

Title: Use of Invalid Carriages on Highways regulations 1988 – amendment to definition of unladen weight IA No: DfT00286 Lead department or agency: Department for Transport	Impact Assessment (IA)		
	Date: 12/5/14		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Secondary Legislation		
	Contact for enquiries: Annette Lewis (02079445281)		

Summary: Intervention and Options	RPC Opinion: EANCB validated
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?
NQ	NQ	NQ	No NA

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

Invalid carriages (wheelchairs, mobility scooters and powered wheelchairs) used on the highway are subject to maximum unladen weight limits. The intended effect of this limit is to minimise the damage or injury caused to pedestrians and to other road users in the event of an accident. However, the limit can have the unintended effect of restricting the mobility of a small proportion of invalid carriage users who require equipment or adaptations to meet a clinical, postural, hygienic, caring or nursing requirement as the additional weight of these can result in a carriage no longer being permitted for use on the highway. Government intervention is necessary to address this problem because the weight limit is established by regulation. Following consultation in 2010 and subsequently in 2011 as part of the Red Tape Challenge, Government announced its intention to address this problem.

What are the policy objectives and the intended effects?

The main objectives are to improve the mobility of invalid carriage users who have acute clinical needs whilst also minimising the added risk posed to the safety of other highway users by the use of heavier invalid carriages.

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

Doing nothing (Option 1) would not achieve our aim of improving mobility for invalid carriage users who depend upon extra equipment or adaptations to their carriage. Removing the weight limit entirely from the regulations (Option 2) would pose an unacceptable safety risk to other highway users.

The only way to achieve the dual policy objective of increasing mobility for certain users whilst protecting the safety of other highway users is through an amendment to the regulations. Three possibilities were considered: Option 3 - Increasing the limit of all Class 2 carriages to 150kg was rejected because it would enable *all* Class 2 users to have a heavier carriage rather than targeting the increase on those who need it. Option 4 - Creating a new class of “powered wheelchair” within the regulations which would have a higher weight limit proved unachievable as it was impossible to agree a technical distinction and, therefore, a mutually exclusive definition of “powered wheelchairs” and “mobility scooters”. Our preferred option is Option 5 which strikes a balance between improving the mobility of invalid carriage users with acute clinical needs and minimising risks to the safety of other highway users. Option 5 retains existing unladen weight limits but provides additional flexibility - up to a maximum of 200kg - where “necessary user equipment” (defined as meeting a specific clinical, postural, hygienic, caring or nursing requirement of the user) takes the carriage’s weight over the limit for its Class.

Will the policy be reviewed? No formal review date has been set as we do not expect the measure to have a significant impact. However, we would revisit the policy if evidence of a significant net disbenefit arose in future.

Does implementation go beyond minimum EU requirements?	N/A				
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: NQ	Non-traded: NQ	

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) that the benefits justify the costs.

Signed by the responsible Minister _____ **Kramer** _____ Date: 23/01/2015

Summary: Analysis & Evidence Policy Option 5

Description: An amendment to the Use of Invalid Carriages on Highways Regulations 1988 which increases the unladen weight limit for invalid carriages where necessary user equipment is required to meet the user's clinical needs and the weight of this equipment takes the carriage above its normal Class weight limit.

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best Estimate: NQ
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low	NQ		NQ	NQ	
High	NQ		NQ	NQ	
Best Estimate	NQ		NQ	NQ	
Description and scale of key monetised costs by 'main affected groups'					
Given the limitations of the available evidence base, it has not been possible to monetise any of the costs of Option 5.					
Other key non-monetised costs by 'main affected groups'					
Wheelchair users: Where user weight plus the weight of the carriage exceeds 300kg, there would be reduced ability to take the carriage on public transport.					
Other highway users: Heavier invalid carriages pose a greater safety risk to other road users in the event of a collision. The Regulations minimise this risk by maintaining existing weight limits, providing flexibility over weight only where equipment meets a specified purpose and limiting the weight of a carriage <i>including</i> necessary user equipment which makes up the excess weight to 200kg.					
Manufacturers and retailers (see p.6 for detail): There are no direct costs to business from this measure hence it is Out of Scope of OITO. However, a second order effect of the measure could be that some businesses choose to develop or sell new carriages. As a permissive change, we assume that this will only happen where the benefits for the businesses concerned are at least equal to the costs.					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low	NQ		NQ	NQ	
High	NQ		NQ	NQ	
Best Estimate	NQ		NQ	NQ	
Description and scale of key monetised benefits by 'main affected groups'					
Given the limitations of the evidence base, it has not been possible to monetise any of the benefits of Option 5.					
Other key non-monetised benefits by 'main affected groups'					
Wheelchair Users: Enhanced mobility, independence and quality of life for the segment of users whose clinical needs will be met as a result of heavier wheelchairs being permitted.					
Government: Potential cost savings from reduced reliance of wheelchair users on social services and care facilities (cost savings would depend on individual needs).					
Key assumptions/sensitivities/risks					N/A
Our key assumption is that the quality of life benefits for invalid carriage users will outweigh the increased safety risk posed by heavier carriages to other highway users. We have managed down the safety risk by maintaining existing weight limits, providing flexibility over weight only where equipment meets a specified purpose and limiting the weight of a carriage <i>including</i> necessary user equipment which makes up the excess weight to 200kg.					

BUSINESS ASSESSMENT (Option 5)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs:	Benefits:	Net:	No	NA

Evidence Base (for summary sheets)

Background

Terminology

Throughout this Impact Assessment (IA), the terms “invalid carriage” and “mobility vehicle” are used interchangeably. “Mobility vehicle” is a more contemporary term but has no legal definition.

There are two broad categories of mechanically propelled mobility vehicle which are generally used by groups of people with different mobility needs. These are:

- Mobility scooters which help people who have difficulty with walking or standing for long periods of time; and
- Powered wheelchairs which, in most cases, are essential for the user’s everyday mobility and are frequently their only means of getting around.

In law, both mobility scooters and powered wheelchairs are “invalid carriages”. However, when explaining policy options this IA uses the terms “mobility scooters” and “powered wheelchairs” to help distinguish between the different needs of the respective user groups.

Policy aim and problem under consideration

The Government wishes to support the continued mobility of disabled people and sees mobility scooters and powered wheelchairs as vital to giving independence to people who have difficulty walking or who cannot walk at all. The use of invalid carriages on the highway is subject to regulation which seeks to balance the promotion of increased mobility for disabled people with the need to protect the safety of other highway users.

Through *The Use of Invalid Carriages on the Highway Regulations 1988*, the government has set maximum unladen weight limits for invalid carriages (see ‘Legislation on the use of invalid carriages’ below). The intention is to minimise damage or injury in the event of a collision between invalid carriages and other highway users, particularly pedestrians. However, an unintended consequence is to restrict the mobility of invalid carriage users with acute clinical needs who rely on specialist equipment or features to support their needs whilst travelling. For example, some users require their carriage to have the capability to carry oxygen cylinders; others benefit from back recline and ‘sit to stand’ mechanisms which improve their circulation and the functioning of their internal organs. These features add to the weight of an invalid carriage and can result in it exceeding the permitted limit for using the carriage on the highway. This is a particular problem for children under 14 years of age who are not allowed to

use Class 3 invalid carriages which have a higher unladen weight limit than Class 2 carriages.

Rationale for intervention

In 2010, the Government consulted publicly on various possible changes to the rules and regulations governing invalid carriages, including whether the unladen weight limits should be amended. In 2011, as part of the Red Tape Challenge, the Government put forward a proposal to improve *The Use of Invalid Carriages on the Highway Regulations 1988* by amending the weight limit to help invalid carriage users with acute clinical needs become more mobile and retain their independence.

After considering the responses to these consultations, in 2012 Ministers concluded that to improve mobility for users with acute medical needs the weight limit for Class 2 *powered wheelchairs* should be increased. Ministers also decided to retain the existing weight limit for Class 2 *mobility scooters* in order to minimise the potential safety risk presented by heavier vehicles to other highway users. Government intervention is required to achieve this aim because the weight limit is established by secondary legislation.

Legislation on the use of invalid carriages

The *Chronically Sick and Disabled Persons Act 1970* (the primary legislation), defines an “invalid carriage” as “a vehicle, whether mechanically propelled or not, constructed or adapted for use for the carriage of one person, being a person suffering from some physical defect or disability”.

The classification, design and use of these vehicles are defined mainly in *The Use of Invalid Carriages on Highways Regulations 1988* made under the 1970 Act. The permitted weights are defined in the 1988 Regulations.

The Regulations divide mobility vehicles into three main categories:

- a “Class 1 invalid carriage” means an invalid carriage which is not mechanically propelled;
- a “Class 2 invalid carriage” means a mechanically propelled invalid carriage which is so constructed or adapted as to be incapable of exceeding a speed of 4 miles per hour on the level under its own power;
- a “Class 3 invalid carriage” means a mechanically propelled invalid carriage which is so constructed or adapted as to be capable of exceeding a speed of 5 miles per hour but incapable of exceeding a speed of 8 miles per hour on the level under its own power.

Class 2 invalid carriages are intended mainly for pavement use but can be used on the carriageway where there are no pavements (e.g. rural areas) and Class 3 vehicles are equipped to be used on the carriageway as well as the footway.

The unladen weight of a Class 1 or Class 2 invalid carriage shall not exceed 113.4 kgs, and that of a Class 3 vehicle shall not exceed 150kgs. A Class 3 vehicle cannot be used by a person under 14.

Options Considered

Option 1: Do Nothing. In the absence of an amendment to the existing Regulations, the current unladen weight limits would remain in force. This option was rejected because it would not achieve the policy aim of increasing the mobility of invalid carriage users who need specialist equipment or functionality on their vehicle in order to support their clinical needs.

Option 2: Remove the weight limit from the Regulations. This option would improve mobility for those invalid carriage users who require additional equipment or adaptations but it would also enable all *other* users of invalid carriages to carry additional weight, whether or not they have a medical need to do so. There would no longer be any weight limit for invalid carriages and this would pose an unacceptable safety risk to other highway users.

Option 3: Amend the Regulations to increase the unladen weight limit for all Class 2 vehicles. This option would improve mobility for those invalid carriage users who require additional equipment or adaptations but it would also enable all *other* users of Class 2 invalid carriages to carry additional weight, whether or not they have a medical need to do so. This option was rejected because of its untargeted nature which would result in an unwarranted increase in the risk posed to other highway users - particularly pedestrians - in the event of a collision.

Option 4: Amend the Regulations to create a new Class 2A “powered wheelchair” category to which a higher unladen weight limit would apply. This option would restrict the higher weight limit to those invalid carriage users with the greatest need to carry additional equipment or adapt their carriage to meet medical needs. Upon examination, however, it became clear that it is not possible to create a separate class of ‘heavy powered wheelchair’ by defining them technically in a way that would stop mobility scooters also being heavy powered wheelchairs and hence benefitting from the same increase in weight. This option was, therefore, rejected as unachievable.

Option 5: Retain the existing unladen weight limits by Class but provide additional flexibility over weight, subject to a total weight of 200kg, where necessary user equipment takes an invalid carriage over the weight limit for its Class. Necessary user equipment is defined by its purpose – specifically by whether it meets a clinical, postural, hygienic, caring or nursing requirement of the user. This option has been selected as the preferred option because it most closely reflects the Government’s twin policy aims of improving the mobility of users with acute clinical needs whilst minimising the potential safety impact on other highway users.

Cost/benefits of the preferred option

As part of the 2010 consultation on mobility vehicles, the Government asked for evidence on the costs and benefits of amending unladen weight limits. However, there is a general absence of quantified data on the use of mobility vehicles which has prevented us from monetising the costs and benefits of the preferred option. The following sections outline the anticipated costs and benefits in qualitative terms and indicate how the preferred option will minimise costs where possible.

Cost/benefits for users of mobility vehicles

Estimates based on the National Travel Survey in 2010 suggested there were around 330,000 mobility vehicle users¹. By virtue of specifying the nature of the equipment exempted from the calculation of unladen weight, we expect the preferred option to only benefit users of powered wheelchairs rather than mobility scooters. Powered wheelchairs account for a minority of the overall mobility vehicle market: advice from the British Healthcare Trades Association, the largest trade body in the healthcare field in Britain, (representing over 380 companies) is that the total number of mobility scooters in the market at any one time is around 300,000–350,000 with sales at 60,000 per year. The number of powered wheelchairs is more difficult to estimate, but sales are in the region of 20,000 per year.

Improved mobility, independence and quality of life will be the chief benefits of the measure for mobility vehicle users. Gathering sufficient data to monetise these impacts would require the collection and analysis of a number of individual case studies and we consider this level of analysis to be disproportionate, particularly as the scale of impacts are likely to be small and the data is not readily available. However, the following case study has been provided by Newlife Foundation, a charitable organisation for disabled and terminally ill children, to illustrate how users might benefit from the change.

Hamid is 14 years old and has Duchenne Muscular Dystrophy (a degenerative neuromuscular disorder) and Mitochondrial Disease. Hamid is a full time wheelchair user and relies on a ventilator to help him breath. He is unable to weight bear and needs hoisting for all transfers. Hamid has recently developed scoliosis (the abnormal curvature of the spine to the sides). He has poor functional use of his arms as he is no longer able to lift them up. Hamid is now totally reliant on his carers for all of his needs. The medication keeping Hamid alive has led to him rapidly gaining weight and he no longer fits in a 'paediatric wheelchair'. Hamid needs a specialist wheelchair (165kg) which is outside of the current Class 3 weight limit. This wheelchair has sit to stand function (to reduce the impact of his scoliosis and improve lung, heart, bowel and circulatory function thus lengthening his life expectancy), tilt in space (to reduce pressure sores and pain he experiences), leg risers (to relieve cramps, reduce the risk of postural deformity and DVT), and large battery for longer distance

¹ DfT written evidence to Transport Select Committee's 2010 inquiry into mobility scooters. Available at <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmtran/414/414we11.htm>

travel (it's essential for a child unable to weight bear not to be in a wheelchair that breaks down away from home). The wheelchair he requires is large enough and stable enough to allow him to transport all medical equipment required to keep him alive while providing him with as much independence as possible to be 14 years old. Under current limits, Hamid cannot have this life changing wheelchair.

In some circumstances, a heavier vehicle combined with the user's body weight may prevent the user from taking their vehicle on public transport (where the maximum permitted weight on access ramps is 300kg) or from stowing it in the back of a car. However, we do not think this will be an issue for many users and do not consider it a valid reason for not implementing a change that will benefit many users of mobility vehicles.

Cost/benefits for business including One In Two Out status

In line with guidance in The Better Regulation Framework Manual², as there are no direct impacts on business the measure is out of scope of the One in Two Out rule. The measure's first order effect is to enable mobility vehicle users with acute clinical needs to change their behaviour when purchasing or modifying their mobility vehicle as they can now take advantage of the exemption of certain equipment from the calculation of unladen weight. There are already vehicles on the market that can meet the needs of users who will benefit from the change (for example, vehicles with the capability to carry oxygen cylinders or which incorporate 'sit to stand mechanisms'), so no specific response from manufacturers and retailers is required. Some manufacturers and retailers may choose to offer a wider selection of products in response to the change in consumer behaviour but this would be a second order effect.³

Where manufacturers or retailers choose to offer additional products as a result of increased demand, there would be some transitional costs (for example, to understand the exemptions in the amended Regulations and provide appropriate training to staff) and, if entirely new products were developed, there would be design, testing and manufacturing costs. In addition to these financial costs, there are also opportunity costs to manufacturers, as choosing to offer additional products is likely to be at the expense of existing or proposed alternative products. However, the measure is permissive and does not mandate such a response. It is expected, therefore that manufacturers and retailers would only develop new products where there are net benefits to the business. In those cases, we would assume that the benefits to the businesses concerned would at least be equal to the costs.⁴

² *Better Regulation Framework Manual* (Department for Business, Innovation and Skills July 2013) paragraphs 1.9.8 and 1.9.31-33

³ *The One In Two Out Rule: Frequently Asked Questions* (Better Regulation Executive July 2013) Section 6 and footnote 6 and

⁴ *Better Regulation Framework Manual* (Department for Business, Innovation and Skills July 2013) paragraphs 1.9.20-21

Small and micro business assessment

As this is a Red Tape Challenge measure, it qualifies automatically for the fast track and does not require a small and micro business assessment.⁵

Wider costs/benefits

Increasing the mobility and independence of some wheelchair users could result in potential cost savings to government from less dependence on social services and care facilities. The scale of these benefits cannot be quantified without the collection and analysis of a number of case studies which we consider disproportionate (see above).

The change will have a safety disbenefit for other highway users since heavier vehicles have potential to cause greater damage or injury in the event of a collision. This cannot be quantified because:

- We are uncertain about the number of heavier mobility vehicles that will be used as a result of this change; and
- Whilst the police began to record data on accidents involving mobility vehicles from April 2013, they will not be recording the Class of invalid carriage involved and it will be a couple of years before a robust dataset is available for analysis.

Our chosen option seeks to minimise the impact on the safety of other road users by restricting the type of equipment that can be excluded from the calculation of unladen weight and by imposing an overall unladen weight limit (including such equipment) of 200kg. These design measures complement efforts to encourage responsible behaviour by invalid carriage users around others – for example, through advice in the Highway Code which says “*You should give pedestrians priority and show consideration for other pavement users, particularly those with a hearing or visual impairment who may not be aware that you are there.*”⁶

Which organisations will enforce the policy?

Various organisations may have a role in enforcement. For example, Class 3 vehicle registration is for the Driver and Vehicle Licensing Agency. Transport operators can restrict access to public transport if the wheelchair does not fit within the reference wheelchair space, or where it is considered too heavy, for example, for the ramps. The police have powers if the vehicle is being driven recklessly, but could probably only investigate the weight issue if the vehicle was involved in an accident.

⁵ Ibid paragraph 1.3.2

⁶ Highway Code Sections 36-46 available at <https://www.gov.uk/rules-powered-wheelchairs-mobility-scooters-36-46/powering-wheelchairs-and-mobility-scooters-36-to-37>

Will the proposal have a significant effect on competition?

It is not possible to form a definitive view on the effect on competition, but the proposal will clarify the position for manufacturers and users alike, and is likely to open up the market for powered wheelchairs.

Equality Impacts

There are no ethnicity/race, gender, sexual orientation or transgender implications resulting from this proposal. On disability issues, this reform will help improve the quality of life for the growing number of disabled mobility vehicle users. On age, we considered the suggestion that the minimum age limit for using a Class 3 vehicle on the public highway should be lowered, since it may allow younger users with acute clinical needs to benefit from them. However, we concluded this poses a safety risk in that younger users may injure themselves or others. The proposal to allow the permissible weights of powered wheelchairs to be increased will, therefore, be of particular benefit to younger disabled people.

Environmental impacts

The environmental impacts are restricted to the potential for more serious accidents in the pedestrian environment resulting from collision with a heavier vehicle. However, the proposal is focused on powered wheelchairs which form a relatively small part of the mobility vehicle market.

Conclusion

Following public consultation on changes to the Regulations on invalid carriages, the Government announced its intention to improve the Regulations to support increased mobility for invalid carriage users with acute clinical needs. This Impact Assessment describes the options considered for achieving this aim, the costs and benefits of the preferred option and steps taken to minimise the risks posed to other road users. The Government's intention is to make the amended Regulations in early 2015.