

**EXPLANATORY MEMORANDUM TO**  
**THE MOTOR VEHICLES (DRIVER TESTING AND VEHICLE LOAD)**  
**REGULATIONS 2013**

**2013 No. 1753**

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. These Regulations allow vehicles in prescribed categories to carry prescribed training loads during practical driving tests and the driver certificate of professional competence (“CPC”) test. The training loads are allowed to be carried during these tests from 15th August 2013, and are required during these tests from 15th November 2013.

2.2. These Regulations also add exemptions from the requirement to hold an operator’s licence for the use of goods vehicles carrying the prescribed loads for driver instruction purposes. The exemptions apply during these tests and training and while a vehicle is proceeding to or from these activities.

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

3.1. None

**4. Legislative Context**

4.1. These Regulations amend the Motor Vehicles (Driving Licences) Regulations 1999 (the “1999 Regulations”), the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 (the “CPC Regulations”) and the Goods Vehicles (Licensing of Operators) Regulations 1995, to implement point 5.2 of Annex II to Council Directive 91/439/EEC of 29 July 1991 on driving licences (OJ No L 237, 24.8.1991, p1), as amended by Commission Directive 2000/56/EC of 14 September 2000 (OJ No L 237 21.9.2000, p45) and Commission Directive 2008/65/EC (OJ No L 168, 28.6.2008, p36). Directive 91/439/EEC was repealed with effect from 19 January 2013 and references to that Directive are construed as being made to Directive 2006/126/EC of 20 December 2006 (OJ No L 403, 30.12.2006, P18-60; Article 17 concerns repeals), which repeats the substantive obligations in Point 5.2 of Annex II. This point sets out the Real Total Mass required for vehicles of certain categories and combinations during practical driving tests.

4.2. These Regulations also continue implementation of the requirement in sections 2 and 3 of Annex I to Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003, that the CPC test is taken on a vehicle that meets at least the requirements for test vehicles as defined in Directive 2006/126/EC.

- 4.3. Commission Directive 2008/65/EC was adopted under the “comitology” procedure and amends Directive 91/439/EC on driving licences. Comitology allows Member States to make changes to the Annexes of an existing Directive subject to a sufficient number of Member States agreeing the changes. This Directive was therefore not considered by EU scrutiny committees.

## **5. Territorial Extent and Application**

- 5.1. This instrument applies to Great Britain only, except that regulation 3, and regulation 5 in relation to review of regulation 3, extend to Great Britain and Northern Ireland. Northern Ireland will be making its own legislation to implement point 5.2 of Annex II to Council Directive 91/439/EEC (now Directive 2006/126/EC).

## **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 nature of the practical driving test taken by candidates seeking to obtain a full driving licence is largely dictated by European legislation. This includes a requirement for the vehicles used in the tests to meet a Minimum Test Vehicle specification, generally ensuring that the test vehicle is representative of the class which the candidate will be authorised to drive if they pass the test. Directive 2000/56/EC amended Directive 91/439/EC and imposed an additional requirement that most vehicles and vehicle-trailer combinations must have a minimum Real Total Mass for that category of vehicle or combination. The people and businesses affected are those who train drivers in the driving of lorries, buses, coaches and car plus trailer combinations.
- 7.2. Regulation 37(7) of the 1999 Regulations and regulation 5A(2A) of the CPC Regulations require the candidate to provide a suitable Minimum Test Vehicle for the respective tests. These Regulations in addition require the prescribed loads to be carried on those vehicles during tests from 15th November 2013. From 15th August 2013, the Regulations permit the loads to be carried during those tests and during driver training for those tests, with the benefit of the Operator Licensing exemption, so that candidates can gain experience driving with the loads and trainers need not unload and reload the vehicle before each test.
- 7.3. The “training load” is defined as an “IBC” or “training packages”. “IBC”s are intermediate bulk containers, a standard container used widely by industry that was recommended during the consultation process for meeting the 1,000kg load requirement and which is not generally used to carry water commercially in the UK. For the smaller load requirements, “training packages” are to be used: “packages” to which the Weights and Measures (Packaged Goods) Regulations 2006 (those purchased in GB) or the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 apply (those purchased in NI); or “prepackages” to which Council Directive 76/211/EEC applies (OJ No L 46, 21.2.1976, p1) (those purchased elsewhere in the EU). The

domestic weights and measures legislation implements the EU obligations in Directive 76/211/EEC governing the quantity control of packaged goods.

- 7.4. The domestic regulations apply to packages up to 25kg in weight and the EU Directive applies to prepackages of no more than 10kg in weight. “Training load packages” are to have a weight of no less than 10kg, so that the training load consists of no more than 100 separate packages for the examiner to count at the start of the test. This means that test vehicles may be loaded with packages obtained in the UK marked as weighing between 10kg and 25kg, or prepackages obtained elsewhere in the EU marked as weighing exactly 10kg. The application of the relevant legislation allows the Driving Standards Agency (“DSA”) to rely on the weight marked on each package, to ensure that the RTM requirements are met.
- 7.5. Fire engines are unable to carry the prescribed training loads, so an alternative requirement is provided so that they may be filled with sufficient water or foam in order to meet the RTM requirements. The relevant national fire service authorities use delegated examiners approved by the DSA to conduct tests in fire engines (see regulation 24(1)(ca) and (cb) of the 1999 Regulations).
- 7.6. If the examiner conducting either type of test is not satisfied that these load requirements are met, the examiner is required to refuse to conduct the test (see regulation 39(1)(b) of the 1999 Regulations and regulation 5B of the CPC Regulations).

- **Consolidation**

- 7.7. There are no plans to consolidate the legislation amended by these Regulations.

## **8. Consultation**

- 8.1. The DSA conducted a survey of driving test vehicles in 2009 to determine their real weight when presented for test. The DSA found that most trailers that could legally be used for carrying goods in combinations with small to medium sized vehicles had a real weight of only 200kg (the requirement is 800kg) and that 70% of large vehicles had a real weight significantly below the minimum requirement of 10,000kg proposed by the new Directive. The DSA in consultation with industry opted for requiring set loads to be added to test vehicles, as a cost-effective and efficient way of being able to satisfy the real weight requirements across all vehicle categories. For larger vehicles this meant having standard sized containers of water loaded onto the vehicle and for the smaller vehicles, clearly labelled bags of material or one water container loaded onto the vehicle. This ensured that in all cases the addition of the standardised load meant that the minimum weight requirements of the EU Directive were met.
- 8.2. Under the Operator Licensing regime (derived from EU legislation and intended to regulate the commercial carriage of goods by road) it is a legal requirement for an operator of a goods vehicle to hold a goods vehicle Operator’s Licence, if the vehicle is being used on a road to carry any goods for or in connection with any trade or business carried on by the Operator. The Real Total Mass loads would fall within this requirement so that trainers would need to acquire an Operator’s licence. The cost of an Operator’s Licence for one vehicle is £3,500 for a 5 year period, after which it must be renewed on a 5 yearly basis. These Regulations add an exemption for this use.

- 8.3. In order to avoid breaching the EU Operator licensing obligations, it must be clear that the particular exempt use does not include the carriage of goods for hire or reward or in connection with a trade or business. DSA has therefore prescribed the nature of the training loads and included in the exemption the requirement that they are not carried for any business purpose other than driving instruction.
- 8.4. Informal consultation and discussions were undertaken with key stakeholders, including a workshop on the 9th October 2007 at which stakeholders put forward ideas for meeting the EU requirements that would be cost-effective and efficient. DSA subsequently adopted the suggestion of using IBCs and sandbags as the best option for implementing Directive 2000/56/EC for the formal written consultation was then undertaken in mid-2009. The consultation paper was published online on 11 June 2009 and DSA wrote to over 6,000 individuals and organisations to notify them. The consultation was also publicised in DSA's "*Despatch*" magazine, which is targeted at the driver and rider training industries and other road safety professionals. In addition, a press release was issued.
- 8.5. DSA received 24 responses, the majority of which were supportive of the proposals, although some suggested other ways of meeting the EU requirements. DSA had previously discounted these alternatives on the grounds of cost and difficulty in ensuring compliance.
- 8.6. These Regulations therefore prescribe the nature of bags of material that can readily be identified as being safe, securely packaged, of the correct weight and not carried for commercial purposes. These requirements are intended to assist easy compliance by trainers, trainees and individual driving test candidates and avoid expensive and time-consuming checks by examiners at test centres and enforcement officers on roads. This approach is accepted by industry.
- 8.7. Copies of the Consultation Paper and the consultation response are on the Department for Transport website at [www.gov.uk](http://www.gov.uk).

## **9. Guidance**

- 9.1. Guidance has been issued on the operation of the real weight requirements and is available at [www.gov.uk](http://www.gov.uk)

## **10. Impact**

- 10.1. An Impact Assessment is attached to this memorandum.
- 10.2. There is no definitive evidence to confirm there is any direct monetary benefit from this proposal. There may be non-monetised benefits from reduced accidents, including associated costs such as vehicle repairs, potential compensation to accident victims and lower insurance premiums, but there is a lack of evidence to confirm this. We are therefore recommending the most cost-effective means of implementing this requirement.

## **11. Regulating small business**

- 11.1.1. The Regulations do apply to small business, as the UK is legally obliged under EU law to apply these requirements to all those taking the relevant tests.

## **12. Monitoring & review**

12.1.1. The Regulations will be subject to an internal review every five years, the first to be published by 19 January 2018, so that they can be considered along with the other EU driving test requirements in Directive 2006/126/EC that are to be reviewed by that date.

## **13. Contact**

13.1.1. Steve Nelson, Policy Unit, Driving Standards Agency, 112 Upper Parliament Street, Nottingham, NG1 6LP. Tel: 0115 936 6100 or e-mail: [steve.nelson@dsa.gsi.gov.uk](mailto:steve.nelson@dsa.gsi.gov.uk) can answer any queries regarding the instrument.

## DEPARTMENT for TRANSPORT

### TRANSPOSITION NOTE

COMMISSION DIRECTIVE 2008/65/EC OF 27 JUNE 2008 AMENDING COUNCIL DIRECTIVE 91/439/EEC ON DRIVING LICENCES AS REPLACED BY DIRECTIVE 2006/126/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 20 DECEMBER 2006 ON DRIVING LICENCES (Recast), (Text with EEA relevance) (“the third Directive”).

NB: Unless otherwise stated:

*These Regulations amend the Motor Vehicles (Driving Licences) Regulations 1999 (the “1999 Regulations”), the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007 (the “CPC Regulations”) and the Goods Vehicles (Licensing of Operators) Regulations 1995 (the “Operator Licensing Regulations”), to implement: Commission Directive 2008/65/EC, Article 1: Article 1.3(c), and Directive 2006/126/EC, Annex II, Part B, Point 5.*

*Directive 2008/65/EC was part transposed in 2008 by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2008, SI 2008/508 and by administrative provisions. Article 1.3(c, the requirements relating to “real weight” for vehicles used for practical driving tests) remains to be transposed and is covered by this table. Directive 2006/126/EC was transposed by use of the Road Traffic Act 1988 and The Motor Vehicles (Driving Licences) (Amendment) Regulations 2012, SI 2012/977, which entered into force on 19 January 2013(except the “real weight” requirements for vehicles used for the practical driving test) .*

Articles	Objectives	Implementation
Directive 2008/65/EC Article 1: Article 1.3(c); and Directive 2006/126/EC Annex II: Annex II, Part B, Point 5.	Obliges Member States to introduce a requirement that vehicles used for driving tests meet minimum “real weight” criteria known as “real total mass” on the day of the test and do this by carrying a load.  Sets out the minimum requirements for vehicles used for practical driving tests, including meeting the minimum “real	Details of the driving test are contained in the 1999 regulations. Details of the vehicles used for the practical driving test are in regulation 37 of the 1999 regulations, which reflect the Annex II requirements.  Regulation 37 of the 1999 regulations also applies to the vehicles required to be used for the initial qualification test for drivers wishing to obtain a Driver Certificate of Professional Competence (CPC), to drive lorries and buses on a professional basis. Regulation 5A of the Vehicle Drivers (Certificate of Professional Competence) Regulations 2007, cross refers to

	<p>weight” requirement on the day of the test.</p>	<p>regulation 37 of the 1999 regulations.</p> <p>These Regulations will make amendments to the 1999 regulations and the CPC regulations to allow laden vehicles to be used for the practical driving test, training to take the practical driving test; when taking the CPC initial qualification test and when undertaking periodic training to maintain their CPC.</p> <p>These regulations also amend the “Operator Licensing” regulations to exempt drivers from having to hold an Operator Licence to carry goods or burden on-road, under the circumstances outlined in the preceding paragraph. These regulations also specify the goods or burden to be carried during the training or tests in order to provide for the exemption from the Operator Licensing regulations.</p>
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