

EXPLANATORY MEMORANDUM TO

THE COMMUNITY DRIVERS' HOURS AND WORKING TIME (FOOT-AND-MOUTH DISEASE) (TEMPORARY EXCEPTION) (AMENDMENT) REGULATIONS 2007

2007 No. 3143

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 These Regulations amend the Community Drivers' Hours and Working Time (Foot-and-Mouth Disease) (Temporary Exception) Regulations 2007 (SI 2007/2904) ("the Principal Regulations"). The Principal Regulations temporarily relax the limits on drivers' hours and weekly rest requirements for drivers driving goods vehicles for the purpose of moving pigs, cattle or sheep in connection with meeting or alleviating the effects of the exceptional circumstances arising as a consequence of the outbreak of foot-and-mouth disease in Great Britain. They also relax those drivers' overall weekly working time limits.

2.2 These Regulations extend the period for which the Principal Regulations remain in force by two weeks until 18 November but only in relation to drivers who are wholly or mainly engaged in the movement of pigs, cattle or sheep from premises within Scotland.

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

3.1 These Regulations breach the 21-day rule. The instrument was made as soon as the need for an extension to the temporary relaxation of the drivers' hours rules for hauliers of these categories of livestock was identified and substantiated.

3.2 Restrictions on the movement of animals imposed throughout Great Britain during the foot-and-mouth disease outbreak led to a significant backlog in the numbers of animals on farms which have needed to be moved quickly to markets and slaughter to avoid animal welfare problems arising and to help ensure the long term viability of the livestock industry. Livestock haulage is a specialised business subject to special animal welfare based requirements. There is only limited haulage capacity available at the present time. The Principal Regulations provided a temporary relaxation in drivers' hours to free up sufficient additional capacity to enable these livestock movements to take place quickly.

3.3 The Principal Regulations cease to have effect from 5 November. It is expected that the situation within England and Wales will have returned to normal by then but it has now become apparent that problems are remaining within Scotland and that the need

for additional haulage capacity will continue for at least a further two weeks in Scotland. These Regulations therefore amend the Principal Regulations so as to extend their duration for a further two weeks to midnight between 18th and 19th November.

3.4 The Secretary of State has written to the Commission requesting authorisation of this exception in accordance with article 14(1) of Regulation 561/2006/EC, and a response is pending. These Regulations are being made while the Secretary of State awaits the Commission's response.

4. Legislative Background

4.1 The drivers concerned are subject to the EU drivers' hours rules (Regulation (EC) 561/2006). In summary, these apply a daily driving limit of 9 hours (which may be increased to 10 hours up to twice a week) with a requirement to take a break of 45 minutes after four and a half hours' driving. They also apply a weekly driving limit of 56 hours and a fortnightly driving limit of 90 hours. They require drivers to take a daily rest break of 11 hours (this can be reduced to 9 hours three times a week) and a weekly rest break of 45 hours (this can be reduced to 24 hours once a fortnight if a compensating longer break is taken later).

4.2 These drivers are also subject to the Road Transport (Working Time) Regulations 2005 ("the 2005 Regulations") which place limits on working (as opposed to driving) time. In particular the 2005 Regulations apply a maximum weekly limit of 60 hours, subject to an average of 48 hours over (generally) a seventeen week reference period.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain but only affects drivers who are wholly or mainly engaged in the movement of pigs, cattle or sheep from premises within Scotland.

6. European Convention on Human Rights

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

7. Policy background

7.1 Following the initial outbreak of foot-and-mouth disease on 3 August, restrictions on animal movements have been in force with varying severity throughout Great Britain to prevent the spread of the disease. On two occasions, all movements were prohibited for several days. At other times, the restrictions have limited the capacity of the livestock haulage industry to meet normal demand due to a number of factors:

- movements were only permitted directly from farms to slaughterhouses and not for other reasons such as animal welfare, sales or movements between grazing land as part of the normal production process;
- a ban on multiple pick ups for permitted movements led to vehicles operating at considerably reduced capacity (in some parts of the country less than 20% of normal);

- requirements to disinfect vehicles at slaughterhouses led to substantial increases in overall journey times.

Although most of the restrictions were removed on 4 October, a substantial backlog of animals awaiting transport had built up at a time of the year when movements normally reach a peak and the livestock haulage industry operates at full capacity. Livestock haulage is a specialised industry. Purpose built vehicles must be used and drivers must be suitably qualified. There has been little scope for securing additional drivers or vehicles from within the wider road haulage sector. Serious animal welfare concerns had arisen and the future viability of the livestock industry was at risk.

7.2 To alleviate these concerns, the Principal Regulations were made to relax the drivers' hours rules for a period of 30 days ending on 5 November to increase driver and vehicle capacity and help to meet the current exceptional demand. They have provided for the following relaxations in the drivers' hours rules:

- increase the daily driving limit to 10 hours every day;
- abolish the weekly and fortnightly limits (56 and 90 hours);
- reduce the weekly rest period to 24 hours.

These changes have increased available driving time by up to a third. The daily rest break requirements have not been relaxed and the industry has been informed that drivers must not be compelled to work the longer permitted hours and should not drive when tired. The Principal Regulations have also increased the maximum weekly limit for working time under the 2005 Regulations from 60 to 66 hours in order to allow drivers to make full use of the additional permitted drivers' hours.

7.3 It has now become apparent that a backlog of animals awaiting movement will remain in Scotland at the end of the 30 day period. These Regulations therefore amend the Principal Regulations to extend the period that they will remain in force for a further two weeks until 18 November but only for drivers wholly or mainly engaged in the movement of pigs, cattle or sheep from premises in Scotland.

7.4 Driver representatives have been consulted and are content with the proposed extension.

8. Impact

8.1. The Regulations will help to limit the potential short and long term impact of the foot-and-mouth disease outbreak on the livestock industry. Since this further change to the drivers' hours rules will be temporary and restricted in scope, the financial and other impacts on the haulage industry should be negligible. No impact on charities or voluntary bodies is foreseen. An Impact Assessment is therefore not required.

8.2 The impact on the public sector is minimal. The Vehicle and Operator Services Agency and the Police are the main public bodies affected as they are responsible for enforcing the drivers' hours rules. The Regulations will have negligible impact on them as they already enforce the rules and are aware of the types of operation to which these Regulations will apply.

9. Contact

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