

EXPLANATORY MEMORANDUM TO
THE GOODS VEHICLES (INTERNATIONAL ROAD TRANSPORT PERMITS AND
HAULAGE WITHIN THE EU) REGULATIONS 2024

2024 No. 679

1. Introduction

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

2. Declaration

- 2.1 Guy Opperman MP, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.
- 2.2 Duncan Price, Deputy Director for Road Freight Regulation at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Morag Rethans at the Department for Transport telephone: 07342 089 293 or email: freight@dft.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This legislation enables enforcement in the United Kingdom (“UK”) against in-scope UK operators and drivers who do not fulfil certain requirements when making specified journeys, relating to the transport of goods by road in the European Union (“EU”).
- 4.2 The requirements relate to journey number limits and posting drivers (‘posting requirements’), which arise from Articles 462 and 463 and Section 2 of Part A of Annex 31 to the UK-EU Trade and Cooperation Agreement (“TCA”).¹ The requirements apply to most operators and drivers of goods vehicles based in the UK when they work within the EU. Posting requirements are explained in paragraphs 5.1 to 5.8.

¹ The TCA: <https://www.gov.uk/government/publications/ukeyu-and-eaec-trade-and-cooperation-agreement-ts-no82021>. The TCA can also be inspected (on reasonable notice) free of charge by contacting the Treaty Enquiries Service, telephone: +44 (0)20 7008 1109.

- 4.3 Reciprocal provisions for EU operators working in Great Britain were implemented by the Goods Vehicles (Licensing of Operators) (Exemptions and Modifications) (Amendment) Regulations 2023 (“2023 Regulations”).²
- 4.4 This instrument revokes and replaces, with revised provisions, the International Road Transport Permits (EU Exit) Regulations 2018 (“2018 Regulations”).³ Those regulations related to international road transport permits, principally used by Heavy Goods Vehicles (“HGVs”). This is being done in part to reflect bilateral road transport agreements made since 2018 between the UK and certain countries outside the EU. Information on those agreements can be found in paragraphs 6.10 to 6.12.

Where does the legislation extend to, and apply?

- 4.5 The territorial extent of this instrument (that is, the jurisdictions in which the instrument forms part of the law) is England and Wales, Scotland, and Northern Ireland.
- 4.6 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland, and Northern Ireland.

5. Policy Context

What is being done and why?

- 5.1 Posting requirements apply to the operators of goods vehicles, and their in-scope drivers (‘posted drivers’), involved in the commercial transport of goods within the territory of the EU. Bilateral journeys between the UK and EU and vice versa are outside these requirements. For example, a journey by a UK operator from London to Paris is exempt from these requirements, but a “cabotage journey” (where goods are loaded and unloaded in the same overseas country)⁴ made by a UK operator between Paris and Nice is not exempt. See paragraph 5.9 and 5.10 for information about the scope of postings requirements as they relate to drivers.
- 5.2 The main purpose of this instrument is to implement the posting requirements provided under the TCA, which have been required across the EU since 2 February 2022.
- 5.3 This instrument allows the enforcement of the requirement for UK-based operators to complete posting declarations via the posting declaration portal⁵ when undertaking some types of goods transport by road in the EU.⁶
- 5.4 The instrument also reflects agreements made or amended since the 2018 Regulations came into force. In addition, the exemption to the requirement for permits for journeys to EU Member States (provided under the 2018 Regulations) is being updated to reflect provisions in the TCA. The instrument makes other revisions to improve clarity.

TCA and posting requirements.

- 5.5 Access to EU Member States for UK-based goods vehicles is governed chiefly by the TCA. This agreement allows UK-based goods vehicle operators permit-free access to

² The 2023 Regulations: <https://www.legislation.gov.uk/uksi/2023/805/contents/made>.

³ The 2018 Regulations: <https://www.legislation.gov.uk/uksi/2018/1204/introduction/made>

⁴ Cabotage journeys are only permitted after a laden entry.

⁵ EU Posting Declaration Portal: <https://www.postingdeclaration.eu/landing>.

⁶ The commitment to declare postings for goods drivers operating in the EU is included in the TCA, particularly in Article 463(4) and Section 2 of Part A of Annex 31.

the EU for bilateral return journeys (between the UK and EU, for example Belgium and the UK), transit across the EU between two points in the UK (for example, Belfast to Cardiff via Dublin), and between the UK and non-EU countries via the EU (for example, the UK to Ukraine via the Netherlands, Germany, and Poland).

- 5.6 The TCA also allows for some journeys both starting and ending within the EU, including cabotage journeys. Access to the EU under the TCA depends on meeting specified requirements, including posting requirements for certain types of journeys, holding the appropriate UK operator licence⁷ for the international transport of goods, and holding a UK Licence for the Community (“UKLFTC”).⁸ The TCA also limits the numbers of commercial journeys starting and ending within the EU by UK operators.
- 5.7 The posting requirements for journeys between two places in the EU made further to the TCA include operators making posting declarations on an EU portal for posting declarations, the Internal Market Information System (IMI),⁹ drivers carrying their own record of the declaration and operators responding to enquiries from EU Member State competent authorities. If operators fail to respond to enquiries, then a UK competent authority may contact the operator directly, on request from an EU Member State.
- 5.8 Posting requirements are contained in Section 2 of Part A of Annex 31 to the TCA. The requirements apply to journeys for which the operator has a contract with another party for whom transport services are intended and where the driver on that journey has an employment relationship with the operator. The posting requirements are intended to enable enforcement authorities of each party to the TCA to use the posting declaration to check that national labour laws¹⁰ or relevant collective agreements are met when the driver works in the other party.
- “Relevant Contract” in relation to posting declarations.*
- 5.9 Under the terms of the TCA, posting declarations apply to drivers undertaking specified work if they are in an employment relationship with the operator of the vehicle during the period of posting. In this instrument, this is given effect by reference to the work being under a “relevant contract”. This includes contracts of service or apprenticeship, or any other contract, provided the individual undertaking to do the work is not doing so as a client or customer.¹¹
- 5.10 Posting declarations need to be carried by individuals who are within scope of the posting requirements. Individuals who are undertaking the work through an agency contract or who are self-employed are outside that scope. They are not required to carry posting declarations but do need to carry suitable evidence to show enforcement

⁷ Goods Vehicle Operator Licence Types: <https://www.gov.uk/being-a-goods-vehicle-operator/types-of-licence>. This requirement is specified in the Goods Vehicles (Licensing of Operators) Act 1995:

<https://www.legislation.gov.uk/ukpga/1995/23/section/3>.

⁸ UKLFTC: <https://www.gov.uk/guidance/uk-licence-for-the-community-for-international-road-haulage>.

Provision for holding a UKLFTC is specified in Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009, as it has effect in domestic law:

<https://www.legislation.gov.uk/eur/2009/1072/contents>.

⁹ IMI database: https://ec.europa.eu/internal_market/imi-net/about/index_en.htm.

¹⁰ The labour issues include remuneration, maximum work periods, minimum rest and leave periods, health and safety at work, and equality of treatment by gender.

¹¹ Terminology from other legislation to refer to a “worker” is mirrored, for example Section 230 of the Employment Rights Act 1996: <https://www.legislation.gov.uk/ukpga/1996/18/section/230>.

officers in the EU or UK that they are employed through an agency or are self-employed¹².

Posting declarations.

- 5.11 In-scope drivers making posted journeys for UK operators in the EU must carry a copy of the posting declaration as evidence that it has been completed. Declarations may be checked at the roadside by enforcement officers either in the EU or UK and failure to comply may result in enforcement action.
- 5.12 Vehicle examiners undertake roadside checks in the UK, appointed in Great Britain under the Road Traffic Act 1988 (“1988 Act”),¹³ and under the Road Traffic (Northern Ireland) Order 1995 (“1995 Order”)¹⁴ in Northern Ireland. A UK vehicle found not to comply with posting requirements for a journey in progress (for example, from Dublin to Brussels via Great Britain) may receive a prohibition notice issued under this instrument. A prohibition could prevent the completion of the journey in progress until the declaration has been made and the enforcement authorities have been informed.
- 5.13 Follow-up enquiries about work abroad can be made by the competent authority in the EU host country to the operator. If an operator receives a request for more information from an EU competent authority, made in the period between the day the relevant journey begins and one year after the journey ends, the operator must respond within 56 days (eight weeks).
- 5.14 If operators do not respond within that time, the EU authority can seek information from the relevant UK competent authority, which for these purposes is the Traffic Commissioners for Great Britain¹⁵ or the Northern Ireland Department for Infrastructure’s Transport Regulation Unit (“TRU”).¹⁶ To simplify the process, requests for this information will be placed with the Driver and Vehicle Standards Agency (“DVSA”),¹⁷ which will then send the requests to the relevant competent authority.
- 5.15 The UK competent authorities may request an investigation by DVSA in Great Britain or the Driver and Vehicle Agency (“DVA”)¹⁸ in Northern Ireland.

What was the previous policy, how is this different?

- 5.16 Posting requirements for drivers were introduced by the TCA and have applied since 2 February 2022, previously having effect in the UK through section 29 of the European Union (Future Relationship) Act 2020 (“EU(FR)A 2020”).¹⁹ There were no powers to enforce compliance with posting requirements, which made it more difficult

¹² For example, owner-drivers.

¹³ Examiners of vehicles are appointed in Great Britain under Section 66A of the 1988 Act:

<https://www.legislation.gov.uk/ukpga/1988/52>.

¹⁴ Vehicle examiners are appointed in Northern Ireland under Article 74(1) of the 1995 Order:

<https://www.legislation.gov.uk/nisi/1995/2994>.

¹⁵ The Traffic Commissioners: <https://www.gov.uk/government/organisations/traffic-commissioners>.

¹⁶ The TRU: <https://www.infrastructure-ni.gov.uk/articles/transport-regulation-unit>.

¹⁷ The Driver and Vehicle Standards Agency (DVSA) conducts enforcement in Great Britain and will be the single contact point for all requests from EU authorities: <https://www.gov.uk/government/organisations/driver-and-vehicle-standards-agency>.

¹⁸ The DVA: <https://www.nidirect.gov.uk/contacts/driver-vehicle-agency-dva-northern-ireland>.

¹⁹ European Union (Future Relationship) Act 2020: <https://www.legislation.gov.uk/ukpga/2020/29>.

for the UK competent authorities to act where operators and in-scope drivers breached postings requirements included in the TCA.

- 5.17 Previously, posting requirements were enforced by treating the failure to complete posting declarations as a matter that may affect a licensed operator's repute.²⁰
- 5.18 Loss of repute can lead to the loss of an operator licence. Further, UK operators whose in-scope drivers failed to carry a valid posting declaration also faced enforcement in the EU. These consequences will continue to apply but now posting requirements can be enforced directly through this instrument.

Why has this approach been taken?

- 5.19 After an examination of the existing legislation and the potential options available, it was determined that the most effective way of introducing enforcement of posting requirements is by treating compliance with posting requirements as a condition of making a specified journey and making it an offence not to comply with the condition.
- 5.20 This approach has also been taken because the 2018 Regulations, made under the Haulage Permits and Trailer Registration Act 2018 ("2018 Act")²¹ which provides for requirements in connection with international haulage permits, needed to be revoked and replaced with revised provisions²² to accommodate agreements made between the UK and non-EU countries since 2018.

What do the changes do?

- 5.21 The changes are being made to implement the TCA in relation to posting requirements and allow the enforcement of posting requirements for in-scope journeys which are made via the UK and made by UK operators. The changes enable UK competent authorities to respond to enquiries from EU Member States, raised through the IM (a dedicated IT platform, which includes the EU posting declaration portal), if operators fail to do so.
- 5.22 The changes also improve the capability of the UK authorities to check compliance with the restrictions under Article 462 of the TCA in relation to the limit of two journeys within the EU in seven days and to enforce breaches of those requirements.
- 5.23 UK operators using permits issued under the European Conference of Ministers of Transport ("ECMT") agreements²³ (other than the removals permits) are exempt from the posting requirements under the TCA, instead making their journeys under the terms of the ECMT permit held. ECMT permits do not allow for "cabotage journeys" but do allow for up to three international journeys outside the UK. Information on the ECMT scheme is included in paragraph 6.9.

Consent of the Irish Government to international agreements

- 5.24 The Secretary of State, further to section 1(4)(b)(ii) of the 2018 Act, must certify that the Government of Ireland has consented to an international agreement to which the

²⁰ Repute is covered in Statutory Document one, part of a series covering all aspects of operator licensing regulation which is applicable to Great Britain <https://www.gov.uk/government/collections/senior-traffic-commissioners-statutory-guidance-and-statutory-directions>. Similar guidance is published by the TRU in Northern Ireland: <https://www.infrastructure-ni.gov.uk/articles/goods-vehicle-licensing-practice-guidance-documents>.

²¹ The 2018 Act: <https://www.legislation.gov.uk/ukpga/2018/19/contents>.

²² This instrument is more detailed than the 2018 Regulations, including in relation to permit exemptions included in some agreements.

²³ See footnotes 25, 26, and 27.

UK is a party, and which relates to the transport of goods by road to, in or through Ireland in order for it to be a “relevant international agreement”. The Secretary of State for Transport, the Right Honourable Mark Harper MP, will therefore certify that, as the Government of Ireland is a signatory, it has consented to the following agreements:

- the TCA;²⁴
- the Protocol Concerning the European Conference of Ministers of Transport done at Brussels on 17 October 1953;²⁵
- Resolution No. 26 concerning the Actual Coming into Force of a Multilateral Quota for the International Transport of Goods by Road done at the Hague on 14 June 1973;²⁶
- Consolidated Resolution No. 2000/1 concerning the Rules to be Applied for International Freight Transport by Road done at Prague on 30 and 31 May 2000.²⁷

6. Legislative and Legal Context

How has the law changed?

- 6.1 The law applicable to the operation of the UK’s international road haulage permits allocation has been replaced to ensure that provisions negotiated and agreed in the TCA and other road transport agreements agreed since 2018 are accurately reflected in UK legislation.
- 6.2 This instrument is also making changes to implement posting requirements.

Why was this approach taken to change the law?

- 6.3 The route chosen to make this legislative change, which has the effect of treating a posting declaration as a condition of making a specified journey, is considered the most effective route to achieve the required outcome of the effective enforcement of posting requirements, for operators based in Great Britain and Northern Ireland.
- 6.4 The 2018 Regulations required updating to give effect to road transport agreements agreed since 2018. It was decided to revoke and replace the 2018 Regulations, and to take the opportunity provided to review provisions to afford greater clarity in certain areas.

International law and inter-governmental agreements.

- 6.5 International law does not provide for the automatic entry of goods vehicles being used abroad on a commercial journey for the purposes of hire or reward or in connection with a trade or business. Access of road goods vehicles, for example HGVs, to other countries is regulated through inter-governmental agreements, either those specifically concerning road transport or wider trade agreements which include road transport.

²⁴ See footnote 1.

²⁵ The Protocol Concerning the European Conference of Ministers of Transport done at Brussels on 17 October 1953: <https://www.itf-oecd.org/protocol-concerning-european-conference-ministers-transport>.

²⁶ The ECMT Resolution No.26 concerning the Actual Coming into Force of a Multilateral Quota for the International Transport of Goods by Road done at the Hague on 14 June 1973: <https://www.itf-oecd.org/resolution-no-26-concerning-actual-coming-force-multilateral-quota-international-transport-goods>.

²⁷ CM (2000)10: www.itf-oecd.org/lacquis-cemtprincipal-acts-ecmt-1953-2003.

- 6.6 Historically, such agreements have enabled national authorities to issue permits for specific vehicles used to transport goods abroad. The development of the EU internal market virtually eliminated permit requirements for UK operators working in the EU.

Access for international freight travelling from the UK.

- 6.7 There are three ways in which goods vehicles of UK-based operators may be authorised to transport goods abroad commercially. These are: through the TCA, as covered in paragraphs 5.5 to 5.8, through the ECMT agreements and through bilateral road transport agreements. Some agreements require a physical permit to be carried, while others are permit-free.
- 6.8 Where permits are required, numbers may be restricted. Schedule 1 of this instrument lists the countries in relation to which there is an agreement which requires permits for all or some journeys and the Explanatory Note sets out the applicable agreements in relation to each of those countries.²⁸

ECMT agreements.

- 6.9 The ECMT multilateral quota scheme is a permit-based system for pan-European haulage operating in the 43 member countries, comprising most of the EU and nearby states.²⁹ UK operators use ECMT permits to make journeys outside of the EU, for example to Serbia or Ukraine. Information about the eligibility criteria and conditions for the use of the permits is published in the ECMT user guide,³⁰ and on gov.uk,³¹ which also includes fee information. The ECMT agreements also include a permit scheme, authorising specialist firms undertaking international removals of personal and business property.³² The principal acts of the ECMT scheme are published online by the International Transport Forum.³³

Bilateral agreements.

- 6.10 The UK has 19 bilateral agreements³⁴ concerning international road transport. Seven of these bilateral agreements³⁵ involve the exchange of physical permits between governments, which must then be used and carried by specific goods vehicles used to transport goods in the territory of the other country. For example, a Moroccan-registered HGV must have a permit when it is operating in the UK and vice versa. Permits are also exchanged for some goods transport movements made under the agreements with Turkey and Ukraine.

²⁸ For example, the UK and the Netherlands are both bound by the TCA and the ECMT agreements, and Azerbaijan and the UK are bound by a bilateral road transport agreement and the ECMT agreements.

²⁹ Information on the multilateral quota: <https://www.itf-oecd.org/about-multilateral-quota>.

³⁰ ECMT User Guide: <https://www.itf-oecd.org/ecmt-multilateral-quota-user-guide-2022-0>.

³¹ ECMT Permits - fees and criteria: <https://www.gov.uk/guidance/ecmt-international-road-haulage-permits>.

³² ECMT Removal Permits: <https://www.gov.uk/guidance/international-road-haulage-removal-permits>.

³³ CM (2000)10: www.itf-oecd.org/lacquis-cemtprincipal-acts-ecmt-1953-2003.

³⁴ The UK has road transport agreements with: Albania, Azerbaijan, Belarus, Bosnia-Herzegovina, Georgia, Jordan, Kazakhstan, Kosovo, Moldova, Montenegro, Morocco, North Macedonia, Norway, Russia (former Union of Soviet Socialist Republics (“USSR”)), Serbia, Switzerland, Tunisia, Turkey, and Ukraine.

³⁵ The seven agreements are those with Azerbaijan, Belarus, Georgia, Kazakhstan, Morocco, Tunisia, and the former USSR, which Russia and five other successor states (Armenia, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan) to the USSR inherited and have not subsequently replaced. The agreement is not currently active in relation to Russia. Permit exchange with Azerbaijan is due to commence in 2024. Permits were not exchanged with Belarus and Russia in 2023 due to the conflict in Ukraine. It is anticipated that no permits will be exchanged whilst the conflict continues.

- 6.11 The ten other agreements³⁶ are permit-free, enabling easier access between the UK and the other party to the agreement.
- 6.12 Information in this section relates to the agreements at the time the instrument was laid in Parliament. The status of agreements and any permits or other requirements should be checked and confirmed where needed. Copies of agreements and associated documents are available on request from the UK Permits Office.³⁷

Domestic legislation.

- 6.13 The 2018 Act repealed and replaced the International Road Haulage Permits Act 1975.³⁸ An intention behind this was to ensure UK road transport operators could continue international transports once the UK had left the EU, irrespective of the outcome of negotiations.
- 6.14 The 2018 Act provides for enforcement in the UK of the use of permits as an access condition for UK operators travelling outside the UK, as agreed in inter-governmental agreements. The 2018 Act also enables vehicle examiners appointed under the 1988 Act in Great Britain or the 1995 Order in Northern Ireland to inspect permits and vehicles, detain vehicles for inspections, and to prohibit a vehicle from continuing its journey to a specific country.
- 6.15 The 2018 Act created offences for the breach, with no reasonable excuse, of regulations made under the 2018 Act or of a prohibition notice which, on summary conviction, are both subject to a fine not exceeding level 4 on the standard scale (currently £2,500). There are also offences for the failure, with no reasonable excuse, to produce a permit for inspection or for wilfully obstructing an examiner which, on summary conviction, are both subject to a fine not exceeding level 3 on the standard scale (currently £1,000). Additionally, operators travelling abroad without required permissions or documents may face enforcement action in the country in which they are travelling, irrespective of any provisions for enforcement in the UK.
- 6.16 The 2018 Regulations, made under the 2018 Act, prohibited the use of UK-based goods vehicles on specified international journeys without an international road transport permit. The 2018 Regulations provided for permanent and temporary exemptions to holding a permit, cancelling permits and appeals against cancellation, and fees to cover costs.

Application of posting requirements.

- 6.17 Posting requirements are currently being applied under section 29 of the EU(FR)A 2020 which states that “Existing domestic law has effect on and after the relevant day with such modifications as are required for the purposes of implementing in that law the Trade and Cooperation Agreement [...]”. The changes being implemented under section 31 of the EU(FR)A 2020, including in relation to posting declarations, are intended to provide legal clarity and to aid enforcement. The 2023 Regulations apply posting requirements to EU operators doing affected work in Great Britain.

³⁶ These ten agreements are with Albania, Bosnia and Herzegovina, Jordan, Kosovo, Moldova, Montenegro, North Macedonia, Norway, Serbia, and Switzerland (to which Liechtenstein is also a Party).

³⁷ Weblinks to most agreements are available via the UK Treaties Online service: <https://treaties.fcdo.gov.uk/>. Work is ongoing with the Treaty Section at the Foreign Commonwealth and Development Office to add the small number of missing agreements to this service. Printed or pdf copies of any or all the agreements can also be requested free of charge from the International Road Haulage Permit Office (IRHP). Email: irhp@dvs.gov.uk or telephone: +44(0)20 8158 0250.

³⁸ The International Road Haulage Permits Act 1975: <https://www.legislation.gov.uk/ukpga/1975/46/contents>.

Legislative approach.

- 6.18 The 2018 Regulations are being revoked and replaced with revised provisions which better reflect the UK's permit-based international road transport agreements, including those agreed after the 2018 Regulations came into force. Posting requirements in the TCA applicable to UK operators are also included in this instrument.³⁹
- 6.19 This instrument identifies the types of permits available, the countries and types of journeys that the permits cover and permit application requirements. The instrument prohibits the operator of a goods vehicle from using the vehicle on commercial journeys for the carriage of goods to, in or through these countries unless the journey is authorised by and takes place in accordance with a permit.
- 6.20 This prohibition does not apply where the use is allowed under a temporary exemption (for example, to deal with an emergency) or permanent exemption. It also does not apply where a permit cannot be issued in relation to the use of a vehicle on such a journey because the vehicle is subject to a ban on entering a country or because an international agreement does not permit the proposed use of the vehicle on the journey to, in or through a country. For example, some agreements do not permit types of "triangular" traffic (an example of that being the TCA not providing for journeys by UK vehicles between the EU and a third country). Where a permit cannot be issued, the lack of a prohibition does not constitute authority to travel.
- 6.21 This instrument provides for the issuing of directions to comply with permit conditions, the cancellation of permits and appeals. The fees charged for permits are shown in Schedule 3 and are set at the same level as those in the 2018 Regulations. Information on fees is published on gov.uk and is kept up to date.⁴⁰ The instrument also provides for graduated fees for annual permits, enabling the cost of an annual ECMT permit to reduce periodically through the year, as its remaining validity period reduces. A link to information on fees for ECMT permits is provided at footnote 31.
- 6.22 The instrument also implements obligations under the TCA, related to the posting of drivers, including posting declaration requirements. Breaching the requirements is made an offence, with a penalty regime equivalent to that of breaching regulations made under the 2018 Act in relation to permits, explained at paragraph 6.15.
- 6.23 Enforcement powers are provided for vehicle examiners appointed under existing legislation to require a posting declaration to be produced and for a journey to a specified EU Member State to be prohibited in the absence of a posting declaration.
- 6.24 The powers of authorised stopping officers (Great Britain) and examiners (Northern Ireland)⁴¹ to stop goods vehicles to check for certain possible infringements are extended to cover some of the posting requirements for UK-based vehicles and operators. The powers are relevant to a journey taking place through the UK between two places in the EU (for example between Dublin and Paris). The powers are like those used to enforce other commercial road transport legislation.

³⁹ Enforcement of posting requirements relating to drivers of vehicles used by EU operators working in the UK are covered by the 2023 Regulations, a link can be found at footnote 2.

⁴⁰ Information about bilateral permits and fees is published on gov.uk:
<https://www.gov.uk/guidance/international-road-haulage-permits-for-some-non-eu-countries#fees>.

⁴¹ Officers and examiners are appointed under Section 66B of the 1988 Act and Article 74(5) of the 1995 Order, respectively.

Northern Ireland Protocol.

- 6.25 The approach taken does not reduce any rights, safeguards or equality of opportunity protections that are in place in relation to the Northern Ireland Protocol included in the EU-UK Withdrawal Agreement.⁴²

7. Consultation

Summary of consultation outcome and methodology.

- 7.1 The policy and legislative options associated with the posting of transport workers were included in a request for evidence⁴³ and a consultation,⁴⁴ which were both open to the public. To encourage engagement, freight trade associations and industry stakeholders were notified when the documents were published.

Request for evidence

- 7.2 An eight-week request for evidence took place from 29 June 2021 to 24 August 2021, covering both changes to operator licensing, implemented in 2022 through regulations, and arrangements for posting transport workers in the UK and EU.
- 7.3 The request for evidence received 113 responses, with 34 of those responses including comments on the posting element. These responses were principally focused on the potential administrative burdens arising from the change. Most respondents indicated there would be no impact (nine responses) or a limited impact (17 responses) on their firm's work. Eight people indicated it would affect 70% or more of journeys made. In terms of administrative time, 20 respondents thought that staff would spend up to three hours a month entering information. Five respondents estimated that it would equate to 12 hours or more. Nine people thought the declarations would take four to ten hours.

Consultation.

- 7.4 A consultation focusing on the implementation of posting rules in legislation was launched on 24 June 2022 and ran for six weeks, closing on 5 August 2022. Five responses were received to the consultation. Four were on behalf of organisations, including the leading trade associations which represent the road freight industry, Logistics UK⁴⁵ and the Road Haulage Association⁴⁶, which have more than 25,000 members between them. We received one response from an individual.
- 7.5 The responses received from the consultation supported compliance with posting requirements being considered as an issue that can affect the good repute of licensed operators and transport managers, and for operators who comply with EU competent authorities' requests to be spared enforcement action. There was also support for the proposal that the requirement to carry a posting declaration (and sanctions for not doing so) should apply equally to both UK and EU operators.

⁴² EU-UK Withdrawal Agreement including the Northern Ireland Protocol
<https://www.legislation.gov.uk/eut/withdrawal-agreement/contents/adopted>.

⁴³ Request for Evidence and Government Response: <https://www.gov.uk/government/consultations/changes-to-the-uk-operator-licensing-regime-and-arrangements-for-the-temporary-posting-of-workers-in-the-uk-and-eu-request-for-evidence>. Copies can be obtained free of charge, on request from The Department for Transport, 33 Horseferry Road, London, SW1P 4DR, email: freight@dft.gov.uk or telephone: +44(0)300 330 3000.

⁴⁴ Postings Consultation: <https://www.gov.uk/government/consultations/posting-of-road-transport-workers-and-operator-licensing-changes>. Copies can be requested using the details in footnote 43.

⁴⁵ Logistics UK: <https://logistics.org.uk/>.

⁴⁶ The Road Haulage Association: <https://www.rha.uk.net/>.

Further targeted stakeholder consultation.

- 7.6 From 3 August 2023 to 4 October 2023, the Department for Transport ran a targeted consultation with industry stakeholders and devolved administrations, providing a detailed explanation as to the proposed effect of the instrument, including outlining the purpose of each of the provisions made under the 2018 Act, and identifying the changes as compared to the 2018 Regulations. The consultees represented organisations with the most interest in the subject matter and were those organisations that responded to the 2022 consultation.
- 7.7 This approach to additional consultation was taken as the questions were on points of detail, rather than the wider approach or operation of the legislation. Given the previous public call for evidence and formal consultation, this was considered appropriate. There was one response to this 2023 consultation, received from an industry stakeholder. The response supported the premise of this legislation but did not provide any specific feedback.

Consultation with the devolved administrations.

- 7.8 Operator licensing is only devolved in Northern Ireland. The Department for Infrastructure in Northern Ireland was consulted on a draft of the instrument before it was laid in Parliament, and the UK government sought formal consent⁴⁷ to include Northern Ireland in the legislation. A consultation on the draft instrument was held with the Scottish and Welsh governments, as part of wider stakeholder consultation.

8. Applicable Guidance.

- 8.1 Guidance on the arrangements and rules on the posting of in-scope drivers is published by the UK⁴⁸ and EU.⁴⁹ The UK guidance was published on 31 January 2022. This guidance is updated as necessary.
- 8.2 Guidance on international road haulage permits⁵⁰ and associated information is published on gov.uk.⁵¹

⁴⁷ Approval for Northern Ireland to be included in this instrument was granted on 16 March 2022. The validity of the consent was reconfirmed in February 2024, after the Northern Ireland Assembly returned.

⁴⁸ Guidance published on gov.uk: <https://www.gov.uk/guidance/declare-youre-transporting-goods-inside-the-eu>. Copies can be requested using the details in footnote 43.

⁴⁹ EU Commission published guidance: https://transport.ec.europa.eu/transport-modes/road/mobility-package-i/posting-rules_en.

⁵⁰ Guidance on International Road Haulage Permits for UK Operators: <https://www.gov.uk/guidance/international-authorisations-and-permits-for-road-haulage>. Copies can be requested using the details in footnote 43.

⁵¹ Transport Goods Out of the UK by road: step-by-step: <https://www.gov.uk/transport-goods-from-uk-by-road>. Copies can be requested using the details in footnote 43.

Part Two: Impact and the Better Regulation Framework.

9. Impact Assessment.

- 9.1 A full Impact Assessment has not been prepared for this instrument because the Department for Transport estimates that the total cost to UK business is less than £5 million in total per year. Instead, a De Minimis Assessment was prepared, and is summarised below.
- 9.2 The changes formalise requirements included in the TCA and other international agreements relating to access for UK operators abroad. The key benefits of this legislation are ensuring consistency between domestic law and the TCA; demonstrating the UK's commitment to the TCA; and enabling checks to be made on aspects of pay and working conditions of in-scope UK-based drivers undertaking cabotage journeys in the EU.
- 9.3 UK operators have been able to enter posting declarations on an administrative basis, using the IMI system for journeys into the EU, since the requirement came into effect on 2 February 2022. Where operators fail to do this, this instrument ensures the UK can take enforcement action.
- 9.4 The changes affect enforcement agencies and licensing organisations in the UK, principally officers working for DVSA, the Traffic Commissioners, DVA and the TRU, which undertake regulatory work associated with operator licensing. The overall financial impact is minor and not significant to government or businesses.
- 9.5 The proper enforcement of posting declarations will not in itself improve the flow of trade or the number of vehicles travelling between the UK and the EU. It is considered inappropriate to attempt to value the effects in monetary terms.

Impact on businesses, charities, and voluntary bodies.

- 9.6 There is no, or no significant, impact on businesses, charities, or voluntary bodies. The legislation relates principally to some cabotage movements of goods for commercial purposes, but the completion of a posting declaration using an online portal should not represent a burden to business.
- 9.7 The legislation will impact small or micro businesses based in the UK which undertake affected transports in the EU. Small businesses, make up most businesses operating in the freight industry.
- 9.8 There is no specific action proposed to minimise regulatory burdens that may arise because of these legislative changes, because it is not possible to specifically exempt small businesses from the implementation of posting requirements if they are making the types of journeys affected by these requirements.
- 9.9 There is no, or no significant, impact on the public sector because the public sector has only limited engagement in operating international freight transport. International freight transport is almost exclusively a commercial activity undertaken by business.

10. Monitoring and review.

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring this legislation will include continuing liaison with DVSA and the Traffic Commissioners in Great Britain, and DVA and the TRU in Northern Ireland. These bodies will provide the Department for Transport with information on the level of compliance. The Department for Transport will also

continue to work with the Department for Business and Trade,⁵² which has the wider government responsibility for the policy associated with the posting of other types of workers.

10.2 The 2018 Regulations were reviewed in late 2023. This review is published on legislation.gov.uk with the 2018 regulations.⁵³

10.3 Regulation 28 of this instrument provides for periodic review.

⁵² The Department for Business and Trade: <https://www.gov.uk/government/organisations/department-for-business-and-trade>.

⁵³ A copy of the Post Implementation Review (PIR) for the 2018 Regulations is published on legislation.gov.uk see footnote 3. The PIR can also be accessed directly: <https://www.legislation.gov.uk/ukia/2024/37>

Part Three: Statements and Matters of Particular Interest to Parliament.

11. Matters of special interest to Parliament.

- 11.1 This instrument is being laid in draft for the consideration of both Houses of Parliament. Paragraph 6(3) of Schedule 5 to the EU(FR)A 2020 provides that if an instrument containing regulations under section 31 of that Act to which sub-paragraph (1) does not apply is not laid in draft before, and approved by a resolution of, each House of Parliament then it is subject to the negative resolution procedure.
- 11.2 Guy Opperman MP, Parliamentary Under Secretary of State at the Department for Transport, has decided that this instrument should be subject to the draft affirmative resolution procedure (and it is therefore laid in draft for approval), as new offences are being created (explained further at paragraphs 5.19 and 6.22).

12. European Convention on Human Rights.

- 12.1 The Parliamentary Under Secretary of State at the Department for Transport, Guy Opperman MP, has made the following statement regarding Human Rights:
- “In my view the provisions of the Goods Vehicles (International Road Transport Permits and Haulage Within the EU) Regulations 2024 are compatible with the Convention rights.”

13. European Union Acts.

- 13.1 This instrument does not relate to withdrawal from the EU or trigger the statement requirements under the European Union (Withdrawal) Act 2018.⁵⁴
- 13.2 This instrument is made in part under section 31 of the EU(FR)A 2020, and therefore relates to the UK’s future relationship with the EU.
- 13.3 The part made under that power implements posting requirements which are set out in the TCA.
- 13.4 Information about associated requirements can be found in section 11 of this Explanatory Memorandum.

⁵⁴ European Union (Withdrawal) Act 2018: <https://www.legislation.gov.uk/ukpga/2018/16>.