



Date: 7 June 2013

Dear Stakeholder,

Consultation about Possible Changes to the Scope of Exemptions to Driver Certificate of Professional Competence

This consultation is about proposed limited changes to the UK regulations implementing Directive 2003/59/EC¹, which is about the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers. The Directive introduced a Driver Certificate of Professional Competence (DCPC) across the European Union.

The UK implementing legislation is the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007². Like the Directive, these regulations require that all drivers of Large Goods Vehicles (LGVs) and Passenger Carrying Vehicles (PCVs) must hold a DCPC unless one of the exemptions applies to them.

The requirements for DCPC applied from 10th September 2008 in respect of PCVs and from 10th September 2009 in respect of LGVs.

Since those dates, new PCV and LGV drivers have obtained their DCPC by passing the initial DCPC test.

Drivers who held a full UK licence to drive a PCV or LGV before 10th September 2008 (for PCVs) or 10th September 2009 (for LGVs) have acquired rights that last until 10th September 2013 (for PCVs) or 10th September 2014 (for LGVs) and therefore did not have to obtain an initial DCPC. This is also the case for drivers who held – before 10th September 2008 (for PCVs) or 10th September 2009 (for LGVs) – a licence to drive a PCV or LGV that was issued by another Member State, or a licence that is recognised as equivalent to a full UK licence or to another Member State's licence.

However all drivers – including those with acquired rights – need to take 35 hours of periodic training every five years, unless they fall within one of the exemptions set out in the regulations.

¹ Directive 2003/59/EC

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2003L0059:20081211:EN:PDF>

² The Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 (original, as made)

<http://www.legislation.gov.uk/ukxi/2007/605/made> These regulations were amended in 2011 (but not in relation to exemptions) <http://www.legislation.gov.uk/ukxi/2011/2324/made>

The UK Government's road transportation red tape challenge of 2011 concluded in respect of these regulations that they "are required by the EU, but we will look at how other countries are applying some exemptions and see whether we can remove unnecessary burdens on some sectors, such as farmers who drive stock to market"³.

Subsequently the Driving Standards Agency (DSA) has reviewed implementation in other Member States, establishing in respect of a number of sectors that the UK transposition is broadly consistent with practice elsewhere. It obtained advice from the European Commission that there could not be an exemption for a class of drivers (such as farmers). DSA published guidelines reflecting the current UK position and indicating the circumstances in which a DCPC is required. The guidelines are designed to encourage drivers to take advantage of the existing exemptions where they apply.

The current UK position does however result in a number of people who drive LGVs or PCVs as part of their work, but who never carry passengers or goods for commercial gain, requiring a DCPC. Representations from trade bodies have highlighted situations such as vehicle engineers taking vehicles to a VOSA testing station, valets delivering or collecting leased or rental vehicles, engineers delivering changeover buses, and employees moving vehicles in the environs of depots, where the requirement to hold a DCPC is perceived to be a disproportionate burden.

Exemptions from the requirement to hold a DCPC have been transposed from the Directive by regulation 3(2), which reads:

This paragraph applies to a vehicle —

(a) which it is an offence for that person to drive on any road at a speed greater than 45 kilometres per hour in Great Britain under section 89 of the Road Traffic Regulation Act 1984(17) or in Northern Ireland under the Motor Vehicles (Speed Limits) Regulations (Northern Ireland) 1989;

(b) which is being used by, or is under the control of any of the following —

(i) the armed forces;

(ii) a police force;

(iii) a local authority in the discharge of any function conferred on or exercisable by that authority under an order made under section 5 of the Civil Contingencies Act 2004(19) or regulations made under section 20 of that Act, or

(iv) a fire and rescue authority;

(c) which is undergoing road tests for technical development, repair or maintenance purposes, or that is a new or rebuilt vehicle which has not yet been put into service;

(d) which is being used in a state of emergency or is assigned to a rescue mission;

(e) which is being used in the course of a driving lesson or driving test for the purpose of enabling that person to obtain a driving licence or a CPC;

³ Red Tape Challenge : Road Transportation (DfT, December 2011); page 17

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/2492/rtc-road-transport-summary.pdf

(f) which is being used for the non-commercial carriage of passengers or goods for personal use;

(g) which is carrying material or equipment to be used by that person in the course of his work, provided that driving that vehicle is not his principal activity.

Provisions (c), (f) and (g) already provide exemptions for a number of people for voluntary driving on an unpaid basis and for certain driving in connection with a person's work (including in relation to certain road testing; the non-commercial carriage of passengers or goods for personal use; and the use of vehicles to carry material or equipment to be used by that person in the course of their work, where driving that vehicle is not the person's principal activity). We consider that there may be a case for slightly broadening these exemptions to cover certain other people who drive LGVs or PCVs in the course of their work but not for hire or reward, not carrying goods or passengers and where driving the vehicle is not their principal activity.

Proposals to widen the scope of the DCPC exemptions

We are therefore seeking views about the following proposals to widen the scope of the DCPC exemptions:

1. Firstly, we propose to consider exempting from the requirement to hold a DCPC drivers of vehicles travelling relatively short distances without passengers or goods, not operating for hire or reward and driven as an incidental part of the driver's job. The exemption would be for a person who is permitted by the vehicle operator to drive the relevant vehicle within 50 kilometres of the driver's base.

Such an exemption would allow drivers without a DCPC to move vehicles in the environs of a bus, coach or lorry depot, provided they had the appropriate driving licence. It would also permit valets working for leasing and rental firms to drive empty vehicles on the road within 50 km of their operating base.

The exemption would allow staff to changeover buses within a 50 kilometre radius of their depot and to pick up and drop off vehicles for maintenance within the same radius.

Similarly, staff used by self drive rental and leasing companies would be able to deliver, collect and refuel vehicles as part of their more general employment without the need for DCPC.

In all instances, the conditions applying to this exemption would be that:

- The vehicle remained within a 50 km radius of the driver's base;
- The driver had the consent of the vehicle operator or lessor (as appropriate) to drive the vehicle;
- The vehicle was not being used for hire and reward;
- No goods or passengers were being carried on the vehicle; and driving such vehicles was not the driver's principal work.

We consider the above conditions to be necessary limitations to ensure DCPC can be enforced effectively and to ensure these are proportionate exemptions. The specific limitations (including the 50 kilometre limit) are each present in other parts of driving-related legislation.

2. Secondly, we propose to consider allowing vehicles to be driven to and from VOSA testing facilities (including facilities authorised by VOSA). This would extend slightly the existing exemption related to road tests. Unlike the previous proposal we do not propose to limit this

exemption to empty vehicles or a maximum distance. This is because it is clearly limited in scope, can be checked readily for enforcement purposes and the existing exemption related to road tests has no such limitations. However, we would expect the vehicle to be attending for a pre-booked inspection and for it to be following a reasonably direct route.

This proposed exemption does not extend to the delivery of newly purchased vehicles. We have been asked to consider this too, but are not proposing an exemption. These journeys may be long, can be done by people who are professional drivers and may be difficult to check.

General

The DCPC requirements make an important contribution to safety on our roads, ensuring that those who drive heavy goods vehicles or passenger carrying vehicles for a living have a minimum, on average, of one day per year of professional training, so that their skills are kept up to date. These proposed changes would not affect the vast majority of drivers of these vehicles.

We consider that the proposed changes are consistent with the Directive including recital 22 that: *“It is desirable ... that drivers of vehicles used to carry out transport where this is considered to have a lesser impact on road safety or where the requirements of this Directive would impose a disproportionate economic or social burden, should be exempted from the application of this Directive”.*

The proposed exemptions would avoid a disproportionate burden being placed on a number of people who drive in the course of their jobs, but whose main responsibilities do not relate to driving. Moreover, it is proposed that the wider of the two exemptions would be subject to conditions including distance, the carriage of goods or passengers, and the use of the vehicle for hire and reward.

We consider that the proposed exemptions would make very little difference to the road safety and other benefits of DCPC. The proposed exemptions would avoid the inclusion of certain drivers who are likely to pose a lower risk than some of the drivers already exempted, such as those who drive a vehicle which is being used for the non-commercial carriage of passengers or goods for personal use, and those who drive a vehicle to carry equipment to be used in the course of that person's work.

We therefore invite comments about the two proposals outlined above, which in summary are:

- **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 four additional conditions are also met:
 - within 50 kilometres of the driver's base;
 - no goods or passengers are carried;
 - the vehicle is not being used for 'hire or reward'; 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).

Please note that we are not seeking comments about the implementation of DCPC except in relation to the scope of the exemptions. The European Commission has indicated it is likely to review the implementation of DCPC more widely. We also intend to consider any wider issues at a later stage.

We plan to proceed as quickly as possible in respect of any changes to the exemptions. Should Ministers decide to implement these proposals, our aim would be to introduce the necessary regulatory changes as soon as possible but this would be unlikely to be before 10th September 2013.

Please send your views to consultations@dsa.gsi.gov.uk by **28 June 2013**.

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