

2020 No. 812

ROAD TRAFFIC

**The Road Vehicles (Certificates of Temporary Exemption)
Regulations 2020**

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| <i>Made</i> - - - - | <i>29th July 2020</i> |
| <i>Laid before Parliament</i> | <i>30th July 2020</i> |
| <i>Coming into force</i> - - | <i>21st August 2020</i> |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 48(4), 48(4A), 53(5)(b) and 53(5A) of the Road Traffic Act 1988(a).

The Secretary of State, in accordance with section 195(2) of that Act, has consulted such representative organisations as the Secretary of State thinks fit.

Citation and commencement

1. These Regulations may be cited as the Road Vehicles (Certificates of Temporary Exemption) Regulations 2020 and come into force on 21st August 2020.

Interpretation

2. In these Regulations—

“the 1981 Act” means the Public Passenger Vehicles Act 1981(b);

“the 1988 Act” means the Road Traffic Act 1988;

“the 1995 Act” means the Goods Vehicles (Licensing of Operators) Act 1995(c);

“certificate of temporary exemption” means a certificate issued by the Secretary of State in accordance with regulation 4;

“examination”, in relation to—

(a) a public service vehicle adapted to carry more than eight passengers, means an examination carried out in accordance with the Motor Vehicles (Tests) Regulations 1981(d);

(b) a goods vehicle, means an examination carried out in accordance with the Goods Vehicles (Plating and Testing) Regulations 1988(e);

(a) 1988 c. 52 (“the 1988 Act”). Sections 48(4) and 53(5)(b) were substituted, and sections 48(4A) and 53(5A) were inserted, by section 13 of the Business and Planning Act 2020 (c. 16). Section 13 came into force on 22nd July 2020.

(b) 1981 c. 14 (“the 1981 Act”).

(c) 1995 c. 23.

(d) S.I. 1981/1694. Section 85 of the 1988 Act provides that “public service vehicle” has the same meaning in Part II of that Act as in the 1981 Act.

(e) S.I. 1988/1478. “Goods vehicle” is defined in section 192(1) of the 1988 Act.

“operator’s licence” means a licence granted under section 14 of the 1981 Act(a) or section 13 of the 1995 Act(b);

“relevant provision”, in relation to—

(a) a public service vehicle adapted to carry more than eight passengers, means section 47(1) of the 1988 Act;

(b) a goods vehicle, means section 53(1) or (2) of the 1988 Act;

“relevant vehicle” means a public service vehicle adapted to carry more than eight passengers or a goods vehicle;

“traffic commissioner” means a traffic commissioner appointed under section 4 of the 1981 Act(c).

Temporary exemption from requirements

3.—(1) A relevant vehicle is not subject to a relevant provision while a certificate of temporary exemption applies to that vehicle.

(2) A certificate of temporary exemption applies to a vehicle—

(a) from the beginning of the date specified in the certificate in accordance with regulation 5(c); and

(b) until the end of the date specified in the certificate in accordance with regulation 5(d) or, if earlier—

(i) the time of its revocation under regulation 6; or

(ii) the time that a test certificate or goods vehicle test certificate(d), as the case may be, is issued in respect of that vehicle following an examination.

Issue of certificates

4.—(1) The Secretary of State may issue a certificate of temporary exemption for a relevant vehicle—

(a) if exceptional circumstances prevent an examination of that vehicle taking place before its use on a road would give rise to an offence under a relevant provision; or

(b) if satisfied that an examination of that vehicle should be postponed for the purpose of mitigating the effects of exceptional circumstances on examinations generally.

(2) The Secretary of State, when deciding whether to issue a certificate under paragraph (1)(b), may take into account—

(a) in any case—

(i) the age of the relevant vehicle;

(ii) the vehicle’s technical characteristics;

(iii) the nature of any goods that it is constructed or adapted to carry;

(b) in the case of a relevant vehicle used under an operator’s licence—

(i) the findings of any examination, or any inspection carried out under section 68 of the 1988 Act(e), of any relevant vehicle used under that licence;

(a) Section 14 was substituted by S.I. 2011/2632, regulation 7(1) and Schedule 1, paragraph 3.

(b) Section 13 was substituted by S.I. 2011/2632, regulation 8(1) and Schedule 2, paragraph 5.

(c) Section 4 was substituted by the Transport Act 1985 (c. 67), section 3(2), and amended by the Local Transport Act 2008 (c. 26), sections 2 and 3(2).

(d) “Test certificate” and “goods vehicle test certificate” are defined, respectively, in sections 45(2) and 49(2) of the Road Traffic Act 1988 (c. 52).

(e) Section 68 was substituted by the Road Traffic Act 1991 (c. 40), section 11.

- (ii) enforcement action against the licence holder in relation to the obligations imposed on that person by any enactment as the holder of such a licence (“the relevant obligations”);
- (iii) enforcement action against the driver of any vehicle used under that licence in relation to the use of that vehicle on a road;
- (iv) the licence holder’s membership of a publicised scheme, administered by the Secretary of State, for persons demonstrating compliance with the relevant obligations;
- (v) any action, direction or order, in relation to that licence or its holder, taken or made by a traffic commissioner under section 17 of the 1981 Act(a) or section 26, 27 or 28 of the 1995 Act(b) within the period of five years prior to the time of the Secretary of State’s consideration of the factors specified in this sub-paragraph.

(3) In this regulation—

“enforcement action” means criminal proceedings, the issue of a fixed penalty notice under section 54 of the Road Traffic Offenders Act 1988(c), the issue of a conditional offer under section 75 of that Act, or the imposition of a financial penalty deposit requirement under section 90A of that Act;

“exceptional circumstances” means an accident, a fire, an epidemic, severe weather, a failure in the supply of essential services or another unexpected event—

- (a) including prior or subsequent disruption attributable, in whole or in part, to such an event; but
- (b) excluding a breakdown of, or mechanical defect in, a vehicle or the absence of parts for repairing it.

Content of certificates

5. The Secretary of State must include the following particulars in a certificate of temporary exemption—

- (a) the identification mark for the relevant vehicle which, in relation to—
 - (i) a motor vehicle(d), means the registration mark displayed on the vehicle or, if no such mark is displayed, the chassis or serial number marked on the body of the vehicle for the purpose of identifying it;
 - (ii) a trailer, means the identification mark assigned to the trailer by the Secretary of State in accordance with the Goods Vehicles (Plating and Testing) Regulations 1988 or, if no such mark has been assigned, the chassis or serial number marked on the body of the trailer for the purpose of identifying it;
- (b) the date of issue of the certificate;
- (c) the date on which the certificate will begin to apply to the relevant vehicle; and
- (d) the date of expiry of the certificate, which must be within 12 months of the date on which the certificate will begin to apply to the relevant vehicle.

(a) Section 17(1)-(3) were amended by the Transport Act 1985 (c. 67), section 3(5) and Schedule 2, paragraph 4(8), the Deregulation and Contracting Out Act 1994 (c. 40), section 59(6), section 68 and Schedule 14(5), section 81 and Schedule 17, and S.I. 2011/2632 and 2013/1644.

(b) Section 26 was amended by the Road Safety Act 2006 (c. 49) (“the 2006 Act”), section 6, and S.I. 2012/2404, 2013/1644 and 2016/481; section 27 was amended by S.I. 2011/2632 and 2013/1644; section 28 was amended by S.I. 2009/1941 and 2013/1644.

(c) 1988 c. 53. Section 54(2) was amended by the 2006 Act, section 5 and Schedule 1, paragraph 3, and section 9(6) and Schedule 2, paragraph 14. Section 75 was substituted by the Road Traffic Act 1991 (c. 40), section 34, and subsections (1) to (3B) were variously amended or inserted by the Police Reform Act 2002 (c. 30), section 76(3), the Railways and Transport Safety Act 2003 (c. 20), section 69(2), the 2006 Act, section 5 and Schedule 1, paragraph 15, and S.I. 2018/24. Section 90A(1) was inserted by the 2006 Act, section 11.

(d) “Motor vehicle” and “trailer” are defined in section 185(1) of the Road Traffic Act 1988 (c. 52).

Revocations

6.—(1) The Secretary of State may revoke a certificate of temporary exemption for a relevant vehicle that was being used under an operator’s licence at the time the certificate was issued if—

- (a) any action, direction or order, in relation to that licence or its holder, is taken or made by a traffic commissioner under section 17 of the 1981 Act or section 26, 27 or 28 of the 1995 Act; or
- (b) subject to paragraph (3), the vehicle is used on a road under an operator’s licence held by another person, and the Secretary of State, considering the factors specified in regulation 4(2)(b), is satisfied that the certificate would not have been issued if the vehicle had been used under an operator’s licence held by that person at the time the certificate was issued.

(2) Before revoking a certificate of temporary exemption, the Secretary of State must—

- (a) give written notice to the holder of the operator’s licence under which the vehicle was being used at the time the certificate was issued (“the relevant operator”) and, if known and applicable, the person referred to in paragraph (1)(b); and
- (b) include the following particulars in the notice—
 - (i) the identification mark for the relevant vehicle;
 - (ii) the date and time the notice was issued; and
 - (iii) the date and time the certificate of temporary exemption will be revoked, which must be no sooner than 24 hours after the time the notice was issued.

(3) A certificate of temporary exemption may only be revoked under paragraph (1)(b) if the relevant operator was, before the date specified in the certificate in accordance with regulation 5(c), given written notice by the Secretary of State that the certificate was liable to be revoked in the circumstances specified in that paragraph.

(4) In paragraph (2)(b), “identification mark” has the same meaning as in regulation 5(a).

Consequential amendments

7.—(1) In the Motor Vehicles (Tests) Regulations 1981(a), omit regulation 28 (certificates of temporary exemption).

(2) In the Goods Vehicles (Plating and Testing) Regulations 1988(b)—

- (a) in regulation 42A (provisions as to signatures), for “, notice of the refusal of a goods vehicle test certificate or certificate of temporary exemption” substitute “or notice of the refusal of a goods vehicle test certificate”; and
- (b) omit regulation 46 (certificates of temporary exemption).

Signed by authority of the Secretary of State for Transport

29th July 2020

Vere
Parliamentary Under Secretary of State
Department for Transport

(a) S.I. 1981/1694. Amended by S.I. 1982/1715 and 1983/1434.

(b) S.I. 1988/1478. Amended by S.I. 1990/448, 1997/82 and 2000/1433.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Road Traffic Act 1988 generally prohibits the use of a motor vehicle, or a trailer that is a goods vehicle, on a road in Great Britain unless a test certificate has been issued for that vehicle within the past year. That Act also confers powers on the Secretary of State to make regulations governing the issue of certificates of temporary exemption for public service vehicles adapted to carry more than eight passengers and goods vehicles, which allow such vehicles to be used on roads without test certificates.

Those powers were reformed by the Business and Planning Act 2020 in response to disruption to the vehicle testing regime caused by the spread of coronavirus. This instrument is the first to be made under the new powers and provides for—

- (a) vehicles to be exempt from the testing requirement while a certificate of temporary exemption applies (regulation 3);
- (b) the circumstances in which such certificates can be issued, namely “exceptional circumstances” including an accident, a fire, an epidemic, severe weather, a failure in the supply of essential services or another unexpected event (regulation 4(1) and (3));
- (c) the factors that may be considered by the Secretary of State when deciding whether to issue such certificates (regulation 4(2));
- (d) the content of such certificates and their revocation (regulations 5 and 6);
- (e) the revocation of the existing provisions governing the issue of such certificates (regulation 7).

No impact assessment has been prepared for these Regulations. An Explanatory Memorandum has been prepared for these Regulations and is available alongside this instrument on the UK Legislation website www.legislation.gov.uk.

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£4.90

UK202007291008 08/2020 19585

<http://www.legislation.gov.uk/id/uksi/2020/812>

ISBN 978-0-34-821060-6



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