

2020 No. 1146

ROAD TRAFFIC

**The Heavy Commercial Vehicles in Kent (No. 3) (Amendment)
Order 2020**

Made - - - - - *21st October 2020*

Laid before Parliament *22nd October 2020*

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by section 17(2)(a), (c) and (d), (3) and (3ZB) of the Road Traffic Regulation Act 1984(a) (“the 1984 Act”) and sections 20(3), 51(3) and 53(1)(a) and (2) of the Road Traffic Offenders Act 1988(b) (“the 1988 Act”).

The Secretary of State has consulted such representative organisations as the Secretary of State thinks fit in accordance with section 134(2) of the 1984 Act(c) and section 88(2) of the 1988 Act.

Citation and commencement

1. This Order may be cited as the Heavy Commercial Vehicles in Kent (No. 3) (Amendment) Order 2020 and comes into force at the same time as the Heavy Commercial Vehicles in Kent (No.1) (Amendment) Order 2020(d).

Amendment of the Heavy Commercial Vehicles in Kent (No. 3) Order 2019

2.—(1) The Heavy Commercial Vehicles in Kent (No. 3) Order 2019(e) is amended as follows.

(2) In article 1(2) (citation, commencement and interpretation)—

(a) in the appropriate places insert—

““border documents” means documents relating to goods that are being exported on a vehicle from the United Kingdom to any other country; ”;

““East Kent” means the geographical area comprised of the areas of Dover District Council, Folkestone and Hythe District Council, Ashford Borough Council, Canterbury City Council, Thanet District Council and Faversham Town Council; ”;

(a) 1984 c. 27. Section 17(2) was amended by section 168(1) and Schedule 8, paragraph 28(3), of the New Roads and Street Works Act 1991 (c. 22), section 48 and Schedule 4, paragraph 25 of the Road Traffic Act 1991 (c. 40) and section 21(3) of the Scotland Act 2012 (c. 11). Subsections (3ZA) to (3ZD) of section 17 were inserted by section 21(4) of the Scotland Act 2012.

(b) 1988 c. 53. Section 20 was substituted by section 23 of the Road Traffic Act 1991 (c. 40). Section 53 was substituted by section 48 and Schedule 4, paragraph 102, of the Road Traffic Act 1991, and subsection (2) was substituted by section 3 of the Road Safety Act 2006 (c. 49).

(c) Section 134(2) was amended by Schedule 2, paragraph 12(3) of the Scotland Act 2016 (c. 11).

(d) S.I. 2020/[].

(e) S.I. 2019/1210.

““goods vehicle border readiness internet site” means the internet site designated by the Secretary of State for the provision, in accordance with this Order, of the registered number of a vehicle and information from or about border documents carried on the vehicle or by the driver;”;

““priority goods” means—

(a) live and fresh fish products for human consumption where—

(i) “fish” includes shellfish;

(ii) “fresh” means a non-live fish product that would deteriorate significantly with any delay to its normal export journey (that is without additional refrigeration, freezing or other intervention) after five days from catching, but does not include composite fish products (that is products which contain both fish and a plant product used as a main ingredient);

(iii) “shellfish” includes molluscs and crustaceans of any kind found in the sea or inland waters;

(b) day-old chicks, that is all poultry less than 72 hours old not yet fed and muscovy ducks (*Cairina moschata*) or their crosses, less than 72 hours old whether or not fed, where “poultry” means fowls, turkeys and ducks reared or kept in captivity for breeding or the production of meat or eggs for consumption;”;

““priority goods permit” means a permit issued in accordance with article 7(C1);”;

““registered number of a vehicle” is to be construed in accordance with section 23(1) of the Vehicle Excise and Registration Act 1994(a);”;

(b) in the definition of “relevant vehicle”, after “M20” insert “or M2”.

(3) After article 1, insert—

“Restricted access to the M20 and M2 Motorways before and during a traffic restriction period

1A.—(1) Paragraph (2)—

(a) applies from—

(i) 1st January 2021; and

(ii) where traffic signs giving notice of a restriction imposed by paragraph (2) are displayed on or near the coastbound carriageways of the M20 and M2 Motorways; and

(b) ceases to apply when—

(i) all such signs are lawfully removed or obscured;

(ii) the Secretary of State gives notice in writing, which has not been withdrawn, of the unavailability of the goods vehicle border readiness internet site; or

(iii) the Secretary of State gives notice in writing, which has not been withdrawn, that the restriction imposed by paragraph (2) no longer applies.

(2) Where this paragraph applies, a relevant vehicle must not be used on the coastbound carriageway of the M20 Motorway between Junctions 1 (Junction 3 of the M25) and 13 (Folkestone) or on the coastbound carriageway of the M2 Motorway between Junctions 1 (Three Crutches Interchange) and 7 (Brenley Corner) unless a valid Kent Access Permit has been issued in respect of it.

(3) In this article “Kent Access Permit” means a permit issued in accordance with article 7(A1).”.

(4) In article 2 (restricted access to the M20 Motorway between Junctions 9 and 13)—

(a) 1994 c. 22.

- (a) in the heading, for “9” substitute “10a”;
- (b) in paragraph (1), in the opening words for “may be used on the relevant length of carriageway only if”, substitute “must not be used on the relevant length of carriageway unless”;
- (c) in paragraph (1)(b), before “Kent” insert “East”;
- (d) omit “or” after paragraph (1)(b);
- (e) at the end of paragraph (1)(c) insert “; or”;
- (f) after paragraph (1)(c) insert—

“(d) the following conditions are satisfied—

- (i) the driver of the vehicle has complied with any request or requirement, made during that journey by a traffic officer or a person employed by a company or body that is providing services to the Secretary of State, to allow an inspection of the vehicle;
- (ii) a priority goods permit is displayed in or on the vehicle while it is being used on the relevant length of carriageway and in such a position that in normal daylight the permit is easily visible from a position in front of the vehicle; and
- (iii) a reflective and adhesive sticker issued with the permit is affixed in a conspicuous place at the rear and front of the vehicle,

in a case where the Secretary of State gives notice in writing, which has not been withdrawn, that priority goods permits are to be issued in respect of a relevant vehicle that is carrying only priority goods”;

- (g) in paragraph (2)—

- (i) omit the definition of “border documents”;
- (ii) in the definition of “the relevant length of carriageway” for “Junction 9 (Ashford)”, substitute “Junction 10a”.

- (5) In article 3 (restricted access to M20 Motorway between Junctions 8 and 9), for paragraph (2) substitute—

“(2) Where this paragraph applies, a relevant vehicle proceeding in a coastbound direction must not be driven on any part of the carriageway referred to in paragraph (1)(b) unless—

- (a) the driver of the vehicle is acting—
 - (i) at the direction, or with the permission, of a specified person; or
 - (ii) in compliance with a direction displayed on a traffic sign placed on or near a road; or
- (b) a priority goods permit is displayed in such a position that in normal daylight the permit is easily visible from a position in front of the vehicle and a reflective and adhesive sticker issued with the permit is affixed in a conspicuous place at the rear and front of the vehicle. ”.

- (6) In article 7 (permits)—

- (a) before paragraph (1) insert—

“(A1) The Secretary of State may issue a permit in respect of a heavy commercial vehicle (“Kent Access Permit”) only if the following information has been provided to the goods vehicle border readiness internet site—

- (a) the registered number of the vehicle; and
- (b) information from or about border documents carried on the vehicle or by the driver.

- (B1) A permit issued under paragraph (A1)—

- (a) must be in writing in electronic format; and

- (b) is valid—
 - (i) only if correct information has been provided to the goods vehicle border readiness internet site under that paragraph; and
 - (ii) for the period of 24 hours specified on the permit.

(C1) The Secretary of State may during a traffic restriction period issue a permit to the driver of a heavy commercial vehicle in Kent that is carrying only priority goods (“priority goods permit”).

(D1) A permit issued under paragraph (C1)—

- (a) must be in writing;
 - (b) must be accompanied by at least two reflective and adhesive stickers; and
 - (c) is valid for a period of 24 hours from the time of issue.”;
- (b) in paragraph (1)(b) before “Kent”, insert “East”;
- (c) in paragraph (3)(b) before “Kent” in the first place it occurs, insert “East”.

(7) In article 8 (cessation)—

- (a) after “Articles”, insert “1A, ”; and
- (b) for “31st December 2020”, substitute “31st October 2021”.

Enforcement of offences

3. In section 20(2) (speeding offences etc: admissibility of certain evidence)(a) of the Road Traffic Offenders Act 1988—

- (a) in paragraph (bb)—
 - (i) before “2(1)”, insert “1A(2), ”;
 - (ii) for “M20 Motorway”, substitute “M20 and M2 Motorways”;
- (b) in paragraph (bc) before “3(1)”, insert “3(A1), ”.

Amendment of the Fixed Penalty Order 2000

4.—(1) The Fixed Penalty Order 2000(b) is amended as follows.

(2) In Schedule 2 (graduated fixed penalties)—

- (a) in paragraph 7 in column (1) of the table, before “2(1)”, insert “1A(2), ”;
- (b) in paragraph 8 in column (1) of the table, before “3(1)”, insert “3(A1), ”.

Signed by authority of the Secretary of State for Transport

21st October 2020

Rachel Maclean
Parliamentary Under Secretary of State
Department for Transport

(a) Section 20(2) has been amended by S.I.s 1997/384, 2001/1814, 2014/260, 2017/294 and 2019/1210.
(b) S.I. 2000/2792. A relevant amending instrument is S.I. 2019/1210.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Heavy Commercial Vehicles in Kent (No. 3) Order 2019 (the “2019 Order”) to enable the movement of cross-Channel lorries in Kent to be controlled by further regulating access to the motorway network in Kent. A cross-Channel lorry may be used on the coastbound carriageway of motorways in Kent only if a valid Kent Access Permit has been issued in respect of it. This permit is obtained by providing information from or about border documents to the Secretary of State’s goods vehicle border readiness internet site. In addition, this Order allows a cross-Channel lorry carrying only priority goods to be issued with a priority goods permit which will allow it to use the London-bound carriageway of the M20 Motorway between Junctions 8 and 9. Finally this Order makes ancillary provision relating to enforcement.

Article 2(2) amends article 1(2) of the 2019 Order by inserting definitions of key terms used elsewhere in the amended 2019 Order, for example “goods vehicle border readiness internet site” and “priority goods”.

Article 2(3) inserts article 1A in the 2019 Order. This restricts access to the coastbound carriageways of the motorway network in Kent so that from 1st January 2021 cross-Channel lorries may only be driven on these routes with a valid Kent Access Permit.

Article 2(4) amends article 2 of the 2019 Order to:

- (a) change the definition of “the relevant length of carriageway” to mean the coastbound carriageway of the M20 Motorway between Junctions 10a and 13. This amendment reflects the location of the Ashford Sevington site where checks of cross-Channel lorries’ border documents may be carried out and cross-Channel permits may be issued. This site is located after Junction 9;
- (b) alter the opening words of paragraph (1) to make it clear that where applicable, the new requirement to have a Kent Access Permit, introduced by article 1A, is separate from and additional to the restriction imposed by article 2(1) during a traffic restriction period;
- (c) exempt from the restriction on access to the M20 Motorway between Junctions 10a and 13, cross-Channel lorries which are carrying only priority goods and are displaying a priority goods permit and accompanying stickers, where the Secretary of State issues such permits.

Article 2(5) amends article 3(2) of the 2019 Order to exempt from the restriction on cross-Channel lorries driving in a coastbound direction on the London-bound carriageway of the M20 Motorway between Junctions 8 and 9, lorries which are carrying only priority goods and are displaying a priority goods permit and accompanying stickers.

Article 2(6) amends article 7 of the 2019 Order:

- (a) to provide for the issue of a Kent Access Permit and a priority goods permit;
- (b) to provide that Kent County Council may issue a local haulier permit to the holder of an operator’s licence with an operating centre in East Kent.

Article 2(7) amends article 8 to postpone the date on which the main provisions of the 2019 Order will cease to have effect from 31st December 2020 to 31st October 2021.

Article 3 amends the Road Traffic Offenders Act 1988 to make evidence from prescribed devices relating to breaches of the new restrictions created by the amendments made by this Order and the Heavy Commercial Vehicles in Kent (No. 2) (Amendment) Order 2020 more readily admissible in court through the procedure established by section 20 of that Act.

Article 4 amends the Fixed Penalty Order 2000 to set the fixed penalty amount at £300 for breaches of the new restrictions created by the amendments made by this Order and the Heavy Commercial Vehicles in Kent (No. 2) (Amendment) Order 2020.

A full Impact Assessment has not been produced for this instrument as it is not expected to have a significant impact on the private, public or voluntary sectors. An Explanatory Memorandum has

been prepared for this Order and is available alongside this instrument on the UK Legislation website www.legislation.gov.uk.

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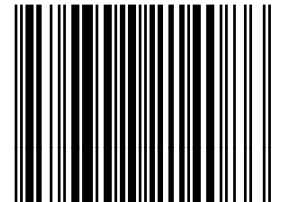
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