

EXPLANATORY MEMORANDUM TO
THE MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT) (NO. 4)
REGULATIONS 2021

2021 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These Regulations make amendments to the Motor Vehicles (Driving Licences) Regulations 1999 to remove the requirement for the staged access route to licence acquisition for heavy goods vehicle (HGV) and bus licences, to urgently free up driving examiner time in order to increase the number of HGV tests that can be conducted and to shorten the amount of time it takes for a driver to become qualified to drive the largest HGVs.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument amends subordinate legislation made under section 2(2) of the European Communities Act 1972. It therefore engages the procedural and publication requirements of paragraphs 13 to 15 of Schedule 8 to the European Union (Withdrawal) Act 2018, which have, subject to paragraph 3.2, been complied with.
- 3.2 However, by reason of urgency, the requirements of paragraph 14(2) to (5) of Schedule 8 to the European Union (Withdrawal) Act 2018 (publication in draft for 28 days and making of a scrutiny statement before laying) were not carried out. The Secretary of State has made the statement required in these circumstances by paragraph 14(6)(a) of Schedule 8 to that Act, via a written ministerial statement in Parliament. The statement required is also published in Part 2 of the Annex.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales and Scotland.
- 4.2 The territorial application of this instrument is England and Wales and Scotland.

5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State for Transport, the Baroness Vere of Norbiton, makes the following statement regarding Human Rights:
“In my view the provisions of the Motor Vehicles (Driving Licences) (Amendment) (No. 4) Regulations 2021 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The primary legislation for driving tests is contained in Section 89 of the Road Traffic Act 1988, whilst provisional licences are applied for under section 97. The secondary legislation is the Motor Vehicles (Driving Licences) Regulations 1999. This instrument removes the requirement for staged licence acquisition that had been made for the purpose of implementing Council Directive 91/439/EEC on Driving Licences (OJ No. L 237, 24.8.91, p. 1 - 24) and for general purposes, by the Motor Vehicles (Driving Licences) Regulations 1996, and consolidated and amended by various amendments to the Motor Vehicles (Driving Licences) Regulations 1999.

7. Policy background

What is being done and why?

- 7.1 The haulage sector has been experiencing a chronic shortage of HGV drivers worldwide for some time, which is now considered an acute shortage within the UK where the industry was estimated to be at around 39,000 drivers short of HGV drivers in the year ending June 2021 (ONS data compared to the year ending June 2019), although wider industry representatives have estimated this is higher, and could be as high as 100,000 drivers (Road Haulage Association), a figure which combines both the chronic and now acute shortage. In Great Britain, the issue has been further exacerbated by several factors. The coronavirus pandemic meant that driver testing had to be suspended for much of 2020, which is likely delaying entry to the industry of potential drivers. In addition, the UK's exit from the EU is likely to have increased the numbers leaving the industry in addition to those leaving the industry for other reasons. These include the longer-term issues surrounding attracting and retaining drivers to the industry such as: anti-social hours, poor diversity, relatively low pay, poor driver facilities. This affects all the logistics sector including, particularly the fresh food industry. Government intervention will only help in part to address this shortfall; wider measures to deal with ongoing recruitment and retention may be necessary.
- 7.2 The Department for Transport and other Government Departments have worked closely with the haulage sector considering a range of options to improve the number of HGV drivers. As part of these measures a consultation closed on 7th September 2021 on changes to streamline the HGV driving licence regime and remove the requirement for a separate heavy trailer test for car drivers. Driving tests are conducted by Driver & Vehicle Standards Agency (DVSA) driving examiners. DVSA has already taken administrative action to increase capacity and offer more practical HGV tests but more is needed.
- 7.3 These legislative amendments are designed to urgently free up driving examiner time in order to increase the number of HGV tests that could be conducted; removing the need to acquire an HGV and trailer licence without first holding the HGV rigid vehicle licence (or bus and trailer licence without first holding the bus licence) could create up to an additional 900 HGV test appointments each month and decrease the amount of time it takes for a driver to become qualified to drive the largest HGVs.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.4 Prior to these amendments, the licence acquisition process to obtain an HGV or bus driving licence was through a staged access route. Before a driver could qualify to drive an articulated HGV or bus with a trailer (categories C + E or D + E), they must have first obtained the entitlement to drive a car (category B) and only then could they apply for provisional entitlement to enable them to drive a rigid HGV (category C) or bus without a heavy trailer (category D), enabling them to then take the relevant driving test. Once they passed that test and acquired the relevant entitlement they were then deemed to have provisional entitlement to drive those vehicles with a heavy trailer, and could then apply for, and, take a further driving test to acquire a full entitlement to drive the vehicle and trailer combinations.

Why is it being changed?

- 7.5 This is being changed in order to urgently free up driving examiner time so that more lorry driving tests can be conducted and lorry drivers can become qualified to drive the largest vehicles in a shorter timeframe. This should then provide drivers with a quicker access route into jobs in the haulage and logistics industries, with the intention of helping lessen the HGV driver shortage.

What will it now do?

- 7.6 These amendments mean that a driver who has passed their car test (category B) can obtain provisional entitlement to provisionally drive, and then take a test for a full test authorising the driving of, an HGV (or bus) with a heavy trailer (categories C + E or D + E) without first having passed a test in a rigid HGV (C) or bus (D). The definition of a qualified driver for the purposes of supervising a learner driver has been expanded to include those who have not necessarily passed a test specifically authorising the driving of vehicles of a class included in sub-category C1 or D1 (medium sized goods vehicles and minibuses respectively). Test requirements are clarified so drivers who do not progress through a staged approach to licence acquisition present competency in all required areas. Additional entitlements are to be granted upon the passing of a test authorising the driving of vehicles with heavy trailers to ensure a driver is able drive the tractor vehicle with the heavy trailer unhitched.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018 (c. 16).

9. Consolidation

- 9.1 There are no current plans to consolidate the 1999 Regulations.

10. Consultation outcome

- 10.1 The Consultation Paper, “HGV Driver Shortage – proposals to amend driver licensing and acquisition arrangements”, ran between 10th August and 7th September 2021 and was available online via the GOV.UK website although responses were also received by direct communication with DVSA: [Changes to HGV and bus driving tests and allowing car drivers to tow a trailer without an extra test - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-hgv-and-bus-driving-tests-and-allowing-car-drivers-to-tow-a-trailer-without-an-extra-test)

- 10.2 DVSA received responses from industry representative bodies, instructor trainers, road safety organisations, Trade Unions and members of the public, some of whom responded via their MPs.
- 10.3 9,541 responses to the Consultation Paper were received.
- 10.4 Initial responses to the consultation indicated that the majority of people supported this proposal; however, some responses did raise serious concerns about road safety aspects of the policy. A full response will be published and this will be undertaken as soon as is reasonably practicable. A summary of initial responses has already been published on the GOV.UK website: [Summary of public feedback on proposals to change HGV and bus driving tests and allow car drivers to tow trailers without a test - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/summary-of-public-feedback-on-proposals-to-change-hgv-and-bus-driving-tests-and-allow-car-drivers-to-tow-trailers-without-a-test)

11. Guidance

- 11.1 DVSA has notified its customers and stakeholders of these changes. Guidance has been published on GOV.UK to advise drivers of the options that are available to them: [Changes to HGV and bus driving tests from autumn 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-hgv-and-bus-driving-tests-from-autumn-2021)

12. Impact

- 12.1 There is no significant, expected impacts on business, charities or voluntary bodies.
- 12.2 There is no significant, expected impacts on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument. After initial analysis, the impact has been considered to be under the ‘de-minimis’ threshold of £5m in direct impacts. A summary of the assessments is below.
- 12.4 The legislation change is expected to reduce the administrative burden and barriers associated with becoming an HGV driver, which could increase the demand for HGV and trailer combination training and increase the stock of HGV drivers. It will remove the need to take category C tests, which cost £115, for prospective drivers getting their C+E licence, and is expected to save individuals and businesses around £1.6m annually. There will be some familiarisation costs for trainers associated with this change, however these are expected to be small and remain un-monetised. Hitherto, to supervise a provisional licence holder the supervising driver is required to hold the category of licence for the vehicle in which the provisional licence holder is driving for at least three years. These Regulations will offer some flexibility in this to allow an HGV licence holder, who has held that licence for at least three years to supervise in a HGV and trailer combination providing they have held that licence (i.e. C + E) for at least one year.
- 12.5 There is not expected to be any significant impacts on road safety from this measure, as prospective drivers are likely to undertake training initially in a rigid HGV before progressing to C+E for further training and to take their test. They will continue to be required to meet the standard to pass the test as prescribed by DVSA. There may be some negative impacts as drivers will be able to drive an HGV and trailer combination without first spending time gaining experience driving a rigid HGV (the anticipated “staged” effect when it was introduced). However, discussions with the industry and responses from the consultation indicate that many of the drivers who take the HGV and trailer test do so as soon as they are able to – with the rigid HGV test being a required but burdensome stepping stone to obtaining the HGV and trailer combination licence. However, it cannot be assumed that a driver would have spent time gaining

on-road experience in a rigid HGV before taking the trailer test, although the Department believes it is likely they will as part of their C+E training. The requirements of testing to obtain the HGV and trailer combination remains the same and a driver would not successfully pass the test if they did not demonstrate the required skills and knowledge which will mitigate the impact. Any impact on road safety, if any, may therefore be marginal, but will be kept under review in conjunction with two other measures, the outsourcing of manoeuvres tests and also the removal of B+E test requirements, by the Department.

- 12.6 The Department for Transport will keep the impacts of these changes under regular review, the first of which will be published three years after the legislation takes effect and every five years thereafter. We will engage with training providers and insurers to test the response to this change and to explore how we can seek to ensure that any road safety concerns are addressed. Drivers will continue to be required to undertake all elements for the test and satisfy the examiner that they have demonstrated the required standard to be granted a licence.
- 12.7 A de-minimis assessment is in the process of being finalised and will be going through the official clearance process before being published, and therefore the impacts considered in this Explanatory Memorandum are indicative only.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is that we have been liaising with the training industry so that they are aware of the forthcoming changes.
- 13.3 The basis for the final decision on what action to take to assist small businesses has taken into account feedback from the training industry and their response to the public consultation.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that it will be formally reviewed three years after coming into force, and then every five years after this. The government will however routinely monitor any adverse impact on road safety through annual official casualty statistics.
- 14.2 A statutory review clause is included in the instrument.

15. Contact

- 15.1 Pauline Morgan at the Department for Transport Telephone: 07790 566834 or email: Pauline.Morgan@dft.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Duncan Price, Deputy Director for Freight, Operator Licensing and Roadworthiness Division at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Baroness Vere of Norbiton, Parliamentary Under Secretary of State for Transport at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018 and the European Union (Future Relationship) Act 2020

Part 1A

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before IP completion day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal	Sub-paragraphs (3) and (7)	Ministers of the Crown	Set out the 'good reasons' for creating a

offences	of paragraph 28, Schedule 7	exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising section 8 or part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 5 or 19, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 14, Schedule 8	Anybody making an SI after IP completion day under powers conferred before the start of the 2017-19 session of Parliament which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 15, Schedule 8	Anybody making an SI after IP completion day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before IP completion day, and explaining the instrument's effect on retained EU law.

Part 1B

Table of Statements under the 2020 Act

This table sets out the statements that may be required under the 2020 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraph 8 Schedule 5	Ministers of the Crown exercising section 31 to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees

Part 2

Statements required under the European Union (Withdrawal) Act 2018 or the European Union (Future Relationship) Act 2020

1. **Explanations where amending or revoking regulations etc. made under section 2(2) of the European Communities Act 1972**

- 1.1 The Parliamentary Under Secretary of State for Transport, the Baroness Vere of Norbiton, has made the following statements in accordance with paragraph 15(3) of Schedule 8 to the European Union (Withdrawal) Act 2018:

“Paragraph 15(3)(a): law which is relevant to the amendment:

The table in regulation 19 of the Motor Vehicles (Driving Licences) Regulations 1999 (S.I. 1999/2864), providing that holding particular full licences grants additional automatic provisional entitlements, was inserted by S.I. 2012/977. That statutory instrument was made under powers in both the Road Traffic Act 1988 and section 2(2) of the European Communities Act 1972 and it primarily implemented the requirements of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences. That table is being amended by this instrument to grant further additional provisional entitlements when the corresponding full licence is held.

Paragraph 15(3)(b): effect of the amendment or revocation of retained EU law:

The overall effect of the amendments is to remove the requirement to first hold a category “C1” or “D1” or “C” or “D” licence before a person can apply for provisional entitlement to “C1 + E” or “D1 + E” or “C + E”, “D + E”. The amendments are made to the provisional entitlements granted alongside a full licence for categories “D1”, “D”, “C1 + E”, “D1 + E”, “C + E” and “D + E” in the table in regulation 19 of the Motor Vehicles (Driving Licences) Regulations 1999. The amendments reflect the removal of the staging requirements, and otherwise ensure that drivers are able to acquire articulated HGV and bus with heavy trailer licences more quickly. The amendments will make such staging arrangements to obtain the higher licence categories optional only.”

2. **Scrutiny statement where amending or revoking regulations etc. made under section 2(2) of the European Communities Act 1972**

- 2.1 The Parliamentary Under Secretary of State for Transport, the Baroness Vere of Norbiton, has made the following statement in accordance with paragraph 14(6)(a) of the European Union (Withdrawal) Act 2018:

“I am of the opinion that, by reason of urgency, the requirements for the statutory instrument to be published in draft 28 days before it is laid, and for a scrutiny statement to be made before laying, should not apply.

Accelerating the legislation by forgoing the 28-day publication period will allow earlier laying of the legislation than would have otherwise been possible and strengthen the steps we have already taken to increase testing capacity and ease supply chain issues as quickly as possible. Arrangements will be in place to ensure

that the changes made by the legislation are operationally effective as soon as the legislation is in force.”

3. Good reasons

- 3.1 The Parliamentary Under Secretary of State for Transport, the Baroness Vere of Norbiton, has made the following statement in accordance with paragraph 15(2) of Schedule 8 to the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument and I have concluded they are a reasonable course of action.

This is because of the need to ensure that we take urgent action to increase the number of drivers available in the logistics industry. A factor in this is how quickly they can secure the availability of a practical test conducted by Driver & Vehicle Standards Agency (DVSA) driving examiners. Making these legislative amendments will free up driving examiner time in order to increase the number of lorry driver tests that could be conducted by the DVSA. Removing the need to acquire an HGV and trailer licence without first holding the HGV rigid vehicle licence (or bus and trailer licence without first holding the bus licence) could create up to an additional 900 HGV test appointments each month. This measure will therefore significantly improve the capacity of DVSA to conduct such tests.”