

<p><b>Title:</b> The Community Drivers' Hours and Recording Equipment Regulations 2012</p> <p><b>PIR No:</b> DfTPIR0032</p> <p><b>Lead department or agency:</b> Department for Transport</p> <p><b>Other departments or agencies:</b> Ministry of Defence</p> <p><b>Contact for enquiries:</b> Helen Grech: Email: helen.grech@dft.gov.uk; Mobile: 07717 800 687</p>	<b>Post Implementation Review</b>
	<b>Source of intervention:</b> EU
	<b>Type of regulation:</b> Secondary legislation
	<b>Type of review:</b> Statutory - other
	<b>Date of implementation:</b> 16/07/2012
	<b>Date review due (if applicable):</b> 16/07/2017
<b>Summary: Intervention and Review</b>	<b>RPC Opinion: Not Applicable</b>

## 1a. What were the policy objectives and the intended effects? (If policy objectives have changed, please explain how).

### Summary

The policy objective of this measure was to enable professional drivers, to whom the EU 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 EU drivers' hours rules.

### Background

Most drivers of large commercial goods and passenger-carrying vehicles are subject to the EU drivers' hours rules under Regulation (EC) 561/2006 limiting the amount of continuous driving time that drivers undertake and requiring them to take breaks and rest periods. The primary objectives of the EU drivers' hours rules are to promote fair competition and improve road safety by ensuring that drivers do not work unsocial hours and suffer from driving fatigue. Separate domestic drivers' hours rules apply to most of those drivers who are specifically exempted from the EU drivers' hours rules.

Employers were actively banning their drivers from being members of the volunteer reserve forces primarily because the weekly rest requirements (which require a driver to take at least 45 consecutive hours of rest every other week, and at least 24 hours in those weeks where 45 hours is not taken) were making it virtually impossible for professional drivers to complete training as a reservist during a weekend and then resume work for their primary employer on a Monday morning.

Reservist training or Cadet Corps instruction does not count as "rest", as defined in Regulation (EC) 561/2006, because a volunteer reservist or instructor in the Cadet Corps is required to follow orders and is paid for his work. Therefore he is required, in common with other drivers who have a second job, to record it as a period of other work and declare it to his primary employer.

According to Article 14(1) of Regulation (EC) 561/2006, Member States may, after authorisation by the European Commission, grant exceptions from the application of the rules to transport operations carried out

in exceptional circumstances.

In 2008 the UK obtained authorisation to grant such an exception to certain daily and weekly rest requirements in the EU drivers' hours rules to professional drivers undergoing military training with the volunteer reserve forces or providing instruction to members of a Cadet Corps, as the Commission accepted that it had serious implications for the recruitment, retention and training of volunteer reservists and instructors in Cadet Corps and hence on the overall defence capability of the UK. This was announced and implemented in 2009 (initially by administrative means).

The Ministry of Defence issued guidelines to their volunteer reserve service and a copy of the EC's Decision was published on the Vehicle and Operator Services Agency (now the Driver and Vehicle Standards Agency) website.

The exception rectified the problem outlined above 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 exception:

- The exception 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.

The Regulations being considered here implement the exception in domestic legislation.

The Regulations also make purely formal legal changes updating the Passenger and Goods Vehicles (Recording Equipment) (Approval of Fitters and Workshops) (Fees) Regulations 1986 and revoking the Drivers' Hours (Goods Vehicles) (Milk Collection) (Temporary Exemption) Regulations 2007.

**1b. How far were these objectives and intended effects expected to have been delivered by the review date? If not fully, please explain expected timescales.**

The intended effects were delivered immediately, as the Regulations legally implemented the exception which had already been implemented administratively.

**2. Describe the rationale for the evidence sought and the level of resources used to collect it, i.e. the assessment of proportionality.**

This qualifies as a "Low Evidence" PIR for the following reasons:

- The number of people directly impacted by the Regulations are small.
- The costs and benefits forecast within the original IA were small.

- The Regulations are not seen to be contentious or high profile.
- The Regulations are deregulatory in nature

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

DfT economists intended 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. However, the required information, such as the estimated number of members of the Territorial Army who were also professional drivers subject to the EU drivers' hours rules, was not available.

### **3. Describe the principal data collection approaches that have been used to gathering evidence for this PIR.**

The principle data for evidence was gathered by the MoD.

### **4. To what extent has the regulation achieved its policy objectives? Have there been any unintended effects?**

We understand from MoD policy officials, who conducted the initial internal review, that they believed from the evidence they had gathered, from Army Reserve, the RAF Reserve and the Royal Naval/Royal Marine Reserve, that the policy objectives of the measure had been achieved as they no longer had problems retaining and training volunteer reservists and instructors in the Cadet Corps who were also commercial drivers subject to the EU drivers' hours rules.

MoD have informed DfT that their review did not identify any unintended consequences as a result of the implementation of the Regulations.

### **5a. Please provide a brief recap of the original assumptions about the costs and benefits of the regulation and its effects on business (e.g. as set out in the IA)**

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 EU 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 assumes a 5% increase in the number of road accidents caused by fatigue as a result of this derogation. The low costs presume a 0% increase and the high costs presume a 10% increase. The monetised cost of the best estimate at £0.0064m (present value).

The original IA stated that the main benefits would accrue to the MoD who will not need to recruit additional drivers to make up for the shortfall in reservists caused by vocational drivers not being able to complete the necessary training due to the weekly rest requirements and is monetised at £10.22m present value (best estimate). The derogation would also benefit 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.

### **5b. What have been the actual costs and benefits of the regulation and its effects on business?**

MoD have informed DfT that they have 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 been reducing over time, despite

increases in traffic. For example, in 2011 the accident rate for HGVs was 447 accidents per billion vehicle miles, which went down to 350 in 2016. 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 in 2016 there were 1,645 reported accidents caused by fatigue (61 fatal accident, 354 resulting in serious injuries and 1,230 resulting in slight injuries).

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.

## **6. Assessment of risks or uncertainties in evidence base / Other issues to note**

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. In addition, as mentioned in 5b above 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.

## **7. Lessons for future Impact Assessments**

None identified.

## **8. What next steps are proposed for the regulation (e.g. remain/renewal, amendment, removal or replacement)?**

Propose that the Regulations remain.

On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

Sign-off for Post Implementation Review:

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

**Signed:** Dr Andrew Charlesworth-May

**Date:** 23/03/2018