

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee  
(Sub-Committee A)

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1st Report of Session 2017–19

**Proposed Negative Statutory  
Instruments under the European  
Union (Withdrawal) Act 2018**

# **Draft International Road Transport Permits (EU Exit) Regulations 2018**

Includes 2 Information Paragraphs on 2 Instruments

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### *Secondary Legislation Scrutiny Committee (Sub-Committee A)*

The Committee's terms of reference, as amended on 11 July 2018, are set out on the website but are, broadly:

To report on draft instruments and memoranda laid before Parliament under sections 8, 9 and 23(1) of the European Withdrawal Act 2018.

And, to scrutinise –

- (a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;
- (b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in the terms of reference.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

### *Members*

Baroness Bowles of Berkhamsted	Lord Haskel	Rt Hon. Lord Trefgarne (Chairman)
Rt Hon. Lord Chartres	Lord Hogan-Howe	Rt Hon Lord Walker of Gestingthorpe
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Baroness Finn	Lord Sharkey	

### *Registered interests*

Information about interests of Committee Members can be found in the last Appendix to this report.

### *Publications*

The Sub-Committee's Reports are published on the internet at <http://www.parliament.uk/seclegapublications>

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/uksi>

### *Committee Staff*

The staff of the Committee are Christine Salmon Percival (Clerk), Paul Bristow (Adviser), Nadine McNally (Adviser), Philipp Mende (Adviser), Jane White (Adviser), Louise Andrews (Committee Assistant) and Ben Dunleavy (Committee Assistant).

### *Information and Contacts*

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is [hlseclegscrutiny@parliament.uk](mailto:hlseclegscrutiny@parliament.uk).

# First Report

## PROPOSED NEGATIVE STATUTORY INSTRUMENTS UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

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### **Proposed Negative Statutory Instruments about which no recommendation to upgrade is made**

Export of Objects of Cultural Interest (Control) (Amendment etc.) (EU Exit) Regulations 2018

International Recovery of Maintenance (Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance 2007) (EU Exit) Regulations 2018

Zoonotic Disease Eradication and Control (Amendment) (England) (EU Exit) Regulations 2018

## INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

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### Draft International Road Transport Permits (EU Exit) Regulations 2018

*Date laid: 13 September 2018*

*Parliamentary procedure: affirmative*

*These draft Regulations are laid under the Haulage Permits and Trailer Registration Act 2018 which was introduced to allow arrangements to be put in place to enable international road haulage to continue after the UK has left the EU. They create a framework for a single permits scheme that will deal with bilateral permit arrangements between the UK and non-EU countries, the multilateral European Conference of Ministers of Transport (ECMT) permit scheme and any future permit scheme that may be agreed with the EU. While ECMT permits are currently undersubscribed, the Regulations make provision for a “no deal” scenario where permits may be very significantly oversubscribed (up to 80,000 for a UK allocation of 1,224) by setting out criteria for the allocation of permits. We draw these Regulations to the attention of the House so that it may press the Minister further on how the Government are planning to deal with oversubscription and how they will ensure that the criteria applied in determining the allocation of permits leads to a “fair and equitable” outcome, as well as ensuring a consistent and clear approach in their application.*

**We draw these Regulations to the special attention of the House on the grounds that they give rise to issues of policy interest likely to be of interest to the House and that they may imperfectly achieve their policy objectives.**

#### *Background*

1. At present, UK hauliers who wish to make international journeys are subject to the following arrangements:
  - They must have a standard international vehicle operator licence.<sup>1</sup>
  - To make journeys within the EU for hire or reward (that is, moving goods owned by other parties), they must also carry a Community Licence.<sup>2</sup>
  - For road haulage beyond the EU, the UK has bilateral agreements on road transport with a number of countries which govern the permissions of UK hauliers to operate there (and for their hauliers to operate within the UK).<sup>3</sup>
  - In addition, the UK is a member of the European Conference of Ministers of Transport (ECMT) multilateral permit scheme. ECMT is a forum comprised of 43 countries (including all EU Member States

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<sup>1</sup> This applies to all vehicles with a gross vehicle weight rating above 3.5 tonnes.

<sup>2</sup> These licences are provided to licensed operators by DVSA, providing they meet the qualitative requirements set out in law.

<sup>3</sup> UK operators travelling to Belarus, Georgia, Kazakhstan, Morocco, the Russian Federation, Serbia, Tunisia and Ukraine are authorised by bilateral, single journey permits (IA p 8, para 1, 0.1).

except Cyprus) and gives the UK up to 1,224<sup>4</sup> annual international road haulage permits for journeys between ECMT member countries.

2. ECMT permits and those authorised under the bilateral agreements are issued using administrative powers (by the Driver and Vehicle Standards Agency (DVSA)).

#### *Haulage Permits and Trailer Registration Act 2018*

3. In July 2018, the Haulage Permits and Trailer Registration Act 2018 (“the 2018 Act”) received Royal Assent. The 2018 Act was introduced to allow arrangements to be put in place to enable international road haulage to continue after the UK has left the EU. It contains provisions for a permit scheme to authorise international haulage and allows regulations to be made setting out when a permit is required and the administrative processes for managing a permit scheme.<sup>5</sup>

#### *International Road Transport Permits (EU Exit) Regulations 2018*

4. These Regulations are laid by the Department for Transport (DfT) under the 2018 Act. They are accompanied by an Explanatory Memorandum (EM) and an Impact Assessment (IA) which we note, with disappointment, required supplementary material to clarify certain points in the EM. This supplementary material is set out in Appendix 1 to this Report. The Committee also wrote to the Parliamentary Under Secretary of State, Jesse Norman MP, to seek clarification from the Government on how they intend to deal with international haulage after exit day. A copy of the letter and the reply from the Minister is set out in Appendix 2 to this Report.
5. The Regulations create a framework for a single permits scheme that will deal with bilateral permit arrangements between the UK and non-EU countries, the multilateral ECMT permit scheme and any future permit scheme that may be agreed with the EU. They also set out the criteria which will be used to decide which permit applications should be granted in the event that there are more applications than permits available. The EM explains that 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 1 January 2019.<sup>6</sup>

#### *Why are criteria necessary?*

6. Applications for ECMT permits are currently undersubscribed.<sup>7</sup> The IA explains, however, that, given that negotiations with the EU have yet to be concluded, future demand is uncertain and may rise. Three scenarios are described in the IA:

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4 According to the DfT: “1,224 is the maximum number of annual ECMT permits we can have. This depends on which type of vehicle uses them. We also have the discretion to swap some annual permits for 12 monthly permits instead. We have chosen to swap the maximum number we can to give us the greatest number of permits we can get, and to give us more flexibility in how we use them. This means we will have 984 annual permits, and 2,832 monthly permits.”

5 Page 6 of the IA.

6 The DfT explained that: “ECMT permits are valid for a calendar year. The permits we issue under these regulations will first be able to be used on 1st January 2019.”

7 According to the IA (p 9), about 15 ECMT permits are granted each year. This is largely because haulage in the EU is governed by the Community Licence scheme. The DfT has also advised that there is very little haulage from the UK to non-EU countries. Much of this is covered by bilateral agreements, so there is little need to use ECMT permits currently.

- Low demand: current demand of ECMT permits remains as now (about 15 a year of a possible 1,224 available) because an agreement with the EU is made well in advance of exit day.
  - Medium demand: demand rises to meet the number of permits available (that is, 1, 224).
  - High demand: demand exceeds the number of permits available. The IA envisages a maximum of around 80,000 applications.
7. These Regulations are intended to provide for contingency measures in the event of no agreement with the EU by providing a mechanism for distributing ECMT permits where demand exceeds supply.<sup>8</sup>
  8. In a letter to the Minister, the Committee sought clarification about the possibility that, in the event of “no deal” with the EU, the number of ECMT permits might be very significantly oversubscribed and what impact this would have for UK hauliers.
  9. The Minister acknowledged that:
 

“...if there are no other forms of agreement with member states, those hauliers who do not receive an ECMT permit or other type of permit will not be able to conduct international haulage ... [I]n the absence of bilateral agreements, there may be a significant impact for hauliers who do not receive ECMT permits. It may restrict the capacity for UK hauliers to transport UK goods internationally.”
  10. **Whilst recognising that the Government’s preferred approach is to reach an agreement with the EU on road haulage, the House may wish nonetheless to press the Minister further about how, in the event of no agreement, the Government will assist those operators who are not granted a permit and who may experience a detrimental impact on their businesses if they are unable to conduct international road haulage.**
  11. The Committee also sought clarification about the timeframe the Government are working to in negotiating bilateral agreements. The Minister said:
 

“The Government is working to have bilateral agreements in place by exit day, recognising both where historical agreements will automatically revive and where new agreements are needed. The Government is confident that other bilateral agreements can be put in place by exit day.”
  12. **The Committee is seeking further information about how many historical bilateral agreements are in place, with how many EU countries and how these agreements can be revived in time for exit day. Given the time such bilateral agreements may take to negotiate, the House may wish to seek assurances from the Government that there will be no gap between exit day and the conclusion of any bilateral negotiations.**

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<sup>8</sup> The Government have also issued a guidance note on “Commercial road haulage in the EU if there’s no Brexit deal” <https://www.gov.uk/government/publications/commercial-road-haulage-in-the-eu-if-theres-no-brex-it-deal/commercial-road-haulage-in-the-eu-if-theres-no-brex-it-deal> [accessed 16 October 2018].

13. In our earlier inquiries, we asked the Department to state how many ECMT permits will be available in 2019. We were told:

“1,224 is the maximum number of annual ECMT permits we can have. This depends on which type of vehicle uses them. We also have the discretion to swap some annual permits for 12 monthly permits instead. We have chosen to swap the maximum number we can to give us the greatest number of permits we can get, and to give us more flexibility in how we use them. This means we will have 984 annual permits, and 2832 monthly permits.”

14. The Minister further explained:

“The quota of ECMT permits includes almost 3,000 monthly permits. Although most of the ECMT permits will be allocated in late 2018, the monthly permits will be retained until close to exit day. This will allow these permits to be used in emergencies or other instances of special need. They also add flexibility to the permit scheme as these could predominantly be used immediately after exit day and the date of bilateral agreements being in place.”

15. **The House may wish to press the Minister on how the operation of monthly permits will work in practice, and whether UK hauliers will have to re-apply on a monthly basis; and, how the Government will deal with any business uncertainty that may arise for UK hauliers who need to make longer-term plans for their operations.**

*What are the criteria?*

16. The Government set out the key principles that they are looking to achieve from a permits scheme in the consultation paper on the provisions.<sup>9</sup> They are:
- to obtain the greatest economic benefit from UK international freight movements to the wider UK economy;
  - to protect any strategic national interests for the UK;
  - to protect the interests of UK operators;
  - to ensure an approach that is fair and equitable and does not distort competition; and
  - to create a system with clear requirements that is simple to use.
17. The Regulations set out the criteria which the Secretary of State must consider before granting a permit. They are expressed in the following broad terms: the exhaust emissions level of the goods vehicle, the goods intended to be carried, the frequency with which the applicant intends to use the permit applied for, and the proportion of the total number of journeys made

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9 Department for Transport, ‘Provisions in the Haulage Permits and Trailer Registration Bill Consultation’ (May 2018): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/707469/haulage-permits-and-trailer-registration-consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707469/haulage-permits-and-trailer-registration-consultation.pdf) [accessed 16 October 2018] and Department for Transport, ‘Provisions in the Haulage Permits and Trailer Registration Bill Government Response to Consultation’ (September 2018): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740304/provisions-in-the-haulage-permits-and-trailer-registration-bill-government-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740304/provisions-in-the-haulage-permits-and-trailer-registration-bill-government-response.pdf) [accessed 16 October 2018].

by the applicant annually that are international journeys. The Regulations also allow the Secretary of State to use “random selection”,<sup>10</sup> and to take into account any other matters that he or she considers appropriate. Where the Secretary of State refuses to grant a permit, he or she must give reasons.

18. The criteria are described more fully in the consultation document, which also states that guidance will be made available to applicants.<sup>11</sup>
19. We asked the Minister how the Government will ensure that the criteria are applied in a way that accords with the principles set out in the consultation paper, in particular, that the permits scheme will “ensure an approach that is fair and equitable”, with “clear requirements” and is “simple to use”. The Minister explained that:

“The regulations set out criteria that the Secretary of State must consider before determining whether to issue a permit. The regulations do list these criteria in broad terms. Before permit applications may be made and before the regulations are debated in Parliament, the Department will provide guidance that sets out in greater detail how these criteria will be applied in determining whether to grant a permit. The process applied is largely automated as part of the permits IT system being developed by DVSA. This will ensure that the criteria are applied consistently across all applications.”

20. **The criteria are expressed in broad terms rather than as prescribed, measurable requirements. If the process is largely automated using an IT system, the House may wish to press the Minister about what specific criteria which will be applied to enable the automation of this process.**
21. **The Regulations also grant the Secretary of State considerable discretion to determine the allocation of permits where they are oversubscribed. The House may wish to seek clarification on how a fair and consistent approach will be taken in the application of “random selection”.**

*What will happen in Northern Ireland?*

22. We asked the Minister about the applicability of the Regulations to Northern Ireland and questioned in the event of a “no deal” with the EU, what contingency measures will be put in place for hauliers in Northern Ireland crossing the border to Ireland. The Minister told us:

“For Northern Ireland hauliers travelling to Ireland, the regulations do not require a permit to be carried. This is in keeping with the Haulage Permits and Trailer Registration Act whereby regulations may require permits to be carried by NI hauliers in Ireland only following an agreement with the consent of the Government of Ireland. Where there is no agreement with the EU, the Government expects to reach a bilateral agreement with the Government of Ireland. This will be a

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10 The IA (p 16) explains that, without “random selection”, permits would be issued to hauliers with the highest ‘intensity of use’ score leading to a smaller number of hauliers receiving all the permits that they applied for, and other operators receiving none. Therefore, random selection mitigates potential competition effects caused by the other criteria.

11 [Provisions in the Haulage Permits and Trailer Registration Bill - Government Response to Consultation](#) paragraph 1.7 [accessed 16 October 2018].

priority for the Government if there is no overall deal. The monthly ECMT permits mentioned above may also be used for Northern Ireland hauliers travelling to or through Ireland should an agreement not be in place by exit day.”

### *Costs and fees*

23. The Regulations are accompanied by an IA which estimates it will cost £4.7 million to set up the permits scheme. These costs are being funded from the £75.8 million that HM Treasury has allocated to the DfT to prepare for EU exit. The Government expect that the total running costs of the new scheme will be £8.4 million over five years, (£1.72 million per year)<sup>12</sup> which they intend to recover from permit fees.
24. For an annual ECMT permit there will be a £10 application fee and £123 issuing fee and for a monthly ECMT permit there will be a £10 application fee and £10 issuing fee. For a bilateral permit (authorising one journey) there will be a £2 application fee and a £6 issuing fee. When asked if these fees have changed from present levels, the DfT told us that:

“...we have not increased the fee levels compared with the current fees – we have only split the fees between an application fee and an issuing fee. The fees are intended to operate on cost recovery and the split is to ensure that the costs are covered by all hauliers who use the system, rather than just those who receive permits covering the costs for all hauliers.”

### *Consultation*

25. The DfT ran a public consultation from 16 May to 25 June 2018 on the haulage permit proposals. We asked why the consultation only ran for six weeks and were told that:

“For the permits system to be operable from November 2018, we needed to complete the consultation, draft the regulations and progress this through Parliament quickly. Industry have been aware of our plans since the Bill was introduced to Parliament in February 2018. We have also conducted workshops with hauliers and trade bodies and completed user research on the permit system, to make sure the permit scheme is suitable.”

### *Conclusion*

26. We recognise the need for a clear framework setting out the regulation, allocation and enforcement of haulage permits, and acknowledge that the Government’s preferred approach is to reach an agreement with the EU on international road haulage after exit day. We note, however, that these Regulations make provision for a “no deal” scenario where very significant oversubscription may be envisaged, with serious repercussions for those UK hauliers who are not successful in being granted a permit.
27. **Given the potentially significant impact on UK hauliers and the uncertainties apparent in the case of no agreement with the EU, we draw these Regulations to the attention of the House on the grounds that they give rise to issues of public policy likely to be of interest to the House and that they may imperfectly achieve their policy objectives.**

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<sup>12</sup> These figures were quoted incorrectly in the IA and the Committee has asked the DfT to revise the IA to correct the figures.

## **INSTRUMENTS OF INTEREST**

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### **Common Agricultural Policy Basic Payment and Support Schemes (England) (Amendment) Regulations 2018 (SI 2018/1026)**

28. These Regulations will allow farmers to use so-called areas of Ecological Focus Area (EFA) Cover Crops for grazing in 2018. EFAs are areas of land, such as fallow land, on which farmers carry out agricultural practices that benefit the climate and environment. In addition to grazing, the Regulations will allow farmers to sow these areas with grass or other herbaceous forage, or to cut short the period of time that the Cover Crop must be retained under the Common Agricultural Policy. The Department for Environment, Food and Rural Affairs (Defra) explains that the changes are intended to address the current lack of forage for livestock following the prolonged period of dry weather in the summer of 2018. The Regulations are in line with a European Commission Decision which took effect from 18 September and allows EFA Cover Crops to be grazed and for more palatable crop types, such as grass, to be grown in 2018. Defra explains that while the Regulations breach the “21 day rule” according to which there should be at least 21 days between an instrument being laid before Parliament and it coming into force, the Department was unable to lay the Regulations before the EU derogation came into force, and that delaying the Regulations would result in farmers being unable to make full use of the derogation.

### **Zootechnical Standards (England) Regulations 2018 (SI 2018/1037)**

29. The purpose of this instrument is to ensure that the system of zootechnical standards set out in EU Animal Breeding Regulation (EU) 2016/1012 operates effectively in England. According to the Department for the Environment, Food and Rural Affairs (Defra), these standards seek to facilitate trade in pedigree breeding livestock and germinal products like semen and embryos. Amongst other changes, the instrument designates the Secretary of State as the Competent Authority, with responsibility for overseeing and enforcing the Regulations in England. The instrument also introduces new risk-based controls over breed societies and breeding operations. Defra says that it will apply these controls proportionately using a light touch approach, relying on paper-based controls where possible, and that the Regulations will enable businesses to continue with minimal disruption when the UK leaves the EU.

## **INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE**

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### **Instruments subject to annulment**

- SI 2018/1011 European Communities (Designation Orders) (Revocation) (EU Exit) Regulations 2018
- SI 2018/1012 European Union (Definition of Treaties Orders) (Revocation) (EU Exit) Regulations 2018
- SI 2018/1026 Common Agricultural Policy Basic Payment and Support Schemes (England) (Amendment) Regulations 2018
- SI 2018/1037 Zootechnical Standards (England) Regulations 2018
- SI 2018/1038 Consumer Credit (Amendment) (EU Exit) Regulations 2018
- SI 2018/1043 Tenants' Associations (Provisions Relating to Recognition and Provision of Information) (England) Regulations 2018

## APPENDIX 1: DRAFT INTERNATIONAL ROAD TRANSPORT PERMITS (EU EXIT) REGULATIONS 2018

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### Additional information obtained from the Department for Transport

*Q1: Can you set out what exactly happens at the minute and what is changing?*

A1: 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.

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.

There is a wider European Conference of Ministers of Transport (ECMT) permit scheme that allows UK hauliers to carry goods to or through 43 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.

This SI doesn't implement the final, future arrangements for international road haulage (of course, this is still under negotiation with the EU). The SI 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 other agreements).

This means that:

- For non-EU countries current arrangements, whether requiring bilateral permits, ECMT permits, or liberalised access, will continue.
- For EU countries, hauliers could no longer rely on automatic recognition by the EU of UK-issued Community Licences recognised from exit day. ECMT permits or existing bilateral permits with EU member states will authorise road haulage.

Where further agreement(s) with the EU or member states are made after this SI has been laid, the SI will be amended in the future to reflect these.

*Q2: What system do we have exactly with non-EU countries now and what does this regulation change?*

A2: This SI doesn't change the arrangements we have with non-EU states. For example, we have a bilateral permit agreements with Ukraine — this SI requires permits to haul to Ukraine, in line with that agreements. We have a liberalised agreement with Turkey which doesn't require permits, so this SI doesn't require hauliers going to Turkey to carry a permit.

*Q3: What impact will these changes have and how will it work in practice (i.e. resourcing/administration?)*

A3: The Government is building an IT system to take applications from hauliers and to allocate and issue permits to hauliers. This will operate from November 2018 and be delivered by the Driver and Vehicle Standards Agency (DVSA). The costs of this system will be recovered from fees for permits.

For hauliers, there will be some additional administration required in determining whether they need a permit, applying for and carrying the permit on their vehicles. There will be a fee for hauliers to get a permit.

*Q4: How will hauliers know what paperwork they will need from November?*

A4: The Department is planning a comms campaign before the permits system goes live in November 2018 so that hauliers know whether they need a permit and what they need to do to obtain them.

*Q5: What will happen in Northern Ireland?*

A5: For Northern Ireland hauliers travelling to mainland Europe, these regulations apply in the same way as they do to GB hauliers.

For Northern Ireland hauliers travelling to Ireland, the regulations do not require a permit 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.

*Q6: Paragraph 7.1 of the EM refers to a Community Licence – can you explain what this is and how it works?*

A6: 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. The Community Licence operates under EU regulations so its use by UK hauliers will stop when we leave the EU.

*Q7: Paragraph 12.2 of the EM refers to set up costs – can you clarify if these costs will include the extra resourcing and staff capacity the DVSA will need to issue these permits?*

A7: Yes, DVSA have been building an IT system to handle permit applications, and to allocate and issue permits. This will also need resourcing to operate and maintain this system. The set up costs for this are being funded from part of the £75.8 million from HMT to DfT to deliver its EU exit preparations. Once set up, the permits scheme will operate on cost recovery, the costs being met by permit fees charged to hauliers.

*Q8: How many permits will be available?*

A8: For ECMT permits, in 2019 there will be 984 annual permits and 2,832 monthly permits. Additionally, where bilateral permit agreements are reached, an (as yet unknown) number of permits will be available. Our existing permit agreements all provide more permits than are required by UK hauliers.

*Q9: What does it mean in the impact assessment about allowing oversubscribed permits to be issued effectively?*

A9: We expect more applications for ECMT permits than are available. Therefore we will have to select which applicants should receive permits. We have set out these principles for allocating permits:

- to obtain the greatest economic benefit from UK international freight movements to the wider UK economy
- to protect any strategic national interests for the UK;
- to protect the interests of UK operators;
- to ensure an approach that is fair and equitable and does not distort competition; and
- to create a system with clear requirements that is simple to use

The criteria in regulation 24 are the method we will use to achieve this.

*Q10: Can you confirm that these regulations do not implement a permit scheme for haulage to EU Member States?*

A10: This SI is not introducing a new permit scheme for haulage to the EU after we have left the EU. This will be down to negotiations. The SI does allow our current permits to be issued to hauliers and used for haulage in the EU in the absence of any other agreements. We will make amending regulations to implement other agreements if required.

*Q11: What happens if there is no deal – will that require a revised permit scheme for travel across the EU?*

A11: If there is no deal, UK hauliers will be able to use ECMT permits. The UK would also seek to put in place bilateral agreements with EU countries to provide haulage access. Such agreements may require the possession of a permit to allow access to the EU country concerned, in which case they could be issued under these regulations.

*Q12: What will happen to EU hauliers entering the UK – will they require a UK permit or will the UK continue to recognise the Community Licence?*

A12: These regulations only cover UK vehicles travelling internationally, not EU vehicles travelling to the UK.

*Q13: Do the Regulations prohibit the use of a UK registered goods vehicles on specified international journeys unless an international road transport permit is carried on the vehicle? Does the prohibition only apply to the countries listed in the instrument from November 2018 however it does apply to relevant member States of the European Union from exit day should there be no alternative agreement reached with the EU?*

A13: Yes. The regulations cover journeys to the relevant non-EU member states from the date regulations come into force (in line with current practice). They apply to the EU from exit day so that ECMT permits may be used to authorise road haulage to the EU (in addition to any other agreements reached).

*Q14: What will the fees be?*

A14: For an annual ECMT permit there will be a £10 application fee and £123 issuing fee.

For a monthly ECMT permit there will be a £10 application fee and £10 issuing fee.

For a bilateral permit (authorising one journey) there will be a £2 application fee and a £6 issuing fee.

*Q15: The IA says that the UK is also a member of the European Conference of Ministers of Transport (ECMT) multilateral permit scheme which gives the UK up to 1,224 permits for transit to and through 42 other countries (all EU member states except Cyprus). However there will now be 984 annual permits. Why have these figures changed for 2019?*

A15: 1,224 is the maximum number of annual ECMT permits we can have. This depends on which type of vehicle uses them. We also have the discretion to swap some annual permits for 12 monthly permits instead. We have chosen to swap the maximum number we can to give us the greatest number of permits we can get, and to give us more flexibility in how we use them. This means we will have 984 annual permits, and 2832 monthly permits.

*Q16: In relation to the above question, what has lead the Department to this decision? How was the decision made?*

A16: We want to maximise the amount of haulage that can be conducted using ECMT permits, so we have maximised the number available. Taking monthly permits also means that these can be used after exit day (where annual permits would apply from 1st January. It also allows permits to be distributed among a larger number of hauliers.

*Q17: Why is legislation needed?*

A17: ECMT permits are currently issued under administrative powers and are little used. The Haulage Permits and Trailer Registration Act was introduced as, if there is no deal, we expect there to be thousands of applications for the limited number of permits. Therefore, we need powers to be able to select which hauliers should be allocated permits. The Act and these regulations give us these powers and the processes to do this. They will also be applied to future bilateral agreements if we need to allocate a limited number of permits.

*Q18: Have the fees changed?*

A18: On fees, we have not increased the fee levels compared with the current fees – we have only split the fees between an application fee and an issuing fee. The fees are intended to operate on cost recovery and the split is to ensure that the costs are covered by all hauliers who use the system, rather than just those who receive permits covering the costs for all hauliers.

*Q19: The IA states that if UK hauliers are required to hold a permit for haulage in EU then the regulations would be amended to require permits to the EU. What way would they be amended? Do these regulations as drafted allowed for permits to be issued from exit day in the event of a no deal?*

A19: The SI does allow permits to be issued in a no deal. The IA means that, if we make new bilateral agreements with member states, the SI will be amended to reflect the specific details of the new agreements, i.e. exemptions and other very specific details.

*Q20: Can you clarify costs?*

A20: £4.7 million set up costs from the £75.8 million HMT funding is correct. The £8.4 million running costs is over 5 years, so £1.72 million per year.

*Q21: What does the criteria for deciding applications include or focus on?*

A21: Criteria are those listed in regulation 24 (a). These focus on how often the permit will be used, what goods the vehicle will carry, the type of vehicle being used, and how much of an applicant's business is international haulage.

*Q22: Why is it 1 January 2019 that the permits become valid?*

A22: ECMT permits are valid for a calendar year. The permits we issue under these regulations will first be able to be used on 1st January 2019.

*Q23: What will happen to UK hauliers who are not granted a ECMT permit? Will they be unable to carry out their operations?*

A23: In a no deal scenario, UK hauliers without a permit will not be able to conduct international haulage. If there is no deal we plan to make bilateral agreements with member states. These may require permits and these regulations would be used to issue those permits, so that hauliers can continue to operate internationally.

*Q24: Why have so few ECMT permits been issued to date? Is it because the Community Licence covers haulage to non-EU countries also?*

A24: There is very little haulage from the UK to non-EU countries. Much of this is covered by bilateral agreements, so there is little need to use ECMT permits currently.

*Q25: Why was the consultation period only six weeks?*

A25: For the permits system to be operable from November 2018, we needed to complete the consultation, draft the regulations and progress this through Parliament quickly. Industry have been aware of our plans since the Bill was introduced to Parliament in February 2018. We have also conducted workshops with hauliers and trade bodies and completed user research on the permit system, to make sure the permit scheme is suitable.

*Q26: What do haulage operators say about these changes?*

A26: Hauliers do not want to have a permit scheme, and certainly not one where the number of permits are limited. However, that is beyond the control of these regulations and will come down to negotiations. However, they are content that we are putting in place a system to issue permits to whatever extent it is needed.

**October 2018**

## APPENDIX 2: CORRESPONDENCE ON THE DRAFT INTERNATIONAL ROAD TRANSPORT PERMITS (EU EXIT) REGULATIONS 2018

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### Letter from Lord Trefgarne, Chairman of the Secondary Legislation Scrutiny Committee to Mr Jesse Norman MP, Parliamentary Under Secretary at the Department for Transport

I am writing as Chairman of the Secondary Legislation Scrutiny Committee which gave preliminary consideration to these Regulations at its meeting yesterday. The Committee has asked me to raise a number of issues with you.

These Regulations allow arrangements to be put in place to enable UK hauliers to continue international road haulage after the UK has left the EU. We acknowledge that the Government's preferred approach is to reach an agreement with the EU. We note, however, that, in the event of no agreement, demand for the 1,224 ECMT permits currently available may exceed supply; the "high demand" scenario envisaged in the accompanying Impact Assessment indicates the possibility of a maximum of around 80,000 applications. If this happens:

- Without any other form of agreement (in terms of, say, bilateral agreements with Member States), will those UK hauliers who are not successful in their application for an ECMT permit be able to conduct international haulage?
- What would the likely impact be on their businesses and on the economy more generally?
- If the Government have to rely on bilateral agreements, to what timeframe are the Government working, and is it possible that there will be a gap between exit day and the conclusion of any bilateral negotiations?

The Regulations set out the criteria which the Secretary of State must consider before granting a permit. They also allow the Secretary of State to use "random selection", and to take into account any other matters that he or she "considers appropriate". These criteria are expressed in broad terms and grant the Secretary of State considerable discretion.

- How will the Government ensure that the criteria are applied in a way that accords with the principles set out in the consultation paper, in particular, that the permit scheme will "ensure an approach that is fair and equitable", with "clear requirements" and is "simple to use"?

Finally, with regard to the applicability of the Regulations to Northern Ireland:

- In the event of no deal with the EU, what contingency measures will be put in place for hauliers in Northern Ireland crossing the border to Ireland?

We would welcome your response to these points by 10am on Monday 15 October so that it may be considered at the Committee's next meeting.

**10 October 2018**

### Letter from Mr Jesse Norman MP to Lord Trefgarne

These regulations are to put in place the processes that will allow UK hauliers to continue to conduct international haulage after the UK has left the EU. As you note, these regulations do not implement the Government's preferred outcome. However, they do allow the Government to issue permits to hauliers where these are required in other countries.

If there is no deal, the Government expects that bilateral arrangements with individual member States will be reached. These arrangements may take the form of agreements made prior to one or other of the parties joining the EU, of which there are many, or they may be new agreements. It is likely that some of these arrangements will require permits and others will not, but they would allow the carriage of goods to continue. Naturally, the regulations cannot reflect future permit requirements for hauliers until these agreements are concluded. Amending regulations will be made to reflect those agreements.

The regulations implement a permit scheme as it would operate on exit day if there were no other agreements reached with the EU or member states. This will allow ECMT permits to be issued to hauliers even before negotiations on arrangements for road haulage are completed. However, they should be viewed as the 'interim position' until negotiations are concluded.

In response to your first question, if there are no other forms of agreement with member states, those hauliers who do not receive an ECMT permit or other type of permit will not be able to conduct international haulage.

Prior to the UK joining the EU, the UK had international road transport agreements with member states which covered provisions for access to road haulage services and some of which required permits to be carried. Since joining the EU, the UK and other member states have continued to conclude international road transport agreements with third countries outside the community, where the community has not concluded an agreement with that country.

There is no reason to expect the position to change for member states when the UK becomes a third country. The Government expects to be able to rely on bilateral agreements with member states concluded prior to one or other of the parties joining the EU since those agreements were never terminated because they dealt with matters not covered by EU law. In some cases, new agreements will be needed, but there is no reason to expect member states to treat the UK differently from other third countries with which they have bilateral agreements on these matters. In summary, although it is theoretically possible that UK hauliers may be reliant solely on ECMT permits, evidence of past and current practice makes this possibility highly unlikely, and the Department is working with those countries to ensure that it does not happen.

However, in the absence of bilateral agreements, there may be a significant impact for hauliers who do not receive ECMT permits. It may restrict the capacity for UK hauliers to transport UK goods internationally. To provide context, currently over 80% of international haulage between the UK and continental Europe is conducted by EU hauliers. In this context, any restriction on UK hauliers being able to operate internationally will have a more limited effect on restricting the total amount of international haulage.

The Government is working to have bilateral agreements in place by exit day, recognising both where historical agreements will automatically revive and where

new agreements are needed. The Government is confident that other bilateral agreements can be put in place by exit day. The Driver and Vehicle Standards Agency (DVSA) has well developed systems to issue bilateral permits.

The quota of ECMT permits includes almost 3,000 monthly permits. Although most of the ECMT permits will be allocated in late 2018, the monthly permits will be retained until close to exit day. This will allow these permits to be used in emergencies or other instances of special need. They also add flexibility to the permit scheme as these could predominantly be used immediately after exit day and the date of bilateral agreements being in place.

### *Criteria*

The regulations set out criteria that the Secretary of State must consider before determining whether to issue a permit. The regulations do list these criteria in broad terms. Before permit applications may be made and before the regulations are debated in Parliament, the Department will provide guidance that sets out in greater detail how these criteria will be applied in determining whether to grant a permit.

The process applied is largely automated as part of the permits IT system being developed by DVSA. This will ensure that the criteria are applied consistently across all applications.

DVSA has conducted user research with hauliers during the development of this system. The approach has been designed and modified as a result of this research to form criteria that are clear for hauliers; and thus far users have found the system straightforward to use.

### *Northern Ireland*

For Northern Ireland hauliers travelling to Ireland, the regulations do not require a permit to be carried. This is in keeping with the Haulage Permits and Trailer Registration Act whereby regulations may require permits to be carried by NI hauliers in Ireland only following an agreement with the consent of the Government of Ireland.

Where there is no agreement with the EU, the Government expects to reach a bilateral agreement with the Government of Ireland. This will be a priority for the Government if there is no overall deal. The monthly ECMT permits mentioned above may also be used for Northern Ireland hauliers travelling to or through Ireland should an agreement not be in place by exit day.

**15 October 2018**

### APPENDIX 3: INTERESTS AND ATTENDANCE

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Committee Members' registered interests may be examined in the online Register of Lords' Interests at <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 15 October 2018, Members declared the following interests:

#### **Common Agricultural Policy Basic Payment and Support Schemes (England) (Amendment) Regulations 2018 (SI 2018/1026)**

Lord Lilley

*Small number of livestock*

Lord Walker of Gestingthorpe

*Arable farmer*

#### **Attendance:**

The meeting was attended by Baroness Bowles of Berkhamsted, Lord Faulkner of Worcester, Baroness Finn, Lord Haskel, Lord Lilley, Lord Sharkey, Lord Trefgarne, Lord Walker of Gestingthorpe and Lord Wood of Anfield.

