

**EXPLANATORY MEMORANDUM TO
THE VEHICLE DRIVERS (CERTIFICATES OF PROFESSIONAL COMPETENCE)
(AMENDMENT) REGULATIONS 2011**

2011 No. 2324

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**

Background

2.1 This instrument further amends the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 (the “principal Regulations”). The principal Regulations were made to implement Directive 2003/59/EC (the “Directive”), which was made in July 2003 and which introduced a requirement for a Certificate of Professional Competence (CPC) to be held by professional drivers of vehicles in categories C and D, when driving on roads within the European Community. To obtain a CPC, a driver requires an initial qualification and, in order to maintain this, they must complete 35 hours of Periodic Training over a five year period and every subsequent five years thereafter.

2.2 Those holding a driving licence in categories C and D on the implementation dates (10 September 2008 for category D and 10 September 2009 for category C) were exempted from the requirement to hold a CPC for five years. These drivers are required to complete 35 hours of Periodic Training during this period to obtain the CPC. Within the United Kingdom (UK), drivers holding a CPC are issued with a Driver Qualification Card (DQC) as specified by the Directive as evidence of their CPC status.

2.3 A transposition note of the Directive accompanied the Explanatory Note to the principal Regulations.

Effect of the Regulations

2.4 This instrument amends the existing provisions to take account of driving licences issued by the relevant authorities in the Isle of Man, the Channel Islands and Gibraltar in order to ensure that professional drivers holding such licences are able to exercise their entitlements under the Directive to obtain a CPC whilst working or being resident in the UK. It also takes account of the time limits for obtaining a CPC that apply to professional drivers holding driving licences issued by other Member States, the Isle of Man, the Channel Islands and Gibraltar and also has the effect of requiring professional drivers holding British or Northern Ireland paper driving licences to exchange them for photocard driving licences in order to obtain a DQC.

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

None.

4. Legislative Context

4.1 This instrument is made under section 2(2) of the European Communities Act 1972.

4.2 The Transposition Note has been amended to better reflect the transposition of Article 8(2) and Article 9 of the Directive.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom (UK).

6. European Convention on Human Rights

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

7. Policy background

Holders of Isle of Man, Channel Islands and Gibraltar driving licences

7.1 The principal Regulations require the competent authority to issue a DQC to a person qualifying for the CPC who works or is resident in the UK and holds a driving licence issued in GB, NI or another Member State. As a consequence of identification requirements, only persons holding a licence issued in GB, NI or another Member State may take the CPC Initial Qualification tests or undertake CPC Periodic Training. Consequently, persons holding driving licences issued in the Isle of Man, the Channel Islands and Gibraltar are prevented from obtaining (via either the Initial Qualification tests or Periodic Training) a CPC in UK.

7.2 These Regulations remove the barriers to obtaining a CPC in UK for holders of driving licences issued in the Isle of Man, the Channel Islands or Gibraltar by allowing their use for identification purposes at the CPC Initial Qualification tests and for CPC Periodic Training and permitting the holders to apply for a DQC.

Requirement to hold a photocard driving licence

7.3 Upon completion of 35 hours of CPC Periodic Training (taken within the UK), drivers holding a GB or NI photocard driving licence are automatically issued with a DQC using the photograph and signature already held on the Driver and Vehicle Licensing Agency (DVLA) driver licensing database and without payment of any fee.

7.4 The principal Regulations currently allow only holders of GB or NI photocard licences, who have passed the Initial Qualification tests or completed 35 hours of Periodic Training within the UK, to receive a DQC (without the need for an application or payment of a fee) by using the photograph and signature already held on the Driver and Vehicle Licensing Agency (DVLA) driver licensing database. In all other circumstances, a DQC application is required and a fee must be paid. However, professional drivers holding GB paper driving licences, who have completed 35 hours of Periodic Training within the UK, can avoid the cost and inconvenience of the application

process by exchanging their existing licence for a photocard version. Doing so incurs a fee of £20 but this is less costly than making a manual application for the DQC. The administrative arrangements to support the manual application process have not yet been developed but they would necessitate the submission of a photograph as part of the driver's application and manually inputting them into the DVLA computer system that issues DQCs. The cost of such a manual system, for a limited number of paper licence holders who choose not to not to exchange their licences, would be significant.

7.5 These Regulations remove the ability of holders of GB paper driving licences, who have completed 35 hours of Periodic Training within the UK, to submit an application for a DQC. Such persons will, in future, only receive a DQC once they have exchanged their existing licence for a photocard version. The DQC will then be issued without the need for an application or payment of a fee.

7.6 All NI Driving licences are in the form of a photocard. Only GB paper licence holders are therefore affected by this change

Time limit for obtaining a Certificate of Professional Competence

7.7 Member States are permitted to vary the standard entitlement periods specified in the Directive relating to exemptions for existing professional drivers and the validity period of the Initial Qualification.

7.8 These Regulations ensure that any non-standard entitlements granted to persons holding Community driving licences by their own Member State are recognised within the principal Regulations whilst they continue to hold such licences. A similar provision applies to holders of Gibraltar driving licences. Where the issuing Member State or the Government of Gibraltar has granted an entitlement that is longer than the standard entitlement, these provisions have the effect of disapplying the offence that would otherwise apply to professional drivers who did not hold a CPC upon expiry of the standard entitlements.

8. Consultation outcome

8.1 A formal consultation was undertaken jointly by the Driving Standards Agency (DSA) and the Driver & Vehicle Agency (DVA) between April and July 2009 on introducing a requirement for professional drivers to exchange a paper driving licence for a photocard driving licence. The agencies wrote to over 6,700 stakeholders including driver and rider training associations, trade associations, individuals, special interest groups and those associated with the police and judiciary system. The Consultation Paper was posted on the DSA website and over 90,000 stakeholders were notified of its existence and location by e-mail. A press release was also issued.

8.2 34 responses were received, including ones from road freight transport trade associations and industry professionals. Those who responded were broadly in support of the proposal. The Driving Standards Agency (DSA) published a response report in November 2009.

9. Guidance

The revised arrangements for obtaining a DQC will be included in guidance available to drivers.

10. Impact

10.1 Any impact on business, charities or the voluntary sector is likely to be minimal but positive. The direct impact will be upon individuals which may feed back to such organisations. The cost of a DQC, which must be renewed every five years, is £25 if obtained via an application. The cost of obtaining a photocard driving licence, which lasts for 10 years, is £20. As the DQC is issued automatically to persons with a photocard licence and at nil cost to the driver, there will be a £30 benefit over ten years to such drivers as a result of provisions within these Regulations.

10.2 The impact on the public sector is a benefit of some £2 million. This is achieved by avoiding the need to develop a system for the manual processing of DQC applications by GB paper licence holders who have completed 35 hours of Periodic Training within the UK. Requiring such drivers to exchange the licence for a photocard facilitates the automatic issue of the driver qualification card and the avoidance of costly manual processing.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

10.4 The impact from the provisions in these Regulations regarding holders of Isle of Man, Channel Islands and Gibraltar vocational driving licences, is positive. It will allow such drivers to obtain a DQC in the UK, thereby enabling them to drive professionally across the European Union.

11. Regulating small business

11.1 The legislation does not apply to small businesses. However, such businesses may employ drivers affected by its provisions and so have a consequential interest in them. The effects of this instrument are directly beneficial to the affected drivers. Where such drivers are self-employed, the impact on the business will be positive, so no measures are required to reduce the impact on small businesses. Where the driver is employed by a small business, these provisions have no impact on the latter.

11.2 This instrument does not impose any Equivalent Annual Net Cost to Business, with those affected realising positive benefits, as confirmed by the Regulatory Policy Committee. The impact on both drivers and businesses will be positive, as the cost of obtaining a DQC will fall for holders of paper driving licences and the issuing process will be simplified. The current barrier to obtaining a DQC for holders of Isle of Man, the Channel Islands and Gibraltar vocational driving licences will be removed, making it much easier for small businesses to offer employment to such drivers.

12. Monitoring & review

12.1 This instrument includes a requirement to review the legislation within 5 years of the regulations being made. The intention is that this will be conducted internally.

12.2 The purpose of this instrument is to:

- encourage professional drivers holding old-style, paper driving licences to exchange them for photocard licences;
- remove the barriers to obtaining a DQC for holders of Isle of Man, the Channel Islands and Gibraltar vocational driving licences; and
- remove the holders of Community and Gibraltar driving licences from the scope of an offence under the principal regulations where the licence issuing authority has granted an entitlement greater than the standard entitlement specified in the Directive and the standard entitlement period has expired.

12.3 A measure of success will be the volume of correspondence and casework arising from any unintended consequences of the implementation of this instrument.

13. Contact

Robin Massey at the Driving Standards Agency Tel: 0115 936 60978 or e-mail: robin.massey@dsa.gsi.gov.uk can answer any queries regarding the instrument.

TRANSPOSITION NOTE

DIRECTIVE 2003/59/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 15TH JULY 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers

The Directive requires drivers of goods vehicles or passenger carrying vehicles to pass an initial test. This overlaps and goes beyond the current driving test and may be taken at the same time. After successful completion of the initial test, the driver is awarded an initial “certificate of professional competence” or “CPC”. The initial CPC is valid for 5 years. Within that period drivers are required to take 35 hours of training and then a further 35 hours training every 5 years. A driver is awarded a periodic CPC after completion of each 35 hour period of training. A code on the driver’s driving licence, or a driver qualification card, show that the driver has an initial CPC or periodic CPC.

These Regulations do what is necessary to implement the Directive by making enforcement provisions and provisions relating to driver qualification cards similar to those which apply to offences and other matters connected with driving licences.

In Great Britain the competent authority is the Secretary of State, in Northern Ireland it is the Department of the Environment, Northern Ireland.

| Article | Objective | Implementation |
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| 1 | application of Directive to drivers of passenger carrying and goods vehicles | regulation 2(1) defines “relevant vehicle” by references to the categories in the Directive; regulation 3(1) applies regulations to nationals of member States and nationals of third countries employed by undertakings established in a member State |
| 2 | exemptions from CPC requirements | regulation 3(2) sets out the exemptions covered by the Directive |
| 3(1)(a)(ii) and Annex I, section 2.(2.2) | drivers of relevant vehicles required to have initial CPC | Regulation 2(1) defines “initial CPC test” with reference to the requirements of Article 3(1)(a)(ii) regulation 4(1) prohibits a driver of a relevant vehicle from driving on a public road unless he has passed an initial CPC test within the previous 5 years; regulation 10 makes it an offence not |

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| | | <p>to have an initial CPC qualification when driving when one is required by the regulations;</p> <p>regulation 11 makes it an offence not to carry and produce evidence of that CPC entitlement (or training exemption, where applicable) when driving a relevant vehicle.</p> <p>regulation 13 makes it an offence to forge or make false statements in relation to any document evidencing CPC entitlement.</p> <p>regulation 14 enables a constable or vehicle examiner to seize any document carried in a vehicle in respect of which he thinks that an offence under regulation 13 has been committed.</p> |
| 3(1)(a)(ii), last paragraph | exemption from initial CPC for drivers undergoing a national vocational training course | regulation 4(5) exempts from the initial CPC test drivers who are undertaking a national vocational training course approved by the competent authority |
| 3(1)(b), section 4 of Annex I | drivers required to have compulsory periodic training of 35 hours every five years | <p>regulation 2(1) defines “periodic training” with reference to Article 3(1)(b) and “periodic training course” with reference to the requirements of the section 4 of Annex I;</p> <p>regulation 9(1) prohibits a driver of a relevant vehicle from driving on a public road unless he has obtained a periodic CPC within the previous five years or have a valid initial CPC;</p> <p>regulation 10 makes it an offence not to have a periodic CPC when required to do so under the regulations;</p> <p>regulation 11 makes it an offence not to carry and produce evidence of that entitlement (or training exemption, if applicable) when driving a relevant</p> |

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| | | <p>vehicle.</p> <p>regulation 13 makes it an offence to forge or make false statements in relation to any document evidencing CPC entitlement.</p> <p>regulation 14 enables a constable or vehicle examiner to seize any document carried in a vehicle in respect of which he thinks that an offence under regulation 13 has been committed.</p> |
| 4 | acquired rights: exemption from initial CPC for certain driving licence holders | <p>regulation 4(7) exempts from the requirement to have an initial CPC-</p> <p>(a) drivers of passenger carrying vehicles with driving licences for those vehicles on or before 9th September 2008</p> <p>(b) drivers of goods vehicles with driving licences for those vehicles on or before 9th September 2009</p> |
| 5(1) | driving licence not prerequisite to initial qualification | regulation 4(4) allows CPC test to be taken whether or not driving licence has been granted |
| 5(2) and (3) | minimum age requirements for drivers of goods vehicles and passenger carrying vehicles | regulation 15 modifies the minimum age requirements in items 6 and 7 of the Road Traffic Act 1988 |
| 5(4) | holders of initial CPC relating to carriage of goods exempted from need to obtain CPC for other categories relating to carriage of goods. Similar provision for drivers of passenger carrying vehicles | regulation 4(10) makes such provision |
| 5(5) | holders of initial CPC relating to carriage of goods | regulations 4(2)(b) and (9) set out these requirements |

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| | vehicles required to obtain initial CPC for driving passenger carrying vehicles. Similar provision for holders of initial CPC relating to passenger carrying vehicles. | |
| 6(1)(b) | initial CPC awarded on basis of tests, organized by Member States competent authorities or designated entity | regulation 5(1) enable the competent authority or a person approved by it to organize an initial CPC test. |
| 7, section 5 of Annex I | compulsory periodic training must be organized by approved training centre in accordance with conditions | regulation 6 requires a person who wishes to provide periodic training to apply to the competent authority. The competent authority can grant approval subject to compliance with conditions; regulation 7 requires an approved person to notify the competent authority each time a person has completed a course of at least 7 hours training. |
| 8(1) | CPC to be issued following completion of periodic training | [regulations 8(1)(b) and 8A(2) allow driver qualification cards to be issued following completion of periodic training-and see also entry below in relation to Article 10]? |
| 8(2)(a) | date by which holder of initial CPC must take obtain a first periodic CPC | regulation 9(1) requires a driver whose initial CPC is no longer valid to have obtained a periodic CPC within the previous 5 years |
| 8(2)(b) | date by which drivers with acquired rights (article 4) must obtain a first periodic CPC | regulation 9(2)(a) requires UK acquired rights drivers of passenger carrying vehicles to take a first course of periodic training by 10th September 2013; regulation 9(2)(b) requires UK acquired rights drivers of goods |

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| | | vehicles to take a first course of periodic training by 10th September 2014 |
| 8(2) final paragraph | allows for differences in time limits as implemented by other Member States for drivers falling within article 8(2)(a) and (b) above | regulation 9(4) and (4A) takes account of reduced or extended time limits for obtaining a CPC that may apply to some holders of Community driving licences and to the validity period of an initial CPC qualification issued by another member State. |
| 8(3) and (4) | requirement to undergo subsequent periodic training after first course every five years or to take periodic training after lapse of 5 year period of validity | regulation 9(1) prohibits drivers from driving a relevant vehicle on a public road where required by the directive unless a periodic CPC has been obtained within the previous 5 years. |
| 9, section 4 of Annex 1 | place of training for initial CPC test and periodic training | regulations 5(1) and (4); 5A(1) and (4) and 8A(1) restrict the initial CPC test organized by the competent authority or approved person to persons normally resident in the UK or nationals of third countries authorized to work in the UK; regulations 8(1) and (8) and 8A(2) similarly restrict the provision of periodic training to such persons |
| 10 and Annex II | provision for Community code evidencing CPC entitlement to be marked on driving licence or driver qualification card | regulation 8A provides for persons who do not hold a photocard driving licence and have passed an initial CPC test or completed some or all of their periodic training in the UK to apply to the competent authority for a driver qualification card for a fee of £25. A national of a third country who is employed or used by an undertaking in the UK or a person holding a British external licence or a Gibraltar licence may apply for such a card if he can show current CPC entitlement. Holders of photocard driving licences receive a DQC (without application or payment of a fee) upon passing an initial CPC test |

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| | | or where all of their periodic training has been completed in the UK. Where holders of photocard driving licences complete some or all of their periodic training in another member State, they may apply for a DQC and must pay a fee of £25, |
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