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S T A T U T O R Y I N S T R U M E N T S

2021 No. 109

ROAD TRAFFIC

**The Heavy Commercial Vehicles in Kent (No. 3) (Amendment)
Order 2021**

Made - - - - - *20th January 2021*

Coming into force in accordance with article 1

Laid before Parliament *1st February 2021*

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 2021 and comes into force on 5.00 p.m. on the day after the day on which this Order is made.

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

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

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

(a) in the appropriate places insert—

““critical food supply vehicle” means a relevant vehicle which the Secretary of State considers is critical to the maintenance of food supply in the United Kingdom;”;

(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. 2019/1210, as amended by S.I. 2020/1146.

““groceries” means food, pharmaceuticals (other than prescription-only medicines), pet food, drinks (alcoholic and non-alcoholic), cleaning products, toiletries and household goods, but excludes petrol, clothing, DIY products, financial services, newspapers, magazines, greeting cards, CDs, DVDs, videos and audio tapes, toys, plants, flowers, perfumes, cosmetics, electrical appliances, kitchen hardware, gardening equipment, books, tobacco and tobacco products;”;

““priority food supply permit” means a permit issued in accordance with article 7(E1);”
;

(b) in the definition of “priority goods”, after paragraph (b) insert—

“(c) groceries which are intended to be transported to a final destination in Gibraltar;”.

(3) In article 1A (restricted access to the M20 and M2 Motorways before and during a traffic restriction period)—

(a) paragraph (1) is renumbered as paragraph (1A);

(b) before paragraph (1A) as renumbered insert—

“(1) Paragraph (2) applies where the Kent Access Permit Requirement or the SARS-CoV-2 Requirement applies.”;

(c) in paragraph (1A) as renumbered—

(i) for “Paragraph (2)—” substitute “The Kent Access Permit Requirement—”;

(ii) in sub-paragraph (a)(ii), for “a restriction imposed by paragraph (2)” substitute “the Kent Access Permit Requirement”;

(iii) in sub-paragraph (b)(iii), for “restriction imposed by paragraph (2)” substitute “Kent Access Permit Requirement”;

(d) after paragraph (1A) as renumbered insert—

“(1B) The SARS-CoV-2 Requirement—

(a) applies where traffic signs giving notice of the SARS-CoV-2 Requirement 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; or

(ii) the Secretary of State gives notice in writing, which has not been withdrawn, that the SARS-CoV-2 Requirement no longer applies.”.

(e) for paragraphs (2) and (3), substitute—

“(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) where the Kent Access Permit Requirement applies, that requirement has been satisfied;

(b) where the SARS-CoV-2 Requirement applies, that requirement has been satisfied.

(3) In this article—

(a) “Kent Access Permit Requirement” means a requirement that a valid Kent Access Permit has been issued in respect of the relevant vehicle;

(b) “Kent Access Permit” means a permit issued in accordance with article 7(A1);

(c) “SARS-CoV-2 Requirement” means a requirement that—

(i) the driver of, and any person aged 11 or over travelling with the driver in, the relevant vehicle has had a negative SARS-CoV-2 result from a qualifying test that was undergone less than 72 hours before the time when the driver reasonably expected to depart from the Port of Dover or the Channel Tunnel at Folkestone; and

- (ii) the driver of, and any person aged 11 or over travelling with the driver in, the relevant vehicle has complied with any request or requirement, made during the journey by a specified person or a person employed by a company or body that is providing services to the Secretary of State, to produce evidence of a negative SARS-CoV-2 result from a qualifying test that was undergone less than 72 hours before the time when the driver reasonably expected to depart from the Port of Dover or the Channel Tunnel at Folkestone;
 - (d) “qualifying test” means a test that is—
 - (i) a polymerase chain reaction test or a lateral flow test;
 - (ii) capable of detecting the presence of SARS-CoV-2, including the VUI-2020-12-01 strain; and
 - (iii) undertaken in the United Kingdom;
 - (e) “evidence” means a document in writing, including in electronic format, which includes the following information—
 - (i) the name of the person from whom a sample for testing was taken;
 - (ii) the result of the test;
 - (iii) a statement that the test was a polymerase chain reaction test or a lateral flow test;
 - (iv) the date and time when the test was undergone;
 - (v) the location where the sample was tested; and
 - (vi) the name of the test provider.”.
- (4) In article 2 (restricted access to the M20 Motorway between Junctions 10A and 13)—
 - (a) omit “or” after paragraph (1)(c);
 - (b) at the end of paragraph (1)(d) insert—
 - “; or
 - (e) the following conditions are satisfied—
 - (i) a priority food supply 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
 - (ii) a reflective and adhesive sticker authorised by 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 food supply permits are to be issued in respect of a critical food supply vehicle”.
- (5) In article 3 (restricted access to M20 Motorway between Junctions 8 and 9)—
 - (a) omit “or” after paragraph (2)(a)(ii);
 - (b) at the end of paragraph (2)(b) insert—
 - “; or
 - (c) a priority food supply 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 authorised by the permit is affixed in a conspicuous place at the rear and front of the vehicle”.
- (6) In article 7 (permits)—
 - (a) for paragraph (C1) substitute—
 - “(C1) The Secretary of State may during a traffic restriction period issue a permit (“priority goods permit”) to the driver of a heavy commercial vehicle in Kent that is carrying—

- (a) only priority goods other than those referred to in sub-paragraph (b);
- (b) only groceries which are intended to be transported to a final destination in Gibraltar.”;
- (b) after paragraph (D1) insert—
 - “(E1) The Secretary of State may during a traffic restriction period issue a permit to the driver of a heavy commercial vehicle that is a critical food supply vehicle (“priority food supply permit”).
 - (F1) A permit issued under paragraph (E1)—
 - (a) must be in writing;
 - (b) must authorise the use of two reflective and adhesive stickers complying with such requirements in respect of the stickers as are specified on the permit; and
 - (c) is valid for—
 - (i) the period of 24 hours specified on the permit; or
 - (ii) such hours within a specified 24 hour period as are specified on the permit.”.

Signed by authority of the Secretary of State for Transport

Rachel Maclean
Parliamentary Under Secretary of State
Department for Transport

20th January 2021

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Heavy Commercial Vehicles in Kent (No. 3) Order 2019 to regulate further the movement of cross-Channel lorries in Kent. The Order allows priority access to certain parts of the road network to be given to empty lorries leaving the UK to enable them to restock and return with fresh supplies, and to lorries supplying groceries to Gibraltar.

The Order also allows a requirement to be imposed on lorry drivers and people travelling with them to have had a negative Covid-19 result, and to produce evidence of this on request, as a condition of access to the coastbound carriageways of the motorway network in Kent. The test must be of a type specified in the Order and must be taken less than 72 hours before the expected time of departure from the Port of Dover or the Channel Tunnel at Folkestone.

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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