

EXPLANATORY MEMORANDUM TO
THE VEHICLE DRIVERS (CERTIFICATE OF PROFESSIONAL COMPETENCE)
(AMENDMENT) REGULATIONS 2008

2008 No. 506

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These regulations amend The Vehicle Drivers (Certificate of Professional Competence) Regulations 2007 (SI 2007/605) (the “2007 Regulations”). The 2007 Regulations were made to implement Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers (OJ No. L 226, 10.9.2003, p.4). The Directive introduces a Driver Certificate of Professional Competence (CPC) across the EU. With some exceptions, and subject to transitional provisions for existing drivers, all professional drivers of lorries and buses must pass an initial CPC test, valid for 5 years and after that undergo 35 hours of periodic training every five years.

2.2 The Regulations introduce more flexible charging arrangements for the approval of periodic training courses. Rather than a single approval fee of £250 per course, irrespective of the length of the course, fees will be charged at the rate of £36 per hour (or part-hour) according to the length of the course. Key stakeholders favour this approach as it removes the financial incentive for training providers to over-concentrate on long courses rather than providing a range of courses of differing lengths.

2.3 The Regulations also introduce a facility for the competent authority to waive (in whole or part) the fee that would normally be payable for approving a periodic training course. This provision was also introduced in response to stakeholder representations. Its most likely use would be in circumstances where an application was submitted for the re-approval of a course and the proposed changes (if any) were of a minor nature.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative background

4.1 These Regulations are being made under section 2(2) of the European Communities Act 1972. They introduce minor changes to the implementation arrangements for Driver CPC throughout the UK.

4.2 The competent authority (the Secretary of State in respect of Great Britain and the Department of the Environment in respect of Northern Ireland) have powers under the 2007 Regulations to approve persons providing periodic training and the courses they provide.

4.3 However, the 2007 Regulations lack flexibility in respect of the fees charged for the approval of periodic training courses. They specify a fee of £250 per training course (irrespective of its length) and do not provide for the approval fee to be reduced or waived in circumstances where it would be unfair to charge the full fee.

4.4 A transposition note is not attached as the Directive has already been transposed. The Regulations merely refine existing provisions in the 2007 Regulations.

5. Extent

5.1 This instrument extends to the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Stakeholder engagement

7.1 DSA has maintained a dialogue with key stakeholders on the Driver CPC since 2001. The relevant Sector Skills Councils (Go Skills and Skills for Logistics), Freight Transport Association, Confederation of Passenger Transport, Road Haulage Association and others have been actively engaged with DSA in formulating Driver CPC policy.

7.2 There has been a shared concern that Driver CPC implementation, whilst seeking to achieve the benefits outlined in the Directive, should aim to minimise the administrative and financial burdens placed on the passenger transport and freight logistics industries. Stakeholders expressed concern over the fee-charging arrangements for the approval of periodic training courses contained in the 2007 Regulations. They felt these would discourage the development of courses of less than 35 hours duration and thereby restrict the training options available to drivers and their employers. A further concern was that course development would be constrained as even a minor change to an approved course would incur a full re-approval fee of £250. Stakeholders suggested the approval fee should be based upon the length of the proposed course and that the fee should be reduced in circumstances where it would be unfair to charge the full fee (eg where a previously approved course was submitted for re-approval without change).

Formal consultation

7.3 The Agency published a consultation paper *Driver Certificate of Professional Competence: Further Implementation Arrangements* on 8 August 2007. Included within the document were proposals to:

- Introduce more flexible fee charging arrangements for the approval of periodic training courses –
 - Charging £36 per hour according to the length of the proposed course rather than a flat fee of £250; and
 - Permitting the competent authority to reduce, or waive, the course approval fee where it was unreasonable to charge the full amount.

7.4 The proposals are not regarded as being politically significant and were well received. They attracted a total of 57 responses. The levels of support indicated were:

- Charging an approval fee of £36 per hour: 83%; and
- Introducing a fee reduction or waiver provision: 90%.

7.5 The revised charging arrangements increase initial course approval costs but these will largely be offset by the introduction of the fee reduction or waiver provision.

7.6 The changes will be publicised via a Press Notice, messages posted on the DSA website and publicity material issued by both DSA and the Joint Approvals Unit for Periodic Training.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this Memorandum.

9. Contact

9.1 The official within the Department for Transport who can be contacted with any queries in relation to this Statutory Instrument is Mandy Lynch, Driving Standards Agency, Policy Branch, Stanley House, 56 Talbot Street, Nottingham, NG1 5EJ. Telephone: 0115 901 5915; e-mail mandy.lynch@dsa.gsi.gov.uk

February 2008

Department for Transport

Summary: Intervention & Options

Department /Agency: DSA	Title: Impact Assessment of Amendments to The Vehicle Drivers (Certificates of Professional Competence) Regulations 2007	
Stage: Final	Version: 1	Date: 8 February 2008
Related Publications: Driver Certificate of Professional Competence Further Implementation Arrangements - DSA Consultation Paper 2007.		

Available to view or download at:

<http://www.dsa.gov.uk>

Contact for enquiries: Robin Massey

Telephone: 0115 901 5916

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

In March 2007, EU Directive 2003/59/EC was transposed into UK legislation via The Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 (the CPC Regulation). Key stakeholders, through the Stakeholder Group established to inform the main CPC Project Board, have sought changes to arrangements for approval of Periodic Training courses. These are intended to maximise flexibility of course length and thereby avoid acting as a disincentive to trainers producing courses of less than 35 hours.

What are the policy objectives and the intended effects?

The policy objectives are to:

- align more closely the payment arrangements for approval of Periodic Training courses to the length of the courses.
- put in place a fee waiver where courses are re-submitted and changes to content are small.

These will help to ensure that the United Kingdom meets its EU obligations in a cost-effective manner, maximising its benefits, addressing stakeholder concerns as appropriate and seeking to avoid unnecessary costs and burdens

What policy options have been considered? Please justify any preferred option.

Two options have been considered:

1. Baseline - maintain the status quo
2. Amend existing legislation to change the approval arrangements for Periodic Training courses.

Key stakeholders (including DSA) firmly believe that the existing legislation should be amended as it will align more closely the payment arrangements with the length of the course. This will necessitate

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? There will be an initial review in 2012.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

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:

Rosie Winterton

Date: 19th February 2008

Summary: Analysis & Evidence

Policy Option: 2	Description: Amend existing legislation to change the approval arrangements for periodic training courses
-------------------------	--

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by ‘main affected groups’ Average annual costs are based on 1000 courses with 80% lasting 7 hours and 20% lasting 21 hours. £32,240 is the net cost payable. This is made up of an estimated £102,800 in fees for course approval and which is offset by £70,560 savings in fees waived (we estimate around 20%). The revenue would be collected by the Joint Approvals Unit for Periodic Training
	One-off (Transition)	Yrs	
	£	7	
	Average Annual Cost (excluding one-off)		
£ 32,240		Total Cost (PV)	£ 480,393
Other key non-monetised costs by ‘main affected groups’ We have not identified any non-monetised costs. Trainers will need to apply for approval annually in the same way as now. The amendments realign approval to length of course rather than a one off cost.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by ‘main affected groups’ £32,240 is also a benefit to the public sector, payable to JAAPT, typically by employers.
	One-off	Yrs	
	£ Nil	7	
	Average Annual Benefit (excluding one-off)		
£ 32,240		Total Benefit (PV)	£ 631,053
Other key non-monetised benefits by ‘main affected groups’ A key benefit for trainers will be the approval structure of fee provision allowing them more flexibility to develop courses that are between one and seven days in duration. This should be a simpler system which was requested by stakeholder interests.			

Key Assumptions/Sensitivities/Risks Costs/benefits are estimated on an annual basis. There are no additional elements in the work required by a trainer to make a submission - hence a nil increase in the admin burden. The benefit will however, arise from waiving the fee for 20% of courses - leading to a £2,653 saving in admin burdens (Annex B).

Price Base Year 2008	Time Period Years 5	Net Benefit Range (NPV) £ 134,694 - £166,626	NET BENEFIT (NPV Best estimate)
-------------------------	------------------------	---	--

What is the geographic coverage of the policy/option?		UK-wide		
On what date will the policy be implemented?		April 2008		
Which organisation(s) will enforce the policy?		N/A		
What is the total annual cost of enforcement for these organisations?		£		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		No		
What is the value of the proposed offsetting measure per year?		£ N/A		
What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of	£ 0	Decrease of	£ £2,653.20	Net Impact	£ £2,653.20
-------------	-----	-------------	-------------	-------------------	-------------

Key: **Annual costs and benefits:** (Net) Present

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

EU Directive 2003/59 introduces a Driver Certificate of Professional Competence (CPC) for lorry, bus and coach drivers. This will become effective for professional bus/coach drivers from 2008 and for lorry drivers from 2009.

New bus and lorry drivers entering the industries after the respective dates will need to obtain an initial qualification before being able to drive professionally. Drivers with a licence in the relevant categories on the implementation dates will receive acquired rights. This will enable them to drive for five years without the need to obtain a CPC.

In addition, all drivers will need to take 35 hours periodic training every 5 years, to update their skills in light of new and emerging technologies and legislation. Those with acquired rights will need to undertake the training in the five years following the implementation of CPC for their respective industry sectors.

The periodic training must be approved by on behalf of the Secretary of State for Transport. This is being carried out by a Joint Approvals Unit for Periodic Training.

Objective

The CPC Implementation Project is continuing. With input from the road freight and passenger transport sectors, the enforcement agencies and the DSA and DVA, we identified that the charging mechanism for approval of periodic training courses is one area where improvements can be made to our original plans. This Impact Assessment describes those changes.

Consultation Proposals

We consulted on a range of proposals, including these, in August 2007 in a consultation entitled – “Driver Certificate of Professional Competence – Further Implementation Arrangements”.

The Changes - Periodic Training

1. Fees for course approval

- 1.1 Course approval fees will be charged, according to the length of the course, at £36 per hour.
- 1.2 The present approval fee is £250 per course, irrespective of its length.

Impetus for change

1.3 The fee charged for CPC training course approval is currently set at £250 per course per annum. Key stakeholders - trade associations and the sector skills councils for the road freight and passenger transport industries - suggested that the fee should be based upon the length of the course. They believe this is a fair and sensible way of recovering the cost of quality assuring periodic training courses. As we anticipate that the overwhelming majority of periodic training courses will be of 7 hours' duration, the

approval fee for a periodic training course should be £36 per hour (i.e. £250 ÷ 7). Thus, the approval fee for a course of ten hours' duration will be £360. We also consulted on waiving the course approval fee, in whole or part, where appropriate (see proposal 2).

1.4 We will introduce the new procedure from 1 April 2008.

Costs

1.5 The approval fee for a course of any duration (minimum 7 hours) is currently £250. The regulations require that a driver undertakes a minimum of 35 hours training over a five year period. For those training providers wishing to deliver a 35-hour course the annual cost will increase from £250 to £1,250. This is the same for organisations wishing to deliver five annual 7 hour courses to their drivers. An element of this cost is likely to be offset by the fact that we have also consulted on taking a power to waive the fee in whole or in part for approving training centres or courses in appropriate circumstances (Proposal 12).

1.6 We estimate that some 1000 courses are likely to be approved. Under the old system, at £250 per course, this would cost industry £250,000 per annum. Based on 800 courses of 7 hours and 200 courses of 21 hours being approved, the cost to industry of having a course approved will be £352,800 per annum, an increase of £102,800 (see table overleaf). The cost of approving a course will on average be £352. When taking into account a saving to industry of £70,560 if an estimated 20% of fees are waived (see Proposal 2) this increase falls to £32,240 per annum:

New System	
Hours of course	7
Fee per hour	£36.00
Cost per course	£252.00
Courses	800
Cost	£201,600.00
Hours of course	21
Fee per hour	£36.00
Cost per course	£756.00
Courses	200
Cost	£151,200.00
Total	£352,800.00
Old System	
Fee per one 35 hour course	£250.00
Courses	1000
Total	£250,000.00
Difference between old and new systems	£102,800.00
Saving to industry in waiving the fee in 20% of cases	£70,560.00
OVERALL COST	£32,240

2. Waiving fees for course approval

2.1 DSA may waive the fee or part of the fee in appropriate circumstances, e.g. where a person submits an application for the approval of a training centre or course and that centre or course:

- has previously been the subject of an application (whether or not that application was successful),
- or

- a similar application for the approval for a centre or course has previously been considered

Impetus for change

2.2 It would not be sensible to require each application for approval to be re-submitted in its entirety where there was, for example, only a small amendment to the course content. The same principle applies to applications for the approval of the training centre itself.

2.3 In such circumstances, it would be unreasonable to require the applicant to pay the full fee again. However, situations will inevitably differ so it is appropriate to have discretion about when, and how much of, the fee is waived.

2.4 The proposal will be implemented in respect of applications for approval submitted from July 2008 onwards.

Costs

2.5 Industry will benefit from this change - the saving is estimated at £70,560 in fees if 20% of courses are approved.

2.6 This benefit to industry is included in the overall figures for proposal 11.

Consultation

Public consultation

3.1 When conducting consultations we aim to consult as wide a range of stakeholders as possible. We post consultation papers on our website. For those particularly affected by the proposals, we place articles in our bi-monthly magazine Despatch, which has a circulation of some 60,000 driver trainers. We have also established an electronic notification system whereby interested parties can register with us to receive weekly updates via email. To date we have some 3,000 individuals registered for this service.

Within Government

3.2 The Welsh Assembly, Scottish Executive and the Department for Environment Northern Ireland are routinely consulted concerning regulatory changes. We have also consulted with sister Agencies and interested parties from amongst the Department for Transport, such as the Road User Safety Division and the Transport, Technology and Standards Division.

Small firms impact test

4.1 A small business is defined ¹ as one with:

- Fewer than 50 employees;
- No more than 25% of the business owned by another enterprise (which is not a small business);
- Less than £4.44 million annual turnover;
- Less than £3.18 million annual balance sheet total;

4.2 Most lorry and bus training organisations are small businesses. Similarly, in addition to a number of high profile vehicle operators, there are a large number of small companies running buses and lorries. It is not considered that this package of changes will negatively impact on these sectors.

Legal Aid

¹ Better Policy Making: A Guide to Regulatory Impact Assessments. Cabinet Office January 2003

5.1 The current changes in themselves have no effect on the legal aid budget. When we made the regulations implementing CPC, we liaised with the Department For Constitutional Affairs, whose assessment was that the cost of the regulations to their Department (including legal aid) would be £124,140.

Competition assessment

6.1 The proposed new regulations will apply equally to all affected parties. We therefore do not consider that they will have any adverse effect on competition.

Social Exclusion Issues

7.1 We do not believe that any social exclusion issues are likely to arise from these proposals.

Race Equality

8.1 The measures will affect all individuals in the same way. We have been unable to identify any negative impact on any group of people based on religious beliefs, ethnicity, colour nationality and ethnic origin. Neither have we identified any such indirect impact, for example as a result of fee increases disproportionately affecting a particular ethnic group.

Disability Equality

9.1 We have been unable to identify any negative impact on any group of people based on disability. Conversely, aligning fee charging with the length of course is likely to encourage diversity in course content – we hope this will encourage courses on disability issues.

Gender Equality

10.1 We have been unable to identify any negative impact on any group of people based on gender (including gender reassigned people) or sexual orientation. All individuals will be affected in the same way by the changes.

Human Rights

11.1 We have been unable to identify any negative impact on any group of people based on religious or personal beliefs, age, social status or marital status.

Sustainable Development

12.1 The change allowing the waiving of fees will reduce unnecessary duplication of paperwork in applications and visits to applicants' premises to check the content of courses, which will be beneficial in terms use of saving resources.

Carbon Assessment

13.1 As with the previous item, the change allowing the waiving of fees will reduce unnecessary paperwork and travelling, which will contribute to limiting the carbon footprint.

Other Environment

14.1 We do not consider that the proposals will have any other significant environmental impact.

Health Impact Assessment

15.1 We expect a number of courses to deal with health issues in relation to driving. It is expected that introducing a more flexible charging arrangement will have a beneficial effect on the range and diversity in content of courses submitted for approval.

Rural Proofing

16.1 There are not expected to be specific effects on rural issues from the changes.

Application within the United Kingdom

17.1 These regulations cover Great Britain and Northern Ireland.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary of Costs to customers

Proposal	One off cost	Annual cost	Total cost	One off benefit	Annual benefit	Total benefit	Overall cost
Approval of periodic training	£0.00	£102,800.00	£102,800.00	£0.00	£0.00	£0.00	£102,800.00
Waive fee for periodic training	£0.00	£0.00	£0.00	£0.00	£70,560.00	£70,560.00	-£70,560.00
Total	£0.00	£102,800.00	£102,800.00	£0.00	£70,560.00	£70,560.00	£32,240.00

Admin Burden**Cost – none identified****Saving**

Item	Activity	Estimated amount	Unit	£ per hour	£ per minute	£ per activity	Number	Unit	Estimated £
Waive fee for periodic training	Less time to make application	2	hours to apply	£22.11	N/A	N/A	60	20% of 200 courses and 100 trainers per year	£2,653.20