

EXPLANATORY MEMORANDUM TO
THE ROAD VEHICLES (AUTHORISED WEIGHT) AND (CONSTRUCTION AND
USE) (AMENDMENT) REGULATIONS 2017

2017 No. 881

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.

2. Purpose of the instrument

2.1 The purpose of this instrument is to increase the maximum weights and dimensions of certain vehicles. It allows up to one tonne extra weight for certain vehicles using alternative fuel (low carbon) technologies, to account for their heavier power trains¹ when compared to more conventional engines such as petrol or diesel. The instrument also increases the maximum weight for two-axle buses by 1.5 tonnes to 19.5 tonnes and increases the maximum length of articulated vehicles carrying 45-foot ISO (International Organisation for Standardization) shipping containers as part of an intermodal transport operation.²

2.2 The instrument introduces a requirement for shippers to provide a written statement of weight to hauliers to prevent them from carrying heavier loads than they are legally able to.

2.3 The instrument removes administrative obstacles to the use on the road of vehicles propelled by natural gas or hydrogen by removing the need for such vehicles to obtain a special permit where they have been approved for use with such fuel systems at the time of registration.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The instrument transposes Directive (EU) 2015/719 of the European Parliament and of the Council (“the Directive”) which amends Council Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum

¹ Power trains consist of everything in a vehicle that delivers power including the engine, energy/fuel store and transmission, but in most cases the principal additional weight will be from gas tanks and in the case of electric vehicles, the battery.

² An intermodal transport operation is a transport operation using more than one mode (rail, road, sea) before the container is delivered.

authorised dimensions in national and international traffic and the maximum authorised weights in international traffic. A Transposition Note is submitted with the instrument.

- 4.2 Some parts of the Directive are not being transposed here as they depend on further detail to be set out by the European Commission in type approval rules, such as allowing extra length at the front and rear to enable manufacturers to develop more aerodynamic and safer trucks (without impinging on load space).
- 4.3 A brief scrutiny history of the Directive is set out as follows.
- 4.4 The proposal that resulted in Directive (EU) 2015/719 was the subject of Explanatory Memorandum (EM) 8953/13 submitted to Parliament by the Department for Transport on 20 May 2013.
- 4.5 The House of Commons European Scrutiny Committee considered EM 8953/13 on 5 June 2013. The Committee recommended that the proposal was politically important and held it under scrutiny pending progress in negotiations (Report 4, Session 2013/2014, Committee reference 34891). A Ministerial letter was sent to the Committee on 16 April 2014 providing information on progress in negotiations and expectations for further discussions. The Committee considered the letter on 30 April 2014, maintained its recommendation that the proposal was politically important and retained it under scrutiny pending further developments (Report 47, Session 2013-14). A further Ministerial letter was sent to the Committee on 12 May 2014 on the outcome of further negotiations. The Committee considered the letter on 14 May 2014 and cleared the proposal from scrutiny (Report 50, Session 2013-14).
- 4.6 The Chairman of the House of Lords Select Committee on the European Union considered EM 8953/13 at the 1507th Chairman's sif on 4 June 2013 and referred the EM to Sub-Committee B. The Sub-Committee first considered the EM on 24 June 2013 and decided to hold the proposal under scrutiny pending the outcome of negotiations and Ministerial responses to the Sub-Committee's requests for further information. Ministerial letters providing updates and further information were sent to the Chairman on 15 July 2013, 16 April 2014, 12 May 2014 and 15 January 2015. The Sub-Committee cleared the proposal from scrutiny on 12 May 2014.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.

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

What is being done and why

- 7.1 The objective of the Directive is to reduce greenhouse gas emissions, particularly carbon dioxide (CO₂) emissions, to respond to technological developments and changing market needs and to facilitate intermodal transport operations. It amends Directive 96/53/EC which sets out the maximum authorised weights for certain road

vehicles circulating internationally and maximum authorised dimensions for both national and international traffic within the EU.

- 7.2 The Directive aims to encourage the uptake of certain vehicles in international traffic which use alternative fuel (low carbon) technology by increasing the maximum authorised weight of such vehicles by up to one tonne. The increase in the permitted maximum weight ensures that the extra weight of the power train does not result in a reduced payload, as this would penalise the road transport sector in economic terms by putting operators of such vehicles at a disadvantage compared to those operating conventional petrol and diesel fuelled vehicles. For heavy goods vehicles (HGVs), this allowance will apply to two-axle rigid vehicles up to 18 tonnes and three-axle rigid vehicles up to 26 tonnes. It will not apply to the 44 tonne gross vehicle weight truck/trailer combinations, and the current maximum weight in Great Britain will remain at 44 tonnes. For buses this allowance will apply to three-axle rigid vehicles up to 26 tonnes and three-axle articulated vehicles up to 28 tonnes. In Great Britain, the increased weight will apply to those vehicles in both national and international traffic.
- 7.3 The Directive increases the authorised weight for buses with two axles in international traffic to allow an extra 1.5 tonnes. This increase applies to all two-axle buses regardless of their power train because since the adoption of Directive 96/53/EC, there has been a substantial increase in the average weight of bus passengers and their luggage which has resulted in a gradual reduction in the passenger capacity. The equipment needed to meet the current technical requirements in such buses has also reduced payload. In Great Britain, operators are able to benefit from the weight increase for domestic journeys as well as international journeys.
- 7.4 The increase of 1.5 tonnes to the maximum gross weight of two axle buses will apply to new vehicles and those currently in service. For vehicles already in service which have sufficient design capacity, operation at the higher weight may be authorised by the Driver and Vehicle Standards Agency following a submission of a notifiable alteration (VTP5) and the fitment of a new manufacturer's plate displaying the revised maximum plate. However, for those operators that wish to continue to operate with a maximum gross weight of 18 tonnes, this instrument provides an exemption from the requirement to display a manufacturer's plate indicating that the maximum gross weight is 19.5 tonnes.
- 7.5 To respond to an increase in the use of 45-foot containers, the Directive increases the authorised length of the vehicles transporting such containers by 15 cm. As a result of amendment to the Directive, previous provisions for Combined Transport Operations now apply to "intermodal transport" which is more broadly defined and is defined in this instrument. Intermodal journeys extend coverage to worldwide operations whereas combined transport operations only related to pan-European journeys. This amendment facilitates the carriage of 45 foot containers.
- 7.6 Additionally, the Directive introduces a requirement for a shipper to give a written statement of weight to the haulier who is transporting a container or swap body on their behalf. This is to help address the concern that hauliers have no way of ascertaining whether a container or swap body (a standard interchangeable container for use on road or rail transport) meets the legal weight requirement for the onward journey. The statement of weight provides operators and drivers with evidence of the weight of the container or swap body.

- 7.7 The instrument amends the Road Vehicles (Construction and Use) Regulations 1986 (the 1986 Regulations) and the Road Vehicles (Authorised Weight) Regulations 1998 (the 1998 Regulations) to implement these changes in Great Britain.
- 7.8 Separately to the transposition of the Directive, this instrument amends the 1986 Regulations to enable new type-approved hydrogen and liquefied natural gas (LNG) fuelled vehicles to be used on roads in Great Britain, without the need to obtain a special authorisation, as was previously required. These type of vehicles are now in production and the relevant fuel system safety standards have been implemented in EU type approval legislation and it is therefore no longer appropriate to have a prohibition on the general use of these types of fuel being used in new vehicles. This instrument allows new vehicles powered by hydrogen or LNG to be used on roads in Great Britain, provided they have been approved for such use under the Road Vehicles (Approval) Regulations 2009 (SI 2009/717), which implement the requirements of EU type approval. This was one of the recommendations of the 2014 HGV Task Force report: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/287528/taskforce-recommendations.pdf and will reduce administrative burdens on drivers of these vehicles. The safety requirements for liquefied petroleum gas fuelled vehicles are set out in regulations 40, 94 and Schedules 4 and 5 of the 1986 Regulations. As a consequence of widening the scope of regulation 94 to include hydrogen and LNG, the references to “gas” in regulation 40(2)(a) and 40 (2A) are replaced with “liquefied petroleum gas”. As a consequence of amending regulation 94 to allow the use of hydrogen and LNG fuel systems in motor vehicles used on the road, regulations 40(2)(a) and 40(2A) are amended to remove any potential uncertainty as to the type of gas fuel system to which regulation 40 applies which might occur as a result of additional types of gas being permitted for use.
- 7.9 The amendments to the 1998 Regulations regarding alternatively fuelled vehicles and to the 1986 Regulations regarding the use of hydrogen and LNG fuelled vehicles require a consequential amendment to the definition of “gas-fired appliance” in regulation 3 of the 1986 Regulations to ensure that a “fuel cell” used in such vehicles is not caught by the definition of “gas-fired appliance” and the regulations which apply to gas-fired appliances. This amendment of the definition of “gas-fired appliance” presented an opportunity to update and replace a reference to “British Gas Corporation” in paragraph (a) of the definition and which had not been amended since the 1986 Regulations came into force. “British Gas Corporation” has been replaced with “gas transporter”, which is the holder of a licence for the transportation of gas through pipelines to customers or another gas transporter system.

Consolidation

- 7.10 None.

8. Consultation outcome

- 8.1 The Department for Transport conducted a public consultation on amendments to permissible vehicle weights and dimensions, including to incentivise cleaner fuel technologies, and other associated proposals which ran for 6 weeks from 22nd September 2016 to 2nd November 2016.
- 8.2 The Department for Transport received 27 responses via email and an online form. The responses were from organisations including Transport for London and the

Confederation of Passenger Transport, trade associations such as the Freight Transport Association and businesses including Ocado and John Lewis Partnership, as well as individuals.

- 8.3 The majority of respondents, 25 of the 27, responded positively to the measures being proposed, and all respondents favoured the Department's preferred option of transposing these measures for both domestic and international traffic. Current legislation regarding vehicle weights and dimensions applies equally to domestic and international traffic and this ensures domestic traffic benefits from these new allowances. Negative comments referred to additional wear and tear on road infrastructure due to heavier vehicles and the lack of availability of alternative fuels internationally.
- 8.4 A more detailed summary of the responses to this consultation is available on the gov.uk website³. The Department for Transport acknowledges the suggestions put forward by respondents on areas related to but not covered by the Directive.
- 8.5 The Department consulted separately on the updating of the reference to "British Gas Corporation" in the definition of "gas fired appliance" in regulation 3 of the 1986 Regulations with "gas transporter". The Department sought the views of the Department for Business, Energy and Industrial Strategy, Independent Gas Transporters, OFGEM, the Health and Safety Executive, Gas Safe Register, Cadent, Wales and West Utilities, Northern Gas Networks and Scotia Gas as to what should replace the reference to British Gas Corporation. There were five responses to the consultation, two responded positively to the proposed amendment and three responded neutrally. There were no negative comments.

9. Guidance

- 9.1 The Department has laid guidance on these measures alongside this instrument and has published the guidance on the gov.uk website⁴.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is that it will be easier to operate certain vehicles with alternative fuels. Businesses, charities and voluntary bodies will not experience this positive effect unless they choose to participate, that is, there will be no positive or negative impact if they do not elect to run vehicles using alternative fuel sources.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No mitigating action for small businesses has been taken because businesses will not be adversely affected by this legislation. They will benefit if they choose to make use

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589349/consultation-on-amendments-to-permissible-vehicle-weights-and-dimensions-summary-of-responses.pdf

⁴ <https://www.gov.uk/government/publications/road-vehicle-authorised-weight-regulations-2017-amendments/road-vehicles-authorised-weight-and-construction-and-use-amendment-regulations-2017-clarification-overview>

of the provisions for alternatively-fuelled vehicles, but will not be adversely affected if they do not.

- 11.3 Small firms will be able to benefit from the incentive to adopt low carbon technologies which this legislation promotes, which will lead to fuel savings. However, many small fleets may be too small to justify the capital expenditure involved in transferring to alternatively-fuelled vehicles, therefore the positive impact on small firms may be limited unless a robust second-hand market for such vehicles emerges or the prices for such vehicles become more accessible.

12. Monitoring & review

- 12.1 The instrument includes provision requiring the Secretary of State to carry out a review of these provisions and to set out the conclusions of the review in a report to be published. The first such report must be published before the end of five years beginning with the day on which these Regulations come into force.
- 12.2 The Secretary of State reports must have regard to how this Directive is implemented in other member States, set out the intended objectives of the regulations, assess whether these have been met, and assess whether these objectives remain appropriate.
- 12.3 The central aim of the Directive is to incentivise the uptake of more environmentally-friendly HGVs. Therefore, if there is an increase in alternatively-fuelled HGVs as a result of the measure contained in this instrument, it will have met its objectives.

13. Contact

- 13.1 Mr Danny Herbert at the Department for Transport telephone: 020 7944 2766 or email: danny.herbert@dft.gsi.gov.uk can answer any queries regarding the instrument.