sector is minimal.

10.3 A final impact assessment has been prepared and is attached to the memorandum. The impact assessment analyses the effects of applying the various exemptions.

11. Regulating small business

11.1 Applying the exemptions is likely to be of benefit to small businesses.

12. Monitoring and review

12.1 The Department for Transport will monitor feedback through statistics and stakeholder discussions.

13. Contact

13.1 Alanna Barber at the Department for Transport, telephone number 020 7944 5813 or email alanna.barber@dft.gsi.gov.uk, can answer any queries regarding the instrument.

DEPARTMENT for TRANSPORT

TRANSPOSITION NOTE

DIRECTIVE 2003/59/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 15TH JULY 2003 (OJ L 226, 10.9.2003, P. 4 ON THE INITIAL QUALIFICATION AND PERIODIC TRAINING OF DRIVERS OF CERTAIN ROAD VEHICLES FOR THE CARRIAGE OF GOODS OR PASSENGERS (the "CPC Directive").

NB: These Regulations amend the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 (the "2007 Regulations")

Directive 2003/59/EC was transposed in 2007 by the2007 Regulations. These Regulations apply additional exemptions to domestic law within the scope of Article 2 of the Directive, and for the use of vehicles in circumstances that are outside the scope of the CPC Directive.

Articles	***Objectives***	***Implementation***
Articles 1 and 2 of Directive 2003/59/EC	Exempts drivers using vehicles in certain circumstances from the requirement to hold a CPC.	The 2007 Regulations implemented the exemptions by copy out. These Regulations add new domestic exemptions to clarify the exemption in Article 2(f) of the CPC Directive, and to cover driving that is out of scope of the CPC Directive: i) clarifying that drivers are exempt from the CPC requirement when driving relevant vehicles to and from official tests for the purposes of technical development, repair or maintenance (driving during the tests is already exempt under Article 2(c) of the CPC Directive, which was copied out into regulation 2(c) of the 2007 Regulations); and ii) clarifying that drivers whose principal work activity is not driving, and who drive empty vehicles within a limited local area, are exempt from the CPC requirement while undertaking such non-professional driving.