



## BRIEFING PAPER

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# Haulage Permits and Trailer Registration Act 2018

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## Summary

This paper outlines the provisions of the [Haulage Permits and Trailer Registration Act 2018](#), explains those issues which were raised during its passage through Parliament, and provides some background as to where the Act has come from and what issues it is designed to address.

It has two purposes:

1. It creates the architecture for a number of scenarios, including a 'no deal' Brexit. It would allow the Secretary of State to deal with the consequences of a range of exit scenarios on the UK haulage industry by creating an international road haulage permit scheme; and
2. It deals with the consequences of the UK ratifying the 1968 Vienna Convention on Road Traffic, specifically as it relates to trailers, by providing the Secretary of State with powers to make a trailer registration scheme.

The Government's policy is to work towards a Brexit deal that will not require the Secretary of State to use the powers given to him under Part 1 of this Act for EU countries, although the powers would be used for existing and future non-EU permit schemes.

During its passage through Parliament the Act was amended to:

- beef up the reporting and consultation requirements on the Government;
- give more Parliamentary oversight of the secondary legislation that may be made under the Act;
- include requirements as to assessing and reporting on trailer safety standards, with a view to legislating if necessary;
- address the question of random allocation of trailer permits; and
- create a new framework for trailer safety reporting and registration.

The Act, apart from certain provisions, extends and applies to the whole of the UK. Variations arise because the Northern Ireland Assembly has legislative competence for road haulage and trailer registration.

The relevant documentation relating to the Act during its passage through Parliament, including the explanatory notes and impact assessments, can be found on the [Parliamentary Bill page](#).

The Government has published a consultation document on the implementation of the Act, focusing on how a haulage permits scheme should operate in the future, which trailers will require registration and how a trailer registration scheme will operate.

Further information on Brexit and transport can be found in HC Library briefing paper [CBP 7633](#). Briefing papers on other areas of transport policy, Brexit and other issues can be found on the [Commons Library website](#).

# 1. Brexit: background

## 1.1 EU's current role in UK transport policy

The EU's competences in transport are set out in the EU Treaties, which provide the basis for any actions the EU institutions take.

### EU transport legislation

There is a significant amount of transport law and regulation in the UK that applies as a direct result of our membership of the EU. The **key** legislation is set out in: HMG, [Key EU transport legislation](#), 14 May 2013

The EU can only act within the limits of the competences conferred on it by the Treaties. Where the Treaties do not confer competences on the EU they remain with the Member States. There are three different types of competence. Transport is a 'shared' competency, meaning that either the EU or the Member States may act, but the Member States may be prevented from acting once the EU has done so.<sup>1</sup>

The development of the EU's Common Transport Policy (CTP) has resulted in the focusing of action in five policy areas: economic, social, environmental, infrastructure and external relations.<sup>2</sup> The specific provisions of the CTP are contained in Title VI of the [Treaty on the Functioning of the European Union \(TFEU\)](#) on Transport (Articles 90 to 100).

Broadly, there is a balance between the common perceived benefits of EU Membership (e.g. the single market for transport services which has brought down costs through liberalisation and competition) and the burdens, (e.g. disproportionate or excessive regulation). There have long been concerns about EU regulatory burdens and the costs these impose, and about the difficulties in finding the right level of legislative prescription that achieves the stated aims without being disproportionate. This is particularly important in an area like transport, which is heavily regulated at a European level.

One of the common issues discussed is how much Brexit will impact the standards and regulations the UK chooses to apply in its transport sector. In many instances they are likely to be similar, if not identical to, the EU. This is because of the role the UK played in establishing those standards to our own satisfaction in the first place. For example, the UK has been a leading advocate for the development of the single market in transport across all modes. To which end the UK has usually found itself aligned with the European Commission in promoting liberal market-based aviation and maritime sectors.

This suggests that transport within the UK post-Brexit may not look wildly different to how it looks now, the bigger question is how UK transport providers and businesses will interact with the EU in future and whether the benefits they currently enjoy when operating within

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<sup>1</sup> HMG, [Call for Evidence on the Government's Review of the Balance of Competences between the United Kingdom and the European Union: Transport](#), 14 May 2013, p5

<sup>2</sup> Ibid., pp9-10

the EU can be preserved for UK-EU movements. Much remains unclear and will continue to be so until negotiations reach a more mature stage.

## 1.2 The Government's priorities

The UK Government's transport priorities have not been set out in any single policy paper or place. However, we do know from various comments by the Secretary of State for Transport and others that the key Brexit priorities are air transport rights to fly, continuing membership of the European Aviation Safety Agency (EASA) and continued road haulage rights to move goods.<sup>3</sup> This Bill in part deals with the third of those priorities, in the event of a 'no deal' Brexit, although also relates to potential negotiated outcomes.

The European Council adopted new negotiating guidelines on 23 March 2018. On transport, they state:

... regarding transport services, the aim should be to ensure continued connectivity between the UK and the EU after the UK withdrawal. This could be achieved, inter alia, through an air transport agreement, combined with aviation safety and security agreements, as well as agreements on other modes of transport, while ensuring a strong level playing field in highly competitive sectors.<sup>4</sup>

While this would appear to look ahead to a future in which the UK and the EU could reach air and land transport agreements, the statement remains at a high level and there is no detail on those issues where there may be friction or disagreement.

In the March 2018 Spring Statement, it was announced that the Treasury had allocated funding to departments to help them prepare for Brexit. The 2018-19 allocation for the Department for Transport is £75.8 million.<sup>5</sup> The Secretary of State for Transport, Chris Grayling, has said that this will be spent on "work to develop a new road haulage permit system, put in place new systems to support market access for hauliers and private motorists, and changes to DVSA facilities".<sup>6</sup>

## 1.3 Road haulage

There are a lot of uncertainties for haulage companies as the UK heads towards Brexit, particularly in terms of employment, drivers' hours rules, access to markets, customs arrangements and border controls.<sup>7</sup>

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<sup>3</sup> See, e.g. [HC Deb 23 November 2016, c952](#); Transport Committee, [Departmental priorities and annual report and accounts](#), HC 745, 17 October 2016; and DExEU, [The United Kingdom's exit from and new partnership with the European Union](#), Cm 9417, 2 February 2017, paras 8.32-33

<sup>4</sup> [European Council \(Art. 50\) \(23 March 2018\) - Guidelines](#), 23 March 2018, Article 11(i)

<sup>5</sup> The fifth highest, after the Home Office, Defra, HMRC and BEIS, see: [Spring Statement: Written statement - HCWS540](#), 13 March 2018

<sup>6</sup> [Department for Transport: Public Expenditure: Written question – 133182](#), 27 March 2018

<sup>7</sup> Some of these are explored in: "[Brexit: What next for the road transport industry?](#)", *The Lorry Lawyer*, 27 June 2016; more generally, see HC Library briefing paper [CBP 7732](#) on Brexit and employment law and [CBP 7694](#) on Brexit and trade

In response to the Balance of Competencies review the Freight Transport Association (FTA) said that the EU had created a market that logistics had served for nearly half a century, benefiting British business. The Road Haulage Association (RHA) said “competences in UK road transport are finely balanced in our sector. Although we have not got a 100% solution in terms of market access we have got the most of what we think the industry would want”.<sup>8</sup>

This is largely a reference to ‘cabotage’, the practice whereby a haulier from one EU Member State (e.g. the UK) can carry goods within another Member State (e.g. taking goods to Spain and then picking up and dropping off further goods within Spain).

The Agreement on the European Economic Area (EEA) basically extends the EU internal market to Norway, Iceland and Liechtenstein. These three countries apply the EU road transport rules just like EU Member States. The EU has a separate agreement with Switzerland.<sup>9</sup> The UK might find itself in a similar situation to one of these countries after Brexit.

In a debate on Brexit and transport in November 2016 the Secretary of State for Transport, Chris Grayling, said that road haulage was one of his Department’s two top priorities. He pointed to the fact that about 85% of the lorries operating between the UK and the continent belong to EU-owned businesses and stated that:

We need sensible arrangements for the future to allow goods to flow freely from and to the United Kingdom. We need to give UK hauliers a fair chance to win business and to be successful. We shall focus on that during the negotiations, ensuring that we achieve the right outcome for the international hauliers that serve this country and for UK hauliers as well.<sup>10</sup>

More recently, in its July 2017 paper the Independent Transport Commission (ITC) stated:

The impact on road freight must also be considered, since such traffic transports more than 85% of what we eat, drink, wear or build. Under existing EU agreements simplified processes mean that it is as straightforward to ship goods to Manchester from Milan as from Margate. This will change after leaving the EU and a significant risk exists for supply chains that deal with exports and imports by road if new customs controls are imposed at border points. The Road Haulage Association (RHA) has recently called for a comprehensive Land Transport Agreement between the UK and EU that would allow unfettered road haulage for licensed operators across the UK and EU to continue. Such an agreement would also help to maintain vehicle standards and avoid lengthy checking processes. Without seamless customs across ports and borders it is feared that massive queues of lorries could build up at UK ports, causing time sensitive goods to deteriorate alongside potential knock on effects on production.<sup>11</sup>

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<sup>8</sup> Op cit., [Review of the Balance of Competences between the United Kingdom and the European Union Transport](#), p30

<sup>9</sup> EC, [Roads: non-EU countries](#) [accessed 2 May 2018]

<sup>10</sup> [HC Deb 23 November 2016, cc953-4](#)

<sup>11</sup> ITC, [How will leaving the EU affect UK transport? Key issues](#), ITC Occasional Paper No. 10, July 2017, para 2.3.7; the ITC is a land use and transport think tank

In March 2018 *The Guardian* reported the views of James Hookham, the deputy chief executive of the Freight Transport Association (FTA). He stated that the industry's biggest concern is "the lack of any progress in agreeing new systems for avoiding customs checks". He went on:

There is still much detail to be agreed in the two-and-a-half years between now and the end of the transition period – a tiny period of time in business terms considering the scale of the challenge. It is now critical that both sides focus closely on trading arrangements to minimise the potential for delays, which will otherwise hit supply chains and economies on all sides hard.<sup>12</sup>

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<sup>12</sup> "[Businesses face unanswered questions a year from Brexit – sector by sector analysis](#)", *The Guardian*, 26 March 2018

## 2. UK road haulage & trailers: data

### 2.1 Size of the industry

There are 318,700 HGV drivers employed in the UK road freight sector. Within this total, 12% are foreign nationals, up from 3% 10 years earlier in 2006.<sup>13</sup> In 2016 the Transport Select Committee looked at the issue of driver shortages in the road haulage industry. Government and industry both told the committee that there was a driver shortage of about 45,000. The Committee concluded that the shortage had resulted in a dependence on agency and particularly foreign drivers. In light of Brexit, this presents a risk that if the UK becomes relatively less attractive as a place for foreign drivers to work the shortage could become much more acute, possibly quite rapidly.<sup>14</sup>

The latest figures show there were around 493,600 HGVs licensed in GB, of these, 404,800 were taxed as “goods vehicles” (the remainder are HGVs exempt from tax and those taxed as private HGVs).<sup>15</sup>

At the end of 2015/16 there were 77,000 goods vehicle operator licences in issue in GB, with an average fleet size of 4.9 vehicles.<sup>16</sup>

The 2015 *Annual Business Survey* shows road freight enterprises contributed £11.9 billion to the UK economy. This is equivalent to around 0.6% of GDP.<sup>17</sup>

### 2.2 Goods moved

Roads continue to be the primary method of transporting freight within the UK. In 2015 76% of all goods moved were by road, with the remainder by water (15%) and rail (9%).

The most common (by weight) commodity groups transported by GB-registered HGVs in the UK were: food products (17%); metal ore and other mining (17%); and waste related products (14%).

The vast majority of goods moved within the UK are by UK-registered vehicles. In 2015, less than 1% of goods moved (tonne kilometres) in the UK was by foreign registered vehicles. Vehicles from Poland, Ireland and Netherlands account for 55% of movements of these goods; France, Germany and Portugal together account for most of the remaining foreign registered vehicle haulage.<sup>18</sup>

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<sup>13</sup> DfT, [Domestic Road Freight Statistics UK 2016](#), 12 April 2018

<sup>14</sup> Transport Committee, [Skills and workforce planning in the road haulage sector](#) (Fourth Report of Session 2016–17), HC 68, 29 July 2016, paras 16-17 & 41

<sup>15</sup> Op cit., [Domestic Road Freight Statistics UK 2016](#)

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

## 2.3 Entries, exits, origins and destinations

In 2016, more goods were imported by road to the UK than exported. For UK-registered HGVs, 3.7 million tonnes were exported from the UK and 4.0 million tonnes were imported. 28% of goods lifted by UK HGVs were between the UK and France.

In 2016, around 90% of the tonnage exported from the UK in UK-registered vehicles was unloaded in one of five countries: France 28%, Irish Republic (22%), Belgium (20%), Netherlands (13%) and Germany (12%).

The same five countries also represented the origin of 90% of imported goods. For goods lifted into the UK 32% originated in France, 26% in Belgium, 17% in Netherlands, Germany 9%, Ireland 7%.<sup>19</sup>

In 2017, 3.5 million road goods vehicles travelled from GB to Europe; 2.4 million were powered vehicles and 1.0 million were unaccompanied trailers. More vehicles left through the Dover Strait port group than all the other port groups combined. Around 2 million road goods vehicles travelling to Europe used the Dover Strait group (57% of the total); 920,000 used the North Sea port group (26% of the total).<sup>20</sup>

## 2.4 Ireland

The latest figures for road freight in Ireland are for 2014. In that year of 52.3 million tonnes of road freight lifted that originated in Northern Ireland, around 10%, 5.2 million tonnes, had a destination in the Republic of Ireland. Conversely, 3.4 million tonnes of road freight originating in the Republic of Ireland had a destination in Northern Ireland.<sup>21</sup>

## 2.5 Trailer accidents

According to the official DfT road accident statistics, in 2016, of road accidents recorded by the police, 5,819 involved an HGV. In 2,223 cases these were articulated vehicles.<sup>22</sup>

As indicated, this data applies solely for HGVs, some of which will include trailer units, some of which will not. There is also a vast number of trailers which are below this weight level or used non-commercially and thus not included in these figures. In isolation these figures are not representative of the total number of trailer accidents. At Lords Report stage of the Bill, Baroness Sugg explained:

The number of recorded accidents involving a trailer in 2016 was 4,352, which accounted for 3.2% of the total number of accidents in 2016. The total number of accidents involving trailers has decreased by 21% in the last 10 years.<sup>23</sup>

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<sup>19</sup> DfT, [International Road Freight Statistics 2016](#), 12 April 2018

<sup>20</sup> DfT, [Road goods vehicles travelling to Europe](#), Q4/2017, 15 February 2018

<sup>21</sup> Department for Infrastructure, [Road Freight Statistics 2014](#), 25 May 2016

<sup>22</sup> DfT, [Road accident statistics](#), Table RA20007, 8 February 2018

<sup>23</sup> [HL Deb 17 April 2018, c1110](#)

## 3. Vienna Convention on Road Traffic, 1968

In preparing contingency measures in the event of a 'no deal' Brexit, the Government has had to reassess the wider international road transport framework that the UK would have to reply on. This has led it to conclude that the UK would need to ratify the Convention on Road Traffic done at Vienna on 8 November 1968 ([‘the Vienna Convention’](#)) to provide an adequate mutual basis for international road traffic.

### 3.1 What is the Vienna Convention?

As the United Nations Economic Commission for Europe (UNECE)<sup>24</sup> explains, the origins of international legislation on road traffic can be traced back to the [International Convention on Motor Traffic](#) signed in Paris on 11 October 1909. The expansion of motor vehicle traffic led to the conclusion in Paris, on 24 April 1926, of two new conventions which were intended to amend and amplify the 1909 Convention: the International Convention relating to Road Traffic and the [International Convention relative to Motor Traffic](#).

In 1948 the UNECE called for a UN Conference on Road and Motor Transport to be convened in Geneva. This resulted, in 1949, in the conclusion of a [Convention on Road Traffic and a Protocol on Road Signs and Signals](#). This terminated and replaced, in relations between the Contracting States, the 1926 Conventions.<sup>25</sup> The UK signed and ratified the 1949. However, within ten years there were calls for a further revision:

Ten years later the texts of these accords were still unchanged, and the Benelux countries thought it time to sound the alarm. They warned that rapidly changing traffic conditions were responsible for a growing divergence of road legislation in Europe which was likely to cause an increasing number of accidents simply because of the growth of tourism and international trade traffic. Accordingly, in 1960 the Benelux countries proposed that domestic legislation should be coordinated. The Council of Europe immediately endorsed this suggestion and the ECMT embarked on a lengthy process of alignment.<sup>26</sup>

As a result, by 1965, it was decided that a conference should be convened in order to prepare a new convention on road traffic to replace the 1949 Convention, and either another convention or an optional protocol on road signs and signals.<sup>27</sup>

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<sup>24</sup> UNECE was set up in 1947 by the UN Economic and Social Council (ECOSOC). It is one of five regional commissions of the United Nations and its major aim is to promote pan-European economic integration. UNECE includes 56 Member States in Europe, North America and Asia [UNECE, [Mission](#) [accessed 18 April 2018]]

<sup>25</sup> UNECE, [Convention on Road Traffic of 1968 and European Agreement Supplementing the Convention](#), ECE/TRANS/196, 2006, pvii

<sup>26</sup> "Towards and alignment of European highway codes", *OECD Observer No. 46*, June 1970, pp15-16

<sup>27</sup> Op cit., [Convention on Road Traffic of 1968 and European Agreement Supplementing the Convention](#), pvii

The Conference was held from 7 October to 8 November 1968 in Vienna and ended on 8 November. Two texts were adopted: a Convention on Road Signs and Signals and the Convention on Road Traffic. The UK was one of the 32 initial signatories of the Convention but it did not ratify it for a further 50 years (see below).

The UNECE states that:

No other source covers and mandates international rules on road traffic behaviour to ensure safe mobility as thoroughly as the 1968 Convention on Road Traffic. This global benchmark Convention is the “invisible” source of many visible end products or road-user behaviour.<sup>28</sup>

Examples of rules included in the 1968 Convention are:

- braking;
- overtaking;
- giving way;
- behaviour at accident sites and level crossings;
- wearing of safety belts; and
- driving permits.

## 3.2 Why did the UK not ratify earlier?

As stated above, the UK was one of the initial signatories to the Convention on 8 November 1968 but until 2018 it did not ratify it. The Convention was laid before Parliament in June 1969 (Cmnd. 4032), but this states clearly that it is “not in force”.

There have been a couple of references to ratification before, but nothing ever came of it. For example, when discussing the *Motor Vehicles (International Circulation) (Amendment) Order 1980* in Parliament in July 1980, the then Government whip, Lord Mowbray and Stourton, said that the Order would:

... enable the United Kingdom to ratify—with certain reservations on some of the provisions to safeguard our particular needs and customs—the Convention on Road Traffic and the Convention on Road Signals drawn up under the aegis of the United Nations and signed by countries, including the United Kingdom, in Vienna in 1968, and the supplementary European agreements made in Geneva in 1971.

[...] The United Kingdom already conforms with most of the provisions of the 1968 conventions, and the making of this order ... together with a complementary order for Northern Ireland ... will enable us to ratify them.<sup>29</sup>

A decade later, in 1991, the then Transport Minister, Christopher Chope, said that “The United Kingdom is a signatory to and hopes soon to ratify the 1968 Vienna conventions on road traffic and road signs and signals”.<sup>30</sup>

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<sup>28</sup> UNECE, *Together with UNECE on the road to safety*, ECE/TRANS/255, 2015, p6

<sup>29</sup> [HL Deb 23 July 1980, cc446-7](#)

<sup>30</sup> [HC Deb 4 March 1991, c9w](#)

There are areas of the Convention where successive UK governments have had concerns, this may well have contributed to the ongoing failure to ratify it. In particular, aspects as regards parking (and against which the Government in ratifying has entered reservations – see below) have been an issue. More recently, some have commented that the failure of the UK to ratify has meant it has enjoyed an advantage in the development of automated vehicles.<sup>31</sup> The Government does not believe this to be the case (see below).

### 3.3 Why has the Government ratified it now?

The Government has stated that it has now decided to ratify the Convention:

... for reasons of uniformity, to increase safety and to facilitate international traffic. As a party to the 1968 Convention, the UK will be able to use this position to help shape the evolution and future direction of the Convention, including in relation to future developments so as not to impact on the UK's ability to remain at the very forefront of automated vehicle technologies.<sup>32</sup>

Five EU Member States are party to the Vienna Convention but not to the 1949 Geneva Convention; one of these is Germany. So another reason to ratify would be “to address the lack of a mutual legal basis for road traffic” with these countries.<sup>33</sup>

Ratification must be seen in light of the UK's exit from the EU, in particular insofar as it relates to international road haulage and trailers and a ‘no deal’ Brexit. The Impact Assessment to Part 2 of the 2018 Act stated:

We are confident that a future partnership between the UK and EU is in the interests of both sides, so we approach these negotiations anticipating success. We do not want or expect a no deal outcome. However, a responsible government should prepare for all potential outcomes, including the unlikely scenario in which no mutually satisfactory agreement can be reached. We have said that wherever we can, we will be open and clear with businesses, the public and our international partners about the UK Government's preparations for exit.

[...] In the event that a post-EU exit deal encompassing road freight is not reached with the EU, the 1949 Convention would govern our relationship on matters of road traffic. If the UK ratifies the 1968 Vienna Convention, this will largely supersede the 1949 Convention and as such come to govern our relationship with most Member States regarding road traffic [...] We are, therefore, taking the necessary steps towards ratification so that the UK is prepared on the day we leave the EU.

If the UK reaches a robust deal that fulfils all of our negotiating objectives, ratification of the 1968 Convention may no longer be required. The risk of enforcement against UK trailers in Member

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<sup>31</sup> “[Britain to lead race for self-driving cars due to 'blind luck' of not signing 1968 Vienna Convention](#)”, *International Business Times*, 17 June 2015

<sup>32</sup> FCO, [Explanatory Memorandum on the Convention on Road Traffic](#), Cm 9570, 7 February 2018, para 3

<sup>33</sup> [Trailer registration: IA No: DfT00396](#), 7 February 2018, para 5, p7

States would likely be greatly reduced but would not be removed altogether.<sup>34</sup>

The Vienna Convention was [laid before Parliament](#) on 7 February 2018. It was [ratified](#) on 28 March 2018. It will come into effect in March 2019.<sup>35</sup>

### Parliament's role in ratifying treaties

Parliament now has a statutory role in ratifying treaties.

The Government must lay most treaties before Parliament for 21 sitting days before it can ratify them, and the Commons can block ratification indefinitely.

However, there is no statutory requirement for a debate or vote, and Parliament cannot amend treaties.

Laying a convention does not compel a Government to ratify it.

For further information on treaty ratification see HC Library briefing paper [CBP 5855](#).

## Reservations

The UK Government has entered reservations against several provisions of the Convention (i.e. those which the UK does *not* consider itself bound by). These are as follows:

- [Article 20\(6\)\(b\)](#) relating to pedestrians crossing the highway;
- The second sentence of [Article 23\(2\)\(a\)](#), which states that "A driver shall not stand or park his vehicle on a carriageway save on the side appropriate, for him, to the direction of traffic";
- [Article 25 bis \(2\)](#) relating to special regulations for tunnels indicated by special road signs, and specifically that "Even if the tunnel is lit, all drivers must switch on the driving or passing lamps";
- In relation to [Article 30\(4\)](#), the UK does not consider itself bound by the requirements of this provision in so far as it relates to loads projecting up to 2m from the front or rear of vehicles. This is because the UK allows several exemptions to the rules contained in this section, including straddle carriers and agricultural vehicles;
- [Article 32\(6\), \(8\), \(9\) and \(10\)](#), which state that:
  6. During the day, a motorcycle moving on the road shall display at least one passing lamp to the front and a red lamp to the rear. Domestic legislation may permit the use of daytime running lamps instead of passing lamps.
  8. Between nightfall and dawn and in any other circumstances when visibility is inadequate, the presence of power-driven vehicles and their trailers standing or parked on a road shall be indicated by front and rear position lamps. In thick fog, falling snow, heavy rain or similar conditions passing lamps or front fog lamps may be used. Rear fog lamps may in these conditions be used as a supplement to the rear position lamps.
  9. Notwithstanding the provisions of paragraph 8 of this Article, within a built-up area the front and rear position lamps may be

<sup>34</sup> Ibid., paras 3, 4 and 6, p7

<sup>35</sup> DfT, [The Haulage Permits and Trailer Registration Bill: an overview](#), 20 March 2018, para 4.1

replaced by parking lamps, provided that: (a) The vehicle does not exceed 6 m in length and 2 m in width; (b) No trailer is coupled to the vehicle; (c) The parking lamps are placed on that side of the vehicle which is furthest from the carriageway edge alongside which the vehicle is standing or parked.

10. Notwithstanding the provisions of paragraphs 8 and 9 of this Article, a vehicle may be standing or parked without any lamps lit: (a) On a road lit in such a way that the vehicle is clearly visible at an adequate distance; (b) Away from the carriageway and hard shoulder; (c) In the case of mopeds and two-wheeled motorcycles without a side-car which are not equipped with batteries, at the extreme edge of a carriageway in a built-up area;

- In relation to [Article 41](#), the UK reserves the right not to permit a person to drive a vehicle, other than one brought into and only temporarily in the UK, if (i) the vehicle is used for the carriage of persons for hire or reward or for the carriage of goods and (ii) the driver of such a vehicle would, by the domestic legislation of the UK, be required to have a special vocational licence; and
- The UK reserves the right, for the purposes of the application of the Convention, to treat certain categories of Electrically Assisted Pedal Cycles, as cycles.

### Connected and automated vehicles (CAV)

Finally, there is the issue of connected and automated vehicles (CAV). As stated at the end of section 4.2, above, there is a view that in not ratifying the convention the UK has enjoyed an advantage in the development of CAV. However, Article 8 of both the Geneva Convention and the Vienna Convention require that every vehicle has a driver, and that the driver be able to control their vehicle. Neither says that a driver must be in their vehicle, nor defines the word 'control'. The UK Government has set out that:

The UK, like many other contracting parties to the Conventions, considers that the testing and use of automated vehicles is not prohibited by either the 1949 Convention or the 1968 Convention. This applies to all automated vehicles, including those where the person driving only decides whether or not to use the automated vehicle, schedules the trip/journey, and chooses waypoints and destinations.<sup>36</sup>

An amendment to Article 8 was made in 2014. New section (5) bis provides that the driver has to be present and be able to take control of the steering wheel at any time. It allows the car to drive itself only if the automated driving system 'can be overridden or switched off by the driver' at any moment.

The UK Government has indicated that it does not see ratification of the Convention as hindering "the Government's ambition to keep the UK at the very forefront of developing, testing, and enabling the use of automated vehicles". It further states that, rather, "ratification affords the UK an opportunity to better shape the evolution and future direction of both Conventions [1949 and 1968] and the ancillary

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<sup>36</sup> Op cit., [Explanatory Memorandum on the Convention on Road Traffic](#), para 12

documents which relate to them, including for automated vehicles".<sup>37</sup> It goes on:

The UK notes that the Global Forum for Road Traffic Safety, the United Nations body responsible for the Conventions, is currently developing an ancillary document with recommendations to help states that are party to one or both Convention to address the integration of automated vehicles in road traffic. The UK is actively participating in the development of this ancillary document. Furthermore, the UK notes that the Forum has agreed that requirements that "a driver... shall... minimise any activity other than driving" in Article 8(6), should be interpreted with the following principles in mind, and that amendments to either Convention were not needed in this regard.

In the case of non-driving activities, the Forum has agreed that: a. When the vehicle is driven by vehicle systems that do not require the driver to perform the driving task, the driver can engage in activities other than driving as long as:

1. these activities do not prevent the driver from responding to demands from the vehicle systems for taking over the driving task, and
2. these activities are consistent with the prescribed use of the vehicle systems and their defined functions<sup>38</sup>

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<sup>37</sup> Op cit., [Explanatory Memorandum on the Convention on Road Traffic](#), para 13

<sup>38</sup> Ibid., paras 14-15

## 4. The international road haulage permits system

Under current EU rules, road hauliers require a Community Licence for all operations in or through EU countries. After Brexit, UK-issued Community Licences will no longer be valid in the EU (unless agreement were reached otherwise). UK hauliers would be able to conduct some operations in the EU using permits issued under the European Conference of Transport Ministers (ECTM) multilateral quota scheme, but these are restricted in number and do not cover the full range of haulage operations permitted by the Community Licence.

The Government is aiming to negotiate a deal with the EU to maintain current levels of access to the European road freight market, which might result in a new permit scheme.

Part 1 of the 2018 Act (see section 6.2, below) would enable the Secretary of State to make secondary legislation introducing a new international haulage permit scheme between the UK and EU if this is necessary. The provisions could implement a multilateral arrangement between the UK and the EU, or bilateral arrangements between the UK and individual EU Member States. It will also cover all existing permit-based international agreements between the UK and other non-EU countries.<sup>39</sup>

### 4.1 Community Licences

#### Origins

The liberalisation of the road haulage market across the EU in one of those policy areas where the UK drove forward the agenda after joining the EEC in 1973. As a 1994 edition of *Transport Europe* put it:

Although the United Kingdom deregulated as early as 1968, in that all quantitative restrictions on entry to the market were ended and regulation subsequently related solely to qualitative conditions in connection with access to the profession, such moves in other Member States did not materialise until the 1980s.<sup>40</sup>

It was not until the EC Transport Council in June 1988 that the EU agreed to liberalise its internal international road haulage market (ultimately implemented via [Regulation \(EEC\) No 881/92](#)). The regulation abolished quota restrictions for international traffic between Member States and transit traffic to and from non-Member States for EU operators. From 1 January 1993 it introduced a system of

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<sup>39</sup> DfT/DVSA, [International authorisations and permits for road haulage](#), 26 February 2016

<sup>40</sup> "Report of the committee of enquiry into road transport", *Transport Europe*, July 1994, p10; the main legislative instrument used to achieve this liberalisation in the UK was Part V of the [Transport Act 1968](#), and implemented the proposals set out in section V of the November 1967 White Paper *The Transport of Freight*, Cmnd. 3470.

'Community Authorisations' or Community licences, issued on the basis of qualitative criteria alone.<sup>41</sup>

The rules on cabotage (the carrying out of domestic transport operations by non-resident hauliers) were liberalised at around the same time, though it proved more difficult to reach agreement (ultimately implemented via [Regulation \(EEC\) 3118/93](#)). At the time, UK hauliers benefitted significantly from this change: a historically liberalised UK market took advantage of what had been until that point the more tightly regulated haulage markets in other Member States.<sup>42</sup>

It was noted at the time (1994) that operators from outside the European Economic Area (EEA) entered the EU under bilateral agreements with individual Member States. In addition, the 1968 Vienna Convention (see section 3, above) allowed vehicles registered in a signatory state and complying with the State's regulations free movement in other signatory States if certain minimum requirements laid down in the Convention were met (under Chapter III).<sup>43</sup>

## How it works

### Legislation

The *Goods Vehicles (Community Authorisations) Regulations 1992* ([SI 1992/3077](#)) gave effect in the UK to [Regulation \(EEC\) No 881/92](#), which established a Community-wide authorisation (which is essentially a Community licence) allowing goods vehicles access to the market in the carriage of goods by road between Member States.

Over time these provisions have been amended and replaced. The current legislation in force in the UK are the *Goods Vehicles (Community Licences) Regulations 2011* ([SI 2011/2633](#)), which implement EU [Regulation 1072/2009](#) on common rules for access to the international market for goods vehicles and is part of an overall package of three EU Road Transport Regulations referred to as the 'Road Transport Package'.

Hauliers that operate vehicles with a gross vehicle weight rating above 3.5 tonnes on international journeys need a number of authorisations and permits, depending on the countries in which the vehicle is to travel.

The basic, standard permit required is the Standard International Operator's Licence (SIOL), which applies to all vehicles with a gross vehicle weight rating above 3.5 tonnes and allows the holder to carry goods for others, for hire or reward, within the UK and on international journeys. It requires operators to comply with a set of minimum

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<sup>41</sup> Department of Transport, *1992: The liberalisation of road haulage in the EC*, January 1993

<sup>42</sup> e.g. the DoT's 1993 note (ibid.) stated that "the proportion of cabotage work carried out in the UK as a proportion of total cabotage in the Community was around 5% (for the period June 1990-June 1991), put another way, only 0.02% of the UK domestic market was taken by caboteurs, compared to say Germany with around 60% of all cabotage work carried out there

<sup>43</sup> Op cit., "Report of the committee of enquiry into road transport", p16

standards, including suitable vehicle maintenance and compliance with Drivers' Hours regulations.<sup>44</sup>

Operators who are issued with international licences can also request Community Licences, which are required for all operations for hire or reward in, or through, EU countries.<sup>45</sup> Government guidance makes it clear that:

Hauliers who make international journeys for hire or reward within the European Union (EU) must hold both a Community Licence and a Standard International Operator's Licence.

Community Licences allow drivers to use a single permit for trips between all EU member states. The licence also allows transit traffic through EU member states and to and from non-member countries.

Community Licences also allow cabotage, ie journeys entirely within one other EU member state.<sup>46</sup>

At the end of 2016, 9,745 UK hauliers possessed a Community Licence and 38,060 certified copies had been issued. On the previous year this represented an increase in the number of Licence holders but a decrease in the number of copies used.<sup>47</sup> Most hauliers take both SIOL and the Community Licence.

As well as applying in the EU28, Community Licences are also valid in the four member states of the [European Free Trade Association \(EFTA\)](#): Iceland, Liechtenstein, Norway and Switzerland. Excepting Switzerland, these countries also belong to the EEA.

In the UK the issuing process works as follows:

The Central Licensing Office sends out Community Licences which comprise of:

- an office copy, which must be kept in the vehicle operator's main office so that it can be inspected by enforcement agencies
- certified copies of the Community Licences - an operator can request a certified copy for each of the vehicles authorised by the Standard International Operator's Licence

Certified copies of the Community Licence are not specific to any one vehicle. A certified copy of a Community Licence must be carried on the vehicle on all international journeys and must be presented to any enforcement official on request. It is an offence not to do so.<sup>48</sup>

## 4.2 Bilateral permits

The UK also has agreements with several non-EU countries, which allow hauliers to travel to or through those countries if they hold a permit for the country with which the bilateral agreement has been made.

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<sup>44</sup> DfT, [Road Freight Transport after EU Exit - Possible Arrangements: IA No: DFT00397](#), 7 February 2018, p5

<sup>45</sup> Op cit., [International authorisations and permits for road haulage](#)

<sup>46</sup> Ibid.

<sup>47</sup> EC, [Community licences road freight transport 2010-16](#) [accessed 3 May 2018]

<sup>48</sup> Op cit., [International authorisations and permits for road haulage](#)

Currently, bilateral permits are required for journeys to or through: Belarus; Georgia; Kazakhstan; Morocco; the Russian Federation; Tunisia; and Ukraine. The Government explains that:

Single-journey permits are valid for one complete journey (the outward and return trips counting as one complete journey).

Multiple-journey permits are available for Morocco which authorises 15 return trips during the validity of the permit.

A bilateral permit is only required for journeys through Turkey to a third country.<sup>49</sup>

The International Road Freight Office (IRFO), which is part of the Driver and Vehicle Standards Agency (DVSA), issues permits for these countries.

### 4.3 ECMT permits

In addition to Community Licences and bilateral permits, hauliers can get permits to cross into other countries by using the [European Conference of Ministers of Transport \(ECMT\)](#) multilateral permit scheme for journeys between its member countries. The permit scheme was introduced on 1 January 1974 to “enable hauliers to undertake an unlimited number of multilateral freight operations in 43 European member countries participating in the system”.<sup>50</sup> The ECMT permit system is managed by the ITF’s [Road Transport Group \(RTG\)](#). It also publishes a [User Guide](#).

#### The ECMT

In 1953 in Brussels, 16 European countries established the European Conference of Ministers of Transport (ECMT) to “coordinate and rationalise European inland transport of international importance”.<sup>51</sup>

In May 2006 ministers from 43 countries signed the ‘Dublin Declaration’ on the development of the ECMT to create the International Transport Forum (ITF). The aim was to ‘transform’ the ECMT into “an attractive and publicly recognised international Ministerial forum which increases the understanding of the importance of transport”.<sup>52</sup>

[The ITF](#) currently has 59 member countries.

The Government explains that:

ECMT permits may be used for journeys between member countries, including transit journeys whether laden or empty. They can also be used for third-country journeys to other ECMT countries which would otherwise be prohibited under certain bilateral agreements.<sup>53</sup>

The 43 member countries participating in the ECMT multilateral quota scheme are the EU28 *except* Cyprus, *plus* Albania; Armenia; Azerbaijan; Belarus; Bosnia-Herzegovina; FYR Macedonia; Georgia; Liechtenstein;

<sup>49</sup> Ibid.

<sup>50</sup> ITF, [About the Multilateral Quota](#) [accessed 3 May 2018]

<sup>51</sup> [Protocol Concerning the European Conference of Ministers of Transport](#), 17 October, 1953, p7

<sup>52</sup> [Declaration on the Development of the ECMT](#), 1 June 2006, p2

<sup>53</sup> Op cit., [International authorisations and permits for road haulage](#)

Moldova; Montenegro; Norway; the Russian Federation; Serbia; Switzerland; Turkey and Ukraine.<sup>54</sup>

The Government explains how the system currently operates as follows:

ECMT permits are valid for one calendar year and allow an unlimited number of journeys within that period. The UK does not issue short-term permits.

Permits may be transferred between vehicles, but are valid for only one vehicle at a time. The permit must be kept on board for the whole journey.

ECMT permits may not be used for:

- transit of ECMT countries on journeys to non-ECMT states
- cabotage
- unaccompanied trailers or semi-trailers
- own account operations

Some countries - particularly Austria, Greece and Italy - impose additional restrictions on the use of ECMT multilateral permits.

Each ECMT member country is allocated a limited number of permits each year, under a quota system. Once the quota of ECMT permits has been used, further permits are available throughout the year, for which fees are charged on a sliding scale. Normally, all permits are allocated before the beginning of the year in which they are valid.

The UK's ECMT permit system is administered by the IRFO, which is part of DVSA.<sup>55</sup>

The UK is entitled to issue up to 1,224 permits, depending on the environmental profile of the vehicles used.<sup>56</sup> The quotas are reviewed twice a year and there is generally little change in allocations. The scheme works on a 'use it or lose it' principle, so a fall in usage one year can have knock-on effects for future quota allocations.

## 4.4 Post-Brexit options

The basic issue is that following Brexit, the existing EU regulations that allow UK operators to haul in other Member States will cease to apply (other than the ECMT permit scheme). The arrangements that replace these rules will be subject to negotiation between the UK and EU.<sup>57</sup>

The only things we know for certain are that after Brexit:

- the requirement for operators to hold an Operator's Licence will remain in UK law; and
- the ECMT permit scheme will continue alongside any other agreement with the EU.<sup>58</sup>

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<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Op cit., [Road Freight Transport after EU Exit - Possible Arrangements: IA No: DFT0039Z](#), p5

<sup>57</sup> Ibid., p6

<sup>58</sup> Ibid., p5

There are a number of possible outcomes from negotiation. The [Road Haulage Association \(RHA\)](#) set out the four possible scenarios in a February 2017 paper. In summary these are:

- 1 The 'baseline': the UK and EU Member States continue to use the complete Community Licence system and all EU rules for all road haulage once Brexit has happened;
- 2 The UK and EU Member States continue to use the current Community Licence system and all EU rules, but only for international road haulage;
- 3 The UK and the EU set up a new authorising system for international all road haulage; and
- 4 The UK and individual EU Member States set up a new permit-based system for international road haulage (bilateral permits).<sup>59</sup>

The industry generally would like to see as far as possible current arrangements replicated after Brexit. Option 1 (above) is clearly their favoured option. Indeed, in November 2017 the RHA stated that the UK should seek to enter into a Land Transport Agreement with the EU that would maintain the basic structure of the current Community Licence system and allow UK operators with an international operator's licence to undertake unlimited international road haulage to, from and through all EU Member States.<sup>60</sup> In its February 2017 Brexit manifesto the [Freight Transport Association \(FTA\)](#) stated that one of its 'key asks' was that UK-registered transport and logistics companies "should continue to benefit from a seamless access to the EU market and other markets with whom the EU has agreements".<sup>61</sup>

While all the options set out by the RHA (above) have their pros and cons, option 4 is clearly, as far as they are concerned, the 'worst case' scenario. The RHA explains:

Issues and concerns:-

- This scenario would be a very complex system for all parties.
- It will add significant administrative and regulatory costs over those currently experienced for both UK and EU UK operators.
- Many previous bi-lateral permit systems limited the number of permits that could be issued. This created shortages and resulted in the trading of permits between operators. Such systems add costs – depending on the level of shortage of permits the costs directly added to operations can be considerable.
- Bi-lateral permits will also result in disturbed supply chains. Flexibility for operators is reduced and the ability to react to

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<sup>59</sup> RHA, [Brexit – Unimpeded Access for International Road Haulage](#), 3 February 2017, Annex II

<sup>60</sup> RHA, [RHA Campaign for a Road Haulage Land Transport Agreement between the UK and the EU \(v. 3\)](#), 13 November 2017, p2

<sup>61</sup> FTA, [FTA Brexit Manifesto: What does logistics need to make a success out of Brexit?](#), February 2017, p3

evolving demand from customers will be constrained by the need to always have permits available.

View:-

- There is no positive element for the industry or supply chains arising from the introduction of bi-lateral permits to authorise international road haulage. None.
- Bi-lateral permits will work badly for both UK and EU operators.
- The worst possible outcome would be any system which includes quota limitations on the number of international road haulage journeys undertaken.<sup>62</sup>

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<sup>62</sup> Op cit., [\*Brexit – Unimpeded Access for International Road Haulage\*](#), pp10-11

## 5. Trailer registration

The UK does not currently have a mandatory trailer registration scheme in place.

### What is a 'trailer'?

The [1968 Vienna Convention](#) (see section 3, above) defines a 'trailer' as "any vehicle designed to be drawn by a power-driven vehicle and includes semi-trailers". It defines 'semi-trailer' as "any trailer designed to be coupled to a motor vehicle in such a way that part of it rests on the motor vehicle and that a substantial part of its mass and of the mass of its load is borne by the motor vehicle". It also defines 'light trailer' as "any trailer of a permissible maximum mass not exceeding 750kg".

The 2018 Act (see section 6, below) defines a 'trailer' as "anything on wheels which is intended or adapted to be drawn by a motor vehicle". [\[section 13\]](#)

It is the Government's intention that the trailer registration scheme would not apply to 'private-use trailers', such as caravans and horse trailers.<sup>63</sup>

However, the Department for Transport (DfT) has stated that there have been "ongoing problems with enforcement agencies in some European countries blocking and fining unaccompanied UK trailers (UK trailers being towed by a non-UK tractor unit)" and that thus:

With or without EU Exit, there are benefits from introducing a trailer registration scheme. Instances of trailers being impeded have already presented an issue. However, with EU Exit, these problems may become more acute, either as a result of ratifying the 1968 Convention or from future enforcement policies in EU Member States. UK government intervention is therefore required to ensure that UK vehicles can meet the relevant international requirements to use the road networks across Europe.<sup>64</sup>

Now that the UK has ratified the 1968 Vienna Convention, it must abide by the provisions of [Article 35](#) of the Convention, that "every motor vehicle in international traffic, and every trailer, other than a light trailer, coupled to a motor vehicle shall be registered by a Contracting Party or a subdivision thereof". DfT explains that:

Contracting parties to the 1968 Convention are not obligated to admit unregistered vehicles. Accompanied trailers do not need to be registered separately when they are pulled by a UK tractor unit; however, unaccompanied trailers (UK trailers pulled by non-UK tractor units) do require separate registration.<sup>65</sup>

DfT has therefore put forward proposals for a mandatory registration system for commercial-use trailers and heavier non-commercial-use trailers, excluding existing domestic-use trailers. DfT has designed a preferred registration scheme "that is in line with the Convention ... i.e. for registration of unaccompanied semi-trailers, and all other types of trailer, that travel internationally and weigh more than 750kg".<sup>66</sup>

Details of this scheme are not set out in the 2018 Act (see section 6, below). The Minister, Baroness Sugg, explained that details of the

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<sup>63</sup> [HL Deb 27 February 2018, c627](#)

<sup>64</sup> Op cit., [Trailer registration: IA No: DfT00396](#), p1

<sup>65</sup> Ibid., para 8, p7

<sup>66</sup> Ibid., para 11, p8

proposed scheme would be set out in secondary legislation following consultation:

The setting of all the details of scope in regulations is done in order to offer clarity to trailer users and allow the regulations to clearly cover all matters relating to registration. However, I sympathise with the noble Baroness's point about having some certainty on that; that is why we have included them in the policy scoping documents and are consulting with the industry. The fact that they are not in the Bill will also allow us to consult further before setting the exact details. While we are clear that mandatory registration should apply to commercial trailers over 750 kilograms, further consideration is needed on whether larger, non-commercial leisure trailers should be covered by the regulations made under the Bill.<sup>67</sup>

The basic framework for how the Government intends to proceed was explained in the Impact Assessment accompanying the Act. The Government considered the option of including domestic use trailers within the scope of mandatory registration. The inclusion of certain new, domestic-use trailers was the preferred option in this Impact Assessment (Option 1):

This option would require mandatory registration for the following trailers:

- All **existing commercial-use** trailers **over 750kg** travelling internationally
- All **existing non-commercial-use** trailers **over 3.5 tonnes** travelling internationally
- All **new, commercial-use** trailers **over 750kg** whether travelling internationally or only within the UK
- All **new, non-commercial-use** trailers **over 3.5 tonnes** whether travelling internationally or only within the UK

A commercial trailer can be defined as "a trailer used for the transport of goods or passengers' belongings for commercial purposes, such as transport for hire and reward or own-account transport, or for other professional purposes". This is closely aligned with the definition of a commercial vehicle in EU law.

These UK trailers would have to carry a registration certificate with certain information (such as registration number, date of registration, and name and address of certificate holder) when travelling internationally, and display the trailer's registration number on the rear of the trailer.

It is envisaged that dealers or 'end suppliers' would usually arrange for the registration of new vehicles, as they currently do for most motor vehicles, while registration of existing stock would be the responsibility of the trailer user.

This would also introduce an optional registration system for all those trailers not covered by the mandatory scheme.<sup>68</sup>

However, Baroness Sugg subsequently outlined the Government's decision *not* to include such a domestic requirement within the final proposals:

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<sup>67</sup> [HL Deb 22 March 2018, c54GC](#)

<sup>68</sup> Op cit., [Trailer registration: IA No: DfT00396](#), paras 23-27, p9

Mandatory registration of solely domestic-use trailers was carefully considered within the impact assessments for both new and existing trailers. Further policy development and engagement with industry has underlined our decision not to include any domestic requirement for this scheme. As I outlined previously, this scheme is being implemented to allow trailer users to register to the standards outlined in the 1968 Vienna convention ahead of that convention coming into force. The development of the policy has been focused on delivering clarity for trailer users while keeping costs and additional admin requirements to a minimum.<sup>69</sup>

The Government has also said that it intends the trailer registration scheme “to be operational by the end of 2018 to allow trailer users to register ahead of the 1968 Convention coming into force in March 2019 regardless of an Implementation Period”:

Following launch, trailer users in the mandatory categories will be required to register with the DVLA through a digital service. Once registered, trailer users will be required to carry their registration certificate and must affix their registration plate to the specified trailer.

An initial registration fee will be paid which will cover the life of a trailer. We expect the administration fees to be lower than those for registration of motor vehicles (currently £55).<sup>70</sup>

For further information on implementation, see section 7, below.

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<sup>69</sup> [HL Deb 22 March 2018, c55GC](#)

<sup>70</sup> Op cit., [The Haulage Permits and Trailer Registration Bill: an overview](#), para 4.1

## 6. The Act

### 6.1 Overview

There was some controversy about the introduction of this Act. *The Times* reported at the beginning of February 2018 that the prime Minister had delayed the Parliamentary introduction of the Bill which became the 2018 Act following “big internal rows” about its necessity. The story quoted “a Government source” as saying:

This is the problem: a deal looks less than odds-on but we’re not planning for the alternative unless we do this stuff. We’re not doing this stuff because we think, firstly, it will scare the horses in Brussels by highlighting no-deal preparations and, secondly, it demonstrates just how bad no deal looks for groups such as British truckers.<sup>71</sup>

Following the publication of the Bill on 7 February,<sup>72</sup> there was a further report in *The Guardian* that:

Insiders say the prospect of triggering this wave of extra red tape had led to furious rows within Whitehall but the lack of alternatives has forced proposed legislation – the haulage permits and trailer registration bill – to be rushed into the Lords.<sup>73</sup>

Labour picked up on these broader ‘political’ points at Second Reading in the Lords.<sup>74</sup>

As indicated in section 4.4, above, the road haulage industry clearly hopes that the first part of the Act at least will not be needed. For example, James Hookham, Deputy Chief Executive of the FTA said that while his organisation supported the Act “as a sensible contingency measure”, the industry “hope[s it] never has to be used”.<sup>75</sup>

At Second Reading in the House of Lords the Minister, Baroness Sugg, said:

... the UK’s overall aim in the negotiations with the EU is to maintain the existing liberalised access for commercial haulage. We anticipate success in the negotiations, building on the progress made last December. However, it is only right and responsible that the Government should prepare for a range of scenarios. As part of the Government’s EU exit legislation programme, the Bill provides a sensible framework for the UK to use, if required, as part of our agreement with the EU. The Bill also ensures that the UK can fulfil its international obligations and be ready to operate in the international arena when we leave the EU.<sup>76</sup>

There has also been criticism of the form of the Act, which is essentially a collection of enabling powers which allows the Secretary of State to

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<sup>71</sup> “[Delays to no-deal bill raise fears that May is going soft](#)”, *The Times*, 1 February 2018

<sup>72</sup> DfT press notice, “[Government introduces Haulage Permits and Trailer Registration Bill](#)”, 7 February 2018

<sup>73</sup> “[No-deal Brexit would trigger wave of red tape for UK drivers and hauliers](#)”, *The Guardian*, 8 February 2018

<sup>74</sup> [HL Deb 27 February 2018, c628](#)

<sup>75</sup> Op cit., “[Government introduces Haulage Permits and Trailer Registration Bill](#)”

<sup>76</sup> [HL Deb 27 February 2018, cc625-6](#)

set up a haulage permit and a trailer registration scheme via secondary legislation. Consequently, the House of Lords Delegated Powers and Regulatory Reform Committee described it as “wholly skeletal, more of a mission statement than legislation” and commented that the Committee was “in the dark because the devil will be in the regulatory detail”.<sup>77</sup> It urged the Government to provide “illustrative examples (however tentative and qualified) of at least some of the regulations to be made under the main delegated powers” in the Act.<sup>78</sup>

## 6.2 Part 1: Haulage

This Part of the Act would enable the Secretary of State to put in place arrangements to enable a haulage permit scheme if required as part of a deal with the EU, with the aim of ensuring that UK hauliers can obtain the necessary paperwork to provide services to and from EU countries. Background to this issue is set out in section 4, above.

This part is largely a collection of regulation-making powers; there is no detail of any permit scheme in the Act. The Parliamentary Under-Secretary of State for Transport, Baroness Sugg, explained that Part 1 of the Act is intended to give the Government:

... the ability to introduce arrangements to operate a road haulage permit scheme, if that is what is required as part of our deal with the EU. Currently, hauliers have to hold an international operator’s licence and an EU community licence to operate on the continent. The Bill puts in place a legal framework for the Government to establish an administrative system to issue permits, if required, as part of the final deal. This part of the Bill is designed to provide a flexible framework for any system that may be needed, without placing any undue regulatory or financial requirements on the industry. It will come into effect only if our international agreements require it, and it applies only to UK hauliers travelling abroad.<sup>79</sup>

### Section 1: International road transport permits

Section 1 give the Secretary of State power to make regulations to oblige hauliers to carry a permit, where our international agreements require it. It would designate any permit issued under this section as an “international road transport permit”, in any form or language that the Secretary of State were to deem appropriate. It also states that it may be a document or ‘other thing’ given to the Secretary of State by an authority in a country outside the UK. This means that permits provided by other countries can be issued by the Secretary of State and it allows for permits to be digital in the future.

Sub-sections (4) and (5) provide for some differentiation in the treatment of journeys to and from the Republic of Ireland. This is so that it can cater “for scenarios arising as a result of international agreements which are bilateral, such as agreements between the UK and Ireland,

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<sup>77</sup> HL DPRRC, *Haulage Permits and Trailer Registration Bill [HL]* (15th Report of Session 2017–19), HL Paper 84, 28 February 2018, paras 2-3

<sup>78</sup> *Ibid.*, para 4

<sup>79</sup> [HL Deb 27 February 2018, c626](#)

and multi-lateral, such as UK-EU agreements".<sup>80</sup> During the passage of the Act the Government was asked to explain why Northern Ireland had been 'singled out' and how the Government envisioned the permit system operating across the Northern Ireland-Republic of Ireland border.<sup>81</sup> Baroness Sugg explained:

I take this opportunity to reiterate that this Bill does not create a permit regime or hard border on the island of Ireland [...] The regulations brought forward under the Bill may prohibit a goods vehicle from undertaking an international journey to a country outside the UK, unless they have a permit, where an international agreement has been concluded requiring permits to be carried. In relation to Ireland, we have included an additional requirement that the Secretary of State must certify that the Government of Ireland have consented to the use of permits on journeys on the island of Ireland before this comes into force. This has been included to recognise and respect the long history of co-operation with regards to transport on the island of Ireland; the Government believe it is an important addition to the Bill.

Clause 1 is drafted to make it explicitly clear that regulations requiring permits for journeys on the island of Ireland will not be introduced without that clear agreement; we have singled it out because of the importance of ensuring that there is no hard border.<sup>82</sup>

The Delegated Powers and Regulatory Reform Committee recommended that clause 1 be amended to contain a 'sunset provision' to remove the regulation-making power in if it proves to be unnecessary and that there should be a 'sifting procedure' for regulations under clause 1, allowing a scrutiny committee to recommend an uprating of the negative procedure to the affirmative procedure (see clause 23, below, for more information).<sup>83</sup>

## Section 2: Number and allocation of permits etc.

Section 2 allows the Secretary of State to issue permits to applicants. Regulations will detail how hauliers should apply for permits and how the Secretary of State will decide whether to grant a permit. It is intended that this will be based on pre-determined criteria which the Government will consult on.

There will be powers for enforcement officers to cancel permits (with a right of appeal for the haulier).

'Criteria' may be used in allocating permits, should they be required as part of an agreement with the EU. Any relevant criteria will be listed in regulations and the Government intends that guidance will set out how they should be used. This is in order to allow some flexibility if there is any need to change the criteria in future.

During the passage of the Act there were concerns expressed about the criteria or other methods of selection to be used in allocating permits,

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<sup>80</sup> [Bill 199 EN 2017-19](#), 24 April 2018, para 20

<sup>81</sup> e.g. Lord Berkeley and Baroness Randerson, [HL Deb 13 March 2018, cc145-6GC](#)

<sup>82</sup> *Ibid.*, c147GC

<sup>83</sup> HL DLRR, [Haulage Permits and Trailer Registration Bill \[HL\]](#) (15th Report of Session 2017-19), HL Paper 84, 28 February 2018, paras 8 & 9

including 'first come, first served' or an element of random selection (e.g. lottery).<sup>84</sup> Baroness Sugg said this was strictly a contingency measure.<sup>85</sup> She also explained the importance of allocation criteria in the Government's thinking.<sup>86</sup> The Government later amended the wording to make it clear that an 'element of random selection' could not be used on its own.<sup>87</sup> Further amendments will allow the Secretary of State to issue permits in cases where the criteria prescribed in regulations may not be suitable;<sup>88</sup> and ensure that there is sufficient flexibility around the timings for making a permit application.<sup>89</sup>

The Government has published a consultation on what the criteria should be for allocating permits – see section 7, below, for more information.

Baroness Sugg set out what will happen with regards to EU hauliers wishing to move goods to or through the UK after Brexit:

... the regulation of foreign hauliers ... is currently carried out under the Goods Vehicles (Licensing of Operators) Act 1995, which requires any operator, whether based in Great Britain or abroad, to carry a Great Britain operator's licence, failure to do so being an offence subject to a level 5 fine on summary conviction. However, EU hauliers are currently exempt from carrying a GB operator's licence because they carry a Community licence under EU law.

If EU community licences are no longer recognised when we leave the EU, we will remove the exemption for EU hauliers and regulate their access to the UK in the same way that we regulate access for non-EU hauliers. Obviously, how we do that will be subject to negotiations; again, I make the point that we hope we will not need to do this because of the open access. We will do that by setting out the conditions agreed in the international agreement concluded with each country or with the EU, including whether a permit is required.

The recognition of EU Community licences in Great Britain will be removed using the power to correct deficiencies arising from the UK's withdrawal from the EU under Clause 7 of the European Union (Withdrawal) Bill, which, as noble Lords know, we discussed in detail last night. When that comes into force, it will enable the Government to correct EU retained law and UK legislation where reciprocal arrangements between the UK and EU, such as the recognition of Community licences, no longer exist. The new conditions—if any are agreed in negotiations—placed on EU hauliers, including carrying a permit, may then be put in place by using existing powers under the Goods Vehicles (Licensing of Operators) Act 1995, if the Government consider that this is required. The same approach will be taken in Northern Ireland legislation.<sup>90</sup>

## Section 5: Fees

Section 5 allows the charge of 'appropriate fees' for obtaining a permit. The Secretary of State can charge administrative fees for an application for and issuing of a permit to cover the cost of any scheme. The Government intends that the detail on fees will be consulted on later in 2018, when the outcome of the negotiations is clearer. It intends the

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<sup>84</sup> See, e.g. Lord Tunnicliffe: [HL Deb 13 March 2018, c150GC](#)

<sup>85</sup> *Ibid.*, c152GC

<sup>86</sup> *Ibid.*, c153GC

<sup>87</sup> [HL Deb 17 April 2018, c1085](#)

<sup>88</sup> [PBC Deb 22 May 2018, cc22-3](#)

<sup>89</sup> *Ibid.*, c25

<sup>90</sup> [HL Deb 13 March 2018, cc163-4GC](#)

cost of fees to be no more than hauliers and operators pay for existing schemes.

Baroness Sugg confirmed that fees would recover the running costs of the permit scheme. The set-up costs would be funded by the Government from part of the £75.8 million allocated to the Department for Transport to prepare for Brexit.<sup>91</sup> She also stated that the DfT is “working with the Treasury to determine the appropriate level of fees” to be introduced in regulations and “working closely with small and medium-sized enterprises ... in order to keep these costs as low as possible”.<sup>92</sup>

### Fees for existing haulage permits

Baroness Sugg explained the costs of existing permits:

The Treasury’s guidelines, *Managing Public Money*,<sup>93</sup> set out how fees [for permits] should be set and what elements can and cannot be included in that calculation. The Government believe that those using this service should meet the costs of it, rather than the costs being passed on to taxpayers more generally or going on the operator’s licence [...]

Fees are already charged in relation to some of our permit agreements with non-EU countries. They are reasonably consistent. For example, there is an £8 fee for a single-journey permit to any country with which we have a permit agreement, such as Ukraine. In our agreement with Morocco, we charge £50 for a 15-trip permit. The ECMT permit—referred to in the regulations as an ECMT licence—which allows unlimited journeys for a year, costs £133. All those fees have been set on a cost-recovery basis and give a good indication [...]

We set our own fees for UK hauliers and other countries set their own fees, including for permits for travel to the UK. To give some examples, in Ireland there is a separate fee for Community licences that we do not have. The Netherlands charges fees for both applying for and issuing ECMT permits, whereas we currently charge only for the issue of a licence. Other countries’ fees can be higher or lower than the fees charged in the UK, depending what the fees choose to cover.

Looking at equivalent charges in other countries, I mentioned the single-journey permit. The equivalent permit in the Netherlands costs around £4, slightly less than in the UK, but in Finland it costs £35, which is more than in the UK. In Norway there is no charge for permits, but it charges around £98 to issue a Community licence. While we charge £133 for an annual ECMT permit, it costs around £219 in Serbia, and in the Netherlands there is a fee of around £302 for applying and a further fee of around £121 for issuing the permit. I am afraid I have no details of some of the new EU members which the noble Lord mentioned. It is proving quite difficult to get hold of the details, but we will get them and consider them when setting fees.<sup>94</sup>

## Other sections

Other clauses in this Part provide for the following:

- **Section 3: Temporary exemptions** – allows temporary exemptions to be made for UK vehicles travelling internationally where there is an emergency or special need.

<sup>91</sup> See section 1.2, above

<sup>92</sup> [HL Deb 13 March 2018, c170GC](#)

<sup>93</sup> HMT, *Managing public money*, 7 March 2018

<sup>94</sup> [HL Deb 17 April 2018, c1092](#)

- **Section 4: Appeals** – gives the Secretary of State power to make regulations enabling appeals to be made to a court or tribunal against: a decision to cancel or vary a permit; or a decision as to the conditions under which a permit is granted.
- **Section 6: Production of permits and inspection of vehicles** – gives powers to enforcement officers ('examiners') to inspect permits and detain a vehicle to confirm whether a permit is required.<sup>95</sup>
- **Section 7: Prohibition notices** – provides powers for enforcement officers to prohibit vehicles from leaving the UK without the appropriate permit.
- **Section 8: Offences: breach of regulations etc.** – creates new offences of using a vehicle without a permit; not providing a permit to an examiner or obstructing an examiner; and breaking a prohibition.
- **Section 9: Report on effects of EU-related provisions** – places an obligation on the Secretary of State to lay a report before Parliament annually, assessing the effect on the UK haulage industry of any restrictions that apply to a permit scheme agreed with one or more EU Member States. These reports will be required where an international agreement requires the introduction of a permit scheme and the number of permits available to UK hauliers is limited.<sup>96</sup>
- **Section 10: Interpretation** – defines various terms used in Part 1.
- **Section 11: Licensing of operators in Great Britain** – allows the Secretary of State to grant a temporary exemption to an operator established outside the UK from the requirement to hold an operator's licence in an emergency or to allow some other special need to be dealt with. In effect, this allows exemptions from permits for foreign vehicles in the same way as section 3 does for UK vehicles.<sup>97</sup>
- **Section 12: Licensing of operators in Northern Ireland** – amends the legislation of Northern Ireland, in similar ways to the amendment to Great Britain legislation in section 11 (above).
- **Schedule** – Part 1 of the Schedule amends existing legislation in line with this section of the Act, in particular it repeals the [International Road Haulage Permits Act 1975](#).

## 6.3 Part 2: Trailer registration

As set out in section 5, above, this part of the Act enables the Secretary of State to introduce a trailer registration scheme. It is largely a collection of regulation-making powers; there is no detail of any registration scheme in the Act.<sup>98</sup>

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<sup>95</sup> Examiners are defined in section 10 as someone appointed under [section 66A](#) of the *Road Traffic Act 1988*, as amended, for the purpose of carrying out the functions conferred on them by relevant legislation

<sup>96</sup> [HL Deb 17 April 2018, cc1099-1100](#)

<sup>97</sup> Op cit., [Bill 199 EN 2017-19](#), para 36

<sup>98</sup> [HL Deb 27 February 2018, c627](#)

### Section 13: Trailer registration

Section 13 provides for the implementation of a trailer register, including mandatory or voluntary registration. As set out in section 5, above, the Government has stated what sort of scheme the regulations made under this section are intended to introduce.

The section is widely drawn and allows the Secretary of State to make regulations to, amongst other things, specify the form and contents of any register, the registration process and the management of registration documents.

During the passage of the Act there were attempts to force the Government to put the basic framework of its preferred scheme into the Act.<sup>99</sup> However, Baroness Sugg reiterated the Government's position that "mandatory registration will apply solely to certain categories of trailers travelling internationally to or through 1968 Convention territories".<sup>100</sup> She explained that the 750kg weight limit in international traffic exists specifically to align registration with Convention requirements.<sup>101</sup> She further stated that while the Government is "confident that trailers over 3.5 tonnes are very limited in number", it had "been unable to come up with exact numbers".<sup>102</sup> She further stated that "there are at least 1.4 million trailers in the 750 kilograms to 3.5 tonne weight bracket that are solely used domestically".<sup>103</sup>

In its Impact Assessment the Government also argued that mandatory registration for these trailers would "create more burden for trailer operators and there is a risk that it would prove controversial".<sup>104</sup>

Baroness Sugg did confirm that the Act contains the necessary powers to accommodate the *renting* of trailers and their usage, and that the Government would seek to consult on this.<sup>105</sup>

The section defines 'trailer' for the purposes of the legislation as "anything on wheels which is intended or adapted to be drawn by a motor vehicle". As indicated in section 5, above, the Government has said that it does not intend the registration requirement to private-use vehicles like caravans and horse trailers, but these are *not* excluded from the definition in the Act.

### Section 14: Inspections and information

The inspection and testing regime for trailers is provided for under Part II of the [Road Traffic Act 1988](#), as amended. It is specified in the *Goods Vehicles (Plating and Testing) Regulations 1988* (SI 1988/1478), as amended, and in the relevant [Testing Manual](#).

A new regime came into force on 20 May 2018 with the provisions of EU [Directive 2014/45/EU](#). The Directive brought certain heavy goods

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<sup>99</sup> e.g. Baroness Randerson, [HL Deb 22 March 2018, c51GC](#)

<sup>100</sup> [HL Deb 22 March 2018, c54GC](#)

<sup>101</sup> *Ibid.*, c54GC

<sup>102</sup> *Ibid.*, c54GC

<sup>103</sup> *Ibid.*, c55GC

<sup>104</sup> *Op cit.*, [Trailer registration: IA No: DfT00396](#), para 38

<sup>105</sup> [HL Deb 17 April 2018, c1103](#)

vehicles (category N2 and N3 vehicles), trailers (category O3 and O4 trailers) and tractors used for haulage (category T tractors) within the scope of the 1988 Regulations.

This was legislated for in the UK by the *Goods Vehicles (Plating and Testing) (Miscellaneous Amendments) Regulations 2017* ([SI 2017/849](#)).

Section 14 of the Act allows trailers and documents to be inspected in accordance with provisions to be set down in regulations. It also permits the Secretary of State or another person to request information “or things” in relation to regulations made under section 13. Neither ‘another person’ or ‘things’ are defined.

Those who are entitled to inspect trailers or registration documents under this clause are ‘examiners’ and ‘stopping officers’ as defined under [section 66A](#) and [section 66B](#) respectively of the *Road Traffic Act 1988*, as amended.<sup>106</sup>

## Section 15: Registration marks and registration plates

Section 15 allows the Secretary of State to assign a registration mark to trailers upon their registration and for this registration mark to be reassigned or withdrawn. Regulations will outline the specification of the registration plate and may prohibit the usage of a trailer not satisfying these provisions. Baroness Sugg, explained that:

... once the scheme is operational, all trailers will be assigned a registration mark following a completed registration application and the payment of the appropriate fee. That will be followed by the issuing of a digital document to the registered keeper which shows the assigned registration mark which the keeper will use to obtain the registration plate from the supplier.<sup>107</sup>

Registration ‘marks’ are defined in [section 23\(1\)](#) of the *Vehicle Excise and Registration Act 1994*, as amended. This provides that where the Secretary of State registers a vehicle “he shall assign to the vehicle a mark (a “registration mark”) indicating the registered number of the vehicle”.

Sub-section (3) provides that regulations may prohibit a person from keeping or using a registered trailer “unless a plate displaying the registration mark assigned to the trailer (a “registration plate”) is fixed on it. Sub-section (7) states that ‘plate’ includes “any other device”. Registration plates are defined in [section 27A](#) of the 1994 Act as “plates or other devices for displaying registration marks and for fixing them on vehicles or trailers”.

Sub-section (6) states that regulations “may permit or require registration plates to contain or display information other than registration marks”. This might, for example, be used to permit or require the display of a national symbol.<sup>108</sup>

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<sup>106</sup> In both cases ‘relevant legislation’ means Part II of the 1988 Act, the [Goods Vehicles \(Licensing of Operators\) Act 1995](#), the [Public Passenger Vehicles Act 1981](#), the [Transport Act 1968](#) and “any other enactment”

<sup>107</sup> [HL Deb 22 March 2018, c68GC](#)

<sup>108</sup> For more information on national symbols, see HC Library briefing paper [CBP 1328](#)

## Section 18: Offences

Section 18 specifies that regulations may create offences relating to the usage of an unregistered or incorrectly registered trailer or the breach of other provisions made under the Act.

Sub-section (2) provides a defence for a person charged with a defence of keeping or using an incorrectly registered trailer on a road, to be provided for in regulations made under sub-section (1).

Under sub-sections (6) and (7) provide that any offences created under this clause may only be triable summarily (i.e. tried only in a magistrates' court) and may not carry a custodial sentence or be subject to a fine of more than level 3 on the standard scale (i.e. £1,000).

Section 25(3) applies to regulations made under clause 18, meaning that they require approval from both Houses of Parliament.

## Sections 20 & 21: Trailer safety reporting and testing regulations

There was a considerable amount of debate about the provisions in sections 13 and 14 about collecting data on the number of trailer-related accidents in the UK and amendments were added to the Bill in the House of Lords by a Labour amendment.<sup>109</sup> This followed a campaign by the Bristol South MP Karin Smyth whose constituent, Freddie Hussey, was killed by a runaway trailer as he and his mother, Donna Hussey, walked home. Ms Smyth said:

My purpose in trying to amend the Bill, working with the noble Lords, on Second Reading and here in Cttee, has always been safety, following the representation made by my constituents, Donna and Scott Hussey, about their tragic loss. I am grateful to the Minister and Baroness Sugg for their support through the Bill and for the wider campaign on the family's behalf.<sup>110</sup>

Labour's Lord Tunncliffe argued that:

There is a strong argument for looking specifically at the safety of trailers in the O2 category, weighing between 750 kilograms and 3.5 tonnes. With a genuine data collection exercise and assessment of evidence, the Government would be in a position to make an informed and responsible decision, befitting Her Majesty's Government, on whether trailers in that category should be registered and subject to stringent safety testing.<sup>111</sup>

Further provisions were added to require that any report must include a recommendation as to whether periodic, mandatory safety testing for trailers weighing more than 750kg should be introduced. Should such a recommendation be made, regulations could be introduced to provide for such a scheme.<sup>112</sup>

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<sup>109</sup> [Amendment 16](#) and subsequent [amendment 17](#) to clause 14; the House agreed by 215 votes to 212 to agree the amendment and add it to the Bill [[HL Deb 17 April 2018, cc1112-4](#), Division 1]

<sup>110</sup> [PBC Deb 22 May 2018, c48](#)

<sup>111</sup> [HL Deb 17 April 2018, cc1104-5](#)

<sup>112</sup> See also [HL Deb 17 April 2018, cc1104-14](#); there was no vote, the House having divided on the amendment to clause 13

Consequently, the Minister, Jesse Norman, proposed a Government amendment to remove these provisions and replace them with what are now sections 20 and 21 of the Act:

- **Section 20: Trailer safety: report** – requires a report on road traffic accidents involving trailers to be laid before Parliament, including a recommendation as to whether compulsory registration or periodic testing of trailers weighing more than 750 kilograms should be introduced. The report should contain an assessment of compliance of existing provisions relating to the installation of tow bars.
- **Section 21: Trailer safety: testing regulations** – allows the Secretary of State to introduce a system of periodic testing for trailers weighing more than 750 kilograms.

Mr Norman explained how the report under section 20 will be undertaken:

The report will draw on existing data, but we are looking at what else may be included to inform a full and proper consideration. Members will understand that when producing such reports, it is crucial that we are able to speak with authority and make recommendations that are informed by data ... the data used in the current reporting systems is comprehensive and world-leading. It informs the Department's work on road safety and is reviewed regularly [...]

It is crucial that the reports are based on validated and verified data to assess the issue, so the STATS19 accident data will inevitably form an integral component of the report we undertake. The report will, however, provide the starting point from which we can consider whether significant changes are necessary to how we report on trailer safety. Due attention will be paid to the challenge of under-reporting of accidents and we will consider what other types of data we may be able to obtain to inform our recommendations beyond that contained within STATS19. Working with stakeholders in the sector may well comprise an element of this undertaking.<sup>113</sup>

He further explained that the report must be published within one year of the legislation coming into force and that it:

... will cover the number and causes of road accidents that involved trailers and caused injury or death to any person involved. The data contained in the report is not restricted to those points, but will contain that as a key thrust of the considerations. The report will cover recommendations sought by peers on whether regulations should provide for an extension of compulsory registration and testing requirements to apply to all trailers weighing over 750 kg.

The reporting period will cover a continuous period of at least 12 months and end no earlier than 18 months before the provision comes into force. That will allow the Department for Transport time to validate and fully consider the substantial body of data that will underpin the recommendations in the report. "Reported Road Casualties GB" is published each autumn, and we anticipate

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<sup>113</sup> [PBC Deb 22 May 2018, cc41-2](#)

that the proposed timeline will allow us to draw on, at a minimum, the release later this year.<sup>114</sup>

He also explained that section 21 creates powers for extending the testing of trailers, should that be recommended within the report under section 20.<sup>115</sup> This, in the Government's view, corrected the 'defect' in the original Lords amendments which "would have created a free-standing testing regime alongside existing powers in the Road Traffic Act that apply to other vehicles".<sup>116</sup>

## Other sections

Other sections in this Part provide for the following:

- **Clause 16: Marking of trailers** – allows for the marking of trailers associated with the registration of a trailer, "otherwise than under section 15, or of trailers in respect of which an application for registration has been made". This may be necessary should a trailer not bear a serial number on its chassis, which is required to be displayed upon registration certificates under the 1968 Vienna Convention.
- **Section 17: Fees** – allows for the charging of a registration fee and other fees associated with registration. No fees are specified in the Act and the DfT has given no illustrative tariff of fees.
- **Section 19: Records** – allows for records associated with the Act to be admissible in proceedings as evidence.
- **Section 22: Supplementary and interpretation** – allows provisions to be made under this part of the Act to be limited in any way. This permits the Government to limit registration requirements to trailers of a specified description, used in specified circumstances or by specified people. The section also defines terms used within Part 2, including 'road'.<sup>117</sup>
- **Schedule** – Part 2 of the Schedule amends existing legislation in line with this section of the Act, in particular the *Vehicle Excise and Registration Act 1994* and the *Vehicles (Crime) Act 2001*.

## 6.4 Part 3: General

### Section 23: Consultation

Section 23 was added in the House of Lords by a Government amendment. It requires that prior to making regulations under Part 1 or Part 2 of the Act the Secretary of State must consult such persons as the Secretary of State thinks fit. Baroness Sugg explained:

Given the importance we place on understanding the impact of regulations on hauliers and trailer users, I now propose to include a requirement to consult in the Bill. The amendment provides that, before making regulations, the Secretary of State must

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<sup>114</sup> Ibid., c42

<sup>115</sup> It does this by amending Part 2 of the [Road Traffic Act 1988](#) to extend existing regimes to apply to all trailers weighing over 750 kg

<sup>116</sup> [PBC Deb 22 May 2018, c54](#)

<sup>117</sup> In Great Britain, this is defined with reference to [section 192\(1\)](#) of the *Road Traffic Act 1988*, as amended

consult such persons as he thinks fit. This wording and this obligation are consistent with other road traffic legislation, such as the Road Traffic Act 1988.<sup>118</sup>

## Section 25: Regulations

Section 25 relates to the making of regulations. It was amended by the Government to take account of the recommendations of the Delegated Powers and Regulatory Reform Committee, to the effect that regulations made under certain sections should be subject to a vote of both Houses of Parliament.<sup>119</sup>

Baroness Sugg brought forward Government amendments to provide for the *first regulations* made under Sections 1, 2, 12 or 17 to be subject to the affirmative procedure. She stated that it was:

... appropriate for the regulations to be subject to further scrutiny when laid when they set up substantive new provisions. The new provision acknowledges the fact that the Bill does not—and indeed cannot—provide Parliament with details on what the regulations might contain as a result of our exit from the EU, as we have not yet reached agreement on our future partnership with the EU.<sup>120</sup>

Further Government amendments were agreed to ensure that the first regulations for periodic testing of trailers under section 21 and any later regulations which amend an Act, would be subject to the affirmative procedure.<sup>121</sup>

## Other sections

Other sections in this Part provide for the following:

- **Section 24: Consequential amendments** – refers to amendments made by the Schedule.
- **Section 26: Extent** – states that apart from certain provisions, the Act extends and applies to the whole of the UK. Variations are due to the fact that the Northern Ireland Assembly has legislative competence as far as road haulage permits and trailer registration are concerned.
- **Section 27: Commencement and transitional provision** – states that it comes into force on the day it becomes an Act (19 July 2018), with the exception of sections 6, 7 and 8, which require a commencement date to be set out in regulations.
- **Section 28: Short title** – states the title of the Act.

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<sup>118</sup> [HL Deb 17 April 2018, c1115](#)

<sup>119</sup> HL DLRRRC, [Haulage Permits and Trailer Registration Bill \[HL\]](#) (15th Report of Session 2017–19), HL Paper 84, 28 February 2018

<sup>120</sup> [HL Deb 17 April 2018, c1117](#)

<sup>121</sup> [PBC Deb 22 May 2018, c57](#)

## 7. Implementation

The [Haulage Permits and Trailer Registration Act 2018](#) received Royal Assent on 19 July 2018.

On 16 May 2018 the Government published a consultation paper on how a haulage permits scheme should operate in the future, which trailers will require registration and how a trailer registration scheme will operate. The draft *International Road Haulage Permits Regulations 2018* are included in Annex B of the consultation. The consultation closed on 25 June.<sup>122</sup>

Firstly, on the general principles for **allocating permits**, the consultation stated that the key principles that the Government is looking to achieve from a permits scheme 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.<sup>123</sup>

It further stated that where there are more applications for a certain kind of permit than there are permits available, the criteria to be used to determine who should receive a permit would be based on the principles set out above.<sup>124</sup> The range of criteria to apply in making such a decision could include: intensity of use; industrial sector in which the haulier operates; vehicle emissions; existing international business; operator repute; commodity type (that is, the specific type of goods being carried using the permit); value of goods; vehicle weight; and size of operator.<sup>125</sup>

On the controversial issue of random allocation of oversubscribed permits (see section 6.2, above for background) it stated:

**Random selection** could be used, **in conjunction with other criteria**, to determine which applicants should receive a permit. For example, the intensity of use criterion used alone could mean that those hauliers who would use permits the most would receive more permits. By using random selection alongside criteria such as intensity of use, we could give more operators a chance of getting a permit, while still prioritising those who would make most use of a permit. We think including a method such as this is important in ensuring all operators would have a chance to get a permit. Alternatively, random selection can be used as the final

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<sup>122</sup> DfT, [Provisions in the Haulage Permits and Trailer Registration Bill: Consultation](#), DfT-2018-11, 16 May 2018

<sup>123</sup> *Ibid.*, para 2.5

<sup>124</sup> *Ibid.*, para 2.7

<sup>125</sup> *Ibid.*, para 2.10

determiner when all the other criteria applied haven't been able to determine how the permit should be allocated.<sup>126</sup>

The paper also sought views on permit enforcement and associated offences, and as to whether a Fixed Penalty of £300 would be appropriate.<sup>127</sup> It also sought views on appeals processes and fees.

Secondly, on **trailer registration**, the consultation stated that the *Trailer Registration Regulations* will establish a registration scheme, and govern administrative matters including the issuing of registration certificates, the assignment of registration marks or numbers, the level of associated fees, and create offences.<sup>128</sup> The broad framework of the scheme the Government intends to introduce is set out in section 5, above.

Finally, the consultation has the following to say on **Northern Ireland**:

The Haulage Permits and Trailer Registration Bill does not create a haulage permit regime specific to, or a hard border on, the island of Ireland. Clarity about this issue is of great importance, and we are committed to having no physical infrastructure or related checks and controls there, and to preserving North-South cooperation.<sup>129</sup>

At time of publication the Government had yet to publish a response to the consultation.

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<sup>126</sup> Ibid., para 2.24 [emphasis in original]

<sup>127</sup> Ibid., paras 2.30-1

<sup>128</sup> Ibid., para 3.6

<sup>129</sup> Ibid., para 4.1

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