

Title:

The Community Drivers' Hours and Passenger and Goods Vehicles (Community Recording Equipment) Regulations 2011

Lead department or agency:

Department for Transport

Other departments or agencies:

Impact Assessment (IA)

IA No: DfT00058

Date: 14/07/2011

Stage: Final

Source of intervention: EU

Type of measure: Primary legislation

Contact for enquiries:

Jennifer Raynor

020 7944 2123

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

1) The weekly rest requirement in the EU drivers' hours rules was identified as having a significant impact on the retention and training of volunteer reservists and instructors in the Cadet Corps. The European Commission has agreed to a limited derogation from the weekly rest requirement of the EU drivers' hours rules for these drivers. Intervention is necessary to implement it into UK law. 2) Regulations governing fees for the approval of tachograph fitters and workshops need amending to update the reference to the main tachograph legislation. 3) Regulations temporarily relaxing the domestic drivers' hours rules for vehicles involved in milk collection during the last Foot and Mouth Disease (FMD) outbreak in 2007 need revoking as they are now redundant.

What are the policy objectives and the intended effects?

- 1) Enable reservists who drive for a living to take part in weekend military training without breaking the EU drivers' hours rules or having a negative impact on their employers or the MoD having to employ additional reservists.
- 2) Make it easier to read and interpret the Regulations governing fees for the approval of tachograph fitters and workshops.
- 3) Revoke redundant Regulations relaxing the domestic drivers' hours rules for vehicles involved in milk collection during the last FMD outbreak in 2007.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1 is to introduce the proposed Regulations which would a) implement the derogation from the weekly rest requirement of the EU drivers' hours rules for volunteer reservists and instructors in the Cadet Corps; b) amend the Regulations governing fees for the approval of tachograph fitters and workshops to update reference to the main tachograph legislation; and c) revoke the Regulations temporarily relaxing the domestic drivers' hours rules for vehicles involved in milk collection during the last FMD outbreak in 2007. Option 1 is the preferred option as doing nothing would mean a) many professional drivers would continue to not be able to fully complete their duties as reservists having a negative effect on drivers and the UK's national defence capabilities; b) Regulations governing fees for the approval of tachograph fitters and workshops would be out of date; and c) redundant Regulations relating to the last FMD outbreak would remain in force.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 1/2016

What is the basis for this review? Duty to review. If applicable, set sunset clause date: Month/Year

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review? Yes

SELECT SIGNATORY Sign-off_ For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: Date:

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year 2024	PV Base Year 2024	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)
			Low: 9.08 High: 11.334 Best Estimate: 10.2136

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.00	0.00	0.00
High	0.00	0.0018m	0.016m
Best Estimate	0.00	0.00075m	0.0064m

Description and scale of key monetised costs by 'main affected groups'

The Department considers that it is unlikely that implementing this derogation would have a negative impact on road safety due to the limited nature of the derogation and the in-built safeguards to limit risk. However, to cover the possibility of a small risk to road safety, the best estimate figure assumes a 5% increase in the number of road accidents caused by fatigue as a result of this derogation. The low costs presume a 0% increase and the high costs presume a 10% increase.

Other key non-monetised costs by 'main affected groups'

None.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.00	0.97m	9.08m
High	0.00	1.21m	11.35m
Best Estimate	0.00	1.09m	10.22m

Description and scale of key monetised benefits by 'main affected groups'

The estimated monetised benefits of the derogation to the TA would be not having to recruit additional non-vocational drivers to make up for the shortfall in reservists caused by vocational drivers not being able to complete the necessary training due to the weekly rest requirements in the EU drivers' hours rules. High and low benefits have been estimated to take into account the natural turnover of the TA that would occur with or with the derogation (e.g. retirement).

Other key non-monetised benefits by 'main affected groups'

1) Professional drivers who are reservists would benefit as they will be able to carry out weekend training without this impacting upon their driving duties. This in turn would benefit these drivers' primary employers and the UK's national defence capabilities. 2) Regulations governing fees for the approval of tachograph fitters and workshops would be easier to read and interpret. 3) Removes temporary exemption related to the FMD outbreak that is no longer required.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

1) The derogation was sought after requests from industry, the MoD and MPs and the result of 18 months of protracted negotiations with the Commission. It is not considered contentious and is likely to be more contentious if not implemented. The main risk associated with it is its impact on road safety but this risk has been identified and safeguards introduced in the Regulations. We have assumed that all/the majority of the reservists affected by the derogation would use it as it allows them to carry out both their reservist duties and those of their primary employment.

2) HM Treasury is content with the update of references in the Regulations governing fees for the approval of tachograph fitters and workshops.

Direct impact on business (Equivalent Annual) (£m):		In scope of OIOO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	Yes
			NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	Great Britain
From what date will the policy be implemented?	01/10/2010
Which organisation(s) will enforce the policy?	VOSA and the Police
What is the annual change in enforcement cost (£m)?	N/A
Does enforcement comply with Hampton principles?	Yes
Does implementation go beyond minimum EU requirements?	No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A Non-traded: N/A
Does the proposal have an impact on competition?	No
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: N/A Benefits: N/A
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro NQ < 20 NQ Small NQ Medium NQ Large NQ
Are any of these organisations exempt?	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	N/A
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	12
Small firms Small Firms Impact Test guidance	No	12
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	N/A
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	N/A
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	8-9
Human rights Human Rights Impact Test guidance	No	N/A
Justice system Justice Impact Test guidance	No	N/A
Rural proofing Rural Proofing Impact Test guidance	No	N/A
Sustainable development Sustainable Development Impact Test guidance	No	N/A

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUT's measures.

No. Legislation or publication

- 1 Labour Force Survey statistics: Employment status by occupation (Quarter 2 April - June 2010)
Source: <http://www.statistics.gov.uk/statbase/Source.asp?vlnk=358>
- 2 Reported Road Casualties Great Britain 2009: Annual Report
Source: <http://www.dft.gov.uk/pgr/statistics/datatablespublications/accidents/casualtiesgbar/rcgb2009>
- 3 Benefits to Society Arising from Prevention of Road Accidents and Casualties. Source: <http://www.dft.gov.uk/webtag/documents/expert/unit3.4.1.php#02>
- 4 HMT deflators
Source: http://www.hm-treasury.gov.uk/data_gdp_index.htm

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	0	0	0	0	0	0	0	0	0	0
Annual recurring cost	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007
Total annual costs	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007	0.0007
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	1.79	2.71	3.62	1.84	0.92	0	0	0	0	0
Total annual benefits	1.79	2.71	3.62	1.84	0.92	0	0	0	0	0

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Introduction

1. The EU drivers' hours rules set maximum limits on driving time and minimum requirements for breaks and rest periods for most heavy goods vehicle drivers and about half the bus and coach drivers operating in Great Britain. These rules are enforced by means of the tachograph - the use of which is governed by Council Regulation (EEC) No. 3821/85. Most vehicles not in scope of the EU drivers' hours rules come in scope of the GB domestic drivers' hours rules from which temporary relaxations can be granted.

2. This implementation stage Impact Assessment (IA) assesses 'The Community Drivers' Hours and Passenger and Goods Vehicles (Community Recording Equipment) Regulations 2011' which would:

(a) **Implement a derogation from the EU drivers' hours rules for TA reservists.** A European Commission decision granting a derogation from the European drivers' hours rules under Regulation (EC) No. 561/2006 for professional drivers operating solely within the UK when undertaking military training with the volunteer reserve forces or acting as instructors in the Cadet Corps;

(b) **Update references to regulations governing fees for the approval of tachograph fitters and workshops.** There is a need to update The Passenger and Goods Vehicles (Recording Equipment) Approval of Fitters and Workshops (Fees) Regulations 1986 - "the fee Regulations";

(c) **Revoke a temporary exemption from the domestic drivers' hours rules that was introduced during the Foot and Mouth crisis.** The Drivers' Hours (Goods Vehicles) (Milk Collection) (Temporary Exemption) Regulations 2007 - "the temporary exemption regulations" - need revoking.

Problems under consideration

3. Drivers' hours rules are in place to improve road safety, promote fair competition and improve working conditions for drivers.

Derogation from the EU drivers' hours rules for TA reservists

4. Article 8.6 of EC Regulation 561/2006, which requires drivers to take weekly rest no later than at the end of six 24-hour periods from the end of the previous weekly rest period, was identified by the Ministry of Defence (MoD) as having a significant impact on the retention and training of volunteer reservists and instructors in the Cadet Corps.

Update of references to regulations governing fees for the approval of tachograph fitters and workshops

5. The Passenger and Goods Vehicles (Recording Equipment) (Approval of fitters and workshops) (Fees) Regulations 1986 concerns fees which the Secretary of State may require to be paid in connection with the approval of a fitter or workshop for the installation or repair of recording equipment (tachograph). The fee regulations need amending to update their reference to the main tachograph legislation - Council Regulation (EEC) No. 3821/85 as currently it is out of date.

Revocation of temporary exemption from the domestic drivers' hours rules during the Foot and Mouth crisis

6. The Drivers' Hours (Goods Vehicles) (Milk Collection) (Temporary Exemption) Regulations 2007 need to be revoked as the last Foot and Mouth Disease (FMD) movement restrictions were lifted on 31 December 2007, thus making the temporary exemption regulations redundant.

Rationale for intervention

Derogation from the EU drivers' hours rules for TA reservists

7. Volunteer reserve forces constitute 10% of army personnel deployed on operations and play an important role in the UK reserve forces - in matters of national defence and in military operations

(particularly overseas). Nearly all members of the reserve forces have some type of obligation to be called out into permanent service (mobilised). Indeed, to date over 50% of reservists have served in the Balkans, Iraq and Afghanistan.

8. In order to ensure the capability of reservists to participate in these military operations, a high standard of training is required for each member of the volunteer reserve forces equating to 35 days training per annum, that is, 10 weekend training sessions and a 15 consecutive days annual camp. Instructors in the Cadet Corps - which provide a variety of different youth activities - undertake similar periods of training to the reserve forces (many of the instructors are, in fact, reservists). The UK armed forces are also dependent on reservists for some specialists, and a lack of training by them would directly impact upon the ability of the armed forces to operate.

9. However, it is the area of weekend training that gives the UK volunteer reserve forces the most problems and one where they are uniquely affected by EC Regulation 561/2006. Weekend training is essential to the UK volunteer reserve forces for several reasons:

- A large amount of training is required. The UK volunteer reserve forces are trained to a very high standard and are capable of being used on operations with very little notice. To maintain this standard requires, on average, around 30-40 days training per year. It is not possible for most people to obtain 40 days leave from an employer in 'blocks' which means that most of this training takes place at weekends;
- Availability of training estate and equipment. The UK volunteer reserve forces have, by nature of the size of the UK and the distribution of the population (reserve units tend to be concentrated in more populated areas), limited access to training areas, and those that are near them tend to be used by regular forces during the week. Access is only available at weekends;
- The UK system of volunteer reserve forces has, in its current form, been in existence for over 100 years, and has proved extremely effective. Inability to train at weekends would entail a fundamental revision of the UK reserves, which in turn would have an effect on the ability of the armed forces to operate;
- As well as providing additional capability for large scale operations, the volunteer reserve forces also support the regular forces for long-term operations. In order to be able to do so, a high level of training is necessary which entails weekend training.
- Implementing the derogation would also be of benefit to primary employers of professional drivers who are reservists. The only alternative way to deal with the weekly rest requirements imposed by EC Regulation 561/2006 (other than the granting of this derogation) is for the primary employer to put back the driver's start time to accommodate what rest was due - which would effectively mean to the Tuesday in some cases. Even then an offence could be committed by the driver as soon as he starts his training (because he is not taking the rest he is required to take). If the primary employer refuses to grant compensatory rest, the driver would have to reduce the amount of training he undertakes thus compromising their operational readiness.

10. The impact of not implementing this derogation will be a significant loss of training opportunities for the reserve forces, which will then have a direct effect on the ability of the MoD to support current and future operations. This will have a negative effect on recruitment, increasing the burden on individuals to manage their Reserve commitment and regular employment, damaging the essential support from employers, having to allow their staff additional long periods of absence from their primary place of work. If individuals fail to manage their Reserve commitment and regular employment they will be forced to leave the reserve forces and the MoD would have to employ additional reservists. On the other hand, if the derogation is implemented, the MoD would not need to employ additional reservists to make up for the short-fall in the number of reservists who are being prevented from carrying out the necessary reservist training due to the restrictions placed on them by rules governing their primary employment. The primary employers of professional drivers who are TA reservists would benefit from the derogation as they would not need to postpone the driver's start time to accommodate the rest that was due. They would therefore not have to employ additional drivers to drive when the reservists are taking their weekly rest.

11. The UK armed forces are in an exceptional position as conscription was abandoned 50 years ago and there is no pool of recently trained reservists to call upon. The MoD already had problems retaining and recruiting both regular soldiers and reservists and EC Regulation 561/2006 exacerbated these problems.

12. The UK wrote to the European Commission requesting a derogation from the weekly rest requirements in Article 8.6 of EC Regulation 561/2006 for professional drivers when they undertake

military training with the volunteer reserve forces or act as instructors in the Cadet Corps at the weekend. This authorisation was requested in accordance with Article 14.1 of EC Regulation 561/2006 which provides for exceptions from the application of Articles 6 to 9 (driving limits, break requirements and rest periods) of EC Regulation 561/2006 to transport operations carried out in exceptional circumstances.

13. The request for a derogation was in direct response to complaints that employers were actively banning their employees from being members of the volunteer reserve forces (this is based on anecdotal evidence received from the MoD and so we do not know exactly how many employers were doing so). The requirement in EC Regulation 561/2006 to take at least 45 consecutive hours rest every other week, and at least 24 consecutive hours rest in those weeks where 45 hours is not taken, made it virtually impossible for a driver who finishes his normal driving duties on a Friday to complete training as a volunteer reservist or as an instructor in the Cadet Corps during the weekend and then resume his normal driving duties again on a Monday morning. This either placed an unacceptable burden on the primary employer to make up residual rest which they were often unwilling to do, or made it very difficult for the volunteer reserve forces to recruit professional drivers.

14. The training does not count as rest as defined in Article 4 (f) of EC Regulation 561/2006 because a volunteer reservist or instructor in the Cadet Corps is required to follow orders and is paid for his work. Therefore he is required, in common with other drivers who have a second job, to record it as a period of other work and declare it to his primary employer.

15. Prior to the granting of the derogation by the European Commission, the Department did work closely with the MoD to develop solutions to mitigate the worst of the problem. The Vehicle and Operator Services Agency (VOSA) and the Police who enforce the rules, took a pragmatic approach to enforcement. What this approach meant in practice was that a driver was able to undertake his duties as a TA reservist immediately after he finished work for his primary employer on a Friday, even though this took him beyond the sixth day when a weekly rest period would normally be due. However, the driver still had to complete the required 45 or 24 hour weekly rest period (and any necessary compensatory rest) before he recommenced work for his primary employer on the following Monday. Therefore EC Regulation 561/2006 continued to limit the ability of the MoD to train reservists and this mitigation could only provide a temporary solution to what was proven to be a permanent problem which unresolved could not have lasted much longer without causing serious damage to the reserve forces.

16. Alternative options include further liberalisation of the rules or the imposition of further safeguards. However, the derogation is based on the specific requirements of the MoD to enable members of the volunteer reserve forces to fulfil their training obligations. A more extensive derogation would bring no further benefit to the armed forces, but could increase the risk to road safety if adequate rest was not protected. Any further safeguards would continue to restrain the ability of armed forces' reservists to train and are not expected to increase road safety for the reasons explained above.

Update of references to fees for the approval of tachograph fitters and workshops

17. The reference to Council Regulation (EEC) No. 3821/85 in The Passenger and Goods Vehicles (Recording Equipment) (Approval of fitters and workshops) (Fees) Regulations 1986 is very out of date as Council Regulation (EEC) No. 3821/85 has been amended 16 times which is not reflected in the current definition.

18. The fee regulations do not impose criminal offences, nor deal with substantive requirements for approval of fitters, only what fees should be paid. It is therefore a tidying up exercise to provide clarity and introduces no new requirements.

Revocation of temporary exemption from the domestic drivers' hours rules during the Foot and Mouth crisis

19. The Drivers' Hours (Goods Vehicles) (Milk Collection) (Temporary Exemption) Regulations 2007 extended the maximum permissible working day of drivers engaged in the collection and transportation of milk to allow for disinfecting operations necessitated by the outbreak of FMD in Great Britain in August 2007. Although the principal temporary exemption regulations were intended to be temporary in nature, they did not specify an expiry date, because at the time they were made it was not known for how long the FMD outbreak would last.

20. These temporary exemption regulations should therefore be revoked as the last FMD movement restrictions were lifted on 31 December 2007, thus making them redundant. This is an administrative matter to ensure the legislation is up to date. It imposes no additional burdens and does not exempt anyone else from the drivers' hours rules. The revocation would remove an exemption from the rules which is no longer required (because the emergency situation has passed).

Policy objective

Derogation from the EU drivers' hours rules for TA reservists

21. Implementing the derogation granted by the European Commission into UK law would address the problem experienced by professional drivers who also act as reservists by suspending the requirement to take a weekly rest period, and a daily rest period within a period of 24 hours when the driver commences the weekend training, for those professional drivers operating solely within the UK when they commence their military training with the volunteer reserve forces or act as instructors in the Cadet Corps at the weekend. As a result, reservists who drive for a living can now take part in weekend military training without breaking the EU drivers' hours rules. A driver who finishes his normal driving duties on a Friday will now be allowed to complete a period of military training at the weekend without this impacting on his normal driving duties the next week.

22. Reservists who work as professional drivers will be able to complete the necessary reservist training without this impacting negatively on their driving work. Their primary employers will not need to postpone the driver's start time to accommodate the rest that was due. The armed forces will benefit from a sufficient number of properly trained reservists.

Update of references to fees for the approval of tachograph fitters and workshops

23. Updating the reference to Council Regulation (EEC) No. 3821/85 in the Passenger and Goods Vehicles (Recording Equipment) (Approval of fitters and workshops) (Fees) Regulations 1986 will ensure the definition in the tachograph legislation is up to date and make it easier to read and interpret the tachograph legislation.

24. Including this change in this Statutory Instrument (SI) avoids the need for a separate SI for a minor legislative change.

Revocation of temporary exemption from the domestic drivers' hours rules during the Foot and Mouth crisis

25. The revocation of The Drivers' Hours (Goods Vehicles) (Milk Collection) (Temporary Exemption) Regulations 2007 is a minor administrative matter to ensure the legislation is up to date by removing redundant regulations from the Statute Book. Including this change in this SI avoids the need for a separate SI for a minor legislative change.

26. The relaxation from the domestic drivers' hours rules granted by the regulations extended the daily duty limit of the domestic drivers' hours rules from 11 to 13 hours for drivers engaged in the transportation of milk during the August 2007 FMD outbreak. Although the relaxation was intended to be temporary in nature, there was no specific expiry date because it was not known how long the outbreak would last. However, the last FMD movement restrictions were lifted on 31 December 2007 and industry has since returned to normal operating conditions, thus making the temporary exemption regulations redundant.

27. The temporary exemption regulations could not be "re-used" if there was another FMD outbreak as they were created to deal with a specific emergency situation which now does not exist and a new FMD outbreak would almost certainly have different circumstances which are not covered by the present temporary exemption regulations.

28. While the temporary exemption regulations remain in force, they create an exemption from the rules which is no longer required (because the emergency situation has passed).

Description of options considered

Derogation from the EU drivers' hours rules for TA reservists

29. The available options are:
- (a) Option 1 - to implement the derogation into domestic legislation ensuring professional drivers are able to undertake the necessary training with the volunteer reserve forces; or
 - (b) Do Nothing - to not implement the derogation into domestic legislation which would mean professional drivers are constrained from undertaking the necessary training with the volunteer reserve forces and the MoD would have to employ additional reservists to make up for the shortfall.

Update of references to fees for the approval of tachograph fitters and workshops

30. The available options are:
- (a) Option 1 - to update the reference to Council Regulation (EEC) No. 3821/85 in the Passenger and Goods Vehicles (Recording Equipment) (Approval of fitters and workshops) (Fees) Regulations 1986 to ensure the tachograph legislation is up to date and make it easier to read and interpret the tachograph legislation; or
 - (b) Do Nothing - to not update the reference to Council Regulation (EEC) No. 3821/85 in the Passenger and Goods Vehicles (Recording Equipment) (Approval of fitters and workshops) (Fees) Regulations 1986 which would mean the legislation is not up to date.

Revocation of temporary exemption from the domestic drivers' hours rules during the Foot and Mouth crisis

31. The available options are:
- (a) Option 1 - to revoke The Drivers' Hours (Goods Vehicles) (Milk Collection) (Temporary Exemption) Regulations 2007 to ensure legislation is up to date; or
 - (b) Do Nothing - to not revoke The Drivers' Hours (Goods Vehicles) (Milk Collection) (Temporary Exemption) Regulations 2007 which would mean the legislation is not up to date.

Costs and benefits of the proposed Regulations (Option 1)

32. Option 1 is the preferred option as doing nothing would mean a) many professional drivers would continue to not be able to fully complete their duties as reservists having a negative effect on drivers and the UK's national defence capabilities; b) regulations governing fees for the approval of tachograph fitters and workshops would be out of date; and c) redundant regulations relating to the last FMD outbreak would remain in force.

Costs of the proposed Regulations (Option 1)

Derogation from the EU drivers' hours rules for TA reservists

33. One of the main objectives of EC Regulation 561/2006 is to protect road safety. However, there is no evidence specific to reservists on the impact of road safety from the implementation of this derogation and the cost of data collection is too high relative to the expected benefits of doing so. However, we expect the impact to be minimal because:

- a) Implementing the derogation would only affect a small group of professional drivers. Of the approximately 30,000 members in the Territorial Army (TA), the MoD estimates that only a maximum of 15% (4,500) of these could be drivers of vehicles subject to EC Regulation 561/2006 and therefore included in this derogation;
- b) These drivers would only be exempt for 10 weekend training sessions (which cannot take place on consecutive weekends) and one 15 day annual training camp when they undertake training / act as instructors;
- c) The derogation is confined to the UK alone; and

- d) The derogation is limited in nature and cannot be changed (e.g. relaxed or extended in any way).
34. In addition, a number of safeguards, listed below, have been incorporated into the exception in order to further ensure road safety is not put at risk:
- i) The derogation would only apply to 15 consecutive days annual camp and 10 weekend training sessions per annum (a total of 35 days) provided that weekend training is not allowed to take place on consecutive weeks (other than in respect of the 15 consecutive days annual camp);
 - ii) A regular daily rest period of 11 hours must be taken between the end of weekend training and start of work for the primary employer; and
 - iii) A regular weekly rest period of 45 hours must be taken no later than at the end of the sixth day following a period of weekend training.
35. The second safeguard ensures reservists would still have to take at least a regular daily rest between finishing their duties as a reservist and resuming their driving duties. The first and third safeguards ensure that reservists still have to take at least a regular weekly rest (except during the once-yearly 15 consecutive days annual camp).
36. For the reasons outlined above in paragraphs 33 and 34, we expect that the implementation of the derogation would have a limited impact on road safety, with the above safeguards minimising the risk of any increase in accidents.
37. Nevertheless, as a way of doing some sensitivity testing, we have used three different hypotheses regarding the impact of this derogation on road safety (i.e. a 10% increase in number of accidents in the worst case scenario, 5% in the central case and 0% in the best case scenario).
38. EC Regulation 561/2006 applies to drivers of most goods vehicles over 3.5 tonnes and drivers of most vehicles carrying more than 9 people including the driver. Implementing the derogation would only affect a small group of professional drivers. Of the approximately 30,000 members in the TA, the MoD estimate that a maximum of 15% (4,500) of these could be drivers of vehicles subject to EC Regulation 561/2006 and, therefore, included in this derogation. Although there might be a case for using a range in terms of the number of vocational drivers who would take up the derogation (4,500 being the upper limit of that range), we think this range would be artificial because of the nature of this derogation, which would allow vocational drivers to carry out their reservist duties without this having a negative impact on their primary employment. Therefore, in this assessment we are assuming that all vocational drivers (i.e. 4,500) would take advantage of this derogation.
39. According to the Labour Force Survey (LFS) statistics: *Employment status by occupation (Quarter 2 April - June 2010)*, the estimated number of drivers in scope of EC Regulation 561/2006 is 463,000. Of these, only 4,500 would be affected by the derogation (as outlined in paragraph 38), i.e. approximately 1% of the 463,000 drivers.
40. There were 235,078 reported accidents in 2009 (*Reported Road Casualties Great Britain 2009: Annual Report*) but only 16,812 (7.15%) of these accidents involved HGV (6,395) and LGV drivers (10,417) (most of whom it is assumed are in scope of EC Regulation 561/2006). Assuming 1% of the reported accidents are amongst vocational drivers affected by the derogation (i.e. we are assuming here that accidents occur evenly among drivers and, therefore, 1% of drivers equals 1% of accidents) this would correspond to approximately 168 reported accidents per year ($16,812 \times 0.01 = 168$), which would account for only 0.0715% (7.15×0.01) of the total reported accidents in Great Britain in 2009.
41. The risk to road safety is that drivers affected by the derogation could be fatigued as they postpone their weekly rest to take part in training activities at the weekend. In the report cited in paragraph 40, the total number of reported accidents caused by fatigue in 2009 was 2,768 (78 fatal accidents, 476 accidents resulting in serious injuries, 2,259 accidents resulting in slight injuries). Assuming the number of drivers affected by the derogation are responsible for 0.07% of these accidents (see estimates in paragraph 40), they would be responsible for approximately 1,980 ($2,768 \times 0.000715$) accidents per year (0.056 fatal accidents, 0.034 accidents resulting in serious injuries, 1,616 accidents resulting in slight injuries).
42. The derogation is time-limited as it only applies to 10 (non-consecutive) weekend training sessions and one 15 day annual training camp meaning it would affect drivers for no more than 35 days

a year (this equates to just over a month). We have therefore divided the estimated number of accidents per year involving drivers affected by this derogation (see paragraph 41) by 12 (as there are 12 months in a year). This provides an estimates figure of 0.165 (1.98 / 12) accidents amongst drivers that would be affected by the derogation caused by fatigue in a month on average (0.005 fatal accidents, 0.028 accidents resulting in serious injuries and 0.135 accidents resulting in slight injuries).

43. Our worst case scenario assumes that implementing the derogation would increase the number of accidents caused by fatigue by 10%. Using this assumption, the estimates would increase only slightly by 0.016 accidents to a total of 0.181 ($(0.165 \times 0.1) + 0.165$) accidents amongst drivers affected by the derogation caused by fatigue in a month on average (see table 1). The best estimate however, of a 5% increase (central case scenario) would see the number of accidents increase even less by 0.008 accidents to a total of 0.173 accidents amongst drivers affected by the derogation caused by fatigue in a month on average (see table 1).

Table 1 - Total number of accidents caused by fatigue among drivers affected by this derogation (current figures and future estimates if derogation implemented)

	Total	Fatal	Seriously injured	Slightly injured
Best case scenario (no increase)	0.165	0.0046	0.028	0.135
Central case scenario (5% increase)	0.173	0.0049	0.030	0.141
worst case scenario (10% increase)	0.181	0.0051	0.031	0.148

44. As demonstrated by table 2 below and using the estimates in paragraph 43, a 10% increase in the number of accidents caused by fatigue as a result of this derogation (worst case scenario) would see an increase in accidents by 0.016 (0.0005 fatal accidents, 0.003 accidents resulting in serious injuries, 0.013 accidents resulting in slight injuries). A 5% increase (central case scenario) would see an increase in accidents by 0.008 (0.0002 fatal accidents, 0.001 accidents resulting in serious injuries, 0.007 accidents resulting in slight injuries).

Table 2 - Potential additional number of accidents caused by fatigue among drivers affected by this derogation if derogation implemented

Increase in the number of accidents	Total	Killed	Seriously injured	Slightly injured
Best case scenario (no increase)	-	-	-	-
Central case scenario (5% increase)	0.008	0.0002	0.001	0.007
Worst case scenario (10% increase)	0.016	0.0005	0.003	0.013

45. To estimate the costs associated to these number of accidents (table 2) we use the average value of the prevention of road accidents by severity and element of cost (Source: <http://www.dft.gov.uk/webtag/documents/expert/uni3.4.1.php#02>), updating this value using HMT deflators. As follows (table 3), the average value of the prevention of road accidents by severity and element of cost in 2011 prices:

Table 3: Updated to 2011 prices based on HMT deflators 2011 Cost Element

Accident severity	Casualty related costs		Accident related costs			£ June 2011	
	Lost output	Medical and ambulance	Human Costs	Police costs	Insurance and admin	Damage to property	TOTAL
Fatal	626,996	5,900	1,234,812	1,942	306	11,216	1,881,169
Serious	24,975	14,968	169,930	257	190	5,156	215,476
Slight	3,109	1,317	14,806	60	116	3,051	22,458
All injury	13,897	3,210	51,013	110	128	3,436	71,795
Damage only	-	-	-	3	55	1,921	1,979

47. Multiplying the figures of the additional number of accidents in table 2 by the updated value of accidents (table 3), we can estimate that an increase in accidents by 0.016 (given a 10% increase in the number of accidents caused by fatigue as a result of this derogation) would lead to an annual cost of £1,879 (£941 for fatal accidents, £646 for those accidents resulting in serious injuries, £292 for those accidents resulting in slight injuries). This figure is rounded up to **£0.0018m (average annual high cost)** in the summary sheet. The best estimate of an increase in accidents is 0.008 (given a 5% increase) would lead to a annual cost of £748 (£376 for fatal accidents, £215 for those accidents resulting in serious injuries, £157 for those accidents resulting in slight injuries). This figure is rounded up to **£0.00075m (average annual best estimate)** in the summary sheet.

Table 4 – Cost of the increase in the number of accidents as a result of the implementation of this derogation (£2011).

Cost of increase in accidents (£2011)	Fatal	Seriously injured	Slightly injured	Total
Best case scenario (no increase)				
Central case scenario (5% increase)	£ 376	£ 215	£ 157	£ 748
Worst case scenario (10% increase)	£ 941	£ 646	£ 292	£ 1,879

48. Table 5 below shows the potential cost increase over a 10 year period of the increased number of accidents caused by fatigue as a result of this derogation. **The total cost NPV (best estimate) is rounded up to £0.0064m in the summary sheet. The total cost NPV (high) is rounded up to £0.016m in the summary sheet.**

Table 5 - Cost of the potential increase in the number of accidents among drivers affected by this derogation over a 10 year period

Cost of increase in the number of accidents	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
Worst case scenario	£ 1,879	£ 1,879	£ 1,879	£ 1,879	£ 1,879	£ 1,879	£ 1,879	£ 1,879	£ 1,879	£ 1,879	£ 18,790
Best case scenario NPV	£ 1,879	£ 1,815	£ 1,754	£ 1,695	£ 1,637	£ 1,582	£ 1,529	£ 1,477	£ 1,427	£ 1,379	£ 16,174
Central case scenario	£ 748	£ 748	£ 748	£ 748	£ 748	£ 748	£ 748	£ 748	£ 748	£ 748	£ 7,480
Central case scenario NPV	£ 748	£ 723	£ 698	£ 675	£ 652	£ 630	£ 608	£ 588	£ 568	£ 549	£ 6,439

49. There would be no additional enforcement cost as the derogation does not widen the scope of the EU drivers' hours rules.

Update of references to fees for the approval of tachograph fitters and workshops

50. There would be no costs as it introduces no new requirements and simply updates the tachograph legislation by amending a reference.

Revocation of temporary exemption from the domestic drivers' hours rules during the Foot and Mouth crisis

51. There would be no costs as the temporary exemption regulations are already redundant. The revocation would remove an exemption from the rules which is no longer required (because the emergency situation has passed).

Benefits of the proposed Regulations (Option 1)

Derogation from the EU drivers' hours rules for TA reservists

52. This derogation would mean that a driver who finishes his normal driving duties on a Friday would be allowed to complete a 34-hour period of military training at the weekend without this impacting on his normal driving duties the next week. The driver would therefore not have to choose between their primary employment of driving and their duties as a reservist in their spare time.

53. The implementation, therefore, of this derogation which is deregulatory in nature would bring about significant benefits for:

- the UK reserve forces;
- professional drivers who are also TA reservists; and
- the primary employers of professional drivers who are also TA reservists.

54. The MoD has estimated that the numbers of reservists who drive for a living and would therefore benefit from this derogation as they would be able to take part in weekend military training without breaking the EU drivers' hours rules is approximately 4,500 (see paragraph 38 above). The major impact of the TA losing these vocational drivers would be on the morale of the TA and the retention of reservists but we have estimated the monetary benefits to the TA of this derogation of retaining approximately 4,500 drivers. We do not know exactly how many TA drivers will be lost without the implementation of the derogation but on the assumption that 100% of the affected drivers would take up the derogation, we are using the maximum figure of 4,500 drivers.

55. Without the derogation, the TA would have redundant reservists who were not able to provide a service to the TA because they are unable to complete the necessary training. Retaining these reservists would be pointless so the TA would be forced to recruit for non-vocational drivers. Therefore not having to recruit additional non-vocational drivers because of the derogation would be a significant benefit to the TA.

56. We have estimated the benefits to the TA of retaining approximately 4,500 vocational drivers by looking at The Royal Logistic Corps (RLC) of the TA. The MoD has been unable to provide us with information for all the vocational drivers that might be affected by this derogation. However, the MoD does hold information on the RLC. The RLC has 9 transport regiments which equates to approximately 3,500 personnel, with 2,800 of these likely to come in scope of EC Regulation 561/2006 and therefore benefit from the derogation. 2,800 reservists recruited over approximately 3 years, with up to 3 years training to ensure they are at the standard of the TA's current vocational drivers, equals 51 Man Training Days (MTDs). According to figures provided by the MoD, the cost of training each reservist is £40 per MTD. Based on 2,800 reservists and 51 MTDs, this means that £5,712,000 (= 2,800 x 40 x 51). In addition, the cost of a Category C licence is currently £644 (however, this can vary depending on the region) so 2,800 licences (2,800 x 644) would cost £1,803,200. By adding together these two figures (£5,712,000 + £1,803,200) we can estimate that the **benefit of this derogation to the RLC for its 2,800 reservist would be £7,515,200 (£7.5m) or £2,684 per reservist.**

58. If we assume that the cost per reservist estimated in the paragraph above is consistent across the whole of the TA, then the full benefit of this derogation would amount to £12.1m (= 4,500 x 2,684).

consulted on the draft regulations and they have confirmed that they have no objections.

Revocation of temporary exemption from the domestic drivers' hours rules during the Foot and Mouth crisis

68. The revocation would remove an exemption from the rules which is no longer required (because the emergency situation has passed).

Wider impacts

Derogation from the EU drivers' hours rules for TA reservists

69. The derogation is not likely to lead to a distortion of competition as it does not bring any competitive advantage to the primary employer. In reality, the derogation balances competition between companies who do employ reservists and companies who do not employ reservists.

70. The derogation is not likely to affect the working conditions of drivers negatively because they must still take a weekly rest. The derogation just gives them the flexibility to postpone the weekly rest in order for them to also complete their reservist training at the weekend.

71. The derogation eases the burden of firms employing up to 20 employees as their employees who are also TA reservists do not have to make up residual rest after a training weekend and before they start work again on a Monday morning. This provides smaller businesses with more flexibility which is crucial given their smaller workforce.

Update of references to fees for the approval of tachograph fitters and workshops

72. The update of references in the Passenger and Goods Vehicles (Recording Equipment) (Approval of fitters and workshops) (Fees) Regulations 1986 would have no wider impacts. As outlined in paragraph 54, HM Treasury does not object to the changes.

Revocation of temporary exemption from the domestic drivers' hours rules during the Foot and Mouth crisis

73. The revocation of the Drivers' Hours (Goods Vehicles) (Milk Collection) (Temporary Exemption) Regulations 2007 would have no wider impacts as the emergency which produced them has now passed.

Summary and preferred option with description of implementation

Derogation from the EU drivers' hours rules for TA reservists

74. The preferred option is to implement the approved derogation through secondary legislation. It has widespread support from the MoD and industry and would ensure that professional drivers are able to undertake the necessary training with the TA.

75. The taking of adequate rest before reservists resume driving duties is ensured which will protect road safety. Any further liberalisation of the rules would bring little further benefit to the armed forces, but could increase the risk to road safety if adequate rest was not protected. Any further safeguards would continue to restrain the ability of the armed forces reservists to train and are not expected to increase road safety for the reasons explained above.

Update of references to fees for the approval of tachograph fitters and workshops

76. The preferred option is to update references to the Passenger and Goods Vehicles (Recording Equipment) (Approval of fitters and workshops) (Fees) Regulations 1986 as it would update the tachograph legislation and make it easier to read and interpret. Including the update in the draft regulations would avoid the need for separate legislation on a minor administrative change.

Revocation of temporary exemption from the domestic drivers' hours rules during the Foot

and Mouth crisis

77. The preferred option is to revoke the Drivers' Hours (Goods Vehicles) (Milk Collection) (Temporary Exemption) Regulations 2007 as they were made redundant on 31 December 2007 when the last FMD movement restrictions were lifted. Including the revocation in the draft regulations would avoid the need for separate legislation on a minor administrative amendment.

OIOO

78. This measure is out of scope of OIOO as it is implementing a derogation from EU Regulations.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)]:
Statutory.

Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

The objective of the review is to check the derogation is helping to solve the problem of the weekly rest requirement in the EU drivers' hours rules having a significant impact on the recruitment, retention and training of volunteer reservists and instructors in the Cadet Corps.

The review will also check that the derogation is not risking road safety by checking the inbuilt safeguards are sufficient.

Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

Informally consult with key stakeholders (trade association, unions, the MoD) via telephone and email correspondence.

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

The weekly rest requirement in the EU drivers' hours rules has a significant impact on the recruitment, retention and training of volunteer reservists and instructors in the Cadet Corps.

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment, criteria for modifying or replacing the policy if it does not achieve its objectives]

The derogation is helping to solve the problem of the weekly rest requirement in the EU drivers' hours rules having a significant impact on the recruitment, retention and training of volunteer reservists and instructors in the Cadet Corps. The derogation is not risking road safety.

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]
Informal consultation to be held with key stakeholders via telephone and email correspondence.

Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]

N/A.

OPINION

Impact Assessment (IA)	The Community Drivers' Hours and Passenger and Goods Vehicles (Community Recording Equipment) Regulations 2011
Lead Department/Agency	Department for Transport
Stage	Final
Origin	European
Date submitted to RPC	14/07/2011
RPC Opinion date and reference	28/07/2011 RPC11-DfT-0691(3)
Overall Assessment	GREEN

The IA is fit for purpose. In response to the previous RPC Opinions of 16/12/2010 and 14/04/2011, the Department has now monetised the potential costs and benefits of the Regulations. The assumptions and calculations appear reasonable, being based on the number of TA reservists likely to be affected by the proposal.

Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options

Costs and Benefits. In response to the issues raised in the previous RPC Opinions of 16/12/2010 and 14/04/2011, the Department has now monetised the potential costs and benefits of the Regulations. The assumptions and calculations used appear reasonable, being based on the number of TA reservists likely to be affected by the proposal and on estimates for the potential increases in accidents. Given this, the estimates of the costs and benefits appear to be robustly calculated.

Have the necessary burden reductions required by One-in, One-out been identified and are they robust?

Not applicable as this proposal represents a derogation from European Regulation, which the Department is expected to take, and so is out of scope of One-in, One-out.

Signed



Michael Gibbons, Chairman