

Title: The use of section 19 and section 22 permits in providing road passenger transport in Great Britain: aligning domestic legislation with EU Regulation 1071/2009. IA No: DfT00363 RPC Reference No: RPC-3489(1)-DFT Lead department or agency: Department for Transport Other departments or agencies: Driver and Vehicle Standards Agency. Office of the Traffic Commissioner	Impact Assessment (IA)			
	Date: 21/12/2018			
	Stage: Final			
	Source of intervention: EU			
	Type of measure: Secondary legislation			
Contact for enquiries: AKWASI MENSAH buses@dft.gsi.gov.uk				
Summary: Intervention and Options				RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
-£50m	-£50m	0	Not in scope	Non qualifying provision

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

EU Regulation 1071/2009 sets the standards for the operators of road transport services. The Regulation exempts certain types of operators of passenger services. Under domestic legislation not-for-profit operators that are exempt from the Regulation can operate services under a permit regime. The legal relationship between the EU Regulation and domestic legislation is unclear and these pieces of legislation are misaligned. There is no guidance on the scope of the exemptions from the Regulation. The Regulation allows Member States to exempt national operations having only a minor impact on the transport market, this has not yet been implemented. Government intervention is needed to give operators clarity over the applicability of the EU Regulation and to give effect to the exemption.

What are the policy objectives and the intended effects?

To clarify legislation and guidance for permit holders, permit issuing authorities, enforcement agencies and the Public Service Vehicle industry about:

- the relationship between Regulation 1071/2009 and the Transport Act 1985; and
- the organisations who can operate passenger transport without a PSV operator's licence under the section 19 and 22 permit regime set out in the Transport Act 1985 and the types of services they can provide.

To improve compliance with the requirements by increasing knowledge of them and enabling permit-issuing bodies (including local authorities) and enforcement agencies to take consistent action against misuse.

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

Option 1 – do nothing

Option 2 – introduce primary legislation only

Option 3 – non-legislative: develop a code of conduct and/or update guidance and improve enforcement using existing legislation

Option 4 (preferred option) – introduce a statutory instrument and update guidance. This approach will allow the quickest and clearest amendment of legislation and guidance to bring clarity on the scope of the exemptions and the relationship between the EU Regulation and the Transport Act 1985.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: September/2023

Does implementation go beyond minimum EU requirements?		No		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO₂ equivalent change in greenhouse gas emissions? (Million tonnes CO₂ equivalent)		Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Nusrat Ghani Date : 18 February 2019

Summary: Analysis & Evidence

Policy Option 4

Description: Introduce a Statutory Instrument to clarify the relationship between the Regulation and the Transport Act and update guidance about who can operate passenger transport without a PSV licence

FULL ECONOMIC ASSESSMENT

Price Base Year: 2014	PV Base Year: 2015	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -99.7	High: -10.2	Best Estimate: -50.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.3	1.2	10.2
High	0.3	12.3	99.7
Best Estimate	0.3	6.2	50

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

Costs to businesses:

Familiarisation costs (£0.3m); Public Service Vehicle (PSV) licence costs (£0.2m); Transport Manager costs (£2.3m-£114m); MOT costs (£4.6m); Accessibility certification costs (£0.006m); Bus service registration costs (£0.006m)

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

Notice period for registering bus services
Tachograph costs
Costs of changing an operator's legal status
Costs to passengers if services are no longer able to operate

BENEFITS (£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 benefits by 'main affected groups'

No benefits have been monetised due to insufficient evidence

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

- it will be easier for permit holders, permit issuers and enforcement agencies to know what the scope of obligations and exemptions are, meaning that compliance and the ability to take enforcement action will improve, and the accidental misuse of permits through lack of knowledge will be prevented.
- cost savings will occur to operators through reduced misuse of their permits and consequently reduced punitive action by enforcement agencies;
- potential anti-competitive practices between permit operators and licensed PSV operators will be prevented.
- reduced risk of service disruption to organisations contracting services from permit operators who are found to have misused their permits.
- The road passenger transport market will become more organised and efficient.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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The biggest source of uncertainty in this analysis is the size of the sector using section 19 and section 22 permits which will be affected. A range of values have therefore been presented to reflect this uncertainty. Results from our consultation suggest that of the 50 per cent of operators assumed to be affected, there are 70 per cent who consider themselves exempt. This means the total number of operators potentially affected could be quite close to our central 25 per cent scenario. Furthermore, we are assuming our consultation is sufficiently representative of the dataset which this analysis is based on. The largest potential costs per organisation are the Transport Manager costs and we have assumed that all operators will hire new staff to perform this role. This is the maximum potential cost impact of meeting this requirement. If however, operators already employ staff who perform the functions of a Transport Manager, they will only have to ensure that these employees are certified which will substantially reduce this cost.

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:	Score for Business Impact Target (qualifying provisions only) £m: N/A		
Costs: 0	Benefits: 0.0	Net: 0	

Evidence Base (for summary sheets)

Introduction

Domestic legislation and guidance on operator licensing

In Great Britain, the Public Passenger Vehicles Act 1981 requires that anyone using a Public Service Vehicle (PSV) on a road for carrying passengers for hire or reward must hold a PSV operator's licence.

A PSV is defined as a motor vehicle used for carrying passengers for hire or reward which is adapted to carry more than eight passengers or is adapted to carry eight passengers or fewer and used to carry passengers for hire or reward at separate fares in the course of a business of carrying passengers.

Sections 19 and 22 of the Transport Act 1985 provide the domestic legislative framework for exemptions from the 1981 Act. They allow certain types of organisation to operate passenger transport services without holding a PSV operator's licence, on a not-for-profit basis, following the issue of a permit.

These 'permits' are commonly used by "Community Transport" operators to provide transport for passengers unable to access the wider transport network. Passengers include children, older and disabled people. There is no precise, or legal, definition of what "Community Transport" means. For the remainder of this assessment the term is broadly used to indicate a not-for-profit sector that exists mainly to provide some kind of transport service.

From this point onwards in this assessment, permits issued under sections 19 and 22 of the Transport Act 1985 will simply be referred to as 'section 19 and 22 permits'. A section 19 permit allows an organisation to provide transport for its own members or other people that it exists to help and to charge for providing that transport. The vehicle cannot be used to make a profit directly or indirectly, or carry members of the general public. A section 22 permit allows a body to run a community bus service, which is a local bus service registered with the Traffic Commissioner. Members of the general public can be carried on a section 22 service. Additionally the vehicle may be used for other purposes in order to provide financial support for the community bus service.

Statutory Instrument 1987 No. 1229 titled 'The Section 19 Minibus (Designated Bodies) Order 1987 (as amended)', and subsequent other Section 19 Minibus (Designated Bodies) (Amendment) Orders, set out which bodies can issue permits.

The online August 2013 'Section 19 and 22 permits: not for profit passenger transport' guidance discusses the conditions required to use permits.

The 1981 Public Passenger Vehicles Act requires all standard licence holders to demonstrate:

- "professional competence" by having a Transport Manager to manage their transport activities;
- "good repute" by the establishment of proper conduct by the licence holder and where necessary taking account of any relevant convictions;
- "financial standing" by having a certain amount of funds available per vehicle they operate demonstrated by bank statements of cash reserves; and
- having an effective and stable establishment.

These requirements were not taken to apply to those operating using permits until the introduction of the European legislation discussed below.

EU legislation requirements

On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the EU. The government respected the result and triggered Article 50 of the Treaty on the Functioning of the European Union on 29 March 2017 to begin the process of exit. Until exit negotiations are concluded, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

The outcome of the negotiations will determine what arrangements apply in relations to EU legislation in future once the United Kingdom has left the EU.

Regulation 1071/2009 (referred to from here on as 'the EU Regulation') was implemented in 2011 and governs the requirements across Europe for road passenger transport operators, setting the standards to be met. These standards apply to standard PSV licence holders.

The purpose of 'the EU Regulation' is to ensure that: the road passenger transport market is more organised and efficient; facilitate fair competition; and to improve the quality of road passenger transport services for operators, customers and the economy.

'The EU regulation' requires all road transport operators to demonstrate:

- "professional competence" by employing a Transport Manager to manage their transport activities 'continuously and effectively';
- "good repute" by the establishment of proper conduct by the licence holder and where necessary taking account of any relevant convictions;
- "financial standing" by having a certain amount of funds available per vehicle they operate, determined by audited accounts; and
- having an effective and stable establishment in the Member State.

However passenger transport operators are only exempt from the above requirements if they fulfil any of the criteria below:

- either they operate exclusively for non-commercial purposes or have a main occupation that is not as a road passenger transport operator (Article 1 (4) (b)); and
- they only operate domestically and have a minor impact on the transport market because of driving short distances (Article 1 (5) (b)).

The exemption for an operator having a minor impact on the transport market is not directly applicable, unlike the rest of the EU Regulation, and has to be given effect in a Member State's domestic legislation. This has not yet been done. Operators of minibuses using permits for vehicles with a designed maximum capacity of not more than eight passengers are exempt from the requirements of 'the EU Regulation'.

Problem under consideration

The Department's longstanding view was that permit holders automatically meet the 'non-commercial' exemption from the Regulation. However, this has been challenged and concerns have been raised that some organisations operating under the permit system are in fact operating for commercial purposes. The legal relationship between the EU Regulation and domestic legislation is unclear and these pieces of legislation are misaligned. There is currently no guidance on the scope of the exemptions from the Regulation. The Regulation allows Member States to exempt national operations having only a minor impact on the transport market, this would provide extra flexibility to the community transport sector and has not yet been given effect in domestic legislation.

Ensuring permits are only issued to those exempt from the EU Regulation

The Transport Act 1985 is not fully aligned with 'the EU Regulation' and appears to allow permits to be issued in certain circumstances that are not covered by the exemptions to operator licensing in 'the EU Regulation'. This could lead to a fine being levied against UK Government for non-compliance with 'the EU Regulation', unless action is taken.

In the past, it was assumed by the Department that all permit-holders would fall within Article 1(4)(b) of 'the EU Regulation' because they would be either "engaged in road passenger transport services exclusively for non-commercial purposes" or "...have a main occupation other than that of road passenger transport operator". For this purpose, it was believed that the term "non-commercial" equated to "not-for-profit". However, following an enforcement investigation carried out by the Driver and Vehicle Standards Agency (DVSA) in 2017 and discussions with the European Commission, it has become apparent to the Department that this assumption is no longer sustainable. In particular, it is no longer possible to assume that all permit holders are "engaged in road passenger transport services exclusively for non-commercial purposes" as set out in 'the EU Regulation' merely by virtue of compliance with the not-for-profit requirement applicable to section 19 and section 22 permits.

'The EU Regulation' has direct effect so is immediately enforceable in UK law without needing to be transcribed. This makes the difference of terminology in UK law and guidance, from EU law even more stark and makes the scope for exemption uncertain for some stakeholders. Also, the terms used in 'the EU Regulation's' exemptions can be interpreted in different ways so require clarification.

As set out above the exemption for domestic operators engaged exclusively in national transport operations having only a minor impact on the transport market because of the short distances involved has not yet been implemented. To afford maximum flexibility to the community transport sector, it is intended to use the legislation to give effect to this exemption.

Any national systems for exemptions from operator licensing (such as the section 19 and section 22 permit system) should be subject to 'the EU Regulation's' boundaries and Member States cannot adopt additional exemptions to 'the EU Regulation'. There is therefore uncertainty about the relationship between the 1985 Transport Act provisions and 'the EU Regulation' when issuing and retaining section 19 and section 22 permits.

'The EU regulation' requirements (which relate to all PSV operator licence holders) are more comprehensive and more expensive than those for permit users.

Stakeholder feedback indicates that it is difficult to know:

- which piece of legislation to apply first in deciding whether to apply for an operator's licence or permit; and
- which exemptions apply.

This uncertainty contributes to:

- non-compliance with obligations by operators through ignorance or lack of clarity; and
- stakeholder complaints that the profile of organisations using permits has changed significantly over the thirty years since the Transport Act was passed, and that as a result many not-for-profit permit-holders have expanded and now compete actively with profit-making PSV licence-holders - particularly for local authority contract work.

Complainants allege that permit holders have an unfair advantage over them by having lower operational costs (because they are exempt from operator licence compliance costs) and therefore are able to offer services at a lower price. The resulting competition between permit holders and PSV licence-holders was not intended or foreseen and makes it difficult to distinguish between commercial and permit operators. Greater clarity about the obligations of 'permit' holders is therefore required.

Enforcement

The DVSA investigates possible breaches of permit legislation. Where an operator is providing a transport service which is not compliant with operating under a permit, the DVSA can take enforcement action, such as impounding vehicles, on the basis of the offence of operating without a PSV operator's licence.

The lack of clarity can cause difficulties for enforcement agencies such as the DVSA and permit issuers such as Traffic Commissioners, (who also regulate PSV operator licence holders), to determine whether permits should be issued to certain not-for-profit organisations and whether permit holders fulfil their obligations to operate safely on roads.

Traffic Commissioners can revoke any section 19 or 22 permit. Designated bodies can only revoke permits that they themselves have issued. The revocation grounds for section 19 permits are not specified in legislation but where transport services being provided fall outside the terms of the permit, then it can be revoked and the operator advised to apply for a PSV operator licence.

Driver Certificate of Professional Competence

The consultation stage impact assessment included an assessment of costs and benefits in relation to the need for drivers to obtain a Driver Certificate of Professional Competence (DCPC) qualification. This requirement does not relate to 'the EU Regulation'. Although it was not intended to make any legislative changes in this regard, it was included in the consultation impact assessment because at the time of drafting (2016), the Department intended to consult on providing further guidance on this. However, the February 2018 Government consultation did not consult on any changes relating to the guidance on DCPC. Therefore, it is no longer necessary for this impact assessment to consider this aspect as it is no longer part of the proposed changes. This means that the descriptive commentary and costs and benefits relating to DCPC in the consultation stage impact assessment have been removed from this final stage impact assessment.

On 18 April 2018, EU Directive 2018/645 was agreed that amends the existing Directive relating to DCPC. This includes an amendment to the exemption that is most applicable to the community transport sector to make it more flexible. DVSA is engaging with stakeholders on how best to implement the amending Directive which has to be transposed by 23 May 2020. The benefits and costs of these changes will be assessed.

Rationale for intervention

Government intervention is needed to give clarity over the applicability of 'the EU Regulation' to permit holders. This clarity is needed by community transport operators, permit issuing bodies, enforcement agencies and regulators, PSV licence holders and those that procure bus services from community transport operators. To give effect to exemption in 'the EU Regulation' for transport operations with a minor impact on the transport market because of the short distances involved, the Government has to make domestic legislation to do this, it cannot be achieved through any other method.

In December 2010 DfT produced a joint Impact Assessment (IA) for implementing EU regulations including Regulation 1071/2009. The IA contained very little information about the impact of 'the EU Regulation's' requirements on permit users. It largely focussed on the costs of meeting requirements in a specific way rather than the impacts of not being able to satisfy the requirements. The IA stated that 'the EU Regulation' would not impact on community transport organisations who operated services non-commercially.

Though the implication is that all permits issued since 2011 have been subject to 'the EU Regulation', that is not the case, as DfT and all permit-issuing bodies previously treated being 'not-for-profit' as synonymous with being 'non-commercial'. This means that the assumption was that community transport organisations were exempt from the provisions of 'the EU Regulation'. However, being a not-for-profit organisation does not automatically mean it meets the exemption for operators "engaged in road passenger transport services exclusively for non-commercial purposes" set out in 'the EU Regulation', instead this needs to be determined objectively on a case by case basis.

Practically, the majority of permit users were only granted permits under the Transport Act criteria. This means that there may be some community transport operators that do not meet the exemptions under 'the EU Regulation' even though they meet the requirements to obtain a section 19 or 22 permit.

At implementation stage, the provisions of the Transport Act 1985 (sections 18 to 23) should have been, but were not, amended to align them explicitly with 'the EU Regulation' derogations. This has led to confusion for the community transport sector. Some clarification is therefore needed. Correct implementation should mean that a permit should be invalid if it does not comply with 'the EU Regulation' without any need for enforcement action.

In addition, the permit revocation powers (s20 (5) (a) and 23 (6)) are not adequate to enforce compliance with 'the EU Regulation' without bringing organisations to the attention of the regulator and enforcement body. A mechanism is needed therefore that invalidates permits without the need for them to be reported to the DVSA or Traffic Commissioners first.

It is the Government's responsibility to clarify the legal position and address the misalignment of domestic and EU legislation to prevent a potential fine.

The Department is best placed to amend legislation and guidance to rectify this uncertainty and will work with the DVSA, Traffic Commissioners and the permit holding sector to ensure that any changes proposed are effective.

Unless Government intervenes, the confusion about the obligations of section 19 and 22 permit holders and the exemptions available to them will persist. This reduces compliance with obligations and reduces the scope for the improvements intended from 'the EU Regulation'.

The Government wants the passenger transport market to function in a fair and equitable manner.

Gold plating

The rationale for intervention does not go beyond the minimum standards required for 'the EU Regulation', to be effective and consequently does not amount to 'gold plating'.

Legislation

'The EU Regulation' does not permit any additional exemptions to be created and therefore we are not imposing any additional legal obligations. As mentioned above, correct implementation should have resulted in the Transport Act 1985 (sections 18 to 23) being amended to align them explicitly with the EU Regulations derogations.

We are only using the power in the European Communities Act 1972 to say explicitly that eligibility for new permits is restricted to "exempt bodies" as defined in 'the EU Regulation' and existing permits are only valid for as long as their organisation(s) continue to satisfy the licensing exemptions. This does not go beyond the EU minimum standards. The European Communities Act power is normally interpreted as authorising the minimum of changes to make EU policies and legislation workable domestically. The legislation can be enacted in a similar timeframe to guidance. The legislation would have the effect of clarifying the current legal position for the benefit of permit-holders, applicants and issuing authorities.

In addition the legislation will implement the exemption provided for transport operations with a minor impact on the transport market because of the short distances involved, which is in line with Government policy to take full advantage of any derogations.

Guidance

We are using this non-legislative option to set out the scope of exemptions to 'the EU Regulation' to facilitate understanding, aid compliance by the sector and effective enforcement. Additional clarification is needed because the scope of those exemptions have never been discussed in any Government guidance previously. Also there is little existing case law that uses the same terminology as 'the EU Regulation's' exemptions.

Enforcement

The existing enforcement powers are insufficient to force compliance with 'the EU Regulation'.

Transport Act section 20 powers allow a Traffic Commissioner or permit-issuing body to revoke section 19 permits that they have issued. Traffic Commissioners can also revoke permits issued by permit-issuing bodies after consultation with those bodies. As hundreds of Councils and organisations can issue permits and there is no legal requirement (though Guidance does recommend it), for those permit-issuers to inform the Traffic Commissioner about permits that they have issued, using these powers would be lengthy. As some bodies were granted permit-issuing powers almost 30 years ago, some of them may have ceased to operate, changed their organisational structures and purposes, relocated or simply not retained records of those they issued permits to.

Reliance on these powers to revoke permits of operators that do not fall into an exemption would likely result in inefficient, inconsistent compliance and impose a large burden on Traffic Commissioners and the DVSA.

The powers in the Transport Act section 23 authorising the revocation of section 22 community bus permits do state that not meeting permit conditions is grounds for revocation, however those conditions are set out in the Transport Act itself and no reference to 'the EU Regulation' is made.

The legislation proposed in the preferred option would clarify that existing permits are only valid while the organisation continues to satisfy one of the exemptions. This places the onus on existing permit holders to carry out a self-assessment to ensure that they satisfy one of the exemptions and transition to a PSV Operator Licence if they do not.

Baseline and EANDCB cost metric

Given the current lack of certainty over the exemption for non-commercial operators, we assume that in the counterfactual, organisations continue to apply exemptions from PSV operator licencing incorrectly. The preferred option of this intervention is expected to redress this issue, and introduce several costs and benefits.

The baseline for determining additional costs and benefits of government intervention, should contain the expectation that the UK Government complies with EU law, through minimum requirements. Given that the preferred option of this intervention is the minimum requirement to align with EU legislation, the costs imposed by it should be considered as part of the baseline of UK Government fulfilling its obligation to transpose EU law, and will be considered as adding no additional regulatory burdens.

Given that the preferred option will align domestic requirements with existing EU legal requirements that are already in force in the UK, any costs incurred by business or community bodies are effectively incurred as a result of current non-compliance with 'the EU Regulation'. Therefore, the costs imposed by it will be considered as adding no additional regulatory burdens, which is why the EANDCB is zero.

Policy objective

The intention is to provide clarity to road passenger transport operators and in particular, section 19 and 22 permit holders. The Government wants to fully align domestic legislation with the requirements of the 'EU Regulation', to minimise the risk of being fined for non-compliance with an EU obligation.

Improving understanding of legislation and guidance in this area will:

- make it easier for permit holders, permit issuers and enforcement agencies to know what the scope of obligations and exemptions are;
- improve compliance and the ability to take enforcement action;
- prevent anti-competitive practices between permit operators and licenced PSV operators;
- prevent the accidental misuse of permits through ignorance or lack of clarity;
- reduce the risk to organisations contracting services from operators using permits to provide transport for vulnerable passengers, of those services being disrupted if an operator is found to have misused their permits;
- reinforce that Government supports proportionate regulation of organisations using section 19 and 22 permits and that they are regulated fairly; and
- protect the permit system of exemptions for organisations which are operating within the scope of exemptions to 'the EU Regulation'.

Consideration needs to be given to the most comprehensive way of achieving this. Any solution needs to include a method of declaring permits invalid with minimal reference to permit issuing bodies, some of which may no longer exist or hold records of the permits they issued. This will minimise the drain on resources of the regulator (Traffic Commissioners) and enforcement agency (DVSA) given the limitations on their ability to revoke permits as discussed on pages 5 and 7.

Description of options considered (including do nothing)

Option 1 – do nothing (the baseline option).

Impact

Confusion about the circumstances in which road passenger transport operators can be exempted from the requirements of 'the EU Regulation' in PSV operator licensing would continue, causing reduced compliance with obligations through ignorance; and reducing the scope for improvements intended from 'the EU Regulation'.

There is a risk that the Department will be perceived to be turning a blind eye to regulating permit organisations in operating commercially and perpetuating anti-competitive practices between permit holders and commercial operators, as well as potentially compromising road safety, although the Department has no evidence that permit holders operate less safely than PSV licence holders.

If the relationship between domestic and EU law is not clarified the UK could face a potential fine. The eventual cost of a fine could well quickly exceed the financial impact of parts of the sector using permits moving to a PSV licence regime, with its associated costs and additional training.

Currently the domestic legislation is silent about the requirements of and exemptions to 'the EU Regulation' as is some of the existing guidance¹. What the scope and examples of what 'the EU Regulation' could be interpreted to mean has never been set out in guidance.

The enforcement powers² for permits refer only to domestic criteria for ascertaining validity or breach and, as stated in the rationale for intervention, are insufficient to enforce 'the EU Regulation' effectively, particularly with respect to existing permits, without reference to an enforcement body or regulator.

¹ August 2013 'Section 19 and 22 Permits: not for profit passenger transport'

² Transport Act 1985 sections 20 and 23.

DVSA Operational Enforcement is set up to undertake enforcement in a targeted way, following up on credible intelligence. Their current level of resource and overall enforcement strategy lends itself to efficient and effective processes. DVSA sees using existing powers on a wide scale as a way of ensuring compliance with 'the EU Regulation' as ineffective, inefficient and incompatible with their existing strategy. They do not believe that enforcement could be achieved using their current resources and believe the use of existing powers would lead to inconsistent application.

This option would not increase the ability of DVSA and the Traffic Commissioners to take action against permit misuse. This option would also not mitigate the risk to organisations that contract out work to permit operators of service loss if those operators are found to have misused their permits, or facilitate the interpretation of legislation in the absence of case law.

Cost

We have not been able to ascertain how many instances there are of permit operators competing against those that are PSV licenced. We have no evidence of bodies that issue permits charging more than cost recovery for licences so no evidence that they benefit from the current situation. We have no evidence that suggests community transport is less safe than commercial operation.

Benefit

Bodies operating under permits benefit from the reduced costs associated with their proportionate regulation and are able to continue passing on those savings to organisations who grant them contracts including local authorities.

Passengers will benefit from organisations being able to continue operating their services.

The misalignment of domestic legislation with 'the EU Regulation' and confusion among operators about the scope of 'the EU Regulation' is evidence that doing nothing is not a viable option.

Option 2 – using primary legislation only

Using primary legislation to amend the Transport Act 1985 to take account of 'the EU Regulation' and make other desirable changes to the permits regulation regime, including implementing the minor impact exemption.

Impact

This option is likely to take a long time to implement because of the time that it would take to find an appropriate slot in primary legislation, the need to authorise any changes, and the greater timescales involved in drafting, then clearing, legislation prior to enactment. Also, amending legislation would not automatically update guidance and therefore not provide certainty about the circumstances in which road passenger transport operators can be exempted from the requirements of 'the EU Regulation'.

There have been incidents reported in the transport trade press regarding confusion about the scope for permit holders of exemptions from 'the EU Regulation'. There therefore needs to be a faster solution than this lengthy option to clarify the position. This option would not mitigate the risk of a fine for incomplete implementation of 'the EU Regulation'

Cost

There would be some familiarisation costs to all organisations operating using permits. There could also be costs to parts of the permits sector from having to satisfy 'the EU Regulation', transitioning to standard or restricted PSV operator licensing. Without guidance on the interpretation of the exemptions, many operators may still be unclear as to what it means for them.

Benefit

This option would comprehensively clarify the relationship between the Transport Act and 'the EU Regulation' and set out the legislative requirements for exemptions to PSV operator licensing. To a greater extent than Option 1 (doing nothing) and Option 3 (the non-legislative options) but less than the preferred option, this option would increase legal knowledge of obligations and exemptions from PSV operator licensing, increase compliance with licence obligations, increase the ability of bodies to take enforcement action against licence misuse, reduce anti-competitive practices between permit users and PSV licence holders, reduce the risk of operators being found to have misused their permits and consequently the services they provide being disrupted, and reinforce that Government supports

proportionate regulation of all operators. This option would also partially realise the benefits intended from 'the EU Regulation', clarify the validity of existing permits without reference to an enforcement body, regulator or permit issuer. This option would also facilitate the interpretation of legislation in the absence of case law. It would enable a wider review of the permit system to ensure it is still fit for purpose since its introduction in 1985.

Option 3 – non-legislative mechanisms

3a – developing a code of conduct

Developing a code of conduct for permit users to follow that suggests that they comply with the scope of the exemptions to 'the EU Regulation' without changing the guidance or making any legislative changes.

Impact

This option does not have any legal authority to clarify either the relationship between 'the EU regulation' and the Transport Act 1985 or the scope of PSV Operator licensing obligations in legislation. It cannot therefore mitigate the risk of a potential fine. A code of conduct is not legally binding and could not guarantee compliance with mandatory legal requirements. The full benefits of 'the EU Regulation' would only be realised by signatories to this option who comply with its standards there may be some permit operators that no longer meet the definition of the exemptions but who decide not to sign up.

It is unlikely that the majority of organisations operating under permits would voluntarily choose to sign up to a code of conduct that increases their licensing costs without reference to the DVSA, Traffic Commissioners and permit issuers to clarify the validity of existing permits.

By defining the scope of exemptions in a voluntary code of conduct, this option cannot limit anti-competitive practices (and cost savings from misuse of permits) outside of signatory permit operators who meet the voluntary standards. This option also cannot improve the ability of the DVSA, Traffic Commissioners or permit issuers to take action against misuse. A voluntary code of conduct cannot facilitate influencing the interpretation of legislation in the absence of a substantial body of case law. This option would not give effect to the exemption in 'the EU Regulation' for transport operations that have a minor impact on the market because of the short distances involved.

Cost

There could be some familiarisation costs to organisations operating using permits but these costs would be voluntary and operators would only choose to bear those, if the benefit of doing so exceeded the cost. Therefore these costs have been discounted. There could also be voluntary costs to parts of the permits sector from satisfying 'the EU Regulation' and transitioning to standard or restricted PSV operator licensing. There is limited evidence about the ability of those currently operating under permits to bear those additional costs.

Benefit

This option has the benefit of being relatively quick and would be sufficient to clarify the requirements for exemptions to PSV operator licensing, but only as voluntary standards for those that chose to sign up. The quality of road passenger transport services for signatories would improve.

3b – update guidance and improve enforcement using existing legislation

Consulting on and revising guidance³ to provide advice on what type of operators would fall under the scope of the exemptions to 'the EU Regulation'. Communicating with the regulator (Traffic Commissioners), the enforcement agency (DVSA), permit issuers and permit operators to insist that EU Regulation criteria be applied to all existing and new permits without making any legislative changes. Thereby relying on the goodwill of these groups to revoke the permits of operators that no longer fall under the scope of the exemptions.

Impact

³ August 2013 'Section 19 and 22 Permits: not for profit passenger transport'

This option does not have any legal authority to clarify either the relationship between ‘the EU Regulation’ and the Transport Act 1985 or the scope of PSV Operator licensing obligations in legislation. It cannot therefore mitigate the risk of a potential fine or fully realise the benefits from implementing ‘the EU Regulation’. Guidance is not legally binding and could not guarantee compliance with mandatory legal requirements.

It is unlikely that the majority of organisations operating under permits would voluntarily choose to increase their licensing and training qualification costs without reference to the DVSA, Traffic Commissioners and Permit-issuers to clarify the validity of existing permits.

By defining the scope of exemptions in guidance, this option can only partially prevent anti-competitive practices between permit operators and licenced PSV operator licence holders (and cost savings from misuse of permits). This option can also only improve the ability of the DVSA, Traffic Commissioners or permit issuers to take action against misuse by giving them guidance on the scope of exemption to ‘the EU Regulation’ it does not automatically make permits invalid if they decide that the operator no-longer fall within the new interpretation set out in the guidance. This option would not give effect to the exemption in ‘the EU Regulation’ for transport operations that have a minor impact on the market because of the short distances involved.

Cost

There could be some familiarisation costs to organisations which operate using permits but these costs would be voluntary and operators would only choose to bear those if the benefit of doing so exceeded the cost. Therefore these costs have been discounted. There could also be voluntary costs to parts of the permit sector from satisfying ‘the EU Regulation’ and transitioning to standard or restricted PSV operator licensing. There is limited evidence about the ability of those currently operating under permits to bear those additional costs.

Benefit

This option has the benefit of being relatively quick and would be sufficient to clarify the requirements for exemptions to PSV operator licensing in guidance. Guidance effectively facilitates the interpretation of legislation in the absence of a substantial body of case law. The quality of road passenger transport services would improve for those permit holders no longer falling within the scope of the exemption and who are subject to compliance action and for those choosing to transition voluntarily to PSV operator licensing.

Option 4 (preferred option): use secondary legislation, consulting, and refreshing guidance

Using secondary legislation to clarify in the Transport Act that in order to be entitled to new permits, or for existing permits to be considered valid, road transport passenger operators first have to fit into one of the exemptions of ‘the EU Regulation’. Revising guidance⁴ accordingly. The legislation would be made and the guidance issued following consultation with stakeholders.

Impact and benefits

This option provides a chance of addressing both the legislative and non-legislative aspects of the problem. It combines the advantages of a legislative approach (clarifying the relationship between domestic and EU legislation), with the speed of non-legislative clarification of guidance and ensures that the views of the permit sector on the above are heard.

This is the best legislative option capable of clarifying the relationship between, and better aligning, ‘the EU Regulation’ and the Transport Act 1985 and will give effect to the exemption for transport operations with only a minor impact on the market because of the short distances involved. Additionally its non-legislative element quickly allows clarification of the guidance position on PSV operator licensing exemptions. This option would increase legal knowledge of obligations and exemptions from PSV operator licensing, and increase compliance with licence obligations. Guidance effectively facilitates the interpretation of legislation, in the absence of a substantial body of case law.

It would also: increase the ability of bodies to take enforcement action against licence misuse, reduce the scope for anti-competitive practices between permit users and PSV licence holders, reinforce that

⁴ August 2013 ‘Section 19 and 22 Permits: not for profit passenger transport’

Government supports proportionate regulation of all operators, and reduce the risk of operators being found to have misused their permits and consequently the services they provide being disrupted.

The full benefits of 'the EU regulation' would be realised.

Costs

Any interpretation that no longer equates not-for-profit with non-commercial will have an impact on passengers, if those permit holders that no longer fall within the scope of the non-commercial exemption cannot afford to transition to a PSV operator licence and so close down.

A full cost benefit analysis of this option is provided later in the impact assessment.

Operators affected

We do not expect all operators with section 19 and 22 permits to fail to meet 'the EU Regulation's' requirements and have to transition to standard or restricted PSV operator licensing, or cease operating.

We only expect those who do not fit into any of the listed exemptions to face transitional costs.

Under the changes we propose to guidance, we believe that the exemptions will allow a significant number of operators using permits to retain them. We strongly believe that the organisations using voluntary drivers will be the smallest, most vulnerable and least able to transition to PSV operator licensing costs. We think that those organisations are those that the 'spirit' of the Transport Act exemptions were intended to protect. By reason of their voluntary ethos we believe those organisations should remain proportionately less regulated than others. Some organisations may be able to take advantage of the exemption for transport operations that have a minor impact on the market because of the short distances involved that the secondary legislation will give effect to.

We would expect organisations whose main occupations are as road passenger transport operators who do not fit into any of the other exemption categories in 'the EU Regulation' to have to transition to standard or restricted PSV operator licensing or cease operating.

Initially we expect the greatest impact to be on new applicants for section 19 and 22 permit applicants who will be considered against 'the EU Regulation's' exemptions before the Transport Act's conditions.

Obtaining a PSV operator licence will allow not-for-profit bodies to engage in competition with profit-making bodies and expand their opportunities. Not-for-profit bodies have just as much potential to operate successful, quality services as profit-making bodies; a wider holding of PSV operator licences in the not-for-profit sector presents positive as well as negative impacts.

We do not expect there to be any impact on bodies whose main occupation is not that of road passenger transport operators and who use permits to operate transport that is a 'side-line'. For example, there is no change proposed to how Scout or other youth groups can operate their minibuses using section 19 permits.

We expect that most local authorities will review their contracts with operators to determine if they:

- can still operate under a permit or whether they need to transition to PSV licensing; and
- can still provide contracted services at pre-agreed costs and if not, whether authorities can afford the new costs or if new bidding rounds for contracts are required.

We expect local authorities to mitigate their risks, however, we advise them to take a proportionate view of the timescales for permit operators to comply and retain service provision for vulnerable passengers wherever possible.

Over time we expect operators using permits to self-regulate and transition or cease operating as they become aware of changes to legislation and guidance.

We expect driver enforcement agencies like the DVSA and the Traffic Commissioners as the regulators to continue to take action against permit misuse by using available penalties. Licensing authorities and bodies like these are likely to face an increase in the volume of familiarisation queries. Licensing applications could potentially increase in anticipation of legal and guidance changes by operators wishing to qualify for permits under the 'old' rules.

Public consultation

In February 2018 the Government published its 'Consultation on the use of section 19 and section 22 permits for road passenger transport in Great Britain' which closed in May 2018. The consultation

focused on the preferred option of introducing secondary legislation to amend the existing section 19 and 22 legislation to clarify that permits may only be granted to and held by organisations that meet one or more of the exemptions set out in 'the EU Regulation' and update relevant guidance to clarify and illustrate instances in which each of the exemptions might apply.

The Department for Transport received 494 written responses to the consultation, and over 550 people attended the workshops that the Department ran during the consultation period. Consultation responses were received from a very wide range of individuals and institutions, including permit holders, local authorities, commercial bodies, and bodies representing these different groups, with the majority being from permit holders. Many of the responses provided examples or testimonials of the importance of the services that their community transport services provide to local people, particularly emphasising the social value that they deliver, to highlight the impact on those people if the service was lost.

The majority of the responses asked for further clarity on the proposed text of the guidance and many community transport operators and local authorities suggested the inclusion of real world examples or good practice examples of how to evaluate certain types of service. The consultation responses showed that there is no consensus amongst stakeholders on how the exemption for road transport operators operating exclusively for non-commercial purposes should be interpreted.

There were mixed comments on the introduction of the exemption for transport operations with a minor impact on the transport market because of the short distances involved. Those representing the community transport sector generally favoured it being introduced but had some concerns over how it would work in practice. On the other hand the commercial sector who already believe that permit holders have an unfair competitive advantage did not support the introduction of the exemption.

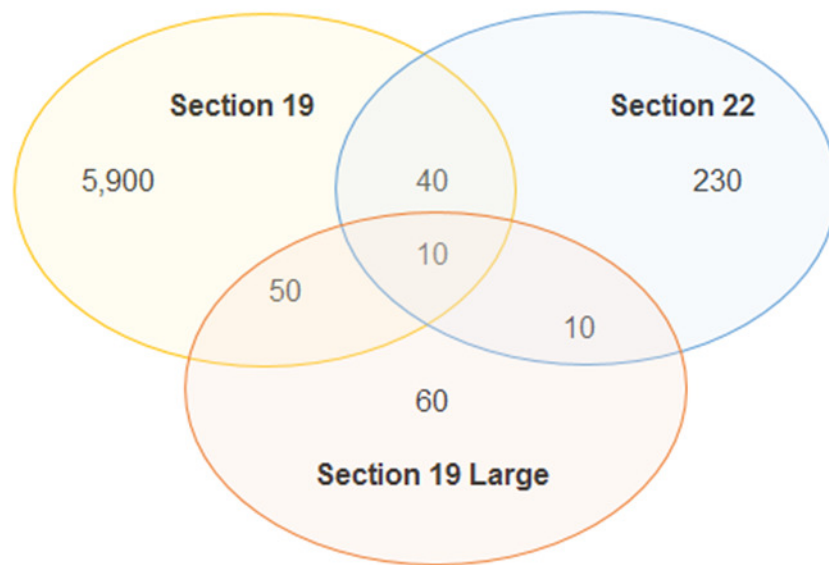
What the consultation responses did make clear is that the sector needs clarity over how the PSV operator licensing system applies to community transport operators that hold section 19 and 22 permits. This clarity is requested quickly to bring to an end the uncertainty for the sector which has seen some section 19 permit holders excluded from competitions for local authority contract work due to the legal uncertainty over the applicability of 'the EU Regulation' to permit holders. In light of this the Government has revised the guidance and tested it with key stakeholders to ensure that it is in a clear and useful form as possible. The Government has worked up the detail of the exemption for transport operations with a minor impact on the market because of the short distances involved so that this can be included in the secondary legislation that will be introduced to align the domestic legislation with 'the EU Regulation' and clarify that existing permits are only valid while the operator continues to satisfy one of the exemptions.

Monetised and non-monetised costs

Analysis of the impacts on bodies operating under section 19 and 22 Transport Act 1985 permits

Data held by Traffic Commissioners allows us to examine the make-up of bodies operating under section 19 and 22 permits. Section 19 permits can be standard (up to 16 passengers or less) or large (17 passengers or more). The data contains basic information about operators who have applied for one of the three types of Transport Act 1985 permits – section 19, section 19 large and section 22. This data shows that there are approximately 6,300 operators who hold valid permits. The vast majority of these operators (around 94%) hold only section 19 permits while others hold either section 19 large (1%) permits, section 22 permits (4%) or multiple permits (1%). The types of permit held by operators are displayed in Chart 1 below. The manually-entered fields that make up the data could contain a substantial number of entry errors, so all results derived from using this data should be treated with caution.

Chart 1: Chart showing the number of operators holding section 19 and section 22 permit types (figures rounded to prevent spurious accuracy).



The permit data also suggests that around half of bodies operating using permits are educational institutions such as schools and universities. This has been estimated using a keyword sift of the names of operators (e.g. those operators with the words ‘school’, ‘college’ or ‘university’ in their name have been classified as being educational institutions). These figures should therefore be treated with caution but do provide some indication of the types of organisations which make up the sector.

Table 1: Types of operators using section 19 and section 22 permits (figures rounded to prevent spurious accuracy)

Type of operator	Number of operators
Educational institution	3,000
Place of worship	150
Local authority	200
Other (including charities)	2,950
TOTAL	6,300

In order to examine the effects of complying with ‘the EU Regulation’ and transitioning to PSV operator licensing, operators have been categorised into five sizes based on the number of vehicles that they have. Permits are not vehicle-specific but a single permit at a time can only be used for one vehicle at a time. For simplicity, we have assumed that a permit is equivalent to a vehicle.

This shows that the vast majority of operators using section 19 and section 22 permits are small or micro operators with less than 20 vehicles.

Table 2: Approximate number of operators using section 19 and section 22 permits by size (figures rounded to prevent spurious accuracy)

Size of operator	Number of buses	Estimated number of operators using section 19 and 22 permits of this size
Micro	1-5	5,600
Small	6-20	600
Medium	21-50	70
Large	51-100	20
Very Large	101+	Less than 10

By applying the same definitions for operator size from the Traffic Commissioner data, to data from 400 applicants to the Community Transport Minibus Fund, the average characteristics of an operator of each type have been estimated (see table 3 below). The Community Transport Minibus Fund was a competitive funding scheme run by the Department for Transport to help operators using permits buy new minibuses. Applicants to this fund had to submit financial and organisation personnel information. The data was collected in 2014/15 and could be argued to be more representative of more engaged permit operators than of the sector as a whole. This assumption is discussed in more detail later in the document. The 400 operators are felt to be a reasonable sample size to estimate general characteristics of section 19 and 22 permit holders. Though this data does not include permit operators who didn't seek financial assistance from the fund and therefore might not be typical of the entire permit sector, in the absence of an alternate dataset, if we treat applicants as representative of the entire permit sector we can estimate the typical number of staff, income and savings for an average permit operator.

Table 3: Average attributes for operators of different sizes using section 19 and 22 permits (figures rounded to prevent spurious accuracy).

Type of operator	Micro (1-5 buses)	Small (6-20 buses)	Medium (21-50 buses)	Large (51-100 buses)	Very Large (more than 100 buses)
Average number of vehicles	3	10	36	79	595
Average number of staff and volunteers	18	63	177	435	1,564
Average income (2014 prices)	£94,000	£370,000	£1,500,000	£3,600,000	£10,200,000
Average reserves (2014 prices)	£41,000	£160,000	£320,000	£590,000	£10,400,000

Analysis for preferred option

When considering the likely impacts of the proposed policy option, it is worth noting that of the approximately 6,300 section 19 and 22 permit operators, we have already identified that at least 3,150 (educational and religious institutions) will be **exempt** from the requirements of 'the EU Regulation' by virtue of operating passenger transport services as ancillary to their main business. These organisations will be able to retain their permits for use as before.

This analysis suggests that the number of **section 19 and 22 permit operators potentially affected by the requirements of 'the EU Regulation' and the transition to PSV operator licensing-related requirements is approximately 3,150 operators or 50% of the sector.**

Overall, we provide three scenarios to illustrate the potential impacts of the policy. Our high scenario assumes a maximum of 50 per cent of the overall operators could be affected which is a very cautious assumption and is very unlikely to represent the actual cost. Our low scenario reflects a more optimistic scenario and assumes 5 per cent of operators are affected. Our central scenario of 25 per cent affected is considered the most likely outcome.

Our consultation results suggest that 83 per cent of the sample consider themselves to be exempt on at least one of the two exemptions set out in the legislation. The central estimate assumption has remained at 25% following this evidence, rather than being lowered to 17%, as the consultation responses only represent a small sample of operators and there seems to be some misinterpretation of what the exemptions will cover. However it does suggest that the central estimate is sensible and we nonetheless present a range of estimates to illustrate this uncertainty. In addition, some operators will be able to take advantage of the new exemption being implemented for transport operations with a minor impact on the market because of the short distances involved.

Therefore, from this point on, in relation to impacts arising from transitioning to PSV operator licencing it should be noted that over half of section 19 and 22 permit holders have already been exempted. The following analysis and above assumptions therefore applies to this 50 per cent of remaining operators.

For simplicity we have also assumed that the approximately 3,150 potentially affected operators are divided equally into the same operator sizes as previously. Therefore table 4 shows the maximum size of the operator population who could potentially be affected by the proposed policy change. This is approximately 50% of the overall population of the sector.

Table 4: The likely maximum number of operators who could transition to PSV operator licensing (figures rounded to prevent spurious accuracy)

Size of operator	Number of buses	Estimated number of operators using section 19 and 22 permits of this size
Micro	1-5	2,800
Small	6-20	300
Medium	21-50	40
Large	51-100	10
Very Large	101+	less than 10

Monetised costs

Costs to all operators

Familiarisation costs

All those operating under section 19 and 22 permits will face familiarisation costs as a result of the proposed policy option which will involve acquainting themselves with the new regulations. These costs will be fairly small per operator. We estimate that it will take the average operator half a working day - 4 FTE (full-time employee) hours - to familiarise themselves with the relevant law and guidance, given they have a degree of complexity. An estimate for the average hourly wage of an administrative employee (£11.73/hour⁵) has therefore been scaled up by approximately 20% to account for non-wage costs⁶ such as pension and insurance payments and this has been multiplied by the total number of community transport operators according to the permit data (6,300).

An individual operator of any size is therefore presumed to spend £56.40 on familiarisation. This gives the overall costs to section 19 and 22 permit holders which is estimated to be approximately £350,000 in the first year of clarifying legislation and guidance. These are one-off costs which do not reoccur.

Costs to operators currently operating under section 19 and 22 permits who have to transition to PSV licensing

Some operators currently operating using section 19 and 22 permits will face additional costs from having to comply with 'the EU Regulation' and transitioning to PSV operator licensing. These include increased (PSV Operator) licence costs; MOT costs; accessibility certification costs; service registration costs; and Transport Manager costs.

PSV Operator licence costs

A PSV Operator licence is more expensive than a section 19 or section 22 permit (see Table 5) but the licence covers all vehicles operated. Like a permit it has to be renewed every five years. An operator requires a disc for every vehicle in its fleet. The operator will require a licence to be held in each traffic area where they have an operating centre but they will need only one licence per traffic area. An operating centre is the base or centre at which the vehicle is normally kept. Our assumption on each operator is consistent with our consultation responses as the vast majority of operators only operate in one traffic area.

There is no fee for: the grant of the licence, each vehicle disc, the grant of a variation and the five year continuation. These fees are now included in the vehicle test fees.

Table 5: Costs for different types of permit, 2016 prices, Government data⁷

Permit type	Service type	Cost, £
S19 permit	Community transport	£11.00 per vehicle
S19 large permit	Community transport	£20.00 per vehicle
S22 permit	Community transport	£55.00 per vehicle
PSV licence	Commercial service	£209.00 per operator

The costs for operators transitioning to PSV operator licences are calculated by multiplying the number of operators by the cost of a PSV licence. The costs of S19 and S22 permits (costs per permits multiplied by the number of vehicles) are then subtracted from the licence costs to get the net cost. Based on the average permit cost of approximately £13, S19 and S22 permits for an average micro operator (operating 3 buses) would cost approximately £80 over 10 years, whilst for the average large operator (operating 79 buses) this would total over £2000

Working on the simplifying assumption that each permit operator only needs to be registered in one traffic area, all operators would pay £210 over 10 years, hence an average micro-sized operator would pay an additional £130 a year to become PSV Operator licenced, compared to a large sized operator

⁵ Average wage for administrative and secretarial positions from: ONS (2015) 'Annual Survey of Hours and Earnings'

⁶ Source: DfT WebTAG appraisal guidance

⁷ Source: Office of the Traffic Commissioner document 'Bus Registration and Bus Permits Scale of Fees'

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/358498/Bus_registration_and_bus_permits.pdf

who could save up to £1,800, based on analysis of their assumed size of vehicle fleets. We predict that larger operators, by virtue of this cost not being calculated per vehicle, would experience a net benefit, from transitioning to PSV operator licensing.

Table 6 illustrates the expected operator costs from transitioning from permits to PSV licensing, per year and over a ten year period. We have assumed that a minimum of 5% of current permit holders transition from permits to PSV Operator licensing, providing an optimistic scenario whereby the new regime requirements may bypass all sector participants, apart from the largest, as our illustrative estimates indicate that 98% of the sector is made up of micro and small organisations (see table 4). We have chosen a maximum catchment of 50% as a pessimistic scenario, where all non-education and non-faith related organisations are in scope of ‘the EU Regulation’ (see above). Analysis on this basis indicates the sector’s costs could increase by between £4,200 and £40,800 per year over that appraisal period (2017-26).

Table 6 PSV operator licensing costs

Scenario	Cost per year	Costs over 10 years
5 per cent	£4,200	£40,200
25 per cent	£20,900	£200,900
50 per cent	£40,800	£401,800

Note: these are rounded averages based on Table 17

Over a longer period, transitioning from permits to PSV operator licences will result in greater savings because unlike for permits, there is no fee for renewing a PSV operator licence.

We have not factored increases to the cost of varying PSV operator licenses compared to permits because we do not believe our proposals will directly increase the likelihood of variation, Also, we do not have any data about how frequently permit holders currently may vary their services.

MOT costs

Vehicles operated under standard section 19 or 22 permits require a less expensive MOT than those operated under a PSV Operator licence. Therefore, if they have to transition to PSV licensing, Section 19 and Section 22 permit holders will face increased MOT fees.

Currently, section 19 and 22 permit vehicles typically need a Class IV (9-12 passengers) or Class V (13-16 passengers) MOT which can cost up to £60⁸. Due to a lack of evidence, it has been assumed that 50% of section 19 and 22 vehicles require a Class IV MOT and 50% require a class V MOT meaning that the average MOT cost per vehicle for Section 19 and 22 permit holders is estimated to be £58.

Vehicles operated under a PSV Operator licence need a Class VI MOT, costing between £103 and £211⁹ depending on whether the MOT is carried out by DVSA or an authorised testing facility (ATF). For the purposes of this analysis, the midpoint of these values (£157) has been taken to represent the average cost of a Class VI MOT, due to a lack of evidence.

Vehicles adapted to carry seventeen or more passengers, used under a section 22 permit also have to be tested at Class VI however we do not have any idea how many vehicles fall into this category. Therefore we have conservatively assumed that no section 22 vehicles currently have to be tested at Class VI and so all section 22 vehicles affected by the policy change will face increased costs.

⁸ Source: Gov.uk MOT Costs <https://www.gov.uk/getting-an-mot/mot-test-fees>

⁹ Source: Public Service Vehicle Operator Licensing Guide for Operators 2007 http://www.transportsfriend.org/pdf_files/pcv/psv-guidetolicensing.pdf

Table 7: MOT costs for different buses¹⁰

Class of MOT	Type of vehicle	Cost per vehicle
IV (9-12 passengers)	Section 19 and section S22 permit-holders	Up to £57
V (13-16 passengers)	Section 19 and section S22 permit-holders	Up to £60
VI (9 or more passengers – PSV Operator licence operated vehicles, 17 or more passengers – in vehicles operated under section 19 or 22 permits)	PSV Operator licence holders and section 19 large bus permit holders	Between £103 and £211

As further illustrated in table 15, the increased MOT costs as a result of transitioning from permits to PSV operator licensing could be as low as £288 per year for micro operators with less than 5 vehicles or as high as £55,700 per year for very large operators with over 100 vehicles (rounded).

For standard section 19 and section 22 vehicles (adapted to carry 9-16 passengers), the additional MOT costs have been calculated by taking the difference between the average MOT costs per vehicle at present and the average MOT costs for PSV operators and multiplying this difference in costs by the number of vehicles affected.

These costs have been estimated to be between £90,000 and £915,000 per annum for the sector as a whole over the ten year appraisal period (2017-26).

Table 8 MOT costs per year

Scenario	Cost per year	Costs over 10 years
5 per cent	£91,500	£915,000
25 per cent	£457,500	£4,575,000
50 per cent	£915,000	£9,150,000

Note: these are rounded averages based on Table 17

Vehicles operated under a section 19 large bus permit already need Class VI MOTs and so will not face any additional MOT costs.

Accessibility certification costs

Large vehicles (those which can carry more than 22 passengers) are required to obtain an Accessibility Certificate if being used to provide a local bus or scheduled service. Section 19 large permit vehicles are currently exempted from this requirement. The Equality Act 2010 requires certification so any operators providing these services who have to transition to PSV licensing will face costs to certify that their vehicles are compliant with the Public Service Vehicle Accessibility Regulations. Section 19 standard permit vehicles will be too small to be in scope of this requirement and section 22 vehicles already have to comply with this, meaning that only section 19 large vehicles will be affected by these costs. The costs of certification are £51 per vehicle¹¹.

¹⁰ Source: Gov.uk MOT Costs <https://www.gov.uk/getting-an-mot/mot-test-fees>

¹¹ Source: DVSA Policy Team

Based on the 110 organisations using section 19 large bus permits, the total additional cost to the sector from certification is estimated to be between £114 (if 5% of current permit operators face this cost) and £1,137 per year (if 50% of current permit operators face this cost).

Table 9 Accessibility Certification costs

Scenario	Cost per year	Costs over 10 years
5 per cent	£114	£1,137
25 per cent	£569	£5,685
50 per cent	£1,137	£11,370

Note: these are rounded averages based on Table 17

Bus service registration costs

Section 2(2) of the Transport Act 1985 defines local services as those carrying passengers at separate fares over short distances. The Act prevents local services from either carrying every passenger more than 15 miles in a straight line from where they joined the service, or having bus stops more than 15 miles in a straight line apart from each other. The route can therefore be any length, as long as passengers can get off within 15 miles (in a straight line) of where they got on.

Local authorities are prohibited from contracting local services to section 19 permit holders, however section 19 permit holders who transition to PSV operator licensing could fall within the local services definition.

No data on how many section 19 permit operators may wish to register their services as local services if they were operating under a PSV operators licence is available, so we have assumed that no section 19 permit operators incur these costs.

Only section 22 permit holders currently providing local bus services will be affected by an increase in registration costs if they are required to transition to using the PSV operator licence regime. We have therefore assumed that all section 22 operators provide local bus services so the figures presented in the overall impacts therefore represent the maximum expected impacts from bus service registration costs.

We have applied the ratio of 2 vehicles to 1 service provided in the commercial sector, to the permits sector as a simplifying assumption to calculate this cost.

We have calculated the service registration costs by multiplying the number of services which they run by the additional cost per service (£47 see table 11 difference between service registration costs for section 22 and PSV operator licensing). The overall additional service registration costs to operators as a result of the proposed policy are estimated to be between £113 and £1130 per year depending on the number of section 22 permit operators who are affected by the policy.

Table 10 Bus Service Registration costs

Scenario	Cost per year	Cost over 10 years
5 per cent	£113	£1,131
25 per cent	£565	£5,654
50 per cent	£1,130	£11,308

Note: these are rounded averages based on Table 17

Table 11: service registration costs¹²

Type of permit held	Service registration costs
S19	Assumed nil
S22	£13 per service
PSV	£60 per service

Transport Manager Costs

A maximum of 50% of section 19 and section 22 permit organisations could have to appoint a Transport Manager to ‘effectively and continuously’ manage their transport activities, to meet the requirements of ‘the EU Regulation’. Our consultation results indicate that approximately 31 per cent of operators currently do not have a qualified transport manager or another member of staff performing the duties of a transport manager and would therefore need to hire one. This would put the proportion of operators needing to hire a transport manager close to our central scenario. We have however, kept in our upper limit due to the risk of underestimating this significant cost on the sector. Transport Manager duties include: ensuring appropriate driver licensing is regularly checked; keeping drivers hours and working time records; and scheduling and keeping records of vehicle safety and preventative maintenance checks. Traffic Commissioners have set out guidelines for how many hours per week a Transport Manager should be working in an organisation, depending on the size of their fleet (see Table 12).

Table 12: Traffic Commissioner Guidance for the number of hours per week that a Transport Manager should be working based on the size of the operator¹³

Number of vehicles managed	Guideline transport manager FTE hours (per week) needed
2 or less	8
3 to 5	15
6 to 10	20
11 to 14	25
15 to 29	40
30 to 50	40 (additional assistance may be required)

Any operator with an excess of 30 vehicles in their fleet will need to employ a Transport Manager full time but operators with fewer vehicles can share Transport Managers provided that a Manager does not oversee more than 50 vehicles in total.

It is possible that there will be already be some individuals within section 19 and 22 permit organisations who carry out the same functions as Transport Managers. For affected operators who already have employees performing the function of a Transport Manager, their only costs will be the costs of ensuring that these employees are correctly qualified through holding the Transport Manager CPC (TMCP) qualification. Based on a range of prices obtained when researching qualification provision, we assume that the cost of becoming TMCP qualified is approximately £1,500 per Manager needed.

If section 19 and section 22 permit holders who have to transition to PSV licences do not currently have a member of staff who performs the functions of a Transport Manager, they will have to hire a new

¹² Source: Office of the Traffic Commissioner document ‘Bus Registration and Bus Permits Scale of Fees’ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/358498/Bus_registration_and_bus_permits.pdf

¹³ Source: Senior Traffic Commissioner Statutory Document No 3 – Transport Managers

employee to be their Transport Manager. The cost of employing a single Transport Manager full-time is estimated to be on average £30,000 per year by the Confederation of Passenger Transport (CPT) UK¹⁴. This has been scaled up by 20% to account for non-wage costs (in line with WebTAG guidance) giving an annual cost of employing a full-time Transport Manager of approximately £36,000 per year.

It is assumed that all operators less than 30 vehicles can share a Transport Manager with other operators and therefore only pay a fraction of their wages. We also assume that these shared Transport Managers will manage an average of 30 vehicles (although they can theoretically manage up to 50 vehicles) to reflect the likely inefficiencies when matching Managers to operators. Table 13 shows how many Transport Managers are assumed to be needed by operators who are affected by the policy change.

Table 13: Table outlining the potential Transport Manager costs faced by operators who have to transition to become PSV operators.

Type of operator	Micro (1-5 buses)	Small (6-20 buses)	Medium (21-50 buses)	Large (51-100 buses)	Very Large (more than 100 buses)
Average number of vehicles	3	10	36	79	595
<i>If an operator already has employees who perform the functions of a Transport manager, their only costs will be the costs of ensuring that their staff are correctly accredited as Transport Managers:</i>					
Number of staff needed to be accredited as being Transport Managers	1	1	1	2	12
Total cost of ensuring that this member of staff is accredited	£1,460	£1,460	£1,460	£2,951	£17,524
<i>If an operator does not currently employ anyone who performs the functions of a Transport Manager, they will have to employ a Manager (but they can share the Manager's time and costs with other operators if they have less than 30 buses):</i>					
Shared Transport Manager?	Yes	Yes	No	No	No
Number of buses per Manager	30	30	50	50	50
Number of FTE Managers needed per operator?	0.10	0.21	1.00	2.00	12.00
Total cost of employing these Transport Managers (2017-26)	£35,668	£113,305	£356,677	£713,353	£4,280,199

Table 14 presents a range of transport manager costs, the low cost represents the costs if all operators were to simply train an existing employee who was effectively already working as a Transport Manager and the high cost represents the costs if all operators were to hire a new Transport Manager. Again, the evidence we have on the number of operators who will likely need to hire a new transport manager is consistent with our central scenario.

For the purposes of our total cost calculations, the assumption used is that all operators would need to hire a transport manager. Consequently the high estimate is used in all of the scenarios of this analysis, the low estimate is included for illustrative purposes only. It is very likely that there will be some proportion of operators who will only have to train an existing employee rather than hire a new transport manager. However there is a lack of robust evidence on this exact split. As a consequence we have decided to be prudent and make a cautious assumption on this particular cost. This is the most significant cost in the analysis and we think making an assumption about the potential split of operators needing to train versus hiring carries a high risk of underestimating this cost.

¹⁴ Source: Advice from CPT UK

An average micro-sized permit operator could face an increase of between £1,460 to £35,668 depending on whether they train an existing employee to become TMCPD qualified or employing a new Transport Manager. Employing a new Transport Manager will incur a rolling annual cost of £3,567. Due to lack of data, we have assumed that organisations who train staff to become TMCPD certified, will continue to pay those managers once qualified, as they did previously.

If the maximum of 50% of permit operators were to train their employee(s) to become a Transport Manager(s), it is expected that it would cost between £0.05m and £0.46m per year in total but if they were to all employ new Transport Managers, the total costs would be between £0.9m and £11.4m per year. This cost is the most significant potential cost to current permit holders who could have to transition to PSV operator licensing.

Table 14 Transport Manager and training costs per year under three scenarios

	5 per cent	25 per cent	50 per cent
Training	£0.05m	£0.23m	£0.46m
Transport Manager	£1.14m	£5.7m	£11.4m
Training Costs over 10 years	£0.46m	£2.3m	£4.6m
Transport manager costs over 10 years	£11.4m	£57.0m	£114.0m

Note: these are rounded averages based on Table 17

Non-monetised costs

Impact on passengers if services stopped

If operators who currently provide services under the section 19 and 22 permits regime do not fall under any of the exemptions in 'the EU regulation', and the operator cannot afford to transition to a PSV operator licence, then are likely to stop operating. This will have an impact on those passengers who rely on the services, who are often older and/or disabled people, as they may no longer be able to get out and about. The approach that the Government is taking looks to limit this risk.

Demonstrating "financial standing" by having a certain amount of funds available per vehicle they operate

'The EU Regulation' requires road passenger transport operators who do not fit into the exemptions in Articles 1(4)(b) and 1(5) to demonstrate financial reserves according to the number of vehicles they operate. They must demonstrate funds equivalent to¹⁵ £7,950 when only one vehicle is used and £4,440 for each additional vehicle used.

This is not a direct cost to operators who are not exempt from 'the EU Regulation', but an entry requirement. Of the proportion who could be affected because they need to transition to a PSV Operator licence regime, we have no data about their capacity to demonstrate these reserves and therefore cannot monetise these impacts. If operators are unable to comply with these requirements, they may cease to operate which will impose a cost on society from reduced services.

PSV Operator licence costs notice periods

¹⁵ In 2017.

PSV operators are required to give the Traffic Commissioner at least 42 days' notice of their intention to start a new service or to vary or cancel an existing one. For section 22 community bus operators who register 'local bus services', this period is only 14 days. The 22 operators who are reclassified as a result of this measure will therefore face some costs as a result of the longer notification period required. This has not been monetised as it is expected to be a relatively minor cost and because there is insufficient evidence as to what impact such a delay would have on operators using permits. Additionally, Traffic Commissioners have the discretion in certain cases to grant a shorter notification period to an operator if requested.

Costs of installing tachographs

PSV operators also have to install tachographs on their vehicles to monitor the hours clocked by their drivers unless the vehicle is being used to provide a regular service with a route of less than 50km. We have chosen not to monetise this because we do not have accurate cost data.

Costs of changing an operator's legal status

Some operators who currently hold permits may not be eligible, in their current status, to hold a PSV operator's licence.

A section 19 permit may be granted to a body or a named individual on behalf of a body. A section 22 community bus permit may only be granted to a body. Sections 19, 20 and 22 of the Transport Act refer to 'a body of persons, whether corporate or unincorporate'.

A PSV operator's licence cannot be granted to an unincorporated body or to more than one person jointly, except where allowed for by regulations. The regulations are the Operation of Public Service Vehicles Partnership Regulations 1986. The licence must therefore be held by a limited company, a named individual or by a partnership, referred to as a firm. The definition of 'firm' is in section 4 of the Partnership Act 1890.

Therefore, the body holding the permit may have to go to Companies House and register as a limited company, or form themselves into a legally binding partnership.

Some permit holders are already a limited company but limited by guarantee with no shareholders or dividend payments. These will not have to change their status as they are already incorporated bodies but there will be others who will need to change their status.

We do not have any data on proportion of the maximum 50% of permit organisations that this could affect, and so we have been unable to monetise these costs.

Non-monetised benefits

Competition benefits

PSV operator-licence holders, who are currently competing with section 19 and section 22 permit holders, could benefit from fairer competition. This is very difficult to quantify as it is unclear to what extent commercial and permit operators are currently competing with one another and how much of a competitive advantage they gain from using permits, this did not become any clearer following consultation.

Reduction in accidental non-compliance

The proposed policy changes should make it easier for permit holders, permit issuers and enforcement agencies to know what the scope of obligations and exemptions are meaning that compliance and the ability to take enforcement action will improve, and the accidental misuse of permits through lack of knowledge will be prevented, as well as the potential cost of punitive action as a result. The risk to organisations contracting services from operators using permits to provide transport for vulnerable passengers, of those services being disrupted if the operator is found to have misused their permits, will

also be reduced. These impacts have not been monetised as we have no evidence as to how significant a problem this currently is.

Expected impacts on average operators of different sizes

In order to show the effects on those operating using section 19 and section 22 permits of different sizes, the estimated impacts on an average operators of each size have been calculated. The typical characteristics for each size of operator (number of vehicles) have been estimated in table 15. This table shows the estimated impacts (over 10 years) on typical operators of different sizes who are affected by the policy change. These impacts have not been discounted so as to display the real financial costs to operators.

Table 15: The expected costs to current section 19/19L and 22 permit-holders of different sizes from complying with 'the EU Regulation' and transitioning to PSV operator licensing (over 10 years from 2017-2026, 2014 prices, undiscounted)

Type of operator	Micro (1-5 buses)	Small (6-20 buses)	Medium (21-50 buses)	Large (51-100 buses)	Very Large (more than 100 buses)
Increase in PSV licence costs	£126	-£44	-£718	-£1,834	-£15,228
Increase in Transport Manager costs	£1,460 to £35,668	£1,460 to £113,305	£1,460 to £356,677	£2,921 to £713,353	£17,524 to £4,280,119
Increase in MOT costs	£2,811	£8,931	£33,303	£73,634	£557,611
DDA certification costs	£3	£11	£41	£91	£693
Bus service registration costs	£92	£291	£1,085	£2,398	£18,163
Familiarisation costs	£55	£55	£55	£55	£55
Total costs	£4,547 to £38,755	£10,705 to £122,550	£35,226 to £390,442	£77,265 to £787,698	£578,817 to £4,841,412

Note: Transport manager costs lower estimate related to an operator having to only train a current employee while higher estimate assumes the operator hires a transport manager.

The most substantial potential cost to operators from having to transition to PSV operator licensing, comes from the requirement for passenger transport operators to employ a Transport Manager depending on the number of vehicles operated. The size of these costs will depend on whether the functions of the Transport Manager are already being performed by existing employees. If however, nobody in their organisation is currently performing the functions of a Transport Manager, they will have to hire a new manager which will lead to far higher costs. Our consultation suggests that 31 per cent of operators do not have a transport manager and will need to hire one. Due to the significant size of this particular cost and the risk of underestimating it we have also maintained our estimate if this cost were to apply to the maximum number of operators as we believe this is prudent.

The expected costs to average businesses of each size can be compared with their average reserves and incomes estimated in Table 3 in order to see whether and how likely it is that they would be able to pay these costs. This has been done in table 16 below.

Table 16: Expected total costs to the average operator compared to the estimated revenue and reserves of those operators.

Type of operator	Micro (1-5 buses)	Small (6-20 buses)	Medium (21-50 buses)	Large (51-100 buses)	Very Large (more than 100 buses)
Total expected costs (per year) for an average operator affected by the changes	£455 to £3,875	£1,070 to £12,255	£3,523 to £39,044	£7,727 to £78,770	£57,882 to £484,141
Estimated average annual income (2014 prices)	£94,000	£370,000	£1,500,000	£3,600,000	£10,200,000
Estimated average reserves (2014 prices)	£41,000	£160,000	£320,000	£590,000	£10,400,000

Note: Low cost assumes that all operators only need to train existing employee where high cost assumes all operators need to hire a transport manager

As would be expected, the estimated costs are far higher for a typical large operator than for a small operator. However, it is useful to compare the expected costs per operator to the expected income and reserves per operator.

Expected overall impacts

The size of the impacts of the preferred option depends on the number of organisations who face additional costs as a result of complying with 'the EU Regulation' and transitioning to PSV operator licensing. Three scenarios showing a realistic range of impacts are shown in Table 17. In the scenarios, a percentage of operators with section 22, section 19 and section 19 large permits are assumed to require full compliance with 'the EU Regulation'.

Table 17: Impacts on operators who have to transition to PSV licences as a result of the policy changes over 10 years (impacts from 2017-26, 2014 prices undiscounted and rounded to the nearest thousand)

Scenario	Low	Central	High
Percentage of community transport operators assumed to be affected	5%	25%	50%
Total number of operators affected	313	1,567	3,134
Total number of vehicles affected	1,843	5,472	10,008
Familiarisation costs	£344,149	£344,149	£344,149
PSV licence costs	£40,178	£200,892	£401,785
Transport manager costs	£11,407,111	£57,035,554	£114,071,108
MOT costs	£914,997	£4,574,987	£9,149,974
Accessibility certification costs	£1,137	£5,685	£11,370
Bus service registration costs	£1,131	£5,654	£11,308
Total costs to bus operators	£12,709,000	£62,167,000	£123,990,000

Note: These figures are presented undiscounted. The figures on the front sheet are these real costs discounted to 2015 as per the green book.

For these impacts, the largest is likely to be the Transport Manager costs unless operators are already employing people who are performing the functions of Transport. The transport manager costs presented in table 17 assume all operators within scope of the policy will have to hire a transport manager. The total costs to operators who have to transition to PSV licences as a result of the policy change is expected to be between £1.27m and £12.4m per year (average annual real cost based on final row of table 17) depending on the number of operators who are affected by the policy changes. The familiarisation costs for permit-holders will be the same in all scenarios but the PSV licence costs and Transport Manager costs could vary substantially.

Risks and assumptions

Number of organisations in scope

The biggest source of uncertainty in this analysis is the number of permit-users that will be affected. The percentage of operators holding section 19 standard and large permits who will incur additional costs is varied between the low central and high scenarios presented. Evidence from our consultation analysis suggests that there is scope for a number of operators to fall into at least one of the exemptions in the legislation (83% of respondents believe they would fall into one of the exemptions in the legislation). As a result we think that the likely number of operators that will be affected by the policy is closer to our central estimate of 25 per cent (approx. 1575 operators). For the PSV Operator licence and Transport Manager cost impacts, it is assumed that all section 19 permit holders are equally likely to be affected. This has been illustrated in the three scenarios. These therefore show a realistic range of impacts on section 19 given the substantial uncertainty around the number of those operating under a permit who will be affected by the measure. The high scenario for the impacts on operators who have to transition to PSV operator licensing represents the maximum potential impact of the policy as our analysis suggests that operators who are extremely unlikely to be affected by the policy change (such as schools and places of worship) make up at least 50% of the community transport sector.

Organisation characteristics

The characteristics for average operators of various sizes (including average number of vehicles, staff, reserves and income) have been calculated using data from Community Minibus Fund applicants. While these applicants are unlikely to be representative of the sector using permits as a whole (because they tend to be larger than the average permit operator), it is assumed that they are representative of the permit operators who are likely to be affected by transitional compliance costs. This assumption is felt to be reasonable given the lack of alternative evidence.

For simplicity, we have assumed that those operating under permits comply with the policy changes as their current permits expire and that these changes occur at a constant rate over time. This assumption is unlikely to have a major impact on the overall results of this analysis.

Transport Manager

Unless exempt from 'the EU Regulation', current section 19 and 22 permit holders will have to appoint a Transport Manager. They need 1 Transport Manager per 50 vehicles but can share their manager with other operators. It is assumed that operators with less than 30 vehicles will choose to share their Managers with other operators and thus will only have to pay a proportion of their wages. These shared Managers are assumed to oversee an average of 30 vehicles (although they could theoretically manage up to 50) in order to account for the likely inefficiencies of pairing Managers with buses. Our scenarios presented assume that approximately 5, 25 and 50 per cent of operators have to hire a new transport manager respectively as we believe this is a cautious approach given the significance of this particular cost.

Permit data source

The permit data used to calculate the overall impacts has been manually entered and could contain data entry errors and inconsistencies. This means that the analysis based on this dataset should be treated with caution. Only permit data for permits which have not expired has been considered but there are

likely to be some errors in this filtered group due to the poor quality of the base data. This data is sufficient to give a good overall idea of the scale and makeup of the sector but figures taken from this data have been rounded to guard against spurious accuracy. Our consultation results provide the basis for the majority of our assumptions in the IA as it has allowed us to fill some gaps in our evidence which we previously did not have. However, these assumptions rely on our consultation survey being representative of the wider sector and our initial data source. We have considered this by comparing summary statistics from both data sources and have concluded that the makeup of the sector is quite similar across the data sets.

Service registration

The ratio of permits services to buses has been assumed to be the same as the ratio between commercial bus services and buses. This assumption only affects the service registration costs which only affect section 22 operators.

PSV operators require licences for each area in which they operate. We do not have any information about the number of section 19 and 22 operators who operate in multiple areas. We have therefore assumed that all PSV operators operate in a single traffic area only and hence only have to pay a single set of licence costs. As licence costs are not among our most significant costs, we consider this to be a reasonable assumption given a lack of evidence.

For service registration costs, there would be an additional cost for PSV operators who choose to vary their services. However, we do not have any information on how often permit holders vary their services and so it is not possible to quantify this impact. It is not expected that this impact would be very large compared to the overall service registration costs (which themselves are not very large compared to the other potential costs faced by permit holders who have to transition to a PSV licence).

Summary and preferred option with description of implementation plan

Our preferred option is to fully align and clarify the relationship between EU law and UK law using minimum requirements for implementation, through secondary legislation, and the issue of refreshed guidance. This option represents the best chance of addressing both the legislative and non-legislative aspects of the problem. It combines the advantages of a legislative approach (clarifying the relationship between domestic and EU legislation), with the speed of non-legislative clarification of guidance and ensures that the permit sector's views on the above are heard. It also avoids gold plating.

Implementation

The preferred option will not constitute a substantive change to the law because 'the EU Regulation' currently already has direct effect in the UK. The amendment would merely clarify the current legal position for the benefit of permit-holders, issuing authorities and enforcement agencies.

The DVSA provides online guidance for applicants/holders of permits. Sections 2 and 3 of that guidance describe the two types of permit, and who is eligible to hold them. We will provide guidance around the relevant derogations set out in 'the EU Regulation' in order to clarify that a body must satisfy one of the derogations in order to apply for and hold a permit. The intention is to publish the guidance in December 2018. The amending secondary legislation aligning the domestic legislation with the EU Regulation, clarifying that existing permits are only valid while the operator continues to satisfy one of the exemptions and giving effect to the minor impact exemption will then be made in January 2018.

Wider impacts

Economic / financial impacts

Competition Assessment

This policy should improve competition as it will ensure that commercial operators do not have to compete with those operating under permits who are gaining an unfair commercial advantage due to the less strict requirements for permits and managers which they face. It is possible that some of the

operators who are reclassified as commercial operators will cease to operate but at the moment some are benefitting from an undue advantage over rivals.

Small and Micro Business Assessment

Table 4 suggests that the vast majority of operators in the community transport sector are small and micro operators (around 98%). Table 16 shows the expected impacts for operators of different sizes including the likely effects on small and micro operators. The definitions used for small and micro operators used in this analysis may not perfectly overlap with the standard definition for small and micro businesses as the definition used here is based on the number of vehicles rather than the number of employees. However this analysis should still give a reasonable indication of the likely effects of this policy on small and micro businesses. The analysis suggests that, while there will be an increased burden on small and micro businesses as a result of this measure, the same is likely to be true for other operators and so there is no undue burden on small and micro businesses. In addition, our consultation analysis suggests that although a small number of micro and small businesses may be affected by the increase in costs as a result of the policy, a substantial proportion of micro and small operators indicated that they fell into one or more of the exemptions. For micro operators, 85% responded falling into at least one exemption. This number was 78% for small operators. Our conclusion, therefore, is that although there will likely be some increased burden on micro and small businesses the number of operators affected relative to the sector would not be significant. Consideration has been given to excluding small and micro businesses from the scope of the policy but, as this policy is about compliance with 'the EU Regulation', this is not possible.

Justice impact test

There could be some burdens on the justice system from having to prosecute organisations who do not comply with 'the EU Regulation'. However, we have agreed with DVSA that a proportionate approach will be taken to enforcement in relation to operators who now need a licence and who can demonstrate that they are working towards compliance so we would not expect these burdens to be large.

Greenhouse gas assessment

We do not expect there to be any significant impacts in this area.

Sustainable development

We do not expect there to be any impacts in this area.

Equalities impact

Compliance with 'the EU Regulation' could have an impact on people who share a protected characteristic, in particular older and/or disabled people, if the services they rely on are provided by operators who are no longer eligible to hold a section 19 or 22 permit as they do not fall under one of the exemptions in 'the EU Regulation'. Such operators would either need to obtain a PSV operator's licence or may have to stop operating services. However, as 'the EU Regulation' has direct effect there is no scope to avoid this. Duties that local authorities have to provide certain services, such as those relating to school transport for children with special educational needs or disabilities, would remain in place. In addition, some organisations that provide services to elderly and disabled people would fall under the main occupation exemption or might be able to take advantage of the new exemption for operations having a minor impact on the transport market because of the short distances involved.

Family life

We do not expect there to be any impacts in this area.

Human rights

We do not consider that these proposals would impact on human rights legislation.

Rural proofing

Compliance with 'the EU Regulation' could have an impact on those living in rural areas if the services they rely on are provided by operators who are no longer eligible to hold a section 19 or 22 permit as they do not fall under one of the exemptions in the EU Regulation. Such operators would either need to obtain a PSV operator's licence or may have to stop operating services. However, as 'the EU Regulation' has direct effect there is no scope to avoid this.

Post-Implementation Review Plan

1. **Review status:** Please classify with an 'x' and provide any explanations below.

<input type="checkbox"/>	Sunset clause	<input checked="" type="checkbox"/>	Other review clause	<input type="checkbox"/>	Political commitment	<input type="checkbox"/>	Other reason	<input type="checkbox"/>	No plan to review
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2. **Expected review date** (month and year):

0	9	/	2	3
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Rationale for PIR approach

The Department will carry out a review of these Regulations and set out the conclusions of the review in a report which will be published. The report will set out the objectives intended to be achieved by these Regulations, assess the extent to which those objectives have been achieved, and whether they remain appropriate and, if so, the extent to which they could be achieved in another way which involves less onerous regulatory provision.

The level and evidence of resourcing will be medium. The Department would look to review the impact of these Regulations through a qualitative analysis. This would most likely be done through a survey asking community transport operators, commercial operators, permit issuers, enforcement bodies and regulators whether they perceive that there is greater clarity on the types of operators exempt for the EU Regulation and whether it has made the system more compliant.