

EXPLANATORY MEMORANDUM TO
THE INTERNATIONAL ROAD TRANSPORT PERMITS (EU EXIT)
REGULATIONS 2018

2018 No. 1204

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument prohibits to the use of a goods vehicle registered in the United Kingdom for transporting goods on specified international journeys unless an international road transport permit is carried on the vehicle. This instrument also includes provisions on applying for and granting a permit, along with provisions on cancellations, appeals and charging.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These Regulations will come into force on the day after they are made. This will enable the introduction of the permit application system in November, which is necessary to issue permits to hauliers by the time they become valid on 1st January 2019. If these permits are not issued, some hauliers may not be able to continue hauling goods internationally from this date with consequent financial impacts for those hauliers and businesses reliant on them.
- 3.2 Those affected by this instrument will not be immediately subject to more onerous duties than before. In the event that a permit is required for carrying out haulage operations in the European Union following Exit Day, the duties under these Regulations could not be breached until after Exit Day – more than four months after the expected coming into force date. Those carrying out haulage operations in countries outside the European Union already follow similar duties and are not disadvantaged. The Department will communicate the effect of these Regulations to affected parties.
- 3.3 The Haulage Permits and Trailer Registration Act 2018, which created the relevant enabling powers, received Royal Assent on 19th July 2018 (a day prior to the Summer Recess). As there was no realistic opportunity for the Department to lay this instrument significantly earlier, and the time required to receive Parliamentary approval is uncertain, it would not be practical to bring these Regulations into force by mid-November with a substantial delay between making and coming into force.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.4 The territorial application of this instrument includes Scotland and Northern Ireland.

3.5 The powers under which this instrument is made cover the entire United Kingdom (see section 26 of the Haulage Permits and Trailer Registration Act 2018) and the territorial application of this instrument is not limited either by that Act or this instrument.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 The Minister of State, Jesse Norman, has made the following statement regarding Human Rights:

“In my view the provisions of the International Road Transport Permits (EU Exit) Regulations 2018 are compatible with the Convention rights.”

6. Legislative Context

6.1 The Haulage Permits and Trailer Registration Act 2018 revokes and re-enacts with modifications the International Road Haulage Permit Act 1975. The Act provides powers to make regulations to prohibit the use of UK goods vehicles on certain international journeys without an international road transport permit, and enables regulations to include provisions to ensure permits are allocated effectively. It also enables regulations to make provision for temporary exemptions, appeals and the fees to be charged to cover associated costs.

6.2 The Act includes powers to enable any regulations made under it to be enforced effectively, giving examiners the ability to inspect permits and vehicles, and to detain vehicles for such inspections. The Act also enables examiners to issue a notice prohibiting a vehicle from continuing its journey to a particular country. The Act creates offences for a breach of regulations or of a prohibition notice, which on summary conviction are subject to a fine not exceeding level 4 on the standard scale (currently £2,500). There are also offences for failure to produce a permit for inspection or wilful obstruction of an inspector, which are, on summary conviction, subject to a fine not exceeding level 3 on the standard scale (currently £1,000).

6.3 This instrument prohibits the use of a UK registered goods vehicle on specified international journeys unless an international road transport permit is carried on the vehicle. The prohibition only applies to the countries listed as relevant countries in the instrument and to relevant member States of the European Union from exit day. The list of relevant countries along with the exemptions for the carriage of certain goods or use of certain vehicles are determined by the terms of the international agreements with those countries or member States.

6.4 The instrument also contains provisions enabling permits to be allocated, setting out how to apply for a permit; how applications will be determined and permits granted. The International Road Haulage Permit Act 1975 did not have provision for these areas. The instrument includes the fees that may be charged, the circumstances in which a permit may be cancelled and provides for appeals to a traffic commissioner in Great Britain or to the Upper Tribunal in Northern Ireland.

7. Policy background

What is being done and why?

- 7.1 Currently, UK hauliers carrying out international journeys must hold a Standard International Operator's Licence along with a Community Licence for journeys to, from or through the EU.
- 7.2 A Community Licence gives UK hauliers access to unlimited international journeys 'for hire and reward' (carrying other people's goods in return for payment) for operations in the EU. This includes cross trade (between EU countries) and transit across the EU. It also allows for limited cabotage (the haulage of goods within a country by a foreign haulier) within the EU.
- 7.3 There is a wider European Conference of Ministers of Transport (ECMT) permit scheme that allows UK hauliers to carry goods to or through 42 other countries (including all EU countries except Cyprus) with a limited number of permits available to the UK. This is little used at the moment as the Community Licence covers haulage to EU member states.
- 7.4 The instrument regulates the current arrangements for haulage beyond the EU, and the arrangements with the EU as they will be on exit day (in the absence of any new agreements). For non-EU countries, current arrangements will continue, whether requiring bilateral permits, ECMT permits, or liberalised access. If there is no deal, for EU countries Community Licences will no longer be recognised from exit day, in which case, UK hauliers will either need an ECMT permit for journeys to, in or through the EU, or a bilateral permit under an existing agreement with an individual EU member State to carry goods to, from or through the territory of that member State.
- 7.5 Where permits are required, these are currently issued administratively which is proportionate given the previously low demand for such permits. There is a limited number of ECMT permits available (in 2019, 984 annual permits and 2,832 monthly permits are available) so demand for ECMT permits is expected to significantly exceed supply. Therefore, the regulations provide for an objective and transparent way for selecting which applications should be allocated permits. The criteria in the Regulations are intended to obtain the economic benefit from UK international freight movements; protect any strategic national interests for the UK; protect the interests of UK operators; ensure an approach that is fair and equitable and does not distort competition.
- 7.6 This instrument does not determine that future arrangements for haulage agreed with the EU will require permits. However, it does allow permits under existing agreements to be issued to hauliers and used for haulage in the EU in the absence of any other agreements. Additionally, if future agreements with the EU or member states require hauliers to carry permits to conduct international haulage, these regulations will be amended accordingly to implement those agreements and issue permits in the same manner.
- 7.7 For Northern Ireland hauliers travelling to or through Ireland, the regulations do not require a permits to be carried. This is in keeping with the Haulage Permits and Trailer Registration Act where regulations may require permits to be carried by NI hauliers in Ireland only following an agreement with the consent of the Government of Ireland.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because the framework created will be used to administer, regulate and enforce the use of international road transport permits under existing bilateral arrangements once EU law no longer prevails, and may be applied in respect of any future agreement with the EU or member States which require operators of UK goods vehicles to carry permits on journeys to, in or through their territory.

9. Consolidation

- 9.1 These are the first regulations made under the Haulage Permits and Trailer Registration Act 2018 so no consolidation is required. The Regulations revoke legislation on fees that are superseded by these Regulations.

10. Consultation outcome

- 10.1 The Department for Transport ran a public consultation from 16th May 2018 to 25th June 2018 on the haulage permit proposals. This consultation covered how decisions on whether to grant permits should be made and the processes for applying for a permit and included draft regulations. Responses were received from trade associations, businesses and the devolved administrations. Responses highlighted the importance of future arrangements for road haulage in the EU, while supporting these Regulations as suitable planning. There was general support for the principles of allocating permits with limited comments on specific criteria. The Driver and Vehicle Standards Agency (DVSA) has conducted user research with hauliers on the criteria. Responses to both the consultation and user research have informed the criteria included in the Regulations. A summary of the consultation responses and the original consultation document are available at:
<https://www.gov.uk/government/consultations/haulage-permits-and-trailer-registration>.

11. Guidance

- 11.1 Guidance for hauliers on how to apply for permits and what information they should provide will be available. This guidance gives further detail on the criteria that will be used for allocating permits so that applicants can fully understand the effect of this legislation before making applications.

12. Impact

- 12.1 The permit scheme requires DVSA to administer and issue permits. These ongoing costs will be recovered from the fees charged for permits. The impact on business, charities or voluntary bodies (comprising of fees and time costs) is expected to be around £163,000 annually plus initial familiarisation costs of around £13,000. The total cost to a haulier of obtaining an annual multi-country permit, such as an ECMT permit, is £133 and a single journey permit is £8. The fees in the Regulations are intended to operate on a cost recovery basis and will be reviewed.
- 12.2 The set-up costs of the permit scheme have been funded by the Department for Transport from the £75.8 million provided by HM Treasury to make preparations for leaving the EU.

12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 The legislation and regulatory obligations it creates apply equally to all sizes of business and the impact on small business has been considered in determining the criteria to be used for allocating permits.

14. Monitoring & review

14.1 A statutory review clause is included in the Regulation.

15. Contact

15.1 Robert Leiper at the Department for Transport (telephone 07773 073551 or email robert.leiper@dft.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Paul O’Sullivan, Deputy Director for Motoring Services, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister of State, Jesse Norman, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.