**EXPLANATORY MEMORANDUM TO**

**THE VEHICLE DRIVERS (CERTIFICATES OF PROFESSIONAL COMPETENCE) (AMENDMENT) REGULATIONS 2020**

**2020 No. 662**

## 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 instrument amends the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 ("the 2007 Regulations") to (a) implement Directive (EU) 2018/645, which introduced changes to the certificate of professional competence (CPC) regime and (b) recognise CPCs issued by Switzerland.

## 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 the instrument is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of the instrument is England, Wales, Scotland and Northern Ireland.

## 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 The obligations for drivers to obtain a CPC and undertake periodic training are set out in Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003. The Directive was implemented in the UK by the 2007 Regulations and, following amendments to it by Directive (EU) 2018/645 of the European Parliament and of the Council of 18 April 2018, it is necessary to amend the 2007 Regulations.

6.2 Switzerland issues CPCs through a separate but equivalent regime. Recognition of Swiss CPC in the EU and UK is provided for by the Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and

Passengers by Rail and Road. As this agreement will not apply to the UK after the implementation period, this instrument makes explicit provision for continued recognition of Swiss CPC.

## 7. Policy background

***What is being done and why?***

7.1 The UK left the EU on 31 January 2020. The Withdrawal Agreement between the UK and the EU provided for an implementation period until 11pm on 31 December 2020. During the implementation period, EU law continues to apply in the UK. As the changes Directive 2018/645 makes apply during the implementation period, this instrument is necessary to implement them.

7.2 The requirement to hold a CPC was introduced in 2007 to improve road and driver safety and enhance professionalism within the sector. A CPC is necessary to drive most large vehicles (goods vehicles over 3.5 tonnes and passenger carrying vehicles with 9 or more seats) professionally. To obtain a CPC, a driver must pass four tests: a theory test, a case studies test, a test of their driving abilities, and a practical demonstration of various skills essential to professional drivers (such as safe and secure vehicle loading). A driver must also undertake 35 hours of periodic training every 5 years to maintain their CPC.

7.3 In 2018, Directive 2003/59/EC was amended to remedy a number of shortcomings following a consultation by the European Commission. These were legal uncertainty in the interpretation of certain exemptions, the content of training (which was found to be only partially relevant to drivers' needs), difficulties for drivers in obtaining mutual recognition of completed or partially completed training undergone in another member state, and inconsistencies in age requirements between Directive 2003/59/EC and Directive 2006/126/EC of the European Parliament and of the Council.

7.4 The instrument makes the necessary changes to the 2007 Regulations. Most notably:

(a) it introduces a new exemption from the requirement to hold a CPC for drivers transporting goods as part of agricultural, horticultural, forestry, farming or fishery businesses, when driving is not their principle activity. These drivers will still have to pass the necessary driving tests to obtain the entitlement to drive a large goods vehicle. This will reduce costs for people in these sectors who infrequently undertake driving that would otherwise be in scope of the CPC requirements;

(b) drivers are currently exempt when undertaking non-commercial carriage of goods or passengers for personal use. The instrument enables non-commercial carriage of goods or passengers to be carried out without a CPC, regardless of whether the carriage is for personal use or not. This should reduce costs for some drivers, such as those who transport passengers on a voluntary basis in the charity sector;

(c) the instrument also clarifies that drivers of ambulances are exempt from the requirement to hold a CPC, to reflect parallel clarifying provisions in the EU Directive.

7.5 It also provides for the recognition of Swiss CPC qualifications on the face of the 2007 Regulations. Currently recognition is given to Swiss CPC qualifications administratively and Swiss holders are not required to obtain a separate UK or EU CPC. This is in accordance with the EU Switzerland Land Transport Agreement of

21st June 1999, which permits free road access for freight and passengers between the EU and Switzerland. Road access is liberalised on the basis of the mutual application of various "social standards", one of which is Directive 2003/59/EC, and the parties to the agreement are required to ensure that the rights and obligations equivalent to those social standards (including the 2003 Directive) are applied.

7.6 The instrument will therefore ensure continued recognition of Swiss CPC after the implementation period, when the UK will cease to be bound by the EU Switzerland Land Transport Agreement. A Swiss licence holder will be able to apply for a UK Driver Qualification Card (which evidences the CPC) on the basis of their Swiss periodic training, or a combination of UK, EU and Swiss periodic training, without the need to take another test.

7.7 These amendments impact on prospective amendments being made to the 2007 Regulations at the end of the implementation period by the Vehicle Drivers (Certificates of Professional Competence) (Amendment) (EU Exit) Regulations 2018, which correct inoperability in the 2007 Regulations that will arise at the end of the implementation period. The instrument includes some consequential amendments to the 2018 Regulations to ensure that they operate consistently with the changes this instrument makes when brought into force at the end of the implementation period.

## 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 / trigger the statement requirements under the European Union (Withdrawal) Act.

## 9. Consolidation

9.1 No consolidation is planned.

## 10. Consultation outcome

10.1 The Driver and Vehicle Standards Agency (DVSA) carried out a public consultation from 18th March to 29th April 2020 setting out the government's proposals to implement Directive (EU) 2018/645. This consultation was published on .gov.uk. DVSA received 218 responses to the consultation, the majority of which supported the government's proposals for implementing the Directive. The government's response is published here: https://www.gov.uk/government/consultations/amendments-to-driver-cpc-regulations.

10.2 The Northern Ireland Department for Infrastructure was consulted in the preparation of the consultation and the instrument.

## 11. Guidance

11.1 Existing guidance on the 2007 Regulations will be updated by 22 July 2020 to reflect the changes this instrument makes.

## 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 levels of impact per business and the limited number of businesses affected as set out in paragraphs 7.3 and 7.5.

## 13. Regulating small business

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

## 14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the 2007 Regulations will be reviewed periodically in accordance with regulation 14A of those Regulations.

## 15. Contact

15.1 Kathleen Pearson at the Driver and Vehicle Standards Agency, telephone: 07584 544175; Kathleen.Pearson@dvsa.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Baroness Vere of Norbiton at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.