

EXPLANATORY MEMORANDUM TO

The Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012

2012 No. 257

The Goods Vehicles (Enforcement Powers) Regulations (Northern Ireland) 2012

2012 No. 258

The Goods Vehicles (Licensing of Operators) (Fees) Regulations (Northern Ireland) 2012

2012 No. 260

The Goods Vehicles (Licensing of Operators) Regulations (Northern Ireland) 2012

2012 No. 261

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rules (details above) which are laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rules are made under the sections set out below, and are subject to the negative resolution procedure.
- 1.3. The Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012 is made under sections 2(2) of the European Communities Act 1972.
- 1.4. The Goods Vehicles (Enforcement Powers) Regulations (Northern Ireland) 2012 is made under section 44 of and Schedule 2 to the 2010 Act.
- 1.5. The Goods Vehicles (Licensing of Operators) (Fees) Regulations (Northern Ireland) 2012 is made under sections 47(1) and (4) and 49(3) of the 2010 Act.
- 1.6. The Goods Vehicles (Licensing of Operators) Regulations (Northern Ireland) 2012 is made under sections 4(3), 7(3) and (4), 8(1), 9(1), 10(2), 11(3), (6) and (7), 13(5)(c), 16(2), 17(3), 18(9)(c) and (10), 20(1)(d), 27(1), 28(5)(a), 31(1), 32(3), 34(2)(a), 48(2), (3) and (4), 52, 53, 57 and paragraphs 1(7)(b) and 3(7)(b) of Schedule 1 to the 2010 Act.

2. Purpose

- 2.1. The Rules are part of a group of Statutory Rules to be made on foot of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 (“the 2010 Act”), which together will implement a licensing system for operators similar to the one that exists in Great Britain.

3. Background

- 3.1 The Goods Vehicles (Qualifications of Operators) Regulations (Northern Ireland) 2012 set out the provisions relating to the determination of applications for operator licences under the 2010 Act. The Regulations give effect in Northern Ireland to Regulation (EC) No. 1071/2009 of 21 October 2009 which establishes common rules concerning the conditions to be complied with to pursue the occupation of road transport operator, and repeals Council Directive 96/26/EC.
- 3.2 The Goods Vehicles (Enforcement Powers) Regulations (Northern Ireland) 2012 set out the Department's powers in relation to the impounding of illegally operated goods vehicles that fall within the scope of the Act and their contents. They set out the procedures to be followed in relation to the immobilisation of the vehicle, the removal of the vehicle and its contents, and their return or destruction.
- 3.3 The regulations provide for the owner of the vehicle to make an application to the Department for the return of a detained vehicle and for a hearing to be held if so requested. They also allow an appeal from a determination by the Department to the Upper Tribunal.
- 3.4 The regulations authorise the sale or destruction of vehicles not returned and provide for the return or disposal of any contents. They also provide for the application of the proceeds of the sale of property. Provision is also made for an appeal to the courts if there is any dispute regarding these issues.
- 3.5 The Goods Vehicles (Licensing of Operators) (Fees) Regulations (Northern Ireland) 2012 set out the fees operators will have to pay when:
 - applying for an operator's licence or a variation of a licence;
 - being granted an operator's licence;
 - a licence is being reviewed;
 - an interim licence is being requested; or
 - a certificate of qualification is requested.
- 3.6 The Goods Vehicles (Licensing of Operators) Regulations (Northern Ireland) 2012 set out the various aspects of the process for obtaining a goods vehicle operator's licence. Specifically they deal with the application process, information required, consideration of objections and representations, operating centres and public inquiries.

4. Consultation

- 4.1 Consultation documents were issued to interested parties between October 2010 and May 2011 for each of the SRs. No issues were raised.

5. Equality Impact

- 5.1 There are no Human Rights, Equality, Environmental, Rural or Financial Issues associated with the proposed legislation.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment covering all of the SRs was prepared and signed on 28th June 2012 when the Goods Vehicles (Licensing of Operators Exemption) Regulations (Northern Ireland) 2012 was made and laid.

7. Financial Implications

- 7.1. Not applicable.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered the matter of Contravention Rights and Community Law and is satisfied that there are no matters of concern.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The Regulations replicate the following Statutory Instruments:
- 10.2. S.I. 2011/2632 (Schedule 1), The Road Transport Operators Regulations 2011
- 10.2. S.I. 1995/2869, The Goods Vehicles (Licensing of Operators) Regulations 1995
- 10.3. S.I. 2001/3891, The Goods Vehicles (Enforcement Powers) Regulations 2001

11. Additional Information

- 11.1. Not applicable.



The Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010

**Proposals for the Regulation of Operators of Goods Vehicles
Full Regulatory Impact Assessment**

June 2012

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Proposals for the Regulation of Operators of Goods Vehicles from 1st July 2012 - Full Regulatory Impact Assessment

1.0 Introduction

- 1.1 A Regulatory Impact Assessment (RIA) is a tool that informs policy decisions. It provides a basis on which potential impacts can be identified and highlights the costs, benefits and risks of a proposal or set of proposals.
- 1.2 It is Government policy that all Departments and Agencies, where they exercise statutory powers and make rules that will have a general effect on others, should produce RIAs.
- 1.3 A partial RIA was prepared in conjunction with the preparation of the Goods Vehicles (Licensing of Operators) Bill in 2008 before it was presented to the Assembly. The Bill received Royal Assent and became the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, called in this assessment "the Goods Vehicles Act". Five sets of regulations and two commencement orders are now prepared and the respective issues in them consulted on. The responses and opinions have been taken into account and the final policies agreed.

2.0 Purpose and Intended Effect

- 2.1 *Objectives* The provisions of the new Goods Vehicles Act are designed to create a more effective and equitable regulatory framework for the operation of goods vehicles in Northern Ireland and to promote road and safety and fair competition.
- 2.2 The overall aim of the new Act is to have, in one dedicated statute, the primary powers needed to deal with all matters relating to the regulation of road freight operators in Northern Ireland. It brings Northern Ireland into line with the regulatory system currently in place in Great Britain – so the Act largely, but not wholly, replicates their Goods Vehicles (Licensing of Operators) Act 1995.

- 2.3 The new Act also replaces the existing provisions contained in the Transport Act (Northern Ireland) 1967 relating to
- (a) the licensing of road freight operators
 - (b) the licensing of road freight vehicles; and
 - (c) enforcement.

The key objectives are to introduce:

- licensing requirements for the own account sector- i.e. all own account operators to be licensed within three years from 1 October 2012
- temporary permits for all existing own account operators by 30 September 2012, pending licence application approval
- continuous licensing by 1 July 2012
- new requirements in relation to maintenance of vehicles by 1 July 2012
- undertakings by operators relating to compliance with transport and traffic law by 1 July 2012
- environmental considerations in relation to operating centres for all new operators by 1 July 2012 and
- new disciplinary and appeals procedure by 1 July 2012

- 2.4 The new Act will be implemented by 5 sets of regulations and two Commencement Orders detailed at 3.4 below.

3.0 Background

- 3.1 Presently the Department of the Environment, through the Driver & Vehicle Agency (DVA), is responsible under the Transport Act (NI) 1967 for the licensing of operators, their drivers and vehicles that carry other people's goods by road for reward.

- 3.2 It also determines the roadworthiness of vehicles and checks the repute of drivers and, together with the Police Service of Northern Ireland (PSNI), is responsible for freight regulation enforcement.
- 3.3 The need for change to the road freight operator licensing system in Northern Ireland has been raised by the freight industry, public representatives and consumer organisations who are dissatisfied with the way in which freight services are delivered under existing policy and legislation. They are concerned that the burden of regulation falls on one side of the freight industry, the extent of illegal operations, the poor standard of vehicle maintenance and the need for more and better enforcement.
- 3.4 The need for change is being addressed by the Goods Vehicles Act and implementation of the measures in the Act will be made through the following subordinate legislation:
- The Goods Vehicles (Licensing of Operators) (Exemption) Regulations (Northern Ireland) 2012;
 - The Goods Vehicles (Licensing of Operators) (Enforcement Powers) Regulations (Northern Ireland) 2012;
 - The Goods Vehicles (Licensing of Operators) Regulations (Northern Ireland) 2012;
 - The Goods Vehicles (Licensing of Operators) (Fees) Regulations (Northern Ireland) 2012;
 - The Goods Vehicles (Qualification of Operators) Regulations (Northern Ireland) 2012; and
 - The Goods Vehicles (Licensing of Operators) (2010 Act) (Commencement No. 1) Order (Northern Ireland) 2012
 - The Goods Vehicles (Licensing of Operators) (2010 Act) (Commencement No. 2 and Transitional Provisions) Order (Northern Ireland) 2012
- 3.5 This RIA gauges the potential impact that the Goods Vehicles Act will have on the freight industry; other businesses; freight users; and wider society.

4.0 Risk Assessment

4.1 Failure to implement the measures would have a number of negative consequences. These include:

- the exacerbation of the current problems of poor roadworthiness standards associated with the operation of goods vehicles;
- issues of unfair competition and levelling the playing field would not be addressed
- failure to curb the amount of illegal activity surrounding the industry;
- compounding the difficulty that legitimate hire or reward operators have in remaining competitive;
- failure to address environmental issues at operating centres; and
- failure to increase the level of enforcement and strengthen enforcement powers

5.0 Options

5.1 Recognising the deficiencies in the Northern Ireland road freight operator licensing system the Department considered a number of options for the way forward. Three options were identified:

5.2 Option 1

Do nothing - As the road freight operator licensing system in Northern Ireland meets the basic EU requirements the Department considered that doing nothing might be an option.

Advantages

- System meets EU requirements,
- No regulatory change for the industry

Disadvantages

- Unfair competition due to lack of consistency in legislation throughout the UK and one section of the industry remaining unregulated

- Weaker enforcement powers than the rest of the UK
- Lack of resource for enforcement activity
- No environmental standards at operating centres
- Unlike GB, no requirement to give maintenance undertakings
- No improvement in road safety
- No improvement in tackling organised crime

5.3 Option 2

Replicate the GB provisions

Advantages

- Consistency of policy and legislation throughout the UK – creating a fairer basis for competition
- Improved enforcement powers including impounding of vehicles
- Regulation of the whole industry
- Improved maintenance standards
- Application of environmental standards at operating centres
- Spreading the burden of regulation equitably across the whole industry
- Improving enforcement effectiveness against organised crime

Disadvantages

- In terms of economies of scale, full replication of GB provisions may not be the best option as this may not suit the needs of all stakeholders in NI

5.4 Option 3

Replicate the GB provisions with local variations

Advantages

- Consistency of policy and legislation throughout the UK – creating a fairer basis for competition
- Improved enforcement powers including impounding of vehicles

- Regulation of the whole industry
- Improved maintenance standards
- Application of environmental standards at operating centres
- Spreading the burden of regulation equitably across the whole industry
- Improving enforcement effectiveness against organised crime
- Given NI's size, there is insufficient volume/market size to justify a Traffic Commissioner for freight alone. Local variation will enable consideration of the wider implications including taxis and public transport.

5.5 Discussion of Options

Having carried out a review of the system in 1991 and two public consultations in 1998 and 2003, which all supported aligning the system with that in operation in GB; the Department rejected Option 1 (no change).

5.6 Consultation on the proposals revealed that there was a need for some local variation, for example, with regard to the appointment of a traffic commissioner for Northern Ireland. This was also considered to be a much wider issue as policy options for other Operator licensing areas (taxis and public transport) are currently being considered, so the Department rejected Option 2 (align with GB).

5.7 It was decided that Option 3 would be most suitable as it aligns the powers of the Department with those currently available in GB but gives some scope for the system in Northern Ireland to have slight variations.

6.0 Costs and Benefits

6.1 The overall aim of the new legislation is to have the primary and subordinate powers needed to deal with all matters relating to the regulation of road freight in Northern Ireland. This section sets out the

information sources used in drawing up the RIA, the business sectors affected by the legislation and the broad areas in which benefits and costs arise. It then goes on to consider those benefits and costs before concluding on the potential overall impact.

6.2 Information sources and technical assumptions

The Goods Vehicles Act and its regulations impact on the haulage sector and on a wide range of own account businesses that carry their own goods. The Department has had regular meetings with industry representative bodies to share information but it is difficult to get the views of the wide range of businesses which are not affiliated to any group. To try to get as accurate a picture as possible, the Department has sought the views of industry on a number of occasions and in a variety of ways.

6.3 Before beginning this RIA, a questionnaire was issued to all who attended the public meetings which were undertaken by Road Safety Division in early 2008. Around 2000 freight operators attended the briefings and 210 replies to the questionnaire were received, covering a wide variety of businesses affected by the legislation. Although there was a high attendance at the public meetings, there was a relatively low response rate from the questionnaires (12.7%). Furthermore, 54% of the questionnaires returned were not of sufficient quality to provide a full analysis of the impact of the legislation as many of the questions, which were appropriate to this part of the RIA, were left unanswered. Therefore, these results are used as indicators and it is noted that results obtained in surveys that have low response rates can be questioned because little, if anything, is known about whether non-respondents differ from respondents.

6.4 For the purposes of this document, the business sectors affected were divided into different categories those with 1-2, 3-9 and 10+ vehicles/trailers, and those residing in rural or urban areas due to the fact that, historically, rural areas lag behind urban areas in many respects. These categories are not mutually exclusive and the different businesses who returned questionnaires did not always fit easily into one or other of the categories.

- 6.5 The questionnaire responses suggested that 69% of these operators have 2 or fewer vehicles, 19% have between 3-9 vehicles, and 12% having 10 or more vehicles (see appendix 1). By including the number of trailers owned into this calculation the number of those falling within the categories changes to 56%, 27% and 16% for those with 1-2, 3-9 and 10+ vehicles/trailers respectively.
- 6.6 In terms of the rural/urban split, the majority of respondents were from a rural location (68%). This increased when compared to operator size i.e. for those with 1 or 2 vehicles/trailers the majority of respondents stated that they were from a rural location (74%). In contrast, 41% of those with 10 + vehicles/trailers were located in a rural setting.
- 6.7 In September 2010, the Department also wrote out to some 10,000 registered keepers of goods vehicles over 3500kg asking them for their views on the legislation and asking them to register for further information. Some 2000 replies were received.
- 6.8 Consultation Exercises – The Department consulted in 2003 on the policy for the primary Act and throughout 2010, 2011 and 2012 on the regulations. Response rates to all the consultations were low but responses were generally supportive of the new legislation. The most commonly raised concern was the potential impact on small businesses especially in the current economic climate.
- 6.9 Meetings with individual groups e.g. UFU, Roads Service, Councils, Horticultural Forum etc- The Department held meetings with representative groups and individuals on request to explain the legislation and where possible to address their concerns. The Department took on board their comments and where possible addressed these through transitional arrangements and exemptions.
- 6.10 In 2012 the Department conducted 4 information open days around Northern Ireland, inviting registered keepers of goods vehicles training

bodies, approved Tachograph centres, maintenance providers and manufacturers to attend.

While it is difficult to be precise, it is estimated some 2,500 people attended these events and the response by them was mostly supportive and constructive.

6.11 In addition to these face to face interactions the Department has set up a new website and engaged NI Direct to disseminate information and to deal with queries.

6.12 Communication with industry will continue throughout the transition period of the new legislation and as long as the industry needs advice and guidance. It is also planned to send information packs, including forms, out to operators in June.

6.13 Business Areas Affected - Impact on small business/all business.

The Department is aware that many own account operators have only 1 or 2 vehicles and it has therefore tried to minimise any potential impact on small businesses. However, it has not been possible to ascertain whether the impact on small businesses is disproportionate as no information is available to show the nature of business carried out by operators, the role of the vehicle in the business or the overall size of fleets i.e. an operator could have a large hire or reward business with a small number of own account vehicles involved.

6.14 Having spoken to the industry and listened to their views, the Department sought in its application of the new legislation to minimise the impact on business; and in particular small business. It has also sought to minimise the impact on some specific groups e.g. farmers, emergency services, etc (Exemption Regs) whilst trying to be fair to the majority. Some of the main concerns raised by businesses were costs for licenses, advertising, maintenance and operating centres.

- 6.15 In addition they believed that there would be an additional administrative burden associated with applying for a licence and record keeping.
- 6.16 Some operators felt there should be much more in the way of exemptions and suggested there was too much unnecessary red tape. Others cited that there was no similar legislation for Own Account operators in Ireland causing potential disadvantage for Northern Ireland operators [see section 7 below].
- 6.17 In order to address some of the concerns raised by industry the Department has decided to take the following actions:-
- 6.17.1 Simplified Application Process
- The Department recognises that a complicated application process would be unreasonable for existing businesses and it has therefore sought to make the route to holding a licence as smooth as possible for them. This approach recognises the prevailing economic conditions and balances that against the need to improve standards of compliance. It has therefore, in its Regulations and administrative arrangements, introduced a number of measures as follows:
- 6.17.2 Simplified Application Form
- The Department has developed a simplified application form for all existing own account operators who apply within a limited time period. This removes the need to supply documentary supporting evidence and relies on a declaration. A simplified form has also been developed for existing hire or reward operators who will be required to apply for a licence under the Goods Vehicles Act when their existing licence expires.
- 6.17.3 Operating Centre Standards
- Many operators have been in business for years and have parked their vehicle at the side of their house or on their land. To ease the burden

on existing businesses, the Department will relax the standards for operating centres by permitting parking in driveways but no on street operating centres will be approved. If complaints are received from neighbours on environmental grounds, the Department may choose to review the operating centre.

6.17.4 Basic Disclosure Certificates

The Department is removing the requirement for Hire or Reward operators to provide and pay for basic disclosure certificates for key personnel in their organisations. This will save £26 for each person and represents an estimated total saving to the industry of £0.52m every 5 years (based on 2 certificates per company). The procedures used in the rest of the UK will be adopted here.

6.17.5 Advertising of Applications

The new legislation requires applicants for an operators licence to publish their application in the local press as a prerequisite to having the application accepted. The Department proposes to waive this requirement for all existing operators (both own Account and Hire or Reward), retaining it however for all new businesses. This will save existing operators an estimated £175 on average and the industry as a whole some £1.75m.

6.17.5 Vehicles in Scope

This was one of the foremost considerations when compiling the Exemption Regulations. The European standard requires all vehicles and combinations of vehicles (i.e. towing vehicle and trailer) over 3,500kg gross plated weight and used for hire or reward to be within the scope of the licensing regime, but there is no such EU requirement for own account operators. While there is no scope to vary this for hire or reward operators, the Department took the view that for own account operators it should exclude the trailer weight from the calculation. Though it is not possible to be precise, this would remove, potentially thousands of small businesses, from the requirement to be licensed as operators, and therefore from any impact from the legislation. The Department will monitor the outworking of this decision and consider if any adverse impact necessitates amendment in the future.

6.18 Costs

The new legislation will give rise to a range of direct and indirect costs for businesses. These include:

- Direct costs to industry in meeting the additional requirements of the new legislation, include licensing fees and compliance assurance fees;
- Indirect costs, for example, any associated policy, set up and administrative costs and costs for maintaining an inspection and maintenance regime;
- Wider economic impacts, for example in relation to the potential for growth, impacts on employment and competitiveness. Further detail on costs is set out below.

6.19 Direct Costs

Cost of a Licence	Application Fee	£254.00
Cost of a Licence	Grant Fee	£449.00
Cost of Compliance	Vehicle	£38.50
Cost of Compliance	Trailer	£15.00
Cost of advertising	Estimate	£175.00

6.20 Indirect Costs

Cost of Operating Centre	£0 to £1,040 annually
Cost of regular safety inspection	£135 to £270 annually
Cost of record keeping	Not known

6.21 The costs to the Department of implementing the requirements of the Goods Vehicles Act over the next 7 years are as follows:

	Licensing	Compliance
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2012/13	£2.44m	£0.625m
2013/14	£1.12m	£1.251m
2014/15	£1.0m	£1.251m
2015/16	£.98m	£1.251m
2016/17	£.98m	£1.251m
2017/18	£.98m	£1.251m
2018/19	£.98m	£1.251m

6.22 The scale of charges to operators to recover these costs is as follows:

Licensing

Application/Variation Fee - £254 (one off)

Grant / continuation Fee - £449 (every 5 years)

Interim Licence Fee (voluntary) - £68 (paid with application fee)

Compliance

Addition to the annual Vehicle Test Fee - £38.50

Addition to the annual Trailer Test Fee - £15.00

With the exception of the grant/continuation fee (£397 in GB), these rates are in line with the Department's commitment to keep the fees (initially) at the same level as those in the rest of the UK.

6.23 While it strenuously sought to honour the above commitment, the Department had to recover its costs and so consulted on an increased fee level of 7% above those in GB.

The application of the £52 increase in the grant/continuation fee represents an overall difference between NI operators and their GB counterparts of 7% over 5 years or £10.40 per year.

6.24 Details of the direct impact of these fees on operators are set out in Annex 1. The cost for the first 5 years is shown in the following table:

No of Vehicles (and Trailers)	Current 5 yearly cost for OA Operators	Current 1 st 5 yearly cost for HoR Operators	Proposed 1 st 5 yearly cost for all Operators*	5 yearly difference for OA Operators	5 yearly difference for HoR Operators
1	£0	£502	£896	£896	£394
1 (+1)	£0	£502	£970	£970	£468
2	£0	£802	£1,088	£1,088	£286
2 (+2)	£0	£802	£1,238	£1,238	£436
3	£0	£1102	£1,281	£1,281	£179
4	£0	£1402	£1,473	£1,473	£71
5	£0	£1702	£1,666	£1,666	-£36
10	£0	£3202	£2,629	£2,629	-£574
15	£0	£4702	£3,591	£3,591	-£1,111
20	£0	£6202	£4,554	£4,554	-£1,648

*All existing own account operators will be issued with a permit pending the determination of their licence application. This will be issued on payment of the application fee of £254. As the application process may take up to three years it should be noted that some operators may be allowed to operate for up to three years before being required to pay the grant fee of £449.

6.25 There may be additional costs to operators, but these are difficult to quantify due the wide diversity of business activity. Many businesses affected may already incur these costs as part of a good practice approach to their transport operations. Examples of the type and range of these costs is addressed below.

6.26 Information based on the lists of registered vehicles and the current Operator licensing database shows that the number of operators and vehicles per operator are as follows:

No of Vehicles	Own Account Operators	Hire or Reward Operators	All Operators
1	6415 (75%)	755 (44%)	7170 (70.1%)
2	895 (10.5%)	269 (16%)	1164 (11.4%)
3–10	999 (12%)	535 (31%)	1534 (15%)
11–20	127 (1.5%)	86 (5%)	213 (2.1%)
20+	85 (1%)	63 (4%)	148 (1.4%)

6.27 Non Quantifiable Costs

6.27.1 Operating Centres

Many operators already have centres as part of their business and will not incur any further costs as a result of having to comply with the new legislation. In order to ease any potential burden on existing businesses the Department is relaxing the standards in relation to operating centres so that the majority of these will not incur any further cost. Any brand new operator will have to satisfy the requirements in relation to operating centres and also the advertising of their application in local press.

Estimated costs for new operators

Advertising (average cost) - £175 per operating Centre

Rent for Operating Centre*

- Medium sized Goods Vehicle - £10 per week
- 44 Tonne unit and Trailer - £15 - £20 per week

*Estimates provided by FTA

6.27.2 Costs of record keeping 15 months

Many operators already keep records of their inspections and maintenance activity as part of good practice. No figures are available as to the likely impact of doing this for the first time.

6.27.3 Impact of new sanctions

While it is desirable that all operators comply with traffic and transport law, it has to be recognised that this is not the case and some operators will suffer because of increased enforcement activity under the Act. This can range from a graduated fixed penalty of £60 through to loss of a vehicle by impounding or loss of business through having their licence to operator revoked.

6.27.4 Planned Preventative Maintenance

The Department believes that all operators should already be carrying out planned maintenance in line with current DVA guidelines.

However, for those who do not already do this, there will be a potential cost of £180 to £360 yearly per vehicle. This is based on quarterly inspections ranging from £45 to £90 each depending on the maintenance provider.

6.27.5 Additional Costs to Consumers

The increased cost in licensing may result in an increase in cost of service to consumers. However, feedback from the licensed sector of the industry suggests that the cost to consumers are being artificially held at a low level due to undercutting by illegal activity of some operators. One of the key objectives of the proposed legislation is to 'level the playing field'

6.27.6 Potential Costs arising from absence of own account licensing in Ireland

There is no requirement in Ireland for own account operators to be licensed and some believe that this may disadvantage NI operators, especially those living in border areas. This is addressed in more detail in section 7 below.

6.28 Benefits

6.29 A range of benefits may accrue from the implementation of the legislation but, again due to the unavailability of supporting data, these are difficult to quantify.

6.29.1 These include potential direct benefits to industry arise from:

- fairness in competition by the regulation of all operators (see below);
- Spreading the cost of regulation across the whole industry as opposed to just 25% of it as at present;
- Savings from planned preventative maintenance regimes. For example a rear axle oil leak resulted in a breakdown in the Dublin area at a cost of £400 in vehicle recovery and £2,500 for the replacement axle and driveline. This defect could have been detected during a planned maintenance inspection and repaired at a fraction of the cost and with no inconvenience to the operator or customer.
- Operators achieving business goals through improved reliability and service delivery resulting in greater customer confidence.
- Improved industry image and ability to attract high calibre employees.
- Reduction of targeting by enforcement authorities
- Potential reduction in insurance costs

6.29.2 Indirect benefits to society include

- the improvement in road Safety (this is detailed further below);
- potential benefits to other industries arising from the changed requirements introduced by the legislation, e.g. increased demand for maintenance services and opportunities for providers of training and legal advice.

- a higher degree of protection of the environment and human health, from the more robust system of controls introduced by the legislation (see below); and
- Increased powers and Improvement in information available to counteract organised crime; such a impounding of vehicles not on operators licences and sharing of data between licensing authorities and enforcement agencies.
- DVA: higher pass rates at test, providing greater test capacity and resulting in lower waiting times.

6.30 Fairness in competition

Licensing helps to provide a level playing field whereby all operators must comply with legislative requirements. Currently compliance varies according to reports. For example, a road freight compliance survey completed in 2011, which was conducted on a random sample of 926 heavy goods vehicles (+3.5 tonnes) concluded that 37% of vehicles checked had defects, 23 % had prohibitive defects. The introduction of the new legislation should create fairer competition by ensuring that those commercial vehicles which were not roadworthy make the necessary improvements or face the risk of impounding and prosecution. Currently only the hire or reward sector [25% of the industry] are licensed and can therefore have licensing sanctions taken against them. The extension of regulation to the own account sector and the potential impact of non compliance accentuates the need to operate within the law and should go some way towards levelling the playing field.

6.31 Protection of the environment and human health

One of the additional benefits of the legislation is that it will provide a more robust system for the protection of the environment and human health from the potential adverse effects of vehicles which are not roadworthy. The scale of the benefits will depend upon:

- the exemptions which will be applied;

- the extent to which these factors may have given rise to adverse effects;
- the scale of damage to the environment and health associated with these adverse effects; and
- the costs of such environmental and health damage.

6.32 No data is available on the nature or scale of environmental and health benefits that will be obtained under the new regulations. The benefits that may arise from each of the key changes being introduced are discussed in qualitative terms below.

6.33 Road transport is a key source of many air pollutants, such as nitrogen oxides, particulate matter and noise, particularly in urban areas. Emissions from vehicles have reduced considerably in recent years as new vehicles have become cleaner in response to European emission standards legislation. The sectoral change of carbon dioxide emissions shows that between 1900 and 2005 that carbon dioxide from transport increased by 41%. Most other sectors have seen a significant decrease in carbon dioxide emissions between the same period. Carbon dioxide emissions from road transport in Northern Ireland account for nearly one third of carbon emissions in 2005, and road transport is also the largest combustion related source of nitrous oxide.

6.34 Given that the vehicle condition could impact on emissions, it could be surmised that the need for regular maintenance could improve the emissions of these vehicles.

6.35 Road Safety

Each fatality on Northern Ireland's roads represents an economic cost of £1.6m and each serious injury represents a cost of £178,000. These costs account for many economic as well as social and environmental factors including loss of output, loss of earnings, ambulance costs and costs of hospital treatment and human costs representing pain, grief and suffering to the casualty, relatives and friends. Using these figures

it is possible to estimate, in cost-benefit terms, the cost of road traffic accidents as a result of goods vehicles. In 2006, for example, the total cost of road traffic collisions caused by goods vehicles (>3.5T) was £8,805,870 (£3,749,670 in terms of fatal accidents and £5,056,200 in terms of serious injured). These figures exclude those that were slightly injured; therefore the figure of £8,805,870 for 2006 is underestimated.

Given that the vehicles condition could have been a factor in these accidents, it could be surmised that some of these accidents would be avoided in the future given the need for regular maintenance and undertakings.

6.36 Balance of costs and benefits

Since most of benefits and costs were unquantifiable, it is not possible to compare total costs and total benefits. The amended requirements are, for the most part, expected by industry to have limited direct costs. This is reflected in the fact that, of those that answered the questionnaire in 2008 55% concluded that the total impact of the new legislation would have no significant change or an advantage to their business. Operators attending the Information Open Days held in March 2012 also supported the view that the impact of the legislation was acceptable. The Department agrees that the new requirements do not constitute a major change from current practice in the UK. The new regulations simply clarify what is required (and have the effect of ensuring that the same high standards are met across the UK).

7.0 Potential 'Flagging Out' of Operators to Ireland

7.1 It is worth noting that because Northern Ireland has a land border with Ireland, which is less stringent with regard to road freight licensing, some businesses may consider the possibility of relocating to Ireland to avoid the stricter licensing legislation. Response at the February/March 2008 industry briefings indicated that only 11% stated that they would consider relocating as a result of this legislation, 72%

of which were from the rural areas and 83% were within the 1-2, 3-9 category.

7.2 Former Minister, Sammy Wilson and some of those consulted when the primary legislation was being prepared felt that the new legislation presents a potential disadvantage to NI operators, who will be forced to adhere to a more stringent licensing regime than that operated in Ireland. They believe that there is therefore potential for operators to 'flag out' to Ireland.

7.3 The concern is that Irish vehicles could park on NI roads at night whereas NI vehicles would normally have to be parked off-road in an operating centre. Flagging out would enable operators to park on NI roads thus avoiding the costs associated with operating centres, while any failure by drivers of flagged out vehicles to adhere to traffic or transport laws would have no licensing implications.

7.4 The Department has considered this matter at length and has discussed it with industry representative bodies to assess the likelihood of its presenting a real problem. It would not affect the hire or reward sector as they are already licensed. The own account sector, which includes quarries, bakeries, etc, would be unlikely to flag out as their premises are long established and they would have to move their whole operations across the border. In addition, the Department believes that operators would find it costly to flag out for the following reasons.

7.5 Flagging out Costs

If an own account operator registers vehicles in Ireland he would have to pay Irish vehicle tax as opposed to UK vehicle excise duty. While it is difficult, due to the different way the vehicles are categorised, to be exact about comparisons, in broad terms the following gives some indication of the respective costs for vehicle tax.

7.5.1 Heavy Goods Vehicles over 7.5 tonnes (normally hire or reward)

- £200 to £2028 per year in NI
- €470 to €4498 per year in Ireland

Goods Vehicles 3.5 to 7.5 tonnes (mostly own account)

- £168 per year in NI
- €364 per year in Ireland

7.5.2 The figures suggest that an operator flagging out would in all likelihood have to pay more than the 'O' licence fee in extra vehicle tax in Ireland.

7.5.3 A requirement of the Irish Revenue Commission is that for vehicles to be registered in Ireland they must also be insured in Ireland.

7.5.4 For an operator to set up in Ireland there may be a range of other costs to consider depending on the set up arrangements. For example, registering as self employed with the Revenue Commission; registering with the Companies Registration Office if a business name is being used or if it is a limited company; drawing up a legal partnership agreement if forming a partnership. Also if a person is self employed there is a tax to cover pension, benefits, etc.

8.0 Small Business Impact Test

8.1 The Department has established contact with a group of key stakeholders, including public and private entrepreneurs and large and small businesses. Through a series of meetings, the opinions of the industry have been sought and account has been taken of them. The Department is aware of the industry's concerns and has taken them into account in the preparation of its detailed proposals as indicated above.

9.0 Enforcement and Sanctions

- 9.1 Northern Ireland has much weaker freight licensing enforcement powers than in GB. This issue, combined with the fact that only one side of the industry is regulated has given industry representatives and enforcement teams both in NI and GB cause for concern for some time. Traffic Commissioners, enforcement agencies and police forces in GB have complained about the standards of NI vehicles crossing to GB and the breaches of traffic and transport laws by them. Illegal operators, who avoid standard checks and controls, pose a major threat to safety and environmental standards within the road haulage industry.
- 9.2 It is the responsibility not only of operators, but also of drivers, to ensure that they comply with the rules. There is insufficient sanction within existing freight licensing legislation against operators and drivers who fail to keep their vehicles in a fit and serviceable condition. There are examples of forgery of, for example, licensing documents, of overloading, of speeding, contravention of parking restrictions and prohibitions and of unlawful use of vehicles and insurance.
- 9.3 The new Act and its Regulations introduces tougher powers against non compliance. The affect of this will be to make it easier to penalise offenders and create a deterrent for others.

10.0 Monitoring and Review

- 10.1 The impact of implementing the proposals will be assessed by monitoring any changes to the numbers who apply for road freight operator licences; and through the ongoing bi-annual compliance surveys. Any significant changes to the results will highlight any benefits or weaknesses in the new regulations.
- 10.2 A road freight forum comprising of representatives of the freight industry and any other interested parties meets regularly with the Department. Meetings of this body will facilitate a process of feed back and evaluation.
- 10.3 Monitoring will be carried out on an annual basis and will assess

- Representation of goods vehicles over 3.5 tonnes in road traffic statistics
- % of own account operators licensed
- No of vehicles over 3.5 tonnes on operator licences
- Any impact resulting from the decision to relax the criteria of scope for own account operators with respect to vehicle and trailer combinations
- Any impacts on combating organised crime
- No of Public Inquiries
- No of Impoundings
- No of suspensions/ revocations/ curtailments/ disqualifications/ environmental cases
- Cost / income
- Roadside compliance statistics (biannual)

Current and Proposed Costs for Operators

Hire or Reward Operators

Number of Vehicles	Current Costs	Potential Costs	5 yearly difference	Yearly difference	Number of Operators Affected
1	£502	£896	£394	£79	755
1 + 1 trailer	£502	£970	£468	£94	
2	£802	£1,088	£286	£57	269
2 +2 trailers	£802	£1,238	£436	£87	
3	£1,102	£1,281	£179	£36	160
4	£1,402	£1,473	£71	£14	109
5	£1,702	£1,666	-£36	-£7	89
10	£3,202	£2,629	-£574	-£115	21
15	£4,702	£3,591	-£1,111	-£222	10
20	£6,202	£4,554	-£1,648	-£330	5

Own Account Operators

Number of Vehicles	Current Costs	Potential Costs	5 yearly difference	Yearly difference	Number of Operators Affected
1	£0	£896	£896	£179	6415
1 + 1 trailer	£0	£970	£970	£194	
2	£0	£1,088	£1,088	£218	895
2 +2 trailers	£0	£1,238	£1,238	£248	
3	£0	£1,281	£1,281	£256	391
4	£0	£1,473	£1,473	£295	213
5	£0	£1,666	£1,666	£333	132
10	£0	£2,629	£2,629	£526	34
15	£0	£3,591	£3,591	£718	14
20	£0	£4,554	£4,554	£911	11

11.0 Declaration

“I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.”

Signed

Iain Greenway

Director of Road Safety and Vehicle Regulation Division

Date

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