

<p><b>Title:</b> The Community Drivers' Hours and Recording Equipment Regulations 2012</p> <p><b>PIR No:</b> DfTPIR0085</p> <p><b>Original IA/IPC No:</b> IADfT00058/IPC11-DfT-0691</p> <p><b>Lead department or agency:</b> Dept for Transport</p> <p><b>Other departments or agencies:</b> <b>Ministry of Defence</b></p> <p>Contact for enquiries: <b>Helen Grech/Lillian Lartey</b> helen.grech@dft.gov.uk/lillian.lartey@dft.gov.uk</p>	<b>Post Implementation Review</b>
	<b>Date:</b> 01/02/2024
	<b>Type of regulation:</b> EU
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 16/07/2012
	<b>Recommendation:</b> Keep
<b>RPC Opinion:</b> N/A Choose an item.	

## Recommendation and Summary of Justification

The review clause in the Community Drivers' Hours and Recording Equipment Regulations 2012 ("the 2012 Regulations") requires a review of regulation 3. This regulation introduced a concession from the daily and weekly rest requirements, specified in the assimilated drivers' hours rules (Regulation (EC) 561/2006, as they have effect in the UK), for professional drivers (of goods vehicles weighing over 3.5 tonnes and passenger vehicles with 10 or more seats), who are also members of a volunteer reserve force (e.g. the Army Reserve, formerly the Territorial Army) or are an instructor in the Cadet Corps.

The review clause states that the report must in particular:

- (a) set out the objectives intended to be achieved by the regulatory system established by regulation 3;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

The review clause states that the first report must be published before the end of the period of five years beginning with the day on which regulation 3 came into force and then at intervals not exceeding five years.

A first PIR on the 2012 Regulations was completed in March 2018 (PIR No. DfTPIR0032) and was published on the Legislation.gov.uk website<sup>1</sup>

The first PIR took a 'low evidence' approach as the number of people directly impacted by the 2012 Regulations was small (estimated to be only a maximum of 15% of the Territorial Army in 2011); the costs and benefits forecast within the original Impact Assessment ("IA") were small; the 2012 Regulations were not seen to be contentious or high profile and they were

<sup>1</sup> [https://www.legislation.gov.uk/ukxi/2012/1502/pdfs/uksiod\\_20121502\\_en.pdf](https://www.legislation.gov.uk/ukxi/2012/1502/pdfs/uksiod_20121502_en.pdf)

deregulatory in nature. Please note that as a low impact, low risk measure, these regulations would qualify for a De Minimis Assessment (“DMA”), rather than an IA, if conducted today. The PIR was conducted in line with the original plan in the IA for an informal consultation with key stakeholders via telephone or email.

The first PIR recommendation was that the 2012 Regulations should remain in place. It concluded that they had met their objective and the Ministry of Defence (“MoD”), as the department responsible for the training of the volunteer reserve force, no longer had any problems recruiting, training and retaining volunteer reservists and training instructors, that were also professional drivers. In addition, no adverse unintended effects of this measure were identified.

This second PIR has also taken a very light touch approach and is reliant on information and data from the MoD; which is the department that benefits from the concession made in the 2012 Regulations and is in a position to judge whether the objectives continue to be met. This PIR is also recommending that the 2012 Regulations be **kept** in place to ensure MoD continue to be able to recruit and train volunteer reservists in the Territorial Army who are also professional drivers.

The review concluded that the objective of the regulatory change was achieved and remains appropriate and did not identify any system to achieve the same objectives with less regulation. In addition, there was no evidence to suggest that there has been an increase in fatigue related accidents amongst the drivers using this concession.

## **1. What were the policy objectives of the measure?**

The policy objective of this measure was to enable professional drivers, to whom the assimilated drivers’ hours rules apply, to attend military training with the volunteer reserve forces or act as instructors in the Cadet Corps at the weekend, by granting derogations, subject to certain conditions, from certain daily and weekly rest requirements in the assimilated drivers’ hours rules.

### Background

The 2012 Regulations introduced a concession to the assimilated drivers’ hours rules by suspending the requirement to take a daily or weekly rest period for those professional drivers (operating solely within the UK) when they commence their military training with the volunteer reserve forces or act as instructors in the Cadet Corps at the weekend or during a period of annual camp training.

To ensure that road safety was not jeopardised, the following safeguards were incorporated into the concession:

- The concession will only apply to 15 days' annual camp training and 10 weekend training sessions per annum provided that weekend training is not allowed to take place on consecutive weekends;
- A regular daily rest period of 11 hours must be taken between the end of weekend training and annual camp training and start of work for the primary employer;
- A regular weekly rest period of 45 hours must be taken no later than at the end of the sixth day following a period of weekend training or annual camp training.

## 2. What evidence has informed the PIR?

Like the first PIR, the evidence used to inform this PIR was from the original IA and information from MoD as the department responsible for the training of the volunteer reserve force and who have benefitted from the exception. For the first PIR, MoD officials conducted an initial internal review of the implementation of the exception given in the 2012 Regulations, consulting the Army Reserve (the main beneficiary of the policy), the RAF Reserve and the Royal Naval/ Royal Marine Reserve (3 Services).

MoD officials were again contacted for assistance in conducting this second PIR and informed us that whilst there was limited data on the number of Reservists this affected, all 3 Services commented that without the exemption it would be detrimental to recruitment, the training of Reserve Forces and the support to Operations that they provide. Although MoD were unable to provide hard data, they wanted to continue the derogation from the assimilated drivers' hours rules for Cadet Force Adult Volunteers who are also professional drivers.

There was no evidence to suggest that there has been an increase in fatigue related accidents amongst the drivers using this exception. It would be difficult to identify these drivers from national statistics. However, road accidents involving HGVs have continued to reduce over time, despite increases in traffic. For example, in 2022, the latest year for which figures are available<sup>2</sup>, the collision rate for HGVs was 203 collision involvements per billion vehicle miles, compared with 414 in 2013. Overall accidents caused by fatigue have also been going down over time. The original IA reported that the total number of reported accidents caused by fatigue in 2009 (when the derogation was first implemented by MOD administratively) was 2,768 (78 fatal accidents, 476 accidents resulting in serious injuries, 2,259 accidents resulting in slight injuries). By comparison the figures for 2022<sup>3</sup> show that there were 1,293 reported accidents caused by fatigue (53 fatal accident, 409 resulting in serious injuries and 831 resulting in slight injuries). Please note that figures for earlier years will have been updated (to reflect changes in recording of injury severity by reporting police forces) so the 2016 figures quoted in the first PIR will not match the current published figures.

The data was not available to allow for an actual monetised benefit to be calculated on the savings made by not having to recruit additional reservists or the benefit to employers.

As with the first PIR, there was a general lack of evidence from the professional drivers who are also volunteers in the reserve forces and their employers. Contact details for these drivers and their employers was not held and would take a disproportionate amount of time and resource to obtain. For the original IA published in 2011 the MoD estimated that of the approximately 30,000 members in the Territorial Army only a maximum of 15% (4,500) of these could be drivers of vehicles subject to assimilated drivers' hours and therefore included in this derogation.

DfT economists again did not have the required information, such as the estimated number of members of the Territorial Army who were also professional drivers subject to the assimilated

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<sup>2</sup> RAS0502: Vehicle involvement rate per vehicle miles and kilometres, by collision severity and vehicle type, Great Britain, 10 years up to 2022 (<https://assets.publishing.service.gov.uk/media/65143a89b1bad400144fd8fb/ras0502.ods>)

<sup>3</sup> RAS0701: Reported road collisions and casualties by severity, contributory factors and road user type, Great Britain, 10 years up to 2022 (<https://assets.publishing.service.gov.uk/media/65143a8bb1bad400144fd8fc/ras0701.ods>)

drivers' hours rules, to enable them to replicate the analysis in the original IA to see whether there were any material changes in the assumptions used to estimate the costs and benefits.

### **3. To what extent have the policy objectives been achieved?**

We understand from MoD policy officials, that the policy objectives of the measure continues to be achieved as they no longer have problems recruiting, training and retaining volunteer reservists and instructors in the Cadet Corps who were also professional drivers, subject to the assimilated drivers' hours rules.

MoD have informed us that all 3 Services consulted stated that they would require the continued use of the exemption, to facilitate the employment of professional drivers as Reservists. This derogation is seen as a pivotal aspect of the ability to attract civilian professional drivers into Reserve service, bringing with them key logistical skills and experience. In addition, it allows key military skills and experience gathered whilst serving in a military capacity to be reinvested back into their civilian employment. In addition, MoD officials did not identify any unintended consequences because of the implementation of the 2012 Regulations.

**I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.**

Signed: ***Matt Proctor on behalf of Chief Economist*** Date: 19/02/2024

## Further information sheet

Please provide additional evidence in subsequent sheets, as required.

### **4. What were the original assumptions?**

The original IA stated that the Department believed it unlikely that implementing the derogation would have a negative impact on road safety due to the limited nature of the derogation from the weekly rest requirement of the assimilated drivers' hours rules and the in-built safeguards to limit risk. However, to cover the possibility of a small risk to road safety, the best estimate figure assumed a 5% increase in the number of road accidents caused by fatigue because of this derogation. The low costs presumed a 0% increase, and the high costs presumed a 10% increase. The monetised cost of the best estimate at £0.0064m (value at that time). The original IA stated that the main benefits would accrue to the MoD who will not need to recruit additional people to make up for the shortfall in reservists caused by professional drivers not being able to complete the necessary training due to the weekly rest requirements and was monetised at £10.22m (value at that time) (best estimate). The derogation would also have benefited business as the primary employers of professional drivers will not need to postpone the driver's start time to accommodate rest due nor employ additional drivers to replace reservists taking their weekly rest.

### **5. Were there any unintended consequences?**

Both the first PIR and this second one have not identified any unintended consequences because of the implementation of the 2012 Regulations. There was a general lack of evidence from the professional drivers who are also volunteers in the reserve forces and their employers. Contact details for these drivers and their employers was not readily available and would take a disproportionate amount of time to obtain. The data was not available to allow for an actual monetised benefit to be calculated. However, we do not believe this detracts from the fact that MoD were happy that the derogation worked, and they no longer had any issues recruiting professional drivers.

### **6. Has the evidence identified any opportunities for reducing the burden on business?**

There were no opportunities identified as part of this review to reduce the burden on business. It should be noted that the 2012 Regulations place no added burden on transport operators who employ professional drivers who would come under this concession.

### **7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?**

As far as we are aware there is no similar measure in EU Member States. At the time when this measure was brought in via the 2012 Regulations, the UK obtained special authorisation from the European Commission to implement this in the UK. As the UK is no longer an EU Member State there is no longer a requirement to obtain special authorisation from the European Commission for any future concessions. This power is now with the Secretary of State (in practice, utilised by the Secretary of State for Transport).